

Presented to the governor May 20, 2002

Signed by the governor May 22, 2002, 1:31 p.m.

CHAPTER 401—H.F.No. 2515

An act relating to terrorism; data practices; enacting the Minnesota Anti-Terrorism Act of 2002; establishing crimes and setting penalties for crimes involving weapons of mass destruction, explosives, and hoaxes; extending the public safety radio communication system and requiring recommendations on its governance; authorizing sale of metropolitan council revenue bonds; establishing a homeland security advisory council; prohibiting trespass on critical public service facilities; prohibiting damage to property of critical public service facilities; prohibiting placing explosive or simulated explosive devices near utilities and transportation centers; prohibiting real and simulated weapons of mass destruction; enhancing penalties and creating new crimes designed to deter and punish terroristic activities; providing for additional collection of biological specimens for DNA testing of certain convicted felons and adjudicated delinquents; increasing the emergency telephone fee; appropriating money; amending Minnesota Statutes 2000, sections 473.891, subdivision 3, by adding a subdivision; 473.898, subdivisions 1, 3; 473.902, subdivisions 1, 3, 5; 609.106, subdivision 2; 609.185; 609.595, subdivision 1; Minnesota Statutes 2001 Supplement, sections 403.11, subdivision 1; 473.901, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 373; 473; 609.

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

ARTICLE 1

POLICY

Section 1. HOMELAND SECURITY ADVISORY COUNCIL.

Subdivision 1. CREATION; DUTY. A homeland security advisory council is established to advise the department of public safety on issues relating to homeland security, to review and recommend changes to all terrorism preparedness and antiterrorism policies and procedures, and to ensure coordination of and accountability for all state and federal antiterrorism and terrorism preparedness related funding.

Subd. 2. MEMBERSHIP. The homeland security advisory council shall consist of the following members:

- (1) the commissioner of health;
- (2) the commissioner of public safety;
- (3) the commissioner of transportation or the commissioner's designee;
- (4) the commissioner of agriculture or the commissioner's designee;

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(5) the commissioner of the pollution control agency or the commissioner's designee;

(6) the commissioner of military affairs or the commissioner's designee;

(7) the commissioner of natural resources or the commissioner's designee;

(8) a representative of the association of Minnesota counties;

(9) a representative of the association of Minnesota townships;

(10) a representative of the league of Minnesota cities;

(11) a representative of the public safety radio system policy group;

(12) a representative of the Minnesota state sheriffs association;

(13) a representative of the Minnesota chiefs of police association;

(14) a representative of the Minnesota police and peace officer association;

(15) a representative of the Minnesota fire chiefs association;

(16) a representative of the Minnesota professional fire fighters association;

(17) a representative of the association of Minnesota emergency managers;

(18) a representative of the Minnesota hospital and healthcare partnership;

(19) a representative of local public health entities and organizations;

(20) a representative of the Minnesota Medical Association;

(21) a representative of the United States federal emergency management agency;

(22) a representative of the United States attorney's office;

(23) a representative of the Minnesota ambulance association;

(24) a representative of the Minnesota emergency medical services regulatory board;

(25) a representative of the Minnesota nurses association;

(26) a representative of the Indian affairs council; and

(27) a representative of the emergency management division of the department of public safety.

Subd. 3. **MEETINGS.** The council shall be cochaired by the commissioner of public safety and the commissioner of health. The cochairs shall convene meetings of the council on a regular basis.

Subd. 4. **SUBCOMMITTEES.** The council shall form and consult with the following subcommittees and task forces to provide advice on specific decisions related to homeland security initiatives:

(a) public safety subcommittee;

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(b) terrorism and health task force; and

(c) other subcommittees and task forces as the council deems necessary.

Subd. 5. COMPENSATION. Each member of the council shall serve without compensation or reimbursement.

Subd. 6. PLAN UPDATE; REPORTING. By November 1st of each year, the council must submit an updated statewide terrorism preparedness implementation plan to the legislature. As part of the annual update, the council must summarize and report on the distribution of all funds reviewed by the council for the preceding year and may make recommendations for new funding.

Subd. 7. EXPIRATION. The advisory council expires on June 30, 2005.

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

Sec. 2. [373.47] COUNTY DEBT AUTHORITY.

Subdivision 1. AUTHORITY TO INCUR DEBT. (a) Subject to prior approval by the public safety radio system planning committee under section 473.907, the governing body of a county may finance the cost of designing, constructing, and acquiring public safety communication system infrastructure and equipment for use on the statewide, shared public safety radio system by issuing:

(1) capital improvement bonds under section 373.40, as if the infrastructure and equipment qualified as a "capital improvement" within the meaning of section 373.40, subdivision 1, paragraph (b); and

(2) capital notes under the provisions of section 373.01, subdivision 3, as if the equipment qualified as "capital equipment" within the meaning of section 373.01, subdivision 3.

(b) For purposes of this section, "county" means the following counties: Anoka, Benton, Carver, Chisago, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Mower, Olmsted, Ramsey, Rice, Scott, Sherburne, Steele, Wabasha, Washington, Wright, and Winona.

(c) The authority to incur debt under this section is not effective until July 1, 2003, for the following counties: Benton, Dodge, Fillmore, Freeborn, Goodhue, Houston, Mower, Olmsted, Rice, Sherburne, Steele, Wabasha, Wright, and Winona.

Subd. 2. TREATMENT OF LEVY. The county may report the tax attributable to any levy to pay principal and interest on bonds or notes issued under this section as a separate line item on the property tax statement. The levy to pay principal and interest on the notes or bonds is exempt from the limits on the amount or rate of tax imposed under any other provision of law.

Subd. 3. EXPIRATION. The authority to issue debt under this section expires December 31, 2012.

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

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Sec. 3. Minnesota Statutes 2001 Supplement, section 403.11, subdivision 1, is amended to read:

Subdivision 1. **EMERGENCY TELEPHONE SERVICE FEE.** (a) Each customer of a telephone company or communications carrier that provides service capable of originating a 911 emergency telephone call is assessed a fee to cover the costs of ongoing maintenance and related improvements for trunking and central office switching equipment for minimum 911 emergency telephone service, plus administrative and staffing costs of the department of administration related to managing the 911 emergency telephone service program. Recurring charges by a public utility providing telephone service for updating the information required by section 403.07, subdivision 3, must be paid by the commissioner of administration if the utility is included in an approved 911 plan and the charges have been certified and approved under subdivision 3. The commissioner of administration shall transfer an amount equal to two cents a month from the fee assessed under this section on cellular and other nonwire access services to the commissioner of public safety for the purpose of offsetting the costs, including administrative and staffing costs, incurred by the state patrol division of the department of public safety in handling 911 emergency calls made from cellular phones. Money remaining in the 911 emergency telephone service account after all other obligations are paid must not cancel and is carried forward to subsequent years and may be appropriated from time to time to the commissioner of administration to provide financial assistance to counties for the improvement of local emergency telephone services. The improvements may include providing access to minimum 911 service for telephone service subscribers currently without access and upgrading existing 911 service to include automatic number identification, local location identification, automatic location identification, and other improvements specified in revised county 911 plans approved by the department.

(b) The fee is 27 may not be less than eight cents nor more than 33 cents a month for each customer access line or other basic access service, including trunk equivalents as designated by the public utilities commission for access charge purposes and including cellular and other nonwire access services. With the approval of the commissioner of finance, the commissioner of administration shall establish the amount of the fee within the limits specified and inform the companies and carriers of the amount to be collected. The commissioner shall provide companies and carriers a minimum of 45 days' notice of each fee change. For fiscal year 2003, the commissioner of administration shall provide a minimum of 35 days' notice of each fee change. The fee must be the same for all customers.

(c) The fee must be collected by each company or carrier providing service subject to the fee. Fees are payable to and must be submitted to the commissioner of administration monthly before the 25th of each month following the month of collection, except that fees may be submitted quarterly if less than \$250 a month is due, or annually if less than \$25 a month is due. Receipts must be deposited in the state treasury and credited to a 911 emergency telephone service account in the special revenue fund. The money in the account may only be used for 911 telephone services as provided in paragraph (a).

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(d) This subdivision does not apply to customers of a telecommunications carrier as defined in section 237.01, subdivision 6.

Sec. 4. Minnesota Statutes 2000, section 473.891, subdivision 3, is amended to read:

Subd. 3. **FIRST PHASE.** "First phase" or "first phase of the regionwide public safety radio communications system" means the initial backbone which serves state and regional agencies the following nine-county metropolitan area: Anoka, Carver, Chisago, Hennepin, Isanti, Ramsey, Scott, and Washington counties.

Sec. 5. Minnesota Statutes 2000, section 473.891, is amended by adding a subdivision to read:

Subd. 10. **SECOND PHASE.** "Second phase" means the metropolitan radio board building subsystems for local government units in the metropolitan area that did not build their own subsystems in the first phase.

Sec. 6. Minnesota Statutes 2000, section 473.898, subdivision 1, is amended to read:

Subdivision 1. **AUTHORIZATION.** The council, if requested by a vote of at least two-thirds of all of the members of the metropolitan radio board may, by resolution, authorize the issuance of its revenue bonds for any of the following purposes to:

(1) provide funds for regionwide mutual aid and emergency medical services communications;

(2) provide funds for the elements of the first phase of the regionwide public safety radio communications system that the board determines are of regionwide benefit and support mutual aid and emergency medical services communication including, but not limited to, costs of master controllers of the backbone; or

(3) provide money for the second phase of the public safety radio communication system; or

(4) refund bonds issued under this section.

Sec. 7. Minnesota Statutes 2000, section 473.898, subdivision 3, is amended to read:

Subd. 3. **LIMITATIONS.** (a) The principal amount of the bonds issued pursuant to subdivision 1, exclusive of any original issue discount, shall not exceed the amount of \$10,000,000 plus the amount the council determines necessary to pay the costs of issuance, fund reserves, debt service, and pay for any bond insurance or other credit enhancement.

(b) In addition to the amount authorized under paragraph (a), the council may issue bonds under subdivision 1 in a principal amount of \$3,306,300, plus the amount the council determines necessary to pay the cost of issuance, fund reserves, debt service, and any bond insurance or other credit enhancement. The proceeds of bonds

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issued under this paragraph may not be used to finance portable or subscriber radio sets.

(c) In addition to the amount authorized under paragraphs (a) and (b), the council may issue bonds under subdivision 1 in a principal amount of \$12,000,000, plus the amount the council determines necessary to pay the costs of issuance, fund reserves, debt service, and any bond insurance or other credit enhancement. The proceeds of bonds issued under this paragraph must be used to pay up to 30 percent of the cost to a local government unit of building a subsystem and may not be used to finance portable or subscriber radio sets. The council must time the sale and issuance of the bonds so that the debt service on the bonds can be covered by the additional revenue that will become available in the fiscal year ending June 30, 2005, generated under section 403.11 and appropriated under section 473.901.

Sec. 8. Minnesota Statutes 2001 Supplement, section 473.901, subdivision 1, is amended to read:

Subdivision 1. **COSTS COVERED BY FEE.** For each fiscal year beginning with the fiscal year commencing July 1, 1997, the amount necessary to pay the following costs is appropriated to the commissioner of administration from the 911 emergency telephone service account established under section 403.11:

(1) debt service costs and reserves for bonds issued pursuant to section 473.898;

(2) repayment of the right-of-way acquisition loans;

(3) costs of design, construction, maintenance of, and improvements to those elements of the first phase and second phases that support mutual aid communications and emergency medical services; or

(4) recurring charges for leased sites and equipment for those elements of the first phase and second phases that support mutual aid and emergency medical communication services; or

(5) aid to local units of government for sites and equipment in support of mutual aid and emergency medical communications services.

This appropriation shall be used to pay annual debt service costs and reserves for bonds issued pursuant to section 473.898 prior to use of fee money to pay other costs eligible under this subdivision. In no event shall the appropriation for each fiscal year exceed an amount equal to four cents a month for each customer access line or other basic access service, including trunk equivalents as designated by the public utilities commission for access charge purposes and including cellular and other nonwire access services, in the fiscal year. Beginning July 1, 2004, this amount will increase to 5.5 cents a month.

Sec. 9. Minnesota Statutes 2000, section 473.902, subdivision 1, is amended to read:

Subdivision 1. **ALLOCATION OF OPERATING COSTS.** The current costs of the board in implementing the regionwide public safety radio communication plan

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system and the first ~~phase system~~ and second phase systems shall be allocated among and paid by the following users, all in accordance with the regionwide public safety radio system communication plan adopted by the board:

- (1) the state of Minnesota for its operations using the system in the metropolitan counties;
- (2) all local government units using the system; and
- (3) other eligible users of the system.

Sec. 10. Minnesota Statutes 2000, section 473.902, subdivision 3, is amended to read:

Subd. 3. COMPONENT MUNICIPALITIES OBLIGATIONS TO BOARD. Each local government and other eligible users of the first or second phase system shall pay to the board all sums charged to it under this section, at the times and in the manner determined by the board. The governing body of each local government shall take all action that may be necessary to provide the funds required for these payments and to make them when due.

Sec. 11. Minnesota Statutes 2000, section 473.902, subdivision 5, is amended to read:

Subd. 5. DEFICIENCY TAX LEVIES. If the governing body of any local government using the first or second phase system fails to meet any payment to the board under subdivision 1 when due, the metropolitan council may certify to the auditor of the county in which the government unit is located the amount required for payment of the amount due with interest at six percent per year. The auditor shall levy and extend the amount due, with interest, as a tax upon all taxable property in the government unit for the next calendar year, free from any existing limitations imposed by law or charter. This tax shall be collected in the same manner as the general taxes of the government unit, and the proceeds of the tax, when collected, shall be paid by the county treasurer to the board and credited to the government unit for which the tax was levied.

Sec. 12. [473.907] PUBLIC SAFETY RADIO SYSTEM PLANNING COMMITTEE.

Subdivision 1. PLANNING COMMITTEE. (a) The commissioner of public safety shall convene and chair a planning committee to develop a project plan for a statewide, shared, trunked public safety radio communication system.

(b) The planning committee consists of the following members or their designees:

- (1) the commissioner of public safety;
- (2) the commissioner of transportation;
- (3) the commissioner of administration;
- (4) the commissioner of natural resources;

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(5) the chair of the metropolitan radio board;

(6) the president of the Minnesota sheriffs' association;

(7) a representative of the league of Minnesota cities from the metropolitan area;
and

(8) a representative of the association of Minnesota counties from greater Minnesota.

Additionally, the commissioner of finance or a designee shall serve on the committee as a nonvoting member.

(c) The planning committee must implement the project plan and establish the statewide, shared trunked radio and communications system. The commissioner of public safety is designated as the chair of the planning committee. The commissioner of public safety and the planning committee have overall responsibility for the successful completion of statewide communications infrastructure system integration.

(d) The planning committee must establish one or more advisory groups for the purpose of advising on the plan, design, implementation and administration of the statewide, shared trunked radio and communications system. At least one such group must consist of the following members:

(1) the chair of the metropolitan radio board or a designee;

(2) the chief of the Minnesota state patrol;

(3) a representative of the Minnesota state sheriffs' association;

(4) a representative of the Minnesota chiefs of police association; and

(5) a representative of the Minnesota fire chiefs' association.

Subd. 2. PLAN CONTENTS. (a) The statewide, shared radio and communications system project plan must include:

(1) standards, guidelines and comprehensive design for the system, including use and integration of existing public and private communications infrastructure;

(2) proposed project implementation schedule, phases and estimated costs for each phase of the plan;

(3) recommended statutory changes required for effective implementation and administration of the statewide, shared trunked radio and communications system;

(4) establishment of a permanent governance structure to manage, administer and operate the statewide, shared trunked radio system as it becomes operational; and

(5) a policy for the lease of excess space or capacity on systems constructed under the project plan, consistent with section 174.70, subdivision 2, with priority given first to local units of government for public safety communications transmission needs and second to any other communications transmission needs of either the public or private sector.

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(b) The planning committee must ensure that generally accepted project management techniques are utilized for each project or phase of the statewide, shared radio and communications system, consistent with guidelines of the project management office of the office of technology:

- (1) clear sponsorship;
- (2) scope management;
- (3) project planning, control, and execution;
- (4) continuous risk assessment and mitigation;
- (5) cost management;
- (6) quality management reviews;
- (7) communications management; and
- (8) proven methodology.

Subd. 3. LOCAL FINANCING. A local unit of government that receives state funds for the statewide, shared trunked radio and communications system must agree to participate in the system and must comply with the standards and guidelines contained in the project plan. The planning committee must review and approve all local planning initiatives, including bonds issued under section 373.47, for connectivity to the system to assure compatibility, interoperability and integration support with the system and plan standards. As part of the review, and prior to approving the issuance of bonds under section 373.47, the planning committee must require, and a county must provide, a detailed plan including a budget and detailed cost estimates.

Subd. 4. REPORTING. By November 15, 2002, the planning committee must submit a status report to the governor and to the chairs and ranking minority members of the house and senate committees with jurisdiction over capital investment and criminal justice funding and policy along with any proposed statutory changes and funding options to allow for consideration in the 2004-2005 biennial budget process. By January 15, 2003, the planning committee must submit the project plan to the governor and to the above named legislators, and must immediately thereafter commence execution of the plan.

Sec. 13. Minnesota Statutes 2000, section 609.106, subdivision 2, is amended to read:

Subd. 2. LIFE WITHOUT RELEASE. The court shall sentence a person to life imprisonment without possibility of release under the following circumstances:

- (1) the person is convicted of first degree murder under section 609.185, paragraph (a), clause (2) ~~or~~, (4), or (7);
- (2) the person is convicted of committing first degree murder in the course of a kidnapping under section 609.185, clause (3); or

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(3) the person is convicted of first degree murder under section 609.185, clause (1), (3), (5), or (6), and the court determines on the record at the time of sentencing that the person has one or more previous convictions for a heinous crime.

EFFECTIVE DATE. This section is effective July 1, 2002, and applies to crimes committed on or after that date.

Sec. 14. [609.119] ADDITIONAL COLLECTION OF BIOLOGICAL SPECIMENS FOR DNA TESTING.

(a) From July 1, 2002, to June 30, 2003, the court shall order an offender to provide a biological specimen for the purpose of future DNA analysis as described in section 299C.155 when:

(1) the court sentences a person charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and the person is convicted of that offense or of any felony offense arising out of the same set of circumstances; or

(2) the juvenile court adjudicates a person a delinquent child who is petitioned for committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and is adjudicated delinquent for that offense or any felony-level offense arising out of the same set of circumstances.

The biological specimen shall be maintained by the bureau of criminal apprehension as provided in section 299C.155.

(b) From July 1, 2002, to June 30, 2003, the commissioner of corrections or local corrections authority shall order a person to provide a biological specimen for the purpose of future DNA analysis as described in section 299C.155 before completion of the person's term of imprisonment when the person has not provided a biological specimen for the purpose of DNA analysis, and the person:

(1) was initially charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and was convicted of that offense or of any felony offense arising out of the same set of circumstances; or

(2) is serving a term of imprisonment in this state under a reciprocal agreement although convicted in another state of committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, or of any felony offense arising out of the same set of circumstances if the person was initially charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1.

The commissioner of corrections or local corrections authority shall forward the sample to the bureau of criminal apprehension.

(c) From July 1, 2002, to June 30, 2003, when the state accepts an offender from another state under the interstate compact authorized by section 243.16, the acceptance is conditional on the offender providing a biological specimen for the purposes of future DNA analysis as described in section 299C.155, if the offender was initially charged with committing or attempting to commit a felony offense not described in

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section 609.117, subdivision 1, and was convicted of that offense or of any felony offense arising out of the same set of circumstances. The specimen must be provided under supervision of staff from the department of corrections or a Community Corrections Act county within 15 business days after the offender reports to the supervising agent. The cost of obtaining the biological specimen is the responsibility of the agency providing supervision.

Sec. 15. Minnesota Statutes 2000, section 609.185, is amended to read:

609.185 MURDER IN THE FIRST DEGREE.

(a) Whoever does any of the following is guilty of murder in the first degree and shall be sentenced to imprisonment for life:

(1) causes the death of a human being with premeditation and with intent to effect the death of the person or of another;

(2) causes the death of a human being while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence, either upon or affecting the person or another;

(3) causes the death of a human being with intent to effect the death of the person or another, while committing or attempting to commit burglary, aggravated robbery, kidnapping, arson in the first or second degree, a drive-by shooting, tampering with a witness in the first degree, escape from custody, or any felony violation of chapter 152 involving the unlawful sale of a controlled substance;

(4) causes the death of a peace officer or a guard employed at a Minnesota state or local correctional facility, with intent to effect the death of that person or another, while the peace officer or guard is engaged in the performance of official duties;

(5) causes the death of a minor while committing child abuse, when the perpetrator has engaged in a past pattern of child abuse upon the child and the death occurs under circumstances manifesting an extreme indifference to human life; or

(6) causes the death of a human being while committing domestic abuse, when the perpetrator has engaged in a past pattern of domestic abuse upon the victim or upon another family or household member and the death occurs under circumstances manifesting an extreme indifference to human life; or

(7) causes the death of a human being while committing, conspiring to commit, or attempting to commit a felony crime to further terrorism and the death occurs under circumstances manifesting an extreme indifference to human life.

(b) For purposes of paragraph (a), clause (5), "child abuse" means an act committed against a minor victim that constitutes a violation of the following laws of this state or any similar laws of the United States or any other state: section 609.221; 609.222; 609.223; 609.224; 609.2242; 609.342; 609.343; 609.344; 609.345; 609.377; 609.378; or 609.713.

(c) For purposes of paragraph (a), clause (6), "domestic abuse" means an act that:

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(1) constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.342, 609.343, 609.344, 609.345, 609.713, or any similar laws of the United States or any other state; and

(2) is committed against the victim who is a family or household member as defined in section 518B.01, subdivision 2, paragraph (b).

(d) For purposes of paragraph (a), clause (7), "further terrorism" has the meaning given in section 609.714, subdivision 1.

EFFECTIVE DATE. This section is effective July 1, 2002, and applies to crimes committed on or after that date.

Sec. 16. [609.594] DAMAGE TO PROPERTY OF CRITICAL PUBLIC SERVICE FACILITIES, UTILITIES, AND PIPELINES.

Subdivision 1. DEFINITIONS. As used in this section:

(1) "critical public service facility" includes railroad yards and stations, bus stations, airports, and other mass transit facilities; oil refineries; storage areas or facilities for hazardous materials, hazardous substances, or hazardous wastes; and bridges;

(2) "pipeline" has the meaning given in section 609.6055, subdivision 1; and

(3) "utility" includes: (i) any organization defined as a utility in section 216C.06, subdivision 5; (ii) any telecommunications carrier or telephone company regulated under chapter 237; and (iii) any local utility or enterprise formed for the purpose of providing electrical or gas heating and power, telephone, water, sewage, wastewater, or other related utility service, which is owned, controlled, or regulated by a town, a statutory or home rule charter city, a county, a port development authority, the metropolitan council, a district heating authority, a regional commission or other regional government unit, or a combination of these governmental units.

Subd. 2. PROHIBITED CONDUCT; PENALTY. Whoever causes damage to the physical property of a critical public service facility, utility, or pipeline with the intent to significantly disrupt the operation of or the provision of services by the facility, utility, or pipeline and without the consent of one authorized to give consent, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

Subd. 3. DETENTION AUTHORITY; IMMUNITY. An employee or other person designated by a critical public service facility, utility, or pipeline to ensure the provision of services by the critical public service facility or the safe operation of the equipment or facility of the utility or pipeline who has reasonable cause to believe that a person is violating this section may detain the person as provided in this subdivision. The person detained must be promptly informed of the purpose of the detention and may not be subjected to unnecessary or unreasonable force or interrogation. The employee or other designated person must notify a peace officer promptly of the detention and may only detain the person for a reasonable period of time. No employee or other designated person is criminally or civilly liable for any detention that the

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employee or person reasonably believed was authorized by and conducted in conformity with this subdivision.

EFFECTIVE DATE. This section is effective July 1, 2002, and applies to crimes committed on or after that date.

Sec. 17. Minnesota Statutes 2000, section 609.595, subdivision 1, is amended to read:

Subdivision 1. **CRIMINAL DAMAGE TO PROPERTY IN THE FIRST DEGREE.** Whoever intentionally causes damage to physical property of another without the latter's consent may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if:

(1) the damage to the property caused a reasonably foreseeable risk of bodily harm; or

(2) the property damaged belongs to a ~~public utility~~ or a common carrier and the damage impairs the service to the public rendered by ~~them~~ the carrier; or

(3) the damage reduces the value of the property by more than \$500 measured by the cost of repair and replacement; or

(4) the damage reduces the value of the property by more than \$250 measured by the cost of repair and replacement and the defendant has been convicted within the preceding three years of an offense under this subdivision or subdivision 2.

In any prosecution under clause (3), the value of any property damaged by the defendant in violation of that clause within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

EFFECTIVE DATE. This section is effective July 1, 2002, and applies to crimes committed on or after that date.

Sec. 18. **[609.6055] TRESPASS ON CRITICAL PUBLIC SERVICE FACILITY; UTILITY; OR PIPELINE.**

Subdivision 1. DEFINITIONS. (a) As used in this section, the following terms have the meanings given.

(b) "Critical public service facility" includes buildings and other physical structures, and fenced in or otherwise enclosed property, of railroad yards and stations, bus stations, airports, and other mass transit facilities; oil refineries; and storage areas or facilities for hazardous materials, hazardous substances, or hazardous wastes. The term also includes nonpublic portions of bridges. The term does not include railroad tracks extending beyond a critical public service facility.

(c) "Pipeline" includes an aboveground pipeline and any equipment, facility, or building located in this state that is used to transport natural or synthetic gas, crude

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petroleum or petroleum fuels or oil or their derivatives, or hazardous liquids, to or within a distribution, refining, manufacturing, or storage facility that is located inside or outside of this state. Pipeline does not include service lines.

(d) "Utility" includes:

(1) any organization defined as a utility in section 216C.06, subdivision 5;

(2) any telecommunications carrier or telephone company regulated under chapter 237; and

(3) any local utility or enterprise formed for the purpose of providing electrical or gas heating and power, telephone, water, sewage, wastewater, or other related utility service, which is owned, controlled, or regulated by a town, a statutory or home rule charter city, a county, a port development authority, the metropolitan council, a district heating authority, a regional commission or other regional government unit, or a combination of these governmental units.

The term does not include property located above buried power or telecommunications lines or property located below suspended power or telecommunications lines, unless the property is fenced in or otherwise enclosed.

Subd. 2. PROHIBITED CONDUCT; PENALTY. Whoever enters or is found upon property containing a critical public service facility, utility, or pipeline, without claim of right or consent of one who has the right to give consent to be on the property, is guilty of a gross misdemeanor, if:

(1) the person refuses to depart from the property on the demand of one who has the right to give consent;

(2) within the past six months, the person had been told by one who had the right to give consent to leave the property and not to return, unless a person with the right to give consent has given the person permission to return; or

(3) the property is posted.

Subd. 3. POSTING. For purposes of this section, a critical public service facility, utility, or pipeline is posted if there are signs that:

(1) state "no trespassing" or similar terms;

(2) display letters at least two inches high;

(3) state that Minnesota law prohibits trespassing on the property; and

(4) are posted in a conspicuous place and at intervals of 500 feet or less.

Subd. 4. DETENTION AUTHORITY; IMMUNITY. An employee or other person designated by a critical public service facility, utility, or pipeline to ensure the provision of services by the critical public service facility or the safe operation of the equipment or facility of the utility or pipeline who has reasonable cause to believe that a person is violating this section may detain the person as provided in this subdivision. The person detained must be promptly informed of the purpose of the detention and

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may not be subjected to unnecessary or unreasonable force or interrogation. The employee or other designated person must notify a peace officer promptly of the detention and may only detain the person for a reasonable period of time. No employee or other designated person is criminally or civilly liable for any detention that the employee or person reasonably believed was authorized by and conducted in conformity with this subdivision.

Subd. 5. ARREST AUTHORITY. A peace officer may arrest a person without a warrant if the officer has probable cause to believe the person violated this section within the preceding four hours. The arrest may be made even though the violation did not occur in the presence of the peace officer.

EFFECTIVE DATE. This section is effective July 1, 2002, and applies to crimes committed on or after that date.

Sec. 19. [609.712] REAL AND SIMULATED WEAPONS OF MASS DESTRUCTION.

Subdivision 1. DEFINITIONS. (a) As used in this section, the following terms have the meanings given.

(b) "Biological agent" means any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of a microorganism, virus, infectious substance, or biological product, that is capable of causing:

(1) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(2) deterioration of food, water, equipment, supplies, or material of any kind; or

(3) deleterious alteration of the environment.

(c) "Simulated weapon of mass destruction" means any device, substance, or object that by its design, construction, content, or characteristics, appears to be or to contain, or is represented to be, constitute, or contain, a weapon of mass destruction, but that is, in fact, an inoperative facsimile, imitation, counterfeit, or representation of a weapon of mass destruction that does not meet the definition of a weapon of mass destruction or that does not actually contain or constitute a weapon, biological agent, toxin, vector, or delivery system prohibited by this section.

(d) "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including:

(1) any poisonous substance or biological product that may be engineered as a result of biotechnology or produced by a living organism; or

(2) any poisonous isomer or biological product, homolog, or derivative of such a substance.

(e) "Vector" means a living organism or molecule, including a recombinant molecule or biological product that may be engineered as a result of biotechnology,

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capable of carrying a biological agent or toxin to a host.

(f) "Weapon of mass destruction" includes weapons, substances, devices, vectors, or delivery systems that:

(1) are designed or have the capacity to cause death or great bodily harm to a considerable number of people through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors, disease organisms, biological agents, or toxins; or

(2) are designed to release radiation or radioactivity at a level dangerous to human life.

Subd. 2. WEAPONS OF MASS DESTRUCTION. (a) Whoever manufactures, acquires, possesses, or makes readily accessible to another a weapon of mass destruction with the intent to cause injury to another is guilty of a crime and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$100,000, or both.

(b) It is an affirmative defense to criminal liability under this subdivision if the defendant proves by a preponderance of the evidence that the conduct engaged in:

(1) was specifically authorized under state or federal law and conducted in accordance with that law; or

(2) was part of a legitimate scientific or medical research project, or constituted legitimate medical treatment.

Subd. 3. PROHIBITED SUBSTANCES. (a) Whoever knowingly manufactures, acquires, possesses, or makes readily accessible to another the following, or substances that are substantially similar in chemical makeup to the following, in levels dangerous to human life, is guilty of a crime:

- (1) variola major (smallpox);
- (2) bacillus anthracis (anthrax);
- (3) yersinia pestis (plague);
- (4) botulinum toxin (botulism);
- (5) francisella tularensis (tularemia);
- (6) viral hemorrhagic fevers;
- (7) a mustard agent;
- (8) lewisite;
- (9) hydrogen cyanide;
- (10) GA (tabun);
- (11) GB (Sarin);
- (12) GD (Soman);

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(13) GF (cyclohexymethyl phosphonofluoridate);

(14) VX (0-ethyl, supdiisopropylaminomethyl methylphosphonothiolate);

(15) radioactive materials; or

(16) any combination of the above.

(b) A person who violates this subdivision may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$100,000, or both.

(c) This subdivision does not apply to conduct:

(1) specifically authorized under state or federal law and conducted in accordance with that law;

(2) that is part of a legitimate scientific or medical research project; or

(3) that constitutes legitimate medical treatment.

Subd. 4. SIMULATED WEAPONS OF MASS DESTRUCTION; PENALTY. Whoever manufactures, acquires, possesses, or makes readily accessible to another a simulated weapon of mass destruction with the intent of terrorizing another may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

Subd. 5. THREATS INVOLVING REAL OR SIMULATED WEAPONS OF MASS DESTRUCTION. Whoever does the following with intent to terrorize another or cause evacuation of a place, whether a building or not, or disruption of another's activities, or with reckless disregard of the risk of causing this terror, evacuation, or disruption, may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both:

(1) displays a weapon of mass destruction or a simulated weapon of mass destruction;

(2) threatens to use a weapon of mass destruction; or

(3) communicates, whether directly or indirectly, that a weapon of mass destruction is or will be present or introduced at a place or location, or will be used to cause death, disease, or injury to another or to another's property, whether or not the same is in fact present or introduced.

Subd. 6. CIVIL ACTION TO RECOVER. A person who violates this section is liable in a civil action brought by:

(1) an individual for damages resulting from the violation; and

(2) a municipality, the state, or a rescue organization to recover expenses incurred to provide investigative, rescue, medical, or other services for circumstances or injuries which resulted from the violation.

EFFECTIVE DATE. This section is effective July 1, 2002, and applies to crimes committed on or after that date.

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Sec. 20. [609.714] CRIMES COMMITTED IN FURTHERANCE OF TERRORISM.

Subdivision 1. DEFINITION. As used in this section, a crime is committed to "further terrorism" if the crime is a felony and is a premeditated act involving violence to persons or property that is intended to:

(1) terrorize, intimidate, or coerce a considerable number of members of the public in addition to the direct victims of the act; and

(2) significantly disrupt or interfere with the lawful exercise, operation, or conduct of government, lawful commerce, or the right of lawful assembly.

Subd. 2. FURTHERANCE OF TERRORISM; CRIME DESCRIBED; PENALTY. A person who commits a felony crime to further terrorism is guilty of a crime. The statutory maximum for the crime is 50 percent longer than the statutory maximum for the underlying crime.

EFFECTIVE DATE. This section is effective July 1, 2002, and applies to crimes committed on or after that date.

ARTICLE 2

APPROPRIATIONS

Section 1. PUBLIC SAFETY

Subdivision 1. Total Appropriation

13,000,000

To the commissioner of public safety for the fiscal year ending June 30, 2003.

Appropriations made in this section for a specific purpose, but not needed for that purpose, may be used for another antiterrorism purpose identified in this section. Appropriations in this section are available until June 30, 2004.

As used in this article, "local response units" include local law enforcement, fire, and ambulance.

Subd. 2. Equipment

\$3,750,000 is for the purchase of terrorism response-related equipment. This amount is

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for grants to local and state response units for the purchase of personal protection equipment, chemical detection and measurement equipment, and decontamination equipment for first response units. Up to 1.5 percent of this appropriation may be used for the administration of the grants. The commissioner shall distribute the grants in accordance with criteria recommended by the homeland security advisory council or its successor. Grant applicants must provide a 25 percent match from nonstate funds or in-kind contributions to obtain grant funding. This is a one-time appropriation.

Subd. 3. Training

\$7,500,000 is for terrorism response-related training. Of this amount, \$177,000 is for additional personnel in the department of public safety's division of emergency management to conduct terrorism preparedness and response-related training and exercises. Of this amount, \$55,000 is for the state's hazardous materials teams and chemical assessment teams for the training of their personnel. The remainder of the appropriation is for grants to local response units for approved certification and terrorism training. The division shall distribute the grants in accordance with criteria recommended by the homeland security advisory council or its successor. No portion of this money may be used to supplant current funding for training. This is a one-time appropriation.

Subd. 4. Bomb Disposal Squads

\$250,000 in fiscal year 2003 is to reimburse bomb disposal units under Minnesota Statutes, section 299C.063. Of this amount, \$150,000 is for the purchase of equipment, \$60,000 is for response costs, and \$40,000 is for training costs. The department of public safety's division of emergency man-

agement shall distribute the funds in accordance with criteria recommended by the homeland security advisory council or its successor. This is a one-time appropriation.

**Subd. 5. Hazardous Materials
Emergency Response Teams**

\$240,000 is for the conversion of the Rochester, Moorhead, and Duluth chemical assessment teams to combination emergency response/chemical assessment teams. This is a one-time appropriation.

Subd. 6. Chemical Assessment Teams

\$105,000 is to provide that up to five members per chemical assessment team are available for response. This is a one-time appropriation.

Subd. 7. Capitol Security

\$600,000 is to fund increased security for the capitol complex. The commissioner must use the funds to hire and pay two additional state troopers to patrol the capitol complex year-round and fund overtime for two state troopers to patrol the capitol complex while the legislature is in session. The commissioner may not use the funds for the governor's security detail. This is a one-time appropriation.

**Subd. 8. 800 Megahertz Executive Team
Report Update**

\$5,000 is for salaries and expenses related to updating and modifying the 800 Megahertz Executive Team Report to 2001 Legislature for the statewide, shared trunked radio and communications system. The 2001 report will include updated project costs and timeline estimates for each implementation phase and will reflect metro and greater Minnesota communication needs. The commissioner shall submit the updated report to the chairs and ranking

minority members of the senate and house of representatives committees and divisions having jurisdiction over criminal justice funding by February 1, 2003. This is a one-time appropriation.

Subd. 9. Additional Collection of Biological Specimens for DNA Testing

\$150,000 is for the increased costs associated with the additional collection of biological specimens for DNA testing. This is a one-time appropriation.

Subd. 10. Minnesota Emergency Medical Services Regulatory Board

\$400,000 is for grants to medical resource control centers that have been providing medical direction and coordination on or before January 1, 2002. This is a one-time appropriation.

Subd. 11. Reporting

By February 1, 2003, and February 1, 2004, the commissioner shall report to the chairs and ranking minority members of the house and senate committees having jurisdiction over criminal justice funding and policy on how the funds appropriated in this section were expended.

Sec. 2. ADMINISTRATION

1,781,000

4,244,000

This appropriation is from the 911 emergency telephone service account in the special revenue fund to provide for 911 emergency telephone service. These appropriations are added to the appropriations in Laws 2001, First Special Session chapter 10, article 1, section 12, subdivision 4.

Presented to the governor May 20, 2002

Signed by the governor May 22, 2002, 1:10 p.m.