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Senate

State of Minnesota

S.F. No. 580 -Nonvehicular Flight from a Peace Officer

Author: Senator Linda Scheid

Prepared by: Chris Turner, Senate Research (651/296-4350) CT

Date: February 22, 2005

Section 1 provides that whoever flees from a peace officer, by any other means except in a motor vehicle, to avoid arrest or investigation, or to conceal or destroy evidence, is guilty of a misdemeanor.

Section 2 provides an August 1, 2005, effective date and applies to crimes committed on or after that date.

CT:vs

Senators Scheid and Foley introduced--

S.F. No. 580: Referred to the Committee on Crime Prevention and Public Safety.

1 A bill for an act
2 relating to crimes; prohibiting nonvehicular evasive
3 flight from a peace officer; providing penalties;
4 amending Minnesota Statutes 2004, section 609.487, by
5 adding a subdivision.

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

7 Section 1. Minnesota Statutes 2004, section 609.487, is
8 amended by adding a subdivision to read:

9 Subd. 6. [FLEEING, OTHER THAN VEHICLE.] Whoever, for the
10 purpose of avoiding arrest, detention, or investigation, or in
11 order to conceal or destroy potential evidence related to the
12 commission of a crime, attempts to evade or elude a peace
13 officer, who is acting in the lawful discharge of an official
14 duty, by means of running, hiding, or by any other means except
15 fleeing in a motor vehicle, is guilty of a misdemeanor.

16 Sec. 2. [EFFECTIVE DATE.]

17 Section 1 is effective August 1, 2005, and applies to
18 crimes committed on or after that date.

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S.F. No. 478/H.F. No. 378 - Revisor's Bill (First Engrossment)

Author: Senator Don Betzold

Prepared by: Kenneth P. Backhus, Senate Counsel (651/296-4396)

Date: February 23, 2005

(KB)

S.F. No. 478/H.F. No. 378 is the Revisor's bill. Each year, the Revisor prepares one or more bills of this kind. It corrects many erroneous or misleading details of Minnesota Statutes that have come to the Revisor's attention in the course of editing, bill drafting, and other work. The bill is accompanied by a Memorandum of Explanation that accounts for each proposed change.

Article 1 is a series of miscellaneous corrections.

Article 2 updates language related to constables.

Article 3 revises numerous inconsistent sentencing provisions for misdemeanors.

Article 4 removes obsolete language that distinguishes between guardianships or conservatorships of persons and estates.

Article 5 revises language and references relating to retirement.

Generally, the Revisor's bill is heard only in the Judiciary Committee. **S.F. No. 478/H.F. No. 378** is somewhat atypical of a Revisor's bill in that there are a number of criminal justice-related changes. For example, the entire article 2 relates to use of "constables," and the entire article 3 relates to changes in misdemeanor and gross misdemeanor penalty language. In addition, there are a few provisions in article 1 that are criminal justice related (see **sections 31, 40, 41, 59, 62-64, 77, and 82, subdivision 6**). Some of the bill's criminal justice-related provisions are somewhat more substantive than the provisions typically included in past Revisor's bills. A brief summary of those sections follows.

Article 1, sections 77 and 82, subdivision 6, relate to the POST Board. **Section 77** strikes language in the POST Board law's definition of "part-time peace officer." This relates to the repeal in **section 82, subdivision 6**, of Minnesota Rules, part 6700.1300 (transition of part-time peace officer to full-time peace officer). **Section 82, subdivision 6**, repeals two POST Board rules that are deemed obsolete. The first relates to a definition of "first aid course." The second relates to the transition of part-time peace officers to full-time peace officers.

Article 3, sections 1 to 4, 6, 7, 10, 12, and 13 to 25, have some substantive elements. The language being stricken appears to require a minimum fine (usually of a nominal amount) or contains maximum incarceration periods or criminal fines lower than what will be applicable if the bill is enacted.

KPB:ph

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HOUSE OF REPRESENTATIVES

EIGHTY-FOURTH
SESSION

HOUSE FILE No. 378

January 24, 2005

Authored by Nelson, P., and Slawik

The bill was read for the first time and referred to the Committee on Civil Law and Elections

February 10, 2005

Committee Recommendation and Adoption of Report:

To Pass as Amended and placed on the Consent Calendar

Read Second Time

February 17, 2005

Consent Calendar for the Day

Amended

Read Third Time as Amended

Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

1

A bill for an act

2 relating to legislation; correcting erroneous,
3 ambiguous, and omitted text and obsolete references;
4 eliminating certain redundant, conflicting, and
5 superseded provisions; making miscellaneous technical
6 corrections to statutes and other laws; amending
7 Minnesota Statutes 2004, sections 4.077, subdivision
8 1; 10A.04, subdivision 6; 13.32, subdivision 3;
9 13.321, by adding a subdivision; 13.381, by adding a
10 subdivision; 13.46, subdivision 2; 13.47, subdivision
11 1; 13.4963, subdivision 2; 15.0591, subdivision 2;
12 15.39, subdivision 2; 16B.31, subdivision 1; 17.43;
13 18C.60, subdivision 1; 28.15; 32.645; 47.59,
14 subdivision 2; 62I.13, subdivision 3; 62L.17,
15 subdivision 2a; 64B.37, subdivision 2; 82.33,
16 subdivision 4; 84.8712, subdivisions 2, 3, 4, 6;
17 85.22, subdivision 2a; 89.01, subdivision 5a; 115B.20,
18 subdivision 2; 116J.871, subdivision 3; 119B.25,
19 subdivision 2; 124D.68, subdivision 2; 127A.10;
20 137.09; 144.6501, subdivision 1; 145B.04; 152.027,
21 subdivision 4; 155A.03, subdivision 1; 155A.16;
22 161.1419, subdivision 8; 168.275; 168.33, subdivision
23 2a; 169.21, subdivision 2; 169.50, subdivision 1;
24 169.59, subdivision 4; 169A.55, subdivision 3;
25 171.181, subdivision 1; 177.23, subdivision 7; 181.30;
26 201.014, subdivision 2; 201.071, subdivision 1;
27 201.15, subdivision 1; 204B.10, subdivision 6;
28 216B.61; 219.57, subdivision 6; 234.23; 235.10;
29 235.13; 237.763; 238.37; 238.38; 238.42; 239.791,
30 subdivision 15; 244.05, subdivisions 4, 5; 245.466,
31 subdivision 1; 245.4875, subdivision 1; 245.75;
32 246.01; 246B.04, subdivision 2; 252.24, subdivision 5;
33 252A.03, subdivisions 1, 4; 252A.101, subdivisions 1,
34 5; 253B.23, subdivision 2; 256.93, subdivision 1;
35 256B.055, subdivision 12; 256B.0625, subdivision 6a;
36 256B.0627, subdivisions 1, 5; 256B.0917, subdivisions
37 4, 5; 256B.0951, subdivision 8; 256B.431, subdivision
38 14; 256G.01, subdivision 3; 256L.07, subdivision 1;
39 256L.15, subdivision 2; 256M.10, subdivision 5;
40 257B.08; 259.21, subdivision 4; 260B.007, subdivision
41 16; 260C.101, subdivision 2; 276.04, subdivision 2;
42 290.095, subdivision 1; 299D.07; 299F.051, subdivision
43 4; 299F.093, subdivision 1; 302A.011, subdivision 16;
44 303.03; 303.25, subdivision 1; 321.0210; 321.1114;
45 322B.03, subdivision 27; 325F.40; 325N.15; 329.17;
46 333.135; 336.4A-105; 343.40, subdivision 3; 345.14;

1 346.05; 353.01, subdivision 2; 353.34, subdivision 3a;
 2 356.431, subdivision 1; 395.22; 458D.02, subdivision
 3 2; 469.104; 473.845, subdivision 1; 481.05; 501B.18;
 4 501B.19; 514.996, subdivision 3; 515B.4-102;
 5 524.2-114; 525.9212; 525.95, subdivision 1; 527.38;
 6 527.39; 529.12; 540.18, subdivision 1; 580.041,
 7 subdivision 2; 624.64; 624.67; 626.84, subdivision 1;
 8 629.11; 631.04; Laws 2003, First Special Session
 9 chapter 11, article 2, section 21; Laws 2004, chapter
 10 199, article 12, section 108; Laws 2004, chapter 261,
 11 article 6, section 5; repealing Minnesota Statutes
 12 2004, sections 115B.49, subdivision 4a; 306.13;
 13 315.43; 317A.909, subdivision 4; 357.12; 367.40,
 14 subdivisions 3, 4; 367.401, subdivision 4; 367.42;
 15 398.35, subdivision 2; Laws 2001, First Special
 16 Session chapter 10, article 10, section 1; Laws 2003,
 17 chapter 8, section 2; Laws 2004, chapter 219, section
 18 1; Laws 2004, chapter 288, article 3, section 5;
 19 Minnesota Rules, parts 6700.0100, subpart 14;
 20 6700.1300; 9055.0125; 9055.0500; 9055.0510; 9055.0520;
 21 9055.0530; 9055.0540; 9055.0550; 9055.0560; 9055.0570;
 22 9055.0580; 9055.0590; 9055.0600; 9055.0610.

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

24 ARTICLE 1

25 GENERAL

26 Section 1. Minnesota Statutes 2004, section 4.077,
 27 subdivision 1, is amended to read:

28 Subdivision 1. [PLAN TO RENOVATE COURTS BUILDING.] (a) The
 29 Old Federal Courts Building in the city of St. Paul, described
 30 ~~in the registry of historic sites in section 138.577~~ and called
 31 in this section the "courts building," is an outstanding example
 32 of federal architecture of its period and a significant symbol
 33 of constitutional government which spans much of this state's
 34 history. Its acquisition, preservation, and appropriate use is
 35 a concern of the state and an important aspect of state policy
 36 declared in the Historic Sites Act of 1965.

37 (b) The legislature is informed that feasible renovation
 38 and remodeling of the structure of this historic site would make
 39 it suitable to meet existing and foreseeable need of the state
 40 for school, classroom, and other educational use, or for use in
 41 the protection of public health, and such practical adaptation
 42 of the courts building should not be incompatible, but rather in
 43 keeping with, continued observance of the building as an
 44 historic monument.

45 (c) National policy expressed in enactments of the Congress
 46 (including, but not necessarily limited to, the Surplus Property

1 Act of 1944 and Federal Property and Administrative Services Act
2 of 1949) make this historic site, now held by and subject to the
3 control of the administrator of the General Service
4 Administration, available to this state, its political
5 subdivisions or instrumentalities upon compliance with the
6 conditions of the statutes and rules promulgated thereunder for
7 educational use or use in the protection of the public health,
8 or as an historic monument for the benefit of the public.

9 Sec. 2. Minnesota Statutes 2004, section 10A.04,
10 subdivision 6, is amended to read:

11 Subd. 6. [PRINCIPAL REPORTS.] (a) A principal must report
12 to the board as required in this subdivision by March 15 for the
13 preceding calendar year. ~~Along with the report, the principal~~
14 ~~must pay a fee of \$50, except as otherwise provided in this~~
15 ~~subdivision. The fee must be no more than necessary to cover~~
16 ~~the cost of administering sections 10A.03 to 10A.06. The amount~~
17 ~~of the fee is subject to change each biennium in accordance with~~
18 ~~the budget request made by the board. The fee requirement~~
19 ~~expires June 30, 2004.~~

20 (b) The principal must report the total amount, rounded to
21 the nearest \$20,000, spent by the principal during the preceding
22 calendar year to influence legislative action, administrative
23 action, and the official action of metropolitan governmental
24 units.

25 (c) The principal must report under this subdivision a
26 total amount that includes:

27 (1) all direct payments by the principal to lobbyists in
28 this state;

29 (2) all expenditures for advertising, mailing, research,
30 analysis, compilation and dissemination of information, and
31 public relations campaigns related to legislative action,
32 administrative action, or the official action of metropolitan
33 governmental units in this state; and

34 (3) all salaries and administrative expenses attributable
35 to activities of the principal relating to efforts to influence
36 legislative action, administrative action, or the official

1 action of metropolitan governmental units in this state.

2 Sec. 3. Minnesota Statutes 2004, section 13.32,
3 subdivision 3, is amended to read:

4 Subd. 3. [PRIVATE DATA; WHEN DISCLOSURE IS PERMITTED.]

5 Except as provided in subdivision 5, educational data is private
6 data on individuals and shall not be disclosed except as follows:

7 (a) pursuant to section 13.05;

8 (b) pursuant to a valid court order;

9 (c) pursuant to a statute specifically authorizing access
10 to the private data;

11 (d) to disclose information in health and safety
12 emergencies pursuant to the provisions of United States Code,
13 title 20, section 1232g(b)(1)(I) and Code of Federal
14 Regulations, title 34, section 99.36;

15 (e) pursuant to the provisions of United States Code, title
16 20, sections 1232g(b)(1), (b)(4)(A), (b)(4)(B), (b)(1)(B),
17 (b)(3) and Code of Federal Regulations, title 34, sections
18 99.31, 99.32, 99.33, 99.34, and 99.35;

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

25 (g) when disclosure is required for institutions that
26 participate in a program under title IV of the Higher Education
27 Act, United States Code, title 20, ~~chapter~~ section 1092;

28 (h) to the appropriate school district officials to the
29 extent necessary under subdivision 6, annually to indicate the
30 extent and content of remedial instruction, including the
31 results of assessment testing and academic performance at a
32 postsecondary institution during the previous academic year by a
33 student who graduated from a Minnesota school district within
34 two years before receiving the remedial instruction;

35 (i) to appropriate authorities as provided in United States
36 Code, title 20, section 1232g(b)(1)(E)(ii), if the data concern

1 the juvenile justice system and the ability of the system to
2 effectively serve, prior to adjudication, the student whose
3 records are released; provided that the authorities to whom the
4 data are released submit a written request for the data that
5 certifies that the data will not be disclosed to any other
6 person except as authorized by law without the written consent
7 of the parent of the student and the request and a record of the
8 release are maintained in the student's file;

9 (j) to volunteers who are determined to have a legitimate
10 educational interest in the data and who are conducting
11 activities and events sponsored by or endorsed by the
12 educational agency or institution for students or former
13 students;

14 (k) to provide student recruiting information, from
15 educational data held by colleges and universities, as required
16 by and subject to Code of Federal Regulations, title 32, section
17 216;

18 (l) to the juvenile justice system if information about the
19 behavior of a student who poses a risk of harm is reasonably
20 necessary to protect the health or safety of the student or
21 other individuals;

22 (m) with respect to Social Security numbers of students in
23 the adult basic education system, to Minnesota State Colleges
24 and Universities and the Department of Employment and Economic
25 Development for the purpose and in the manner described in
26 section 124D.52, subdivision 7; or

27 (n) to the commissioner of education for purposes of an
28 assessment or investigation of a report of alleged maltreatment
29 of a student as mandated by section 626.556. Upon request by
30 the commissioner of education, data that are relevant to a
31 report of maltreatment and are from charter school and school
32 district investigations of alleged maltreatment of a student
33 must be disclosed to the commissioner, including, but not
34 limited to, the following:

35 (1) information regarding the student alleged to have been
36 maltreated;

1 (2) information regarding student and employee witnesses;
2 (3) information regarding the alleged perpetrator; and
3 (4) what corrective or protective action was taken, if any,
4 by the school facility in response to a report of maltreatment
5 by an employee or agent of the school or school district.

6 Sec. 4. Minnesota Statutes 2004, section 13.321, is
7 amended by adding a subdivision to read:

8 Subd. 2a. [SCHOOL ACCOUNTABILITY.] Certain school
9 accountability data are governed by section 120B.36,
10 subdivisions 1, paragraph (e), and 2.

11 Sec. 5. Minnesota Statutes 2004, section 13.381, is
12 amended by adding a subdivision to read:

13 Subd. 7a. [FACILITY REQUIREMENTS.] Data provided to, filed
14 with, or created or obtained by the commissioner of health under
15 section 144.7065 are classified as provided in section 144.7065,
16 subdivision 10.

17 Sec. 6. Minnesota Statutes 2004, section 13.46,
18 subdivision 2, is amended to read:

19 Subd. 2. [GENERAL.] (a) Unless the data is summary data or
20 a statute specifically provides a different classification, data
21 on individuals collected, maintained, used, or disseminated by
22 the welfare system is private data on individuals, and shall not
23 be disclosed except:

24 (1) according to section 13.05;

25 (2) according to court order;

26 (3) according to a statute specifically authorizing access
27 to the private data;

28 (4) to an agent of the welfare system, including a law
29 enforcement person, attorney, or investigator acting for it in
30 the investigation or prosecution of a criminal or civil
31 proceeding relating to the administration of a program;

32 (5) to personnel of the welfare system who require the data
33 to verify an individual's identity; determine eligibility,
34 amount of assistance, and the need to provide services to an
35 individual or family across programs; evaluate the effectiveness
36 of programs; and investigate suspected fraud;

1 (6) to administer federal funds or programs;

2 (7) between personnel of the welfare system working in the
3 same program;

4 (8) to the Department of Revenue to administer and evaluate
5 tax refund or tax credit programs and to identify individuals
6 who may benefit from these programs. The following information
7 may be disclosed under this paragraph: an individual's and
8 their dependent's names, dates of birth, Social Security
9 numbers, income, addresses, and other data as required, upon
10 request by the Department of Revenue. Disclosures by the
11 commissioner of revenue to the commissioner of human services
12 for the purposes described in this clause are governed by
13 section 270B.14, subdivision 1. Tax refund or tax credit
14 programs include, but are not limited to, the dependent care
15 credit under section 290.067, the Minnesota working family
16 credit under section 290.0671, the property tax refund and
17 rental credit under section 290A.04, and the Minnesota education
18 credit under section 290.0674;

19 (9) between the Department of Human Services, the
20 Department of Education, and the Department of Employment and
21 Economic Development for the purpose of monitoring the
22 eligibility of the data subject for unemployment benefits, for
23 any employment or training program administered, supervised, or
24 certified by that agency, for the purpose of administering any
25 rehabilitation program or child care assistance program, whether
26 alone or in conjunction with the welfare system, or to monitor
27 and evaluate the Minnesota family investment program by
28 exchanging data on recipients and former recipients of food
29 support, cash assistance under chapter 256, 256D, 256J, or 256K,
30 child care assistance under chapter 119B, or medical programs
31 under chapter 256B, 256D, or 256L;

32 (10) to appropriate parties in connection with an emergency
33 if knowledge of the information is necessary to protect the
34 health or safety of the individual or other individuals or
35 persons;

36 (11) data maintained by residential programs as defined in

1 section 245A.02 may be disclosed to the protection and advocacy
2 system established in this state according to Part C of Public
3 Law 98-527 to protect the legal and human rights of persons with
4 mental retardation or other related conditions who live in
5 residential facilities for these persons if the protection and
6 advocacy system receives a complaint by or on behalf of that
7 person and the person does not have a legal guardian or the
8 state or a designee of the state is the legal guardian of the
9 person;

10 (12) to the county medical examiner or the county coroner
11 for identifying or locating relatives or friends of a deceased
12 person;

13 (13) data on a child support obligor who makes payments to
14 the public agency may be disclosed to the Higher Education
15 Services Office to the extent necessary to determine eligibility
16 under section 136A.121, subdivision 2, clause (5);

17 (14) participant Social Security numbers and names
18 collected by the telephone assistance program may be disclosed
19 to the Department of Revenue to conduct an electronic data match
20 with the property tax refund database to determine eligibility
21 under section 237.70, subdivision 4a;

22 (15) the current address of a Minnesota family investment
23 program participant may be disclosed to law enforcement officers
24 who provide the name of the participant and notify the agency
25 that:

26 (i) the participant:

27 (A) is a fugitive felon fleeing to avoid prosecution, or
28 custody or confinement after conviction, for a crime or attempt
29 to commit a crime that is a felony under the laws of the
30 jurisdiction from which the individual is fleeing; or

31 (B) is violating a condition of probation or parole imposed
32 under state or federal law;

33 (ii) the location or apprehension of the felon is within
34 the law enforcement officer's official duties; and

35 (iii) the request is made in writing and in the proper
36 exercise of those duties;

1 (16) the current address of a recipient of general
2 assistance or general assistance medical care may be disclosed
3 to probation officers and corrections agents who are supervising
4 the recipient and to law enforcement officers who are
5 investigating the recipient in connection with a felony level
6 offense;

7 (17) information obtained from food support applicant or
8 recipient households may be disclosed to local, state, or
9 federal law enforcement officials, upon their written request,
10 for the purpose of investigating an alleged violation of the
11 Food Stamp Act, according to Code of Federal Regulations, title
12 7, section 272.1(c);

13 (18) the address, Social Security number, and, if
14 available, photograph of any member of a household receiving
15 food support shall be made available, on request, to a local,
16 state, or federal law enforcement officer if the officer
17 furnishes the agency with the name of the member and notifies
18 the agency that:

19 (i) the member:

20 (A) is fleeing to avoid prosecution, or custody or
21 confinement after conviction, for a crime or attempt to commit a
22 crime that is a felony in the jurisdiction the member is
23 fleeing;

24 (B) is violating a condition of probation or parole imposed
25 under state or federal law; or

26 (C) has information that is necessary for the officer to
27 conduct an official duty related to conduct described in subitem
28 (A) or (B);

29 (ii) locating or apprehending the member is within the
30 officer's official duties; and

31 (iii) the request is made in writing and in the proper
32 exercise of the officer's official duty;

33 (19) the current address of a recipient of Minnesota family
34 investment program, general assistance, general assistance
35 medical care, or food support may be disclosed to law
36 enforcement officers who, in writing, provide the name of the

1 recipient and notify the agency that the recipient is a person
2 required to register under section 243.166, but is not residing
3 at the address at which the recipient is registered under
4 section 243.166;

5 (20) certain information regarding child support obligors
6 who are in arrears may be made public according to section
7 518.575;

8 (21) data on child support payments made by a child support
9 obligor and data on the distribution of those payments excluding
10 identifying information on obligees may be disclosed to all
11 obligees to whom the obligor owes support, and data on the
12 enforcement actions undertaken by the public authority, the
13 status of those actions, and data on the income of the obligor
14 or obligee may be disclosed to the other party;

15 (22) data in the work reporting system may be disclosed
16 under section 256.998, subdivision 7;

17 (23) to the Department of Education for the purpose of
18 matching Department of Education student data with public
19 assistance data to determine students eligible for free and
20 reduced price meals, meal supplements, and free milk according
21 to United States Code, title 42, sections 1758, 1761, 1766,
22 1766a, 1772, and 1773; to allocate federal and state funds that
23 are distributed based on income of the student's family; and to
24 verify receipt of energy assistance for the telephone assistance
25 plan;

26 (24) the current address and telephone number of program
27 recipients and emergency contacts may be released to the
28 commissioner of health or a local board of health as defined in
29 section 145A.02, subdivision 2, when the commissioner or local
30 board of health has reason to believe that a program recipient
31 is a disease case, carrier, suspect case, or at risk of illness,
32 and the data are necessary to locate the person;

33 (25) to other state agencies, statewide systems, and
34 political subdivisions of this state, including the attorney
35 general, and agencies of other states, interstate information
36 networks, federal agencies, and other entities as required by

1 federal regulation or law for the administration of the child
2 support enforcement program;

3 (26) to personnel of public assistance programs as defined
4 in section 256.741, for access to the child support system
5 database for the purpose of administration, including monitoring
6 and evaluation of those public assistance programs;

7 (27) to monitor and evaluate the Minnesota family
8 investment program by exchanging data between the Departments of
9 Human Services and Education, on recipients and former
10 recipients of food support, cash assistance under chapter 256,
11 256D, 256J, or 256K, child care assistance under chapter 119B,
12 or medical programs under chapter 256B, 256D, or 256L;

13 (28) to evaluate child support program performance and to
14 identify and prevent fraud in the child support program by
15 exchanging data between the Department of Human Services,
16 Department of Revenue under section 270B.14, subdivision 1,
17 paragraphs (a) and (b), without regard to the limitation of use
18 in paragraph (c), Department of Health, Department of Employment
19 and Economic Development, and other state agencies as is
20 reasonably necessary to perform these functions; or

21 (29) counties operating child care assistance programs
22 under chapter 119B may disseminate data on program participants,
23 applicants, and providers to the commissioner of education.

24 (b) Information on persons who have been treated for drug
25 or alcohol abuse may only be disclosed according to the
26 requirements of Code of Federal Regulations, title 42, sections
27 2.1 to 2.67.

28 (c) Data provided to law enforcement agencies under
29 paragraph (a), clause (15), (16), (17), or (18), or paragraph
30 (b), are investigative data and are confidential or protected
31 nonpublic while the investigation is active. The data are
32 private after the investigation becomes inactive under section
33 13.82, subdivision 5, paragraph (a) or (b).

34 (d) Mental health data shall be treated as provided in
35 subdivisions 7, 8, and 9, but is not subject to the access
36 provisions of subdivision 10, paragraph (b).

1 For the purposes of this subdivision, a request will be
2 deemed to be made in writing if made through a computer
3 interface system.

4 Sec. 7. Minnesota Statutes 2004, section 13.47,
5 subdivision 1, is amended to read:

6 Subdivision 1. [DEFINITION.] (a) "Employment and training
7 data" means data on individuals collected, maintained, used, or
8 disseminated because an individual applies for, is currently
9 enrolled in, or has been enrolled in employment and training
10 programs funded with federal, state, or local resources,
11 including those provided under the Workforce Investment Act of
12 1998, United States Code, title 29, section 2801.

13 (b) "Employment and training service provider" means an
14 entity certified, or seeking to be certified, by the
15 commissioner of employment and economic development to deliver
16 employment and training services under section ~~268.0122~~
17 116J.401, subdivision 3 2, or an organization that contracts
18 with a certified entity or the Department of Employment and
19 Economic Development to deliver employment and training services.

20 (c) "Provider of training services" means an organization
21 or entity that provides training under the Workforce Investment
22 Act of 1998, United States Code, title 29, section 2801.

23 Sec. 8. Minnesota Statutes 2004, section 13.4963,
24 subdivision 2, is amended to read:

25 Subd. 2. [GENERALLY.] Classification and disclosure of tax
26 data created, collected, or maintained by the Department of
27 Revenue under section 273.1315, chapter 115B, 289A (except for
28 taxes imposed under sections 298.01, 298.015, and 298.24), 290,
29 290A, 291, 295, 297A, or 297H, or any similar Indian tribal tax
30 administered by the commissioner according to a tax agreement
31 between the state and an Indian tribal government are governed
32 by chapter 270B.

33 Sec. 9. Minnesota Statutes 2004, section 15.0591,
34 subdivision 2, is amended to read:

35 Subd. 2. [BODIES AFFECTED.] A member meeting the
36 qualifications in subdivision 1 must be appointed to the

1 following boards, commissions, advisory councils, task forces,
2 or committees:

- 3 (1) Advisory Council on Battered Women and Domestic Abuse;
- 4 (2) Advisory Task Force on the Use of State Facilities;
- 5 (3) Alcohol and Other Drug Abuse Advisory Council;
- 6 (4) Board of Examiners for Nursing Home Administrators;
- 7 (5) Board on Aging;
- 8 (6) Chiropractic Examiners Board;
- 9 (7) Council on Disability;
- 10 (8) Council on Affairs of Chicano/Latino People;
- 11 (9) Council on Black Minnesotans;
- 12 (10) Dentistry Board;
- 13 (11) Higher Education Services Office;
- 14 (12) Housing Finance Agency;
- 15 (13) Indian Advisory Council on Chemical Dependency;
- 16 (14) Medical Practice Board;
- 17 (15) ~~Medical-Policy-Directional-Task-Force-on-Mental~~
- 18 ~~Health;~~
- 19 ~~(16)~~ Minnesota State Arts Board;
- 20 ~~(17)~~ (16) Nursing Board;
- 21 ~~(18)~~ (17) Optometry Board;
- 22 ~~(19)~~ (18) Pharmacy Board;
- 23 ~~(20)~~ (19) Board of Physical Therapy;
- 24 ~~(21)~~ (20) Podiatry Board;
- 25 ~~(22)~~ (21) Psychology Board.

26 Sec. 10. Minnesota Statutes 2004, section 15.39,
27 subdivision 2, is amended to read:

28 Subd. 2. [REQUISITION AUTHORITY.] The commissioner is
29 authorized to requisition from the ~~economic-security~~
30 administration fund any amount necessary to pay premiums for the
31 insurance specified in subdivision 1 and money in the amount
32 necessary is appropriated for that purpose.

33 Sec. 11. Minnesota Statutes 2004, section 16B.31,
34 subdivision 1, is amended to read:

35 Subdivision 1. [CONSTRUCTION PLANS AND SPECIFICATIONS.]
36 ~~(a)~~ The commissioner shall (1) have plans and specifications

1 prepared for the construction, alteration, or enlargement of all
2 state buildings, structures, and other improvements except
3 highways and bridges, and except for buildings and structures
4 under the control of the Board of Regents of the University of
5 Minnesota or of the Board of Trustees of the Minnesota State
6 Colleges and Universities; (2) approve those plans and
7 specifications; (3) advertise for bids and award all contracts
8 in connection with the improvements; (4) supervise and inspect
9 all work relating to the improvements; (5) approve all lawful
10 changes in plans and specifications after the contract for an
11 improvement is let; and (6) approve estimates for payment. This
12 subdivision does not apply to the construction of the Zoological
13 Gardens.

14 (b) MS 2002 (Expired)

15 (c) MS 2002 (Expired)

16 ~~{d}-The-commissioner,-the-board,-the-Board-of-Regents-of~~
17 ~~the-University-of-Minnesota,-and-the-Board-of-Trustees-of-the~~
18 ~~Minnesota-State-Colleges-and-Universities-shall-create-a-panel~~
19 ~~of-representatives,-including-representatives-of-the~~
20 ~~construction-industry-and-the-architecture-and-engineering~~
21 ~~professions,-to-evaluate-the-use-of-design-build-and-the~~
22 ~~procedures-for-design-builder-selection-under-section-16C.31,~~
23 ~~and-shall-report-to-the-legislature-on-or-before-January-1,~~
24 ~~2004,-as-to-the-success-of-design-build-as-a-method-of~~
25 ~~construction-and-the-need-and-desirability-for-any-changes-in~~
26 ~~the-selection-procedure.~~

27 Sec. 12. Minnesota Statutes 2004, section 18C.60,
28 subdivision 1, is amended to read:

29 Subdivision 1. [DEFINITIONS DEFINITION.] ~~{a}-The~~
30 ~~definitions-in-this-subdivision-apply-to-this-section.~~

31 ~~{b}-"Metropolitan-county"-means-any-one-of-the-following~~
32 ~~counties:--Anoka,-Carver,-Dakota,-Hennepin,-Ramsey,-Scott,-or~~
33 ~~Washington.~~

34 ~~{c}~~ For the purpose of this section, "turf" means noncrop
35 land planted in closely mowed, managed grasses including, but
36 not limited to, residential and commercial residential property,

1 private golf courses, and property owned by federal, state, or
2 local units of government, including parks, recreation areas,
3 and public golf courses. Turf does not mean pasture, hayland,
4 hay, turf grown on turf farms, or any other form of agricultural
5 production.

6 Sec. 13. Minnesota Statutes 2004, section 47.59,
7 subdivision 2, is amended to read:

8 Subd. 2. [APPLICATION.] Extensions of credit or purchases
9 of extensions of credit by financial institutions under sections
10 47.20, 47.21, 47.201, 47.204, 47.58, 47.60, 48.153, 48.185,
11 48.195, 59A.01 to 59A.15, 334.01, 334.011, 334.012, 334.022,
12 334.06, and 334.061 to 334.19 may, but need not, be made
13 according to those sections in lieu of the authority set forth
14 in this section to the extent those sections authorize the
15 financial institution to make extensions of credit or purchase
16 extensions of credit under those sections. If a financial
17 institution elects to make an extension of credit or to purchase
18 an extension of credit under those other sections, the extension
19 of credit or the purchase of an extension of credit is subject
20 to those sections and not this section, except this subdivision,
21 and except as expressly provided in those sections. A financial
22 institution may also charge an organization a rate of interest
23 and any charges agreed to by the organization and may calculate
24 and collect finance and other charges in any manner agreed to by
25 that organization. Except for extensions of credit a financial
26 institution elects to make under section 334.01, 334.011,
27 334.012, ~~334.021~~ 334.022, 334.06, or 334.061 to 334.19, chapter
28 334 does not apply to extensions of credit made according to
29 this section or the sections listed in this subdivision. This
30 subdivision does not authorize a financial institution to extend
31 credit or purchase an extension of credit under any of the
32 sections listed in this subdivision if the financial institution
33 is not authorized to do so under those sections. A financial
34 institution extending credit under any of the sections listed in
35 this subdivision shall specify in the promissory note, contract,
36 or other loan document the section under which the extension of

1 credit is made.

2 Sec. 14. Minnesota Statutes 2004, section 62I.13,
3 subdivision 3, is amended to read:

4 Subd. 3. [DISQUALIFYING FACTORS.] For good cause, coverage
5 may be denied or terminated by the association. Good cause may
6 exist if the applicant or insured: (1) has an outstanding debt
7 due or owing to the association at the time of application or
8 renewal arising from a prior policy; (2) refuses to permit
9 completion of an audit requested by the commissioner or
10 administrator; (3) submits misleading or erroneous information
11 to the commissioner or administrator; (4) disregards safety
12 standards, laws, rules or ordinance pertaining to the risk being
13 insured; (5) fails to supply information requested by the
14 commissioner or administrator; and (6) fails to comply with the
15 terms of the policies or contracts for coverage issued by the
16 association; ~~and (7) has not satisfied the requirements of the~~
17 ~~market assistance program as set forth in section 62I.09.~~

18 Sec. 15. Minnesota Statutes 2004, section 62L.17,
19 subdivision 2a, is amended to read:

20 Subd. 2a. [PARTICIPATION OF NEW SMALL EMPLOYER HEALTH
21 CARRIERS.] A health carrier that enters the small employer
22 market subsequent to February 1993, may elect to not participate
23 in the reinsurance association by filing an application within
24 60 days of entry into the small employer market or May 26, 1995,
25 whichever is later. The commissioner shall make a determination
26 and notify the health carrier no later than 60 days after
27 receipt of the application. In determining whether to approve
28 the application, the commissioner shall consider the standards
29 defined in subdivision 2, except that the commissioner may also
30 consider whether the health carrier has a guaranteeing
31 organization ~~as defined in section 62D.043, subdivision 1, or as~~
32 permitted under chapter 62N.

33 Sec. 16. Minnesota Statutes 2004, section 82.33,
34 subdivision 4, is amended to read:

35 Subd. 4. [RENEWAL; EXAMINATION.] Except as provided in
36 ~~sections 82.22, subdivision 7, and~~ section 82.29, subdivision 7,

1 no examination shall be required for the renewal of any license,
2 provided, however, any licensee having been licensed as a broker
3 or salesperson in the state of Minnesota and who shall fail to
4 renew the license for a period of two years shall be required by
5 the commissioner to again take an examination.

6 Sec. 17. Minnesota Statutes 2004, section 84.8712,
7 subdivision 2, is amended to read:

8 Subd. 2. [CIVIL CITATION; AUTHORITY TO ISSUE.]

9 Conservation officers and other licensed peace officers may
10 issue civil citations to a person who operates a snowmobile in
11 violation of this section ~~or section 84.8713~~. The citation must
12 impose a penalty of \$50 for the first offense, \$200 for the
13 second offense, and \$500 for third and subsequent offenses.

14 Sec. 18. Minnesota Statutes 2004, section 84.8712,
15 subdivision 3, is amended to read:

16 Subd. 3. [APPEALS.] Civil citations for offenses under
17 this section ~~or section 84.8713~~ may be appealed under the
18 procedures in section 116.072, subdivision 6, if the recipient
19 of the citation requests a hearing by notifying the commissioner
20 in writing within 15 days after receipt of the citation. For
21 the purposes of the enforcement of this section, the terms
22 "commissioner" and "agency" as used in section 116.072 mean the
23 commissioner of natural resources. If a hearing is not
24 requested within the 15-day period, the citation becomes a final
25 order not subject to further review.

26 Sec. 19. Minnesota Statutes 2004, section 84.8712,
27 subdivision 4, is amended to read:

28 Subd. 4. [ENFORCEMENT.] Civil citations for offenses under
29 this section ~~or section 84.8713~~ may be enforced under section
30 116.072, subdivision 9. If a person fails to pay a penalty owed
31 under this section, the person may not operate a snowmobile
32 until the penalty is paid. Penalty amounts must be remitted
33 within 30 days of issuance of the penalty citation.

34 Sec. 20. Minnesota Statutes 2004, section 84.8712,
35 subdivision 6, is amended to read:

36 Subd. 6. [SELECTION OF REMEDY.] A person operating a

1 snowmobile in violation of this section ~~or section 84-8713~~ is
2 guilty of a petty misdemeanor punishable by a fine of no more
3 than \$50 for the first offense, no more than \$300 for the second
4 offense, and no more than \$600 for the third and subsequent
5 offenses. A peace officer may not seek both civil and petty
6 misdemeanor penalties for a violation of this section ~~or section~~
7 ~~84-8713~~.

8 Sec. 21. Minnesota Statutes 2004, section 85.22,
9 subdivision 2a, is amended to read:

10 Subd. 2a. [RECEIPTS, APPROPRIATION.] All receipts derived
11 from the rental or sale of state park items, tours at
12 Forestville Mystery Cave State Park, and operation of Douglas
13 Lodge shall be deposited in the state treasury and be credited
14 to the state parks working capital account. Receipts and
15 expenses from Douglas Lodge shall be tracked separately within
16 the account. Money in the account is annually appropriated for
17 the purchase and payment of expenses attributable to items for
18 resale or rental and operation of Douglas Lodge. Any excess
19 receipts in this account are annually appropriated for state
20 park management and interpretive programs.

21 Sec. 22. Minnesota Statutes 2004, section 89.01,
22 subdivision 5a, is amended to read:

23 Subd. 5a. [SALE OF STATE FOREST LAND.] Any state lands
24 included in areas set apart as state forests are eliminated from
25 the state forest upon sale under the provisions of sections
26 92.06 to ~~92-09~~ 92.08 or 94.09 to 94.16.

27 Sec. 23. Minnesota Statutes 2004, section 115B.20,
28 subdivision 2, is amended to read:

29 Subd. 2. [PURPOSES FOR WHICH MONEY MAY BE SPENT.] Money
30 appropriated from the remediation fund under section 116.155,
31 subdivision 2, paragraph (a), clause (1), may be spent only for
32 the following purposes:

33 (1) preparation by the agency and the commissioner of
34 agriculture for taking removal or remedial action under section
35 115B.17, or under chapter 18D, including investigation,
36 monitoring and testing activities, enforcement and compliance

1 efforts relating to the release of hazardous substances,
2 pollutants or contaminants under section 115B.17 or 115B.18, or
3 chapter 18D;

4 (2) removal and remedial actions taken or authorized by the
5 agency or the commissioner of the Pollution Control Agency under
6 section 115B.17, or taken or authorized by the commissioner of
7 agriculture under chapter 18D including related enforcement and
8 compliance efforts under section 115B.17 or 115B.18, or chapter
9 18D, and payment of the state share of the cost of remedial
10 action which may be carried out under a cooperative agreement
11 with the federal government pursuant to the federal Superfund
12 Act, under United States Code, title 42, section 9604(c)(3) for
13 actions related to facilities other than commercial hazardous
14 waste facilities located under the siting authority of chapter
15 115A;

16 (3) reimbursement to any private person for expenditures
17 made before July 1, 1983, to provide alternative water supplies
18 deemed necessary by the agency or the commissioner of
19 agriculture and the Department of Health to protect the public
20 health from contamination resulting from the release of a
21 hazardous substance;

22 (4) assessment and recovery of natural resource damages by
23 the agency and the ~~commissioners~~ commissioner of natural
24 resources ~~and for~~ administration, and planning, and
25 implementation by the commissioner of natural resources of the
26 rehabilitation, restoration, or acquisition of natural resources
27 to remedy injuries or losses to natural resources resulting from
28 the release of a hazardous substance; before implementing a
29 project to rehabilitate, restore, or acquire natural resources
30 under this clause, the commissioner of natural resources shall
31 provide written notice of the proposed project to the chairs of
32 the senate and house of representatives committees with
33 jurisdiction over environment and natural resources finance;

34 (5) acquisition of a property interest under section
35 115B.17, subdivision 15;

36 (6) reimbursement, in an amount to be determined by the

1 agency in each case, to a political subdivision that is not a
2 responsible person under section 115B.03, for reasonable and
3 necessary expenditures resulting from an emergency caused by a
4 release or threatened release of a hazardous substance,
5 pollutant, or contaminant; and

6 (7) reimbursement to a political subdivision for
7 expenditures in excess of the liability limit under section
8 115B.04, subdivision 4.

9 Sec. 24. Minnesota Statutes 2004, section 119B.25,
10 subdivision 2, is amended to read:

11 Subd. 2. [GRANTS.] The commissioner shall distribute money
12 provided by this section through a grant to a nonprofit
13 corporation organized to plan, develop, and finance early
14 childhood education and child care sites. The nonprofit
15 corporation must have demonstrated the ability to analyze
16 financing projects, have knowledge of other sources of public
17 and private financing for child care and early childhood
18 education sites, and have a relationship with the regional
19 resource and referral programs ~~under section 119B.211~~. The
20 board of directors of the nonprofit corporation must include
21 members who are knowledgeable about early childhood education,
22 child care, development and improvement, and financing. The
23 commissioners of the Departments of Human Services and
24 Employment and Economic Development, and the commissioner of the
25 Housing Finance Agency shall advise the board on the loan
26 program. The grant must be used to make loans to improve child
27 care or early childhood education sites, or loans to plan,
28 design, and construct or expand licensed and legal unlicensed
29 sites to increase the availability of child care or early
30 childhood education. All loans made by the nonprofit
31 corporation must comply with section 363A.16.

32 Sec. 25. Minnesota Statutes 2004, section 124D.68,
33 subdivision 2, is amended to read:

34 Subd. 2. [ELIGIBLE PUPILS.] The following pupils are
35 eligible to participate in the graduation incentives program:

36 (a) any pupil under the age of 21 who:

1 (1) performs substantially below the performance level for
2 pupils of the same age in a locally determined achievement test;

3 (2) is at least one year behind in satisfactorily
4 completing coursework or obtaining credits for graduation;

5 (3) is pregnant or is a parent;

6 (4) has been assessed as chemically dependent;

7 (5) has been excluded or expelled according to sections
8 121A.40 to 121A.56;

9 (6) has been referred by a school district for enrollment
10 in an eligible program or a program pursuant to section 124D.69;

11 (7) is a victim of physical or sexual abuse;

12 (8) has experienced mental health problems;

13 (9) has experienced homelessness sometime within six months
14 before requesting a transfer to an eligible program;

15 (10) speaks English as a second language or has limited
16 English proficiency; or

17 (11) has withdrawn from school or has been chronically
18 truant; or

19 (b) any person who is at least 21 years of age and who:

20 (1) has received fewer than 14 years of public or nonpublic
21 education, beginning at age 5;

22 (2) has not completed the requirements for a high school
23 diploma; and

24 (3) at the time of application, (i) is eligible for
25 unemployment benefits or has exhausted the benefits, (ii) is
26 eligible for, or is receiving income maintenance and support
27 services, as defined in section 116L.19, subdivision 5, or (iii)
28 is eligible for services under the displaced homemaker program,
29 state-wage-subsidy-program, or any programs under the federal
30 Jobs Training Partnership Act or its successor.

31 Sec. 26. Minnesota Statutes 2004, section 155A.03,
32 subdivision 1, is amended to read:

33 Subdivision 1. [TERMS.] For purposes of sections 155A.03
34 to ~~155A.26~~ 155A.16, and unless the context clearly requires
35 otherwise, the words defined in this section have the meanings
36 given them.

1 Sec. 27. Minnesota Statutes 2004, section 161.1419,
2 subdivision 8, is amended to read:

3 Subd. 8. [EXPIRATION.] The commission ~~shall-expire~~ expires
4 on June 30, ~~2003~~ 2007.

5 Sec. 28. Minnesota Statutes 2004, section 168.33,
6 subdivision 2a, is amended to read:

7 Subd. 2a. [DEPUTY REGISTRARS, CONTINUATION IN OFFICE.]
8 Persons serving as deputy registrars on ~~the-effective-date-of~~
9 ~~this-act~~ July 1, 1970, shall continue to hold such office until
10 a successor is duly appointed and qualifies.

11 Sec. 29. Minnesota Statutes 2004, section 169.50,
12 subdivision 1, is amended to read:

13 Subdivision 1. [REQUIREMENTS; EXCEPTION.] (a) Every motor
14 vehicle and every vehicle that is being drawn at the end of a
15 train of vehicles must be equipped with at least one taillamp,
16 exhibiting a red light plainly visible from a distance of 500
17 feet to the rear.

18 (b) Every motor vehicle, other than a truck-tractor, and
19 every vehicle that is being drawn at the end of a train of
20 vehicles, registered in this state and manufactured or assembled
21 after January 1, 1960, must be equipped with at least two
22 taillamps mounted on the rear and on the same level and as
23 widely spaced laterally as practicable. When lighted, the
24 taillamps must comply with the provisions of this section.

25 (c) An implement of husbandry being towed by a motor
26 vehicle at a speed of not more than 30 miles per hour,
27 displaying a slow-moving vehicle emblem, and complying with
28 section 169.55, subdivision 2, paragraph (a), clause (4), is not
29 subject to the requirements of this section.

30 Sec. 30. Minnesota Statutes 2004, section 169.59,
31 subdivision 4, is amended to read:

32 Subd. 4. [FLASHING WARNING LIGHT.] Any vehicle may be
33 equipped with lamps which may be used for the purpose of warning
34 the operators of other vehicles of the presence of a vehicular
35 traffic hazard requiring the exercise of unusual care in
36 approaching, overtaking, or passing, and when so equipped may

1 display such warning in addition to any other warning signals
2 required by this act section or section 169.50, subdivision 1 or
3 3; 169.56, subdivision 1, 2, 3, or 4; 169.57, subdivision 1; or
4 169.64, subdivision 3. The lamps used to display such warnings
5 to the front shall be mounted at the same level and as widely
6 spaced laterally as practicable, and shall display simultaneous
7 flashing white or amber lights, or any shade of color between
8 white and amber. The lamps used to display such warnings to the
9 rear shall be mounted at the same level and as widely spaced
10 laterally as practicable, and shall show simultaneously flashing
11 amber or red lights, or any shade of color between amber and
12 red. Instead of a pair of lamps that flash simultaneously,
13 either one or two strobe lights or rotating beacon lights with
14 an amber or yellow lens may be used both to the front and rear
15 of the vehicle. These warning lights shall be visible from a
16 distance of not less than 500 feet under normal atmospheric
17 conditions at night.

18 Sec. 31. Minnesota Statutes 2004, section 169A.55,
19 subdivision 3, is amended to read:

20 Subd. 3. [REINSTATEMENT OR ISSUANCE OF PROVISIONAL
21 LICENSE.] The commissioner shall not issue a provisional or
22 regular driver's license to a person whose provisional driver's
23 license was revoked for conviction as a juvenile of violating a
24 violation of section 169A.20, 169A.33, or 169A.35; a violation
25 of a provision of sections 169A.50 to 169A.53; or ~~revoked-for~~
26 ~~conviction-of~~ a crash-related moving violation; until the
27 person, following the violation, reaches the age of 18 and
28 satisfactorily:

29 (1) completes a formal course in driving instruction
30 approved by the commissioner of public safety;

31 (2) completes an additional three months' experience
32 operating a motor vehicle, as documented to the satisfaction of
33 the commissioner;

34 (3) completes the written examination for a driver's
35 license with a passing score; and

36 (4) complies with all other laws for reinstatement of a

1 provisional or regular driver's license, as applicable.

2 Sec. 32. Minnesota Statutes 2004, section 171.181,
3 subdivision 1, is amended to read:

4 Subdivision 1. [FOREIGN STATE CONVICTION.] (a) On revoking
5 or suspending the driver's license of a Minnesota resident as a
6 result of a foreign state conviction, the commissioner shall
7 notify that foreign state when the driver's license is
8 reinstated or a new license issued.

9 (b) For the purposes of this section, "foreign state" means
10 a state as defined in section 171.01, subdivision 46 47,
11 excluding the state of Minnesota.

12 Sec. 33. Minnesota Statutes 2004, section 177.23,
13 subdivision 7, is amended to read:

14 Subd. 7. [EMPLOYEE.] "Employee" means any individual
15 employed by an employer but does not include:

16 (1) two or fewer specified individuals employed at any
17 given time in agriculture on a farming unit or operation who are
18 paid a salary;

19 (2) any individual employed in agriculture on a farming
20 unit or operation who is paid a salary greater than the
21 individual would be paid if the individual worked 48 hours at
22 the state minimum wage plus 17 hours at 1-1/2 times the state
23 minimum wage per week;

24 (3) an individual under 18 who is employed in agriculture
25 on a farm to perform services other than corn detasseling or
26 hand field work when one or both of that minor hand field
27 worker's parents or physical custodians are also hand field
28 workers;

29 (4) for purposes of section 177.24, an individual under 18
30 who is employed as a corn detasseler;

31 (5) any staff member employed on a seasonal basis by an
32 organization for work in an organized resident or day camp
33 operating under a permit issued under section 144.72;

34 (6) any individual employed in a bona fide executive,
35 administrative, or professional capacity, or a salesperson who
36 conducts no more than 20 percent of sales on the premises of the

1 employer;

2 (7) any individual who renders service gratuitously for a
3 nonprofit organization;

4 (8) any individual who serves as an elected official for a
5 political subdivision or who serves on any governmental board,
6 commission, committee or other similar body, or who renders
7 service gratuitously for a political subdivision;

8 (9) any individual employed by a political subdivision to
9 provide police or fire protection services or employed by an
10 entity whose principal purpose is to provide police or fire
11 protection services to a political subdivision;

12 (10) any individual employed by a political subdivision who
13 is ineligible for membership in the Public Employees Retirement
14 Association under section 353.01, subdivision 2b, clause (1),
15 (2), (4), or (9);

16 (11) any driver employed by an employer engaged in the
17 business of operating taxicabs;

18 (12) any individual engaged in babysitting as a sole
19 practitioner;

20 (13) for the purpose of section 177.25, any individual
21 employed on a seasonal basis in a carnival, circus, fair, or ski
22 facility;

23 (14) any individual under 18 working less than 20 hours per
24 workweek for a municipality as part of a recreational program;

25 (15) any individual employed by the state as a natural
26 resource manager 1, 2, or 3 (conservation officer);

27 (16) any individual in a position for which the United
28 States Department of Transportation has power to establish
29 qualifications and maximum hours of service under United States
30 Code, title 49, section ~~304~~ 31502;

31 (17) any individual employed as a seafarer. The term
32 "seafarer" means a master of a vessel or any person subject to
33 the authority, direction, and control of the master who is
34 exempt from federal overtime standards under United States Code,
35 title 29, section 213(b)(6), including but not limited to
36 pilots, sailors, engineers, radio operators, firefighters,

1 security guards, pursers, surgeons, cooks, and stewards;

2 (18) any individual employed by a county in a single-family
3 residence owned by a county home school as authorized under
4 section 260B.060 if the residence is an extension facility of
5 that county home school, and if the individual as part of the
6 employment duties resides at the residence for the purpose of
7 supervising children as defined by section 260C.007, subdivision
8 4; or

9 (19) nuns, monks, priests, lay brothers, lay sisters,
10 ministers, deacons, and other members of religious orders who
11 serve pursuant to their religious obligations in schools,
12 hospitals, and other nonprofit institutions operated by the
13 church or religious order.

14 Sec. 34. Minnesota Statutes 2004, section 216B.61, is
15 amended to read:

16 216B.61 [ACTIONS TO RECOVER PENALTIES.]

17 Actions to recover penalties under ~~laws-1974~~, this chapter
18 ~~429~~ shall be brought in the name of the state of Minnesota in
19 the district court of Ramsey County.

20 Sec. 35. Minnesota Statutes 2004, section 237.763, is
21 amended to read:

22 237.763 [EXEMPTION FROM EARNINGS REGULATION AND
23 INVESTIGATION.]

24 Except as provided in the plan and any subsequent plans, a
25 company that has an alternative regulation plan approved under
26 section 237.764, is not subject to the rate-of-return regulation
27 or earnings investigations provisions of section 237.075 or
28 237.081 during the term of the plan. A company with an approved
29 plan is not subject to the provisions of section 237.57; 237.59;
30 237.60, subdivisions 1, 2, 4, and 5; ~~237.63~~, or 237.65, during
31 the term of the plan. Except as specifically provided in this
32 section or in the approved plan, the commission retains all of
33 its authority under section 237.081 to investigate other matters
34 and to issue appropriate orders, and the department retains its
35 authority under sections 216A.07 and 237.15 to investigate
36 matters other than the earnings of the company.

1 Sec. 36. Minnesota Statutes 2004, section 238.37, is
2 amended to read:

3 238.37 [SCOPE; POLE, DUCT, AND CONDUIT AGREEMENTS.]

4 Sections 238.02, subdivisions 3a, 20a, and 31b, and ~~238-36~~
5 238.37 to 238.42 only apply to pole, duct, and conduit
6 agreements entered into or renewed between public utilities and
7 cable communications systems on or after January 1, 1976, and
8 have no application to those agreements executed before January
9 1, 1976, until those agreements are either renewed or
10 substantially renegotiated. If a public utility company and a
11 cable communications system enter into an agreement regarding
12 only pole attachments, sections 238.02, subdivisions 3a, 20a,
13 and 31b, and ~~238-36~~ 238.37 to 238.42 relating to conduit systems
14 are applicable to that agreement and if a public utility company
15 and a cable communications system enter into an agreement
16 regarding only use of a conduit system, sections 238.02,
17 subdivisions 3a, 20a, and 31b, and ~~238-36~~ 238.37 to 238.42
18 relating to pole attachments are not applicable to that
19 agreement.

20 Sec. 37. Minnesota Statutes 2004, section 238.38, is
21 amended to read:

22 238.38 [PERMIT TO ATTACH TO POLE OR CONDUIT SYSTEM.]

23 Every pole, duct, and conduit agreement must contain a
24 provision that before attaching to the public utility company's
25 poles or occupying any part of the public utility's conduit
26 system, the cable communications system shall apply and receive
27 a permit for that purpose on a form provided by the public
28 utility company. If the cable communications system accepts the
29 permit, it may attach its equipment to the poles covered by the
30 permit or occupy the conduit system of the public utility to the
31 extent authorized by the permit, subject to sections 238.02,
32 subdivisions 3a, 20a, and 31b, and ~~238-36~~ 238.37 to 238.42 and
33 the terms of the agreement between the contracting parties. In
34 granting or denying a permit, the public utility has the right
35 to determine whether a grant of a permit would adversely affect
36 its public services, duties, and obligations or have an adverse

1 effect on the economy, safety, and future needs of the public
2 utility.

3 Sec. 38. Minnesota Statutes 2004, section 238.42, is
4 amended to read:

5 238.42 [ADDITIONAL CONTRACT TERMS.]

6 Nothing contained in sections 238.02, subdivisions 3a, 20a,
7 and 31b, and ~~238-36~~ 238.37 to 238.42 in any way prohibits a
8 public utility company from including in its pole, duct, and
9 conduit agreements with cable communications systems additional
10 terms which do not conflict with sections 238.02, subdivisions
11 3a, 20a, and 31b, and ~~238-36~~ 238.37 to 238.42.

12 Sec. 39. Minnesota Statutes 2004, section 239.791,
13 subdivision 15, is amended to read:

14 Subd. 15. [EXEMPTION FOR CERTAIN BLEND PUMPS.] A person
15 responsible for the product, who offers for sale, sells, or
16 dispenses nonoxygenated premium gasoline under one or more of
17 the exemptions in subdivisions 10 to 14, may sell, offer for
18 sale, or dispense oxygenated gasoline that contains less than
19 the minimum amount of ethanol required under subdivision 1 if
20 all of the following conditions are met:

21 (1) the blended gasoline has an octane rating of 88 or
22 greater;

23 (2) the gasoline is a blend of oxygenated gasoline meeting
24 the requirements of subdivision 1 with nonoxygenated premium
25 gasoline;

26 (3) the blended gasoline contains not more than ten percent
27 nonoxygenated premium gasoline;

28 (4) the blending of oxygenated gasoline with nonoxygenated
29 gasoline occurs within the gasoline dispenser; and

30 (5) the gasoline station at which the gasoline is sold,
31 offered for sale, or delivered is equipped to store gasoline in
32 not more than two storage tanks.

33 This subdivision applies only to those persons who meet met
34 the conditions in clauses (1) through (5) on ~~the-effective-date~~
35 ~~of-this-act~~ August 1, 2004, and have registered with the
36 director ~~within-three-months-of-the-effective-date-of-this~~

1 act by November 1, 2004.

2 Sec. 40. Minnesota Statutes 2004, section 244.05,
3 subdivision 4, is amended to read:

4 Subd. 4. [MINIMUM IMPRISONMENT, LIFE SENTENCE.] An inmate
5 serving a mandatory life sentence under section 609.106 must not
6 be given supervised release under this section. An inmate
7 serving a mandatory life sentence under section 609.185, clause
8 (1), (3), (5), or (6); or 609.109, subdivision 2a 3, must not be
9 given supervised release under this section without having
10 served a minimum term of 30 years. An inmate serving a
11 mandatory life sentence under section 609.385 must not be given
12 supervised release under this section without having served a
13 minimum term of imprisonment of 17 years.

14 Sec. 41. Minnesota Statutes 2004, section 244.05,
15 subdivision 5, is amended to read:

16 Subd. 5. [SUPERVISED RELEASE, LIFE SENTENCE.] (a) The
17 commissioner of corrections may, under rules promulgated by the
18 commissioner, give supervised release to an inmate serving a
19 mandatory life sentence under section 609.185, clause (1), (3),
20 (5), or (6); 609.109, subdivision 2a 3; or 609.385 after the
21 inmate has served the minimum term of imprisonment specified in
22 subdivision 4.

23 (b) The commissioner shall require the preparation of a
24 community investigation report and shall consider the findings
25 of the report when making a supervised release decision under
26 this subdivision. The report shall reflect the sentiment of the
27 various elements of the community toward the inmate, both at the
28 time of the offense and at the present time. The report shall
29 include the views of the sentencing judge, the prosecutor, any
30 law enforcement personnel who may have been involved in the
31 case, and any successors to these individuals who may have
32 information relevant to the supervised release decision. The
33 report shall also include the views of the victim and the
34 victim's family unless the victim or the victim's family chooses
35 not to participate.

36 (c) The commissioner shall make reasonable efforts to

1 notify the victim, in advance, of the time and place of the
2 inmate's supervised release review hearing. The victim has a
3 right to submit an oral or written statement at the review
4 hearing. The statement may summarize the harm suffered by the
5 victim as a result of the crime and give the victim's
6 recommendation on whether the inmate should be given supervised
7 release at this time. The commissioner must consider the
8 victim's statement when making the supervised release decision.

9 (d) As used in this subdivision, "victim" means the
10 individual who suffered harm as a result of the inmate's crime
11 or, if the individual is deceased, the deceased's surviving
12 spouse or next of kin.

13 Sec. 42. Minnesota Statutes 2004, section 245.466,
14 subdivision 1, is amended to read:

15 Subdivision 1. [DEVELOPMENT OF SERVICES.] The county board
16 in each county is responsible for using all available resources
17 to develop and coordinate a system of locally available and
18 affordable adult mental health services. The county board may
19 provide some or all of the mental health services and activities
20 specified in subdivision 2 directly through a county agency or
21 under contracts with other individuals or agencies. A county or
22 counties may enter into an agreement with a regional treatment
23 center under section 246.57 or with any state facility or
24 program as defined in section 246.50, subdivision 3, to enable
25 the county or counties to provide the treatment services in
26 subdivision 2. Services provided through an agreement between a
27 county and a regional treatment center must meet the same
28 requirements as services from other service providers. County
29 boards-~~shall demonstrate their continuous progress toward full~~
30 ~~implementation of sections 245.461 to 245.486 during the period~~
31 ~~July 1, 1987, to January 1, 1990. County boards must develop~~
32 ~~fully each of the treatment services and management activities~~
33 ~~prescribed by sections 245.461 to 245.486 by January 1, 1990,~~
34 ~~according to the priorities established in section 245.464 and~~
35 ~~the adult mental health component of the community social~~
36 ~~services plan approved by the commissioner.~~

1 Sec. 43. Minnesota Statutes 2004, section 245.4875,
2 subdivision 1, is amended to read:

3 Subdivision 1. [DEVELOPMENT OF CHILDREN'S SERVICES.] The
4 county board in each county is responsible for using all
5 available resources to develop and coordinate a system of
6 locally available and affordable children's mental health
7 services. The county board may provide some or all of the
8 children's mental health services and activities specified in
9 subdivision 2 directly through a county agency or under
10 contracts with other individuals or agencies. A county or
11 counties may enter into an agreement with a regional treatment
12 center under section 246.57 to enable the county or counties to
13 provide the treatment services in subdivision 2. Services
14 provided through an agreement between a county and a regional
15 treatment center must meet the same requirements as services
16 from other service providers. ~~County boards shall demonstrate
17 their continuous progress toward fully implementing sections
18 245.487 to 245.4887 during the period July 17, 1989, to January
19 17, 1992. County boards must develop fully each of the treatment
20 services prescribed by sections 245.487 to 245.4887 by January
21 17, 1992, according to the priorities established in section
22 245.4873 and the children's mental health component of the
23 community social services plan approved by the commissioner
24 under section 245.4887.~~

25 Sec. 44. Minnesota Statutes 2004, section 245.75, is
26 amended to read:

27 245.75 [FEDERAL GRANTS FOR THE WELFARE AND RELIEF OF
28 MINNESOTA INDIANS.]

29 The commissioner of human services is authorized to enter
30 into contracts with the Department of Health, Education, Welfare
31 and the Department of Interior, Bureau of Indian Affairs, for
32 the purpose of receiving federal grants for the welfare and
33 relief of Minnesota Indians. ~~Such contract and the plan of
34 distribution of such funds shall be subject to approval of the
35 Minnesota Public Relief Advisory Committee.~~

36 Sec. 45. Minnesota Statutes 2004, section 246B.04,

1 subdivision 2, is amended to read:

2 Subd. 2. [BAN ON OBSCENE MATERIAL OR PORNOGRAPHIC WORK.]

3 The commissioner shall prohibit persons civilly committed as
4 sexual psychopathic personalities or sexually dangerous persons
5 under ~~sections 246.43 and~~ section 253B.185 from having or
6 receiving material that is obscene as defined under section
7 617.241, subdivision 1, material that depicts sexual conduct as
8 defined under section 617.241, subdivision 1, or pornographic
9 work as defined under section 617.246, subdivision 1, while
10 receiving services in any secure treatment facilities operated
11 by the Minnesota sex offender program or any other facilities
12 operated by the commissioner.

13 Sec. 46. Minnesota Statutes 2004, section 252.24,
14 subdivision 5, is amended to read:

15 Subd. 5. [DEVELOPMENTAL ACHIEVEMENT CENTERS: SALARY
16 ADJUSTMENT PER DIEM.] The commissioner shall approve a two
17 percent increase in the payment rates for day training and
18 habilitation services vendors effective July 1, 1991. All
19 revenue generated shall be used by vendors to increase salaries,
20 fringe benefits, and payroll taxes by at least three percent for
21 personnel below top management. County boards shall amend
22 contracts with vendors to require that all revenue generated by
23 this provision is expended on salary increases to staff below
24 top management. County boards shall verify in writing to the
25 commissioner that each vendor has complied with this
26 requirement. If a county board determines that a vendor has not
27 complied with this requirement for a specific contract period,
28 the county board shall reduce the vendor's payment rates for the
29 next contract period to reflect the amount of money not spent
30 appropriately. The commissioner shall modify reporting
31 requirements for vendors and counties as necessary to monitor
32 compliance with this provision.

33 ~~Each county agency shall report to the commissioner by July~~
34 ~~30, 1991, its actual social service day training and~~
35 ~~habilitation expenditures for calendar year 1990. The~~
36 ~~commissioner shall allocate the day habilitation service CSSA~~

~~1 appropriation-made-available-for-this-purpose-to-county-agencies~~
~~2 in-proportion-to-these-expenditures-~~

3 Sec. 47. Minnesota Statutes 2004, section 256B.055,
4 subdivision 12, is amended to read:

5 Subd. 12. [DISABLED CHILDREN.] (a) A person is eligible
6 for medical assistance if the person is under age 19 and
7 qualifies as a disabled individual under United States Code,
8 title 42, section 1382c(a), and would be eligible for medical
9 assistance under the state plan if residing in a medical
10 institution, and the child requires a level of care provided in
11 a hospital, nursing facility, or intermediate care facility for
12 persons with mental retardation or related conditions, for whom
13 home care is appropriate, provided that the cost to medical
14 assistance under this section is not more than the amount that
15 medical assistance would pay for if the child resides in an
16 institution. After the child is determined to be eligible under
17 this section, the commissioner shall review the child's
18 disability under United States Code, title 42, section 1382c(a)
19 and level of care defined under this section no more often than
20 annually and may elect, based on the recommendation of health
21 care professionals under contract with the state medical review
22 team, to extend the review of disability and level of care up to
23 a maximum of four years. The commissioner's decision on the
24 frequency of continuing review of disability and level of care
25 is not subject to administrative appeal under section 256.045.
26 Nothing in this subdivision shall be construed as affecting
27 other redeterminations of medical assistance eligibility under
28 this chapter and annual cost-effective reviews under this
29 section.

30 (b) For purposes of this subdivision, "hospital" means an
31 institution as defined in section 144.696, subdivision 3,
32 144.55, subdivision 3, or Minnesota Rules, part 4640.3600, and
33 licensed pursuant to sections 144.50 to 144.58. For purposes of
34 this subdivision, a child requires a level of care provided in a
35 hospital if the child is determined by the commissioner to need
36 an extensive array of health services, including mental health

1 services, for an undetermined period of time, whose health
2 condition requires frequent monitoring and treatment by a health
3 care professional or by a person supervised by a health care
4 professional, who would reside in a hospital or require frequent
5 hospitalization if these services were not provided, and the
6 daily care needs are more complex than a nursing facility level
7 of care.

8 A child with serious emotional disturbance requires a level
9 of care provided in a hospital if the commissioner determines
10 that the individual requires 24-hour supervision because the
11 person exhibits recurrent or frequent suicidal or homicidal
12 ideation or behavior, recurrent or frequent psychosomatic
13 disorders or somatopsychic disorders that may become life
14 threatening, recurrent or frequent severe socially unacceptable
15 behavior associated with psychiatric disorder, ongoing and
16 chronic psychosis or severe, ongoing and chronic developmental
17 problems requiring continuous skilled observation, or severe
18 disabling symptoms for which office-centered outpatient
19 treatment is not adequate, and which overall severely impact the
20 individual's ability to function.

21 (c) For purposes of this subdivision, "nursing facility"
22 means a facility which provides nursing care as defined in
23 section 144A.01, subdivision 5, licensed pursuant to sections
24 144A.02 to 144A.10, which is appropriate if a person is in
25 active restorative treatment; is in need of special treatments
26 provided or supervised by a licensed nurse; or has unpredictable
27 episodes of active disease processes requiring immediate
28 judgment by a licensed nurse. For purposes of this subdivision,
29 a child requires the level of care provided in a nursing
30 facility if the child is determined by the commissioner to meet
31 the requirements of the preadmission screening assessment
32 document under section 256B.0911 and the home care independent
33 rating document under section 256B.0627, subdivision 5,
34 paragraph ~~(f)~~ (e), clause (2), item (iii), adjusted to address
35 age-appropriate standards for children age 18 and under,
36 pursuant to section 256B.0627, subdivision 5, paragraph (d),

1 clause (2).

2 (d) For purposes of this subdivision, "intermediate care
3 facility for persons with mental retardation or related
4 conditions" or "ICF/MR" means a program licensed to provide
5 services to persons with mental retardation under section
6 252.28, and chapter 245A, and a physical plant licensed as a
7 supervised living facility under chapter 144, which together are
8 certified by the Minnesota Department of Health as meeting the
9 standards in Code of Federal Regulations, title 42, part 483,
10 for an intermediate care facility which provides services for
11 persons with mental retardation or persons with related
12 conditions who require 24-hour supervision and active treatment
13 for medical, behavioral, or habilitation needs. For purposes of
14 this subdivision, a child requires a level of care provided in
15 an ICF/MR if the commissioner finds that the child has mental
16 retardation or a related condition in accordance with section
17 256B.092, is in need of a 24-hour plan of care and active
18 treatment similar to persons with mental retardation, and there
19 is a reasonable indication that the child will need ICF/MR
20 services.

21 (e) For purposes of this subdivision, a person requires the
22 level of care provided in a nursing facility if the person
23 requires 24-hour monitoring or supervision and a plan of mental
24 health treatment because of specific symptoms or functional
25 impairments associated with a serious mental illness or disorder
26 diagnosis, which meet severity criteria for mental health
27 established by the commissioner and published in March 1997 as
28 the Minnesota Mental Health Level of Care for Children and
29 Adolescents with Severe Emotional Disorders.

30 (f) The determination of the level of care needed by the
31 child shall be made by the commissioner based on information
32 supplied to the commissioner by the parent or guardian, the
33 child's physician or physicians, and other professionals as
34 requested by the commissioner. The commissioner shall establish
35 a screening team to conduct the level of care determinations
36 according to this subdivision.

1 (g) If a child meets the conditions in paragraph (b), (c),
2 (d), or (e), the commissioner must assess the case to determine
3 whether:

4 (1) the child qualifies as a disabled individual under
5 United States Code, title 42, section 1382c(a), and would be
6 eligible for medical assistance if residing in a medical
7 institution; and

8 (2) the cost of medical assistance services for the child,
9 if eligible under this subdivision, would not be more than the
10 cost to medical assistance if the child resides in a medical
11 institution to be determined as follows:

12 (i) for a child who requires a level of care provided in an
13 ICF/MR, the cost of care for the child in an institution shall
14 be determined using the average payment rate established for the
15 regional treatment centers that are certified as ICFs/MR;

16 (ii) for a child who requires a level of care provided in
17 an inpatient hospital setting according to paragraph (b),
18 cost-effectiveness shall be determined according to Minnesota
19 Rules, part 9505.3520, items F and G; and

20 (iii) for a child who requires a level of care provided in
21 a nursing facility according to paragraph (c) or (e),
22 cost-effectiveness shall be determined according to Minnesota
23 Rules, part 9505.3040, except that the nursing facility average
24 rate shall be adjusted to reflect rates which would be paid for
25 children under age 16. The commissioner may authorize an amount
26 up to the amount medical assistance would pay for a child
27 referred to the commissioner by the preadmission screening team
28 under section 256B.0911.

29 (h) Children eligible for medical assistance services under
30 section 256B.055, subdivision 12, as of June 30, 1995, must be
31 screened according to the criteria in this subdivision prior to
32 January 1, 1996. Children found to be ineligible may not be
33 removed from the program until January 1, 1996.

34 Sec. 48. Minnesota Statutes 2004, section 256B.0625,
35 subdivision 6a, is amended to read:

36 Subd. 6a. [HOME HEALTH SERVICES.] Home health services are

1 those services specified in Minnesota Rules, part
2 ~~9505-0290~~ 9505.0295. Medical assistance covers home health
3 services at a recipient's home residence. Medical assistance
4 does not cover home health services for residents of a hospital,
5 nursing facility, or intermediate care facility, unless the
6 commissioner of human services has prior authorized skilled
7 nurse visits for less than 90 days for a resident at an
8 intermediate care facility for persons with mental retardation,
9 to prevent an admission to a hospital or nursing facility or
10 unless a resident who is otherwise eligible is on leave from the
11 facility and the facility either pays for the home health
12 services or forgoes the facility per diem for the leave days
13 that home health services are used. Home health services must
14 be provided by a Medicare certified home health agency. All
15 nursing and home health aide services must be provided according
16 to section 256B.0627.

17 Sec. 49. Minnesota Statutes 2004, section 256B.0627,
18 subdivision 1, is amended to read:

19 Subdivision 1. [DEFINITION.] (a) "Activities of daily
20 living" includes eating, toileting, grooming, dressing, bathing,
21 transferring, mobility, and positioning.

22 (b) "Assessment" means a review and evaluation of a
23 recipient's need for home care services conducted in person.
24 Assessments for private duty nursing shall be conducted by a
25 registered private duty nurse. Assessments for home health
26 agency services shall be conducted by a home health agency
27 nurse. Assessments for personal care assistant services shall
28 be conducted by the county public health nurse or a certified
29 public health nurse under contract with the county. A
30 face-to-face assessment must include: documentation of health
31 status, determination of need, evaluation of service
32 effectiveness, identification of appropriate services, service
33 plan development or modification, coordination of services,
34 referrals and follow-up to appropriate payers and community
35 resources, completion of required reports, recommendation of
36 service authorization, and consumer education. Once the need

1 for personal care assistant services is determined under this
2 section, the county public health nurse or certified public
3 health nurse under contract with the county is responsible for
4 communicating this recommendation to the commissioner and the
5 recipient. A face-to-face assessment for personal care
6 assistant services is conducted on those recipients who have
7 never had a county public health nurse assessment. A
8 face-to-face assessment must occur at least annually or when
9 there is a significant change in the recipient's condition or
10 when there is a change in the need for personal care assistant
11 services. A service update may substitute for the annual
12 face-to-face assessment when there is not a significant change
13 in recipient condition or a change in the need for personal care
14 assistant service. A service update or review for temporary
15 increase includes a review of initial baseline data, evaluation
16 of service effectiveness, redetermination of service need,
17 modification of service plan and appropriate referrals, update
18 of initial forms, obtaining service authorization, and on going
19 consumer education. Assessments for medical assistance home
20 care services for mental retardation or related conditions and
21 alternative care services for developmentally disabled home and
22 community-based waived recipients may be conducted by the
23 county public health nurse to ensure coordination and avoid
24 duplication. Assessments must be completed on forms provided by
25 the commissioner within 30 days of a request for home care
26 services by a recipient or responsible party.

27 (c) "Care plan" means a written description of personal
28 care assistant services developed by the qualified professional
29 or the recipient's physician with the recipient or responsible
30 party to be used by the personal care assistant with a copy
31 provided to the recipient or responsible party.

32 (d) "Complex and regular private duty nursing care" means:

33 (1) complex care is private duty nursing provided to
34 recipients who are ventilator dependent or for whom a physician
35 has certified that were it not for private duty nursing the
36 recipient would meet the criteria for inpatient hospital

1 intensive care unit (ICU) level of care; and

2 (2) regular care is private duty nursing provided to all
3 other recipients.

4 (e) "Health-related functions" means functions that can be
5 delegated or assigned by a licensed health care professional
6 under state law to be performed by a personal care
7 attendant assistant.

8 (f) "Home care services" means a health service, determined
9 by the commissioner as medically necessary, that is ordered by a
10 physician and documented in a service plan that is reviewed by
11 the physician at least once every 60 days for the provision of
12 home health services, or private duty nursing, or at least once
13 every 365 days for personal care. Home care services are
14 provided to the recipient at the recipient's residence that is a
15 place other than a hospital or long-term care facility or as
16 specified in section 256B.0625.

17 (g) "Instrumental activities of daily living" includes meal
18 planning and preparation, managing finances, shopping for food,
19 clothing, and other essential items, performing essential
20 household chores, communication by telephone and other media,
21 and getting around and participating in the community.

22 (h) "Medically necessary" has the meaning given in
23 Minnesota Rules, parts 9505.0170 to 9505.0475.

24 (i) "Personal care assistant" means a person who:

25 (1) is at least 18 years old, except for persons 16 to 18
26 years of age who participated in a related school-based job
27 training program or have completed a certified home health aide
28 competency evaluation;

29 (2) is able to effectively communicate with the recipient
30 and personal care provider organization;

31 (3) effective July 1, 1996, has completed one of the
32 training requirements as specified in Minnesota Rules, part
33 9505.0335, subpart 3, items A to D;

34 (4) has the ability to, and provides covered personal care
35 assistant services according to the recipient's care plan,
36 responds appropriately to recipient needs, and reports changes

1 in the recipient's condition to the supervising qualified
2 professional or physician;

3 (5) is not a consumer of personal care assistant services;
4 and

5 (6) is subject to criminal background checks and procedures
6 specified in chapter 245C.

7 (j) "Personal care provider organization" means an
8 organization enrolled to provide personal care assistant
9 services under the medical assistance program that complies with
10 the following: (1) owners who have a five percent interest or
11 more, and managerial officials are subject to a background study
12 as provided in chapter 245C. This applies to currently enrolled
13 personal care provider organizations and those agencies seeking
14 enrollment as a personal care provider organization. An
15 organization will be barred from enrollment if an owner or
16 managerial official of the organization has been convicted of a
17 crime specified in chapter 245C, or a comparable crime in
18 another jurisdiction, unless the owner or managerial official
19 meets the reconsideration criteria specified in chapter 245C;
20 (2) the organization must maintain a surety bond and liability
21 insurance throughout the duration of enrollment and provides
22 proof thereof. The insurer must notify the Department of Human
23 Services of the cancellation or lapse of policy; and (3) the
24 organization must maintain documentation of services as
25 specified in Minnesota Rules, part 9505.2175, subpart 7, as well
26 as evidence of compliance with personal care assistant training
27 requirements.

28 (k) "Responsible party" means an individual who is capable
29 of providing the support necessary to assist the recipient to
30 live in the community, is at least 18 years old, actively
31 participates in planning and directing of personal care
32 assistant services, and is not the personal care assistant. The
33 responsible party must be accessible to the recipient and the
34 personal care assistant when personal care services are being
35 provided and monitor the services at least weekly according to
36 the plan of care. The responsible party must be identified at

1 the time of assessment and listed on the recipient's service
2 agreement and care plan. Responsible parties may delegate the
3 responsibility to another adult who is not the personal care
4 assistant. The responsible party must assure that the delegate
5 performs the functions of the responsible party, is identified
6 at the time of the assessment, and is listed on the service
7 agreement and the care plan. Foster care license holders may be
8 designated the responsible party for residents of the foster
9 care home if case management is provided as required in section
10 256B.0625, subdivision 19a. For persons who, as of April 1,
11 1992, are sharing personal care assistant services in order to
12 obtain the availability of 24-hour coverage, an employee of the
13 personal care provider organization may be designated as the
14 responsible party if case management is provided as required in
15 section 256B.0625, subdivision 19a.

16 (l) "Service plan" means a written description of the
17 services needed based on the assessment developed by the nurse
18 who conducts the assessment together with the recipient or
19 responsible party. The service plan shall include a description
20 of the covered home care services, frequency and duration of
21 services, and expected outcomes and goals. The recipient and
22 the provider chosen by the recipient or responsible party must
23 be given a copy of the completed service plan within 30 calendar
24 days of the request for home care services by the recipient or
25 responsible party.

26 (m) "Skilled nurse visits" are provided in a recipient's
27 residence under a plan of care or service plan that specifies a
28 level of care which the nurse is qualified to provide. These
29 services are:

30 (1) nursing services according to the written plan of care
31 or service plan and accepted standards of medical and nursing
32 practice in accordance with chapter 148;

33 (2) services which due to the recipient's medical condition
34 may only be safely and effectively provided by a registered
35 nurse or a licensed practical nurse;

36 (3) assessments performed only by a registered nurse; and

1 (4) teaching and training the recipient, the recipient's
2 family, or other caregivers requiring the skills of a registered
3 nurse or licensed practical nurse.

4 (n) "Telehomecare" means the use of telecommunications
5 technology by a home health care professional to deliver home
6 health care services, within the professional's scope of
7 practice, to a patient located at a site other than the site
8 where the practitioner is located.

9 Sec. 50. Minnesota Statutes 2004, section 256B.0627,
10 subdivision 5, is amended to read:

11 Subd. 5. [LIMITATION ON PAYMENTS.] Medical assistance
12 payments for home care services shall be limited according to
13 this subdivision.

14 (a) [LIMITS ON SERVICES WITHOUT PRIOR AUTHORIZATION.] A
15 recipient may receive the following home care services during a
16 calendar year:

17 (1) up to two face-to-face assessments to determine a
18 recipient's need for personal care assistant services;

19 (2) one service update done to determine a recipient's need
20 for personal care assistant services; and

21 (3) up to nine skilled nurse visits.

22 (b) [PRIOR AUTHORIZATION; EXCEPTIONS.] All home care
23 services above the limits in paragraph (a) must receive the
24 commissioner's prior authorization, except when:

25 (1) the home care services were required to treat an
26 emergency medical condition that if not immediately treated
27 could cause a recipient serious physical or mental disability,
28 continuation of severe pain, or death. The provider must
29 request retroactive authorization no later than five working
30 days after giving the initial service. The provider must be
31 able to substantiate the emergency by documentation such as
32 reports, notes, and admission or discharge histories;

33 (2) the home care services were provided on or after the
34 date on which the recipient's eligibility began, but before the
35 date on which the recipient was notified that the case was
36 opened. Authorization will be considered if the request is

1 submitted by the provider within 20 working days of the date the
2 recipient was notified that the case was opened;

3 (3) a third-party payor for home care services has denied
4 or adjusted a payment. Authorization requests must be submitted
5 by the provider within 20 working days of the notice of denial
6 or adjustment. A copy of the notice must be included with the
7 request;

8 (4) the commissioner has determined that a county or state
9 human services agency has made an error; or

10 (5) the professional nurse determines an immediate need for
11 up to 40 skilled nursing or home health aide visits per calendar
12 year and submits a request for authorization within 20 working
13 days of the initial service date, and medical assistance is
14 determined to be the appropriate payer.

15 (c) [RETROACTIVE AUTHORIZATION.] A request for retroactive
16 authorization will be evaluated according to the same criteria
17 applied to prior authorization requests.

18 (d) [ASSESSMENT AND SERVICE PLAN.] Assessments under
19 section 256B.0627, subdivision 1, paragraph ~~(a)~~ (b), shall be
20 conducted initially, and at least annually thereafter, in person
21 with the recipient and result in a completed service plan using
22 forms specified by the commissioner. Within 30 days of
23 recipient or responsible party request for home care services,
24 the assessment, the service plan, and other information
25 necessary to determine medical necessity such as diagnostic or
26 testing information, social or medical histories, and hospital
27 or facility discharge summaries shall be submitted to the
28 commissioner. Notwithstanding the provisions of section
29 256B.0627, subdivision 12, the commissioner shall maximize
30 federal financial participation to pay for public health nurse
31 assessments for personal care services. For personal care
32 assistant services:

33 (1) The amount and type of service authorized based upon
34 the assessment and service plan will follow the recipient if the
35 recipient chooses to change providers.

36 (2) If the recipient's medical need changes, the

1 recipient's provider may assess the need for a change in service
2 authorization and request the change from the county public
3 health nurse. Within 30 days of the request, the public health
4 nurse will determine whether to request the change in services
5 based upon the provider assessment, or conduct a home visit to
6 assess the need and determine whether the change is appropriate.

7 (3) To continue to receive personal care assistant services
8 after the first year, the recipient or the responsible party, in
9 conjunction with the public health nurse, may complete a service
10 update on forms developed by the commissioner according to
11 criteria and procedures in subdivision 1.

12 (e) [PRIOR AUTHORIZATION.] The commissioner, or the
13 commissioner's designee, shall review the assessment, service
14 update, request for temporary services, service plan, and any
15 additional information that is submitted. The commissioner
16 shall, within 30 days after receiving a complete request,
17 assessment, and service plan, authorize home care services as
18 follows:

19 (1) [HOME HEALTH SERVICES.] All home health services
20 provided by a home health aide must be prior authorized by the
21 commissioner or the commissioner's designee. Prior
22 authorization must be based on medical necessity and
23 cost-effectiveness when compared with other care options. When
24 home health services are used in combination with personal care
25 and private duty nursing, the cost of all home care services
26 shall be considered for cost-effectiveness. The commissioner
27 shall limit home health aide visits to no more than one visit
28 each per day. The commissioner, or the commissioner's designee,
29 may authorize up to two skilled nurse visits per day.

30 (2) [PERSONAL CARE ASSISTANT SERVICES.] (i) All personal
31 care assistant services and supervision by a qualified
32 professional, if requested by the recipient, must be prior
33 authorized by the commissioner or the commissioner's designee
34 except for the assessments established in paragraph (a). The
35 amount of personal care assistant services authorized must be
36 based on the recipient's home care rating. A child may not be

1 found to be dependent in an activity of daily living if because
2 of the child's age an adult would either perform the activity
3 for the child or assist the child with the activity and the
4 amount of assistance needed is similar to the assistance
5 appropriate for a typical child of the same age. Based on
6 medical necessity, the commissioner may authorize:

7 (A) up to two times the average number of direct care hours
8 provided in nursing facilities for the recipient's comparable
9 case mix level; or

10 (B) up to three times the average number of direct care
11 hours provided in nursing facilities for recipients who have
12 complex medical needs or are dependent in at least seven
13 activities of daily living and need physical assistance with
14 eating or have a neurological diagnosis; or

15 (C) up to 60 percent of the average reimbursement rate, as
16 of July 1, 1991, for care provided in a regional treatment
17 center for recipients who have Level I behavior, plus any
18 inflation adjustment as provided by the legislature for personal
19 care service; or

20 (D) up to the amount the commissioner would pay, as of July
21 1, 1991, plus any inflation adjustment provided for home care
22 services, for care provided in a regional treatment center for
23 recipients referred to the commissioner by a regional treatment
24 center preadmission evaluation team. For purposes of this
25 clause, home care services means all services provided in the
26 home or community that would be included in the payment to a
27 regional treatment center; or

28 (E) up to the amount medical assistance would reimburse for
29 facility care for recipients referred to the commissioner by a
30 preadmission screening team established under section 256B.0911
31 or 256B.092; and

32 (F) a reasonable amount of time for the provision of
33 supervision by a qualified professional of personal care
34 assistant services, if a qualified professional is requested by
35 the recipient or responsible party.

36 (ii) The number of direct care hours shall be determined

1 according to the annual cost report submitted to the department
2 by nursing facilities. The average number of direct care hours,
3 as established by May 1, 1992, shall be calculated and
4 incorporated into the home care limits on July 1, 1992. These
5 limits shall be calculated to the nearest quarter hour.

6 (iii) The home care rating shall be determined by the
7 commissioner or the commissioner's designee based on information
8 submitted to the commissioner by the county public health nurse
9 on forms specified by the commissioner. The home care rating
10 shall be a combination of current assessment tools developed
11 under sections 256B.0911 and 256B.501 with an addition for
12 seizure activity that will assess the frequency and severity of
13 seizure activity and with adjustments, additions, and
14 clarifications that are necessary to reflect the needs and
15 conditions of recipients who need home care including children
16 and adults under 65 years of age. The commissioner shall
17 establish these forms and protocols under this section and shall
18 use an advisory group, including representatives of recipients,
19 providers, and counties, for consultation in establishing and
20 revising the forms and protocols.

21 (iv) A recipient shall qualify as having complex medical
22 needs if the care required is difficult to perform and because
23 of recipient's medical condition requires more time than
24 community-based standards allow or requires more skill than
25 would ordinarily be required and the recipient needs or has one
26 or more of the following:

- 27 (A) daily tube feedings;
28 (B) daily parenteral therapy;
29 (C) wound or decubiti care;
30 (D) postural drainage, percussion, nebulizer treatments,
31 suctioning, tracheotomy care, oxygen, mechanical ventilation;
32 (E) catheterization;
33 (F) ostomy care;
34 (G) quadriplegia; or
35 (H) other comparable medical conditions or treatments the
36 commissioner determines would otherwise require institutional

1 care.

2 (v) A recipient shall qualify as having Level I behavior if
3 there is reasonable supporting evidence that the recipient
4 exhibits, or that without supervision, observation, or
5 redirection would exhibit, one or more of the following
6 behaviors that cause, or have the potential to cause:

7 (A) injury to the recipient's own body;

8 (B) physical injury to other people; or

9 (C) destruction of property.

10 (vi) Time authorized for personal care relating to Level I
11 behavior in subclause (v), items (A) to (C), shall be based on
12 the predictability, frequency, and amount of intervention
13 required.

14 (vii) A recipient shall qualify as having Level II behavior
15 if the recipient exhibits on a daily basis one or more of the
16 following behaviors that interfere with the completion of
17 personal care assistant services under subdivision 4, paragraph
18 (a):

19 (A) unusual or repetitive habits;

20 (B) withdrawn behavior; or

21 (C) offensive behavior.

22 (viii) A recipient with a home care rating of Level II
23 behavior in subclause (vii), items (A) to (C), shall be rated as
24 comparable to a recipient with complex medical needs under
25 subclause (iv). If a recipient has both complex medical needs
26 and Level II behavior, the home care rating shall be the next
27 complex category up to the maximum rating under subclause (i),
28 item (B).

29 (3) [PRIVATE DUTY NURSING SERVICES.] All private duty
30 nursing services shall be prior authorized by the commissioner
31 or the commissioner's designee. Prior authorization for private
32 duty nursing services shall be based on medical necessity and
33 cost-effectiveness when compared with alternative care options.
34 The commissioner may authorize medically necessary private duty
35 nursing services in quarter-hour units when:

36 (i) the recipient requires more individual and continuous

1 care than can be provided during a nurse visit; or

2 (ii) the cares are outside of the scope of services that
3 can be provided by a home health aide or personal care assistant.

4 The commissioner may authorize:

5 (A) up to two times the average amount of direct care hours
6 provided in nursing facilities statewide for case mix
7 classification "K" as established by the annual cost report
8 submitted to the department by nursing facilities in May 1992;

9 (B) private duty nursing in combination with other home
10 care services up to the total cost allowed under clause (2);

11 (C) up to 16 hours per day if the recipient requires more
12 nursing than the maximum number of direct care hours as
13 established in item (A) and the recipient meets the hospital
14 admission criteria established under Minnesota Rules, parts
15 9505.0501 to 9505.0540.

16 The commissioner may authorize up to 16 hours per day of
17 medically necessary private duty nursing services or up to 24
18 hours per day of medically necessary private duty nursing
19 services until such time as the commissioner is able to make a
20 determination of eligibility for recipients who are
21 cooperatively applying for home care services under the
22 community alternative care program developed under section
23 256B.49, or until it is determined by the appropriate regulatory
24 agency that a health benefit plan is or is not required to pay
25 for appropriate medically necessary health care services.
26 Recipients or their representatives must cooperatively assist
27 the commissioner in obtaining this determination. Recipients
28 who are eligible for the community alternative care program may
29 not receive more hours of nursing under this section than would
30 otherwise be authorized under section 256B.49.

31 (4) [VENTILATOR-DEPENDENT RECIPIENTS.] If the recipient is
32 ventilator-dependent, the monthly medical assistance
33 authorization for home care services shall not exceed what the
34 commissioner would pay for care at the highest cost hospital
35 designated as a long-term hospital under the Medicare program.
36 For purposes of this clause, home care services means all

1 services provided in the home that would be included in the
2 payment for care at the long-term hospital.

3 "Ventilator-dependent" means an individual who receives
4 mechanical ventilation for life support at least six hours per
5 day and is expected to be or has been dependent for at least 30
6 consecutive days.

7 (f) [PRIOR AUTHORIZATION; TIME LIMITS.] The commissioner
8 or the commissioner's designee shall determine the time period
9 for which a prior authorization shall be effective. If the
10 recipient continues to require home care services beyond the
11 duration of the prior authorization, the home care provider must
12 request a new prior authorization. Under no circumstances,
13 other than the exceptions in paragraph (b), shall a prior
14 authorization be valid prior to the date the commissioner
15 receives the request or for more than 12 months. A recipient
16 who appeals a reduction in previously authorized home care
17 services may continue previously authorized services, other than
18 temporary services under paragraph (h), pending an appeal under
19 section 256.045. The commissioner must provide a detailed
20 explanation of why the authorized services are reduced in amount
21 from those requested by the home care provider.

22 (g) [APPROVAL OF HOME CARE SERVICES.] The commissioner or
23 the commissioner's designee shall determine the medical
24 necessity of home care services, the level of caregiver
25 according to subdivision 2, and the institutional comparison
26 according to this subdivision, the cost-effectiveness of
27 services, and the amount, scope, and duration of home care
28 services reimbursable by medical assistance, based on the
29 assessment, primary payer coverage determination information as
30 required, the service plan, the recipient's age, the cost of
31 services, the recipient's medical condition, and diagnosis or
32 disability. The commissioner may publish additional criteria
33 for determining medical necessity according to section 256B.04.

34 (h) [PRIOR AUTHORIZATION REQUESTS; TEMPORARY SERVICES.]
35 The agency nurse, the independently enrolled private duty nurse,
36 or county public health nurse may request a temporary

1 authorization for home care services by telephone. The
2 commissioner may approve a temporary level of home care services
3 based on the assessment, and service or care plan information,
4 and primary payer coverage determination information as required.
5 Authorization for a temporary level of home care services
6 including nurse supervision is limited to the time specified by
7 the commissioner, but shall not exceed 45 days, unless extended
8 because the county public health nurse has not completed the
9 required assessment and service plan, or the commissioner's
10 determination has not been made. The level of services
11 authorized under this provision shall have no bearing on a
12 future prior authorization.

13 (i) [PRIOR AUTHORIZATION REQUIRED IN FOSTER CARE SETTING.]
14 Home care services provided in an adult or child foster care
15 setting must receive prior authorization by the department
16 according to the limits established in paragraph (a).

17 The commissioner may not authorize:

18 (1) home care services that are the responsibility of the
19 foster care provider under the terms of the foster care
20 placement agreement and administrative rules;

21 (2) personal care assistant services when the foster care
22 license holder is also the personal care provider or personal
23 care assistant unless the recipient can direct the recipient's
24 own care, or case management is provided as required in section
25 256B.0625, subdivision 19a;

26 (3) personal care assistant services when the responsible
27 party is an employee of, or under contract with, or has any
28 direct or indirect financial relationship with the personal care
29 provider or personal care assistant, unless case management is
30 provided as required in section 256B.0625, subdivision 19a; or

31 (4) personal care assistant and private duty nursing
32 services when the number of foster care residents is greater
33 than four unless the county responsible for the recipient's
34 foster placement made the placement prior to April 1, 1992,
35 requests that personal care assistant and private duty nursing
36 services be provided, and case management is provided as

1 required in section 256B.0625, subdivision 19a.

2 Sec. 51. Minnesota Statutes 2004, section 256B.0917,
3 subdivision 4, is amended to read:

4 Subd. 4. [ACCESSIBLE INFORMATION, SCREENING, AND
5 ASSESSMENT FUNCTION.] (a) The projects selected by and under
6 contract with the commissioner shall establish an accessible
7 information, screening, and assessment function for persons who
8 need assistance and information regarding long-term care. This
9 accessible information, screening, and assessment activity shall
10 include information and referral, early intervention, follow-up
11 contacts, telephone screening, home visits, assessments,
12 preadmission screening, and relocation case management for the
13 frail elderly and their caregivers in the area served by the
14 county or counties. The purpose is to ensure that information
15 and help is provided to elderly persons and their families in a
16 timely fashion, when they are making decisions about long-term
17 care. These functions may be split among various agencies, but
18 must be coordinated by the local long-term care coordinating
19 team.

20 (b) Accessible information, screening, and assessment
21 functions shall be reimbursed as follows:

22 (1) The screenings of all persons entering nursing homes
23 shall be reimbursed as defined in section 256B.0911, subdivision
24 6; and

25 (2) Additional state administrative funds shall be
26 available for the access, screening, and assessment activities
27 that are not reimbursed under clause (1). This amount shall not
28 exceed the amount authorized in the guidelines and in
29 instructions for the application and must be within the amount
30 appropriated for this activity.

31 (c) Any information and referral functions funded by other
32 sources, such as Title III of the Older Americans Act and Title
33 ~~XX of the Social Security Act and the Community Social Services~~
34 Act, shall be considered by the local long-term care
35 coordinating team in establishing this function to avoid
36 duplication and to ensure access to information for persons

1 needing help and information regarding long-term care.

2 (d) The lead agency or the agencies under contract with the
3 lead agency which are responsible for the accessible
4 information, screening, and assessment function must complete
5 the forms and reports required by the commissioner as specified
6 in the contract.

7 Sec. 52. Minnesota Statutes 2004, section 256B.0917,
8 subdivision 5, is amended to read:

9 Subd. 5. [SERVICE DEVELOPMENT AND SERVICE DELIVERY.] (a)
10 In addition to the access, screening, and assessment activity,
11 each local strategy may include provisions for the following:

12 (1) the addition of a full-time staff person who is
13 responsible to develop the following services and recruit
14 providers as established in the contract:

15 (i) additional adult family foster care homes;

16 (ii) family adult day care providers as defined in section
17 256B.0919, subdivision 2;

18 (iii) an assisted living program in an apartment;

19 (iv) a congregate housing service project in a subsidized
20 housing project; and

21 (v) the expansion of evening and weekend coverage of home
22 care services as deemed necessary by the local strategic plan;

23 (2) small incentive grants to new adult family care
24 providers for renovations needed to meet licensure requirements;

25 ~~(3) a plan to apply for a congregate housing service~~
26 ~~project as identified in section 256.9731, authorized by the~~
27 ~~Minnesota Board on Aging, to the extent that funds are~~
28 ~~available;~~

29 ~~(4)~~ (3) a plan to divert new applicants to nursing homes
30 and to relocate a targeted population from nursing homes, using
31 the individual's own resources or the funding available for
32 services;

33 ~~(5)~~ (4) one or more caregiver support and respite care
34 projects, as described in subdivision 6; and

35 ~~(6)~~ (5) one or more living-at-home/block nurse projects, as
36 described in subdivisions 7 to 10.

1 (b) The expansion of alternative care clients under
2 paragraph (a) shall be accomplished with the funds provided
3 under section 256B.0913, and includes the allocation of targeted
4 funds. The funding for all participating counties must be
5 coordinated by the local long-term care coordinating team and
6 must be part of the local long-term care strategy. Alternative
7 care funds may be transferred from one SAIL county to another
8 within a designated SAIL project area during a fiscal year as
9 authorized by the local long-term care coordinating team and
10 approved by the commissioner. The base allocation used for a
11 future year shall reflect the final transfer. Each county
12 retains responsibility for reimbursement as defined in section
13 256B.0913, subdivision 12. All other requirements for the
14 alternative care program must be met unless an exception is
15 provided in this section. The commissioner may establish by
16 contract a reimbursement mechanism for alternative care that
17 does not require invoice processing through the Medical
18 Assistance Management Information System (MMIS). The
19 commissioner and local agencies must assure that the same client
20 and reimbursement data is obtained as is available under MMIS.

21 (c) The administration of these components is the
22 responsibility of the agencies selected by the local
23 coordinating team and under contract with the local lead
24 agency. However, administrative funds for paragraph (a),
25 clauses (2) to ~~(5)~~ (4), and grant funds for paragraph
26 (a), ~~clauses (6) and (7)~~ clause (5), shall be granted to the
27 local lead agency. The funding available for each component is
28 based on the plan submitted and the amount negotiated in the
29 contract.

30 Sec. 53. Minnesota Statutes 2004, section 256B.0951,
31 subdivision 8, is amended to read:

32 Subd. 8. [FEDERAL WAIVER.] The commissioner of human
33 services shall seek a federal waiver to allow intermediate care
34 facilities for persons with mental retardation (ICFs/MR) in
35 region 10 of Minnesota to participate in the alternative
36 licensing system. If it is necessary for purposes of

1 participation in this alternative licensing system for a
2 facility to be decertified as an ICF/MR facility according to
3 the terms of the federal waiver, when the facility seeks
4 recertification under the provisions of ICF/MR regulations at
5 the end of the demonstration project, it will not be considered
6 a new ICF/MR as defined under section 252.291 provided the
7 licensed capacity of the facility did not increase during its
8 participation in the alternative licensing system. The
9 provisions of sections ~~252.82~~ 252.28, 252.292, and 256B.5011 to
10 256B.5015 will remain applicable for counties in region 10 of
11 Minnesota and the ICFs/MR located within those counties
12 notwithstanding a county's participation in the alternative
13 licensing system.

14 Sec. 54. Minnesota Statutes 2004, section 256B.431,
15 subdivision 14, is amended to read:

16 Subd. 14. [LIMITATIONS ON SALES OF NURSING FACILITIES.]

17 (a) For rate periods beginning on October 1, 1992, and for rate
18 years beginning after June 30, 1993, a nursing facility's
19 property-related payment rate as established under subdivision
20 13 shall be adjusted by either paragraph (b) or (c) for the sale
21 of the nursing facility, including sales occurring after June
22 30, 1992, as provided in this subdivision.

23 (b) If the nursing facility's property-related payment rate
24 under subdivision 13 prior to sale is greater than the nursing
25 facility's rental rate under Minnesota Rules, parts 9549.0010 to
26 9549.0080, and this section prior to sale, the nursing
27 facility's property-related payment rate after sale shall be the
28 greater of its property-related payment rate under subdivision
29 13 prior to sale or its rental rate under Minnesota Rules, parts
30 9549.0010 to 9549.0080, and this section calculated after sale.

31 (c) If the nursing facility's property-related payment rate
32 under subdivision 13 prior to sale is equal to or less than the
33 nursing facility's rental rate under Minnesota Rules, parts
34 9549.0010 to 9549.0080, and this section prior to sale, the
35 nursing facility's property-related payment rate after sale
36 shall be the nursing facility's property-related payment rate

1 under subdivision 13 plus the difference between its rental rate
2 calculated under Minnesota Rules, parts 9549.0010 to 9549.0080,
3 and this section prior to sale and its rental rate calculated
4 under Minnesota Rules, parts 9549.0010 to 9549.0080, and this
5 section calculated after sale.

6 (d) For purposes of this subdivision, "sale" means the
7 purchase of a nursing facility's capital assets with cash or
8 debt. The term sale does not include a stock purchase of a
9 nursing facility or any of the following transactions:

10 (1) a sale and leaseback to the same licensee that does not
11 constitute a change in facility license;

12 (2) a transfer of an interest to a trust;

13 (3) gifts or other transfers for no consideration;

14 (4) a merger of two or more related organizations;

15 (5) a change in the legal form of doing business, other
16 than a publicly held organization that becomes privately held or
17 vice versa;

18 (6) the addition of a new partner, owner, or shareholder
19 who owns less than 20 percent of the nursing facility or the
20 issuance of stock; and

21 (7) a sale, merger, reorganization, or any other transfer
22 of interest between related organizations other than those
23 permitted in this section.

24 (e) For purposes of this subdivision, "sale" includes the
25 sale or transfer of a nursing facility to a close relative as
26 defined in Minnesota Rules, part 9549.0020, subpart 38, item C,
27 upon the death of an owner, due to serious illness or
28 disability, as defined under the Social Security Act, under
29 United States Code, title 42, section 423(d)(1)(A), or upon
30 retirement of an owner from the business of owning or operating
31 a nursing home at 62 years of age or older. For sales to a
32 close relative allowed under this paragraph, otherwise
33 nonallowable debt resulting from seller financing of all or a
34 portion of the debt resulting from the sale shall be allowed and
35 shall not be subject to Minnesota Rules, part 9549.0060, subpart
36 5, item E, provided that in addition to existing requirements

1 for allowance of debt and interest, the debt is subject to
2 repayment through annual principal payments and the interest
3 rate on the related organization debt does not exceed three
4 percentage points above the posted yield for standard
5 conventional fixed rate mortgages of the Federal Home Loan
6 Mortgage Corporation for delivery in 60 days in effect on the
7 day of sale. If at any time, the seller forgives the related
8 organization debt allowed under this paragraph for other than
9 equal amount of payment on that debt, then the buyer shall pay
10 to the state the total revenue received by the nursing facility
11 after the sale attributable to the amount of allowable debt
12 which has been forgiven. Any assignment, sale, or transfer of
13 the debt instrument entered into by the close relatives, either
14 directly or indirectly, which grants to the close relative buyer
15 the right to receive all or a portion of the payments under the
16 debt instrument shall, effective on the date of the transfer,
17 result in the prospective reduction in the corresponding portion
18 of the allowable debt and interest expense. Upon the death of
19 the close relative seller, any remaining balance of the close
20 relative debt must be refinanced and such refinancing shall be
21 subject to the provisions of Minnesota Rules, part 9549.0060,
22 subpart 7, item G. This paragraph shall not apply to sales
23 occurring on or after June 30, 1997.

24 (f) For purposes of this subdivision, "effective date of
25 sale" means the later of either the date on which legal title to
26 the capital assets is transferred or the date on which closing
27 for the sale occurred.

28 (g) The effective day for the property-related payment rate
29 determined under this subdivision shall be the first day of the
30 month following the month in which the effective date of sale
31 occurs or October 1, 1992, whichever is later, provided that the
32 notice requirements under section 256B.47, subdivision 2, have
33 been met.

34 (h) Notwithstanding Minnesota Rules, part 9549.0060,
35 subparts 5, item A, subitems (3) and (4), and 7, items E and F,
36 the commissioner shall limit the total allowable debt and

1 related interest for sales occurring after June 30, 1992, to the
2 sum of clauses (1) to (3):

3 (1) the historical cost of capital assets, as of the
4 nursing facility's most recent previous effective date of sale
5 or, if there has been no previous sale, the nursing facility's
6 initial historical cost of constructing capital assets;

7 (2) the average annual capital asset additions after
8 deduction for capital asset deletions, not including
9 depreciations; and

10 (3) one-half of the allowed inflation on the nursing
11 facility's capital assets. The commissioner shall compute the
12 allowed inflation as described in paragraph (i).

13 (i) For purposes of computing the amount of allowed
14 inflation, the commissioner must apply the following principles:

15 (1) the lesser of the Consumer Price Index for all urban
16 consumers or the Dodge Construction Systems Costs for Nursing
17 Homes for any time periods during which both are available must
18 be used. If the Dodge Construction Systems Costs for Nursing
19 Homes becomes unavailable, the commissioner shall substitute the
20 index in subdivision 3f, or such other index as the secretary of
21 the Centers for Medicare and Medicaid Services may designate;

22 (2) the amount of allowed inflation to be applied to the
23 capital assets in paragraph ~~(g)~~ (h), clauses (1) and (2), must
24 be computed separately;

25 (3) the amount of allowed inflation must be determined on
26 an annual basis, prorated on a monthly basis for partial years
27 and if the initial month of use is not determinable for a
28 capital asset, then one-half of that calendar year shall be used
29 for purposes of prorating;

30 (4) the amount of allowed inflation to be applied to the
31 capital assets in paragraph ~~(g)~~ (h), clauses (1) and (2), must
32 not exceed 300 percent of the total capital assets in any one of
33 those clauses; and

34 (5) the allowed inflation must be computed starting with
35 the month following the nursing facility's most recent previous
36 effective date of sale or, if there has been no previous sale,

1 the month following the date of the nursing facility's initial
2 occupancy, and ending with the month preceding the effective
3 date of sale.

4 (j) If the historical cost of a capital asset is not
5 readily available for the date of the nursing facility's most
6 recent previous sale or if there has been no previous sale for
7 the date of the nursing facility's initial occupancy, then the
8 commissioner shall limit the total allowable debt and related
9 interest after sale to the extent recognized by the Medicare
10 intermediary after the sale. For a nursing facility that has no
11 historical capital asset cost data available and does not have
12 allowable debt and interest calculated by the Medicare
13 intermediary, the commissioner shall use the historical cost of
14 capital asset data from the point in time for which capital
15 asset data is recorded in the nursing facility's audited
16 financial statements.

17 (k) The limitations in this subdivision apply only to debt
18 resulting from a sale of a nursing facility occurring after June
19 30, 1992, including debt assumed by the purchaser of the nursing
20 facility.

21 Sec. 55. Minnesota Statutes 2004, section 256G.01,
22 subdivision 3, is amended to read:

23 Subd. 3. [PROGRAM COVERAGE.] This chapter applies to all
24 social service programs administered by the commissioner in
25 which residence is the determining factor in establishing
26 financial responsibility. These include, but are not limited to:
27 commitment proceedings, including voluntary admissions;
28 emergency holds; poor relief funded wholly through local
29 agencies; social services, including title XX, IV-E and other
30 components of the ~~Community-Social-Services-Act~~, section
31 256E.12; social services programs funded wholly through the
32 resources of county agencies; social services provided under the
33 Minnesota Indian Family Preservation Act, sections 260.751 to
34 260.781; costs for delinquency confinement under section 393.07,
35 subdivision 2; service responsibility for these programs; and
36 group residential housing.

1 Sec. 56. Minnesota Statutes 2004, section 256L.07,
2 subdivision 1, is amended to read:

3 Subdivision 1. [GENERAL REQUIREMENTS.] (a) Children
4 enrolled in the original children's health plan as of September
5 30, 1992, children who enrolled in the MinnesotaCare program
6 after September 30, 1992, pursuant to Laws 1992, chapter 549,
7 article 4, section 17, and children who have family gross
8 incomes that are equal to or less than 150 percent of the
9 federal poverty guidelines are eligible without meeting the
10 requirements of subdivision 2 and the four-month requirement in
11 subdivision 3, as long as they maintain continuous coverage in
12 the MinnesotaCare program or medical assistance. Children who
13 apply for MinnesotaCare on or after the implementation date of
14 the employer-subsidized health coverage program as described in
15 Laws 1998, chapter 407, article 5, section 45, who have family
16 gross incomes that are equal to or less than 150 percent of the
17 federal poverty guidelines, must meet the requirements of
18 subdivision 2 to be eligible for MinnesotaCare.

19 (b) Families enrolled in MinnesotaCare under section
20 256L.04, subdivision 1, whose income increases above 275 percent
21 of the federal poverty guidelines, are no longer eligible for
22 the program and shall be disenrolled by the commissioner.

23 Individuals enrolled in MinnesotaCare under section 256L.04,
24 subdivision 7, whose income increases above 175 percent of the
25 federal poverty guidelines are no longer eligible for the
26 program and shall be disenrolled by the commissioner. For
27 persons disenrolled under this subdivision, MinnesotaCare
28 coverage terminates the last day of the calendar month following
29 the month in which the commissioner determines that the income
30 of a family or individual exceeds program income limits.

31 ~~(c) (i) Notwithstanding paragraph (b), families enrolled in~~
32 ~~MinnesotaCare under section 256L.04, subdivision 1, may remain~~
33 ~~enrolled in MinnesotaCare if ten percent of their annual income~~
34 ~~is less than the annual premium for a policy with a \$500~~
35 ~~deductible available through the Minnesota Comprehensive Health~~
36 ~~Association. Families who are no longer eligible for~~

1 ~~MinnesotaCare under this subdivision shall be given an 18-month~~
2 ~~notice period from the date that ineligibility is determined~~
3 ~~before disenrollment.---This clause expires February 17, 2004.~~

4 ~~(2)-Effective February 17, 2004,~~ Notwithstanding paragraph
5 (b), children may remain enrolled in MinnesotaCare if ten
6 percent of their annual family income is less than the annual
7 premium for a policy with a \$500 deductible available through
8 the Minnesota Comprehensive Health Association. Children who
9 are no longer eligible for MinnesotaCare under this clause shall
10 be given a 12-month notice period from the date that
11 ineligibility is determined before disenrollment. The premium
12 for children remaining eligible under this clause shall be the
13 maximum premium determined under section 256L.15, subdivision 2,
14 paragraph (b).

15 ~~(d) Effective July 17, 2003,~~ Notwithstanding paragraphs (b)
16 and (c), parents are ~~no longer~~ not eligible for MinnesotaCare if
17 gross household income exceeds \$50,000.

18 Sec. 57. Minnesota Statutes 2004, section 256L.15,
19 subdivision 2, is amended to read:

20 Subd. 2. [SLIDING FEE SCALE TO DETERMINE PERCENTAGE OF
21 GROSS INDIVIDUAL OR FAMILY INCOME.] (a) The commissioner shall
22 establish a sliding fee scale to determine the percentage of
23 gross individual or family income that households at different
24 income levels must pay to obtain coverage through the
25 MinnesotaCare program. The sliding fee scale must be based on
26 the enrollee's gross individual or family income. The sliding
27 fee scale must contain separate tables based on enrollment of
28 one, two, or three or more persons. The sliding fee scale
29 begins with a premium of 1.5 percent of gross individual or
30 family income for individuals or families with incomes below the
31 limits for the medical assistance program for families and
32 children in effect on January 1, 1999, and proceeds through the
33 following evenly spaced steps: 1.8, 2.3, 3.1, 3.8, 4.8, 5.9,
34 7.4, and 8.8 percent. These percentages are matched to evenly
35 spaced income steps ranging from the medical assistance income
36 limit for families and children in effect on January 1, 1999, to

1 275 percent of the federal poverty guidelines for the applicable
2 family size, up to a family size of five. The sliding fee scale
3 for a family of five must be used for families of more than
4 five. Effective October 1, 2003, the commissioner shall
5 increase each percentage by 0.5 percentage points for enrollees
6 with income greater than 100 percent but not exceeding 200
7 percent of the federal poverty guidelines and shall increase
8 each percentage by 1.0 percentage points for families and
9 children with incomes greater than 200 percent of the federal
10 poverty guidelines. The sliding fee scale and percentages are
11 not subject to the provisions of chapter 14. If a family or
12 individual reports increased income after enrollment, premiums
13 shall not be adjusted until eligibility renewal.

14 ~~(b)(1)-Enrolled-families-whose-gross-annual-income~~
15 ~~increases-above-275-percent-of-the-federal-poverty-guideline~~
16 ~~shall-pay-the-maximum-premium.---This-clause-expires-effective~~
17 ~~February-17-2004.~~

18 ~~(2)-Effective-February-17-2004,~~ Children in families whose
19 gross income is above 275 percent of the federal poverty
20 guidelines shall pay the maximum premium.

21 ~~(3)~~ The maximum premium is defined as a base charge for
22 one, two, or three or more enrollees so that if all
23 MinnesotaCare cases paid the maximum premium, the total revenue
24 would equal the total cost of MinnesotaCare medical coverage and
25 administration. In this calculation, administrative costs shall
26 be assumed to equal ten percent of the total. The costs of
27 medical coverage for pregnant women and children under age two
28 and the enrollees in these groups shall be excluded from the
29 total. The maximum premium for two enrollees shall be twice the
30 maximum premium for one, and the maximum premium for three or
31 more enrollees shall be three times the maximum premium for one.

32 Sec. 58. Minnesota Statutes 2004, section 256M.10,
33 subdivision 5, is amended to read:

34 Subd. 5. [FORMER CHILDREN'S SERVICES AND COMMUNITY SERVICE
35 GRANTS.] "Former children's services and community service
36 grants" means allocations for the following grants:

1 (1) community social service grants under section 252.24
2 and Minnesota Statutes 2002, sections 256E.06 and 256E.14;

3 (2) family preservation grants under section 256F.05,
4 subdivision 3;

5 (3) concurrent permanency planning grants under section
6 260C.213, subdivision 5;

7 (4) social service block grants (Title XX) under Minnesota
8 Statutes 2002, section 256E.07; and

9 (5) children's mental health grants under Minnesota
10 Statutes 2002, ~~section~~ sections 245.4886 and ~~section~~ 260.152.

11 Sec. 59. Minnesota Statutes 2004, section 260B.007,
12 subdivision 16, is amended to read:

13 Subd. 16. [JUVENILE PETTY OFFENDER; JUVENILE PETTY
14 OFFENSE.] (a) "Juvenile petty offense" includes a juvenile
15 alcohol offense, a juvenile controlled substance offense, a
16 violation of section 609.685, or a violation of a local
17 ordinance, which by its terms prohibits conduct by a child under
18 the age of 18 years which would be lawful conduct if committed
19 by an adult.

20 (b) Except as otherwise provided in paragraph (c),
21 "juvenile petty offense" also includes an offense that would be
22 a misdemeanor if committed by an adult.

23 (c) "Juvenile petty offense" does not include any of the
24 following:

25 (1) a misdemeanor-level violation of section 518B.01,
26 588.20, 609.224, 609.2242, 609.324, ~~609-563~~ 609.5632, 609.576,
27 609.66, 609.746, 609.748, 609.79, or 617.23;

28 (2) a major traffic offense or an adult court traffic
29 offense, as described in section 260B.225;

30 (3) a misdemeanor-level offense committed by a child whom
31 the juvenile court previously has found to have committed a
32 misdemeanor, gross misdemeanor, or felony offense; or

33 (4) a misdemeanor-level offense committed by a child whom
34 the juvenile court has found to have committed a
35 misdemeanor-level juvenile petty offense on two or more prior
36 occasions, unless the county attorney designates the child on

1 the petition as a juvenile petty offender notwithstanding this
2 prior record. As used in this clause, "misdemeanor-level
3 juvenile petty offense" includes a misdemeanor-level offense
4 that would have been a juvenile petty offense if it had been
5 committed on or after July 1, 1995.

6 (d) A child who commits a juvenile petty offense is a
7 "juvenile petty offender."

8 Sec. 60. Minnesota Statutes 2004, section 276.04,
9 subdivision 2, is amended to read:

10 Subd. 2. [CONTENTS OF TAX STATEMENTS.] (a) The treasurer
11 shall provide for the printing of the tax statements. The
12 commissioner of revenue shall prescribe the form of the property
13 tax statement and its contents. The statement must contain a
14 tabulated statement of the dollar amount due to each taxing
15 authority and the amount of the state tax from the parcel of
16 real property for which a particular tax statement is prepared.
17 The dollar amounts attributable to the county, the state tax,
18 the voter approved school tax, the other local school tax, the
19 township or municipality, and the total of the metropolitan
20 special taxing districts as defined in section 275.065,
21 subdivision 3, paragraph (i), must be separately stated. The
22 amounts due all other special taxing districts, if any, may be
23 aggregated. If the county levy under this paragraph includes an
24 amount for a lake improvement district as defined under sections
25 103B.501 to 103B.581, the amount attributable for that purpose
26 must be separately stated from the remaining county levy
27 amount. The amount of the tax on homesteads qualifying under
28 the senior citizens' property tax deferral program under chapter
29 290B is the total amount of property tax before subtraction of
30 the deferred property tax amount. The amount of the tax on
31 contamination value imposed under sections 270.91 to 270.98, if
32 any, must also be separately stated. The dollar amounts,
33 including the dollar amount of any special assessments, may be
34 rounded to the nearest even whole dollar. For purposes of this
35 section whole odd-numbered dollars may be adjusted to the next
36 higher even-numbered dollar. The amount of market value

1 excluded under section 273.11, subdivision 16, if any, must also
2 be listed on the tax statement.

3 (b) The property tax statements for manufactured homes and
4 sectional structures taxed as personal property shall contain
5 the same information that is required on the tax statements for
6 real property.

7 (c) Real and personal property tax statements must contain
8 the following information in the order given in this paragraph.
9 The information must contain the current year tax information in
10 the right column with the corresponding information for the
11 previous year in a column on the left:

12 (1) the property's estimated market value under section
13 273.11, subdivision 1;

14 (2) the property's taxable market value after reductions
15 under section 273.11, subdivisions 1a and 16;

16 (3) the property's gross tax, calculated by adding the
17 property's total property tax to the sum of the aids enumerated
18 in clause (4);

19 (4) a total of the following aids:

20 (i) education aids payable under chapters 122A, 123A, 123B,
21 124D, 125A, 126C, and 127A;

22 (ii) local government aids for cities, towns, and counties
23 under chapter 477A; and

24 (iii) disparity reduction aid under section 273.1398;

25 (5) for homestead residential and agricultural properties,
26 the credits under section 273.1384;

27 (6) any credits received under sections 273.119; 273.123;
28 273.135; 273.1391; 273.1398, subdivision 4; 469.171; and
29 473H.10, except that the amount of credit received under section
30 273.135 must be separately stated and identified as "taconite
31 tax relief"; and

32 (7) the net tax payable in the manner required in paragraph
33 (a).

34 (d) If the county uses envelopes for mailing property tax
35 statements and if the county agrees, a taxing district may
36 include a notice with the property tax statement notifying

1 taxpayers when the taxing district will begin its budget
2 deliberations for the current year, and encouraging taxpayers to
3 attend the hearings. If the county allows notices to be
4 included in the envelope containing the property tax statement,
5 and if more than one taxing district relative to a given
6 property decides to include a notice with the tax statement, the
7 county treasurer or auditor must coordinate the process and may
8 combine the information on a single announcement.

9 The commissioner of revenue shall certify to the county
10 auditor the actual or estimated aids enumerated in paragraph
11 (c), clause (4), that local governments will receive in the
12 following year. The commissioner must certify this amount by
13 January 1 of each year.

14 Sec. 61. Minnesota Statutes 2004, section 290.095,
15 subdivision 1, is amended to read:

16 Subdivision 1. [ALLOWANCE OF DEDUCTION.] (a) There shall
17 be allowed as a deduction for the taxable year the amount of any
18 net operating loss deduction as provided in section 172 of the
19 Internal Revenue Code, subject to the limitations and
20 modifications provided in this section.

21 (b) A net operating loss deduction shall be available under
22 this section only to corporate taxpayers except that
23 subdivisions 7, 9, and 11 hereof apply only to individuals,
24 estates, and trusts.

25 (c) In the case of a regulated investment company or fund
26 thereof, as defined in section 851(a) or 851(g) of the Internal
27 Revenue Code, the deduction provided by this section shall not
28 be allowed.

29 Sec. 62. Minnesota Statutes 2004, section 299D.07, is
30 amended to read:

31 299D.07 [HELICOPTER, FIXED WING AIRCRAFT.]

32 The commissioner of public safety is hereby authorized to
33 retain, acquire, maintain and operate helicopters and fixed wing
34 aircraft for the purposes of the Highway State Patrol and the
35 Bureau of Criminal Apprehension and for any other law
36 enforcement purpose that the commissioner determines is

1 appropriate. The commissioner also is authorized to employ
2 State Patrol officer pilots as required.

3 Sec. 63. Minnesota Statutes 2004, section 299F.051,
4 subdivision 4, is amended to read:

5 Subd. 4. [COOPERATIVE INVESTIGATION; REIMBURSEMENT.] The
6 state fire marshal and the superintendent of the Bureau of
7 Criminal Apprehension shall encourage the cooperation of local
8 firefighters and peace officers in the investigation of
9 violations of sections 609.561 to 609.576 or other crimes
10 associated with reported fires in all appropriate ways,
11 including providing reimbursement to political subdivisions at a
12 rate not to exceed 50 percent of the salaries of peace officers
13 and firefighters for time spent in attending fire investigation
14 training courses offered by the arson training unit. Volunteer
15 firefighters from a political subdivision shall be reimbursed at
16 the rate of \$35 per day plus expenses incurred in attending fire
17 investigation training courses offered by the arson training
18 unit. Reimbursement shall be made only in the event that both a
19 peace officer and a firefighter from the same political
20 subdivision attend the same training course. The reimbursement
21 shall be subject to the limitation of funds appropriated and
22 available for expenditure. ~~The state fire marshal and the~~
23 ~~superintendent also shall encourage local firefighters and peace~~
24 ~~officers to seek assistance from the arson strike force~~
25 ~~established in section 299F.058.~~

26 Sec. 64. Minnesota Statutes 2004, section 299F.093,
27 subdivision 1, is amended to read:

28 Subdivision 1. [DUTIES; RULES.] (a) The commissioner shall:

29 (1) adopt rules no later than July 1, 1987, with the advice
30 of the Hazardous Substance Notification Advisory Committee,
31 establishing the form and content of the hazardous substance
32 notification report form, as required by section 299F.094, and
33 describing one or more hazard categories with specified ranges
34 of quantities in each hazard category, representing increments
35 of substantially increased risk;

36 (2) print and provide to individual fire departments the

1 requested number of hazardous substance notification reports,
2 which must be made available to a fire department no more than
3 90 days following its request, for the fire department to mail
4 or otherwise make available to employers in the jurisdiction;

5 (3) report to the legislature, as needed, on the
6 effectiveness of sections 299F.091 to 299F.099 and recommend
7 amendments to sections 299F.091 to 299F.099 that are considered
8 necessary;

9 (4) adopt rules to implement sections 299F.091 to 299F.099,
10 compatible with the Minnesota Uniform Fire Code so as to not
11 limit the authority of local fire officials under that code; and

12 (5) adopt rules that are based on the most recent standard
13 704, adopted by the National Fire Protection Association, and
14 that allow a fire department to require employers within its
15 jurisdiction to post signs conforming to standard 704, and
16 indicating the presence of hazardous substances. If the signs
17 are required, a fire department shall supply the signs or
18 provide information to assist an employer to obtain them.

19 ~~{b}-The-commissioner-shall-adopt-criteria-and-guidelines,~~
20 ~~with-the-concurrence-of-the-Hazardous-Substance-Notification~~
21 ~~Advisory-Committee,-for-the-disbursement-of-funds-pursuant-to~~
22 ~~laws-1986,-First-Special-Session-chapter-1,-article-10,-section~~
23 ~~20,-subdivision-1-~~

24 Sec. 65. Minnesota Statutes 2004, section 321.0210, is
25 amended to read:

26 321.0210 [ANNUAL REPORT FOR SECRETARY OF STATE.]

27 (a) Subject to subsection (b):

28 (1) in each calendar year following the calendar year in
29 which a limited partnership becomes subject to this chapter, the
30 limited partnership must deliver to the secretary of state for
31 filing an annual registration containing the information
32 required by subsection ~~{d}~~ (c); and

3 (2) in each calendar year following the calendar year in
34 which there is first on file with the secretary of state a
35 certificate of authority under section 321.0904 pertaining to a
36 foreign limited partnership, the foreign limited partnership

1 must deliver to the secretary of state for filing an annual
2 registration containing the information required by subsection
3 ~~(d)~~ (c).

4 (b) A limited partnership's obligation under subsection (a)
5 ends if the limited partnership delivers to the secretary of
6 state for filing a statement of termination under section
7 321.0203 and the statement becomes effective under section
8 321.0206. A foreign limited partnership's obligation under
9 subsection (a) ends if the secretary of state issues and files a
10 certificate of revocation under section 321.0906 or if the
11 foreign limited partnership delivers to the secretary of state
12 for filing a notice of cancellation under section 321.0907(a)
13 and that notice takes effect under section 321.0206. If a
14 foreign limited partnership's obligations under subsection (a)
15 end and later the secretary of state files, pursuant to section
16 321.0904, a new certificate of authority pertaining to that
17 foreign limited partnership, subsection (a)(2), again applies to
18 the foreign limited partnership and, for the purposes of
19 subsection (a)(2), the calendar year of the new filing is
20 treated as the calendar year in which a certificate of authority
21 is first on file with the secretary of state.

22 (c) The annual registration must contain:

23 (1) the name of the limited partnership or foreign limited
24 partnership;

25 (2) the address of its designated office and the name and
26 street and mailing address of its agent for service of process
27 in Minnesota;

28 (3) in the case of a limited partnership, the street and
29 mailing address of its principal office; and

30 (4) in the case of a foreign limited partnership, the name
31 of the state or other jurisdiction under whose law the foreign
32 limited partnership is formed and any alternate name adopted
33 under section 321.0905(a).

34 (d) The secretary of state shall:

35 (1) administratively dissolve under section 321.0809 a
36 limited partnership that has failed to file a registration

1 pursuant to subsection (a); and

2 (2) revoke under section 321.0906 the certificate of
3 authority of a foreign limited partnership that has failed to
4 file a registration pursuant to subsection (a).

5 Sec. 66. Minnesota Statutes 2004, section 321.1114, is
6 amended to read:

7 321.1114 [CONFLICT RELATING TO MERGER OR CONVERSION.]

8 If a partnership governed by chapter 323A participates in a
9 merger or conversion under chapter 321, then in the event of any
10 conflict between the provisions of chapter 323A and chapter 321
11 relating to the merger or conversion, the provisions of chapter
12 321 control ~~chapter-321~~.

13 Sec. 67. Minnesota Statutes 2004, section 325N.15, is
14 amended to read:

15 325N.15 [WAIVER.]

16 Any waiver of the provisions of sections 325N.10 to ~~315N-18~~
17 325N.18 is void and unenforceable as contrary to public policy
18 except a consumer may waive the five-day right to cancel
19 provided in section 325N.13 if the property is subject to a
20 foreclosure sale within the five business days, and the
21 foreclosed homeowner agrees to waive his or her right to cancel
22 in a handwritten statement signed by all parties holding title
23 to the foreclosed property.

24 Sec. 68. Minnesota Statutes 2004, section 336.4A-105, is
25 amended to read:

26 336.4A-105 [OTHER DEFINITIONS.]

27 (a) In this article:

28 (1) "Authorized account" means a deposit account of a
29 customer in a bank designated by the customer as a source of
30 payment of payment orders issued by the customer to the bank.
31 If a customer does not so designate an account, any account of
32 the customer is an authorized account if payment of a payment
33 order from that account is not inconsistent with a restriction
34 on the use of that account.

35 (2) "Bank" means a person engaged in the business of
36 banking and includes a savings bank, savings association, credit

1 union, and trust company. A branch or separate office of a bank
2 is a separate bank for purposes of this article.

3 (3) "Customer" means a person, including a bank, having an
4 account with a bank or from whom a bank has agreed to receive
5 payment orders.

6 (4) "Funds-transfer business day" of a receiving bank means
7 the part of a day during which the receiving bank is open for
8 the receipt, processing, and transmittal of payment orders and
9 cancellations and amendments of payment orders.

10 (5) "Funds-transfer system" means a wire transfer network,
11 automated clearinghouse, or other communication system of a
12 clearinghouse or other association of banks through which a
13 payment order by a bank may be transmitted to the bank to which
14 the order is addressed.

15 (6) (Reserved.)

16 (7) "Prove" with respect to a fact means to meet the burden
17 of establishing the fact (section 336.1-201(b)(8)).

18 (b) Other definitions applying to the article and the
19 sections in which they appear:

20 "Acceptance." Section 336.4A-209.

21 "Beneficiary." Section 336.4A-103.

22 "Beneficiary's bank." Section 336.4A-103.

23 "Executed." Section 336.4A-301.

24 "Execution date." Section 336.4A-301.

25 "Funds transfer." Section 336.4A-104.

26 "Funds-transfer system rule." Section 336.4A-501.

27 "Intermediary bank." Section 336.4A-104.

28 "Originator." Section 336.4A-104.

29 "Originator's bank." Section 336.4A-104.

30 "Payment by beneficiary's bank to beneficiary." Section
31 336.4A-405.

32 "Payment by originator to beneficiary." Section 336.4A-406.

33 "Payment by sender to receiving bank." Section 336.4A-403.

34 "Payment date." Section 336.4A-401.

35 "Payment order." Section 336.4A-103.

36 "Receiving bank." Section 336.4A-103.

1 "Security procedure." Section 336.4A-201.

2 "Sender." Section 336.4A-103.

3 (c) The following definitions in article 4 apply to this
4 article:

5 "Clearinghouse." Section 336.4-104.

6 "Item." Section 336.4-104.

7 "Suspends payments." Section 336.4-104.

8 (d) In addition, sections 336.1-101 to ~~336.1-209~~ 336.1-206
9 contain general definitions and principles of construction and
10 interpretation applicable throughout this article.

11 Sec. 69. Minnesota Statutes 2004, section 343.40,
12 subdivision 3, is amended to read:

13 Subd. 3. [SHADE.] Shade from the direct rays of the sun,
14 during the months of ~~June~~ May to ~~September~~ October shall be
15 provided.

16 Sec. 70. Minnesota Statutes 2004, section 458D.02,
17 subdivision 2, is amended to read:

18 Subd. 2. [WESTERN LAKE SUPERIOR SANITARY DISTRICT;
19 DISTRICT.] "Western Lake Superior Sanitary District" and
20 "district" mean the area over which the sanitary board has
21 jurisdiction which shall include the area now comprised on July
22 8, 1971, of the city of Cloquet, the cities of Carlton, Scanlon,
23 Thomson and Wrenshall, and the townships of Knife Falls, Silver
24 Brook, Thomson, and Twin Lakes in the county of Carlton; the
25 city of Duluth, the city of Proctor, and the townships of
26 Canosia, Duluth, Grand Lake, Herman, Lakewood, Midway, Rice Lake
27 and Solway in the county of St. Louis; other territory included
28 in the district pursuant to section 458D.22; and any waters of
29 the state adjacent thereto.

30 Sec. 71. Minnesota Statutes 2004, section 469.104, is
31 amended to read:

32 469.104 [SECTIONS THAT APPLY IF FEDERAL LIMIT APPLIES.]

33 Sections 474A.01 to 474A.21 apply to obligations issued
34 under sections 469.090 to 469.108 that are limited by a ~~federal~~
35 ~~limitation-act-as-defined-in-section-474A.02,-subdivision-9,-or~~
36 existing federal tax law as defined in section 474A.02,

1 subdivision 8.

2 Sec. 72. Minnesota Statutes 2004, section 473.845,
3 subdivision 1, is amended to read:

4 Subdivision 1. [ESTABLISHMENT.] The metropolitan landfill
5 contingency action trust account is an expendable trust account
6 in the remediation fund. The account consists of revenue
7 deposited in the ~~fund~~ account under section 473.843, subdivision
8 2, clause (2); amounts recovered under subdivision 7; and
9 interest earned on investment of money in the ~~fund~~ account.

10 Sec. 73. Minnesota Statutes 2004, section 514.966,
11 subdivision 3, is amended to read:

12 Subd. 3. [LIVESTOCK PRODUCTION INPUT LIEN.] (a) A supplier
13 furnishing livestock production inputs in the ordinary course of
14 business has a livestock production input lien for the unpaid
15 retail cost of the livestock production input. A perfected
16 livestock production input lien that attaches to livestock may
17 not exceed the amount, if any, that the sales price of the
18 livestock exceeds the greater of the fair market value of the
19 livestock at the time the lien attaches or the acquisition price
20 of the livestock. A livestock production input lien becomes
21 effective when the agricultural production inputs are furnished
22 by the supplier to the purchaser.

23 (b) A supplier shall notify a lender of a livestock
24 production input lien by providing a lien-notification statement
25 to the lender in an envelope marked "IMPORTANT-LEGAL NOTICE."
26 Delivery of the notice must be made by certified mail or another
27 verifiable method.

28 (c) The lien-notification statement must ~~be-in-a-form~~
29 ~~approved-by-the-secretary-of-state-and~~ disclose the following:

30 (1) the name and business address of the lender that is to
31 receive notification;

32 (2) the name and address of the supplier claiming the lien;

33 (3) a description and the date or anticipated date or dates
34 of the transaction and the retail cost or anticipated costs of
35 the livestock production input;

36 (4) the name, ~~residential~~ and address, ~~and~~ signature of the

1 person to whom the livestock production input was furnished;

2 (5) the name and ~~residential~~ address of the owner of the
3 livestock, the location where the livestock will be raised, and
4 a description of the livestock; and

5 (6) a statement that products and proceeds of the livestock
6 are covered by the livestock input lien.

7 (d) Within ten calendar days after receiving a
8 lien-notification statement, the lender must respond to the
9 supplier with either:

10 (1) a letter of commitment for part or all of the amount in
11 the lien-notification statement; or

12 (2) a written refusal to issue a letter of commitment.

13 A copy of the response must be mailed to the person for whom the
14 financing was requested.

15 (e) If a lender responds with a letter of commitment for
16 part or all of the amount in the lien-notification statement,
17 the supplier may not obtain a lien for the amount stated in the
18 letter of commitment. If a lender responds with a refusal to
19 provide a letter of commitment, the rights of the lender and the
20 supplier are not affected.

21 (f) If a lender does not respond under paragraph (d) to the
22 supplier within ten calendar days after receiving the
23 lien-notification statement, a perfected livestock production
24 input lien corresponding to the lien-notification statement has
25 priority over any security interest of the lender in the same
26 livestock or their proceeds for the lesser of:

27 (1) the amount stated in the lien-notification statement;

28 or

29 (2) the unpaid retail cost of the livestock production
30 input identified in the lien-notification statement, subject to
31 any limitation in paragraph (a).

32 Sec. 74. Minnesota Statutes 2004, section 515B.4-102, is
3 amended to read:

34 515B.4-102 [DISCLOSURE STATEMENT; GENERAL PROVISIONS.]

35 (a) A disclosure statement shall fully and accurately
36 disclose:

1 (1) the name and, if available, the number of the common
2 interest community;

3 (2) the name and principal address of the declarant;

4 (3) the number of units in the common interest community
5 and a statement that the common interest community is either a
6 condominium, cooperative, or planned community;

7 (4) a general description of the common interest community,
8 including, at a minimum, (i) the number of buildings, (ii) the
9 number of dwellings per building, (iii) the type of
10 construction, (iv) whether the common interest community
11 involves new construction or rehabilitation, (v) whether any
12 building was wholly or partially occupied, for any purpose,
13 before it was added to the common interest community and the
14 nature of the occupancy, and (vi) a general description of any
15 roads, trails, or utilities that are located on the common
16 elements and that the association or a master association will
17 be required to maintain;

18 (5) declarant's schedule of commencement and completion of
19 construction of any buildings and other improvements that the
20 declarant is obligated to build pursuant to section 515B.4-117;

21 (6) any expenses or services, not reflected in the budget,
22 that the declarant pays or provides, which may become a common
23 expense; the projected common expense attributable to each of
24 those expenses or services; and an explanation of declarant's
25 limited assessment liability under section 515B.3-115,
26 subsection (b);

27 (7) any initial or special fee due from the purchaser to
28 the declarant or the association at closing, together with a
29 description of the purpose and method of calculating the fee;

30 (8) identification of any liens, defects, or encumbrances
31 which will continue to affect the title to a unit or to any real
32 property owned by the association after the contemplated
33 conveyance;

34 (9) a description of any financing offered or arranged by
35 the declarant;

36 (10) a statement as to whether application has been made

1 for any project approvals for the common interest community from
2 the Federal National Mortgage Association (FNMA), Federal Home
3 Loan Mortgage Corporation (FHLMC), Department of Housing and
4 Urban Development (HUD) or Department of Veterans Affairs (VA),
5 and which, if any, such final approvals have been received;

6 (11) the terms of any warranties provided by the declarant,
7 including copies of chapter 327A, and sections 515B.4-112
8 through 515B.4-115, and a statement of any limitations on the
9 enforcement of warranties or on damages;

10 (12) a statement that: (i) within ten five days after the
11 receipt of a disclosure statement, a purchaser may cancel any
12 contract for the purchase of a unit from a declarant; provided,
13 that the right to cancel terminates upon the purchaser's
14 voluntary acceptance of a conveyance of the unit from the
15 declarant; (ii) if a purchaser receives a disclosure statement
16 more than ten five days before signing a purchase agreement, the
17 purchaser cannot cancel the purchase agreement; and (iii) if a
18 declarant obligated to deliver a disclosure statement fails to
19 deliver a disclosure statement which substantially complies with
20 this chapter to a purchaser to whom a unit is conveyed, the
21 declarant shall be liable to the purchaser as provided in
22 section 515B.4-106(d);

23 (13) a statement disclosing to the extent of the
24 declarant's or an affiliate of a declarant's actual knowledge,
25 after reasonable inquiry, any unsatisfied judgments or lawsuits
26 to which the association is a party, and the status of those
27 lawsuits which are material to the common interest community or
28 the unit being purchased;

29 (14) a statement (i) describing the conditions under which
30 earnest money will be held in and disbursed from the escrow
31 account, as set forth in section 515B.4-109, (ii) that the
32 earnest money will be returned to the purchaser if the purchaser
33 cancels the contract pursuant to section 515B.4-106, and (iii)
34 setting forth the name and address of the escrow agent;

35 (15) a detailed description of the insurance coverage
36 provided by the association for the benefit of unit owners,

1 including a statement as to which, if any, of the items referred
2 to in section 515B.3-113, subsection (b), are insured by the
3 association;

4 (16) any current or expected fees or charges, other than
5 assessments for common expenses, to be paid by unit owners for
6 the use of the common elements or any other improvements or
7 facilities;

8 (17) the financial arrangements, including any
9 contingencies, which have been made to provide for completion of
10 all improvements that the declarant is obligated to build
11 pursuant to section 515B.4-118, or a statement that no such
12 arrangements have been made;

13 (18) in a cooperative: (i) whether the unit owners will be
14 entitled for federal and state tax purposes, to deduct payments
15 made by the association for real estate taxes and interest paid
16 to the holder of a security interest encumbering the
17 cooperative; and (ii) a statement as to the effect on the unit
18 owners if the association fails to pay real estate taxes or
19 payments due the holder of a security interest encumbering the
20 cooperative;

21 (19) a statement: (i) that real estate taxes for the unit
22 or any real property owned by the association are not delinquent
23 or, if there are delinquent real estate taxes, describing the
24 property for which the taxes are delinquent, stating the amount
25 of the delinquent taxes, interest and penalties, and stating the
26 years for which taxes are delinquent, and (ii) setting forth the
27 amount of real estate taxes, including the amount of any special
28 assessment certified for payment with the real estate taxes, due
29 and payable with respect to the unit in the year in which the
30 disclosure statement is given, if real estate taxes have been
31 separately assessed against the unit;

32 (20) if the association or the purchaser of the unit will
33 be a member of a master association, a statement to that effect,
34 and all of the following information with respect to the master
35 association: (i) a copy of the declaration, if any (other than
36 any CIC plat), the articles of incorporation, bylaws, and rules

1 and regulations for the master association, together with any
2 amendments thereto; (ii) the name, address and general
3 description of the master association, including a general
4 description of any other association, unit owners, or other
5 persons which are or may become members; (iii) a description of
6 any nonresidential use permitted on any property subject to the
7 master association; (iv) a statement as to the estimated maximum
8 number of associations, unit owners or other persons which may
9 become members of the master association, and the degree and
10 period of control of the master association by a declarant or
11 other person; (v) a description of any facilities intended for
12 the benefit of the members of the master association and not
13 located on property owned or controlled by a member; (vi) the
14 financial arrangements, including any contingencies, which have
15 been made to provide for completion of the facilities referred
16 to in subsection (v), or a statement that no arrangements have
17 been made; (vii) any current balance sheet of the master
18 association and a projected or current annual budget, as
19 applicable, which budget shall include with respect to the
20 master association those items in paragraph (23), clauses (i)
21 through (iv); (viii) a description of any expenses or services
22 not reflected in the budget, paid for or provided by a declarant
23 or a person executing the master declaration, which may become
24 an expense of the master association in the future; (ix) a
25 description of any powers delegated to and accepted by the
26 master association pursuant to section 515B.2-121(f)(2); (x)
27 identification of any liens, defects or encumbrances that will
28 continue to affect title to property owned or operated by the
29 master association for the benefit of its members; (xi) the
30 terms of any warranties provided by any person for construction
31 of facilities in which the members of the master association
32 have or may have an interest, and any known defects in the
33 facilities which would violate the standards described in
34 section 515B.4-112(b); (xii) a statement disclosing, to the
35 extent of the declarant's knowledge, after inquiry of the master
36 association, any unsatisfied judgments or lawsuits to which the

1 master association is a party, and the status of those lawsuits
2 which are material to the master association; (xiii) a
3 description of any insurance coverage provided for the benefit
4 of its members by the master association; and (xiv) any current
5 or expected fees or charges, other than assessments by the
6 master association, to be paid by members of the master
7 association for the use of any facilities intended for the
8 benefit of the members;

9 (21) a statement as to whether the unit will be
10 substantially completed at the time of conveyance to a
11 purchaser, and if not substantially completed, who is
12 responsible to complete and pay for the construction of the
13 unit;

14 (22) a copy of the declaration and any amendments thereto,
15 (exclusive of the CIC plat), any other recorded covenants,
16 conditions restrictions, and reservations affecting the common
17 interest community; the articles of incorporation, bylaws and
18 any rules or regulations of the association; any agreement
19 excluding or modifying any implied warranties; any agreement
20 reducing the statute of limitations for the enforcement of
21 warranties; any contracts or leases to be signed by purchaser at
22 closing; and a brief narrative description of any contracts or
23 leases that are or may be subject to cancellation by the
24 association under section 515B.3-105; and

25 (23) any current balance sheet for the association; a
26 projected annual budget for the association for the year in
27 which the first unit is conveyed to a purchaser, and thereafter
28 the current annual budget of the association; and a statement
29 identifying the party responsible for the preparation of the
30 budget. The budget shall include, without limitation: (i) a
31 statement of the amount included in the budget as a reserve for
32 maintenance, repair and replacement; (ii) a statement of any
33 other reserves; (iii) the projected common expense for each
34 category of expenditures for the association; and (iv) the
35 projected monthly common expense assessment for each type of
36 unit.

1 (b) A declarant shall promptly amend the disclosure
2 statement to reflect any material change in the information
3 required by this chapter.

4 (c) The master association, within ten days after a request
5 by a declarant, or any holder of declarant rights, or the
6 authorized representative of any of them, shall furnish the
7 information required to be provided by subsection (a)(20). A
8 declarant or other person who provides information pursuant to
9 subsection (a)(20) is not liable to the purchaser for any
10 erroneous information if the declarant or other person: (i) is
11 not an affiliate of or related in any way to a person authorized
12 to appoint the master association board pursuant to section
13 515B.2-121(c)(3), and (ii) has no actual knowledge that the
14 information is incorrect.

15 Sec. 75. Minnesota Statutes 2004, section 524.2-114, is
16 amended to read:

17 524.2-114 [MEANING OF CHILD AND RELATED TERMS.]

18 If, for purposes of intestate succession, a relationship of
19 parent and child must be established to determine succession by,
20 through, or from a person:

21 (1) An adopted person is the child of an adopting parent
22 and not of the birth parents except that adoption of a child by
23 the spouse of a birth parent has no effect on the relationship
24 between the child and that birth parent. If a parent dies and a
25 child is subsequently adopted by a stepparent who is the spouse
26 of a surviving parent, any rights of inheritance of the child or
27 the child's descendant from or through the deceased parent of
28 the child which exist at the time of the death of that parent
29 shall not be affected by the adoption.

30 (2) In cases not covered by clause (1), a person is the
31 child of the person's parents regardless of the marital status
32 of the parents and the parent and child relationship may be
33 established under the Parentage Act, sections 257.51 and to
34 257.74.

35 Sec. 76. Minnesota Statutes 2004, section 580.041,
36 subdivision 2, is amended to read:

1 Subd. 2. [CONTENT OF NOTICE.] The notice required by this
2 section must appear substantially as follows:

3 "Help For Homeowners in Foreclosure

4 Minnesota law requires that we send you this notice about
5 the foreclosure process. Please read it carefully.

6 Mortgage foreclosure is a complex process. Some people may
7 approach you about "saving" your home. You should be
8 careful about any such promises.

9 The state encourages you to become informed about your
10 options in foreclosure before entering into any agreements
11 with anyone in connection with the foreclosure of your
12 home. There are government agencies and nonprofit
13 organizations that you may contact for helpful information
14 about the foreclosure process. For the name and telephone
15 number of an organization near you please call the
16 Minnesota Home Housing Finance Agency (MHFA) at (insert
17 telephone number). The state does not guarantee the advice
18 of these agencies.

19 Do not delay dealing with the foreclosure because your
20 options may become more limited as time passes."

21 Sec. 77. Minnesota Statutes 2004, section 626.84,
22 subdivision 1, is amended to read:

23 Subdivision 1. [DEFINITIONS.] For purposes of sections
24 626.84 to 626.863, the following terms have the meanings given
25 them:

26 (a) "Board" means the Board of Peace Officer Standards and
27 Training.

28 (b) "Director" means the executive director of the board.

29 (c) "Peace officer" means:

30 (1) an employee or an elected or appointed official of a
31 political subdivision or law enforcement agency who is licensed
32 by the board, charged with the prevention and detection of crime
33 and the enforcement of the general criminal laws of the state
34 and who has the full power of arrest, and shall also include the
35 Minnesota State Patrol, agents of the Division of Alcohol and
36 Gambling Enforcement, state conservation officers, Metropolitan

1 Transit police officers, Department of Corrections' Fugitive
2 Apprehension Unit officers, and Department of Commerce Insurance
3 Fraud Unit officers; and

4 (2) a peace officer who is employed by a law enforcement
5 agency of a federally recognized tribe, as defined in United
6 States Code, title 25, section 450b(e), and who is licensed by
7 the board.

8 (d) "Constable" has the meaning assigned to it in section
9 367.40.

10 (e) "Deputy constable" has the meaning assigned to it in
11 section 367.40.

12 (f) "Part-time peace officer" means an individual licensed
13 by the board whose services are utilized by law enforcement
14 agencies no more than an average of 20 hours per week, not
15 including time spent on call when no call to active duty is
16 received, calculated on an annual basis, who has either full
17 powers of arrest or authorization to carry a firearm while on
18 active duty. The term shall apply even though the individual
19 receives no compensation for time spent on active duty, and
20 shall apply irrespective of the title conferred upon the
21 individual by any law enforcement agency. ~~The limitation on the
22 average number of hours in which the services of a part-time
23 peace officer may be utilized shall not apply to a part-time
24 peace officer who has formally notified the board pursuant to
25 rules adopted by the board of the part-time peace officer's
26 intention to pursue the specialized training for part-time peace
27 officers who desire to become peace officers pursuant to
28 sections 626.8437, subdivision 17, clause (g), and 626.8457
29 subdivision 17, clause (g).~~

30 (g) "Reserve officer" means an individual whose services
31 are utilized by a law enforcement agency to provide
32 supplementary assistance at special events, traffic or crowd
33 control, and administrative or clerical assistance. A reserve
34 officer's duties do not include enforcement of the general
35 criminal laws of the state, and the officer does not have full
36 powers of arrest or authorization to carry a firearm on duty.

1 (h) "Law enforcement agency" means:

2 (1) a unit of state or local government that is authorized
3 by law to grant full powers of arrest and to charge a person
4 with the duties of preventing and detecting crime and enforcing
5 the general criminal laws of the state; and

6 (2) subject to the limitations in section 626.93, a law
7 enforcement agency of a federally recognized tribe, as defined
8 in United States Code, title 25, section 450b(e).

9 (i) "Professional peace officer education" means a
10 postsecondary degree program, or a nondegree program for persons
11 who already have a college degree, that is offered by a college
12 or university in Minnesota, designed for persons seeking
13 licensure as a peace officer, and approved by the board.

14 Sec. 78. Laws 2003, First Special Session chapter 11,
15 article 2, section 21, is amended to read:

16 Sec. 21. [INDEPENDENT STUDY ON INTERMITTENT RESOURCES.]

17 The commission shall order the electric utility subject to
18 Minnesota Statutes, section 216B.1691, subdivision 7 6, to
19 contract with a firm selected by the commissioner of commerce
20 for an independent engineering study of the impacts of
21 increasing wind capacity on its system above the 825 megawatts
22 of nameplate wind energy capacity to which the utility is
23 already committed, to evaluate options available to manage the
24 intermittent nature of this renewable resource. The study shall
25 be completed by June 1, 2004, and incorporated into the
26 utility's next resource plan filing. The costs of the study,
27 options pursued by the utility to manage the intermittent nature
28 of wind energy, and the costs of complying with Minnesota
29 Statutes, section 216B.1691, subdivision 7, shall be recoverable
30 under Minnesota Statutes, section 216B.1645.

31 Sec. 79. Laws 2004, chapter 199, article 12, section 108,
32 is amended to read:

33 Sec. 108. [EFFECTIVE DATE.]

34 This act, except articles 14 and 15, is effective January
35 1, 2005.

36 Articles 14 and 15 are effective July 1, 2004.

1 [EFFECTIVE DATE.] This section is effective retroactively
 2 from May 16, 2004.

3 Sec. 80. Laws 2004, chapter 261, article 6, section 5, is
 4 amended to read:

5 Sec. 5. [EXPIRATION.]

6 ~~This article~~ Section 1 expires August 1, 2010.

7 Sec. 81. [AMENDMENT HAS NO EFFECT.]

8 The portion of Laws 2003, First Special Session chapter 14,
 9 article 7, section 17, striking paragraph (e) of Minnesota
 10 Statutes 2002, section 62J.692, subdivision 4, is of no effect.

11 Sec. 82. [REPEALER.]

12 Subdivision 1. [EXPIRED FEE.] Minnesota Statutes 2004,
 13 section 115B.49, subdivision 4a, is repealed.

14 Subd. 2. [DUPLICATIVE METROPOLITAN COUNCIL
 15 BOUNDARIES.] Laws 2003, chapter 8, section 2, is repealed.

16 Subd. 3. [TUITION REIMBURSEMENT.] Laws 2004, chapter 219,
 17 section 1, is repealed.

18 Subd. 4. [PHARMACY BENEFITS.] Laws 2004, chapter 288,
 19 article 3, section 5, is repealed.

20 Subd. 5. [OBSOLETE VETERANS AFFAIRS RULES.] Minnesota
 21 Rules, parts 9055.0125; 9055.0500; 9055.0510; 9055.0520;
 22 9055.0530; 9055.0540; 9055.0550; 9055.0560; 9055.0570;
 23 9055.0580; 9055.0590; 9055.0600; and 9055.0610, are repealed.

24 Subd. 6. [OBSOLETE POST BOARD RULES.] Minnesota Rules,
 25 parts 6700.0100, subpart 14; and 6700.1300, are repealed.

ARTICLE 2

OBSOLETE CONSTABLE AND MARSHAL PROVISIONS

28 Section 1. Minnesota Statutes 2004, section 345.14, is
 29 amended to read:

30 345.14 [FEES OF COURT ADMINISTRATORS.]

31 For services performed under the provisions of this
 32 chapter, court administrators of district court shall be allowed
 33 \$1 for each day, and constables peace officers the same fees as
 34 are allowed by law for sales upon execution, and ten cents per
 35 folio for making an inventory of the property.

36 Sec. 2. Minnesota Statutes 2004, section 346.05, is

1 amended to read:

2 346.05 [SALE OF ESTRAY.]

3 If no claimant for such estray shall cause its return to
4 the claimant as before provided, and if such estray shall not
5 have been appraised at more than \$10, the finder shall thereupon
6 become the owner thereof; but, if such appraised value exceeds
7 \$10, the estray shall be sold at public auction by any constable
8 peace officer of the county on the request of the finder.
9 Notice thereof shall be given and the sale conducted and the
10 same fees allowed as in case of sales upon justice's execution.
11 The finder may bid at such sale, and at the time thereof shall
12 deliver to such officer a statement, in writing, of the finder's
13 charges. After deducting such charges, if reasonable, and the
14 costs of sale, the officer shall deposit the remainder of the
15 money, together with the written statement and a statement of
16 the costs of sale, with the county treasurer, taking the
17 treasurer's receipt therefor. If the finder of any such estray
18 shall fail to cause the sale to be made, the finder shall pay to
19 the town the value of the estray, to be recovered in an action
20 by the town.

21 Sec. 3. Minnesota Statutes 2004, section 626.84,
22 subdivision 1, is amended to read:

23 Subdivision 1. [DEFINITIONS.] For purposes of sections
24 626.84 to 626.863, the following terms have the meanings given
25 them:

26 (a) "Board" means the Board of Peace Officer Standards and
27 Training.

28 (b) "Director" means the executive director of the board.

29 (c) "Peace officer" means:

30 (1) an employee or an elected or appointed official of a
31 political subdivision or law enforcement agency who is licensed
32 by the board, charged with the prevention and detection of crime
33 and the enforcement of the general criminal laws of the state
34 and who has the full power of arrest, and shall also include the
35 Minnesota State Patrol, agents of the Division of Alcohol and
36 Gambling Enforcement, state conservation officers, Metropolitan

1 Transit police officers, Department of Corrections' Fugitive
2 Apprehension Unit officers, and Department of Commerce Insurance
3 Fraud Unit officers; and

4 (2) a peace officer who is employed by a law enforcement
5 agency of a federally recognized tribe, as defined in United
6 States Code, title 25, section 450b(e), and who is licensed by
7 the board.

8 ~~(d) "Constable" has the meaning assigned to it in section~~
9 ~~367.40.~~

10 ~~(e) "Deputy constable" has the meaning assigned to it in~~
11 ~~section 367.40.~~

12 ~~(f)~~ "Part-time peace officer" means an individual licensed
13 by the board whose services are utilized by law enforcement
14 agencies no more than an average of 20 hours per week, not
15 including time spent on call when no call to active duty is
16 received, calculated on an annual basis, who has either full
17 powers of arrest or authorization to carry a firearm while on
18 active duty. The term shall apply even though the individual
19 receives no compensation for time spent on active duty, and
20 shall apply irrespective of the title conferred upon the
21 individual by any law enforcement agency. The limitation on the
22 average number of hours in which the services of a part-time
23 peace officer may be utilized shall not apply to a part-time
24 peace officer who has formally notified the board pursuant to
25 rules adopted by the board of the part-time peace officer's
26 intention to pursue the specialized training for part-time peace
27 officers who desire to become peace officers pursuant to
28 sections 626.843, subdivision 1, clause (g), and 626.845,
29 subdivision 1, clause (g).

30 ~~(g)~~ (e) "Reserve officer" means an individual whose
31 services are utilized by a law enforcement agency to provide
32 supplementary assistance at special events, traffic or crowd
33 control, and administrative or clerical assistance. A reserve
34 officer's duties do not include enforcement of the general
35 criminal laws of the state, and the officer does not have full
36 powers of arrest or authorization to carry a firearm on duty.

1 ~~(h)~~ (f) "Law enforcement agency" means:

2 (1) a unit of state or local government that is authorized
3 by law to grant full powers of arrest and to charge a person
4 with the duties of preventing and detecting crime and enforcing
5 the general criminal laws of the state; and

6 (2) subject to the limitations in section 626.93, a law
7 enforcement agency of a federally recognized tribe, as defined
8 in United States Code, title 25, section 450b(e).

9 ~~(i)~~ (g) "Professional peace officer education" means a
10 postsecondary degree program, or a nondegree program for persons
11 who already have a college degree, that is offered by a college
12 or university in Minnesota, designed for persons seeking
13 licensure as a peace officer, and approved by the board.

14 Sec. 4. [REVISOR'S INSTRUCTION.]

15 Subdivision 1. [LAW ENFORCEMENT AGENCY DEFINITION.] The
16 revisor of statutes shall change the reference "626.84,
17 subdivision 1, paragraph (h)" to "626.84, subdivision 1,
18 paragraph (f)" in Minnesota Statutes, sections 45.0135,
19 subdivision 2a; 364.09, paragraph (a); 473.407, subdivision 1;
20 241.025, subdivision 1; 626.8453, subdivision 1, paragraph (b);
21 626.90, subdivision 2, paragraph (a); 626.91, subdivision 1,
22 paragraph (a); 626.92, subdivision 2; and 626.93, subdivision 2,
23 clause (1), and change the reference from "626.84, subdivision
24 1, paragraph (f)" or "clause (f)" to "626.84, subdivision 1,
25 paragraph (d)" in Minnesota Statutes, sections 473.407,
26 subdivision 4; 241.025, subdivision 4; and 629.34, subdivision 1.

27 Subd. 2. [CONSTABLES AND MARSHALS.] In the following
28 sections, the revisor of statutes shall delete references to the
29 terms "constable," "deputy constable," "marshal," "city
30 marshals," and "statutory city marshal" and make changes
31 necessary to correct the punctuation, grammar, or structure of
32 the remaining text and preserve its meaning: 38.01; 97A.205;
33 103B.645; 103B.683; 115.32, subdivision 3; 136F.53, subdivision
34 5; 169.965, subdivisions 4 and 5; 169.966, subdivisions 4 and 5;
35 169A.03, subdivision 18; 176.011, subdivision 9; 192.68,
36 subdivision 1; 192.85; 260C.148, subdivision 3; 299C.03;

1 299C.06; 299D.03, subdivision 1; 325E.21, subdivision 1;
 2 326.3384, subdivision 1; 327.76, subdivision 3; 329.14; 330.06;
 3 332.37; 345.04; 345.05; 346.14; 346.17; 346.18; 347.14,
 4 subdivisions 1 and 2; 349.33; 359.11; 382.27; 395.23; 398.13;
 5 412.861, subdivision 1; 458D.18, subdivision 4; 473.608,
 6 subdivision 17; 504B.331; 504B.361, subdivision 1; 504B.375,
 7 subdivision 1; 514.22; 514.58; 518B.01, subdivisions 6 and 9;
 8 541.06; 561.07; 617.27; 624.24; 624.62; 626.848; 626.862;
 9 626.863; 626.88; and 631.04.

10 Sec. 5. [REPEALER.]

11 Minnesota Statutes 2004, sections 306.13; 315.43; 317A.909,
 12 subdivision 4; 357.12; 367.40, subdivisions 3 and 4; 367.401,
 13 subdivision 4; 367.42; and 398.35, subdivision 2, are repealed.

14 ARTICLE 3

15 UPDATING AND CONFORMING FINES

16 Section 1. Minnesota Statutes 2004, section 17.43, is
 17 amended to read:

18 17.43 [VIOLATIONS; PENALTIES.]

19 Any person violating section 17.42~~7~~ shall be is guilty of a
 20 gross misdemeanor ~~and shall be fined not less than \$250 or be~~
 21 ~~imprisoned for not less than 60 days, or both.~~

22 Sec. 2. Minnesota Statutes 2004, section 28.15, is amended
 23 to read:

24 28.15 [PENALTIES.]

25 Any person, firm, or corporation violating any provision of
 26 this chapter relating to cold storage warehousing shall be is
 27 guilty of a gross misdemeanor ~~and, upon conviction, punished for~~
 28 the a first offense ~~by a fine of not to exceed \$700 or by~~
 29 ~~imprisonment in the jail of the proper county for a period of~~
 30 ~~not more than three months, or by both such fine and~~
 31 ~~imprisonment, and for the second or subsequent offense by a fine~~
 32 ~~of not to exceed \$3,000 or by imprisonment in the jail of the~~
 33 ~~proper county for a period of not to exceed one year or by both~~
 34 such fine and imprisonment, is guilty of a gross misdemeanor.

35 Sec. 3. Minnesota Statutes 2004, section 32.645, is
 36 amended to read:

1 32.645 [PENALTIES.]

2 Subdivision 1. [GROSS MISDEMEANOR; LICENSE REVOCATION.]

3 Any person licensed under the provisions of sections 28A.04,
4 28A.14, 32.56, and 32.59, who knowingly violates, or who directs
5 or knowingly permits any officer, agent, or employee to violate
6 section 32.62, subdivision 2, clause (1) or (3), ~~shall-be~~ is
7 guilty of a gross misdemeanor ~~and-upon-conviction-thereof,-be~~
8 ~~punished-by-a-fine-of-not-more-than-\$3,000,-or-30-days~~
9 ~~imprisonment-in-the-county-jail,-or-both.~~ For each subsequent
10 offense, in addition to any fine or imprisonment imposed under
11 this subdivision, upon conviction thereof, the commissioner of
12 agriculture shall revoke or withhold issuing to such offender
13 any license required under the provisions of sections 28A.04,
14 28A.14, 32.56, and 32.59, and in such case of revocation of
15 license the commissioner shall not issue any license for the
16 operation of such frozen food manufacturing plant for a period
17 of one year from the date of such revocation.

18 Subd. 2. [LESSER PENALTIES.] Any person violating section
19 32.62, subdivision 2, clause (2) or (4), for each first
20 offense ~~shall,-upon-conviction-thereof,-be-punished-by-a-fine-of~~
21 ~~not-less-than-\$25-nor-more-than-\$200~~ is guilty of a petty
22 misdemeanor and for each subsequent offense, upon conviction
23 thereof, ~~by-a-fine-of-not-less-than-\$100-nor-more-than-\$250,-or~~
24 ~~30-days-imprisonment-in-the-county-jail,-or-both~~ is guilty of a
25 misdemeanor.

26 Sec. 4. Minnesota Statutes 2004, section 64B.37,
27 subdivision 2, is amended to read:

28 Subd. 2. [FALSE OR FRAUDULENT STATEMENTS OR
29 REPRESENTATIONS.] Any person, officer, member, or examining
30 physician, who ~~shall~~ knowingly or willfully make makes any false
31 or fraudulent statement or representation in, or with reference
32 to, any application for membership for the purpose of obtaining
33 money from or benefit in any society transacting business under
34 this chapter ~~shall-be~~ is guilty of a misdemeanor:

35 (1) any person who ~~shall~~ willfully make makes a false
36 statement of any material fact or thing in a sworn statement as

1 to the death or disability of a certificate holder in any such
2 society, for the purpose of procuring payment of a benefit named
3 in the certificate of such holder, and any person who ~~shall~~
4 willfully ~~make~~ makes any false statement and any verified report
5 or declaration under oath, required or authorized under this
6 chapter, ~~shall-be~~ is guilty of perjury and shall be proceeded
7 against and punished as provided by the statutes of this state
8 in relation to the crime of perjury;

9 (2) any person who ~~shall-solicit~~ solicits membership for,
10 or in any manner assist in procuring membership in, any society
11 not licensed to do business in this state, or who ~~shall-solicit~~
12 solicits membership for or in any manner assist in procuring
13 membership in, any such society not authorized to do business in
14 this state, ~~shall-be~~ is guilty of a misdemeanor, ~~and, upon~~
15 ~~conviction thereof, punished by fine of not more than \$200;~~

16 (3) any society, or any officer, agent, or employee
17 thereof, neglecting, refusing to comply with, or violating, any
18 of the provisions of this chapter, the penalty for which
19 neglect, refusal, or violation is not specified in this section,
20 shall be fined not ~~exceeding \$200 upon conviction thereof~~ more
21 than \$1,000.

22 Sec. 5. Minnesota Statutes 2004, section 116J.871,
23 subdivision 3, is amended to read:

24 Subd. 3. [PREVAILING WAGE; PENALTY.] It is a misdemeanor
25 for a person who has certified that prevailing wages will be
26 paid to laborers and mechanics under subdivision 2 to
27 subsequently fail to pay the prevailing wage. ~~This misdemeanor~~
28 ~~is punishable by a fine of not more than \$1,000, or imprisonment~~
29 ~~for not more than 90 days, or both.~~ Each day a violation of
30 this subdivision continues is a separate offense.

31 Sec. 6. Minnesota Statutes 2004, section 127A.10, is
32 amended to read:

33 127A.10 [STATE OFFICIALS AND SCHOOL BOARD MEMBERS TO BE
34 DISINTERESTED; PENALTY.]

35 If the commissioner of education, an assistant or any
36 employee connected with the commissioner's office, or any member

1 of any school board shall accept or receive any money, gift or
2 any property, or favor from any person, firm, or corporation
3 offering for sale any textbooks, or any agent thereof, or from
4 any person in any way interested in the sale of textbooks, the
5 person accepting or receiving it ~~shall, upon conviction, be~~
6 ~~punished by a fine not exceeding \$1,000, or by imprisonment in~~
7 ~~the county jail for not more than six months, or both by such~~
8 ~~fine and imprisonment~~ is guilty of a gross misdemeanor.

9 Sec. 7. Minnesota Statutes 2004, section 137.09, is
10 amended to read:

11 137.09 [BOARD OF REGENTS NOT TO EXCEED APPROPRIATIONS;
12 PENALTY.]

13 It shall be unlawful for the Board of Regents to permit any
14 expenditures for any purpose in excess of the amount
15 appropriated or contemplated by law and any member or agent of
16 the board violating this provision ~~shall be~~ is guilty of a gross
17 misdemeanor, ~~and, upon conviction, fined not less than \$100 nor~~
18 ~~more than \$3,000, or be imprisoned in the county jail for not~~
19 ~~less than six months, or by both fine and imprisonment.~~

20 Sec. 8. Minnesota Statutes 2004, section 152.027,
21 subdivision 4, is amended to read:

22 Subd. 4. [POSSESSION OR SALE OF SMALL AMOUNTS OF
23 MARIJUANA.] (a) A person who unlawfully sells a small amount of
24 marijuana for no remuneration, or who unlawfully possesses a
25 small amount of marijuana is guilty of a petty misdemeanor
26 ~~punishable by a fine of up to \$200~~ and participation in a drug
27 education program unless the court enters a written finding that
28 a drug education program is inappropriate. The program must be
29 approved by an area mental health board with a curriculum
30 approved by the state alcohol and drug abuse authority.

31 (b) A person convicted of an unlawful sale under paragraph
32 (a) who is subsequently convicted of an unlawful sale under
33 paragraph (a) within two years is guilty of a misdemeanor and
34 shall be required to participate in a chemical dependency
35 evaluation and treatment if so indicated by the evaluation.

36 (c) A person who is convicted of a petty misdemeanor under

1 paragraph (a) who willfully and intentionally fails to comply
2 with the sentence imposed, is guilty of a misdemeanor.

3 Compliance with the terms of the sentence imposed before
4 conviction under this paragraph is an absolute defense.

5 Sec. 9. Minnesota Statutes 2004, section 155A.16, is
6 amended to read:

7 155A.16 [VIOLATIONS; PENALTIES.]

8 Any person who violates any of the provisions of sections
9 155A.01 to 155A.16 is guilty of a misdemeanor and upon
10 conviction may be sentenced to imprisonment for not more than 90
11 days or fined not more than \$700, or both, per violation.

12 Sec. 10. Minnesota Statutes 2004, section 168.275, is
13 amended to read:

14 168.275 [SALE OF MOTOR VEHICLE ON SUNDAY FORBIDDEN.]

15 Any person who shall carry on or engage in the business of
16 buying, selling, exchanging, dealing in or trading in new or
17 used motor vehicles; or who shall open any place of business or
18 lot wherein the person attempts to or does engage in the
19 business of buying, selling, exchanging, dealing or trading in
20 new or used motor vehicles; or who does buy, sell, exchange,
21 deal or trade in new or used motor vehicles as a business on the
22 first day of the week, commonly known and designated as Sunday,
23 is guilty of a misdemeanor for the first offense, and a gross
24 misdemeanor for each succeeding offense. Such a person upon
25 conviction for the first offense shall pay a fine not to exceed
26 \$1,000 or be imprisoned for a period of not more than ten days,
27 and for the second offense shall pay a fine not to exceed \$3,000
28 or be imprisoned for a period of not more than 30 days or both,
29 and for the third or each subsequent offense shall pay a fine of
30 not more than \$3,000 or be imprisoned for a period of not more
31 than six months or both. This section does not apply to the
32 sale of (1) trailers designed and used primarily to transport
33 watercraft, as defined in section 86B.005, subdivision 18, (2)
34 trailers designed and used primarily to transport all-terrain
35 vehicles, as defined in section 84.92, subdivision 8, (3)
36 trailers designed and used primarily to transport snowmobiles as

1 defined in section 84.81, subdivision 3, or (4) utility trailers
2 as defined in section 168.27, subdivision 20.

3 Sec. 11. Minnesota Statutes 2004, section 169.21,
4 subdivision 2, is amended to read:

5 Subd. 2. [RIGHTS IN ABSENCE OF SIGNAL.] (a) Where
6 traffic-control signals are not in place or in operation, the
7 driver of a vehicle shall stop to yield the right-of-way to a
8 pedestrian crossing the roadway within a marked crosswalk or at
9 an intersection with no marked crosswalk. The driver must
10 remain stopped until the pedestrian has passed the lane in which
11 the vehicle is stopped. No pedestrian shall suddenly leave a
12 curb or other place of safety and walk or run into the path of a
13 vehicle which is so close that it is impossible for the driver
14 to yield. This provision shall not apply under the conditions
15 as otherwise provided in this subdivision.

16 (b) When any vehicle is stopped at a marked crosswalk or at
17 an intersection with no marked crosswalk to permit a pedestrian
18 to cross the roadway, the driver of any other vehicle
19 approaching from the rear shall not overtake and pass the
20 stopped vehicle.

21 (c) It is unlawful for any person to drive a motor vehicle
22 through a column of school children crossing a street or highway
23 or past a member of a school safety patrol or adult crossing
24 guard, while the member of the school safety patrol or adult
25 crossing guard is directing the movement of children across a
26 street or highway and while the school safety patrol member or
27 adult crossing guard is holding an official signal in the stop
28 position. A peace officer may arrest the driver of a motor
29 vehicle if the peace officer has probable cause to believe that
30 the driver has operated the vehicle in violation of this
31 paragraph within the past four hours.

32 (d) A person who violates this subdivision is guilty of a
33 misdemeanor ~~and may be sentenced to imprisonment for not more~~
34 ~~than 90 days or to payment of a fine of not more than \$1,000, or~~
35 both. A person who violates this subdivision a second or
36 subsequent time within one year of a previous conviction under

1 this subdivision is guilty of a gross misdemeanor ~~and may be~~
2 ~~sentenced to imprisonment for not more than one year or to~~
3 ~~payment of a fine of not more than \$3,000, or both.~~

4 Sec. 12. Minnesota Statutes 2004, section 181.30, is
5 amended to read:

6 181.30 [DUTY OF DEPARTMENT OF TRANSPORTATION.]

7 Any officer of any railroad company in the state violating
8 any of the provisions of section 181.29 ~~shall be~~ is guilty of a
9 misdemeanor, ~~and upon conviction, punished by a fine of not~~
10 ~~less than \$100, and not more than \$1,000, for each offense, or~~
11 ~~by imprisonment in the county jail not more than 60 days, or~~
12 ~~both fine and imprisonment, at the discretion of the court.~~ It
13 shall be the duty of the state Department of Transportation,
14 upon complaint properly filed with it alleging a violation of
15 section 181.29, to make a full investigation in relation
16 thereto, and for such purpose it shall have the power to
17 administer oaths, interrogate witnesses, take testimony and
18 require the production of books and papers, and if such report
19 shall show a violation of the provisions of section 181.29, the
20 Department of Transportation shall, through the attorney
21 general, begin the prosecution of all parties against whom
22 evidence of such violation is found; but section 181.29 shall
23 not be construed to prevent any other person from beginning
24 prosecution for the violation of the provisions thereof.

25 Sec. 13. Minnesota Statutes 2004, section 219.57,
26 subdivision 6, is amended to read:

27 Subd. 6. [MISDEMEANOR.] A railroad company violating this
28 section is guilty of a misdemeanor ~~punishable by a fine of not~~
29 ~~less than \$50 nor more than \$200~~ and may be assessed costs of
30 prosecution for each offense.

31 A railroad employee violating this section is guilty of a
32 misdemeanor ~~punishable by a fine of not less than \$50 nor more~~
33 ~~than \$100~~ and may be assessed costs of prosecution ~~or by~~
34 ~~imprisonment in the county jail not exceeding 90 days.~~

35 Sec. 14. Minnesota Statutes 2004, section 234.23, is
36 amended to read:

1 234.23 [VIOLATION; PENALTY.]

2 A person unlawfully removing, breaking, or interfering or
3 tampering with a seal, lock, or other fastening placed upon a
4 granary, crib, bin, or other receptacle for grain under this
5 chapter, except when the removal is imperative to prevent the
6 damage, loss, or destruction of stored grain, is guilty of a
7 ~~crime punishable by a fine of not less than \$100 or more than~~
8 ~~\$1,000 or by imprisonment in the county jail for not more than~~
9 ~~six months, or both~~ gross misdemeanor.

10 Sec. 15. Minnesota Statutes 2004, section 235.10, is
11 amended to read:

12 235.10 [UNLAWFUL DISCRIMINATION IN SALE OR PURCHASE OF
13 GRAIN.]

14 A person, firm, copartnership, or corporation engaged in
15 the business of buying grain, either for itself or others, may
16 not, with the intention of creating a monopoly or destroying the
17 business of a competitor, discriminate between different
18 localities, of this state by purchasing grain of a particular
19 grade and condition at a higher price or rate in one locality
20 than in another after making due allowance for the difference,
21 if any, in actual cost of transportation from the locality of
22 purchase, to the locality of manufacture, use, or distribution.
23 Violation of this section is ~~unfair discrimination, punishable~~
24 ~~by a fine up to \$1,000 or by imprisonment in the county jail up~~
25 ~~to six months~~ a gross misdemeanor.

26 Sec. 16. Minnesota Statutes 2004, section 235.13, is
27 amended to read:

28 235.13 [VIOLATIONS; PENALTIES.]

29 Violation of chapters 216 to 235, if no specific penalty is
30 prescribed, is a gross misdemeanor, ~~punishable by a fine of not~~
31 ~~less than \$50 nor more than \$700~~.

32 Sec. 17. Minnesota Statutes 2004, section 325F.40, is
33 amended to read:

34 325F.40 [VIOLATIONS; PENALTIES.]

35 Any person, company, or corporation violating any of the
36 provisions of sections 325F.35 to 325F.39 shall be deemed is

1 guilty of a misdemeanor, ~~and, upon conviction thereof, for the~~
2 ~~first offense, punished by a fine of not less than \$25 nor more~~
3 ~~than \$50 and for each subsequent offense by a fine of not less~~
4 ~~than \$50 nor more than \$200.~~

5 Sec. 18. Minnesota Statutes 2004, section 329.17, is
6 amended to read:

7 329.17 [VIOLATIONS; PENALTIES.]

8 Subdivision 1. [GROSS MISDEMEANOR.] Every person, either
9 as principal or agent, who shall in any manner engage in, do, or
10 transact any business as a transient merchant, without having
11 first obtained a license, or who shall conduct any sale, or who
12 shall sell or expose for sale any goods, wares, and merchandise
13 contrary to the provisions of sections 329.10 to 329.16, or who
14 shall advertise, represent, or hold forth any sale of goods,
15 wares, and merchandise, to be conducted contrary to the
16 provisions of sections 329.10 to 329.16, ~~shall be~~ is guilty of a
17 gross misdemeanor.

18 Subd. 2. [MISDEMEANOR.] Every person who shall engage in
19 or follow the business of a hawker or peddler without having
20 first obtained a license ~~shall be~~ is guilty of a misdemeanor,
21 ~~and upon conviction thereof punished by a fine of not less than~~
22 ~~\$15 nor more than \$100 or in default of the payment of such fine~~
23 ~~by imprisonment in the county jail of the county of conviction~~
24 ~~for a period of not exceeding 60 days for each offense.~~

25 Sec. 19. Minnesota Statutes 2004, section 333.135, is
26 amended to read:

27 333.135 [IMPROPER USE OF INSIGNIA.]

28 Every person who shall willfully wear the insignia or
29 rosette of the military order of the Loyal Legion of the United
30 States, or the badge or button of the American Legion, the
31 Veterans of Foreign Wars, the Disabled American Veterans of the
32 World War, or of any other veterans' organization, or any
33 similitude thereof; or who shall willfully wear any badge,
34 emblem, or insignia pertaining to the order of Masons, Odd
35 Fellows, Knights of Pythias, or any other secret order or
36 society, or any similitude thereof; or who shall use any such

1 badge, button, or insignia to obtain aid or assistance, or who
2 shall use the name of any such order or society for gain, unless
3 entitled to so use the same under the constitution, bylaws,
4 rules, and regulations of such order, ~~shall-be~~ is guilty of a
5 misdemeanor ~~and-shall-be-punished-by-imprisonment-in-the-county~~
6 ~~jail-for-not-more-than-60-days-or-by-a-fine-of-not-more-than-\$50~~
7 ~~or-by-both.~~

8 Sec. 20. Minnesota Statutes 2004, section 395.22, is
9 amended to read:

10 395.22 [PENALTY FOR VIOLATION.]

11 Any person who shall, contrary to the provisions of
12 sections 395.14 to 395.24, sell, transfer, take, or carry away,
13 or in any manner dispose of, the seed or feed, or any part
14 thereof, furnished by the county under sections 395.14 to 395.24
15 or shall use or dispose of such seed or feed, or any part
16 thereof, for any other purpose than that of planting or sowing
17 with same as stated in the application and contract, or shall
18 sell, transfer, take, or carry away, or in any manner dispose
19 of, the crop or any part thereof, produced from the sowing or
20 planting of such seed, before the same is paid for, ~~shall-be~~ is
21 guilty of a misdemeanor, ~~and-upon-conviction-thereof-shall-pay-a~~
22 ~~fine-of-not-less-than-\$50-nor-more-than-\$100-or-may-be~~
23 ~~imprisoned-in-the-county-jail-for-a-term-of-not-less-than-30-nor~~
24 ~~more-than-90-days,~~ and shall pay all the costs of prosecution,
25 and whoever under any of the provisions of sections 395.14 to
26 395.24 shall be found guilty of false swearing shall be deemed
27 to have committed perjury and shall upon conviction suffer the
28 pains and penalties of that crime. Upon the filing of the
29 contract in the office of the county recorder, and the sowing of
30 the seed obtained therefor, the title and right of possession to
31 the growing crop and to the grain produced from the seed shall
32 be in the county which shall have furnished the seed until the
33 debt incurred for such seed or feed, shall have been paid, and
34 any seizure thereof or interference therewith except by the
35 applicant and those in the applicant's employ, for the purpose
36 of harvesting, threshing, and marketing the same to pay such

1 debt, shall be deemed a conversion thereof and treble damages
2 may be recovered against the person so converting the same by
3 the county furnishing such seed and feed.

4 Sec. 21. Minnesota Statutes 2004, section 481.05, is
5 amended to read:

6 481.05 [VIOLATIONS; PENALTIES.]

7 Subdivision 1. [MISDEMEANOR.] Any attorney at law who
8 ~~shall violate~~ violates section 481.03 ~~shall be~~ is guilty of a
9 misdemeanor ~~and punished by a fine of not less than \$50 nor more~~
10 ~~than \$100 or by imprisonment in the county jail for not more~~
11 ~~than 90 days.~~

12 Subd. 2. [MISDEMEANOR.] Any person who ~~shall violate~~
13 violates section 481.04 ~~shall be~~ is guilty of a misdemeanor and
14 ~~punished by a fine of not less than \$50 nor more than \$100 or by~~
15 ~~imprisonment in the county jail for not to exceed 90 days.~~

16 Sec. 22. Minnesota Statutes 2004, section 624.64, is
17 amended to read:

18 624.64 [ACROBATIC EXHIBITIONS.]

19 Every proprietor, occupant, or lessee of any place where
20 acrobatic exhibitions are held, who shall permit any person to
21 perform on any trapeze, rope, pole, or other acrobatic
22 contrivance, without network, or other sufficient means of
23 protection from falling or other accident, ~~shall be~~ is guilty of
24 a gross misdemeanor, ~~and, for the first offense, punished by a~~
25 ~~fine of \$250 and for each subsequent offense by a fine of \$250~~
26 ~~and imprisonment in the county jail for not less than three~~
27 ~~months nor more than one year.~~

28 Sec. 23. Minnesota Statutes 2004, section 624.67, is
29 amended to read:

30 624.67 [FALSE CERTIFICATE OF REGISTRATION OF ANIMALS; FALSE
31 REPRESENTATION AS TO BREED.]

32 Every person who by any false pretense shall obtain from
33 any club, association, society, or company for the improvement
34 of the breed of cattle, horses, sheep, swine, fowls, or other
35 domestic animals, or birds, a certificate of registration of any
36 animal in the herd, or other register of any such association,

1 society, or company, or a transfer of any such registration, and
2 every person who shall knowingly represent any animal used for
3 breeding purposes to be of a greater degree of any particular
4 strain of blood than such animal actually possesses, ~~shall-be~~ is
5 guilty of a gross misdemeanor, ~~and-punished-by-imprisonment-in~~
6 ~~the-county-jail-for-not-more-than-six-months, or-by-a-fine-of~~
7 ~~not-more-than-\$250.~~

8 Sec. 24. Minnesota Statutes 2004, section 629.11, is
9 amended to read:

10 629.11 [VIOLATION A GROSS MISDEMEANOR.]

11 Any officer who shall deliver to the agent for extradition
12 of the demanding state a person in custody under the governor's
13 warrant in willful disobedience to section 629.10 ~~shall-be~~ is
14 guilty of a gross misdemeanor, ~~and-upon-conviction-shall-be~~
15 ~~finned-not-more-than-\$3,000-or-be-imprisoned-for-not-more-than~~
16 ~~six-months.~~

17 Sec. 25. Minnesota Statutes 2004, section 631.04, is
18 amended to read:

19 631.04 [EXCLUDING MINORS FROM ATTENDANCE AT CRIMINAL
20 TRIALS; DUTY OF OFFICER; PENALTY.]

21 A minor under the age of 17, who is not a party to, witness
22 in, or directly interested in a criminal prosecution or trial
23 before a district court, may not be present at the trial. A
24 police officer, constable, sheriff, or other officer in charge
25 of a court and attending upon the trial of a criminal case in
26 the court, shall exclude a minor under age of 17 from the room
27 in which the trial is being held. This section does not apply
28 when the minor is permitted to attend by order of the court
29 before which the trial is being held. A police officer,
30 constable, sheriff, or deputy sheriff who knowingly neglects or
31 refuses to carry out the provisions of this section is guilty of
32 a misdemeanor ~~and-shall-be-punished-by-a-fine-of-not-less-than~~
33 ~~\$10-nor-more-than-\$25.~~

34 ARTICLE 4

35 GUARDIANSHIP AND CONSERVATORSHIP

36 Section 1. Minnesota Statutes 2004, section 144.6501,

1 subdivision 1, is amended to read:

2 Subdivision 1. [DEFINITIONS.] For purposes of this
3 section, the following terms have the meanings given them.

4 (a) "Facility" means a nursing home licensed under chapter
5 144A or a boarding care facility licensed under sections 144.50
6 to 144.58.

7 (b) "Contract of admission," "admission contract," or
8 "admission agreement," includes, but is not limited to, all
9 documents that a resident or resident's representative must sign
10 at the time of, or as a condition of, admission to the
11 facility. Oral representations and statements between the
12 facility and the resident or resident's representative are not
13 part of the contract of admission unless expressly contained in
14 writing in those documents. The contract of admission must
15 specify the obligations of the resident or the responsible party.

16 (c) "Legal representative" means an attorney-in-fact under
17 a valid power of attorney executed by the prospective resident,
18 or a conservator or guardian ~~of-the-person-or-of-the-estate~~
19 appointed for the prospective resident, or a representative
20 payee appointed for the prospective resident, or other agent of
21 limited powers.

22 (d) "Responsible party" means a person who has access to
23 the resident's income and assets and who agrees to apply the
24 resident's income and assets to pay for the resident's care or
25 who agrees to make and complete an application for medical
26 assistance on behalf of the resident.

27 Sec. 2. Minnesota Statutes 2004, section 145B.04, is
28 amended to read:

29 145B.04 [SUGGESTED FORM.]

30 A living will executed after August 1, 1989, under this
31 chapter must be substantially in the form in this section.
32 Forms printed for public distribution must be substantially in
33 the form in this section.

34 "Health Care Living Will

35 Notice:

36 This is an important legal document. Before signing this

1 document, you should know these important facts:

2 (a) This document gives your health care providers or your
3 designated proxy the power and guidance to make health care
4 decisions according to your wishes when you are in a terminal
5 condition and cannot do so. This document may include what kind
6 of treatment you want or do not want and under what
7 circumstances you want these decisions to be made. You may
8 state where you want or do not want to receive any treatment.

9 (b) If you name a proxy in this document and that person
10 agrees to serve as your proxy, that person has a duty to act
11 consistently with your wishes. If the proxy does not know your
12 wishes, the proxy has the duty to act in your best interests.
13 If you do not name a proxy, your health care providers have a
14 duty to act consistently with your instructions or tell you that
15 they are unwilling to do so.

16 (c) This document will remain valid and in effect until and
17 unless you amend or revoke it. Review this document
18 periodically to make sure it continues to reflect your
19 preferences. You may amend or revoke the living will at any
20 time by notifying your health care providers.

21 (d) Your named proxy has the same right as you have to
22 examine your medical records and to consent to their disclosure
23 for purposes related to your health care or insurance unless you
24 limit this right in this document.

25 (e) If there is anything in this document that you do not
26 understand, you should ask for professional help to have it
27 explained to you.

28 TO MY FAMILY, DOCTORS, AND ALL THOSE CONCERNED WITH MY CARE:

29 I,, born on
30 (birthdate), being an adult of sound mind, willfully and
31 voluntarily make this statement as a directive to be followed if
32 I am in a terminal condition and become unable to participate in
33 decisions regarding my health care. I understand that my health
34 care providers are legally bound to act consistently with my
35 wishes, within the limits of reasonable medical practice and
36 other applicable law. I also understand that I have the right

1 to make medical and health care decisions for myself as long as
2 I am able to do so and to revoke this living will at any time.

3 (1) The following are my feelings and wishes regarding my
4 health care (you may state the circumstances under which this
5 living will applies):

6
7
8
9

10 (2) I particularly want to have all appropriate health care
11 that will help in the following ways (you may give instructions
12 for care you do want):

13
14
15
16

17 (3) I particularly do not want the following (you may list
18 specific treatment you do not want in certain circumstances):

19
20

21 (4) I particularly want to have the following kinds of
22 life-sustaining treatment if I am diagnosed to have a terminal
23 condition (you may list the specific types of life-sustaining
24 treatment that you do want if you have a terminal condition):

25
26
27
28

29 (5) I particularly do not want the following kinds of
30 life-sustaining treatment if I am diagnosed to have a terminal
31 condition (you may list the specific types of life-sustaining
32 treatment that you do not want if you have a terminal condition):

33
34
35
36

1 (6) I recognize that if I reject artificially administered
 2 sustenance, then I may die of dehydration or malnutrition rather
 3 than from my illness or injury. The following are my feelings
 4 and wishes regarding artificially administered sustenance should
 5 I have a terminal condition (you may indicate whether you wish
 6 to receive food and fluids given to you in some other way than
 7 by mouth if you have a terminal condition):

8
 9
 10
 11

12 (7) Thoughts I feel are relevant to my instructions. (You
 13 may, but need not, give your religious beliefs, philosophy, or
 14 other personal values that you feel are important. You may also
 15 state preferences concerning the location of your care.)

16
 17
 18
 19

20 (8) Proxy Designation. (If you wish, you may name someone
 21 to see that your wishes are carried out, but you do not have to
 22 do this. You may also name a proxy without including specific
 23 instructions regarding your care. If you name a proxy, you
 24 should discuss your wishes with that person.)

25 If I become unable to communicate my instructions, I
 26 designate the following person(s) to act on my behalf
 27 consistently with my instructions, if any, as stated in this
 28 document. Unless I write instructions that limit my proxy's
 29 authority, my proxy has full power and authority to make health
 30 care decisions for me. If a guardian ~~or-conservator-of-the~~
 31 ~~person~~ is to be appointed for me, I nominate my proxy named in
 32 this document to act as my guardian ~~or-conservator-of-my-person~~.

33 Name:
 34 Address:
 35 Phone Number:
 36 Relationship: (If any)

1 If the person I have named above refuses or is unable or
2 unavailable to act on my behalf, or if I revoke that person's
3 authority to act as my proxy, I authorize the following person
4 to do so:

5 Name:
6 Address:
7 Phone Number:
8 Relationship: (If any)

9 I understand that I have the right to revoke the
10 appointment of the persons named above to act on my behalf at
11 any time by communicating that decision to the proxy or my
12 health care provider.

13 (9) Organ Donation After Death. (If you wish, you may
14 indicate whether you want to be an organ donor upon your
15 death.) Initial the statement which expresses your wish:

16 In the event of my death, I would like to donate my
17 organs. I understand that to become an organ donor, I must be
18 declared brain dead. My organ function may be maintained
19 artificially on a breathing machine, (i.e., artificial
20 ventilation), so that my organs can be removed.

21 Limitations or special wishes: (If any)
22
23

24 I understand that, upon my death, my next of kin may be
25 asked permission for donation. Therefore, it is in my best
26 interests to inform my next of kin about my decision ahead of
27 time and ask them to honor my request.

28 I (have) (have not) agreed in another document or on
29 another form to donate some or all of my organs when I die.

30 I do not wish to become an organ donor upon my death.

31 DATE:
32 SIGNED:
33 STATE OF
34
35 COUNTY OF

36 Subscribed, sworn to, and acknowledged before me by

1 on this day of,

2

3

4 NOTARY PUBLIC

5 OR

6 (Sign and date here in the presence of two adult witnesses,
7 neither of whom is entitled to any part of your estate under a
8 will or by operation of law, and neither of whom is your proxy.)

9 I certify that the declarant voluntarily signed this living
10 will in my presence and that the declarant is personally known
11 to me. I am not named as a proxy by the living will, and to the
12 best of my knowledge, I am not entitled to any part of the
13 estate of the declarant under a will or by operation of law.

14 Witness Address

15 Witness Address

16 Reminder: Keep the signed original with your personal papers.
17 Give signed copies to your doctors, family, and proxy."

18 Sec. 3. Minnesota Statutes 2004, section 201.014,
19 subdivision 2, is amended to read:

20 Subd. 2. [NOT ELIGIBLE.] The following individuals are not
21 eligible to vote. Any individual:

22 (a) Convicted of treason or any felony whose civil rights
23 have not been restored;

24 (b) Under a guardianship ~~of-the-person~~ in which the court
25 order provides that the ward does not retain the right to vote;
26 or

27 (c) Found by a court of law to be legally incompetent.

28 Sec. 4. Minnesota Statutes 2004, section 201.071,
29 subdivision 1, is amended to read:

30 Subdivision 1. [FORM.] A voter registration application
31 must be of suitable size and weight for mailing and contain
32 spaces for the following required information: voter's first
33 name, middle name, and last name; voter's previous name, if any;
34 voter's current address; voter's previous address, if any;
35 voter's date of birth; voter's municipality and county of
36 residence; voter's telephone number, if provided by the voter;

1 date of registration; current and valid Minnesota driver's
2 license number or Minnesota state identification number, or if
3 the voter has no current and valid Minnesota driver's license or
4 Minnesota state identification, the last four digits of the
5 voter's Social Security number; and voter's signature. The
6 registration application may include the voter's e-mail address,
7 if provided by the voter, and the voter's interest in serving as
8 an election judge, if indicated by the voter. The application
9 must also contain the following certification of voter
10 eligibility:

11 "I certify that I:

12 (1) will be at least 18 years old on election day;

13 (2) am a citizen of the United States;

14 (3) will have resided in Minnesota for 20 days immediately
15 preceding election day;

16 (4) maintain residence at the address given on the
17 registration form;

18 (5) am not under court-ordered guardianship ~~of-the-person~~
19 where I have not retained the right to vote;

20 (6) have not been found by a court to be legally
21 incompetent to vote;

22 (7) have not been convicted of a felony without having my
civil rights restored; and

24 (8) have read and understand the following statement: that
25 giving false information is a felony punishable by not more than
26 five years imprisonment or a fine of not more than \$10,000, or
27 both."

28 The certification must include boxes for the voter to
29 respond to the following questions:

30 "(1) Are you a citizen of the United States?" and

31 "(2) Will you be 18 years old on or before election day?"

32 And the instruction:

33 "If you checked 'no' to either of these questions, do not
34 complete this form."

35 The form of the voter registration application and the
36 certification of voter eligibility must be as provided in this

1 subdivision and approved by the secretary of state. Voter
2 registration forms authorized by the National Voter Registration
3 Act may also be accepted as valid.

4 An individual may use a voter registration application to
5 apply to register to vote in Minnesota or to change information
6 on an existing registration.

7 Sec. 5. Minnesota Statutes 2004, section 201.15,
8 subdivision 1, is amended to read:

9 Subdivision 1. [GUARDIANSHIPS AND INCOMPETENTS.] Pursuant
10 to the Help America Vote Act of 2002, Public Law 107-252, the
11 state court administrator shall report monthly by electronic
12 means to the secretary of state the name, address, and date of
13 birth of each individual 18 years of age or over, who during the
14 month preceding the date of the report:

15 (a) was placed under a guardianship ~~of-the-person~~ in which
16 the court order provides that the ward does not retain the right
17 to vote; or

18 (b) was adjudged legally incompetent.

19 The court administrator shall also report the same
20 information for each individual transferred to the jurisdiction
21 of the court who meets a condition specified in clause (a) or
22 (b). The secretary of state shall determine if any of the
23 persons in the report is registered to vote and shall prepare a
24 list of those registrants for the county auditor. The county
25 auditor shall change the status on the record in the statewide
26 registration system of any individual named in the report to
27 indicate that the individual is not eligible to reregister or
28 vote.

29 Sec. 6. Minnesota Statutes 2004, section 204B.10,
30 subdivision 6, is amended to read:

31 Subd. 6. [INELIGIBLE VOTER.] Upon receipt of a certified
32 copy of a final judgment or order of a court of competent
33 jurisdiction that a person who has filed an affidavit of
34 candidacy or who has been nominated by petition:

35 (1) has been convicted of treason or a felony and the
36 person's civil rights have not been restored;

1 (2) is under guardianship ~~of-the-person~~; or

2 (3) has been found by a court of law to be legally
3 incompetent;

4 the filing officer shall notify the person by certified mail at
5 the address shown on the affidavit or petition, and shall not
6 certify the person's name to be placed on the ballot. The
7 actions of a filing officer under this subdivision are subject
8 to judicial review under section 204B.44.

9 Sec. 7. Minnesota Statutes 2004, section 246.01, is
10 amended to read:

11 246.01 [POWERS AND DUTIES.]

12 The commissioner of human services is hereby specifically
13 constituted the guardian ~~of-both-the-estate-and-person~~ of all
14 persons with mental retardation, the guardianship of whom has
15 heretofore been vested in the State Board of Control or in the
16 director of social welfare whether by operation of law or by an
17 order of court without any further act or proceeding, and all
18 the powers and duties vested in or imposed upon the State Board
19 of Control or the director of social welfare, with reference to
20 mental testing of persons with mental retardation, and with
21 reference to the institutions of the state of Minnesota except
22 correctional facilities administered and managed by the
23 commissioner of corrections, are hereby transferred to, vested
24 in, and imposed upon the commissioner of human services, and in
25 relation thereto is hereby charged with and shall have the
26 exclusive power of administration and management of all of the
27 following state institutions: state hospitals for persons with
28 mental retardation, mental illness, or chemical dependency. The
29 commissioner shall have power and authority to determine all
30 matters relating to the unified and continuous development of
31 all of the foregoing institutions and of such other
32 institutions, the supervision of which may, from time to time,
33 be vested in the commissioner. It is intended that there be
34 vested in the commissioner all of the powers, functions, and
35 authority heretofore vested in the State Board of Control
36 relative to such state institutions. The commissioner shall

1 have the power and authority to accept, in behalf of the state,
2 contributions and gifts of money and personal property for the
3 use and benefit of the residents of the public institutions
4 under the commissioner's control, and all money and securities
5 so received shall be deposited in the state treasury subject to
6 the order of the commissioner of human services. If the gift or
7 contribution is designated by the donor for a certain
8 institution or purpose, the commissioner of human services shall
9 expend or use the same as nearly as may be in accordance with
10 the conditions of the gift or contribution, compatible with the
11 best interests of the inmates and the state. The commissioner
12 of human services is hereby constituted the "state agency" as
13 defined by the Social Security Act of the United States and the
14 laws of this state for all purposes relating to mental health
15 and mental hygiene.

16 For the purpose of carrying out these duties, the
17 commissioner of human services shall accept from wards with
18 mental retardation for whom the commissioner is specifically
19 appointed guardian a signed application for consent to the
20 marriage of said ward. Upon receipt of such application the
21 commissioner shall promptly conduct such investigation as the
22 commissioner deems proper and determine if the contemplated
23 marriage is for the best interest of the ward and the public. A
24 signed copy of the commissioner's determination shall be mailed
25 to the ward and to the court administrator of the district court
26 of the county where the application for such marriage license
27 was made.

28 There is hereby appropriated to such persons or
29 institutions as are entitled to such sums as are provided for in
30 this section, from the fund or account in the state treasury to
31 which the money was credited, an amount sufficient to make such
32 payment.

33 Sec. 8. Minnesota Statutes 2004, section 252A.03,
34 subdivision 1, is amended to read:

35 Subdivision 1. [NOMINATION OF GUARDIAN OR CONSERVATOR.]
36 The commissioner may be nominated in a sworn written request by

1 any one of the following to act as guardian or conservator for
2 any mentally retarded person:

3 (a) An interested person;

4 (b) The guardian or conservator of the person of the
5 mentally retarded person to act as successor;

6 (c) The mentally retarded person.

7 Sec. 9. Minnesota Statutes 2004, section 252A.03,
8 subdivision 4, is amended to read:

9 Subd. 4. [ALTERNATIVES.] Public guardianship or
10 conservatorship may be imposed only when no acceptable, less
11 restrictive form of guardianship or conservatorship is
12 available. The commissioner shall seek parents, near relatives,
13 and other interested persons to assume private guardianship for
14 persons with developmental disabilities who are currently under
15 public guardianship. If a person seeks to become a private
16 guardian or conservator, costs to the person may be reimbursed
17 under section ~~525.7037-subdivision-3, paragraph-(b)~~ 524.5-502.
18 The commissioner must provide technical assistance to parents,
19 near relatives, and interested persons seeking to become private
20 guardians or conservators.

21 Sec. 10. Minnesota Statutes 2004, section 252A.101,
22 subdivision 1, is amended to read:

23 Subdivision 1. [GENERAL.] Except as otherwise provided in
24 this section, ~~section-525.5517-subdivisions-1-to-4,~~ sections
25 524.5-101 to 524.5-502 apply to public guardianship hearings.

26 Sec. 11. Minnesota Statutes 2004, section 252A.101,
27 subdivision 5, is amended to read:

28 Subd. 5. [FINDINGS.] (a) In all cases the court shall make
29 specific written findings of fact, conclusions of law, and
30 direct entry of an appropriate judgment or order. The court
31 shall order the appointment of the commissioner as guardian or
32 conservator if it finds that:

33 (1) the proposed ward or conservatee is a mentally retarded
34 person as defined in section 252A.02, subdivision 2;

35 (2) the proposed ward or conservatee is incapable of
36 exercising specific legal rights, which must be enumerated in

1 its findings;

2 (3) the proposed ward or conservatee is in need of the
3 supervision and protection of a guardian or conservator; and

4 (4) no appropriate alternatives to public guardianship or
5 public conservatorship exist that are less restrictive of the
6 person's civil rights and liberties, such as appointing a
7 guardian or conservator under sections 525-539 524.5-101 to
8 525-705 524.5-502.

9 (b) The court shall grant the specific powers that are
10 necessary for the commissioner to act as public guardian or
11 conservator on behalf of the ward or conservatee.

12 Sec. 12. Minnesota Statutes 2004, section 253B.23,
13 subdivision 2, is amended to read:

14 Subd. 2. [LEGAL RESULTS OF COMMITMENT STATUS.] (a) Except
15 as otherwise provided in this chapter and in sections 246.15 and
16 246.16, no person by reason of commitment or treatment pursuant
17 to this chapter shall be deprived of any legal right, including
18 but not limited to the right to dispose of property, sue and be
19 sued, execute instruments, make purchases, enter into
20 contractual relationships, vote, and hold a driver's license.
21 Commitment or treatment of any patient pursuant to this chapter
22 is not a judicial determination of legal incompetency except to
23 the extent provided in section 253B.03, subdivision 6.

24 (b) Proceedings for determination of legal incompetency and
25 the appointment of a guardian for a person subject to commitment
26 under this chapter may be commenced before, during, or after
27 commitment proceedings have been instituted and may be conducted
28 jointly with the commitment proceedings. The court shall notify
29 the head of the treatment facility to which the patient is
30 committed of a finding that the patient is incompetent.

31 (c) Where the person to be committed is a minor or owns
32 property of value and it appears to the court that the person is
33 not competent to manage a personal estate, the court shall
34 appoint a general or special guardian ~~or conservator of the~~
35 person's estate for the person or a conservator of the person's
36 estate as provided by law.

1 Sec. 13. Minnesota Statutes 2004, section 256.93,
2 subdivision 1, is amended to read:

3 Subdivision 1. [LIMITATIONS.] In any case where the
4 guardianship ~~of-the-person~~ of any mentally retarded,
5 handicapped, dependent, neglected or delinquent child, or a
6 child born to a mother who was not married to the child's father
7 when the child was conceived nor when the child was born, has
8 been committed to the commissioner of human services, and in any
9 case where the guardianship ~~or-conservatorship-of-the-person~~ of
10 any person with mental retardation has been committed to the
11 commissioner of human services, the court having jurisdiction of
12 the estate may on such notice as the court may direct, authorize
13 the commissioner to take possession of the personal property in
14 the estate, liquidate it, and hold the proceeds in trust for the
15 ward, to be invested, expended and accounted for as provided by
16 sections 256.88 to 256.92.

17 Sec. 14. Minnesota Statutes 2004, section 257B.08, is
18 amended to read:

19 257B.08 [CONFLICTING DOCUMENTS.]

20 If a parent has appointed a testamentary guardian ~~of-the~~
21 ~~person-or-estate~~ of children by will under chapter 529 and there
22 is a conflict between the designation in the will and a duly
23 executed standby custodian designation, the document latest in
24 date of execution prevails.

25 Sec. 15. Minnesota Statutes 2004, section 259.21,
26 subdivision 4, is amended to read:

27 Subd. 4. [GUARDIAN.] "Guardian" means a guardian ~~of-the~~
28 ~~person~~ of the ward appointed by a court of competent
29 jurisdiction.

30 Sec. 16. Minnesota Statutes 2004, section 260C.101,
31 subdivision 2, is amended to read:

32 Subd. 2. [JURISDICTION OVER OTHER MATTERS RELATING TO
33 CHILDREN.] Except as provided in clause (d), the juvenile court
34 has original and exclusive jurisdiction in proceedings
35 concerning:

36 (a) The termination of parental rights to a child in

1 accordance with the provisions of sections 260C.301 to 260C.328.

2 (b) The appointment and removal of a juvenile court
3 guardian ~~of-the-person~~ for a child, where parental rights have
4 been terminated under the provisions of sections 260C.301 to
5 260C.328.

6 (c) Judicial consent to the marriage of a child when
7 required by law.

8 (d) The juvenile court in those counties in which the judge
9 of the probate-juvenile court has been admitted to the practice
10 of law in this state shall proceed under the laws relating to
11 adoptions in all adoption matters. In those counties in which
12 the judge of the probate-juvenile court has not been admitted to
13 the practice of law in this state the district court shall
14 proceed under the laws relating to adoptions in all adoption
15 matters.

16 (e) The review of the foster care status of a child who has
17 been placed in a residential facility, as defined in section
18 260C.212, subdivision 1, pursuant to a voluntary release by the
19 child's parent or parents.

20 Sec. 17. Minnesota Statutes 2004, section 302A.011,
21 subdivision 16, is amended to read:

22 Subd. 16. [LEGAL REPRESENTATIVE.] "Legal representative"
23 means a person empowered to act for another person, including,
24 but not limited to, an agent, officer, partner, or associate of,
25 an organization; a trustee of a trust; a personal
26 representative; an executor of a will; an administrator of an
27 estate; a trustee in bankruptcy; and a receiver, guardian,
28 custodian, or conservator of the a person or estate-of-a
29 person a person's estate.

30 Sec. 18. Minnesota Statutes 2004, section 303.03, is
31 amended to read:

32 303.03 [FOREIGN CORPORATIONS MUST HAVE CERTIFICATE OF
33 AUTHORITY.]

34 No foreign corporation shall transact business in this
35 state unless it holds a certificate of authority so to do; and
36 no foreign corporation whose certificate of authority has been

1 revoked or canceled pursuant to the provisions of this chapter
2 shall be entitled to obtain a certificate of authority except in
3 accordance with the provisions of section 303.19. This section
4 does not establish standards for those activities that may
5 subject a foreign corporation to taxation under section 290.015
6 and to the reporting requirements of section 290.371. Without
7 excluding other activities which may not constitute transacting
8 business in this state, and subject to the provisions of
9 sections 5.25 and 543.19, a foreign corporation shall not be
10 considered to be transacting business in this state for the
11 purposes of this chapter solely by reason of carrying on in this
12 state any one or more of the following activities:

13 (a) maintaining or defending any action or suit or any
14 administrative or arbitration proceeding, or effecting the
15 settlement thereof or the settlement of claims or disputes;

16 (b) holding meetings of its directors or shareholders or
17 carrying on other activities concerning its internal affairs;

18 (c) maintaining bank accounts;

19 (d) maintaining offices or agencies for the transfer,
20 exchange, and registration of its securities, or appointing and
21 maintaining trustees or depositaries with relation to its
22 securities;

23 (e) holding title to and managing real or personal
24 property, or any interest therein, situated in this state, as
25 executor of the will or administrator of the estate of any
26 decedent, as trustee of any trust, or as guardian ~~or-conservator~~
27 ~~of-the-person-or-estate, or-both,~~ of any person or conservator
28 of any person's estate;

29 (f) making, participating in, or investing in loans or
30 creating, as borrower or lender, or otherwise acquiring
31 indebtedness or mortgages or other security interests in real or
32 personal property;

33 (g) securing or collecting its debts or enforcing any
34 rights in property securing them; or

35 (h) conducting an isolated transaction completed within a
36 period of 30 days and not in the course of a number of repeated

1 transactions of like nature.

2 Sec. 19. Minnesota Statutes 2004, section 303.25,
3 subdivision 1, is amended to read:

4 Subdivision 1. [APPOINTMENTS.] Any foreign trust
5 association may accept appointment and act as executor of the
6 will or administrator of the estate of any decedent who was a
7 resident of this state at the time of death, as trustee of any
8 trust created by a resident of this state by will or otherwise,
9 and as guardian ~~or conservator of the person or estate, or both,~~
10 of any resident of this state or conservator of the resident's
11 estate, if banking or trust associations or corporations
12 organized under the laws of this state or national banking
13 associations maintaining their principal offices in this state
14 are permitted to act as executors, administrators, trustees,
15 guardians, or conservators in the state in which the foreign
16 trust association maintains its principal office. Any foreign
17 trust association may accept appointment and act as executor of
18 the will or administrator of the estate of a decedent, who was a
19 resident of the state in which the foreign trust association
20 maintains its principal office at the time of death, in
21 ancillary probate proceedings in this state, as trustee of any
22 trust created by the decedent by will or otherwise of property
23 situated in this state, and as guardian or conservator in
24 ancillary proceedings in this state with respect to the property
25 of a resident of the other state if banking or trust
26 associations or corporations organized under the laws of this
27 state and national banking associations maintaining their
28 principal offices in this state are permitted to act as
29 executors, administrators, trustees, guardians, or conservators
30 in the state in which the foreign trust association maintains
31 its principal office.

32 Sec. 20. Minnesota Statutes 2004, section 322B.03,
33 subdivision 27, is amended to read:

34 Subd. 27. [LEGAL REPRESENTATIVE.] "Legal representative"
35 means a person empowered to act for another person, including,
36 but not limited to, an agent, manager, partner, or associate, of

1 an organization; a trustee of a trust; a personal
2 representative; an executor of a will; an administrator of an
3 estate; a trustee in bankruptcy; and a receiver, guardian,
4 custodian, or conservator of the a person or estate-of-a-person
5 a person's estate.

6 Sec. 21. Minnesota Statutes 2004, section 501B.18, is
7 amended to read:

8 501B.18 [ORDER FOR HEARING.]

9 Upon the filing of a petition under section 501B.16, the
10 court shall, by order, fix a time and place for a hearing,
11 unless notice and hearing have been waived in writing by the
12 beneficiaries of the trust then in being. Unless waived, notice
13 of the hearing must be given as follows: (1) by publishing, at
14 least 20 days before the date of the hearing, a copy of the
15 order for hearing one time in a legal newspaper for the county
16 in which the petition is filed; and (2) by mailing, at least 15
17 days before the date of the hearing, a copy of the order for
18 hearing to those beneficiaries of the trust who are known to or
19 reasonably ascertainable by the petitioner. In the case of a
20 beneficiary who is a minor or an incapacitated person as defined
21 in section ~~525-54~~ 524.5-102 and for whom a conservator,
22 guardian, or guardian ad litem known to the petitioner has been
23 appointed, notice must be mailed to that fiduciary. Notice may
24 be given in any other manner the court orders.

25 Sec. 22. Minnesota Statutes 2004, section 501B.19, is
26 amended to read:

27 501B.19 [REPRESENTATION OF PERSONS WHO ARE UNBORN,
28 UNASCERTAINED, UNKNOWN, OR MINORS OR INCAPACITATED PERSONS.]

29 If an interested person is a minor or an incapacitated
30 person as defined in section ~~525-54~~ 524.5-102 and has no
31 guardian or conservator within the state, or if an interested
32 person is unborn, unascertained, or a person whose identity or
33 address is unknown to the petitioner, the court shall represent
34 that person, unless the court, upon the application of the
35 trustee or any other interested person, appoints a guardian ad
36 litem to represent the person.

1 Sec. 23. Minnesota Statutes 2004, section 525.9212, is
2 amended to read:

3 525.9212 [MAKING, REVOKING, AND OBJECTING TO ANATOMICAL
4 GIFTS, BY OTHERS.]

5 (a) Any member of the following classes of persons, in the
6 order of priority listed, may make an anatomical gift of all or
7 a part of the decedent's body for an authorized purpose, unless
8 the decedent has made a refusal to make that anatomical gift
9 that is unrevoked at the time of death:

10 (1) the spouse of the decedent;

11 (2) an adult son or daughter of the decedent;

12 (3) either parent of the decedent;

13 (4) an adult brother or sister of the decedent;

14 (5) a grandparent of the decedent; and

15 (6) a guardian ~~or conservator of the person~~ of the decedent
16 at the time of death or a health care agent or proxy appointed
17 by the decedent under a health care directive as defined in
18 section 145C.01, a living will under chapter 145B, or other
19 similar document executed in another state and enforceable under
20 the laws of this state.

21 (b) An anatomical gift may not be made by a person listed
22 in paragraph (a) if:

23 (1) a person in a prior class is available at the time of
24 death to make an anatomical gift;

25 (2) the person proposing to make an anatomical gift knows
26 of a refusal or contrary indications by the decedent; or

27 (3) the person proposing to make an anatomical gift knows
28 of an objection to making an anatomical gift by a member of the
29 person's class or a prior class.

30 (c) An anatomical gift by a person authorized under
31 paragraph (a) must be made by (i) a document of gift signed by
32 the person, or (ii) the person's telegraphic, recorded
33 telephonic, or other recorded message, or other form of
34 communication from the person that is contemporaneously reduced
35 to writing and signed by the recipient.

36 (d) An anatomical gift by a person authorized under

1 paragraph (a) may be revoked by any member of the same or a
2 prior class if, before procedures have begun for the removal of
3 a part from the body of the decedent, the physician, surgeon,
4 technician, or enucleator removing the part knows of the
5 revocation.

6 (e) A failure to make a decision as to an anatomical gift
7 under paragraph (a) is not an objection to the making of an
8 anatomical gift.

9 Sec. 24. Minnesota Statutes 2004, section 525.95,
10 subdivision 1, is amended to read:

11 Subdivision 1. [DEFINITIONS.] The definitions in this
12 subdivision apply to this section.

13 (a) "War service" includes the following, during a period
14 when the United States is engaged in war or other major military
15 engagement with a foreign nation:

16 (1) active membership in the military forces of the United
17 States or any of its allies;

18 (2) acceptance for membership in the military forces of the
19 United States or any of its allies and awaiting induction into
20 that service;

21 (3) participation in work abroad in connection with a
22 governmental agency of the United States or any of its allies,
23 with the Red Cross, or with a similar service;

24 (4) internment by an enemy or absence from the United
25 States and inability to return; and

26 (5) service arising out of or in connection with the war or
27 other major military engagement, which in the opinion of the
28 court prevents the fiduciary from giving the proper attention to
29 duties.

30 (b) "Fiduciary" refers to a trustee of a testamentary trust
31 or of an express trust, a guardian of a person or conservator of
32 ~~the-person-or-estate~~ of a person person's estate, an executor of
33 a will, an administrator of the estate of the decedent, a
34 custodian under the Minnesota Uniform Transfers to Minors Act,
35 or an advisor or consultant in a testamentary or express trust.

36 Sec. 25. Minnesota Statutes 2004, section 527.38, is

1 amended to read:

2 527.38 [RENUNCIATION, RESIGNATION, DEATH, OR REMOVAL OF
3 CUSTODIAN; DESIGNATION OF SUCCESSOR CUSTODIAN.]

4 (a) A person nominated under section 527.23 or designated
5 under section 527.29 as custodian may decline to serve by
6 delivering a valid disclaimer to the person who made the
7 nomination or to the transferor or the transferor's legal
8 representative. If the event giving rise to a transfer has not
9 occurred and no substitute custodian able, willing, and eligible
10 to serve was nominated under section 527.23, the person who made
11 the nomination may nominate a substitute custodian under section
12 527.23; otherwise the transferor or the transferor's legal
13 representative shall designate a substitute custodian at the
14 time of the transfer, in either case from among the persons
15 eligible to serve as custodian for that kind of property under
16 section 527.29, paragraph (a). The custodian so designated has
17 the rights of a successor custodian.

18 (b) A custodian at any time may designate a trust company
19 or an adult other than a transferor under section 527.24 as
20 successor custodian by executing and dating an instrument of
21 designation before a subscribing witness other than the
22 successor. If the instrument of designation does not contain or
23 is not accompanied by the resignation of the custodian, the
24 designation of the successor does not take effect until the
25 custodian resigns, dies, becomes incapacitated, or is removed.

26 (c) A custodian may resign at any time by delivering
27 written notice to the minor if the minor has attained the age of
28 14 years and to the successor custodian and by delivering the
29 custodial property to the successor custodian.

30 (d) If a custodian is ineligible, dies, or becomes
31 incapacitated without having effectively designated a successor
32 and the minor has attained the age of 14 years, the minor may
33 designate as successor custodian, in the manner prescribed in
34 paragraph (b), an adult member of the minor's family, a
35 conservator of the minor, or a trust company. If the minor has
36 not attained the age of 14 years or fails to act within 60 days

1 after the ineligibility, death, or incapacity, the conservator
2 of the minor becomes successor custodian. If the minor has no
3 conservator or the conservator declines to act, the transferor,
4 the legal representative of the transferor or of the custodian,
5 an adult member of the minor's family, or any other interested
6 person may petition the court to designate a successor custodian.

7 (e) A custodian who declines to serve under paragraph (a)
8 or resigns under paragraph (c), or the legal representative of a
9 deceased or incapacitated custodian, as soon as practicable,
10 shall put the custodial property and records in the possession
11 and control of the successor custodian. The successor custodian
12 by action may enforce the obligation to deliver custodial
13 property and records and becomes responsible for each item as
14 received.

15 (f) A transferor, the legal representative of a transferor,
16 an adult member of the minor's family, a guardian ~~of-the-person~~
17 of the minor, the conservator of the ~~minor~~ minor's estate, or
18 the minor if the minor has attained the age of 14 years may
19 petition the court to remove the custodian for cause and to
20 designate a successor custodian other than a transferor under
21 section 527.24 or to require the custodian to give appropriate
22 bond.

23 Sec. 26. Minnesota Statutes 2004, section 527.39, is
24 amended to read:

25 527.39 [ACCOUNTING BY AND DETERMINATION OF LIABILITY OF
26 CUSTODIAN.]

27 (a) A minor who has attained the age of 14 years, the
28 minor's guardian ~~of-the-person~~ or legal representative, an adult
29 member of the minor's family, a transferor, or a transferor's
30 legal representative may petition the court (i) for an
31 accounting by the custodian or the custodian's legal
32 representative; or (ii) for a determination of responsibility,
33 as between the custodial property and the custodian personally,
34 for claims against the custodial property unless the
35 responsibility has been adjudicated in an action under section
36 527.37 to which the minor or the minor's legal representative

1 was a party.

2 (b) A successor custodian may petition the court for an
3 accounting by the predecessor custodian.

4 (c) The court, in a proceeding under this chapter or in any
5 other proceeding, may require or permit the custodian or the
6 custodian's legal representative to account.

7 (d) If a custodian is removed under section 527.38,
8 paragraph (f), the court shall require an accounting and order
9 delivery of the custodial property and records to the successor
10 custodian and the execution of all instruments required for
11 transfer of the custodial property.

12 Sec. 27. Minnesota Statutes 2004, section 529.12, is
13 amended to read:

14 529.12 [DECLINATION, RESIGNATION, INCAPACITY, DEATH, OR
15 REMOVAL OF CUSTODIAL TRUSTEE; DESIGNATION OF SUCCESSOR CUSTODIAL
16 TRUSTEE.]

17 (a) Before accepting the custodial trust property, a person
18 designated as custodial trustee may decline to serve by
19 notifying the person who made the designation, the transferor,
20 or the transferor's legal representative. If an event giving
21 rise to a transfer has not occurred, the substitute custodial
22 trustee designated under section 529.03 becomes the custodial
23 trustee, or, if a substitute custodial trustee has not been
24 designated, the person who made the designation may designate a
25 substitute custodial trustee pursuant to section 529.03. In
26 other cases, the transferor or the transferor's legal
27 representative may designate a substitute custodial trustee.

28 (b) A custodial trustee who has accepted the custodial
29 trust property may resign by (i) delivering written notice to a
30 successor custodial trustee, if any, the beneficiary and, if the
31 beneficiary is incapacitated, to the beneficiary's conservator,
32 if any, and (ii) transferring or registering, or recording an
33 appropriate instrument relating to, the custodial trust
34 property, in the name of, and delivering the records to, the
35 successor custodial trustee identified under subsection (c).

36 (c) If a custodial trustee or successor custodial trustee

1 is ineligible, resigns, dies, or becomes incapacitated, the
2 successor designated under section 529.02, subsection (g), or
3 529.03 becomes custodial trustee. If there is no effective
4 provision for a successor, the beneficiary, if not
5 incapacitated, or the holder of the beneficiary's power of
6 attorney, may designate a successor custodial trustee.

7 (d) If a successor custodial trustee is not designated
8 pursuant to subsection (c), the transferor, the legal
9 representative of the transferor or of the custodial trustee, an
10 adult member of the beneficiary's family, the conservator of the
11 beneficiary, a person interested in the custodial trust
12 property, or a person interested in the welfare of the
13 beneficiary, may petition the court to designate a successor
14 custodial trustee in accordance with the procedures set forth in
15 sections 501B.16 to 501B.25.

16 (e) A custodial trustee who declines to serve or resigns,
17 or the legal representative of a deceased or incapacitated
18 custodial trustee, as soon as practicable, shall put the
19 custodial trust property and records in the possession and
20 control of the successor custodial trustee. The successor
21 custodial trustee may enforce the obligation to deliver
22 custodial trust property and records and becomes responsible for
23 each item as received.

24 (f) A beneficiary, the beneficiary's conservator, an adult
25 member of the beneficiary's family, a guardian ~~of-the-person~~ of
26 the beneficiary, a person interested in the custodial trust
27 property, or a person interested in the welfare of the
28 beneficiary, may petition the court to remove the custodial
29 trustee for cause and designate a successor custodial trustee,
30 to require the custodial trustee to furnish a bond or other
31 security for the faithful performance of fiduciary duties, or
32 for other appropriate relief.

33 Sec. 28. Minnesota Statutes 2004, section 540.18,
34 subdivision 1, is amended to read:

35 Subdivision 1. [LIABILITY RULE.] The parent or guardian of
36 ~~the-person~~ of a minor who is under the age of 18 and who is

1 living with the parent or guardian and who willfully or
 2 maliciously causes injury to any person or damage to any
 3 property is jointly and severally liable with such minor for
 4 such injury or damage to an amount not exceeding \$1,000, if such
 5 minor would have been liable for such injury or damage if the
 6 minor had been an adult. Nothing in this subdivision shall be
 7 construed to relieve such minor from personal liability for such
 8 injury or damage. The liability provided in this subdivision is
 9 in addition to and not in lieu of any other liability which may
 10 exist at law. Recovery under this section shall be limited to
 11 special damages.

12 Sec. 29. [REVISOR'S INSTRUCTION.]

13 The Revisor of Statutes shall change the references to
 14 Minnesota Statutes in the following Minnesota Rules parts from
 15 the repealed section number in column A to the current section
 16 number in column B.

	<u>Column A</u>	<u>Column B</u>
<u>Minnesota Rules Part</u>	<u>Obsolete Reference</u>	<u>Current Reference</u>
19 <u>3400.0020,</u> 20 <u>subp. 31b</u> 21	<u>525.615; 525.6165</u>	<u>524.5-201;</u> <u>524.5-202;</u> <u>524.5-204</u>
22 <u>9520.0902, subp. 26</u> 23	<u>525.619</u>	<u>524.5-207;</u> <u>524.5-209</u>
24 <u>9525.0004, subp. 17</u>	<u>524.5-505</u>	<u>524.5-211</u>
25 <u>9525.3020, subp. 3</u> 26 27	<u>525.54,</u> <u>subd. 3</u>	<u>524.5-302;</u> <u>524.5-303;</u> <u>524.5-403</u>
28 <u>9525.3025, subp. 7</u> 29 30 31 32	<u>525.55</u>	<u>524.5-113;</u> <u>524.5-303;</u> <u>524.5-304;</u> <u>524.5-308;</u> <u>524.5-404</u>
33 <u>9525.3030</u> 34 35	<u>525.56</u>	<u>524.5-313;</u> <u>524.5-417;</u> <u>524.5-418</u>
36 <u>9525.3040, subp. 1</u> 37	<u>525.56,</u> <u>subds. 1 to 3</u>	<u>524.5-313,</u> <u>paragraphs (a) to (c)</u>
38 <u>9525.3060, subp. 1</u> 39	<u>525.56, subd. 3</u>	<u>524.5-313,</u> <u>paragraph (c)</u>
40 <u>9525.3060, subp. 1</u> 41 42	<u>525.56, subd. 3,</u> <u>clause (4),</u> <u>paragraph (b)</u>	<u>524.5-313,</u> <u>paragraph (c),</u> <u>clause (4), item (ii)</u>
43 <u>9525.3060, subp. 2</u> 44	<u>525.56, subd. 3,</u> <u>clause (4),</u>	<u>524.5-313,</u> <u>paragraph (c),</u>

1		<u>paragraph (c)</u>	<u>clause (4), item (iii)</u>
2	<u>9525.3060, subp. 4</u>	<u>525.56, subd. 3,</u>	<u>524.5-313,</u>
3		<u>clause (4),</u>	<u>paragraph (c),</u>
4		<u>paragraph (a)</u>	<u>clause (4), item (i)</u>
5	<u>9525.3075, subp. 3</u>	<u>525.57</u>	<u>524.5-107;</u>
6			<u>524.5-433</u>
7	<u>9525.3090, subp. 3</u>	<u>525.60</u>	<u>524.5-112;</u>
8			<u>524.5-317;</u>
9			<u>524.5-428;</u>
10			<u>524.5-431</u>
11	<u>9525.0925, subp. 22</u>	<u>525.619</u>	<u>524.5-207;</u>
12			<u>524.5-209</u>
13	<u>9555.5105, subp. 20</u>	<u>525.539 to</u>	<u>524.5-101 to</u>
14		<u>525.6198</u>	<u>524.5-502</u>
15	<u>9555.7600</u>	<u>525.539 to</u>	<u>524.5-101 to</u>
16		<u>525.6198</u>	<u>524.5-502</u>

ARTICLE 5

RETIREMENT PROVISIONS

Section 1. Minnesota Statutes 2004, section 353.01, subdivision 2, is amended to read:

Subd. 2. [PUBLIC EMPLOYEE.] "Public employee" means a governmental employee performing personal services for a governmental subdivision defined in subdivision 6, whose salary is paid, in whole or in part, from revenue derived from taxation, fees, assessments, or from other sources. The term includes the classes of persons described or listed in subdivision 2a. The term also includes persons who elect association membership under subdivision 2d, paragraph (a), and persons for whom the applicable governmental subdivision had elected association membership under subdivision 2d, paragraph (b). The term also includes full-time employees of the Dakota County Agricultural Society. The term excludes the classes of persons listed in subdivision 2b for purposes of membership in the association.

Sec. 2. Minnesota Statutes 2004, section 353.34, subdivision 3a, is amended to read:

Subd. 3a. [DEFERRED ANNUITY; CERTAIN HOSPITAL EMPLOYEES.] Any member employed by a public hospital, as defined in section ~~355.71~~ 355.01, subdivision 3 3k, who has at least three years of allowable service credit on the date the public

1 hospital is taken over by a private corporation or organization,
2 may elect to receive a deferred annuity pursuant to subdivision
3 3 notwithstanding the length of service requirement contained
4 therein.

5 Sec. 3. Minnesota Statutes 2004, section 356.431,
6 subdivision 1, is amended to read:

7 Subdivision 1. [LUMP-SUM POSTRETIREMENT PAYMENT
8 CONVERSION.] For benefits paid after December 31, 2001, to
9 eligible persons under sections 356.42 and 356.43, the amount of
10 the most recent lump-sum benefit payable to an eligible
11 recipient under sections ~~356.86~~ 356.42 and ~~356.865~~ 356.43 must
12 be divided by 12. The result must be added to the monthly
13 annuity or benefit otherwise payable to an eligible recipient,
14 must become a permanent part of the benefit recipient's pension,
15 and must be included in any pension benefit subject to future
16 increases.

17 Sec. 4. [INSTRUCTION TO REVISOR.]

18 The revisor of statutes shall replace the references to
19 Minnesota Statutes, section 356.55 with Minnesota Statutes,
20 section 356.551 in the following sections of Minnesota
21 Statutes: 352.275, subdivision 1; 352B.01, subdivision 3a;
22 353.01, subdivision 16a; 353.666; and 354.533.

23 Sec. 5. [REPEALER.]

24 Laws 2001, First Special Session chapter 10, article 10,
25 section 1, is repealed.

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Article 2 OBSOLETE CONSTABLE AND MARSHAL PROVISIONS..... page 83
Article 3 UPDATING AND CONFORMING FINES..... page 87
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115B.49 DRY CLEANER ENVIRONMENTAL RESPONSE AND REIMBURSEMENT ACCOUNT.

Subd. 4a. Interim fees. For the period from July 1, 2001, to June 30, 2003, the commissioner shall, after a public hearing, but notwithstanding section 16A.1285, subdivision 4, annually adjust the fees in subdivision 4 as necessary to maintain an annual income of \$650,000.

306.13 EMPLOYEES TO HAVE POLICE POWERS.

The trustees or officers of a cemetery association may appoint superintendents, security guards, gardeners, and agents as they may determine. Upon taking and subscribing an oath similar to that required from constables, an appointee has all the rights and powers of a police officer within and adjacent to the cemetery grounds.

315.43 PEACE OFFICERS, APPOINTMENT.

The governing board of any such corporation may appoint peace officers to keep order on its grounds, to be paid by the corporation. The officers while on duty have the same power as constables.

317A.909 CORPORATIONS FOR RELIGIOUS PURPOSES.

Subd. 4. Peace officer powers. The governing board of a religious corporation may appoint peace officers to keep order on its grounds. The peace officers shall be paid by the corporation. When on duty, these officers have the authority of constables.

357.12 CONSTABLES.

The fees to be charged by a constable shall be as follows:

- (1) for serving a warrant or other writ, not otherwise provided for, 25 cents for each person named in it and served;
- (2) for a copy of each summons delivered on request or left at the residence of defendant, 25 cents;
- (3) serving a subpoena or summons, 50 cents for each person named in it and served; provided, that any summons or subpoena may be served by any person not a party to the action, but if served by any person other than an officer, no fees or mileage shall be allowed and service shall be proved by affidavit;
- (4) serving an attachment, 50 cents;
- (5) each copy of an attachment, 15 cents;
- (6) each copy of an inventory of property seized on attachment, 15 cents;
- (7) serving summons on garnishee, 50 cents;
- (8) copy of any affidavit or other paper not otherwise provided for, ten cents per folio;
- (9) posting each notice, 15 cents;
- (10) for travel to and from the place of service, when necessary in serving any process or paper authorized to be served by them, ten cents per mile;
- (11) committing to prison, 50 cents;
- (12) summoning a jury, \$1;
- (13) writing a list of jurors, 15 cents;
- (14) attending on a jury, 50 cents;
- (15) on all sums collected on execution and paid over, charged upon the judgment debtor, five percent;
- (16) serving a writ of replevin, 50 cents;
- (17) summoning and swearing appraisers and taking appraisement, 50 cents;
- (18) taking and approving security in any case, 25 cents.

A constable shall be allowed all reasonable and necessary expenses actually paid out for food and lodging furnished by the

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constable for any prisoner, not to exceed \$1 per day while having the prisoner in custody pending trial and while conducting the prisoner to jail, together with the transportation charges for the prisoner paid to a common carrier. If adjournment is for longer than three days, the prisoner shall be committed to the county jail.

367.40 DEFINITIONS.

Subd. 3. **Constable.** "Constable" means any individual employed or appointed by a political subdivision and licensed by the Board of Peace Officer Standards and Training on or before April 21, 1988, who is charged with the prevention and detecting of crime, the enforcement of the criminal laws of the state, and who has full powers of arrest. The term applies even though the individual exercises powers and duties on a part-time basis with or without receipt of compensation.

Subd. 4. **Deputy constable.** "Deputy constable" means any individual employed or appointed by a political subdivision to fulfill law enforcement duties but who is prohibited from carrying a firearm while exercising powers and duties and who has powers of arrest no greater than those of a citizen who is not a peace officer or constable. The term also includes individuals voluntarily assisting local police or sheriff departments unless they qualify as constables or peace officers.

367.401 LAW ENFORCEMENT OFFICERS; APPOINTMENT; CONSTABLES.

Subd. 4. **Requirements.** Towns that had either peace officers or constables, or both, on April 21, 1988, have met the requirements for forming a law enforcement agency.

367.42 DEPUTY CONSTABLES.

Subdivision 1. **Powers and duties.** Notwithstanding any general or local law or charter to the contrary, any deputy constable employed on or after March 23, 1982, by a town of the state of Minnesota has the following powers and duties:

- (a) to have the powers of arrest of a private person;
- (b) to perform the duties of a constable prescribed by law relative to election procedure;
- (c) to perform the following duties at the direction of the sheriff or a peace officer:
 - (i) to inspect communication wire and cable or records of the wire and cable pursuant to section 325E.21;
 - (ii) to conduct hotel lien sales pursuant to section 327.76; and
 - (iii) to conduct public auction sales of unclaimed property pursuant to sections 345.04 and 345.05;
- (d) to provide general administrative or clerical assistance to the town's law enforcement agency.

Subd. 3. **Criminal records check.** No person may be employed as a deputy constable unless the person submits proof from the sheriff that the sheriff has checked the criminal records system and that the applicant has not been convicted of a felony within the past ten years.

398.35 PERSONNEL.

Subd. 2. **Police powers.** The superintendent and such other county park employees as the county board may designate shall be peace officers, with the same powers as constables and other peace officers to enforce the laws of the state and the ordinances of the county board and to make arrests and institute prosecutions for violations thereof. The superintendent and every other employee so designated shall take an oath as

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provided by law for public officers and shall give bond to the county in such sum as the county board may direct, not less than \$1000 for the superintendent nor less than \$500 for each other such employee, conditioned for the faithful performance of their official duties and otherwise as provided by law, with corporate sureties at the expense of the county, to be approved and filed as provided by law for the bonds of county officers. In lieu of individual bonds such employees may be covered by a general or combination bond providing equivalent security.

ARTICLE 1

GENERAL

1
2
3 Section 1. Explanation. This amendment corrects an
4 obsolete reference.

5 Sec. 2. Explanation. This amendment eliminates obsolete
6 language. The fee required expired June 30, 2004, and was not
7 extended.

8 Sec. 3. Explanation. This amendment corrects an erroneous
9 reference.

10 Sec. 4. Explanation. This amendment updates statutory
11 references to newly enacted data practice laws codified outside
12 Minnesota Statutes, chapter 13, as required under Laws 1999,
13 chapter 227, section 22.

14 Sec. 5. Explanation. This amendment updates statutory
15 references to newly enacted data practice laws codified outside
16 Minnesota Statutes, chapter 13, as required under Laws 1999,
17 chapter 227, section 22.

18 Sec. 6. Explanation. This language was inadvertently
19 omitted from the conference committee report on H.F. No. 2087.
20 It appeared in H.F. No. 2087, the second engrossment, and S.F.
21 No. 1889, the first engrossment, the companion bills that were
22 referred to conference.

23 Sec. 7. Explanation. This amendment corrects an erroneous
24 reference.

1 2004, chapter 177, sections 1 and 2.

2 Sec. 32. Explanation. This amendment corrects an
3 erroneous reference.

4 Sec. 33. Explanation. This amendment corrects a reference
5 to a United States Code section to reflect the current federal
6 law.

7 Sec. 34. Explanation. This amendment substitutes the
8 proper statutory chapter citation for the overly broad reference
9 to the session law.

10 Sec. 35. Explanation. Minnesota Statutes, section 237.63,
11 expired on December 31, 2004, pursuant to Laws 1999, chapter
12 224, section 7, making the reference in this section obsolete.

13 Sec. 36. Explanation. This amendment replaces range
14 references to repealed sections with the correct section
15 references.

16 Sec. 37. Explanation. This amendment replaces range
17 references to repealed sections with the correct section
18 references.

19 Sec. 38. Explanation. This amendment replaces range
20 references to repealed sections with the correct section
21 references.

22 Sec. 39. Explanation. This amendment substitutes the
23 intended effective date for the phrase "effective date of this
24 act."

25 Sec. 40. Explanation. This amendment corrects an
26 erroneous reference.

27 Sec. 41. Explanation. This amendment corrects an
28 erroneous reference.

29 Sec. 42. Explanation. This amendment deletes obsolete
30 language.

31 Sec. 43. Explanation. This amendment deletes obsolete
32 language.

33 Sec. 44. Explanation. This amendment deletes an erroneous
34 reference. This committee no longer exists.

35 Sec. 45. Explanation. This amendment corrects an obsolete
36 reference.

1 Sec. 46. Explanation. This amendment deletes obsolete
2 language.

3 Sec. 47. Explanation. This amendment corrects an
4 erroneous reference.

5 Sec. 48. Explanation. This amendment corrects an
6 erroneous reference.

7 Sec. 49. Explanation. This amendment updates terminology.

8 Sec. 50. Explanation. This amendment corrects an
9 erroneous cross-reference.

10 Sec. 51. Explanation. This amendment corrects an
11 erroneous reference. The Community Social Services Act is in
12 Minnesota Statutes, chapter 256E. The relevant portions of that
13 chapter were repealed in 2003.

14 Sec. 52. Explanation. Minnesota Statutes 2000, section
15 256.9731, was repealed in Laws 2002, chapter 220, article 16,
16 section 3. The amendments in paragraphs (a), clause (3); and
17 (c) correct erroneous references.

18 Sec. 53. Explanation. This amendment corrects an
19 erroneous reference.

20 Sec. 54. Explanation. This amendment corrects an
21 erroneous reference.

22 Sec. 55. Explanation. This amendment corrects an
23 erroneous reference. The Community Social Services Act is in
24 Minnesota Statutes, chapter 256E. The relevant portions of that
25 chapter were repealed in 2003.

26 Sec. 56. Explanation. This amendment deletes obsolete
27 language.

28 Sec. 57. Explanation. This amendment deletes obsolete
29 language.

30 Sec. 58. Explanation. This amendment corrects a statutory
31 reference.

32 Sec. 59. Explanation. This amendment corrects a
33 reference. A definitional provision in the Juvenile Court Act
34 refers to a misdemeanor violation of Minnesota Statutes, section
35 609.563. This misdemeanor violation was repealed in Minnesota
36 Statutes, section 609.563, subdivision 2, and recodified in

1 Minnesota Statutes, section 609.5632.

2 Sec. 60. Explanation. This amendment corrects an
3 erroneous reference.

4 Sec. 61. Explanation. This amendment corrects an
5 erroneous reference to a repealed subdivision.

6 Sec. 62. Explanation. This amendment corrects a reference
7 to the State Patrol.

8 Sec. 63. Explanation. This amendment removes an obsolete
9 provision. The Arson Strike Force, as well as Minnesota
10 Statutes, section 299F.058, which established it, expired
11 effective June 30, 2003.

12 Sec. 64. Explanation. This amendment removes an obsolete
13 provision. The funds mentioned, \$15,000, were required by law
14 to be disbursed before July 1, 1988.

15 Sec. 65. Explanation. This amendment corrects an
16 erroneous cross-reference.

17 Sec. 66. Explanation. This amendment removes extraneous
18 text.

19 Sec. 67. Explanation. This amendment corrects an
20 erroneous reference.

21 Sec. 68. Explanation. This amendment corrects a range
22 reference to reflect the enactment of revised Article 1 of the
23 Uniform Commercial Code in 2004.

24 Sec. 69. Explanation. This amendment eliminates an
25 inconsistency between two sections that govern treatment of
26 dogs. Minnesota Statutes, sections 343.40, subdivision 3, and
27 346.39, subdivision 4, both govern protection of dogs from
28 direct rays of the sun, but one requires shade from May to
29 October and the other requires shade from June to September.
30 This amendment makes them consistent by using the dates from the
31 more recent legislative enactment.

32 Sec. 70. Explanation. This amendment replaces the word
33 "now" with the original effective date of the section to avoid
34 confusion as to whether the section reflects the current makeup
35 of the Lake Superior Sanitary District.

36 Sec. 71. Explanation. This amendment deletes a

1 cross-reference to a repealed section and corrects the name of a
2 defined term.

3 Sec. 72. Explanation. This amendment corrects a drafting
4 oversight and makes this language consistent with other
5 references to the metropolitan landfill contingency action trust
6 account.

7 Sec. 73. Explanation. This amendment corrects an
8 oversight and makes the subdivision consistent with the
9 agriculture lien revisions enacted in Laws 2001, chapter 57.

10 Sec. 74. Explanation. Laws 2004, chapter 203, article 1,
11 section 7, changed the rescission period in Minnesota Statutes,
12 section 515B.4-106, from ten days to five days. This amendment
13 corrects the reference to the rescission period to make the
14 reference consistent with it.

15 Sec. 75. Explanation. This amendment corrects an
16 erroneous reference.

17 Sec. 76. Explanation. This amendment deletes erroneous
18 language.

19 Sec. 77. Explanation. The repeal of Minnesota Rules, part
20 6700.1300, in this article requires deletion of statutory
21 language in Minnesota Statutes, section 626.84, subdivision 1,
22 which by implication refers to that rule.

23 Sec. 78. Explanation. This amendment corrects an
24 erroneous reference. The stricken language referred to a
25 nonexistent subdivision.

26 Sec. 79. Explanation. This amendment clarifies the
27 effective date of the act to reflect the legislature's intent
28 that only the Uniform Limited Partnership Act and its conforming
29 changes become effective January 1, 2005. Articles 14 and 15
30 were amended onto the bill without specific effective dates and
31 would have become effective July 1, 2004, pursuant to Minnesota
32 Statutes, section 645.02. Through an oversight, the effective
33 date of these two articles was not specified when they were
34 added.

35 Sec. 80. Explanation. This amendment corrects a drafting
36 error. Only section 1 of Laws 2004, chapter 261, article 6, was

1 codified and intended to expire on August 1, 2010. The other
2 sections of article 6 are not laws that would appropriately
3 expire.

4 Sec. 81. Explanation. Minnesota Statutes 2002, section
5 62J.692, subdivision 4, was amended by Laws 2003, First Special
6 Session chapter 14, article 7, section 17, and Laws 2003, First
7 Special Session chapter 21, article 9, section 1. Chapter 14
8 struck paragraph (e), while chapter 21 amended paragraph (e),
9 striking obsolete language and adding new language to conform to
10 the other amendments creating an editorial conflict. Because
11 the amendments from both chapters could be merged editorially
12 except for the stricken paragraph (e) in chapter 14, both the
13 chapter 14 amendments, except for the stricken paragraph (e),
14 and the chapter 21 amendments were printed in the main text.
15 The striking of paragraph (e) in chapter 14 was printed as a
16 note. The intent of this amendment is to give effect to both
17 sets of amendments and allows the revisor to remove the note.

18 Sec. 82. Explanation.

19 Subdivision 1. This repealer removes a subdivision
20 authorizing adjustments to the dry cleaner registration fee.
21 The authorization expired June 30, 2003.

22 Subd. 2. This repealer removes a duplicative amendment
23 made during the 2003 session and allows the revisor to remove
24 the note containing the amendatory language. The later
25 amendment to Minnesota Statutes, section 473.123 in Laws 2003,
26 First Special Session chapter 16, sections 9 and 10, created new
27 Metropolitan Council district boundaries codified as subdivision
28 3d. The new district boundaries reflected the substance of Laws
29 2003, chapter 8, section 2, by removing the city of Rockford in
30 Hennepin County from the metropolitan area.

31 Subd. 3. The section proposed for repeal amends Minnesota
32 Statutes, section 192.501, subdivision 2, relating to tuition
33 and textbook reimbursement grants to National Guard members.
34 That section was also amended in the same legislative session in
35 Laws 2004, chapter 256, article 1, section 3. Because the two
36 amendments could not be merged editorially, the later chapter

1 256 amendment was printed in the main text and the chapter 219
2 amendment was printed as a note. The two amendments have
3 virtually the same substance. This repealer allows the revisor
4 to remove the note containing the amendatory language from the
5 earlier act.

6 Subd. 4. The section proposed for repeal added Minnesota
7 Statutes, section 151.214, relating to disclosure of pharmacy
8 co-payment amounts. That section was also added in the same
9 legislative session in Laws 2004, chapter 268, section 13.
10 Because the two sections could not be merged editorially, the
11 chapter 268 amendment was printed in the main text and the
12 chapter 288 amendment was printed as a note. The only
13 difference between the two was the use of the word "purchaser"
14 instead of "patient." This repealer repeals the earlier law and
15 allows the revisor to remove the note containing the amendatory
16 language.

17 Subd. 5. This subdivision repeals obsolete rules of the
18 Department of Veterans Affairs. Minnesota Rules, part
19 9055.0125, concerning bonuses for World War II merchant mariners
20 is no longer needed because the application period for those
21 bonuses expired on December 31, 1995, and the department may not
22 accept any further applications.

23 Parts 9055.0500 to 9055.0610 concerning the County Veterans
24 Service Officer Grant Program are no longer needed because the
25 legislature approved a new method of making those grants that
26 has eliminated the need for counties to apply for the grants.

27 Subd. 6. This amendment repeals obsolete Peace Officer
28 Standards and Training Board rules. Minnesota Rules, part
29 6700.0100, subpart 14, is a definition of first aid course that
30 has been superseded by another definition. Minnesota Rules,
31 part 6700.1300 provides a system for part-time peace officers to
32 transition to full-time peace officers. This rule has not been
33 used in over 20 years because its requirements that a
34 "compelling need" be demonstrated sets out standards that are
35 too onerous for appointing authorities to meet.

36

ARTICLE 2

1 OBSOLETE CONSTABLE AND MARSHAL PROVISIONS

2 Explanation. Constables and state marshals once performed
3 peace officer and other minor governmental functions, but no
4 longer are in existence. Sections which refer to constables and
5 marshals and obsolete constable or marshal duties are repealed.
6 In most sections a revisor instruction requires removal of
7 references to constables, deputy constables, marshals, and
8 statutory city marshals leaving in references to peace officers
9 and other governmental officials. In some cases where a statute
10 authorizes the appointment of peace officers with the same
11 duties as constables, the entire statute was repealed.

12 ARTICLE 3

13 UPDATING AND CONFORMING FINES

14 Explanation. The current two-tiered criminal penalty
15 structure (gross misdemeanor and misdemeanor offenses) dates
16 back to 1913. At that time, a "gross misdemeanor" constituted
17 an offense with a maximum term of incarceration of one year (the
18 same as current law), and a "misdemeanor" offense was subject to
19 a maximum term of incarceration of three months (the same as
20 current law). The only difference between the nonfelony
21 offenses of 1913 and the offenses of today is the maximum fine
22 level.

23 The legislature intends a two-tiered incarcerative-monetary
24 penalty structure. Minnesota Statutes, section 609.033,
25 provides that all misdemeanor monetary penalties in the statutes
26 on or after August 1, 2000, shall be deemed to provide for a
27 maximum fine of \$1,000. Minnesota Statutes, section 609.0341,
28 subdivision 1, provides that all gross misdemeanor penalties in
29 the statutes on or after August 1, 1983, shall be deemed to
30 provide for a maximum fine of \$3,000.

31 In Laws 2004, chapter 228, article 1, section 72, a
32 revisor's instruction directed the revisor to implement the
33 two-tiered monetary penalty codified in sections 609.033 and
34 609.0341. Most of the sections were changed under the revisor's
35 instruction, changing misdemeanor fines from \$700 to \$1,000 and
36 gross misdemeanor fines from \$1,000 to \$3,000.

1 This article implements the provisions in the 2004
2 revisor's bill that instructs the revisor to prepare a bill
3 further correcting statutory penalty provisions.

4 ARTICLE 4

5 GUARDIANSHIP AND CONSERVATORSHIP

6 Explanation. The Uniform Guardianship and Protective
7 Proceedings Act was enacted by Laws 2003, chapter 12, and
8 codified in the Uniform Probate Code as Minnesota Statutes,
9 sections 524.5-101 to 524.5-502. The concepts of guardianships
10 and conservatorships "of the estate" or "of the person" were
11 eliminated, leaving simply "guardians" and "conservators." This
12 article deletes the obsolete concepts from sections of Minnesota
13 Statutes in which they still appear and corrects obsolete
14 cross-references to guardianship and conservatorship provisions
15 in Minnesota Statutes and Minnesota Rules.

16 ARTICLE 5

17 RETIREMENT PROVISIONS

18 Section 1. Explanation. This section amends Minnesota
19 Statutes, section 353.01, subdivision 2, to include full-time
20 employees of the Dakota County Agricultural Society in the
21 definition of public employees. This section and the repealer
22 in section 5 allow the revisor to eliminate a note that included
23 the provision. The note was needed because the section was
24 amended two times in the same legislative session and the
25 amendments could not be merged editorially.

26 Sec. 2. Explanation. This amendment corrects a reference
27 to a section that was repealed.

28 Sec. 3. Explanation. This amendment corrects two
29 references to sections that have been repealed.

30 Sec. 4. Explanation. This amendment corrects several
31 references to a section that was repealed.

32 Sec. 5. Explanation. This section repeals the section
33 that contained the language with the conflict referred to in
34 section 1.

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State of Minnesota

S.F. No. 349 -Expanding the Definition of First-Degree Murder

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Date: February 22, 2005

Section 1 expands the crime of first-degree murder for child abusers. Currently, the crime applies to offenders who cause the death of a child while committing child abuse where the offender 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. Expands the applicability of the provision to include situations where the past pattern of child abuse was upon any child, not just the victim.

Section 2 provides an immediate effective date.

CT:vs

Senators Foley, Kleis, Ranum, Skoglund and Limmer introduced--

S.F. No. 349: Referred to the Committee on Crime Prevention and Public Safety.

A bill for an act

relating to crime prevention and public safety;
modifying the crime of murder in the first degree;
amending Minnesota Statutes 2004, section 609.185.

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

Section 1. Minnesota Statutes 2004, 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

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

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

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

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

18 (b) For purposes of paragraph (a), clause (5), "child abuse"
19 means an act committed against a minor victim that constitutes a
20 violation of the following laws of this state or any similar
21 laws of the United States or any other state: section 609.221;
22 609.222; 609.223; 609.224; 609.2242; 609.342; 609.343; 609.344;
23 609.345; 609.377; 609.378; or 609.713.

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

26 (1) constitutes a violation of section 609.221, 609.222,
27 609.223, 609.224, 609.2242, 609.342, 609.343, 609.344, 609.345,
28 609.713, or any similar laws of the United States or any other
29 state; and

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

33 (d) For purposes of paragraph (a), clause (7), "further
34 terrorism" has the meaning given in section 609.714, subdivision
35 1.

36 [EFFECTIVE DATE.] This section is effective the day

01/06/05

[REVISOR] RPK/RC 05-1164

1 following final enactment and applies to crimes committed on or after that date.