

(c) A marriage between an uncle and a niece, between an aunt and a nephew, or between first cousins, whether the relationship is by the half or the whole blood, except as to marriages permitted by the established customs of aboriginal cultures;

provided, however, that mentally ~~deficient~~ retarded persons committed to the guardianship of the commissioner of human services and mentally ~~deficient~~ retarded persons committed to the conservatorship of the commissioner of human services in which the terms of the conservatorship limit the right to marry, may marry on receipt of written consent of the commissioner. The commissioner shall grant consent unless it appears from his investigation that the marriage is not in the best interest of the ward or conservatee and the public. The clerk of the district court in the county where the application for a license is made by the ward or conservatee shall not issue the license unless he has received a signed copy of the consent of the commissioner of human services.

Approved April 16, 1985

CHAPTER 22 — H.F.No. 894

An act relating to utilities; defining independent telephone company; amending Minnesota Statutes 1984, section 237.01, subdivision 3.

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

Section 1. Minnesota Statutes 1984, section 237.01, subdivision 3, is amended to read:

Subd. 3. **INDEPENDENT TELEPHONE COMPANY.** "Independent telephone company" means a telephone company organized and operating under chapter 301 or 302A or authorized to do business in Minnesota under chapter 303 as of January 1, 1983, and providing local exchange service to fewer than 15,000 subscribers within the state.

Approved April 16, 1985

CHAPTER 23 — H.F.No. 470

An act relating to education; authorizing the establishment of joint vocational technical districts; providing for a governing board; authorizing post-secondary and adult vocational programs, secondary educational programs, and secondary services; providing for separate bargaining units and certain other labor issues; transferring all school district real and personal property to the joint district; authorizing the joint district to levy for certain

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purposes; providing for state funding of construction; providing for bonded indebtedness, fund transfers, and debt service; amending Minnesota Statutes 1984, sections 136C.02, subdivisions 6 and 8, and by adding a subdivision; 136C.41, by adding a subdivision; 136C.44; and 275.125, subdivisions 1 and 14a; proposing coding for new law as Minnesota Statutes, chapter 136E.

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

Section 1. Minnesota Statutes 1984, section 136C.02, subdivision 6, is amended to read:

Subd. 6. **DISTRICT.** "District" means a school district providing post-secondary vocational education ~~or~~ an intermediate district, or a joint district.

Sec. 2. Minnesota Statutes 1984, section 136C.02, subdivision 8, is amended to read:

Subd. 8. **SCHOOL BOARD.** "School board" means the school board of a district ~~and, in the case of an intermediate district, the board of the~~ an intermediate district, or the board of a joint district.

Sec. 3. Minnesota Statutes 1984, section 136C.02, is amended by adding a subdivision to read:

Subd. 9. **JOINT DISTRICT.** "Joint district" means a joint vocational technical district established under section 6.

Sec. 4. Minnesota Statutes 1984, section 136C.41, is amended by adding a subdivision to read:

Subd. 1a. (a) For joint vocational technical districts formed under sections 6 to 15 in which the joint district holds the title to the AVTI, the state portion of debt service costs is the entire amount necessary to make payments due for each school year ending June 30 with respect to qualifying bonds issued to finance post-secondary vocational facilities and interest thereon, reduced by the lesser of:

- (1) the local share of all principal, interest, and redemption premiums; or
- (2) the amount escrowed for debt service under section 15, subdivision 2.

(b) The state portion of debt service costs must not be less than what would have been paid under subdivision 1. For the purpose of this subdivision, qualifying bonds include the same bonds described as qualifying bonds in subdivision 1.

Sec. 5. Minnesota Statutes 1984, section 136C.44, is amended to read:

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136C.44 VOCATIONAL TECHNICAL BUILDING APPROPRIATIONS.

Money appropriated from the state building fund to the state board of vocational technical education for post-secondary vocational technical construction in school districts shall be used for grants to school districts for the acquisition and betterment of land, buildings, and capital improvements for area vocational technical institutes. These grants shall only be made upon the conditions and in accordance with all standards and criteria established in state board rules and in the legislative act authorizing the specific post-secondary vocational facilities project. A grant shall cover 85 percent of the cost of the post-secondary vocational facilities authorized by the specific legislative act, and 15 percent of the cost of these facilities shall be financed by the school district operating the post-secondary vocational technical school, unless otherwise provided by the specific legislative act. A grant to a joint vocational technical district formed under sections 6 to 15 must cover 100 percent of the cost, unless otherwise provided by the specific legislative act. No local bonds shall be authorized, issued, or sold, nor shall any election be held to authorize the issuance of bonds, if the proceeds will be used to finance a project for which specific legislative approval is required, until after that specific legislative approval has been given.

Sec. 6. [136C.60] DISTRICTS MAY FORM JOINT VOCATIONAL TECHNICAL DISTRICT.

Notwithstanding other law, two or more independent school districts each operating an area vocational technical institute may enter into an agreement to establish a joint vocational technical district upon a majority vote of the full membership of each of the boards of the districts entering into the agreement. When resolutions approving the agreement have been adopted by the boards of two or more districts, the resolutions must be filed with the state director of vocational technical education and the commissioner of education. The commissioner shall assign an appropriate identification number as provided in section 122.03.

Sec. 7. [136C.61] GOVERNING BOARD.

Subdivision 1. MEMBERS. The district shall be operated by a joint vocational technical board, which shall consist of the number of members from each of the participating school districts specified in the agreement establishing the joint vocational technical district. Board members must be residents of the respective school districts represented and may be members of the school boards of the respective school districts. The first members shall be appointed by their respective school boards. The agreement may provide for election of members to take office at the end of a term of an appointed member. Appointed members serve at the pleasure of their respective school boards and are subject to recall by a majority vote of the appointing board. The election of members is governed by

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section 123.32. Board members shall report at least quarterly to their appointing boards on the activities of the joint vocational technical district.

Subd. 2. EX OFFICIO MEMBER. The director of the joint vocational technical district is an ex officio, nonvoting member of the joint board.

Subd. 3. TERMS. The agreement establishing the joint vocational technical district must specify the number of members from each participating district who will serve an initial one-year term and the number of members from each participating district who will serve an initial two-year term. The appointing board shall designate which of the appointees will serve the one-year term and which of the appointees will serve the two-year term. Terms of office of the members of the joint board expire on June 30. After the initial term, the terms of office of joint board members must be as specified in the agreement. If a vacancy occurs on the joint board, it must be filled by the appropriate school board for the remainder of the unexpired term. A person appointed to the joint board qualifies as a board member by filing with the director of the joint board a written certificate of appointment from the member's appointing board.

Subd. 4. ORGANIZATIONAL MEETINGS. The first meeting of the first joint board must be at a time mutually agreed to by the members appointed by the boards of the participating school districts. Thereafter the joint board shall conduct its organizational meeting in July of each year when notified of the meeting by the director of the joint vocational technical district. At the organizational meeting, the officers of the joint vocational technical district for the current year shall be chosen and other necessary organizational business shall be conducted.

Subd. 5. OFFICERS. The officers are a chair, vice-chair, clerk, and treasurer. The chair shall preside at all meetings of the joint board. In the absence of the chair, the vice-chair shall preside. The clerk shall keep a complete record of the minutes of each meeting and the treasurer is the custodian of the funds of the joint vocational technical district. Insofar as applicable, board members and officers of the joint vocational technical district are governed by the laws relating to board members and officers of independent school districts.

Subd. 6. QUORUM. A majority of the joint board is a quorum, although a smaller number may adjourn.

Sec. 8. [136C.62] POWERS AND DUTIES.

Subdivision 1. IN GENERAL. The joint board has the powers and duties specified in section 136C.05 and other powers specified by law for the board of an independent school district, except that a joint board may levy only according to sections 13, 15, and 275.125, subdivision 14a.

Subd. 2. PROVISION OF FACILITIES AND SERVICES. The duty and the function of the joint board is to furnish post-secondary and adult

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vocational education. The joint board may also provide other secondary educational programs or secondary services requested by a participating district. Secondary offerings may be provided only under the direction of properly licensed personnel.

Subd. 3. FINANCE. The joint board shall provide for the conduct of the schools, payment of indebtedness, and payment of other proper expenses of the district.

Subd. 4. CONTRACTS. The joint board shall employ and contract with necessary qualified teachers and administrators and may discharge them under section 125.12. The joint board may employ and discharge other necessary employees and may contract for the purchase or sale of educational and other services the joint board considers necessary.

Sec. 9. [136C.63] LEGAL STATUS OF JOINT BOARD.

Subdivision 1. PUBLIC AGENCY. The joint board is a public agency and may receive and spend private, federal, and state money made available to it.

Subd. 2. LIABILITY. A participating school district has no liability for the debts or obligations of the joint vocational technical district. An individual serving as a member of the joint board has no individual liability for those debts or obligations.

Subd. 3. APPLICABLE LAWS. Except as specifically provided to the contrary, the organization, operation, maintenance, and conduct of the affairs of the joint vocational technical district are governed by the general laws relating to independent school districts.

Sec. 10. [136C.64] TEACHERS.

Subdivision 1. ASSIGNMENT. (a) When an independent school district becomes a member of the joint vocational technical district, a teacher, as defined in section 125.12, subdivision 1, employed by a member district and primarily assigned as a post-secondary or adult vocational education teacher there, shall be assigned to and become an employee of the joint vocational technical district without further rights to employment in the member district, except that, for a period of two years from the date of assignment, teaching vacancies in the member district from which the teacher was assigned must be offered to the teacher assigned to the joint vocational technical district if:

(1) the teacher was placed on unrequested leave of absence by the joint vocational technical district;

(2) the teacher is properly licensed for the position; and

(3) a transfer or assignment from a post-secondary or adult vocational position to a secondary position would have been authorized in the member

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district under the contract in effect at the time of that teacher's assignment to the joint vocational technical district.

(b) A teacher who has previously been placed on unrequested leave of absence from a post-secondary or adult vocational education position by an independent school district that becomes a member of the joint vocational technical district only has reinstatement rights to an available post-secondary or adult vocational position in the joint vocational technical district and has no further rights to reinstatement to any post-secondary or adult vocational position in the member district. This reassignment of employment rights is not a leaving of employment for eligibility for payments under section 465.72 or under a policy or contract based on that section.

Subd. 2. EXCLUSIVE REPRESENTATIVE. The employee organization certified as the exclusive representative for the teachers in a particular member district who are assigned to the joint vocational technical district upon its establishment shall continue as the exclusive representative for those teachers until that organization is decertified or another organization is certified in its place under this subdivision. After the commissioner assigns an identification number to the joint vocational technical district, any employee organization may petition the director of the bureau of mediation services for a certification election proceeding under chapter 179A. For purposes of certification of an exclusive representative, the teachers assigned to the joint vocational technical district are an appropriate unit of employees.

Subd. 3. BARGAINING AGREEMENT. (a) The terms and conditions of employment of teachers assigned to the new joint vocational technical district from each member district will be temporarily governed by the contract executed by the exclusive bargaining representative and that particular member district until a successor contract is executed between the board of the joint vocational technical district and the new exclusive bargaining representative.

(b) The date of first employment in the new joint vocational technical district is the date on which services were first performed by the teacher in the member school district from which assigned. Accumulations of sick leave and accumulated years of service to determine eligibility for any severance pay or early retirement benefits must be credited to each employee, subject to any maximum accumulation limitations negotiated in the successor contract. The joint vocational technical board shall provide, to transferred teachers, open enrollment in all insurance plans with no limitation on preexisting conditions. The successor contract must contain a negotiated plan for the placement of teachers on unrequested leave of absence in the joint vocational technical district.

Subd. 4. APPLICABLE LAW. Except as provided in this section, section 125.12 applies to the employment of each teacher by the joint vocational technical district.

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Sec. 11. [136C.65] NONLICENSED EMPLOYEES.

Subdivision 1. ASSIGNMENT. When an independent school district becomes a member of the joint vocational technical district, each nonlicensed employee primarily employed in an AVTI who is transferred to the joint vocational technical district shall be assigned to and become an employee of the joint vocational technical district without further employment rights in the member district, other than, for two years from the date of assignment to the joint vocational technical district, the right to exercise, in the member district, job seniority promotion and job seniority layoff provisions of the contract in effect at the time of that employee's assignment to the joint vocational technical district. This reassignment of employment rights is not a leaving of employment for eligibility for payment under section 465.72 or under a policy or contract based on that section.

Subd. 2. EXCLUSIVE REPRESENTATIVES. After the commissioner assigns an identification number to the joint vocational technical district, any employee organization may petition the director of the bureau of mediation services for a certification election proceeding under chapter 179A. An organization certified as the exclusive representative for nonlicensed employees in a particular member district who are assigned to the joint vocational technical district upon its establishment shall continue as the exclusive representative for those particular employees for a period of 90 days from the date on which the joint vocational technical district is established. If a petition for representation of nonlicensed employees is filed within 90 days, an exclusive representative for those particular nonlicensed employees shall continue as the exclusive representative until bureau of mediation services certification proceedings are concluded.

Subd. 3. BARGAINING AGREEMENT. (a) The terms and conditions of employment of nonlicensed employees assigned to the joint vocational technical district who were not governed by a collective bargaining agreement at the time of the assignment are governed by joint board policy. The terms and conditions of employment of nonlicensed employees assigned to the joint vocational technical district from each member district will be temporarily governed by contracts executed by an exclusive representative for a period of 90 days from the date of assignment. If a petition for representation of nonlicensed employees is filed with the bureau of mediation services within the 90 days, the contractual terms and conditions of employment for those particular nonlicensed employees who were governed by a preexisting contract will continue until bureau of mediation services proceedings are concluded and, if an exclusive representative has been elected, until successor contracts are executed between the board of the joint vocational technical district and the new exclusive representative.

(b) The date of first employment in the joint vocational technical district is the date on which services were first performed by the employee in the member school district from which assigned. Any sick leave, vacation time, or severance

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pay benefits accumulated under policies of a member district or contracts between exclusive representatives and the boards of member districts continue to apply in the new joint vocational technical district to the employee assigned from those member districts, subject to any maximum accumulation limitations negotiated in a successor contract. Future leaves of absence, vacations, or other benefits to be accumulated in the new joint vocational technical district are governed by joint board policy or by contract between an exclusive representative of an appropriate unit of employees and the joint vocational technical board. The joint vocational technical board shall provide, to transferred nonlicensed employees, open enrollment in all insurance plans with no limitation on preexisting conditions.

Sec. 12. [136C.66] TRANSFER OF PROPERTY.

Subdivision 1. TRANSFER OF TITLE. When an independent school district becomes a member of the joint vocational technical school district, the member district shall transfer to the joint board title to the AVTI facility in that district and other appropriate equipment, personal property, and related records. The deed transferring the real property may specify that title to the property reverts to the granting school district if the property is no longer used for vocational or technical education purposes. All claims and contract obligations of the member district relating to the AVTI and adult and post-secondary vocational education programs, including claims for unemployment compensation, also transfer to the joint vocational technical district.

Subd. 2. DEBT. The bonded debt on all property transferred must be paid according to levies for that debt previously made under chapter 475. The obligation of the taxable property in the member district with reference to the payment of that bonded debt is not affected by the transfer.

Subd. 3. TRANSFER OF FUNDS. A member district shall transfer all fund balances, excluding the debt redemption fund, in all post-secondary and adult vocational funds to the joint vocational technical district.

Subd. 4. TRANSFER NOT TO AFFECT LEGAL ACTION. The transfer of property, title, and power to govern AVTIs and post-secondary and adult vocational programs does not affect a proceeding of an administrative, civil, or criminal nature pending at the time of the transfer, but the proceeding must be pursued in the name of the joint board. The joint board or its designee, upon application to the appropriate court or agency, shall be substituted as a party to the proceeding.

Sec. 13. [136C.67] TAX LEVIES.

Subdivision 1. STATE AUDITOR COSTS; JUDGMENTS; INSURANCE. The joint board may levy upon all taxable property in the joint vocational technical district an amount necessary to pay the joint vocational technical district's obligations for state auditor costs under section 6.62, to pay its

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obligations for judgments under section 127.05, and to pay its insurance premium costs under section 466.06.

Subd. 2. AID ANTICIPATION CERTIFICATES. The joint board may issue aid anticipation certificates of indebtedness under sections 124.71 to 124.76 and may pledge the full faith and credit of the joint vocational technical district to their payment under section 124.75.

Sec. 14. [136C.68] JOINDER.

Upon approval by the majority vote of its board and the joint board, any other independent school district with an area vocational technical institute may enter into an agreement to become a participant in a joint vocational technical district. An election is not required on this issue. The agreement must be approved by resolution of the school board of the independent district and the joint board. The resolutions must be filed with the state director.

Sec. 15. [136C.69] PAYMENT OBLIGATION.

Subdivision 1. AGREEMENTS WITH STATE DIRECTOR. The state director may enter into agreements with the joint vocational technical district and its member school districts relating to costs of interim staffing and to payments of district service fees to member districts.

Subd. 2. PAYMENT OF DEBT; TRANSFER; DEBT SERVICE AID. (a) A member district that has debt outstanding upon an AVTI facility and property that is transferred to the joint vocational technical district shall escrow in its AVTI debt redemption fund the least of:

(1) a sufficient amount to defease the outstanding debt under the terms of the bond agreement;

(2) the minimum amount required by the bond agreement; or

(3) the remaining balance in the AVTI debt redemption fund.

(b) The member district shall transfer the amount to a separate account in its debt redemption fund for payment of the debt. Any remaining balance in the AVTI debt redemption fund may be used as provided in section 123.36, subdivision 13, clauses (2), (3), and (4).

(c) The state board of vocational technical education shall pay 100 percent of the remaining debt service on the AVTI facilities of all member districts that have transferred their AVTI facilities to the board of the joint vocational technical district. If the property reverts to ownership by the member district, the state portion of debt service aid must be paid according to section 136C.41, subdivision 1.

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Subd. 4. LEVY. (a) A member district that has transferred an AVTI facility to the joint board may levy upon all taxable property in the member district, the following:

(1) in the first levy certified after the transfer, 75 percent of the amount of the district's most recent service fee allocation;

(2) in the second levy certified after the transfer, 50 percent of the amount of the district's service fee allocation under clause (1); and

(3) in the third levy certified after the transfer, 25 percent of the amount of the district's service fee allocation under clause (1).

(b) The proceeds of the levy may be placed in the general fund or any other fund of the district. Any unexpended portion of the proceeds so received must not be considered in the net unappropriated fund balance of the member district for the three fiscal years to which the levy is attributable.

Sec. 16. Minnesota Statutes 1984, section 275.125, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** Except as may otherwise be provided in this section, the words and phrases defined in sections ~~124.01, 124.20~~ 120.02, 124.201, 124.212, 124.225, and 124A.02, and 124A.033, when used in this section shall have the meanings ascribed to them in those sections.

Sec. 17. Minnesota Statutes 1984, section 275.125, subdivision 14a, is amended to read:

Subd. 14a. LEVY FOR LOCAL SHARE OF AVTI CONSTRUCTION. (a) The definitions in section 136C.02 apply to this subdivision.

(b) A district maintaining a post-secondary area vocational technical institute may levy for its local share of the cost of construction of facilities for the post-secondary area vocational-technical institute as provided in this subdivision.

~~(1)~~ (c) The construction must be authorized by a specific legislative act pursuant to section 136C.07, subdivision 5, after January 1, 1980. The specific legislative act must require that ~~85 percent part~~ of the cost of construction for post-secondary vocational purposes shall be financed by the state and that ~~15 percent part~~ of the cost of construction for post-secondary vocational purposes shall be financed by the school district operating the post-secondary area vocational technical institute.

~~(2)~~ (d) The district may levy an amount equal to the local share of the cost of construction for post-secondary vocational purposes, minus the amount of any unappropriated net balance in the district's post-secondary vocational technical building construction fund. A district may levy the total amount authorized by this subdivision in one year, or a proportionate amount of the total authorized amount each year for up to three successive years.

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(3) (c) By the July 1 before a district certifies the first levy pursuant to this subdivision for the local share of any construction project, at least three weeks published notice of the proposed levy shall be given in the legal newspaper with the largest circulation in the district. The notice shall state the purpose of the proposed levy, the duration of the proposed levy and the amount of the proposed levy in dollars and mills. Upon petition within 20 days after the notice of the greater of (a) 50 voters, or (b) 15 percent of the number of voters who voted in the district at the most recent regular school board election, the board shall call a referendum on the proposed levy. The referendum shall be held on a date set by the school board, but no later than the August 20 before the levy is certified. The question on the ballot shall state the amount of the proposed levy in mills on the district's adjusted assessed valuation and in dollars in the first year of the proposed levy.

(4) (f) For the purposes of this subdivision, "construction" includes the acquisition and betterment of land, buildings and capital improvements for post-secondary area vocational technical institutes.

(5) (g) A district may not levy for the cost of a construction project pursuant to ~~the~~ this subdivision if it issues any bonds to finance any costs of the project.

Sec. 18. **EFFECTIVE DATE.**

This act is effective the day following its final enactment.

Approved April 17, 1985

CHAPTER 24 — S.F.No. 177

An act relating to crime; allowing the admission of certain out-of-court statements of mentally impaired persons; defining "mentally impaired"; amending Minnesota Statutes 1984, sections 260.156; 595.02, subdivision 3; 609.341, subdivisions 6 and 11; 609.342; 609.343; 609.344; and 609.345.

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

Section 1. Minnesota Statutes 1984, section 260.156, is amended to read:
260.156 **CERTAIN OUT-OF-COURT STATEMENTS ADMISSIBLE.**

An out-of-court statement made by a child under the age of ten years, or a child over the age of ten years who is mentally impaired, as defined under section 609.341, subdivision 6, alleging, explaining, denying, or describing any act of sexual contact or penetration performed with or on the child by another, not otherwise admissible by statute or rule of evidence, is admissible in evidence in

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