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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **1498**

March 1, 2007

Authored by Thissen, Lesch, Olin, Smith and Hortman

The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice

1.1 A bill for an act
1.2 relating to power of attorney; adopting the Uniform Power of Attorney Act;
1.3 proposing coding for new law as Minnesota Statutes, chapter 523A; repealing
1.4 Minnesota Statutes 2006, sections 523.01; 523.02; 523.03; 523.04; 523.05;
1.5 523.06; 523.07; 523.075; 523.08; 523.09; 523.10; 523.11; 523.12; 523.13;
1.6 523.131; 523.14; 523.15; 523.16; 523.17; 523.18; 523.19; 523.20; 523.21;
1.7 523.22; 523.23; 523.24.

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

1.9 ARTICLE 1
1.10 GENERAL PROVISIONS AND DEFINITIONS

1.11 Section 1. **[523A.101] SHORT TITLE.**

1.12 This chapter may be cited as the Uniform Power of Attorney Act.

1.13 Sec. 2. **[523A.102] DEFINITIONS.**

1.14 Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

1.15 Subd. 2. **Agent.** "Agent" means a person granted authority to act for a principal
1.16 under a power of attorney. The term includes an original agent, coagent, successor agent,
1.17 and a person to which an agent's authority is delegated.

1.18 Subd. 3. **Durable.** "Durable" means not terminated by a principal's incapacity.

1.19 Subd. 4. **Good faith.** "Good faith" means honesty in fact.

1.20 Subd. 5. **Incapacity.** "Incapacity" means inability of an individual to manage
1.21 property or business affairs because:

1.22 (1) of an impairment in the ability to receive and evaluate information or make or
1.23 communicate decisions even with the use of technological assistance; or

1.24 (2) the individual is:

1.25 (i) missing;

2.1 (ii) detained; or

2.2 (iii) outside the United States and unable to return.

2.3 Subd. 6. **Person.** "Person" means an individual, corporation, business trust, estate,
 2.4 trust, partnership, limited liability company, association, joint venture, public corporation,
 2.5 government or governmental subdivision, agency or instrumentality, or any other legal or
 2.6 commercial entity.

2.7 Subd. 7. **Power of attorney.** "Power of attorney" means a signed writing or other
 2.8 record denominated as a power of attorney in which a principal grants authority to an
 2.9 agent to act for the principal.

2.10 Subd. 8. **Principal.** "Principal" means an individual who grants authority to an
 2.11 agent in a power of attorney.

2.12 Subd. 9. **Property.** "Property" means anything that may be the subject of ownership,
 2.13 whether real or personal, or legal or equitable, or any interest or right therein.

2.14 Subd. 10. **Record.** "Record" means information that is inscribed on a tangible
 2.15 medium or that is stored in an electronic or other medium and is retrievable in perceivable
 2.16 form.

2.17 Subd. 11. **Sign.** "Sign" means, with present intent to authenticate or adopt a record:

2.18 (1) to execute or adopt a tangible symbol; or

2.19 (2) to attach to or logically associate with the record an electronic sound, symbol,
 2.20 or process.

2.21 Subd. 12. **State.** "State" means a state of the United States, the District of Columbia,
 2.22 Puerto Rico, United States Virgin Islands, or any territory or insular possession subject to
 2.23 the jurisdiction of the United States.

2.24 **Sec. 3. [523A.103] SCOPE, EXCEPTIONS, EXCLUSIONS.**

2.25 This chapter applies to all powers of attorney except:

2.26 (1) a power to the extent it is coupled with an interest in the subject of the power,
 2.27 including a power given to or for the benefit of a creditor in connection with a credit
 2.28 transaction;

2.29 (2) a power to make health care decisions;

2.30 (3) a proxy to exercise voting rights or management rights with respect to an entity;

2.31 and

2.32 (4) a power created on a form prescribed by a government or governmental
 2.33 subdivision, agency, or instrumentality for a governmental purpose.

2.34 **Sec. 4. [523A.104] POWER OF ATTORNEY IS DURABLE.**

3.1 A power of attorney is durable unless it expressly provides that it is terminated by
3.2 the incapacity of the principal.

3.3 **Sec. 5. [523A.105] EXECUTION OF POWER OF ATTORNEY.**

3.4 A power of attorney must be signed by the principal or by another individual directed
3.5 by the principal to sign the principal's name on the power of attorney in the principal's
3.6 presence. The signature is presumed to be genuine if the principal acknowledges the
3.7 signature before a notary public or other individual authorized to take acknowledgments.

3.8 **Sec. 6. [523A.106] VALIDITY OF POWER OF ATTORNEY.**

3.9 (a) A power of attorney executed in this state on or after the effective date of this
3.10 chapter is valid and enforceable if its execution complies with section 523A.105.

3.11 (b) A power of attorney executed in this state before the effective date of this chapter
3.12 is valid and enforceable if its execution complied with the law of this state as it existed
3.13 at the time of execution.

3.14 (c) A power of attorney executed other than in this state is valid and enforceable in
3.15 this state if, when the power of attorney was executed, the execution complied with:

3.16 (1) the law of the jurisdiction that the principal intended to govern the power of
3.17 attorney;

3.18 (2) the law of the jurisdiction in which the power of attorney was executed; or

3.19 (3) the requirements for a military power of attorney pursuant to United States Code,
3.20 title 10, section 1044b, as amended, for a military power of attorney.

3.21 **Sec. 7. [523A.107] INTERPRETATION OF POWER OF ATTORNEY.**

3.22 A power of attorney must be interpreted under the law of the jurisdiction which at
3.23 the time of execution the principal intended to govern the power of attorney. If the law
3.24 of that jurisdiction conflicts with this chapter, the law of that jurisdiction controls unless
3.25 prohibited or restricted by the public policy of this state. This chapter may not be applied
3.26 to enlarge the scope of authority granted to an agent in a power of attorney.

3.27 **Sec. 8. [523A.108] NOMINATION OF GUARDIAN; RELATION OF AGENT**
3.28 **TO COURT APPOINTED FIDUCIARY.**

3.29 (a) In a power of attorney, a principal may nominate a conservator or guardian for
3.30 consideration by the court if protective proceedings for the principal's estate or person are
3.31 thereafter commenced. Except for good cause shown or disqualification, the court shall
3.32 make its appointment in accordance with the principal's most recent nomination.

4.1 (b) If, after a principal executes a power of attorney, a court appoints a conservator or
 4.2 guardian or other fiduciary charged with the management of some or all of the principal's
 4.3 property, the agent is accountable to the fiduciary as well as to the principal. The power of
 4.4 attorney is not terminated and the agent's authority continues unless limited, suspended, or
 4.5 terminated by the court.

4.6 **Sec. 9. [523A.109] WHEN POWER OF ATTORNEY IS EFFECTIVE.**

4.7 (a) A power of attorney is effective when executed unless the principal provides in
 4.8 the power of attorney that it is to become effective at a future date or upon the occurrence
 4.9 of a future event or contingency.

4.10 (b) If a power of attorney is to become effective upon the occurrence of a future event
 4.11 or contingency, the principal, in the power of attorney, may authorize one or more persons
 4.12 to determine in a writing or other record that the event or contingency has occurred.

4.13 (c) If a power of attorney is to become effective upon the principal's incapacity and
 4.14 the principal has not authorized a person to determine that the principal is incapacitated,
 4.15 or the person authorized is unable or unwilling to make the determination, the power of
 4.16 attorney becomes effective upon a determination in a writing or other record by:

4.17 (1) a physician or licensed psychologist that the principal is unable to manage
 4.18 property or business affairs because of an impairment in the principal's ability to receive
 4.19 and evaluate information or make or communicate decisions even with the use of
 4.20 technological assistance; or

4.21 (2) an attorney-at-law, judge, or governmental official that the principal is:

4.22 (i) missing;

4.23 (ii) detained; or

4.24 (iii) outside the United States and unable to return.

4.25 (d) A person authorized by the principal in the power of attorney to determine that
 4.26 the principal is incapacitated may act as the principal's personal representative pursuant
 4.27 to the Health Insurance Portability and Accountability Act, Sections 1171 through 1179
 4.28 of the Social Security Act, United States Code, title 42, section 1320d, as amended, and
 4.29 applicable regulations, to obtain access to the principal's health care information and
 4.30 communicate with the principal's health care provider.

4.31 **Sec. 10. [523A.110] TERMINATION OF POWER OF ATTORNEY.**

4.32 (a) A power of attorney terminates when:

4.33 (1) the principal dies;

4.34 (2) the principal becomes incapacitated, if the power of attorney is not durable;

5.1 (3) the principal revokes the power of attorney;
 5.2 (4) the power of attorney provides it will terminate;
 5.3 (5) the purpose of the power of attorney is accomplished; or
 5.4 (6) the principal revokes the agent's authority or the agent dies, becomes
 5.5 incapacitated, or resigns and the power of attorney does not provide for another agent to
 5.6 act under the power of attorney.

5.7 (b) An agent's authority terminates when:

5.8 (1) the principal revokes the agent's authority;
 5.9 (2) the agent dies, becomes incapacitated, or resigns;
 5.10 (3) proceedings are commenced for the dissolution or annulment of the agent's
 5.11 marriage to the principal or their legal separation, unless the power of attorney otherwise
 5.12 provides; or
 5.13 (4) the power of attorney terminates.

5.14 (c) Unless a power of attorney otherwise provides, an agent's authority is exercisable
 5.15 until the power of attorney terminates, notwithstanding a lapse of time since the execution
 5.16 of the power of attorney.

5.17 (d) Termination of an agent's authority or of a power of attorney is not effective as
 5.18 to an agent or other person that, without actual knowledge of the termination, acts in
 5.19 good faith under the power of attorney. An act so performed, unless otherwise invalid or
 5.20 unenforceable, binds the principal and the principal's successors in interest.

5.21 (e) Incapacity of the principal of a power of attorney that is not durable does not
 5.22 revoke or terminate the power of attorney as to an agent or other person that, without
 5.23 actual knowledge of the incapacity, acts in good faith under the power of attorney. An
 5.24 act so performed, unless otherwise invalid or unenforceable, binds the principal and the
 5.25 principal's successors in interest.

5.26 (f) The execution of a power of attorney does not revoke a power of attorney
 5.27 previously executed by the principal unless the subsequent power of attorney provides that
 5.28 the previous power of attorney is revoked or that all other powers of attorney are revoked.

5.29 **Sec. 11. [523A.111] COAGENTS AND SUCCESSOR AGENTS.**

5.30 (a) A principal may designate two or more persons to act as coagents. Unless a
 5.31 power of attorney otherwise provides:

5.32 (1) authority granted to coagents is exercisable only by their majority consent;
 5.33 (2) if prompt action is required to accomplish a purpose of the power of attorney and
 5.34 to avoid irreparable harm to the principal's interests and a coagent is unavailable because

6.1 of absence, illness, or other temporary incapacity, the other coagent or coagents may
 6.2 act for the principal; and

6.3 (3) if a coagent resigns, dies, becomes incapacitated, is not qualified to serve, or
 6.4 declines to serve, the remaining coagent or coagents may act for the principal.

6.5 (b) A principal may designate one or more successor agents to act if an agent
 6.6 resigns, dies, becomes incapacitated, is not qualified to serve, or declines to serve. A
 6.7 principal may grant to an agent or other person designated by name, office, or function,
 6.8 authority to designate one or more successor agents. Unless a power of attorney otherwise
 6.9 provides, a successor agent:

6.10 (1) has the same authority as that granted to the original agent; and

6.11 (2) may not act until all predecessor agents have resigned, died, become
 6.12 incapacitated, are no longer qualified to serve, or have declined to serve.

6.13 (c) An agent is not liable for the actions of another agent, including a predecessor
 6.14 agent, unless the agent participates in or conceals a breach of fiduciary duty committed by
 6.15 the other agent. An agent that has actual knowledge of a breach or imminent breach of
 6.16 fiduciary duty by a coagent or another agent shall notify the principal and, if the principal
 6.17 is incapacitated, take any action reasonably appropriate in the circumstances to safeguard
 6.18 the principal's best interest.

6.19 **Sec. 12. [523A.112] REIMBURSEMENT AND COMPENSATION OF AGENT.**

6.20 Unless a power of attorney otherwise provides, an agent is entitled to reimbursement
 6.21 of expenses reasonably incurred on behalf of the principal and to compensation that is
 6.22 reasonable under the circumstances.

6.23 **Sec. 13. [523A.113] AGENT'S DUTIES.**

6.24 (a) A person accepts appointment as an agent under a power of attorney by
 6.25 exercising powers or performing duties as an agent or by any other assertion or conduct
 6.26 indicating acceptance.

6.27 (b) Except as otherwise provided in the power of attorney, an agent that has accepted
 6.28 appointment shall:

6.29 (1) act loyally for the principal's benefit;

6.30 (2) act in accordance with the principal's reasonable expectations to the extent
 6.31 actually known by the agent and, otherwise, in the principal's best interest;

6.32 (3) act with the care, competence, and diligence ordinarily exercised by agents
 6.33 in similar circumstances;

6.34 (4) act only within the scope of authority granted in the power of attorney;

7.1 (5) not create a conflict of interest that impairs the agent's ability to act impartially in
7.2 the principal's best interest;

7.3 (6) keep a complete record of all receipts, disbursements, and transactions made
7.4 on behalf of the principal;

7.5 (7) cooperate with a person that has authority to make health care decisions for
7.6 the principal to carry out the principal's reasonable expectations to the extent actually
7.7 known by the agent and, otherwise, to act in what the agent reasonably believes to be
7.8 the principal's best interest; and

7.9 (8) attempt to preserve the principal's estate plan, to the extent actually known
7.10 by the agent, if preserving the plan is consistent with the principal's best interest based
7.11 on all relevant factors, including:

7.12 (i) the value and nature of the principal's property;

7.13 (ii) the principal's foreseeable obligations and need for maintenance;

7.14 (iii) minimization of taxes, including income, estate, inheritance, generation-skipping
7.15 transfer, or gift taxes; and

7.16 (iv) eligibility for a benefit, program, or assistance under a statute or governmental
7.17 regulation.

7.18 (c) An agent that acts in good faith is not liable to any beneficiary of the principal's
7.19 estate plan for failure to preserve the plan.

7.20 (d) An agent that acts with care, competence, and diligence for the best interest of
7.21 the principal is not liable solely because the agent also benefits from the act or has an
7.22 individual or conflicting interest in relation to the property or affairs of the principal.

7.23 (e) If an agent is selected by the principal because of special skills or expertise
7.24 possessed by the agent, the special skills or expertise must be considered in determining
7.25 whether the agent has acted with care, competence, and diligence under the circumstances.

7.26 (f) Absent a breach of duty to the principal, an agent is not liable if the value of
7.27 the principal's property declines.

7.28 (g) An agent that exercises authority to delegate to another person the authority
7.29 granted by the principal or that employs another person on behalf of the principal is not
7.30 liable for an error of judgment, act, or default of that person if the agent exercises care,
7.31 competence, and diligence in selecting and monitoring the person.

7.32 (h) Except as otherwise provided in the power of attorney, an agent is not required
7.33 to disclose receipts, disbursements, or transactions conducted on behalf of the principal
7.34 unless ordered by a court or requested by the principal, a guardian, conservator, other
7.35 fiduciary acting for the principal, a governmental agency having authority to protect the
7.36 welfare of the principal, or, upon the death of the principal, by the personal representative

8.1 or successor in interest of the principal's estate. If so requested, the agent shall comply
8.2 within 30 days or provide a writing or other record substantiating why additional time
8.3 is needed and shall comply within an additional 30 days.

8.4 Sec. 14. **[523A.114] EXONERATION OF AGENT.**

8.5 A provision in a power of attorney relieving the agent of liability for breach of duty
8.6 is binding on the principal and the principal's successors in interest except to the extent
8.7 the provision:

8.8 (1) relieves the agent of liability for breach of duty committed dishonestly, with an
8.9 improper motive, or with reckless indifference to the purposes of the power of attorney or
8.10 the best interest of the principal; or

8.11 (2) was inserted as a result of an abuse of a confidential or fiduciary relationship
8.12 with the principal.

8.13 Sec. 15. **[523A.115] PETITION FOR JUDICIAL REVIEW.**

8.14 (a) A court may construe a power of attorney, review the agent's conduct, and grant
8.15 appropriate relief.

8.16 (b) The following persons may petition the court:

8.17 (1) the principal or the agent;

8.18 (2) a guardian, conservator, or other fiduciary acting for the principal;

8.19 (3) a person authorized to make health care decisions for the principal;

8.20 (4) the principal's spouse, parent, or descendant;

8.21 (5) an individual who would qualify as a presumptive heir of the principal;

8.22 (6) a person named as a beneficiary to receive any property, benefit, or contractual
8.23 right on the principal's death, or as a beneficiary of a trust created by or for the principal;

8.24 (7) a governmental agency having regulatory authority to protect the welfare of
8.25 the principal;

8.26 (8) the principal's caregiver or another person that demonstrates sufficient interest in
8.27 the principal's welfare; and

8.28 (9) a person asked to accept an agent's authority under a power of attorney.

8.29 (c) Upon motion by the principal, the court shall dismiss a petition filed under
8.30 this section unless the court finds that the principal lacks capacity to revoke the agent's
8.31 authority or the power of attorney.

8.32 (d) The court may award reasonable attorney's fees and costs to the prevailing party
8.33 in a proceeding under this section.

9.1 Sec. 16. **[523A.116] AGENT'S LIABILITY.**

9.2 An agent that violates this chapter is liable to the principal or the principal's
9.3 successors in interest for any of the following resulting from the violation:

9.4 (1) damages;

9.5 (2) reasonable attorney's fees and costs paid from the principal's estate; and

9.6 (3) any amount awarded under section 523A.115, paragraph (d).

9.7 Sec. 17. **[523A.117] AGENT'S RESIGNATION; NOTICE.**

9.8 If a power of attorney does not provide the method for an agent's resignation, an
9.9 agent may resign by giving notice to the principal and, if the principal is incapacitated:

9.10 (1) to the conservator or guardian, if one has been appointed for the principal, and a
9.11 coagent or successor agent;

9.12 (2) if there is no person described in clause (1), to the principal's caregiver or other
9.13 person reasonably believed by the agent to have sufficient interest in the principal's
9.14 welfare; or

9.15 (3) if neither clause (1) nor (2) applies, to a governmental agency having authority to
9.16 protect the welfare of the principal.

9.17 Sec. 18. **[523A.118] PROTECTION OF PERSON DEALING WITH AGENT.**

9.18 (a) A person that in good faith accepts an agent's authority without actual knowledge
9.19 that the agent's authority has been terminated, the power of attorney has been terminated
9.20 or is invalid, or the agent is exceeding or improperly exercising the agent's powers, is
9.21 protected from liability as if the power of attorney were still in effect and valid and the
9.22 agent had properly exercised the power.

9.23 (b) A person may request and, without further investigation, rely upon an agent's
9.24 certification under penalty of perjury of any matter concerning the principal or the power
9.25 of attorney.

9.26 (c) A person presented with a power of attorney that contains, in whole or in part,
9.27 language other than English may request that the agent obtain, at the principal's expense,
9.28 an English translation of the power of attorney, and may, without further investigation,
9.29 rely upon the translation.

9.30 (d) A person presented with a power of attorney, other than a power of attorney
9.31 executed on a statutory form under the Uniform Power of Attorney Act, may request
9.32 that the agent obtain, at the principal's expense, an opinion of counsel as to any matter
9.33 concerning the principal or the power of attorney and, without further investigation, may
9.34 rely upon the opinion.

10.1 (e) A request under this section for an agent's certification, translation, or an opinion
 10.2 of counsel must be made not later than three business days after presentation of a power of
 10.3 attorney.

10.4 (f) Except when the refusal of an agent's authority is reasonable under section
 10.5 523A.119, paragraph (b), a person may not require an additional or different form of
 10.6 power of attorney for authority granted in the power of attorney presented.

10.7 (g) Except as otherwise provided by law other than this chapter, a photocopy or
 10.8 electronically transmitted copy of an original power of attorney has the same effect as the
 10.9 original.

10.10 **Sec. 19. [523A.119] LIABILITY FOR REFUSAL TO ACCEPT AGENT'S**
 10.11 **AUTHORITY.**

10.12 (a) A person that unreasonably refuses to accept a power of attorney is subject to:

10.13 (1) a court order mandating acceptance of the power of attorney; and

10.14 (2) liability for reasonable attorney's fees and costs incurred in any action or
 10.15 proceeding necessary to confirm the validity of the power of attorney or to mandate
 10.16 acceptance of the power of attorney.

10.17 (b) A person's refusal to accept a power of attorney is reasonable if:

10.18 (1) the person has actual knowledge of the termination of the agent's authority or of
 10.19 the power of attorney before exercise of the power;

10.20 (2) the person reasonably believes that the power is not valid or that the agent does
 10.21 not have the authority to perform the act requested;

10.22 (3) the person has made a report in good faith to the local adult protective services
 10.23 unit alleging physical or financial abuse, neglect, exploitation, or abandonment of the
 10.24 principal by the agent or has actual knowledge that such a report has been made by
 10.25 another person; or

10.26 (4) the power of attorney is accepted within the later of five business days after
 10.27 presentation of the power of attorney or the date of receipt of an agent's certification, a
 10.28 translation, or an opinion of counsel if requested under section 523A.118.

10.29 (c) A person is not required to accept an agent's authority or to conduct business
 10.30 with an agent if the person is not otherwise required to conduct business with the principal
 10.31 in the same circumstances.

10.32 **Sec. 20. [523A.120] PRINCIPLES OF LAW AND EQUITY.**

10.33 Unless displaced by a provision of this chapter, the principles of law and equity,
 10.34 including the law governing capacity to contract, principal and agent, entity operation

11.1 and interests, estoppel, fraud, misrepresentation, duress, coercion, mistake, ratification,
 11.2 bankruptcy, and other validating or invalidating cause, supplement this chapter.

11.3 Sec. 21. **[523A.121] REMEDIES UNDER OTHER LAW.**

11.4 The remedies under this chapter are not exclusive and do not abrogate any right or
 11.5 remedy under the law of this state.

11.6 **ARTICLE 2**
 11.7 **POWERS**

11.8 Sec. 22. **[523A.201] GRANT OF AUTHORITY; POWERS THAT REQUIRE**
 11.9 **EXPRESS AUTHORIZATION.**

11.10 (a) Subject to paragraphs (b), (c), (d), and (e), if a power of attorney grants to an
 11.11 agent authority to do all acts that a principal could do, the agent has all the powers
 11.12 described in sections 523A.204 to 523A.216.

11.13 (b) Unless a power of attorney otherwise provides, an agent other than an ancestor,
 11.14 spouse, or descendant of the principal may not exercise authority under a power of
 11.15 attorney to create in the agent, or in a person to whom the agent owes a legal obligation
 11.16 of support, an interest in the principal's property, whether by gift, right of survivorship,
 11.17 beneficiary designation, disclaimer, or otherwise.

11.18 (c) An agent under a power of attorney may do the following on behalf of the
 11.19 principal or with the principal's property only if the power of attorney expressly grants
 11.20 the authority to:

11.21 (1) create, amend, or revoke an inter vivos trust;

11.22 (2) make a gift;

11.23 (3) create or change rights of survivorship;

11.24 (4) create or change a beneficiary designation;

11.25 (5) make a revocable delegation of a power granted under the power of attorney;

11.26 (6) waive the principal's right to be a beneficiary of a joint and survivor annuity,
 11.27 including a survivor benefit under a retirement plan;

11.28 (7) exercise fiduciary powers that the principal has authority to delegate; or

11.29 (8) disclaim property, including a power of appointment.

11.30 (d) Unless a power of attorney otherwise provides, a grant of authority to make a gift
 11.31 is subject to the limitations of section 523A.217.

11.32 (e) Subject to paragraphs (b), (c), and (d), if powers granted in a power of attorney
 11.33 are similar or overlap, the broadest power controls.

11.34 (f) Powers granted in a power of attorney are exercisable with respect to a property
 11.35 interest that the principal has when the power of attorney is executed or acquires later,

12.1 whether or not the property is located in this state and whether or not the powers are
 12.2 exercised or the power of attorney is executed in this state.

12.3 (g) An act performed by an agent pursuant to a power of attorney has the same effect
 12.4 and inures to the benefit of and binds the principal and the principal's successors in interest
 12.5 as if the principal had performed the act.

12.6 **Sec. 23. [523A.202] INCORPORATION OF POWERS.**

12.7 (a) An agent has a power described in this article if the power of attorney
 12.8 incorporates the power by citing to a section of sections 523A.204 to 523A.217.

12.9 (b) A reference in a power of attorney to a citation or to a section of sections
 12.10 523A.204 to 523A.217 incorporates the entire section as if it were set out in full in the
 12.11 power of attorney.

12.12 (c) A principal may modify a power incorporated by reference.

12.13 **Sec. 24. [523A.203] CONSTRUCTION OF POWERS GENERALLY.**

12.14 Except as otherwise provided in the power of attorney, by executing a power of
 12.15 attorney that incorporates by reference a power described in sections 523A.204 to
 12.16 523A.217, a principal authorizes the agent with respect to that subject to:

12.17 (1) demand, receive, and obtain by litigation or otherwise, money or another thing of
 12.18 value to which the principal is, may become, or claims to be entitled, and conserve, invest,
 12.19 disburse, or use anything so received for the purposes intended;

12.20 (2) contract in any matter with any person, on terms agreeable to the agent, to
 12.21 accomplish a purpose of a transaction, and perform, rescind, cancel, terminate, reform,
 12.22 restate, release, or modify the contract or another contract made by or on behalf of the
 12.23 principal;

12.24 (3) execute, acknowledge, seal, and deliver a deed, revocation, mortgage, security
 12.25 agreement, lease, notice, check, draft, promissory note, electronic funds transfer, release,
 12.26 or other instrument or communication the agent considers desirable to accomplish a
 12.27 purpose of a transaction, including creating at any time a schedule listing some or all of
 12.28 the principal's property and attaching it to the power of attorney;

12.29 (4) prosecute, defend, submit to alternative dispute resolution, settle, and propose or
 12.30 accept a compromise with respect to a claim existing in favor of or against the principal or
 12.31 intervene in litigation relating to the claim;

12.32 (5) seek on the principal's behalf the assistance of a court or other governmental
 12.33 agency to carry out an act authorized in the power of attorney;

- 13.1 (6) engage, compensate, and discharge an attorney, accountant, discretionary
 13.2 investment manager, expert witness, or other assistant;
- 13.3 (7) prepare, execute, and file a record, report, or other document to safeguard or
 13.4 promote the principal's interest under a statute or governmental regulation;
- 13.5 (8) communicate with any representative or employee of a government,
 13.6 governmental subdivision, agency, or instrumentality on behalf of the principal;
- 13.7 (9) access communications intended for and communicate on behalf of the principal,
 13.8 whether by mail, electronic mail, facsimile, telephone, or other means; and
- 13.9 (10) in general, do any other lawful act with respect to the power and all property
 13.10 related to the power.

13.11 **Sec. 25. [523A.204] REAL PROPERTY.**

13.12 Language in a power of attorney granting power with respect to real property
 13.13 authorizes the agent to:

- 13.14 (1) demand, buy, lease, receive, accept as a gift or as security for an extension of
 13.15 credit, or otherwise acquire or reject an interest in real property or a right incident to
 13.16 real property;
- 13.17 (2) sell; exchange; convey with or without covenants, representations, or warranties;
 13.18 quitclaim; release; surrender; retain title for security; encumber; partition; consent to
 13.19 partitioning; subject to an easement or covenant; subdivide; apply for zoning, rezoning, or
 13.20 other governmental permits; plat or consent to platting; develop; grant options concerning;
 13.21 lease; sublease; contribute to an entity in exchange for an interest in that entity; or
 13.22 otherwise grant or dispose of an interest in real property or a right incident to real property;
- 13.23 (3) pledge or mortgage an interest in real property or right incident to real property
 13.24 as security in order to borrow money or pay, renew, or extend the time of payment of a
 13.25 debt of the principal;
- 13.26 (4) release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of
 13.27 trust, conditional sale contract, encumbrance, lien, or other claim to real property which
 13.28 exists or is asserted;
- 13.29 (5) manage or conserve an interest in real property or a right incident to real property
 13.30 owned or claimed to be owned by the principal, including:
- 13.31 (i) insuring against liability or casualty or other loss;
- 13.32 (ii) obtaining or regaining possession or protecting the interest or right by litigation
 13.33 or otherwise;
- 13.34 (iii) paying, assessing, compromising, or contesting taxes or assessments or applying
 13.35 for and receiving refunds in connection with them; and

14.1 (iv) purchasing supplies, hiring assistance or labor, and making repairs or alterations
 14.2 to the real property;

14.3 (6) use, develop, alter, replace, remove, erect, or install structures or other
 14.4 improvements upon real property in or incident to which the principal has, or claims to
 14.5 have, an interest or right;

14.6 (7) participate in a reorganization with respect to real property or an entity that owns
 14.7 an interest in or right incident to real property and receive and hold, directly or indirectly,
 14.8 shares of stock, obligations, other evidences of ownership or debt, or other property
 14.9 received in a plan of reorganization, and act with respect to them, including:

14.10 (i) selling or otherwise disposing of them;

14.11 (ii) exercising or selling an option, conversion, or similar right with respect to
 14.12 them; and

14.13 (iii) exercising any voting rights in person or by proxy;

14.14 (8) change the form of title of an interest in or right incident to real property; and

14.15 (9) dedicate to public use, with or without consideration, easements or other real
 14.16 property in which the principal has, or claims to have, an interest.

14.17 **Sec. 26. [523A.205] TANGIBLE PERSONAL PROPERTY.**

14.18 Language in a power of attorney granting power with respect to tangible personal
 14.19 property authorizes the agent to:

14.20 (1) demand, buy, receive, accept as a gift or as security for an extension of credit,
 14.21 or otherwise acquire or reject ownership or possession of tangible personal property or
 14.22 an interest in tangible personal property;

14.23 (2) sell; exchange; convey with or without covenants, representations, or warranties;
 14.24 quitclaim; release; surrender; create a security interest in; grant options concerning; lease;
 14.25 sublease; or otherwise dispose of tangible personal property or an interest in tangible
 14.26 personal property;

14.27 (3) pledge tangible personal property or an interest in tangible personal property
 14.28 as security in order to borrow money or pay, renew, or extend the time of payment of a
 14.29 debt of the principal;

14.30 (4) release, assign, satisfy, or enforce by litigation or otherwise, a security interest,
 14.31 lien, or other claim on behalf of the principal, with respect to tangible personal property or
 14.32 an interest in tangible personal property;

14.33 (5) manage or conserve tangible personal property or an interest in tangible personal
 14.34 property on behalf of the principal, including:

14.35 (i) insuring against liability or casualty or other loss;

- 15.1 (ii) obtaining or regaining possession of or protecting the property or interest, by
 15.2 litigation or otherwise;
- 15.3 (iii) paying, assessing, compromising, or contesting taxes or assessments or applying
 15.4 for and receiving funds in connection with taxes or assessments;
- 15.5 (iv) moving the property from place to place;
- 15.6 (v) storing the property for hire or on a gratuitous bailment; and
- 15.7 (vi) using and making repairs, alterations, or improvements to the property; and
- 15.8 (6) change the form of title of an interest in tangible personal property.

15.9 **Sec. 27. [523A.206] STOCKS AND BONDS.**

15.10 (a) in this section, "stocks and bonds" means stocks, bonds, mutual funds, and all
 15.11 other types of securities and financial instruments, whether held directly, indirectly, or
 15.12 in any other manner, except commodity futures contracts and call-and-put options on
 15.13 stocks and stock indexes.

15.14 (b) Language in a power of attorney granting power with respect to stocks and bonds
 15.15 authorizes the agent to:

15.16 (1) buy, sell, and exchange securities;

15.17 (2) establish, continue, modify, or terminate a securities account;

15.18 (3) pledge securities as security in order to borrow, pay, renew, or extend the time of
 15.19 payment of a debt of the principal;

15.20 (4) receive certificates and other evidences of ownership with respect to securities;

15.21 and

15.22 (5) exercise voting rights with respect to securities in person or by proxy, enter into
 15.23 voting trusts, and consent to limitations on the right to vote.

15.24 **Sec. 28. [523A.207] COMMODITIES AND OPTIONS.**

15.25 Language in a power of attorney granting power with respect to commodities and
 15.26 options authorizes the agent to:

15.27 (1) buy, sell, exchange, assign, settle, and exercise commodity futures contracts and
 15.28 call and put options on stocks and stock indexes traded on a regulated option exchange; and

15.29 (2) establish, continue, modify, and terminate option accounts.

15.30 **Sec. 29. [523A.208] BANKING AND OTHER FINANCIAL TRANSACTIONS.**

15.31 Language in a power of attorney granting power with respect to banking and other
 15.32 financial transactions authorizes the agent to:

16.1 (1) continue, modify, and terminate an account or other banking arrangement made
 16.2 by or on behalf of the principal;

16.3 (2) establish, modify, and terminate an account or other banking arrangement with a
 16.4 bank, trust company, savings and loan association, credit union, thrift company, brokerage
 16.5 firm, or other financial institution selected by the agent;

16.6 (3) contract for services available from a financial institution, including renting a
 16.7 safe deposit box or space in a vault;

16.8 (4) withdraw, by check, order, electronic funds transfer or otherwise, money or
 16.9 property of the principal deposited with or left in the custody of a financial institution;

16.10 (5) receive statements of account, vouchers, notices, and similar documents from a
 16.11 financial institution and act with respect to them;

16.12 (6) enter a safe deposit box or vault and withdraw or add to the contents;

16.13 (7) borrow money and pledge as security personal property of the principal
 16.14 necessary in order to borrow money or pay, renew, or extend the time of payment of a
 16.15 debt of the principal;

16.16 (8) make, assign, draw, endorse, discount, guarantee, and negotiate promissory
 16.17 notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or
 16.18 payable to the principal or the principal's order, transfer money, receive the cash or other
 16.19 proceeds of those transactions, and accept a draft drawn by a person upon the principal
 16.20 and pay it when due;

16.21 (9) receive for the principal and act upon a sight draft, warehouse receipt, or other
 16.22 negotiable or nonnegotiable instrument;

16.23 (10) apply for, receive, and use letters of credit, credit and debit cards, electronic
 16.24 transaction authorizations, and traveler's checks from a financial institution and give an
 16.25 indemnity or other agreement in connection with letters of credit; and

16.26 (11) consent to an extension of the time of payment with respect to commercial
 16.27 paper or a financial transaction with a financial institution.

16.28 **Sec. 30. [523A.209] OPERATION OF AN ENTITY OR BUSINESS.**

16.29 Subject to the terms of a document or an agreement governing an entity or an
 16.30 entity ownership interest, language in a power of attorney granting power with respect to
 16.31 operation of an entity or business authorizes the agent to:

16.32 (1) operate, buy, sell, enlarge, reduce, and terminate an ownership interest;

16.33 (2) perform a duty or discharge a liability and exercise in person or by proxy a right,
 16.34 power, privilege, or option that the principal has, may have, or claims to have;

16.35 (3) enforce the terms of an ownership agreement;

- 17.1 (4) defend, submit to alternative dispute resolution, settle, or compromise litigation
17.2 to which the principal is a party because of an ownership interest;
- 17.3 (5) exercise in person or by proxy, or enforce by litigation or otherwise, a right,
17.4 power, privilege, or option the principal has or claims to have as the holder of a bond,
17.5 share, or other instrument of similar character; and
- 17.6 (6) defend, submit to alternative dispute resolution, settle, or compromise litigation
17.7 to which the principal is a party because of a bond, share, or similar instrument;
- 17.8 (7) with respect to an entity or business controlled by the principal:
- 17.9 (i) continue, modify, renegotiate, extend, and terminate a contract made by or on
17.10 behalf of the principal with respect to the entity or business before execution of the
17.11 power of attorney;
- 17.12 (ii) determine:
- 17.13 (A) the location of its operation;
- 17.14 (B) the nature and extent of its business;
- 17.15 (C) the methods of manufacturing, selling, merchandising, financing, accounting,
17.16 and advertising employed in its operation;
- 17.17 (D) the amount and types of insurance carried; and
- 17.18 (E) the mode of engaging, compensating, and dealing with its employees and
17.19 accountants, attorneys, or other agents;
- 17.20 (iii) change the name or form of organization under which the entity or business is
17.21 operated and enter into an ownership agreement with other persons to take over all or part
17.22 of the operation of the entity or business; and
- 17.23 (iv) demand and receive money due or claimed by the principal or on the principal's
17.24 behalf in the operation of the entity or business and control and disburse the money in the
17.25 operation of the entity or business;
- 17.26 (8) put additional capital into an entity or business in which the principal has interest;
- 17.27 (9) join in a plan of reorganization, consolidation, conversion, domestication, or
17.28 merger of the entity or business;
- 17.29 (10) sell or liquidate an entity or business or part of it;
- 17.30 (11) establish the value of an entity or business under a buy-out agreement to which
17.31 the principal is a party;
- 17.32 (12) prepare, sign, file, and deliver reports, compilations of information, returns, or
17.33 other papers with respect to an entity or business and make related payments; and
- 17.34 (13) pay, compromise, or contest taxes or assessments and perform any other act to
17.35 protect the principal from illegal or unnecessary taxation, fines, penalties, or assessments

18.1 with respect to an entity or business, including attempts to recover, in any manner
 18.2 permitted by law, money paid before or after the execution of the power of attorney.

18.3 **Sec. 31. [523A.210] INSURANCE AND ANNUITIES.**

18.4 Language in a power of attorney granting power with respect to insurance and
 18.5 annuities authorizes the agent to:

18.6 (1) continue, pay the premium or assessment on, modify, exchange, rescind, release,
 18.7 or terminate a contract procured by or on behalf of the principal which insures or provides
 18.8 an annuity to either the principal or another person, whether or not the principal is a
 18.9 beneficiary under the contract;

18.10 (2) procure new, different, and additional contracts of insurance and annuities for the
 18.11 principal and the principal's spouse, children, and other dependents, and select the amount,
 18.12 type of insurance or annuity, and mode of payment;

18.13 (3) pay the premium or assessment on, modify, exchange, rescind, release, or
 18.14 terminate a contract of insurance or annuity procured by the agent;

18.15 (4) apply for and receive a loan secured by a contract of insurance or annuity;

18.16 (5) surrender and receive the cash surrender value on a contract of insurance or
 18.17 annuity;

18.18 (6) exercise an election;

18.19 (7) change the manner of paying premiums on a contract of insurance or annuity;

18.20 (8) change or convert the type of insurance or annuity with respect to which the
 18.21 principal has or claims to have a power described in this section;

18.22 (9) apply for and procure a benefit or assistance under a statute or governmental
 18.23 regulation to guarantee or pay premiums of a contract of insurance on the life of the
 18.24 principal;

18.25 (10) collect, sell, assign, hypothecate, borrow against, or pledge the interest of the
 18.26 principal in a contract of insurance or annuity;

18.27 (11) select the form and timing of the payment of proceeds from a contract of
 18.28 insurance or annuity; and

18.29 (12) pay from proceeds or otherwise, compromise or contest, and apply for refunds
 18.30 in connection with, a tax or assessment levied by a taxing authority with respect to a
 18.31 contract of insurance or annuity or its proceeds or liability accruing by reason of the
 18.32 tax or assessment.

18.33 **Sec. 32. [523A.211] ESTATES, TRUSTS, AND OTHER BENEFICIAL**
 18.34 **INTERESTS.**

19.1 Language in a power of attorney granting power with respect to estates, trusts, and
 19.2 other beneficial interests authorizes the agent to act for the principal in all matters that
 19.3 affect a trust, probate estate, guardianship, conservatorship, escrow, or custodianship or
 19.4 a fund from which the principal is, may become, or claims to be entitled to a share or
 19.5 payment, including the power to:

19.6 (1) accept, receive, receipt for, sell, assign, pledge, or exchange a share in or
 19.7 payment from the fund;

19.8 (2) demand or obtain money or another thing of value to which the principal is, may
 19.9 become, or claims to be entitled by reason of the fund, by litigation or otherwise;

19.10 (3) exercise for the benefit of the principal a presently exercisable general power of
 19.11 appointment held by the principal;

19.12 (4) initiate, participate in, and oppose litigation to ascertain the meaning, validity, or
 19.13 effect of a deed, will, declaration of trust, or other instrument or transaction affecting the
 19.14 interest of the principal;

19.15 (5) initiate, participate in, and oppose litigation to remove, substitute, or surcharge a
 19.16 fiduciary;

19.17 (6) conserve, invest, disburse, and use anything received for an authorized purpose;

19.18 (7) transfer an interest of the principal in real property, stocks, bonds, accounts with
 19.19 financial institutions or securities intermediaries, insurance, annuities, and other property
 19.20 to the trustee of a revocable trust created by the principal as settlor; and

19.21 (8) reject, renounce, disclaim, release, or consent to a reduction in or modification
 19.22 of a share in or payment from the fund.

19.23 **Sec. 33. [523A.212] CLAIMS AND LITIGATION.**

19.24 Language in a power of attorney granting power with respect to claims and litigation
 19.25 authorizes the agent to perform any lawful act on behalf of the principal in connection
 19.26 with claims and litigation, including:

19.27 (1) assert and maintain before a court or administrative agency a claim, claim for
 19.28 relief, cause of action, counterclaim, offset, or defense, including an action to recover
 19.29 property or other thing of value, recover damages sustained by the principal, eliminate or
 19.30 modify tax liability, or seek an injunction, specific performance, or other relief;

19.31 (2) bring an action to determine adverse claims, intervene in litigation, and act as
 19.32 amicus curiae;

19.33 (3) seek an attachment, garnishment, order of arrest, or other preliminary,
 19.34 provisional, or intermediate relief and use an available procedure to effect or satisfy a
 19.35 judgment, order, or decree;

20.1 (4) perform any lawful act, including make or accept a tender, offer of judgment, or
 20.2 admission of facts, submit a controversy on an agreed statement of facts, and consent to
 20.3 examination before trial;

20.4 (5) submit to alternative dispute resolution, settle, and propose or accept a
 20.5 compromise;

20.6 (6) waive the issuance and service of process upon the principal, accept service of
 20.7 process, appear for the principal, designate persons upon which process directed to the
 20.8 principal may be served, execute and file or deliver stipulations on the principal's behalf,
 20.9 verify pleadings, seek appellate review, procure and give surety and indemnity bonds,
 20.10 contract and pay for the preparation and printing of records and briefs, receive, execute,
 20.11 and file or deliver a consent, waiver, release, confession of judgment, satisfaction of
 20.12 judgment, notice, agreement, or other instrument in connection with the prosecution,
 20.13 settlement, or defense of a claim or litigation;

20.14 (7) act for the principal with respect to bankruptcy or insolvency, whether voluntary
 20.15 or involuntary, concerning the principal or some other person, or with respect to a
 20.16 reorganization, receivership, or application for the appointment of a receiver or trustee
 20.17 which affects an interest of the principal in property or other thing of value;

20.18 (8) pay a judgment, award, or order against the principal or a settlement made in
 20.19 connection with litigation or alternative dispute resolution; and

20.20 (9) receive money or another thing of value paid in settlement of or as proceeds
 20.21 of a claim or litigation.

20.22 **Sec. 34. [523A.213] PERSONAL AND FAMILY MAINTENANCE.**

20.23 (a) Language in a power of attorney granting power with respect to personal and
 20.24 family maintenance authorizes the agent to:

20.25 (1) perform the acts necessary to maintain the customary standard of living of the
 20.26 principal, the principal's spouse, and the following individuals, whether living when the
 20.27 power of attorney is executed or later born:

20.28 (i) the principal's children;

20.29 (ii) other individuals legally entitled to be supported by the principal; and

20.30 (iii) those individuals whom the principal has customarily supported or indicated
 20.31 the intent to support;

20.32 (2) provide living quarters for those individuals described in clause (1) by purchase,
 20.33 lease, or other contract or pay the operating costs, including interest, amortization
 20.34 payments, repairs, and taxes, on premises owned by the principal or occupied by those
 20.35 individuals;

21.1 (3) provide normal domestic help, usual vacations and travel expenses, and funds
 21.2 for shelter, clothing, food, appropriate education, including postsecondary and vocational
 21.3 education, and other current living costs for those individuals described in clause (1);

21.4 (4) pay expenses for necessary health care and custodial care on behalf of the
 21.5 individuals described in clause (1);

21.6 (5) act as the principal's personal representative pursuant to the Health Insurance
 21.7 Portability and Accountability Act, Sections 1171 through 1179 of the Social Security
 21.8 Act, United States Code, title 42, section 1320d, as amended, and applicable regulations,
 21.9 in making decisions related to the past, present, or future payment for the provision of
 21.10 health care consented to by the principal or anyone authorized under the law of this state
 21.11 to consent to health care on behalf of the principal;

21.12 (6) continue any provision made by the principal for automobiles or other means
 21.13 of transportation, including registering, licensing, insuring, and replacing them for the
 21.14 individuals described in clause (1);

21.15 (7) maintain credit and debit accounts for the convenience of the individuals
 21.16 described in clause (1) and open new accounts to accomplish a lawful purpose; and

21.17 (8) continue payments incidental to the membership or affiliation of the principal in a
 21.18 religious institution, club, society, order, or other organization or to continue contributions
 21.19 to those organizations.

21.20 (b) Authority with respect to personal and family maintenance is neither dependent
 21.21 upon nor limited by authority that an agent may or may not have with respect to gifts
 21.22 under this chapter.

21.23 **Sec. 35. [523A.214] BENEFITS FROM GOVERNMENTAL PROGRAMS OR**
 21.24 **CIVIL OR MILITARY SERVICE.**

21.25 (a) In this section, "benefits from governmental programs or civil or military service"
 21.26 means any benefit, program, or assistance provided under a statute or governmental
 21.27 regulation including Social Security, Medicare, and Medicaid.

21.28 (b) Language in a power of attorney granting power with respect to benefits from
 21.29 governmental programs or civil or military service authorizes the agent to:

21.30 (1) execute vouchers in the name of the principal for allowances and reimbursements
 21.31 payable by the United States or a foreign government or by a state or subdivision of a
 21.32 state to the principal, including allowances and reimbursements for transportation of the
 21.33 individuals described in section 523A.213, paragraph (a), clause (1), and for shipment of
 21.34 their household effects;

22.1 (2) take possession and order the removal and shipment of property of the principal
 22.2 from a post, warehouse, depot, dock, or other place of storage or safekeeping, either
 22.3 governmental or private, and execute and deliver a release, voucher, receipt, bill of lading,
 22.4 shipping ticket, certificate, or other instrument for that purpose;

22.5 (3) enroll in, apply for, select, reject, change, amend, or discontinue, on the
 22.6 principal's behalf, a benefit or program;

22.7 (4) prepare, file, and maintain a claim of the principal for a benefit or assistance,
 22.8 financial or otherwise, to which the principal claims to be entitled under a statute or
 22.9 governmental regulation;

22.10 (5) prosecute, defend, submit to alternative dispute resolution, settle, and propose or
 22.11 accept a compromise with respect to any benefit or assistance the principal may be entitled
 22.12 to receive under a statute or governmental regulation; and

22.13 (6) receive the financial proceeds of a claim of the type described in clause (4) and
 22.14 conserve, invest, disburse, or use anything so received for a lawful purpose.

22.15 **Sec. 36. [523A.215] RETIREMENT PLANS.**

22.16 (a) In this section, "retirement plan" means any plan or account created by an
 22.17 employer, the principal, or another individual for the purpose of providing retirement
 22.18 benefits or deferred compensation of which the principal is a participant, beneficiary, or
 22.19 owner, including a plan or account under the following sections of the Internal Revenue
 22.20 Code:

22.21 (1) an individual retirement account under Internal Revenue Code, section 408,
 22.22 United States Code, title 26, section 408, as amended;

22.23 (2) a Roth individual retirement account under Internal Revenue Code, section
 22.24 408A, United States Code, title 26, section 408A, as amended;

22.25 (3) a deemed individual retirement account under Internal Revenue Code, section
 22.26 408(q), United States Code, title 26, section 408(q), as amended;

22.27 (4) an annuity or mutual fund custodial account under Internal Revenue Code,
 22.28 section 403(b), United States Code, title 26, section 403(b), as amended;

22.29 (5) a pension, profit-sharing, stock bonus, or other retirement plan qualified under
 22.30 Internal Revenue Code, section 401(a), United States Code, title 26, section 401(a), as
 22.31 amended;

22.32 (6) a plan under Internal Revenue Code, section 457(b), United States Code, title 26,
 22.33 section 457(b), as amended; and

22.34 (7) a nonqualified deferred compensation plan under Internal Revenue Code, section
 22.35 409A, United States Code, title 26, section 409A, as amended.

23.1 (b) Language in a power of attorney granting power with respect to retirement plans
 23.2 authorizes the agent to:

23.3 (1) select the form and timing of payments under a retirement plan and withdraw
 23.4 benefits from a plan;

23.5 (2) make a rollover, including a direct trustee-to-trustee rollover, of benefits from
 23.6 one retirement plan to another;

23.7 (3) establish a retirement plan in the principal's name;

23.8 (4) make contributions to a retirement plan;

23.9 (5) exercise investment powers available under a retirement plan; and

23.10 (6) borrow from, sell assets to, or purchase assets from a retirement plan.

23.11 **Sec. 37. [523A.216] TAXES.**

23.12 Language in a power of attorney granting power with respect to tax matters
 23.13 authorizes the agent to:

23.14 (1) prepare, sign, and file federal, state, local, and foreign income, gift, payroll,
 23.15 property, Federal Insurance Contributions Act, and other tax returns, claims for refunds,
 23.16 requests for extension of time, petitions regarding tax matters, and any other tax-related
 23.17 documents, including receipts, offers, waivers, consents, including consents and
 23.18 agreements under Internal Revenue Code, section 2032A, United States Code, title 26,
 23.19 section 2032A, as amended, closing agreements, and any power of attorney required by
 23.20 the Internal Revenue Service or other taxing authority with respect to a tax year upon
 23.21 which the statute of limitations has not run and the following 25 tax years;

23.22 (2) pay taxes due, collect refunds, post bonds, receive confidential information, and
 23.23 contest deficiencies determined by the Internal Revenue Service or other taxing authority;

23.24 (3) exercise any election available to the principal under federal, state, local, or
 23.25 foreign tax law; and

23.26 (4) act for the principal in all tax matters for all periods before the Internal Revenue
 23.27 Service and any other taxing authority.

23.28 **Sec. 38. [523A.217] GIFTS.**

23.29 (a) Language in a power of attorney granting power with respect to gifts authorizes
 23.30 the agent to:

23.31 (1) make a gift to a person of any of the principal's property, including by the
 23.32 exercise of a presently exercisable general power of appointment held by the principal, in
 23.33 an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion
 23.34 under Internal Revenue Code, section 2503(b), United States Code, title 26, section

24.1 2503(b), as amended, without regard to whether the federal gift tax exclusion applies to
 24.2 the gift, and if the principal's spouse agrees to consent to a split gift pursuant to Internal
 24.3 Revenue Code, section 2513, United States Code, title 26, section 2513, as amended, in an
 24.4 amount per donee not to exceed twice the annual federal gift tax exclusion limit; and

24.5 (2) consent, pursuant to Internal Revenue Code, section 2513, United States Code,
 24.6 title 26, section 2513, as amended, to the splitting of a gift made by the principal's spouse
 24.7 in an amount per donee not to exceed the aggregate annual gift tax exclusions for both
 24.8 spouses.

24.9 (b) Unless a power of attorney otherwise provides, an agent shall make a gift of the
 24.10 principal's property only as the agent determines to be consistent with the principal's
 24.11 objectives if actually known by the agent and, if unknown, as the agent determines to be
 24.12 consistent with the principal's best interest based on all relevant factors, including:

24.13 (1) the value and nature of the principal's property;

24.14 (2) the principal's foreseeable obligations and need for maintenance;

24.15 (3) minimization of taxes, including income, estate, inheritance, generation-skipping
 24.16 transfers, or gift taxes;

24.17 (4) eligibility for a benefit, program, or assistance under a statute or governmental
 24.18 regulation; and

24.19 (5) the principal's personal history of making or joining in making gifts.

24.20 (c) A gift under this section may be made outright or for the benefit of a donee,
 24.21 including to a trust, an account under the Uniform Transfers to Minors Act, or a tuition
 24.22 savings account or prepaid tuition plan as defined under Internal Revenue Code, section
 24.23 529, United States Code, title 26, section 529, as amended.

24.24 **ARTICLE 3**

24.25 **STATUTORY FORM POWER OF ATTORNEY**

24.26 **Sec. 39. [523A.301] OPTIONAL FORM.**

24.27 The following form may be used to create a power of attorney that has the meaning
 24.28 and effect prescribed by this chapter.

24.29 **STATUTORY FORM POWER OF ATTORNEY**

24.30 **IMPORTANT INFORMATION**

24.31 This power of attorney authorizes another person (your agent) to make decisions
 24.32 concerning your property for you (the principal). Your agent can make decisions and act
 24.33 with respect to your property (including your money) whether or not you are able to
 24.34 act for yourself. The meaning of powers listed in this form is explained in the Uniform
 24.35 Power of Attorney Act.

25.1 This power of attorney does not authorize the agent to make health care decisions for you.
 25.2 You should select someone you trust to serve as your agent. The agent's authority will
 25.3 continue until your death unless you revoke the power of attorney or the agent resigns. If
 25.4 your agent is unable or unwilling to act for you, your power of attorney will end unless
 25.5 you have named a successor agent. You may also name a second successor agent.

25.6 This power of attorney becomes effective immediately unless you state otherwise in
 25.7 the Special Instructions.

25.8 BEFORE SIGNING THIS FORM, YOU SHOULD SEEK LEGAL ADVICE IF YOU
 25.9 HAVE QUESTIONS ABOUT THE POWER OF ATTORNEY OR THE AUTHORITY
 25.10 YOU ARE GRANTING TO YOUR AGENT.

25.11 **DESIGNATION OF AGENT**

25.12 Name of Principal:

25.13 I name the following person as my agent:

25.14 Name of Agent:.....

25.15 Agent's Address:

25.16 Agent's Phone Number:

25.17 **DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)**

25.18 If my agent is unable or unwilling to act for me, I name as my successor agent:

25.19 Name of Successor Agent:.....

25.20 Successor Agent's Address:

25.21 Successor Agent's Phone Number:

25.22 If my successor agent is unable or unwilling to act for me, I name as my second successor
 25.23 agent:

25.24 Name of Second Successor Agent:

25.25 Second Successor Agent's Address:

25.26 Second Successor Agent's Phone Number:

25.27 **GRANT OF GENERAL AUTHORITY**

25.28 I grant my agent and any successor agent general authority to act for me with respect to
 25.29 the following subjects as defined in the Uniform Power of Attorney Act:

25.30 (INITIAL all of the subjects you want to include in the agent's general authority. If you
 25.31 wish to grant all of the powers you may initial next to the phrase "All of Preceding
 25.32 Powers" instead of initialing each subject.)

- 26.1 (...) Real Property
- 26.2 (...) Tangible Personal Property
- 26.3 (...) Stocks and Bonds
- 26.4 (...) Commodities and Options
- 26.5 (...) Banking and Other Financial Transactions
- 26.6 (...) Operation of an Entity or Business
- 26.7 (...) Insurance and Annuities
- 26.8 (...) Estates, Trusts, and Other Beneficial Interests
- 26.9 (...) Claims and Litigation
- 26.10 (...) Personal and Family Maintenance
- 26.11 (...) Benefits from Governmental Programs or Civil or Military Service
- 26.12 (...) Retirement Plans
- 26.13 (...) Taxes

26.14 (...) All of Preceding Powers

26.15 **GRANT OF SPECIFIC AUTHORITY (OPTIONAL)**

26.16 My agent MAY NOT do any of the following specific acts for me UNLESS I have also
 26.17 INITIALED the blank space (...) in front of the specific power:

26.18 (CAUTION: Granting any of the following powers will give your agent the authority to
 26.19 take actions that could significantly reduce your property or change how your property
 26.20 is distributed at your death. INITIAL ONLY the specific powers you WANT to include
 26.21 in the agent's authority.)

- 26.22 (...) Create, amend, or revoke an inter vivos trust
- 26.23 (...) Make a gift, subject to the limitations of the Uniform Power of Attorney Act and
 26.24 any special instructions in this power of attorney
- 26.25 (...) Create or change rights of survivorship
- 26.26 (...) Create or change a beneficiary designation
- 26.27 (...) Authorize another person to exercise the authority granted under this power of
 26.28 attorney
- 26.29 (...) Waive the principal's right to be a beneficiary of a joint and survivor annuity,
 26.30 including a survivor benefit under a retirement plan
- 26.31 (...) Exercise fiduciary powers that the principal has authority to delegate
- 26.32 [(...) Disclaim or refuse an interest in property, including a power of appointment]

26.33 **LIMITATION ON AGENT'S AUTHORITY**

26.34 An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to
 26.35 benefit the agent or a person to whom the agent owes an obligation of support unless I
 26.36 have included special instructions in this power of attorney to permit such an action.

26.37 **SPECIAL INSTRUCTIONS (OPTIONAL)**

27.1 (On the following lines you may give special instructions limiting or extending the
27.2 powers granted to your agent.)

27.3
27.4
27.5
27.6
27.7
27.8
27.9

27.10 **EFFECTIVE DATE**

27.11 This power of attorney is effective immediately unless I have stated otherwise in the
27.12 Special Instructions.

27.13 **NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)**

27.14 If it becomes necessary for a court to appoint a conservator or guardian of my estate or
27.15 person, I nominate the following person(s) for appointment:

27.16 Name of Nominee for conservator or guardian of my estate:
27.17

27.18 Nominee's Address:

27.19 Nominee's Phone Number:

27.20
27.21 Name of Nominee for guardian of my person:
27.22

27.23 Nominee's Address:

27.24 Nominee's Phone Number:

27.25 **RELIANCE ON THIS POWER OF ATTORNEY**

27.26 Any person, including my agent, may rely upon the validity of this power of attorney or a
27.27 copy of it unless that person knows it is terminated or invalid.

27.28 **SIGNATURE AND ACKNOWLEDGMENT**

27.29

27.30 Your signature Date

27.31

27.32 Your name printed

27.33

27.34

27.35 Your address

27.36

27.37 Your phone number

27.38 State of

28.1 [County] of.....

28.2 This document was acknowledged before me on

28.3 (date)

28.4 by.....

28.5 (name of Principal)

28.6 (Seal, if any)

28.7 Signature of Notary

28.8 My commission expires:

28.9 [This document prepared by:

28.10

28.11]

IMPORTANT INFORMATION FOR AGENT

28.13 When you accept the authority granted under this power of attorney, a special legal
28.14 relationship is created between you and the principal. This relationship imposes upon you
28.15 duties that continue until you resign or the power of attorney is terminated or revoked.

28.16 You must:

28.17 (1) do what you know the principal reasonably expects you to do with the principal's
28.18 property;

28.19 (2) act in good faith with care, competence, and diligence for the best interest of the
28.20 principal;

28.21 (3) avoid conflicts that would impair your ability to act in the principal's best interest;

28.22 (4) keep a complete record of all receipts, disbursements, and transactions conducted
28.23 for the principal;

28.24 (5) do nothing beyond the authority granted in this power of attorney;

28.25 (6) preserve the principal's estate plan to the extent you know the plan, unless
28.26 preserving the estate plan is inconsistent with the principal's best interest; and

28.27 (7) stop acting on behalf of the principal if you learn of any event that terminates this
28.28 power of attorney or your authority under this power of attorney.

28.29 You must disclose your identity as an agent whenever you act for the principal
28.30 by writing or printing the name of the principal and signing your own name as "agent"
28.31 in the following manner:

28.32 (Principal's name) by (Your signature) as Agent

28.33 The meaning of the powers granted to you is defined in the Uniform Power of
28.34 Attorney Act. If you violate the Uniform Power of Attorney Act or act outside the
28.35 authority granted, you may be liable for any damages, including reasonable attorney
28.36 fees and costs, caused by your violation.

28.37 YOU SHOULD SEEK LEGAL ADVICE IF THERE IS ANYTHING ABOUT
28.38 THIS DOCUMENT OR YOUR DUTIES THAT YOU DO NOT UNDERSTAND.

AGENT'S ACCEPTANCE

29.1 (This statement of acceptance may be signed any time after the principal signs the power
29.2 of attorney.)

29.3 I accept appointment as agent under this power of attorney.

29.4

29.5 Agent's signature Date

29.6

29.7 Agent's name printed

29.8 **Sec. 40. [523A.302] AGENT'S CERTIFICATION.**

29.9 The following optional form may be used by an agent to certify facts concerning a
29.10 power of attorney.

29.11 **AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF**
29.12 **ATTORNEY AND AGENT'S AUTHORITY**

29.13 State of.....

29.14 County of.....

29.15 I,(name of Agent), [certify] under penalty
29.16 of perjury that.....(name of Principal) signed a
29.17 Power of Attorney (a copy of the Power of Attorney is attached to this certification) on
29.18 (date), naming the undersigned as an agent or successor agent.

29.19 I further [certify] that to my knowledge:

29.20 (1) the Principal is alive and has not revoked the Power of Attorney or my authority
29.21 to act under the Power of Attorney and the Power of Attorney remains in full force and
29.22 effect;

29.23 (2) if the Power of Attorney was drafted to become effective upon the happening of
29.24 an event or contingency, the event or contingency has occurred;

29.25 (3) if I was named as a successor agent, that the predecessor agent is no longer able
29.26 or willing to serve; and

29.27 (4).....

29.28

29.29

29.30

29.31 (Insert other relevant statements)

29.32 **SIGNATURE AND ACKNOWLEDGMENT**

29.33

29.34 Agent's signature Date

29.35

30.1 Agent's name printed
 30.2
 30.3
 30.4 Agent's address
 30.5 This document was acknowledged before me on
 30.6 (date)
 30.7 by.....
 30.8 (name of Agent)
 30.9 (Seal, if any)
 30.10 Signature of Notary
 30.11 My commission expires:
 30.12 [This document prepared by:
 30.13
 30.14]

30.15 **ARTICLE 4**
 30.16 **MISCELLANEOUS PROVISIONS**

30.17 **Sec. 41. [523A.402] RELATION TO ELECTRONIC SIGNATURES IN GLOBAL**
 30.18 **AND NATIONAL COMMERCE ACT.**

30.19 This chapter modifies, limits, and supersedes the federal Electronic Signatures in
 30.20 Global and National Commerce Act (United States Code, title 15, section 7001 et seq.)
 30.21 but does not modify, limit, or supersede section 101(c) of that act (United States Code,
 30.22 title 15, section 7001(c)) or authorize electronic delivery of any of the notices described in
 30.23 section 103(b) of that act (United States Code, title 15, section 7003(b)).

30.24 **Sec. 42. [523A.403] EFFECT ON EXISTING POWERS OF ATTORNEY.**

30.25 Except as otherwise provided in this chapter, on the effective date of this chapter:
 30.26 (1) this chapter applies to a power of attorney created before, on, or after the
 30.27 effective date of this chapter;
 30.28 (2) this chapter applies to a judicial proceeding concerning a power of attorney
 30.29 commenced on or after the effective date of this chapter;
 30.30 (3) this chapter applies to a judicial proceeding concerning a power of attorney
 30.31 commenced before the effective date of this chapter unless the court finds that application
 30.32 of a provision of this chapter would substantially interfere with the effective conduct of
 30.33 the judicial proceeding or prejudice the rights of a party, in which case that provision does
 30.34 not apply and the superseded law applies; and
 30.35 (4) an act done before the effective date of this chapter is not affected by this chapter.

31.1 Sec. 43. **REPEALER.**

31.2 Minnesota Statutes 2006, sections 523.01; 523.02; 523.03; 523.04; 523.05; 523.06;
31.3 523.07; 523.075; 523.08; 523.09; 523.10; 523.11; 523.12; 523.13; 523.131; 523.14;
31.4 523.15; 523.16; 523.17; 523.18; 523.19; 523.20; 523.21; 523.22; 523.23; and 523.24, are
31.5 repealed.

31.6 Sec. 44. **EFFECTIVE DATE.**

31.7 Sections 1 to 43 are effective August 1, 2008.