

## STATE OF MINNESOTA

## EIGHTY-THIRD SESSION — 2004

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EIGHTIETH DAY

SAINT PAUL, MINNESOTA, FRIDAY, MARCH 26, 2004

The House of Representatives convened at 12:00 noon and was called to order by Ron Abrams, Speaker pro tempore.

Prayer was offered by the Reverend Kevin G. Schill, Christ United Methodist Church, Rochester, Minnesota.

The members of the House gave the pledge of allegiance to the flag of the United States of America.

The roll was called and the following members were present:

Abeler	DeLaForest	Hilty	Lenczewski	Opatz	Smith
Abrams	Demmer	Holberg	Lesch	Osterman	Soderstrom
Adolphson	Dempsey	Hoppe	Lieder	Otremba	Solberg
Anderson, B.	Dill	Hornstein	Lindgren	Otto	Stang
Anderson, I.	Dorn	Howes	Lindner	Ozment	Swenson
Atkins	Eastlund	Huntley	Lipman	Paulsen	Sykora
Beard	Eken	Jacobson	Magnus	Paymar	Thao
Bernardy	Entenza	Johnson, J.	Mahoney	Pelowski	Thissen
Biernat	Erickson	Johnson, S.	Mariani	Penas	Tingelstad
Blaine	Fuller	Juhnke	Marquart	Powell	Urdahl
Borrell	Gerlach	Kahn	McNamara	Pugh	Vandever
Boudreau	Goodwin	Kelliher	Mullery	Rhodes	Wagenius
Bradley	Greiling	Klinzing	Murphy	Samuelson	Walker
Brod	Gunther	Knoblach	Nelson, C.	Seagren	Walz
Buesgens	Haas	Koenen	Nelson, M.	Seifert	Wardlow
Carlson	Hackbarth	Kohls	Nelson, P.	Sertich	Wasiluk
Clark	Harder	Krinkie	Newman	Severson	Westerberg
Cox	Hausman	Kuisle	Nornes	Sieben	Westrom
Davids	Heidgerken	Lanning	Olsen, S.	Simpson	Wilkin
Davnie	Hilstrom	Latz	Olson, M.	Slawik	Zellers

A quorum was present.

Anderson, J.; Cornish; Ellison; Erhardt; Finstad; Jaros; Larson; Meslow; Peterson; Rukavina; Ruth; Strachan and Sviggum were excused.

The Chief Clerk proceeded to read the Journal of the preceding day. Cox moved that further reading of the Journal be suspended and that the Journal be approved as corrected by the Chief Clerk. The motion prevailed.

## REPORTS OF CHIEF CLERK

S. F. No. 2626 and H. F. No. 2688, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

McNamara moved that S. F. No. 2626 be substituted for H. F. No. 2688 and that the House File be indefinitely postponed. The motion prevailed.

## PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA  
OFFICE OF THE GOVERNOR  
SAINT PAUL 55155

March 19, 2004

The Honorable Steve Sviggum  
Speaker of the House of Representatives  
The State of Minnesota

Dear Speaker Sviggum:

It is my honor to inform you that I have received, approved, signed, and deposited in the Office of the Secretary of State the following House File:

H. F. No. 480, relating to civil actions; providing protection for disclosure of job reference information; requiring disclosure of data between school districts and charter schools relating to acts of violence or inappropriate sexual contact with students; regulating the right of an employee to inspect personnel records concerning the employee.

Sincerely,

TIM PAWLENTY  
Governor

STATE OF MINNESOTA  
OFFICE OF THE SECRETARY OF STATE  
ST. PAUL 55155

The Honorable Steve Sviggum  
Speaker of the House of Representatives

The Honorable James P. Metzen  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2004 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

<i>S. F. No.</i>	<i>H. F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Time and Date Approved 2004</i>	<i>Date Filed 2004</i>
	480	137	2:30 p.m. March 19	March 22
2182		138	6:52 p.m. March 19	March 22
1799		139	6:57 p.m. March 19	March 22
1814		140	7:03 p.m. March 19	March 22

Sincerely,

MARY KIFFMEYER  
Secretary of State

## REPORTS OF STANDING COMMITTEES

Bradley from the Committee on Health and Human Services Finance to which was referred:

H. F. No. 1681, A bill for an act relating to health; conforming to federal tax changes to encourage consumer-driven health plans; encouraging efficiency in providing health care; reforming medical malpractice liability; reducing and providing a moratorium on state-imposed private-sector health coverage mandates; providing a pilot project for health plans that do not cover all mandated benefits; eliminating capital expenditure reporting requirements; permitting nonprofit hospitals to garnish state tax refunds; permitting file-and-use for health insurance policy forms; permitting for-profit health maintenance organizations; transferring regulatory authority for health maintenance organizations; addressing the cost-shifting impacts of public sector health care programs; amending Minnesota Statutes 2002, sections 16A.10, by adding a subdivision; 43A.23, by adding a subdivision; 62A.02, subdivision 2; 62D.02, subdivision 4, by adding a subdivision; 62D.03, subdivision 1; 62D.04, subdivision 1; 62Q.65; 72A.20, by adding a subdivision; 147.03, subdivision 1; 256B.04, by adding a subdivision; Minnesota Statutes 2003 Supplement, sections 62J.26, by adding a subdivision; 144.7063, subdivision 3; 270A.03, subdivision 2; 290.01, subdivisions 19, 31; proposing coding for new law in Minnesota Statutes, chapters 3; 62J; 62L; 62Q; 144; 147; 151; 604; repealing Minnesota Statutes 2002, sections 62A.309; 62J.17, as amended.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

### "ARTICLE 1

#### HEALTH CARE COST CONTAINMENT; CONSUMER EMPOWERMENT

Section 1. Minnesota Statutes 2002, section 43A.23, is amended by adding a subdivision to read:

Subd. 4. [HEALTH SAVINGS ACCOUNTS.] During collective bargaining negotiations with the exclusive representatives of state employees, the commissioner must propose that state employee health coverage include at least one plan of hospital and medical benefits that combines a high deductible health plan with a health savings account, so as to qualify the health savings account under section 223 of the Internal Revenue Code, as amended.

Sec. 2. [62J.81] [DISCLOSURE OF PAYMENTS FOR HEALTH CARE SERVICES.]

Subdivision 1. [REQUIRED DISCLOSURE OF PAYMENT RANGE.] A health care provider, as defined in section 62J.03, subdivision 8, shall, at the request of a consumer, provide that consumer with the beginning and end of the range of payments received by the provider from health plan companies for a specific service or services that the consumer may reasonably expect to receive from the provider, based upon the consumer's medical condition. The beginning of the range of payments received by a provider is the lowest amount the provider is paid by a health plan company for a specific service and the end of the range is the highest amount the provider is paid by a health plan company for the service, based upon the provider agreements in force at the time of the request. A provider is not required to identify the names of health plan companies.

Subd. 2. [APPLICABILITY.] For purposes of this section, "consumer" does not include a medical assistance, MinnesotaCare, or general assistance medical care enrollee, for services covered under those programs, and a health care provider shall not include in the range, payments from the medical assistance, MinnesotaCare, and general assistance medical care programs.

Sec. 3. Minnesota Statutes 2002, section 62Q.65, is amended to read:

62Q.65 [ACCESS TO PROVIDER DISCOUNTS.]

Subdivision 1. [REQUIREMENT.] A high deductible health plan must, when used in connection with ~~a medical savings account~~ an Archer MSA or with a health savings account, provide the enrollee access to any discounted provider fees for services covered by the high deductible health plan, regardless of whether the enrollee has satisfied the deductible for the high deductible health plan.

Subd. 2. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given:

(1) "high deductible health plan" has the meaning given under the Internal Revenue Code of 1986, section 220(c)(2) or 223(c)(2);

(2) "~~medical savings account~~ Archer MSA" has the meaning given under the Internal Revenue Code of 1986, section 220(d)(1); ~~and~~

(3) "discounted provider fees" means fees contained in a provider agreement entered into by the issuer of the high deductible health plan, or by an affiliate of the issuer, for use in connection with the high deductible health plan; and

(4) "health savings account" has the meaning given under the Internal Revenue Code of 1986, section 223(d).

Sec. 4. [151.214] [PAYMENT DISCLOSURE.]

Subdivision 1. [EXPLANATION OF PHARMACY BENEFITS.] A pharmacist licensed under this chapter must provide to a patient, for each prescription dispensed where part or all of the cost of the prescription is being paid or reimbursed by an employer-sponsored plan or health plan company, or its contracted pharmacy benefit manager, the patient's co-payment amount and the usual and customary price of the prescription or the amount the pharmacy will be paid for the prescription drug by the patient's employer-sponsored plan or health plan company, or its contracted pharmacy benefit manager.

Subd. 2. [NO PROHIBITION ON DISCLOSURE.] No contracting agreement between an employer-sponsored health plan or health plan company, or its contracted pharmacy benefit manager, and a resident or nonresident pharmacy registered under this chapter, may prohibit the pharmacy from disclosing to patients information a pharmacy is required or given the option to provide under subdivision 1.

Sec. 5. Minnesota Statutes 2003 Supplement, section 290.01, subdivision 19, is amended to read:

Subd. 19. [NET INCOME.] The term "net income" means the federal taxable income, as defined in section 63 of the Internal Revenue Code of 1986, as amended through the date named in this subdivision, incorporating any elections made by the taxpayer in accordance with the Internal Revenue Code in determining federal taxable income for federal income tax purposes, and with the modifications provided in subdivisions 19a to 19f.

In the case of a regulated investment company or a fund thereof, as defined in section 851(a) or 851(g) of the Internal Revenue Code, federal taxable income means investment company taxable income as defined in section 852(b)(2) of the Internal Revenue Code, except that:

(1) the exclusion of net capital gain provided in section 852(b)(2)(A) of the Internal Revenue Code does not apply;

(2) the deduction for dividends paid under section 852(b)(2)(D) of the Internal Revenue Code must be applied by allowing a deduction for capital gain dividends and exempt-interest dividends as defined in sections 852(b)(3)(C) and 852(b)(5) of the Internal Revenue Code; and

(3) the deduction for dividends paid must also be applied in the amount of any undistributed capital gains which the regulated investment company elects to have treated as provided in section 852(b)(3)(D) of the Internal Revenue Code.

The net income of a real estate investment trust as defined and limited by section 856(a), (b), and (c) of the Internal Revenue Code means the real estate investment trust taxable income as defined in section 857(b)(2) of the Internal Revenue Code.

The net income of a designated settlement fund as defined in section 468B(d) of the Internal Revenue Code means the gross income as defined in section 468B(b) of the Internal Revenue Code.

The provisions of sections 1113(a), 1117, 1206(a), 1313(a), 1402(a), 1403(a), 1443, 1450, 1501(a), 1605, 1611(a), 1612, 1616, 1617, 1704(l), and 1704(m) of the Small Business Job Protection Act, Public Law 104-188, the provisions of Public Law 104-117, the provisions of sections 313(a) and (b)(1), 602(a), 913(b), 941, 961, 971, 1001(a) and (b), 1002, 1003, 1012, 1013, 1014, 1061, 1062, 1081, 1084(b), 1086, 1087, 1111(a), 1131(b) and (c), 1211(b), 1213, 1530(c)(2), 1601(f)(5) and (h), and 1604(d)(1) of the Taxpayer Relief Act of 1997, Public Law 105-34, the provisions of section 6010 of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105-206, the provisions of section 4003 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Public Law 105-277, and the provisions of section 318 of the Consolidated Appropriation Act of 2001, Public Law 106-554, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1996, shall be in effect for taxable years beginning after December 31, 1996.

The provisions of sections 202(a) and (b), 221(a), 225, 312, 313, 913(a), 934, 962, 1004, 1005, 1052, 1063, 1084(a) and (c), 1089, 1112, 1171, 1204, 1271(a) and (b), 1305(a), 1306, 1307, 1308, 1309, 1501(b), 1502(b), 1504(a), 1505, 1527, 1528, 1530, 1601(d), (e), (f), and (i) and 1602(a), (b), (c), and (e) of the Taxpayer Relief Act of 1997, Public Law 105-34, the provisions of sections 6004, 6005, 6012, 6013, 6015, 6016, 7002, and 7003 of the

Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105-206, the provisions of section 3001 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Public Law 105-277, the provisions of section 3001 of the Miscellaneous Trade and Technical Corrections Act of 1999, Public Law 106-36, and the provisions of section 316 of the Consolidated Appropriation Act of 2001, Public Law 106-554, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1997, shall be in effect for taxable years beginning after December 31, 1997.

The provisions of sections 5002, 6009, 6011, and 7001 of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105-206, the provisions of section 9010 of the Transportation Equity Act for the 21st Century, Public Law 105-178, the provisions of sections 1004, 4002, and 5301 of the Omnibus Consolidation and Emergency Supplemental Appropriations Act, 1999, Public Law 105-277, the provision of section 303 of the Ricky Ray Hemophilia Relief Fund Act of 1998, Public Law 105-369, the provisions of sections 532, 534, 536, 537, and 538 of the Ticket to Work and Work Incentives Improvement Act of 1999, Public Law 106-170, the provisions of the Installment Tax Correction Act of 2000, Public Law 106-573, and the provisions of section 309 of the Consolidated Appropriation Act of 2001, Public Law 106-554, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1998, shall be in effect for taxable years beginning after December 31, 1998.

The provisions of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000, Public Law 106-519, and the provision of section 412 of the Job Creation and Worker Assistance Act of 2002, Public Law 107-147, shall become effective at the time it became effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1999, shall be in effect for taxable years beginning after December 31, 1999. The provisions of sections 306 and 401 of the Consolidated Appropriation Act of 2001, Public Law 106-554, and the provision of section 632(b)(2)(A) of the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law 107-16, and provisions of sections 101 and 402 of the Job Creation and Worker Assistance Act of 2002, Public Law 107-147, shall become effective at the same time it became effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 2000, shall be in effect for taxable years beginning after December 31, 2000. The provisions of sections 659a and 671 of the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law 107-16, the provisions of sections 104, 105, and 111 of the Victims of Terrorism Tax Relief Act of 2001, Public Law 107-134, and the provisions of sections 201, 403, 413, and 606 of the Job Creation and Worker Assistance Act of 2002, Public Law 107-147, shall become effective at the same time it became effective for federal purposes.

The Internal Revenue Code of 1986, as amended through March 15, 2002, shall be in effect for taxable years beginning after December 31, 2001.

The provisions of sections 101 and 102 of the Victims of Terrorism Tax Relief Act of 2001, Public Law 107-134, shall become effective at the same time it becomes effective for federal purposes.

The Internal Revenue Code of 1986, as amended through June 15, 2003, shall be in effect for taxable years beginning after December 31, 2002. The provisions of section 201 of the Jobs and Growth Tax Relief and Reconciliation Act of 2003, H.R. 2, if it is enacted into law, are effective at the same time it became effective for federal purposes.

Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, codified as section 223 of the Internal Revenue Code, as amended, relating to health savings accounts, is effective at the same time it became effective for federal purposes.

Except as otherwise provided, references to the Internal Revenue Code in subdivisions 19a to 19g mean the code in effect for purposes of determining net income for the applicable year.

Sec. 6. Minnesota Statutes 2003 Supplement, section 290.01, subdivision 31, is amended to read:

Subd. 31. [INTERNAL REVENUE CODE.] Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through June 15, 2003, and as amended by section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, codified as section 223 of the Internal Revenue Code, as amended, relating to health savings accounts.

## ARTICLE 2

### HEALTH CARE COST CONTAINMENT; BEST PRACTICES

Section 1. [62J.43] [BEST PRACTICES AND QUALITY IMPROVEMENT.]

(a) To improve quality and reduce health care costs, state agencies shall encourage the adoption of best practice guidelines and participation in best practices measurement activities by physicians, other health care providers, universities and colleges, health care purchasers, and health plan companies. The commissioner of health shall facilitate access to best practice guidelines and quality of care measurement information for providers, purchasers, and consumers by:

(1) identifying and promoting local, community-based, physician-designed best practices care across the Minnesota health care system;

(2) disseminating information on adherence to best practices care by physicians and other health care providers in Minnesota; and

(3) educating consumers and purchasers on how to effectively use this information in choosing their health care providers and making purchasing decisions.

(b) The commissioner of health shall collaborate with a nonprofit Minnesota quality improvement organization specializing in best practices and quality of care measurements to provide best practices criteria.

(c) The initial best practices and quality of care measurement criteria developed shall address diabetes and congestive heart failure.

(d) The commissioners of human services and employee relations may use the best practices guidelines to assist them in developing contracting strategies that are appropriate for the populations they serve. The commissioners shall report to the legislature by January 1, 2006, on agency use of best practices guidelines.

(e) This section does not apply if the best practices guidelines authorizes or recommends denial of treatment, food, or fluids necessary to sustain life on the basis of the patient's age or expected length of life or the patient's present or predicted disability, degree of medical dependency, or quality of life.

Sec. 2. Minnesota Statutes 2003 Supplement, section 144.7063, subdivision 3, is amended to read:

Subd. 3. [FACILITY.] "Facility" means a hospital licensed under sections 144.50 to 144.58 or an outpatient surgical center licensed under Minnesota Rules, chapter 4675.

Sec. 3. [256B.075] [DISEASE MANAGEMENT PROGRAMS.]

Subdivision 1. [GENERAL.] The commissioner shall implement disease management initiatives that seek to improve patient care and health outcomes and reduce health care costs by managing the care provided to recipients with chronic conditions.

Subd. 2. [FEE-FOR-SERVICE.] (a) The commissioner shall develop and implement a disease management program for medical assistance and general assistance medical care recipients who are not enrolled in the prepaid medical assistance or prepaid general assistance medical care programs and who are receiving services on a fee-for-service basis. The commissioner may contract with an outside organization to provide these services.

(b) The commissioner shall seek any federal approval necessary to implement this section and to obtain federal matching funds.

Subd. 3. [PREPAID MANAGED CARE PROGRAMS.] For the prepaid medical assistance, prepaid general assistance medical care, and MinnesotaCare programs, the commissioner shall ensure that contracting health plans implement disease management programs that are appropriate for Minnesota health care program recipients and have been designed by the health plan to improve patient care and health outcomes and reduce health care costs by managing the care provided to recipients with chronic conditions.

Subd. 4. [HEMOPHILIA.] The commissioner shall develop a disease management initiative for Minnesota health care program recipients who have been diagnosed with hemophilia. In developing the program, the commissioner shall explore the feasibility of contracting with a section 340B provider to provide disease management services or coordination of care in order to maximize the discounted prescription drug prices of the federal 340B program offered through section 340B of the federal Public Health Services Act, United States Code, title 42, section 256b (1999).

## ARTICLE 3

### HEALTH CARE COST CONTAINMENT; COST-SHIFTING

Section 1. Minnesota Statutes 2002, section 16A.10, is amended by adding a subdivision to read:

Subd. 4. [LIMIT ON STATE HEALTH CARE PROGRAM EXPANSION.] No budget proposal shall include any provision that requests new or increased funding for an expansion of eligibility or covered services for a state health care program, unless state health care program reimbursement rates for major service categories, at the time the expansion is to take effect, will be sufficient to cover estimated provider costs for each major service category. For purposes of this section, "state health care program" means the medical assistance, MinnesotaCare, and general assistance medical care programs.

Sec. 2. [STUDY OF COST-SHIFTING.]

(a) The commissioner of health shall evaluate the extent to which state health care program reimbursement rates result in health care provider cost-shifting to private sector payers and individuals paying for services out-of-pocket. In conducting the evaluation, the commissioner shall:



(1) examine the extent to which average state health care program reimbursement rates for major categories of services vary from average private sector reimbursement rates;

(2) examine the extent to which average state health care program reimbursement rates for major categories of services cover average provider costs;

(3) estimate the amount by which average state health care program reimbursement rates for major categories of services would need to be increased to match average private sector reimbursement rates and to cover average provider costs; and

(4) present recommendations to the legislature on methods of increasing average state health care program reimbursement rates for major categories of services, over a six-year period, to the average private sector reimbursement rate and to a level that covers average provider costs.

(b) The commissioner shall present results and recommendations to the legislature by December 15, 2004. The commissioner may contract with an actuarial consulting firm to implement this section. Payment and reimbursement data collected by the commissioner in the course of implementing this section shall be classified as not public data under Minnesota Statutes, chapter 13, except that data shall be classified as public data not on individuals if the information collected was already accessible to the public under the policies of the private sector entity providing the data. For purposes of this section, "state health care program" means the medical assistance, MinnesotaCare, and general assistance medical care programs.

#### ARTICLE 4

##### HEALTH CARE COST CONTAINMENT; REDUCING GOVERNMENT MANDATES

Section 1. Minnesota Statutes 2003 Supplement, section 62J.26, is amended by adding a subdivision to read:

Subd. 6. [MANDATED BENEFITS MORATORIUM.] (a) No new mandated health benefit proposal, as defined in subdivision 1, shall be enacted.

(b) This subdivision expires January 1, 2007.

Sec. 2. [62L.056] [SMALL EMPLOYER ALTERNATIVE BENEFIT PLANS.]

(a) Notwithstanding any provision of this chapter, chapter 363A, or any other law to the contrary, the commissioner of commerce shall by January 1, 2005, permit health carriers to offer alternative health benefit plans to small employers if the following requirements are satisfied:

(1) the health carrier is assessed less than ten percent of the total amount assessed by the Minnesota Comprehensive Health Association;

(2) the health plans must be offered in compliance with this chapter, except as otherwise permitted in this section;

(3) the health plans to be offered must be designed to enable employers and covered persons to better manage costs and coverage options through the use of co-pays, deductibles, and other cost-sharing arrangements;

(4) the health plans must be issued and administered in compliance with sections 62E.141; 62L.03, subdivision 6; and 62L.12, subdivisions 3 and 4, relating to prohibitions against enrolling in the Minnesota Comprehensive Health Association persons eligible for employer group coverage;

(5) loss-ratio requirements do not apply to health plans issued under this section;

(6) the health plans may alter or eliminate coverages that would otherwise be required by law, except for maternity coverage as required under federal law;

(7) each health plan must be approved by the commissioner of commerce; and

(8) the commissioner may limit the types and numbers of health plan forms permitted under this section, but must permit, as one option, a health plan form in which a health carrier may exclude or alter coverage of any or all benefits otherwise mandated by state law, except for maternity coverage as required under federal law.

(b) The definitions in section 62L.02 apply to this section as modified by this section.

(c) An employer may provide health plans permitted under this section to its employees, the employees' dependents, and other persons eligible for coverage under the employer's plan, notwithstanding chapter 363A or any other law to the contrary.

Sec. 3. [REPEALER; BONE MARROW TRANSPLANT MANDATE.]

Minnesota Statutes 2002, section 62A.309, is repealed.

## ARTICLE 5

### HEALTH CARE COST CONTAINMENT; HEALTH PLAN COMPETITION AND REFORM

Section 1. Minnesota Statutes 2002, section 62A.02, subdivision 2, is amended to read:

Subd. 2. [APPROVAL.] (a) The health plan form shall not be issued, nor shall any application, rider, endorsement, or rate be used in connection with it, until the expiration of 60 days after it has been filed unless the commissioner approves it before that time.

(b) Notwithstanding paragraph (a), a health plan form or a rate, filed with respect to a policy of accident and sickness insurance as defined in section 62A.01 by an insurer licensed under chapter 60A, may be used on or after the date of filing with the commissioner. Health plan forms and rates that are not approved or disapproved within the 60-day time period are deemed approved. This paragraph does not apply to Medicare-related coverage as defined in section 62A.31, subdivision 3, paragraph (q).

Sec. 2. Minnesota Statutes 2002, section 62D.02, subdivision 4, is amended to read:

Subd. 4. [HEALTH MAINTENANCE ORGANIZATION.] (a) "Health maintenance organization" means a ~~nonprofit corporation organized under chapter 317A, or~~ person, including a local governmental unit as defined in subdivision 11, controlled and operated as provided in sections 62D.01 to 62D.30, which provides, either directly or through arrangements with providers or other persons, comprehensive health maintenance services, or arranges for the provision of these services, to enrollees on the basis of a fixed prepaid sum without regard to the frequency or extent of services furnished to any particular enrollee.

Sec. 3. Minnesota Statutes 2002, section 62D.02, is amended by adding a subdivision to read:

Subd. 17. [PERSON.] "Person" means a natural or artificial person, including, but not limited to, individuals, partnerships, limited liability companies, associations, trusts, corporations, other business entities, or governmental entities.

Sec. 4. Minnesota Statutes 2002, section 62D.03, subdivision 1, is amended to read:

Subdivision 1. [CERTIFICATE OF AUTHORITY REQUIRED.] Notwithstanding any law of this state to the contrary, any ~~nonprofit corporation organized to do so or a local governmental unit~~ person may apply to the commissioner of health for a certificate of authority to establish and operate a health maintenance organization in compliance with sections 62D.01 to 62D.30. No person shall establish or operate a health maintenance organization in this state, nor sell or offer to sell, or solicit offers to purchase or receive advance or periodic consideration in conjunction with a health maintenance organization or health maintenance contract unless the organization has a certificate of authority under sections 62D.01 to 62D.30. An out-of-state corporation may qualify under this chapter, subject to obtaining a certificate of authority to do business in this state, as an out-of-state corporation under chapter 303 and compliance with this chapter and other applicable state laws.

Sec. 5. Minnesota Statutes 2002, section 62D.04, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION REVIEW.] Upon receipt of an application for a certificate of authority, the commissioner of health shall determine whether the applicant for a certificate of authority has:

(a) demonstrated the willingness and potential ability to assure that health care services will be provided in such a manner as to enhance and assure both the availability and accessibility of adequate personnel and facilities;

(b) arrangements for an ongoing evaluation of the quality of health care;

(c) a procedure to develop, compile, evaluate, and report statistics relating to the cost of its operations, the pattern of utilization of its services, the quality, availability and accessibility of its services, and such other matters as may be reasonably required by regulation of the commissioner of health;

(d) reasonable provisions for emergency and out of area health care services;

(e) demonstrated that it is financially responsible and may reasonably be expected to meet its obligations to enrollees and prospective enrollees. In making this determination, the commissioner of health shall require the amounts of net worth and working capital required in section 62D.042, the deposit required in section 62D.041, and in addition shall consider:

(1) the financial soundness of its arrangements for health care services and the proposed schedule of charges used in connection therewith;

(2) arrangements which will guarantee for a reasonable period of time the continued availability or payment of the cost of health care services in the event of discontinuance of the health maintenance organization; and

(3) agreements with providers for the provision of health care services;

(f) demonstrated that it will assume full financial risk on a prospective basis for the provision of comprehensive health maintenance services, including hospital care; provided, however, that the requirement in this paragraph shall not prohibit the following:

(1) a health maintenance organization from obtaining insurance or making other arrangements (i) for the cost of providing to any enrollee comprehensive health maintenance services, the aggregate value of which exceeds \$5,000 in any year, (ii) for the cost of providing comprehensive health care services to its members on a nonelective emergency basis, or while they are outside the area served by the organization, or (iii) for not more than 95 percent of the amount by which the health maintenance organization's costs for any of its fiscal years exceed 105 percent of its income for such fiscal years; and

(2) a health maintenance organization from having a provision in a group health maintenance contract allowing an adjustment of premiums paid based upon the actual health services utilization of the enrollees covered under the contract, except that at no time during the life of the contract shall the contract holder fully self-insure the financial risk of health care services delivered under the contract. Risk sharing arrangements shall be subject to the requirements of sections 62D.01 to 62D.30;

(g) demonstrated that it has made provisions for and adopted a conflict of interest policy applicable to all members of the board of directors and the principal officers of the health maintenance organization. The conflict of interest policy shall include the procedures described in section 317A.255, subdivisions 1 and 2, or a substantially similar provision contained in the laws under which the health maintenance organization is incorporated or otherwise organized. However, the commissioner is not precluded from finding that a particular transaction is an unreasonable expense as described in section 62D.19 even if the directors follow the required procedures; and

(h) otherwise met the requirements of sections 62D.01 to 62D.30.

Sec. 6. Minnesota Statutes 2002, section 62D.05, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY GRANTED.] Any ~~nonprofit corporation or local governmental unit~~ person may, upon obtaining a certificate of authority as required in sections 62D.01 to 62D.30, operate as a health maintenance organization.

Sec. 7. Minnesota Statutes 2003 Supplement, section 62E.08, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] The association shall establish the following maximum premiums to be charged for membership in the comprehensive health insurance plan:

(a) the premium for the number one qualified plan shall range from a minimum of ~~40+~~ 115 percent to a maximum of ~~125~~ 135 percent of the weighted average of rates charged by those insurers and health maintenance organizations with individuals enrolled in:

(1) \$1,000 annual deductible individual plans of insurance in force in Minnesota;

(2) individual health maintenance organization contracts of coverage with a \$1,000 annual deductible which are in force in Minnesota; and

(3) other plans of coverage similar to plans offered by the association based on generally accepted actuarial principles;

(b) the premium for the number two qualified plan shall range from a minimum of ~~40+~~ 115 percent to a maximum of ~~125~~ 135 percent of the weighted average of rates charged by those insurers and health maintenance organizations with individuals enrolled in:

(1) \$500 annual deductible individual plans of insurance in force in Minnesota;

(2) individual health maintenance organization contracts of coverage with a \$500 annual deductible which are in force in Minnesota; and

(3) other plans of coverage similar to plans offered by the association based on generally accepted actuarial principles;

(c) the premiums for the plans with a \$2,000, \$5,000, or \$10,000 annual deductible shall range from a minimum of ~~40+~~ 115 percent to a maximum of ~~425~~ 135 percent of the weighted average of rates charged by those insurers and health maintenance organizations with individuals enrolled in:

(1) \$2,000, \$5,000, or \$10,000 annual deductible individual plans, respectively, in force in Minnesota; and

(2) individual health maintenance organization contracts of coverage with a \$2,000, \$5,000, or \$10,000 annual deductible, respectively, which are in force in Minnesota; or

(3) other plans of coverage similar to plans offered by the association based on generally accepted actuarial principles;

(d) the premium for each type of Medicare supplement plan required to be offered by the association pursuant to section 62E.12 shall range from a minimum of ~~40+~~ 115 percent to a maximum of ~~425~~ 135 percent of the weighted average of rates charged by those insurers and health maintenance organizations with individuals enrolled in:

(1) Medicare supplement plans in force in Minnesota;

(2) health maintenance organization Medicare supplement contracts of coverage which are in force in Minnesota; and

(3) other plans of coverage similar to plans offered by the association based on generally accepted actuarial principles; and

(e) the charge for health maintenance organization coverage shall be based on generally accepted actuarial principles.

The list of insurers and health maintenance organizations whose rates are used to establish the premium for coverage offered by the association pursuant to paragraphs (a) to (d) shall be established by the commissioner on the basis of information which shall be provided to the association by all insurers and health maintenance organizations annually at the commissioner's request. This information shall include the number of individuals covered by each type of plan or contract specified in paragraphs (a) to (d) that is sold, issued, and renewed by the insurers and health maintenance organizations, including those plans or contracts available only on a renewal basis. The information shall also include the rates charged for each type of plan or contract.

In establishing premiums pursuant to this section, the association shall utilize generally accepted actuarial principles, provided that the association shall not discriminate in charging premiums based upon sex. In order to compute a weighted average for each type of plan or contract specified under paragraphs (a) to (d), the association shall, using the information collected pursuant to this subdivision, list insurers and health maintenance organizations in rank order of the total number of individuals covered by each insurer or health maintenance organization. The association shall then compute a weighted average of the rates charged for coverage by all the insurers and health maintenance organizations by:

(1) multiplying the numbers of individuals covered by each insurer or health maintenance organization by the rates charged for coverage;

(2) separately summing both the number of individuals covered by all the insurers and health maintenance organizations and all the products computed under clause (1); and

(3) dividing the total of the products computed under clause (1) by the total number of individuals covered.

The association may elect to use a sample of information from the insurers and health maintenance organizations for purposes of computing a weighted average. In no case, however, may a sample used by the association to compute a weighted average include information from fewer than the two insurers or health maintenance organizations highest in rank order.

Sec. 8. Minnesota Statutes 2003 Supplement, section 62E.091, is amended to read:

62E.091 [APPROVAL OF STATE PLAN PREMIUMS.]

The association shall submit to the commissioner any premiums it proposes to become effective for coverage under the comprehensive health insurance plan, pursuant to section 62E.08, subdivision 3. No later than 45 days before the effective date for premiums specified in section 62E.08, subdivision 3, the commissioner shall approve, modify, or reject the proposed premiums on the basis of the following criteria:

- (a) whether the association has complied with the provisions of section 62E.11, subdivision 11;
- (b) whether the association has submitted the proposed premiums in a manner which provides sufficient time for individuals covered under the comprehensive insurance plan to receive notice of any premium increase no less than 30 days prior to the effective date of the increase;
- (c) the degree to which the association's computations and conclusions are consistent with section 62E.08;
- (d) the degree to which any sample used to compute a weighted average by the association pursuant to section 62E.08 reasonably reflects circumstances existing in the private marketplace for individual coverage;
- (e) the degree to which a weighted average computed pursuant to section 62E.08 that uses information pertaining to individual coverage available only on a renewal basis reflects the circumstances existing in the private marketplace for individual coverage;
- (f) a comparison of the proposed increases with increases in the cost of medical care and increases experienced in the private marketplace for individual coverage;
- (g) the financial consequences to enrollees of the proposed increase;
- (h) the actuarially projected effect of the proposed increase upon both total enrollment in, and the nature of the risks assumed by, the comprehensive health insurance plan;
- (i) the relative solvency of the contributing members; and
- (j) other factors deemed relevant by the commissioner.

In no case, however, may the commissioner approve premiums for those plans of coverage described in section 62E.08, subdivision 1, paragraphs (a) to (d), that are lower than ~~40+~~ 115 percent or greater than ~~425~~ 135 percent of the weighted averages computed by the association pursuant to section 62E.08. The commissioner shall support a decision to approve, modify, or reject any premium proposed by the association with written findings and

conclusions addressing each criterion specified in this section. If the commissioner does not approve, modify, or reject the premiums proposed by the association sooner than 45 days before the effective date for premiums specified in section 62E.08, subdivision 3, the premiums proposed by the association under this section become effective.

Sec. 9. [62Q.37] [AUDITS CONDUCTED BY NATIONALLY RECOGNIZED INDEPENDENT ORGANIZATION.]

Subdivision 1. [APPLICABILITY.] This section applies only to (i) a nonprofit health service plan corporation operating under chapter 62C; (ii) a health maintenance organization operating under chapter 62D; (iii) a community integrated service network operating under chapter 62N; and (iv) managed care organizations operating under chapter 256B, 256D, or 256L.

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

(a) "Commissioner" means the commissioner of health for purposes of regulating health maintenance organizations and community integrated service networks, the commissioner of commerce for purposes of regulating nonprofit health service plan corporations, or the commissioner of human services for the purpose of contracting with managed care organizations serving persons enrolled in programs under chapter 256B, 256D, or 256L.

(b) "Health plan company" means (i) a nonprofit health service plan corporation operating under chapter 62C; (ii) a health maintenance organization operating under chapter 62D; (iii) a community integrated service network operating under chapter 62N; or (iv) a managed care organization operating under chapter 256B, 256D, or 256L.

(c) "Nationally recognized independent organization" means (i) an organization that sets specific national standards governing health care quality assurance processes, utilization review, provider credentialing, marketing, and other topics covered by this chapter and other chapters and audits and provides accreditation to those health plan companies that meet those standards. The American Accreditation Health Care Commission (URAC), the National Committee for Quality Assurance (NCQA), and the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) are, at a minimum, defined as nationally recognized independent organizations; and (ii) the Centers for Medicare and Medicaid Services for purposes of reviews or audits conducted of health plan companies under Part C of Title XVIII of the Social Security Act or under section 1876 of the Social Security Act.

(d) "Performance standard" means those standards relating to quality management and improvement, access and availability of service, utilization review, provider selection, provider credentialing, marketing, member rights and responsibilities, complaints, appeals, grievance systems, enrollee information and materials, enrollment and disenrollment, subcontractual relationships and delegation, confidentiality, continuity and coordination of care, assurance of adequate capacity and services, coverage and authorization of services, practice guidelines, health information systems, and financial solvency.

Subd. 3. [AUDITS.] (a) The commissioner may conduct routine audits and investigations as prescribed under the commissioner's respective state authorizing statutes. If a nationally recognized independent organization has conducted an audit of the health plan company using audit procedures that are comparable to or more stringent than the commissioner's audit procedures:

(1) the commissioner may accept the independent audit and require no further audit if the results of the independent audit show that the performance standard being audited meets or exceeds state standards;

(2) the commissioner may accept the independent audit and limit further auditing if the results of the independent audit show that the performance standard being audited partially meets state standards;

(3) the health plan company must demonstrate to the commissioner that the nationally recognized independent organization that conducted the audit is qualified and that the results of the audit demonstrate that the particular performance standard partially or fully meets state standards; and

(4) if the commissioner has partially or fully accepted an independent audit of the performance standard, the commissioner may use the finding of a deficiency with regard to statutes or rules by an independent audit as the basis for a targeted audit or enforcement action.

(b) If a health plan company has formally delegated activities that are required under either state law or contract to another organization that has undergone an audit by a nationally recognized independent organization, that health plan company may use the nationally recognized accrediting body's determination on its own behalf under this section.

Subd. 4. [DISCLOSURE OF NATIONAL STANDARDS AND REPORTS.] The health plan company shall:

(1) request that the nationally recognized independent organization provide to the commissioner a copy of the current nationally recognized independent organization's standards upon which the acceptable accreditation status has been granted; and

(2) provide the commissioner a copy of the most current final audit report issued by the nationally recognized independent organization.

Subd. 5. [ACCREDITATION NOT REQUIRED.] Nothing in this section requires a health plan company to seek an acceptable accreditation status from a nationally recognized independent organization.

Subd. 6. [CONTINUED AUTHORITY.] Nothing in this section precludes the commissioner from conducting audits and investigations or requesting data as granted under the commissioner's respective state authorizing statutes.

Subd. 7. [HUMAN SERVICES.] The commissioner of human services shall implement this section in a manner that is consistent with applicable federal laws and regulations.

Subd. 8. [CONFIDENTIALITY.] Any documents provided to the commissioner related to the audit report that may be accepted under this section are private data on individuals pursuant to chapter 13 and may only be released as permitted under section 60A.03, subdivision 9.

Sec. 10. Minnesota Statutes 2002, section 72A.20, is amended by adding a subdivision to read:

Subd. 37. [ELECTRONIC TRANSMISSION OF REQUIRED INFORMATION.] A health carrier, as defined in section 62A.011, subdivision 2, is not in violation of this chapter for electronically transmitting or electronically making available information otherwise required to be delivered in writing under chapters 62A to 62Q and 72A to an enrollee as defined in section 62Q.01, subdivision 2a, and with the requirements of those chapters if the following conditions are met:

(1) the health carrier informs the enrollee that electronic transmission or access is available and, at the discretion of the health carrier, the enrollee is given one of the following options:

(i) electronic transmission or access will occur only if the enrollee affirmatively requests to the health carrier that the required information be electronically transmitted or available and a record of that request is retained by the health carrier; or



(ii) electronic transmission or access will automatically occur if the enrollee has not opted out of that manner of transmission by request to the health carrier and requested that the information be provided in writing. If the enrollee opts out of electronic transmission, a record of that request must be retained by the health carrier;

(2) the enrollee is allowed to withdraw the request at any time;

(3) if the information transmitted electronically contains individually identifiable data, it must be transmitted to a secured mailbox. If the information made available electronically contains individually identifiable data, it must be made available at a password-protected secured Web site;

(4) the enrollee is provided a customer service number on the enrollee's member card that may be called to request a written copy of the document; and

(5) the electronic transmission or electronic availability meets all other requirements of this chapter including, but not limited to, size of the typeface and any required time frames for distribution.

Sec. 11. [CHANGE OF HEALTH MAINTENANCE ORGANIZATION REGULATORY AUTHORITY.]

(a) Effective July 1, 2005, regulatory authority for health maintenance organizations under Minnesota Statutes, chapter 62D; community health clinics with respect to health care services prepaid option plans offered under Minnesota Statutes, section 62Q.22; community integrated service networks, as defined in Minnesota Statutes, section 62N.02, subdivision 4a; health care cooperatives operating under Minnesota Statutes, chapter 62R; health care purchasing alliances and accountable provider networks operating under Minnesota Statutes, chapter 62T; and county-based purchasing programs operating under Minnesota Statutes, section 256B.692, subdivision 2, is transferred from the commissioner of health to the commissioner of commerce.

(b) Minnesota Statutes, section 15.039, applies to this transfer of authority.

(c) The revisor of statutes shall make changes to conform to paragraph (a) by changing references to the commissioner of health, Department of Health, and similar references, to the commissioner of commerce, Department of Commerce, or similar references, and by changing references to both commissioners or both departments or "the appropriate commissioner" or similar term to the commissioner or Department of Commerce, as appropriate in Minnesota Statutes, sections 62A.021, subdivision 1, paragraph (h); 62D.02, subdivision 3; 62D.12, subdivision 1; 62D.15, subdivision 1; 62D.24, by also changing the existing reference to "commissioner of commerce" to read "commissioner of health"; 62E.05, subdivision 2; 62E.11, subdivision 13; 62J.041, subdivision 4; 62J.701; 62J.74, subdivisions 1 and 2; 62L.02, subdivision 8; 62L.05, subdivision 12; 62L.08, subdivisions 10 and 11; 62L.09, subdivision 3; 62L.10, subdivision 4; 62L.11, subdivision 2; 62M.11; 62M.16; 62N.02, subdivision 4; 62N.26; 62Q.01, subdivision 2; 62Q.106; 62Q.22, subdivisions 2, 6, and 7; 62Q.33, subdivision 2, by specifying that the commissioner referenced in the last sentence is the commissioner of health; 62Q.49, subdivision 2; 62Q.51, subdivision 3; 62Q.525, subdivision 3; 62Q.69, subdivisions 2 and 3; 62Q.71; 62Q.72; 62Q.73, subdivisions 3, 4, 5, and 6; 62R.04, subdivision 5; 62R.06, subdivision 1; 62T.01; 256B.692, subdivisions 2 and 7. The revisor of statutes shall, in preparing Minnesota Statutes 2004, make all conforming changes in Minnesota Statutes, chapter 62D, and other chapters.

ARTICLE 6

HEALTH CARE COST CONTAINMENT; ADMINISTRATIVE SIMPLIFICATION

Section 1. Minnesota Statutes 2002, section 147.03, subdivision 1, is amended to read:

Subdivision 1. [ENDORSEMENT; RECIPROCITY.] (a) The board may issue a license to practice medicine to any person who satisfies the requirements in paragraphs (b) to (f).

(b) The applicant shall satisfy all the requirements established in section 147.02, subdivision 1, paragraphs (a), (b), (d), (e), and (f).

(c) The applicant shall:

(1) have passed an examination prepared and graded by the Federation of State Medical Boards, the National Board of Medical Examiners, or the United States Medical Licensing Examination program in accordance with section 147.02, subdivision 1, paragraph (c), clause (2); the National Board of Osteopathic Examiners; or the Medical Council of Canada; and

(2) have a current license from the equivalent licensing agency in another state or Canada and, if the examination in clause (1) was passed more than ten years ago, either:

(i) pass the Special Purpose Examination of the Federation of State Medical Boards with a score of 75 or better within three attempts; or

(ii) have a current certification by a specialty board of the American Board of Medical Specialties, of the American Osteopathic Association Bureau of Professional Education, or of the Royal College of Physicians and Surgeons of Canada.

(d) The applicant shall pay a fee established by the board by rule. The fee may not be refunded.

(e) The applicant must not be under license suspension or revocation by the licensing board of the state or jurisdiction in which the conduct that caused the suspension or revocation occurred.

(f) The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action other than as specified in paragraph (e). If an applicant does not satisfy the requirements stated in this paragraph, the board may issue a license only on the applicant's showing that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.

(g) Upon the request of an applicant, the board may conduct the final interview of the applicant by teleconference.

Sec. 2. Minnesota Statutes 2002, section 256B.04, is amended by adding a subdivision to read:

Subd. 20. [INFORMATION WEB SITE FOR INTERPRETER SERVICES.] The commissioner shall establish an information Web site to assist health care providers in obtaining oral language interpreter services when these services are needed to enable a patient to obtain a health care service from a provider. The commissioner must collect and maintain contact and rate information for providers of oral language interpreter services and must make this information available to all health care providers, whether or not the provider is enrolled in a state health care program. The Web site list is not an endorsement by the commissioner of any particular interpreter.

Sec. 3. [COST OF HEALTH CARE REPORTING.]

The commissioners of human services, health, and commerce shall meet with representatives of health plan companies as defined in Minnesota Statutes, section 62Q.01, subdivision 4, and hospitals to evaluate reporting requirements for these regulated entities and develop recommendations for reducing required reports. The commissioner must meet with the specified representatives prior to August 30, 2004, and must submit a consolidated report to the legislature by January 15, 2005. The report must:

(1) identify the name and scope of each required report;

(2) evaluate the need for and use of each report, including the value of the report to consumers;

(3) evaluate the extent to which the report is used to reduce costs and increase quality of care;

(4) identify reports that are no longer required; and

(5) specify any statutory changes necessary to eliminate required reports.

Sec. 4. [REPEALER.]

Minnesota Statutes 2002, section 62J.17, subdivisions 1, 3, 4a, 5a, 6a, 7, and 8; and Minnesota Statutes 2003 Supplement, section 62J.17, subdivision 2, are repealed effective the day following final enactment.

## ARTICLE 7

### CHILD CARE

Section 1. Minnesota Statutes 2003 Supplement, section 119B.09, subdivision 9, is amended to read:

Subd. 9. [LICENSED AND LEGAL NONLICENSED FAMILY CHILD CARE PROVIDERS; ASSISTANCE.] Licensed and legal nonlicensed family child care providers are not eligible to receive child care assistance subsidies under this chapter for their own children or children in their ~~custody~~ family during the hours they are providing child care or being paid to provide child care. Child care providers are eligible to receive child care assistance subsidies for their own children when they are engaged in other work activities that meet the requirements of this chapter and for which child care assistance can be paid. The hours for which the child care provider receives a child care subsidy for their own children must not overlap with the hours the provider provides child care services.

Sec. 2. Minnesota Statutes 2003 Supplement, section 119B.13, subdivision 1, is amended to read:

Subdivision 1. [SUBSIDY RESTRICTIONS.] (a) The maximum rate paid for child care assistance under the child care fund may not exceed the 75th percentile rate for like-care arrangements in the county as surveyed by the commissioner.

(b) A rate which includes ~~a provider bonus paid under subdivision 2 or~~ a special needs rate paid under subdivision 3 may be in excess of the maximum rate allowed under this subdivision.

(c) The department shall monitor the effect of this paragraph on provider rates. The county shall pay the provider's full charges for every child in care up to the maximum established. The commissioner shall determine the maximum rate for each type of care on an hourly, full-day, and weekly basis, including special needs and handicapped care. ~~Not less than once every two years, the commissioner shall evaluate market practices for payment of absences and shall establish policies for payment of absent days that reflect current market practice.~~

(d) When the provider charge is greater than the maximum provider rate allowed, the parent is responsible for payment of the difference in the rates in addition to any family co-payment fee.

Sec. 3. Minnesota Statutes 2002, section 119B.13, is amended by adding a subdivision to read:

Subd. 7. [ABSENT DAYS.] Child care providers may not be reimbursed for more than 25 absent days per child in a 12-month period, or for more than ten consecutive absent days, unless the child has a documented medical condition that causes more frequent absences. Documentation of medical conditions must be on the forms and submitted according to the timelines established by the commissioner.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 4. Minnesota Statutes 2003 Supplement, section 245A.10, subdivision 4, is amended to read:

Subd. 4. [ANNUAL LICENSE OR CERTIFICATION FEE FOR PROGRAMS WITH LICENSED CAPACITY.] (a) Child care centers and programs with a licensed capacity shall pay an annual nonrefundable license or certification fee based on the following schedule:

Licensed Capacity	Child Care Center License Fee	Other Program License Fee
1 to 24 persons	<del>\$300</del> <u>\$225</u>	\$400
25 to 49 persons	<del>\$450</del> <u>\$340</u>	\$600
50 to 74 persons	<del>\$600</del> <u>\$450</u>	\$800
75 to 99 persons	<del>\$750</del> <u>\$565</u>	\$1,000
100 to 124 persons	<del>\$900</del> <u>\$675</u>	\$1,200
125 to 149 persons	<del>\$1,200</del> <u>\$900</u>	\$1,400
150 to 174 persons	<del>\$1,400</del> <u>\$1,050</u>	\$1,600
175 to 199 persons	<del>\$1,600</del> <u>\$1,200</u>	\$1,800
200 to 224 persons	<del>\$1,800</del> <u>\$1,350</u>	\$2,000
225 or more persons	<del>\$2,000</del> <u>\$1,500</u>	\$2,500

(b) A day training and habilitation program serving persons with developmental disabilities or related conditions shall be assessed a license fee based on the schedule in paragraph (a) unless the license holder serves more than 50 percent of the same persons at two or more locations in the community. When a day training and habilitation program serves more than 50 percent of the same persons in two or more locations in a community, the day training and habilitation program shall pay a license fee based on the licensed capacity of the largest facility and the other facility or facilities shall be charged a license fee based on a licensed capacity of a residential program serving one to 24 persons.

Sec. 5. Laws 2003, First Special Session chapter 14, article 9, section 34, is amended to read:

Sec. 34. [DIRECTION TO COMMISSIONER; PROVIDER RATES.]

The provider rates determined under Minnesota Statutes, section 119B.13, for fiscal year 2003 and implemented on July 1, 2002, are to be continued in effect through June 30, ~~2005~~ 2007. Counties shall not reduce any child care center's reimbursement rate below the rate implemented on July 1, 2002. The commissioner of human services is directed to evaluate the costs of child care in Minnesota, to examine the differences in the cost of child care in rural and metropolitan areas, and to make recommendations to the legislature for containing future cost increases in the child care program under Minnesota Statutes, chapter 119B, in a manner that complies with federal child care and development block grant requirements for promoting parental choice and permits the department to track the effect of rate changes on child care assistance program costs, the availability of different types of care throughout the state, the length of waiting lists, and the care options available to program participants. The commissioner shall also examine the allocation formula under Minnesota Statutes, section 119B.03, and make recommendations to the legislature in order to create a more equitable formula. The commissioner shall consider the impact any recommendations might have on work incentives for low and middle income families and possible changes to MFIP child care, basic sliding fee child care, and the dependent care tax credit. The commissioner shall make recommendations to the legislature by January 15, 2005.

The commissioner shall also study the relationship between child care assistance subsidies and tax credits or tax incentives related to child care expenses, and include this information in the January 15, 2005, report to the legislature under this section.

## Sec. 6. [TEMPORARY INELIGIBILITY OF MILITARY PERSONNEL.]

Counties must reserve a family's position under the child care assistance fund if a family has been receiving child care assistance but is temporarily ineligible for assistance due to increased income from active military service. Activated military personnel may be temporarily ineligible until deactivated. A county must reserve a military family's position on the basic sliding fee waiting list under the child care assistance fund if a family is approved to receive child care assistance and reaches the top of the waiting list but is temporarily ineligible for assistance.

## ARTICLE 8

## ECONOMIC SUPPORTS

Section 1. Minnesota Statutes 2002, section 256D.051, subdivision 1a, is amended to read:

Subd. 1a. [NOTICES AND SANCTIONS.] (a) At the time the county agency notifies the household that it is eligible for food stamps, the county agency must inform all mandatory employment and training services participants as identified in subdivision 1 in the household that they must comply with all food stamp employment and training program requirements each month, including the requirement to attend an initial orientation to the food stamp employment and training program and that food stamp eligibility will end unless the participants comply with the requirements specified in the notice.

(b) A participant who fails without good cause to comply with food stamp employment and training program requirements of this section, including attendance at orientation, will lose food stamp eligibility for the following periods:

(1) for the first occurrence, for one month or until the person complies with the requirements not previously complied with, whichever is longer;

(2) for the second occurrence, for three months or until the person complies with the requirements not previously complied with, whichever is longer; or

(3) for the third and any subsequent occurrence, for six months or until the person complies with the requirements not previously complied with, whichever is longer.

If the participant is not the food stamp head of household, the person shall be considered an ineligible household member for food stamp purposes. If the participant is the food stamp head of household, the entire household is ineligible for food stamps as provided in Code of Federal Regulations, title 7, section 273.7(g). "Good cause" means circumstances beyond the control of the participant, such as illness or injury, illness or injury of another household member requiring the participant's presence, a household emergency, or the inability to obtain child care for children between the ages of six and 12 or to obtain transportation needed in order for the participant to meet the food stamp employment and training program participation requirements.

(c) The county agency shall mail or hand deliver a notice to the participant not later than five days after determining that the participant has failed without good cause to comply with food stamp employment and training program requirements which specifies the requirements that were not complied with, the factual basis for the determination of noncompliance, and the right to reinstate eligibility upon a showing of good cause for failure to meet the requirements. The notice must ask the reason for the noncompliance and identify the participant's appeal rights. The notice must request that the participant inform the county agency if the participant believes that good cause existed for the failure to comply and must state that the county agency intends to terminate eligibility for food stamp benefits due to failure to comply with food stamp employment and training program requirements.

(d) If the county agency determines that the participant did not comply during the month with all food stamp employment and training program requirements that were in effect, and if the county agency determines that good cause was not present, the county must provide a ten-day notice of termination of food stamp benefits. The amount of food stamps that are withheld from the household and determination of the impact of the sanction on other household members is governed by Code of Federal Regulations, title 7, section 273.7.

(e) A participant in the diversionary work program with children under age six may be required to participate in employment services under this section, but is not subject to sanction.

(f) The participant may appeal the termination of food stamp benefits under the provisions of section 256.045.

Sec. 2. Minnesota Statutes 2002, section 256D.051, subdivision 3a, is amended to read:

Subd. 3a. [PERSONS REQUIRED TO REGISTER FOR AND PARTICIPATE IN THE FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM.] (a) To the extent required under Code of Federal Regulations, title 7, section 273.7(a), each applicant for and recipient of food stamps is required to register for work as a condition of eligibility for food stamp benefits. Applicants and recipients are registered by signing an application or annual reapplication for food stamps, and must be informed that they are registering for work by signing the form.

(b) The commissioner shall determine, within federal requirements, persons required to participate in the food stamp employment and training (FSET) program.

(c) The following food stamp recipients are exempt from mandatory participation in food stamp employment and training services:

(1) recipients of benefits under the Minnesota family investment program, Minnesota supplemental aid program, or the general assistance program;

(2) a child;

(3) a recipient over age ~~55~~ 49;

(4) a recipient who has a mental or physical illness, injury, or incapacity which is expected to continue for at least 30 days and which impairs the recipient's ability to obtain or retain employment as evidenced by professional certification or the receipt of temporary or permanent disability benefits issued by a private or government source;

(5) a parent or other household member responsible for the care of either a dependent child in the household who is under age six, unless the parent or other household member is a participant in the diversionary work program, or a person in the household who is professionally certified as having a physical or mental illness, injury, or incapacity. Only one parent or other household member may claim exemption under this provision;

(6) a recipient receiving unemployment compensation or who has applied for unemployment compensation and has been required to register for work with the Department of Economic Security as part of the unemployment compensation application process;

(7) a recipient participating each week in a drug addiction or alcohol abuse treatment and rehabilitation program, provided the operators of the treatment and rehabilitation program, in consultation with the county agency, recommend that the recipient not participate in the food stamp employment and training program;

(8) a recipient employed or self-employed for 30 or more hours per week at employment paying at least minimum wage, or who earns wages from employment equal to or exceeding 30 hours multiplied by the federal minimum wage; ~~or~~

(9) a student enrolled at least half time in any school, training program, or institution of higher education. When determining if a student meets this criteria, the school's, program's or institution's criteria for being enrolled half time shall be used; and

(10) a participant in the diversionary work program who meets the requirements in section 256J.95, subdivision 11, paragraph (d).

Sec. 3. Minnesota Statutes 2002, section 256D.051, subdivision 6c, is amended to read:

Subd. 6c. [PROGRAM FUNDING.] Within the limits of available resources, the commissioner shall reimburse the actual costs of county agencies and their employment and training service providers for the provision of food stamp employment and training services, including participant support services, direct program services, and program administrative activities. The cost of services for each county's food stamp employment and training program shall not exceed ~~an average of \$400 per participant~~ the annual allocated amount. No more than 15 percent of program funds may be used for administrative activities. The county agency may expend county funds in excess of the limits of this subdivision without state reimbursement.

Program funds shall be allocated based on the county's average number of food stamp cases as compared to the statewide total number of such cases. The average number of cases shall be based on counts of cases as of March 31, June 30, September 30, and December 31 of the previous calendar year. The commissioner may reallocate unexpended money appropriated under this section to those county agencies that demonstrate a need for additional funds.

Sec. 4. Minnesota Statutes 2003 Supplement, section 256J.24, subdivision 6, is amended to read:

Subd. 6. [FAMILY CAP.] (a) MFIP assistance units shall not receive an increase in the cash portion of the transitional standard as a result of the birth of a child, unless one of the conditions under paragraph (b) is met. The child shall be considered a member of the assistance unit according to subdivisions 1 to 3, but shall be excluded in determining family size for purposes of determining the amount of the cash portion of the transitional standard under subdivision 5. The child shall be included in determining family size for purposes of determining the food portion of the transitional standard. The transitional standard under this subdivision shall be the total of the cash and food portions as specified in this paragraph. The family wage level under this subdivision shall be based on the family size used to determine the food portion of the transitional standard.

(b) A child shall be included in determining family size for purposes of determining the amount of the cash portion of the MFIP transitional standard when at least one of the following conditions is met:

(1) for families receiving MFIP assistance on July 1, 2003, the child is born to the adult parent before May 1, 2004;

(2) for families who apply for the diversionary work program under section 256J.95 or MFIP assistance on or after July 1, 2003, the child is born to the adult parent within ten months of the date the family is eligible for assistance;

(3) the child was conceived as a result of a sexual assault or incest, provided that the incident has been reported to a law enforcement agency;

(4) the child's mother is a minor caregiver as defined in section 256J.08, subdivision 59, and the child, or multiple children, are the mother's first birth; or

(5) any child previously excluded in determining family size under paragraph (a) shall be included if the adult parent or parents have not received benefits from the diversionary work program under section 256J.95 or MFIP assistance in the previous ten months. An adult parent or parents who reapply and have received benefits from the diversionary work program or MFIP assistance in the past ten months shall be under the ten-month grace period of their previous application under clause (2).

(c) Income and resources of a child excluded under this subdivision, except income of the child support received or distributed on behalf of this child equal to the change in cash standard due to the family cap, must be considered using the same policies as for other children when determining the grant amount of the assistance unit.

(d) The caregiver must assign support and cooperate with the child support enforcement agency to establish paternity and collect child support on behalf of the excluded child. Failure to cooperate results in the sanction specified in section 256J.46, subdivisions 2 and 2a. Current support paid on behalf of the excluded child shall be distributed according to section 256.741, subdivision 15.

(e) County agencies must inform applicants of the provisions under this subdivision at the time of each application and at recertification.

(f) Children excluded under this provision shall be deemed MFIP recipients for purposes of child care under chapter 119B.

Sec. 5. Minnesota Statutes 2003 Supplement, section 256J.37, subdivision 3a, is amended to read:

Subd. 3a. [RENTAL SUBSIDIES; UNEARNED INCOME.] (a) ~~Effective July 1, 2003,~~ The county agency shall count ~~\$50~~ \$200 of the value of public and assisted rental subsidies provided through the Department of Housing and Urban Development (HUD) as unearned income to the cash portion of the MFIP grant. The full amount of the subsidy must be counted as unearned income when the subsidy is less than ~~\$50~~ \$200. The income from this subsidy shall be budgeted according to section 256J.34.

(b) The provisions of this subdivision shall not apply to an MFIP assistance unit which includes a participant who is:

(1) age 60 or older;

(2) a caregiver who is suffering from an illness, injury, or incapacity that has been certified by a qualified professional when the illness, injury, or incapacity is expected to continue for more than 30 days and prevents the person from obtaining or retaining employment; or

(3) a caregiver whose presence in the home is required due to the illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household when the illness or incapacity and the need for the participant's presence in the home has been certified by a qualified professional and is expected to continue for more than 30 days.

(c) The provisions of this subdivision shall not apply to an MFIP assistance unit where the ~~parental~~ relative caregiver is an SSI recipient.

(d) Prior to implementing this provision, the commissioner must identify the MFIP participants subject to this provision and provide written notice to these participants at least 30 days before the first grant reduction. The notice must inform the participant of the basis for the potential grant reduction, the exceptions to the provision, if any, and



inform the participant of the steps necessary to claim an exception. A person who is found not to meet one of the exceptions to the provision must be notified and informed of the right to a fair hearing under section 256J.40. The notice must also inform the participant that the participant may be eligible for a rent reduction resulting from a reduction in the MFIP grant and encourage the participant to contact the local housing authority.

Sec. 6. Minnesota Statutes 2003 Supplement, section 256J.53, subdivision 1, is amended to read:

Subdivision 1. [LENGTH OF PROGRAM.] In order for a postsecondary education or training program to be an approved work activity as defined in section 256J.49, subdivision 13, clause (6), it must be a program lasting 24 12 months or less, and the participant must meet the requirements of subdivisions 2, 3, and 5.

## ARTICLE 9

### HEALTH CARE

Section 1. Minnesota Statutes 2003 Supplement, section 256.955, subdivision 2a, is amended to read:

Subd. 2a. [ELIGIBILITY.] An individual satisfying the following requirements and the requirements described in subdivision 2, paragraph (d), is eligible for the prescription drug program who:

(1) is at least 65 years of age or older; ~~and~~

(2) is eligible as a qualified Medicare beneficiary according to section 256B.057, subdivision 3 or 3a, or is eligible under section 256B.057, subdivision 3 or 3a, and is also eligible for medical assistance or general assistance medical care with a spenddown as defined in section 256B.056, subdivision 5; ~~and~~

(3) applies for the Medicare drug discount card, if eligible.

[EFFECTIVE DATE.] Clause (3) is effective July 1, 2004, or when enrollment for the Medicare drug discount card is available, whichever is later.

Sec. 2. Minnesota Statutes 2002, section 256.955, subdivision 2b, is amended to read:

Subd. 2b. [ELIGIBILITY.] Effective July 1, 2002, an individual satisfying the following requirements and the requirements described in subdivision 2, paragraph (d), is eligible for the prescription drug program:

(1) is under 65 years of age; ~~and~~

(2) is eligible as a qualified Medicare beneficiary according to section 256B.057, subdivision 3 or 3a or is eligible under section 256B.057, subdivision 3 or 3a and is also eligible for medical assistance or general assistance medical care with a spenddown as defined in section 256B.056, subdivision 5; ~~and~~

(3) applies for the Medicare drug discount card, if eligible.

[EFFECTIVE DATE.] Clause (3) is effective July 1, 2004, or when enrollment for the Medicare drug discount card is available, whichever is later.

Sec. 3. Minnesota Statutes 2003 Supplement, section 256.955, subdivision 3, is amended to read:

Subd. 3. [PRESCRIPTION DRUG COVERAGE.] Coverage under the program shall be limited to those prescription drugs that:

(1) are covered under the medical assistance program as described in section 256B.0625, subdivision 13;

(2) are provided by manufacturers that have fully executed ~~senior~~ prescription drug program rebate agreements with the commissioner and comply with such agreements; ~~and~~

(3) for a specific enrollee, are not covered under an assistance program offered by a pharmaceutical manufacturer, as determined by the board on aging under section 256.975, subdivision 9, except that this shall not apply to qualified individuals under this section who are also eligible for medical assistance with a spenddown as described in subdivisions 2a, clause (2), and 2b, clause (2); and

(4) for a specific enrollee, are not covered under a Medicare drug discount card plan subsidy unless:

(i) the prescription drug is not included in the Medicare drug discount card plan formulary, but is covered under the prescription drug program;

(ii) the cost of a prescription drug is more than the remaining Medicare drug discount card subsidy; or

(iii) a prescribed over-the-counter medication is not included in the Medicare drug discount card plan formulary, but is covered under the prescription drug program.

Sec. 4. Minnesota Statutes 2002, section 256.955, subdivision 4, is amended to read:

Subd. 4. [APPLICATION PROCEDURES AND COORDINATION WITH MEDICAL ASSISTANCE AND MEDICARE DRUG DISCOUNT CARD.] Applications and information on the program must be made available at county social service agencies, health care provider offices, and agencies and organizations serving senior citizens and persons with disabilities. Individuals shall submit applications and any information specified by the commissioner as being necessary to verify eligibility directly to the county social service agencies:

(1) beginning January 1, 1999, the county social service agency shall determine medical assistance spenddown eligibility of individuals who qualify for the prescription drug program; and

(2) program payments will be used to reduce the spenddown obligations of individuals who are determined to be eligible for medical assistance with a spenddown as defined in section 256B.056, subdivision 5.

Qualified individuals who are eligible for medical assistance with a spenddown shall be financially responsible for the deductible amount up to the satisfaction of the spenddown. No deductible applies once the spenddown has been met. Payments to providers for prescription drugs for persons eligible under this subdivision shall be reduced by the deductible.

County social service agencies shall determine an applicant's eligibility for the program within 30 days from the date the application is received. Eligibility begins the month after approval.

Enrollees who are also enrolled in the Medicare drug discount card plan must obtain prescription drugs at a pharmacy enrolled as a provider for both the Medicare drug discount plan and the prescription drug program.

Sec. 5. Minnesota Statutes 2002, section 256.955, subdivision 6, is amended to read:

Subd. 6. [PHARMACY REIMBURSEMENT.] The commissioner shall reimburse participating pharmacies for drug and dispensing costs at the medical assistance reimbursement level, minus the deductible required under subdivision 7. The commissioner shall not reimburse enrolled pharmacies until the Medicare drug discount card subsidy has been exhausted, unless the exceptions in subdivision 3, clause (3), are met.

Sec. 6. Minnesota Statutes 2003 Supplement, section 256B.056, subdivision 3c, is amended to read:

Subd. 3c. [ASSET LIMITATIONS FOR FAMILIES AND CHILDREN.] A household of two or more persons must not own more than \$20,000 in total net assets, and a household of one person must not own more than \$10,000 in total net assets. In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time of an eligibility redetermination. The value of assets that are not considered in determining eligibility for medical assistance for families and children is the value of those assets excluded under the AFDC state plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, with the following exceptions:

- (1) household goods and personal effects are not considered;
- (2) capital and operating assets of a trade or business up to \$200,000 are not considered;
- (3) one motor vehicle is excluded for each person of legal driving age who is employed or seeking employment;
- (4) ~~one burial plot and all other burial expenses equal to the supplemental security income program asset limit are not considered for each individual~~ assets designated as burial expenses are excluded to the same extent excluded by the supplemental security income program. Burial expenses funded by annuity contracts or life insurance policies must irrevocably designate the individual's estate as the contingent beneficiary to the extent proceeds are not used for payment of selected burial expenses;
- (5) court-ordered settlements up to \$10,000 are not considered;
- (6) individual retirement accounts and funds are not considered; and
- (7) assets owned by children are not considered.

Sec. 7. Minnesota Statutes 2003 Supplement, section 256B.057, subdivision 9, is amended to read:

Subd. 9. [EMPLOYED PERSONS WITH DISABILITIES.] (a) Medical assistance may be paid for a person who is employed and who:

- (1) meets the definition of disabled under the supplemental security income program;
- (2) is at least 16 but less than 65 years of age;
- (3) meets the asset limits in paragraph (b); and
- (4) effective November 1, 2003, pays a premium and other obligations under paragraph (d).

Any spousal income or assets shall be disregarded for purposes of eligibility and premium determinations.

After the month of enrollment, a person enrolled in medical assistance under this subdivision who:

- (1) is temporarily unable to work and without receipt of earned income due to a medical condition, as verified by a physician, may retain eligibility for up to four calendar months; or

(2) effective January 1, 2004, loses employment for reasons not attributable to the enrollee, may retain eligibility for up to four consecutive months after the month of job loss. To receive a four-month extension, enrollees must verify the medical condition or provide notification of job loss. All other eligibility requirements must be met and the enrollee must pay all calculated premium costs for continued eligibility.

(b) For purposes of determining eligibility under this subdivision, a person's assets must not exceed \$20,000, excluding:

(1) all assets excluded under section 256B.056;

(2) retirement accounts, including individual accounts, 401(k) plans, 403(b) plans, Keogh plans, and pension plans; and

(3) medical expense accounts set up through the person's employer.

(c)(1) Effective January 1, 2004, for purposes of eligibility, there will be a \$65 earned income disregard. To be eligible, a person applying for medical assistance under this subdivision must have earned income above the disregard level.

(2) Effective January 1, 2004, to be considered earned income, Medicare, Social Security, and applicable state and federal income taxes must be withheld. To be eligible, a person must document earned income tax withholding.

(d)(1) A person whose earned and unearned income is equal to or greater than 100 percent of federal poverty guidelines for the applicable family size must pay a premium to be eligible for medical assistance under this subdivision. The premium shall be based on the person's gross earned and unearned income and the applicable family size using a sliding fee scale established by the commissioner, which begins at one percent of income at 100 percent of the federal poverty guidelines and increases to 7.5 percent of income for those with incomes at or above 300 percent of the federal poverty guidelines. Annual adjustments in the premium schedule based upon changes in the federal poverty guidelines shall be effective for premiums due in July of each year.

(2) Effective January 1, 2004, all enrollees must pay a premium to be eligible for medical assistance under this subdivision. An enrollee shall pay the greater of a \$35 premium or the premium calculated in clause (1).

(3) Effective November 1, 2003, all enrollees who receive unearned income must pay one-half of one percent of unearned income in addition to the premium amount.

(4) Effective November 1, 2003, for enrollees whose income does not exceed 200 percent of the federal poverty guidelines and who are also enrolled in Medicare, the commissioner must reimburse the enrollee for Medicare Part B premiums under section 256B.0625, subdivision 15, paragraph (a).

(5) Increases in benefits under Title II of the Social Security Act shall not be counted as income for purposes of this subdivision until July 1 of each year.

(e) A person's eligibility and premium shall be determined by the local county agency. Premiums must be paid to the commissioner. All premiums are dedicated to the commissioner.

(f) Any required premium shall be determined at application and redetermined at the enrollee's six-month income review or when a change in income or household size is reported. Enrollees must report any change in income or household size within ten days of when the change occurs. A decreased premium resulting from a reported change

in income or household size shall be effective the first day of the next available billing month after the change is reported. Except for changes occurring from annual cost-of-living increases, a change resulting in an increased premium shall not affect the premium amount until the next six-month review.

(g) Premium payment is due upon notification from the commissioner of the premium amount required. Premiums may be paid in installments at the discretion of the commissioner.

(h) Nonpayment of the premium shall result in denial or termination of medical assistance unless the person demonstrates good cause for nonpayment. Good cause exists if the requirements specified in Minnesota Rules, part 9506.0040, subpart 7, items B to D, are met. Except when an installment agreement is accepted by the commissioner, all persons disenrolled for nonpayment of a premium must pay any past due premiums as well as current premiums due prior to being reenrolled. Nonpayment shall include payment with a returned, refused, or dishonored instrument. The commissioner may require a guaranteed form of payment as the only means to replace a returned, refused, or dishonored instrument.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004.

Sec. 8. Minnesota Statutes 2003 Supplement, section 256B.06, subdivision 4, is amended to read:

Subd. 4. [CITIZENSHIP REQUIREMENTS.] (a) Eligibility for medical assistance is limited to citizens of the United States, qualified noncitizens as defined in this subdivision, and other persons residing lawfully in the United States.

(b) "Qualified noncitizen" means a person who meets one of the following immigration criteria:

(1) admitted for lawful permanent residence according to United States Code, title 8;

(2) admitted to the United States as a refugee according to United States Code, title 8, section 1157;

(3) granted asylum according to United States Code, title 8, section 1158;

(4) granted withholding of deportation according to United States Code, title 8, section 1253(h);

(5) paroled for a period of at least one year according to United States Code, title 8, section 1182(d)(5);

(6) granted conditional entrant status according to United States Code, title 8, section 1153(a)(7);

(7) determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V of the Omnibus Consolidated Appropriations Bill, Public Law 104-200;

(8) is a child of a noncitizen determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V, of the Omnibus Consolidated Appropriations Bill, Public Law 104-200; or

(9) determined to be a Cuban or Haitian entrant as defined in section 501(e) of Public Law 96-422, the Refugee Education Assistance Act of 1980.

(c) All qualified noncitizens who were residing in the United States before August 22, 1996, who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance with federal financial participation.

(d) All qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance with federal financial participation through November 30, 1996.

Beginning December 1, 1996, qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of this chapter are eligible for medical assistance with federal participation for five years if they meet one of the following criteria:

- (i) refugees admitted to the United States according to United States Code, title 8, section 1157;
- (ii) persons granted asylum according to United States Code, title 8, section 1158;
- (iii) persons granted withholding of deportation according to United States Code, title 8, section 1253(h);
- (iv) veterans of the United States armed forces with an honorable discharge for a reason other than noncitizen status, their spouses and unmarried minor dependent children; or
- (v) persons on active duty in the United States armed forces, other than for training, their spouses and unmarried minor dependent children.

Beginning December 1, 1996, qualified noncitizens who do not meet one of the criteria in items (i) to (v) are eligible for medical assistance without federal financial participation as described in paragraph (j).

(e) Noncitizens who are not qualified noncitizens as defined in paragraph (b), who are lawfully residing in the United States and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance under clauses (1) to (3). These individuals must cooperate with the Immigration and Naturalization Service to pursue any applicable immigration status, including citizenship, that would qualify them for medical assistance with federal financial participation.

(1) Persons who were medical assistance recipients on August 22, 1996, are eligible for medical assistance with federal financial participation through December 31, 1996.

(2) Beginning January 1, 1997, persons described in clause (1) are eligible for medical assistance without federal financial participation as described in paragraph (j).

(3) Beginning December 1, 1996, persons residing in the United States prior to August 22, 1996, who were not receiving medical assistance and persons who arrived on or after August 22, 1996, are eligible for medical assistance without federal financial participation as described in paragraph (j).

(f) Nonimmigrants who otherwise meet the eligibility requirements of this chapter are eligible for the benefits as provided in paragraphs (g) to (i). For purposes of this subdivision, a "nonimmigrant" is a person in one of the classes listed in United States Code, title 8, section 1101(a)(15).

(g) Payment shall also be made for care and services that are furnished to noncitizens, regardless of immigration status, who otherwise meet the eligibility requirements of this chapter, if such care and services are necessary for the treatment of an emergency medical condition, except for organ transplants and related care and services and routine prenatal care.

(h) For purposes of this subdivision, the term "emergency medical condition" means a medical condition that meets the requirements of United States Code, title 42, section 1396b(v).

(i) Pregnant noncitizens who are undocumented ~~or~~, nonimmigrants, or eligible for medical assistance as described in paragraph (j), and who are not covered by a group health plan or health insurance coverage according to Code of Federal Regulations, title 42, section 457.310, and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance ~~payment without federal financial participation for care and services through the period of pregnancy, and including labor and delivery, to the extent federal funds are available under Title XXI of the Social Security Act, and the state children's health insurance program, followed by 60 days postpartum, except for labor and delivery without federal financial participation.~~

(j) Qualified noncitizens as described in paragraph (d), and all other noncitizens lawfully residing in the United States as described in paragraph (e), who are ineligible for medical assistance with federal financial participation and who otherwise meet the eligibility requirements of chapter 256B and of this paragraph, are eligible for medical assistance without federal financial participation. Qualified noncitizens as described in paragraph (d) are only eligible for medical assistance without federal financial participation for five years from their date of entry into the United States.

(k) Beginning October 1, 2003, persons who are receiving care and rehabilitation services from a nonprofit center established to serve victims of torture and are otherwise ineligible for medical assistance under this chapter or general assistance medical care under section 256D.03 are eligible for medical assistance without federal financial participation. These individuals are eligible only for the period during which they are receiving services from the center. Individuals eligible under this paragraph shall not be required to participate in prepaid medical assistance.

Sec. 9. Minnesota Statutes 2003 Supplement, section 256B.0625, subdivision 9, is amended to read:

Subd. 9. [DENTAL SERVICES.] ~~(a)~~ Medical assistance covers dental services. Dental services include, with prior authorization, fixed bridges that are cost-effective for persons who cannot use removable dentures because of their medical condition.

~~(b) Coverage of dental services for adults age 21 and over who are not pregnant is subject to a \$500 annual benefit limit and covered services are limited to:~~

~~(1) diagnostic and preventative services;~~

~~(2) basic restorative services; and~~

~~(3) emergency services.~~

~~Emergency services, dentures, and extractions related to dentures are not included in the \$500 annual benefit limit.~~

[EFFECTIVE DATE.] This section is effective January 1, 2005.

Sec. 10. Minnesota Statutes 2003 Supplement, section 256B.0631, subdivision 2, is amended to read:

Subd. 2. [EXCEPTIONS.] Co-payments shall be subject to the following exceptions:

(1) children under the age of 21;

(2) pregnant women for services that relate to the pregnancy or any other medical condition that may complicate the pregnancy;

(3) recipients ~~expected to reside for at least 30 days in a hospital, nursing home, or intermediate care facility for the mentally retarded~~ whose only available income is a personal needs allowance under section 256B.35 or 256B.36 and whose exemption from co-payments is approved by the centers for Medicare and Medicaid services;

(4) recipients receiving hospice care;

(5) 100 percent federally funded services provided by an Indian health service;

(6) emergency services;

(7) family planning services;

(8) services that are paid by Medicare, resulting in the medical assistance program paying for the coinsurance and deductible; and

(9) co-payments that exceed one per day per provider for nonpreventive visits, eyeglasses, and nonemergency visits to a hospital-based emergency room.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004, or upon federal approval, whichever is later.

Sec. 11. Minnesota Statutes 2003 Supplement, section 256B.69, subdivision 2, is amended to read:

Subd. 2. **[DEFINITIONS.]** For the purposes of this section, the following terms have the meanings given.

(a) "Commissioner" means the commissioner of human services. For the remainder of this section, the commissioner's responsibilities for methods and policies for implementing the project will be proposed by the project advisory committees and approved by the commissioner.

(b) "Demonstration provider" means a health maintenance organization, community integrated service network, or accountable provider network authorized and operating under chapter 62D, 62N, or 62T that participates in the demonstration project according to criteria, standards, methods, and other requirements established for the project and approved by the commissioner. For purposes of this section, a county board, or group of county boards operating under a joint powers agreement, is considered a demonstration provider if the county or group of county boards meets the requirements of section 256B.692. Notwithstanding the above, Itasca County may continue to participate as a demonstration provider until July 1, 2004.

(c) "Eligible individuals" means those persons eligible for medical assistance benefits as defined in sections 256B.055, 256B.056, and 256B.06.

(d) "Limitation of choice" means suspending freedom of choice while allowing eligible individuals to choose among the demonstration providers.

(e) This paragraph supersedes paragraph (c) as long as the Minnesota health care reform waiver remains in effect. When the waiver expires, this paragraph expires and the commissioner of human services shall publish a notice in the State Register and notify the revisor of statutes. "Eligible individuals" means those persons eligible for medical assistance benefits as defined in sections 256B.055, 256B.056, and 256B.06. An individual enrolled under section 256B.055, subdivision 7, who becomes ineligible for the program because of failure to submit income reports or recertification forms in a timely manner, shall remain enrolled in the prepaid health plan and shall remain eligible to receive medical assistance coverage through the last day of the month following the month in which the enrollee became ineligible for the medical assistance program.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004, or upon federal approval, whichever is later.



Sec. 12. Minnesota Statutes 2003 Supplement, section 256D.03, subdivision 3, is amended to read:

Subd. 3. [GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY.] (a) General assistance medical care may be paid for any person who is not eligible for emergency medical assistance, or medical assistance under chapter 256B, including eligibility for medical assistance based on a spenddown of excess income according to section 256B.056, subdivision 5, or MinnesotaCare as defined in paragraph (b), except as provided in paragraph (c), and:

(1) who is receiving assistance under section 256D.05, except for families with children who are eligible under Minnesota family investment program (MFIP), or who is having a payment made on the person's behalf under sections 256L.01 to 256L.06; or

(2) who is a resident of Minnesota; and

(i) who has gross countable income not in excess of 75 percent of the federal poverty guidelines for the family size, using a six-month budget period and whose equity in assets is not in excess of \$1,000 per assistance unit. Exempt assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in section 256B.056, subdivision 3, with the following exception: the maximum amount of undistributed funds in a trust that could be distributed to or on behalf of the beneficiary by the trustee, assuming the full exercise of the trustee's discretion under the terms of the trust, must be applied toward the asset maximum; or

(ii) who has gross countable income ~~above 75 percent of the federal poverty guidelines but or~~ assets in excess of the limits in item (i), but whose income is not in excess of ~~475~~ 150 percent of the federal poverty guidelines for the family size, using a six-month budget period, and whose equity in assets is not in excess of the limits in section 256B.056, subdivision 3c, and who applies during an inpatient hospitalization.

(b) General assistance medical care may not be paid for applicants or recipients who meet all eligibility requirements of MinnesotaCare as defined in sections 256L.01 to 256L.16, and are adults with dependent children under 21 whose gross family income is equal to or less than 275 percent of the federal poverty guidelines.

(c) For applications received on or after October 1, 2003, eligibility may begin no earlier than the date of application. For individuals eligible under paragraph (a), clause (2), item (i), a redetermination of eligibility must occur every 12 months. Individuals are eligible under paragraph (a), clause (2), item (ii), only during inpatient hospitalization but may reapply if there is a subsequent period of inpatient hospitalization. Beginning January 1, 2000, Minnesota health care program applications completed by recipients and applicants who are persons described in paragraph (b), may be returned to the county agency to be forwarded to the Department of Human Services or sent directly to the Department of Human Services for enrollment in MinnesotaCare. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available in any month during which a MinnesotaCare eligibility determination and enrollment are pending. Upon notification of eligibility for MinnesotaCare, notice of termination for eligibility for general assistance medical care shall be sent to an applicant or recipient. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available until enrollment in MinnesotaCare subject to the provisions of paragraph (e).

(d) The date of an initial Minnesota health care program application necessary to begin a determination of eligibility shall be the date the applicant has provided a name, address, and Social Security number, signed and dated, to the county agency or the Department of Human Services. If the applicant is unable to provide a name, address, Social Security number, and signature when health care is delivered due to a medical condition or disability, a health care provider may act on an applicant's behalf to establish the date of an initial Minnesota health

care program application by providing the county agency or Department of Human Services with provider identification and a temporary unique identifier for the applicant. The applicant must complete the remainder of the application and provide necessary verification before eligibility can be determined. The county agency must assist the applicant in obtaining verification if necessary.

(e) County agencies are authorized to use all automated databases containing information regarding recipients' or applicants' income in order to determine eligibility for general assistance medical care or MinnesotaCare. Such use shall be considered sufficient in order to determine eligibility and premium payments by the county agency.

(f) General assistance medical care is not available for a person in a correctional facility unless the person is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, and the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

(g) General assistance medical care is not available for applicants or recipients who do not cooperate with the county agency to meet the requirements of medical assistance.

(h) In determining the amount of assets of an individual eligible under paragraph (a), clause (2), item (i), there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 60 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care, unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility, including partial months, shall be calculated by dividing the uncompensated transfer amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed 30 months, and a reapplication for benefits after 30 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired. The period of ineligibility begins in the month the transfer was reported to the county agency, or if the transfer was not reported, the month in which the county agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.

(i) When determining eligibility for any state benefits under this subdivision, the income and resources of all noncitizens shall be deemed to include their sponsor's income and resources as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law 104-193, sections 421 and 422, and subsequently set out in federal rules.

(j) Undocumented noncitizens and nonimmigrants are ineligible for general assistance medical care, except that an individual eligible under paragraph (a), clause (4), remains eligible through September 30, 2003, and an undocumented noncitizen or nonimmigrant who is diagnosed with active or latent tuberculosis and meets all other eligibility requirements of this section is eligible for the duration of the need for tuberculosis treatment. For purposes of this subdivision, a nonimmigrant is an individual in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), and an undocumented noncitizen is an individual who resides in the United States without the approval or acquiescence of the Immigration and Naturalization Service.

(k) Notwithstanding any other provision of law, a noncitizen who is ineligible for medical assistance due to the deeming of a sponsor's income and resources, is ineligible for general assistance medical care.

(l) Effective July 1, 2003, general assistance medical care emergency services end.

[EFFECTIVE DATE.] This section is effective July 1, 2004, except that the change in the income limit for hospital-only coverage in paragraph (a), clause (2), item (ii) is effective July 1, 2005.

Sec. 13. Minnesota Statutes 2003 Supplement, section 256D.03, subdivision 4, is amended to read:

Subd. 4. [GENERAL ASSISTANCE MEDICAL CARE; SERVICES.] (a)(i) For a person who is eligible under subdivision 3, paragraph (a), clause (2), item (i), general assistance medical care covers, except as provided in paragraph (c):

- (1) inpatient hospital services;
- (2) outpatient hospital services;
- (3) services provided by Medicare certified rehabilitation agencies;
- (4) prescription drugs and other products recommended through the process established in section 256B.0625, subdivision 13;
- (5) equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level;
- (6) eyeglasses and eye examinations provided by a physician or optometrist;
- (7) hearing aids;
- (8) prosthetic devices;
- (9) laboratory and X-ray services;
- (10) physician's services;
- (11) medical transportation except special transportation;
- (12) chiropractic services as covered under the medical assistance program;
- (13) podiatric services;
- (14) dental services ~~and dentures, subject to the limitations specified in section 256B.0625, subdivision 9~~ as covered under the medical assistance program;
- (15) outpatient services provided by a mental health center or clinic that is under contract with the county board and is established under section 245.62;
- (16) day treatment services for mental illness provided under contract with the county board;

(17) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization;

(18) psychological services, medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments;

(19) medical equipment not specifically listed in this paragraph when the use of the equipment will prevent the need for costlier services that are reimbursable under this subdivision;

(20) services performed by a certified pediatric nurse practitioner, a certified family nurse practitioner, a certified adult nurse practitioner, a certified obstetric/gynecological nurse practitioner, a certified neonatal nurse practitioner, or a certified geriatric nurse practitioner in independent practice, if (1) the service is otherwise covered under this chapter as a physician service, (2) the service provided on an inpatient basis is not included as part of the cost for inpatient services included in the operating payment rate, and (3) the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171;

(21) services of a certified public health nurse or a registered nurse practicing in a public health nursing clinic that is a department of, or that operates under the direct authority of, a unit of government, if the service is within the scope of practice of the public health nurse's license as a registered nurse, as defined in section 148.171; and

(22) telemedicine consultations, to the extent they are covered under section 256B.0625, subdivision 3b.

(ii) Effective October 1, 2003, for a person who is eligible under subdivision 3, paragraph (a), clause (2), item (ii), general assistance medical care coverage is limited to inpatient hospital services, including physician services provided during the inpatient hospital stay. A \$1,000 deductible is required for each inpatient hospitalization.

(b) Gender reassignment surgery and related services are not covered services under this subdivision unless the individual began receiving gender reassignment services prior to July 1, 1995.

(c) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under sections 256B.02, subdivision 8, and 256B.0625. For payments made during fiscal year 1990 and later years, the commissioner shall consult with an independent actuary in establishing prepayment rates, but shall retain final control over the rate methodology.

(d) Recipients eligible under subdivision 3, paragraph (a), clause (2), item (i), shall pay the following co-payments for services provided on or after October 1, 2003:

(1) \$3 per nonpreventive visit. For purposes of this subdivision, a visit means an episode of service which is required because of a recipient's symptoms, diagnosis, or established illness, and which is delivered in an ambulatory setting by a physician or physician ancillary, chiropractor, podiatrist, nurse midwife, advanced practice nurse, audiologist, optician, or optometrist;

(2) \$25 for eyeglasses;

(3) \$25 for nonemergency visits to a hospital-based emergency room; and

(4) \$3 per brand-name drug prescription and \$1 per generic drug prescription, subject to a \$20 per month maximum for prescription drug co-payments. No co-payments shall apply to antipsychotic drugs when used for the treatment of mental illness; ~~and~~

~~(5) 50 percent coinsurance on basic restorative dental services.~~

(e) Recipients of general assistance medical care are responsible for all co-payments in this subdivision, except that this requirement does not apply to recipients receiving group residential housing payments under chapter 256I whose available income is limited to a personal needs allowance under section 256B.35. The general assistance medical care reimbursement to the provider shall be reduced by the amount of the co-payment, except that reimbursement for prescription drugs shall not be reduced once a recipient has reached the \$20 per month maximum for prescription drug co-payments. The provider collects the co-payment from the recipient. Providers may not deny services to recipients who are unable to pay the co-payment, except as provided in paragraph (f).

(f) If it is the routine business practice of a provider to refuse service to an individual with uncollected debt, the provider may include uncollected co-payments under this section. A provider must give advance notice to a recipient with uncollected debt before services can be denied.

(g) Any county may, from its own resources, provide medical payments for which state payments are not made.

(h) Chemical dependency services that are reimbursed under chapter 254B must not be reimbursed under general assistance medical care.

(i) The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

(j) The conditions of payment for services under this subdivision are the same as the conditions specified in rules adopted under chapter 256B governing the medical assistance program, unless otherwise provided by statute or rule.

(k) Inpatient and outpatient payments shall be reduced by five percent, effective July 1, 2003. This reduction is in addition to the five percent reduction effective July 1, 2003, and incorporated by reference in paragraph (i).

(l) Payments for all other health services except inpatient, outpatient, and pharmacy services shall be reduced by five percent, effective July 1, 2003.

(m) Payments to managed care plans shall be reduced by five percent for services provided on or after October 1, 2003.

(n) A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

**[EFFECTIVE DATE.]** This section is effective January 1, 2005, except that the amendments to paragraph (e) are effective July 1, 2004.

Sec. 14. Minnesota Statutes 2002, section 256L.01, subdivision 5, is amended to read:

Subd. 5. [INCOME.] (a) "Income" has the meaning given for earned and unearned income for families and children in the medical assistance program, according to the state's aid to families with dependent children plan in effect as of July 16, 1996. The definition does not include medical assistance income methodologies and deeming requirements. The earned income of full-time and part-time students under age 19 is not counted as income. Public assistance payments and supplemental security income are not excluded income.

(b) For purposes of this subdivision, and unless otherwise specified in this section, the commissioner shall use reasonable methods to calculate gross earned and unearned income including, but not limited to, projecting income based on income received within the last 30 days, the last 90 days, or the last 12 months.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004.

Sec. 15. Minnesota Statutes 2003 Supplement, section 256L.03, subdivision 1, is amended to read:

Subdivision 1. [COVERED HEALTH SERVICES.] For individuals under section 256L.04, subdivision 7, with income no greater than 75 percent of the federal poverty guidelines or for families with children under section 256L.04, subdivision 1, all subdivisions of this section apply. "Covered health services" means the health services reimbursed under chapter 256B, with the exception of inpatient hospital services, special education services, private duty nursing services, adult dental care services ~~other than services except as covered under section 256B.0625, subdivision 9, paragraph (b), orthodontic services~~ 3b, nonemergency medical transportation services, personal care assistant and case management services, nursing home or intermediate care facilities services, inpatient mental health services, and chemical dependency services. Outpatient mental health services covered under the MinnesotaCare program are limited to diagnostic assessments, psychological testing, explanation of findings, medication management by a physician, day treatment, partial hospitalization, and individual, family, and group psychotherapy.

No public funds shall be used for coverage of abortion under MinnesotaCare except where the life of the female would be endangered or substantial and irreversible impairment of a major bodily function would result if the fetus were carried to term; or where the pregnancy is the result of rape or incest.

Covered health services shall be expanded as provided in this section.

**[EFFECTIVE DATE.]** This section is effective January 1, 2005.

Sec. 16. Minnesota Statutes 2002, section 256L.03, is amended by adding a subdivision to read:

Subd. 3b. [DENTAL SERVICES EFFECTIVE JANUARY 1, 2005.] (a) Effective January 1, 2005, the provisions in paragraphs (b) to (c) apply.

(b) For parents, grandparents, foster parents, relative caretakers, and legal guardians eligible under section 256L.04, subdivision 1, with incomes not exceeding 75 percent of the federal poverty guidelines, dental services are covered as provided under section 256B.0625, subdivision 9, except that no coverage is provided for orthodontic services.

(c) For pregnant women and children under age 21, dental services are covered as provided under section 256B.0625, subdivision 9.

Sec. 17. Minnesota Statutes 2002, section 256L.03, subdivision 5, is amended to read:

Subd. 5. [CO-PAYMENTS AND COINSURANCE.] (a) Except as provided in paragraphs (b) and (c), the MinnesotaCare benefit plan shall include the following co-payments and coinsurance requirements for all enrollees:

(1) ten percent of the paid charges for inpatient hospital services for adult enrollees, subject to an annual inpatient out-of-pocket maximum of \$1,000 per individual and \$3,000 per family;

(2) \$3 per prescription for adult enrollees;

(3) \$25 for eyeglasses for adult enrollees; ~~and~~

(4) \$3 per nonpreventive visit. For purposes of this subdivision, a visit means an episode of service which is required because of an enrollee's symptoms, diagnosis, or established illness, and which is delivered in an ambulatory setting by a physician or physician ancillary, chiropractor, podiatrist, advanced practice nurse, audiologist, optician, or optometrist;

(5) \$6 for nonemergency visits to a hospital-based emergency room; and

(6) 50 percent of the fee-for-service rate for adult dental care services other than preventive care services for persons eligible under section 256L.04, subdivisions 1 to 7, with income equal to or less than 175 percent of the federal poverty guidelines.

(b) Paragraph (a), clause (1), does not apply to parents and relative caretakers of children under the age of 21 in households with family income equal to or less than 175 percent of the federal poverty guidelines. Paragraph (a), clause (1), does not apply to parents and relative caretakers of children under the age of 21 in households with family income greater than 175 percent of the federal poverty guidelines for inpatient hospital admissions occurring on or after January 1, 2001.

(c) Paragraph (a), clauses (1) to ~~(4)~~ (6), do not apply to pregnant women and children under the age of 21.

(d) Adult enrollees with family gross income that exceeds 175 percent of the federal poverty guidelines and who are not pregnant shall be financially responsible for the coinsurance amount, if applicable, and amounts which exceed the \$10,000 inpatient hospital benefit limit.

(e) When a MinnesotaCare enrollee becomes a member of a prepaid health plan, or changes from one prepaid health plan to another during a calendar year, any charges submitted towards the \$10,000 annual inpatient benefit limit, and any out-of-pocket expenses incurred by the enrollee for inpatient services, that were submitted or incurred prior to enrollment, or prior to the change in health plans, shall be disregarded.

(f) Paragraph (a), clauses (4) and (5), are limited to one co-payment per day per provider.

[EFFECTIVE DATE.] This section is effective January 1, 2005.

Sec. 18. Minnesota Statutes 2003 Supplement, section 256L.035, is amended to read:

256L.035 [LIMITED BENEFITS COVERAGE FOR CERTAIN SINGLE ADULTS AND HOUSEHOLDS WITHOUT CHILDREN.]

(a) "Covered health services" for individuals under section 256L.04, subdivision 7, with income above 75 percent, but not exceeding 175 percent, of the federal poverty guideline means:

(1) inpatient hospitalization benefits with a ten percent co-payment up to \$1,000 and subject to an annual limitation of \$10,000;

(2) physician services provided during an inpatient stay; and

(3) physician services not provided during an inpatient stay; outpatient hospital services; chiropractic services; lab and diagnostic services; vision services excluding the dispensing, fitting, and adjustment of eyeglasses or contacts and eye examinations to determine refractive state; and prescription drugs; and supplies and equipment for diabetic testing and insulin administration, subject to an aggregate cap of \$2,000 per calendar year and the following co-payments:

(i) \$50 co-pay per emergency room visit;

(ii) \$3 co-pay per prescription drug; and

(iii) \$5 co-pay per nonpreventive physician and optometrist visit.

For purposes of this subdivision, "a visit" means an episode of service which is required because of a recipient's symptoms, diagnosis, or established illness, and which is delivered in an ambulatory setting by a physician or physician ancillary, or optometrist.

Enrollees are responsible for all co-payments in this subdivision, except that this requirement does not apply to enrollees receiving group residential housing payments under chapter 256I whose available income is limited to a personal needs allowance under section 256B.35.

(b) The November 2006 MinnesotaCare forecast for the biennium beginning July 1, 2007, shall assume an adjustment in the aggregate cap on the services identified in paragraph (a), clause (3), in \$1,000 increments up to a maximum of \$10,000, but not less than \$2,000, to the extent that the balance in the health care access fund is sufficient in each year of the biennium to pay for this benefit level. The aggregate cap shall be adjusted according to the forecast.

(c) Reimbursement to the providers shall be reduced by the amount of the co-payment, except that reimbursement for prescription drugs shall not be reduced once a recipient has reached the \$20 per month maximum for prescription drug co-payments. The provider collects the co-payment from the recipient. Providers may not deny services to recipients who are unable to pay the co-payment, except as provided in paragraph (d).

(d) If it is the routine business practice of a provider to refuse service to an individual with uncollected debt, the provider may include uncollected co-payments under this section. A provider must give advance notice to a recipient with uncollected debt before services can be denied.

**[EFFECTIVE DATE.]** This section is effective January 1, 2005.

Sec. 19. Minnesota Statutes 2002, section 256L.05, subdivision 3, is amended to read:

Subd. 3. **[EFFECTIVE DATE OF COVERAGE.]** (a) The effective date of coverage is the first day of the month following the month in which eligibility is approved and the first premium payment has been received. As provided in section 256B.057, coverage for newborns is automatic from the date of birth and must be coordinated with other health coverage. The effective date of coverage for eligible newly adoptive children added to a family receiving covered health services is the date of entry into the family. ~~The month of placement or the month placement is reported, whichever is later.~~ The month of placement or the month placement is reported, whichever is later. The effective date of coverage for other new ~~recipients~~ members added to the family ~~receiving covered health services~~ is the first day of the month following the month in which eligibility is approved



~~or at renewal, whichever the family receiving covered health services prefers the change is reported.~~ All eligibility criteria must be met by the family at the time the new family member is added. The income of the new family member is included with the family's gross income and the adjusted premium begins in the month the new family member is added.

(b) The initial premium must be received by the last working day of the month for coverage to begin the first day of the following month.

(c) Benefits are not available until the day following discharge if an enrollee is hospitalized on the first day of coverage.

(d) Notwithstanding any other law to the contrary, benefits under sections 256L.01 to 256L.18 are secondary to a plan of insurance or benefit program under which an eligible person may have coverage and the commissioner shall use cost avoidance techniques to ensure coordination of any other health coverage for eligible persons. The commissioner shall identify eligible persons who may have coverage or benefits under other plans of insurance or who become eligible for medical assistance.

Sec. 20. Minnesota Statutes 2003 Supplement, section 256L.07, subdivision 1, is amended to read:

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

(b) Families enrolled in MinnesotaCare under section 256L.04, subdivision 1, whose income increases above 275 percent of the federal poverty guidelines, are no longer eligible for the program and shall be disenrolled by the commissioner. Individuals enrolled in MinnesotaCare under section 256L.04, subdivision 7, whose income increases above 175 percent of the federal poverty guidelines are no longer eligible for the program and shall be disenrolled by the commissioner. ~~For persons disenrolled under this subdivision, MinnesotaCare coverage terminates the last day of the calendar month following the month in which the commissioner determines that the income of a family or individual exceeds program income limits.~~

(c)(1) Notwithstanding paragraph (b), families enrolled in MinnesotaCare under section 256L.04, subdivision 1, may remain enrolled in MinnesotaCare if ten percent of their annual income is less than the annual premium for a policy with a \$500 deductible available through the Minnesota Comprehensive Health Association. Families who are no longer eligible for MinnesotaCare under this subdivision shall be given an 18-month notice period from the date that ineligibility is determined before disenrollment. This clause expires February 1, 2004.

(2) Effective February 1, 2004, notwithstanding paragraph (b), children may remain enrolled in MinnesotaCare if ten percent of their annual family income is less than the annual premium for a policy with a \$500 deductible available through the Minnesota Comprehensive Health Association. Children who are no longer eligible for MinnesotaCare under this clause shall be given a 12-month notice period from the date that ineligibility is determined before disenrollment. The premium for children remaining eligible under this clause shall be the maximum premium determined under section 256L.15, subdivision 2, paragraph (b).

(d) Effective July 1, 2003, notwithstanding paragraphs (b) and (c), parents are no longer eligible for MinnesotaCare if gross household income exceeds \$50,000.

Sec. 21. Minnesota Statutes 2003 Supplement, section 256L.07, subdivision 3, is amended to read:

Subd. 3. [OTHER HEALTH COVERAGE.] (a) Families and individuals enrolled in the MinnesotaCare program must have no health coverage while enrolled or for at least four months prior to application and renewal. Children enrolled in the original children's health plan and children in families with income equal to or less than 150 percent of the federal poverty guidelines, who have other health insurance, are eligible if the coverage:

(1) lacks two or more of the following:

(i) basic hospital insurance;

(ii) medical-surgical insurance;

(iii) prescription drug coverage;

(iv) dental coverage; or

(v) vision coverage;

(2) requires a deductible of \$100 or more per person per year; or

(3) lacks coverage because the child has exceeded the maximum coverage for a particular diagnosis or the policy excludes a particular diagnosis.

The commissioner may change this eligibility criterion for sliding scale premiums in order to remain within the limits of available appropriations. The requirement of no health coverage does not apply to newborns.

(b) Medical assistance, general assistance medical care, and the Civilian Health and Medical Program of the Uniformed Service, CHAMPUS, or other coverage provided under United States Code, title 10, subtitle A, part II, chapter 55, are not considered insurance or health coverage for purposes of the four-month requirement described in this subdivision.

(c) For purposes of this subdivision, Medicare Part A or B coverage under title XVIII of the Social Security Act, United States Code, title 42, sections 1395c to 1395w-4, is considered health coverage. An applicant or enrollee ~~may not refuse who is entitled to Medicare but has failed to apply or refused Medicare coverage to establish eligibility is not eligible~~ for MinnesotaCare.

(d) Applicants who were recipients of medical assistance or general assistance medical care within one month of application must meet the provisions of this subdivision and subdivision 2.

(e) ~~Effective October 1, 2003, applicants who were recipients of medical assistance and had~~ Cost-effective health insurance ~~which that~~ was paid for by medical assistance ~~are exempt from~~ is not considered health coverage for purposes of the four-month requirement under this section, except if the insurance continued after medical assistance no longer considered it cost-effective or after medical assistance closed.

## Sec. 22. [FEDERAL APPROVAL.]

The commissioner of human services shall request federal approval to exempt from co-payments medical assistance recipients with personal needs allowances by July 1, 2004, and provide copies of the request to the chairs of the house Health and Human Services Finance Committee and senate Health, Human Services and Corrections Budget Division. If federal approval to exempt all recipients with a personal needs allowance is not obtained, the commissioner shall seek federal approval to exempt from co-payments all those who can qualify for an exemption through a state plan amendment or a waiver request.

## Sec. 23. [REPEALER.]

Subdivision 1. [PRESCRIPTION DRUG PROGRAM.] Minnesota Statutes 2002, section 256.955, subdivisions 1, 2, 2b, 4, 5, 6, 7, and 9; and Minnesota Statutes 2003 Supplement, section 256.955, subdivisions 2a, 3, and 4a, are repealed effective January 1, 2006.

Subd. 2. [MINNESOTACARE OUTREACH GRANTS.] Minnesota Statutes 2002, section 256L.04, subdivision 11, is repealed effective July 1, 2004.

## ARTICLE 10

## LONG-TERM CARE

Section 1. Minnesota Statutes 2003 Supplement, section 144A.071, subdivision 4c, is amended to read:

Subd. 4c. [EXCEPTIONS FOR REPLACEMENT BEDS AFTER JUNE 30, 2003.] (a) The commissioner of health, in coordination with the commissioner of human services, may approve the renovation, replacement, upgrading, or relocation of a nursing home or boarding care home, under the following conditions:

(1) to license and certify an 80-bed city-owned facility in Nicollet County to be constructed on the site of a new city-owned hospital to replace an existing 85-bed facility attached to a hospital that is also being replaced. The threshold allowed for this project under section 144A.073 shall be the maximum amount available to pay the additional medical assistance costs of the new facility; ~~and~~

(2) to license and certify 29 beds to be added to an existing 69-bed facility in St. Louis County, provided that the 29 beds must be transferred from active or layaway status at an existing facility in St. Louis County that had 235 beds on April 1, 2003.

The licensed capacity at the 235-bed facility must be reduced to 206 beds, but the payment rate at that facility shall not be adjusted as a result of this transfer. The operating payment rate of the facility adding beds after completion of this project shall be the same as it was on the day prior to the day the beds are licensed and certified. This project shall not proceed unless it is approved and financed under the provisions of section 144A.073; and

(3) to license and certify a new 60-bed facility in Austin, provided that:

(i) 45 of the new beds are transferred from a 45-bed facility in Austin under common ownership that is closed, and 15 of the new beds are transferred from a 182-bed facility in Albert Lea under common ownership;

(ii) the commissioner of human services is authorized by the 2004 legislature to negotiate budget-neutral planned nursing facility closures; and

(iii) money is available from planned closures of facilities under common ownership to make implementation of this clause budget-neutral to the state.

The bed capacity of the Albert Lea facility shall be reduced to 167 beds following the transfer. Of the 60 beds at the new facility, 20 beds shall be used for a special care unit for persons with Alzheimer's disease or related dementias.

(b) Projects approved under this subdivision shall be treated in a manner equivalent to projects approved under subdivision 4a.

Sec. 2. Minnesota Statutes 2002, section 144A.10, subdivision 1a, is amended to read:

Subd. 1a. [TRAINING AND EDUCATION FOR NURSING FACILITY PROVIDERS.] The commissioner of health must establish and implement a prescribed process and program for providing training and education to providers licensed by the Department of Health, ~~either by itself or~~ in conjunction with the industry trade associations, before using any new regulatory guideline, regulation, interpretation, program letter or memorandum, or any other materials used in surveyor training to survey licensed providers. The process should include, but is not limited to, the following key components:

(1) facilitate the implementation of immediate revisions to any course curriculum for nursing assistants which reflect any new standard of care practice that has been adopted or referenced by the Health Department concerning the issue in question;

(2) conduct training of long-term care providers and health department survey inspectors ~~either jointly or during the same time frame~~ on the department's new expectations; and

(3) ~~within available resources the commissioner shall cooperate in the development of clinical standards, work with vendors of supplies and services regarding hazards, and identify research of interest to the long term care community~~ consult with experts in the field to develop or make available training resources on current standards of practice and the use of technology.

Sec. 3. Minnesota Statutes 2002, section 144A.10, is amended by adding a subdivision to read:

Subd. 17. [AGENCY QUALITY IMPROVEMENT PROGRAM; ANNUAL REPORT ON SURVEY PROCESS.] (a) The commissioner shall establish a quality improvement program for the nursing facility survey and complaint processes. The commissioner must regularly consult with consumers, consumer advocates, and representatives of the nursing home industry and representatives of nursing home employees in implementing the program. The commissioner, through the quality improvement program, shall submit to the legislature an annual survey and certification quality improvement report, beginning December 15, 2004, and each December 15 thereafter.

(b) The report must include, but is not limited to, an analysis of:

(1) the number, scope, and severity of citations by region within the state;

(2) cross-referencing of citations by region within the state and between states within the Centers for Medicare and Medicaid Services region in which Minnesota is located;

(3) the number and outcomes of independent dispute resolutions;

(4) the number and outcomes of appeals;

(5) compliance with timelines for survey revisits and complaint investigations;

(6) techniques of surveyors in investigations, communication, and documentation to identify and support citations;

(7) compliance with timelines for providing facilities with completed statements of deficiencies; and

(8) other survey statistics relevant to improving the survey process.

(c) The report must also identify and explain inconsistencies and patterns across regions of the state, include analyses and recommendations for quality improvement areas identified by the commissioner, consumers, consumer advocates, and representatives of the nursing home industry and nursing home employees, and provide action plans to address problems that are identified.

Sec. 4. [144A.101] [PROCEDURES FOR FEDERALLY REQUIRED SURVEY PROCESS.]

Subdivision 1. [APPLICABILITY.] This section applies to survey certification and enforcement activities by the commissioner related to regular, expanded, or extended surveys under Code of Federal Regulations, title 42, part 488.

Subd. 2. [STATEMENT OF DEFICIENCIES.] The commissioner shall provide nursing facilities with draft statements of deficiencies at the time of the survey exit process and shall provide facilities with completed statements of deficiencies within 15 working days of the exit process.

Subd. 3. [SURVEYOR NOTES.] The commissioner, upon the request of a nursing facility, shall provide the facility with copies of formal surveyor notes taken during the survey, with the exception of the resident, family, and staff interviews, at the time the completed statement of deficiency is provided to the facility. The survey notes shall be redacted to protect the confidentiality of individuals providing information to the surveyors. A facility requesting formal surveyor notes must agree to pay the commissioner for the cost of copying and redacting.

Subd. 4. [POSTING OF STATEMENTS OF DEFICIENCIES.] The commissioner, when posting statements of a nursing facility's deficiencies on the agency Web site, must include in the posting the facility's response to the citations. The Web site must also include the dates upon which deficiencies are corrected and the date upon which a facility is considered to be in compliance with survey requirements. If deficiencies are under dispute, the commissioner must note this on the Web site using a method that clearly identifies for consumers which citations are under dispute.

Subd. 5. [SURVEY REVISITS.] The commissioner shall conduct survey revisits within 15 calendar days of the date by which corrections will be completed, as specified by the provider in its plan of correction, in cases where category 2 or category 3 remedies are in place. The commissioner may conduct survey revisits by telephone or written communications for facilities at which the highest scope and severity score for a violation was level E or lower.

Subd. 6. [FAMILY COUNCILS.] Nursing facility family councils shall be interviewed as part of the survey process and invited to participate in the exit conference.

Sec. 5. Minnesota Statutes 2002, section 256.01, is amended by adding a subdivision to read:

Subd. 21. [INTERAGENCY AGREEMENT WITH DEPARTMENT OF HEALTH.] The commissioner of human services shall amend the interagency agreement with the commissioner of health to certify nursing facilities for participation in the medical assistance program, to require the commissioner of health, as a condition of the agreement, to comply beginning July 1, 2005, with action plans included in the annual survey and certification quality improvement report required under section 144A.10, subdivision 17.

Sec. 6. Minnesota Statutes 2002, section 256B.431, is amended by adding a subdivision to read:

Subd. 40. [DESIGNATION OF AREAS TO RECEIVE METROPOLITAN RATES.] (a) For rate years beginning on or after July 1, 2004, and subject to paragraph (b), nursing facilities located in areas designated as metropolitan areas by the federal Office of Management and Budget using census bureau data shall be considered metro, in order to:

(1) determine rate increases under this section, section 256B.434, or any other section; and

(2) establish nursing facility reimbursement rates for the new nursing facility reimbursement system developed under Laws 2001, First Special Session chapter 9, article 5, section 35, as amended by Laws 2002, chapter 220, article 14, section 19.

(b) Paragraph (a) applies only if designation as a metro facility results in a level of reimbursement that is higher than the level the facility would have received without application of that paragraph.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 7. Minnesota Statutes 2002, section 256B.431, is amended by adding a subdivision to read:

Subd. 41. [PROFESSIONAL LIABILITY COSTS.] (a) After the computations in subdivision 40, the commissioner shall make available to eligible nursing facilities reimbursed under this section whose rates are not determined under Minnesota Rules, part 9549.0057, and to eligible nursing facilities reimbursed under section 256B.434, an adjustment to the nursing facility's operating cost per diems for the rate year beginning July 1, 2004, to assist facilities in paying increased professional liability insurance premiums greater than five percent. The per diem adjustment shall be computed by the commissioner using the information described in paragraph (b) and the method described in paragraph (c). This adjustment is onetime and must not be included in a facility's base when calculating operating cost per diems for rate years beginning on or after July 1, 2005.

(b) A facility is eligible for an adjustment if the facility experienced a rate of increase in premiums for professional liability insurance of more than five percent between calendar years 2002 and 2003, and provides to the commissioner, in the form and manner specified by the commissioner, information on the amount of premiums paid for professional liability insurance for calendar years 2002 and 2003. The information must be delivered to the commissioner by October 1, 2004, or postmarked by September 30, 2004. Facilities that do not meet this deadline are ineligible for the rate adjustment.

(c) The commissioner shall review the information timely submitted under paragraph (b) to determine each facility's allowable increased costs. For purposes of this requirement, "allowable increased costs" is the dollar amount of the portion of the percentage increase in a facility's professional liability insurance between calendar years 2002 and 2003 that exceeds five percent. Subject to the limitation in paragraph (d), the commissioner shall compute a facility's rate adjustment by dividing the allowable increased costs for that facility by actual resident days from the most recent reporting year.

(d) If the rate increases are projected to increase the state share of medical assistance costs by \$1,700,000 or less, the rate adjustments shall be implemented. If the rate increases are projected to increase the state share of medical assistance costs by more than \$1,700,000, the commissioner shall proportionally decrease each facility's rate adjustment to levels that project to spending no more than \$1,700,000.

Sec. 8. Minnesota Statutes 2003 Supplement, section 256B.434, subdivision 4, is amended to read:

Subd. 4. [ALTERNATE RATES FOR NURSING FACILITIES.] (a) For nursing facilities which have their payment rates determined under this section rather than section 256B.431, the commissioner shall establish a rate under this subdivision. The nursing facility must enter into a written contract with the commissioner.

(b) A nursing facility's case mix payment rate for the first rate year of a facility's contract under this section is the payment rate the facility would have received under section 256B.431.

(c) A nursing facility's case mix payment rates for the second and subsequent years of a facility's contract under this section are the previous rate year's contract payment rates plus an inflation adjustment and, for facilities reimbursed under this section or section 256B.431, an adjustment to include the cost of any increase in Health Department licensing fees for the facility taking effect on or after July 1, 2001. The index for the inflation adjustment must be based on the change in the Consumer Price Index-All Items (United States City average) (CPI-U) forecasted by the commissioner of finance's national economic consultant, as forecasted in the fourth quarter of the calendar year preceding the rate year. The inflation adjustment must be based on the 12-month period from the midpoint of the previous rate year to the midpoint of the rate year for which the rate is being determined. For the rate years beginning on July 1, 1999, July 1, 2000, July 1, 2001, July 1, 2002, July 1, 2003, ~~and~~ July 1, 2004, July 1, 2005, and July 1, 2006, this paragraph shall apply only to the property-related payment rate, except that adjustments to include the cost of any increase in Health Department licensing fees taking effect on or after July 1, 2001, shall be provided. In determining the amount of the property-related payment rate adjustment under this paragraph, the commissioner shall determine the proportion of the facility's rates that are property-related based on the facility's most recent cost report.

(d) The commissioner shall develop additional incentive-based payments of up to five percent above the standard contract rate for achieving outcomes specified in each contract. The specified facility-specific outcomes must be measurable and approved by the commissioner. The commissioner may establish, for each contract, various levels of achievement within an outcome. After the outcomes have been specified the commissioner shall assign various levels of payment associated with achieving the outcome. Any incentive-based payment cancels if there is a termination of the contract. In establishing the specified outcomes and related criteria the commissioner shall consider the following state policy objectives:

- (1) improved cost effectiveness and quality of life as measured by improved clinical outcomes;
- (2) successful diversion or discharge to community alternatives;
- (3) decreased acute care costs;
- (4) improved consumer satisfaction;
- (5) the achievement of quality; or
- (6) any additional outcomes proposed by a nursing facility that the commissioner finds desirable.

Sec. 9. [NURSING FACILITY SCHOLARSHIP PROGRAM.]

For the rate year beginning July 1, 2004, the amount determined under Minnesota Statutes, section 256B.431, subdivision 36, shall be removed from each nursing facility's rate.

## Sec. 10. [PROGRESS REPORT.]

The commissioner of health shall include in the December 15, 2004, quality improvement report required under section 2 a progress report and implementation plan for the following legislatively directed activities:

(1) an analysis of the frequency of defensive documentation and a plan, developed in consultation with the nursing home industry, consumers, unions representing nursing home employees, and advocates, to minimize defensive documentation;

(2) the nursing home providers workgroup established under Laws 2003, First Special Session chapter 14, article 13C, section 3; and

(3) progress in implementing the independent informal dispute resolution process required under Minnesota Statutes, section 144A.10, subdivision 16.

## Sec. 11. [RESUBMITTAL OF REQUESTS FOR FEDERAL WAIVERS AND APPROVALS.]

(a) The commissioner of health shall seek federal waivers, approvals, and law changes necessary to implement the alternative nursing home survey process established under Minnesota Statutes, section 144A.37.

(b) The commissioner of health shall seek changes in the federal policy that mandates the imposition of federal sanctions without providing an opportunity for a nursing facility to correct deficiencies, solely as the result of previous deficiencies issued to the nursing facility.

## Sec. 12. [REPEALER; NURSING FACILITY SCHOLARSHIPS.]

Minnesota Statutes 2003 Supplement, section 256B.431, subdivision 36, is repealed effective July 1, 2004.

## ARTICLE 11

## CONTINUING CARE

Section 1. Minnesota Statutes 2003 Supplement, section 252.27, subdivision 2a, is amended to read:

Subd. 2a. [CONTRIBUTION AMOUNT.] (a) The natural or adoptive parents of a minor child, including a child determined eligible for medical assistance without consideration of parental income, must contribute monthly to the cost of services, unless the child is married or has been married, parental rights have been terminated, or the child's adoption is subsidized according to section 259.67 or through title IV-E of the Social Security Act.

(b) For households with adjusted gross income equal to or greater than 100 percent of federal poverty guidelines, the parental contribution shall be computed by applying the following schedule of rates to the adjusted gross income of the natural or adoptive parents:

(1) if the adjusted gross income is equal to or greater than 100 percent of federal poverty guidelines and less than 175 percent of federal poverty guidelines, the parental contribution is \$4 per month;

(2) if the adjusted gross income is equal to or greater than 175 percent of federal poverty guidelines and less than or equal to ~~375~~ 540 percent of federal poverty guidelines, the parental contribution shall be determined using a sliding fee scale established by the commissioner of human services which begins at one percent of adjusted gross income at 175 percent of federal poverty guidelines and increases to 7.5 percent of adjusted gross income for those with adjusted gross income up to ~~375~~ 540 percent of federal poverty guidelines;



(3) if the adjusted gross income is greater than ~~375~~ 540 percent of federal poverty guidelines and less than 675 percent of federal poverty guidelines, the parental contribution shall be 7.5 percent of adjusted gross income;

(4) if the adjusted gross income is equal to or greater than 675 percent of federal poverty guidelines and less than 975 percent of federal poverty guidelines, the parental contribution shall be determined using a sliding fee scale established by the commissioner of human services which begins at 7.5 percent of adjusted gross income at 675 percent of federal poverty guidelines and increases to ten percent of adjusted gross income for those with adjusted gross income up to 975 percent of federal poverty guidelines; and

(5) if the adjusted gross income is equal to or greater than 975 percent of federal poverty guidelines, the parental contribution shall be 12.5 percent of adjusted gross income.

If the child lives with the parent, the annual adjusted gross income is reduced by \$2,400 prior to calculating the parental contribution. If the child resides in an institution specified in section 256B.35, the parent is responsible for the personal needs allowance specified under that section in addition to the parental contribution determined under this section. The parental contribution is reduced by any amount required to be paid directly to the child pursuant to a court order, but only if actually paid.

(c) The household size to be used in determining the amount of contribution under paragraph (b) includes natural and adoptive parents and their dependents under age 21, including the child receiving services. Adjustments in the contribution amount due to annual changes in the federal poverty guidelines shall be implemented on the first day of July following publication of the changes.

(d) For purposes of paragraph (b), "income" means the adjusted gross income of the natural or adoptive parents determined according to the previous year's federal tax form, except, effective retroactive to July 1, 2003, taxable capital gains to the extent the funds have been used to purchase a home shall not be counted as income.

(e) The contribution shall be explained in writing to the parents at the time eligibility for services is being determined. The contribution shall be made on a monthly basis effective with the first month in which the child receives services. Annually upon redetermination or at termination of eligibility, if the contribution exceeded the cost of services provided, the local agency or the state shall reimburse that excess amount to the parents, either by direct reimbursement if the parent is no longer required to pay a contribution, or by a reduction in or waiver of parental fees until the excess amount is exhausted.

(f) The monthly contribution amount must be reviewed at least every 12 months; when there is a change in household size; and when there is a loss of or gain in income from one month to another in excess of ten percent. The local agency shall mail a written notice 30 days in advance of the effective date of a change in the contribution amount. A decrease in the contribution amount is effective in the month that the parent verifies a reduction in income or change in household size.

(g) Parents of a minor child who do not live with each other shall each pay the contribution required under paragraph (a). An amount equal to the annual court-ordered child support payment actually paid on behalf of the child receiving services shall be deducted from the adjusted gross income of the parent making the payment prior to calculating the parental contribution under paragraph (b).

(h) The contribution under paragraph (b) shall be increased by an additional five percent if the local agency determines that insurance coverage is available but not obtained for the child. For purposes of this section, "available" means the insurance is a benefit of employment for a family member at an annual cost of no more than five percent of the family's annual income. For purposes of this section, "insurance" means health and accident insurance coverage, enrollment in a nonprofit health service plan, health maintenance organization, self-insured plan, or preferred provider organization.

Parents who have more than one child receiving services shall not be required to pay more than the amount for the child with the highest expenditures. There shall be no resource contribution from the parents. The parent shall not be required to pay a contribution in excess of the cost of the services provided to the child, not counting payments made to school districts for education-related services. Notice of an increase in fee payment must be given at least 30 days before the increased fee is due.

(i) The contribution under paragraph (b) shall be reduced by \$300 per fiscal year if, in the 12 months prior to July 1:

(1) the parent applied for insurance for the child;

(2) the insurer denied insurance;

(3) the parents submitted a complaint or appeal, in writing to the insurer, submitted a complaint or appeal, in writing, to the commissioner of health or the commissioner of commerce, or litigated the complaint or appeal; and

(4) as a result of the dispute, the insurer reversed its decision and granted insurance.

For purposes of this section, "insurance" has the meaning given in paragraph (h).

A parent who has requested a reduction in the contribution amount under this paragraph shall submit proof in the form and manner prescribed by the commissioner or county agency, including, but not limited to, the insurer's denial of insurance, the written letter or complaint of the parents, court documents, and the written response of the insurer approving insurance. The determinations of the commissioner or county agency under this paragraph are not rules subject to chapter 14.

Sec. 2. Minnesota Statutes 2003 Supplement, section 256.019, subdivision 1, is amended to read:

Subdivision 1. [RETENTION RATES.] When an assistance recovery amount is collected and posted by a county agency under the provisions governing public assistance programs including general assistance medical care, general assistance, and Minnesota supplemental aid, the county may keep one-half of the recovery made by the county agency using any method other than recoupment. For medical assistance, if the recovery is made by a county agency using any method other than recoupment, the county may keep one-half of the nonfederal share of the recovery. County agencies may retain 25 percent of a MinnesotaCare assistance recovery collection when the recovery is collected and posted by the county.

This does not apply to recoveries from medical providers or to recoveries begun by the Department of Human Services' Surveillance and Utilization Review Division, State Hospital Collections Unit, and the Benefit Recoveries Division or, by the attorney general's office, or child support collections. In the food stamp or food support program, the nonfederal share of recoveries in the federal tax offset program only will be divided equally between the state agency and the involved county agency.

Sec. 3. Minnesota Statutes 2002, section 256.9365, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM ESTABLISHED.] The commissioner of human services shall establish a program to pay private health plan premiums for persons who have contracted human immunodeficiency virus (HIV) to enable them to continue coverage under a group or individual health plan. If a person is determined to be eligible under subdivision 2, the commissioner shall pay the portion of the group plan premium for which the individual is responsible, if the individual is responsible for at least 50 percent of the cost of the premium, or pay the individual

plan premium. The commissioner shall not pay for that portion of a premium that is attributable to other family members or dependents. The commissioner shall establish cost-sharing provisions for individuals participating in this program that are consistent with provisions in section 256B.057, subdivision 9, for employed persons with disabilities.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004.

Sec. 4. Minnesota Statutes 2002, section 256B.0916, subdivision 2, is amended to read:

Subd. 2. [DISTRIBUTION OF FUNDS; PARTNERSHIPS.] (a) Beginning with fiscal year 2000, the commissioner shall distribute all funding available for home and community-based waiver services for persons with mental retardation or related conditions to individual counties or to groups of counties that form partnerships to jointly plan, administer, and authorize funding for eligible individuals. The commissioner shall encourage counties to form partnerships that have a sufficient number of recipients and funding to adequately manage the risk and maximize use of available resources.

(b) Counties must submit a request for funds and a plan for administering the program as required by the commissioner. The plan must identify the number of clients to be served, their ages, and their priority listing based on:

- (1) requirements in Minnesota Rules, part 9525.1880;
- (2) unstable living situations due to the age or incapacity of the primary caregiver;
- (3) the need for services to avoid out-of-home placement of children; ~~and~~
- (4) the need to serve persons affected by private sector ICF/MR closures; and
- (5) the need to serve persons whose consumer support grant exception amount was eliminated in 2004.

The plan must also identify changes made to improve services to eligible persons and to improve program management.

(c) In allocating resources to counties, priority must be given to groups of counties that form partnerships to jointly plan, administer, and authorize funding for eligible individuals and to counties determined by the commissioner to have sufficient waiver capacity to maximize resource use.

(d) Within 30 days after receiving the county request for funds and plans, the commissioner shall provide a written response to the plan that includes the level of resources available to serve additional persons.

(e) Counties are eligible to receive medical assistance administrative reimbursement for administrative costs under criteria established by the commissioner.

Sec. 5. Minnesota Statutes 2003 Supplement, section 256B.19, subdivision 1, is amended to read:

Subdivision 1. [DIVISION OF COST.] The state and county share of medical assistance costs not paid by federal funds shall be as follows:

(1) beginning January 1, 1992, 50 percent state funds and 50 percent county funds for the cost of placement of severely emotionally disturbed children in regional treatment centers;

(2) beginning January 1, 2003, 80 percent state funds and 20 percent county funds for the costs of nursing facility placements of persons with disabilities under the age of 65 that have exceeded 90 days. This clause shall be subject to chapter 256G and shall not apply to placements in facilities not certified to participate in medical assistance; and

~~(3) beginning July 1, 2004, 80 percent state funds and 20 percent county funds for the costs of placements that have exceeded 90 days in intermediate care facilities for persons with mental retardation or a related condition that have seven or more beds. This provision includes pass-through payments made under section 256B.5015; and~~

(4) beginning July 1, 2004, when state funds are used to pay for a nursing facility placement due to the facility's status as an institution for mental diseases (IMD), the county shall pay 20 percent of the nonfederal share of costs that have exceeded 90 days. This clause is subject to chapter 256G.

For counties that participate in a Medicaid demonstration project under sections 256B.69 and 256B.71, the division of the nonfederal share of medical assistance expenses for payments made to prepaid health plans or for payments made to health maintenance organizations in the form of prepaid capitation payments, this division of medical assistance expenses shall be 95 percent by the state and five percent by the county of financial responsibility.

In counties where prepaid health plans are under contract to the commissioner to provide services to medical assistance recipients, the cost of court ordered treatment ordered without consulting the prepaid health plan that does not include diagnostic evaluation, recommendation, and referral for treatment by the prepaid health plan is the responsibility of the county of financial responsibility.

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

Sec. 6. Minnesota Statutes 2002, section 256B.49, is amended by adding a subdivision to read:

Subd. 21. [REPORT.] The commissioner shall expand on the annual report required under section 256B.0916, subdivision 7, to include information on the county of residence and financial responsibility, age, and major diagnoses for persons eligible for the home and community-based waivers authorized under subdivision 11 who are:

- (1) receiving those services;
- (2) screened and waiting for waiver services; and
- (3) residing in nursing facilities and are under age 65.

Sec. 7. [ICF/MR PLAN.]

The commissioner of human services shall consult with ICF/MR providers, advocates, counties, and consumer families to develop recommendations and legislation concerning the future services provided to people now served in ICFs/MR. The recommendations shall be reported to the house and senate committees with jurisdiction over health and human services policy and finance issues by December 15, 2004. In preparing the recommendations, the commissioner shall consider:

- (1) consumer choice of services;
- (2) consumers' service needs, including, but not limited to, active treatment;
- (3) the total cost of providing services in ICFs/MR and alternative delivery systems;

(4) whether it is the policy of the state to maintain an ICF/MR system and, if so, the recommendations shall define the ICF/MR payment system to ensure adequate resources to meet changing consumer needs, provide crisis and respite services, and ensure stability when occupancy changes; and

(5) if alternative services are recommended to support people now receiving services in an ICF/MR, the recommendations shall ensure adequate financial resources are available to meet the needs of ICF/MR recipients.

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

Sec. 8. [CONSUMER DIRECTED COMMUNITY SUPPORT; INDEPENDENT EVALUATION AND STAKEHOLDER PARTICIPATION.]

The commissioner shall consult with a group of interested stakeholders including representatives of persons affected, families, guardians, advocacy groups, counties, and providers in conducting an independent evaluation of the new consumer directed community support option under the home and community-based waiver programs required by the federal Center for Medicare and Medicaid Services. The independent evaluation shall include, but not be limited to, an examination of whether any current consumer directed option participants will have their funding reduced so significantly that their health, safety, and welfare at home will be jeopardized and whether replacement services will cost more or be of lower quality than their current consumer directed services. The preliminary findings of the independent evaluation shall be provided to the house and senate committees with jurisdiction over human services policy and finance by February 15, 2005.

## ARTICLE 12

### DHS PROGRAM INTEGRITY AND ADMINISTRATION

Section 1. Minnesota Statutes 2002, section 256.01, is amended by adding a subdivision to read:

Subd. 2a. [AUTHORIZATION FOR TEST SITES FOR HEALTH CARE PROGRAMS.] In coordination with the development and implementation of HealthMatch, an automated eligibility system for medical assistance, general assistance medical care, and MinnesotaCare, the commissioner, in cooperation with county agencies, is authorized to test and compare a variety of administrative models to demonstrate and evaluate outcomes of integrating health care program business processes and points of access. The models will be evaluated for ease of enrollment for health care program applicants and recipients and administrative efficiencies. Test sites will combine the administration of all three programs and will include both local county and centralized statewide customer assistance. The duration of each approved test site shall be no more than one year. Based on the evaluation, the commissioner shall recommend the most efficient and effective administrative model for statewide implementation.

Sec. 2. Minnesota Statutes 2003 Supplement, section 256.046, subdivision 1, is amended to read:

Subdivision 1. [HEARING AUTHORITY.] A local agency must initiate an administrative fraud disqualification hearing for individuals, including child care providers caring for children receiving child care assistance, accused of wrongfully obtaining assistance or intentional program violations, in lieu of a criminal action when it has not been pursued, in the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, MFIP, child care assistance programs, general assistance, family general assistance program formerly codified in section 256D.05, subdivision 1, clause (15), Minnesota supplemental aid, food stamp programs, general assistance medical care, MinnesotaCare for adults without children, and upon federal approval, all categories of medical assistance and remaining categories of MinnesotaCare except for children through age 18. The Department of Human Services, in lieu of a local agency, may initiate an administrative fraud disqualification hearing for individuals accused of wrongfully obtaining assistance or intentional program violations, in lieu of a criminal action

when a criminal action has not been pursued in the MinnesotaCare program for adults without children, and upon federal approval, all remaining categories of MinnesotaCare, except for children through age 18. The hearing is subject to the requirements of section 256.045 and the requirements in Code of Federal Regulations, title 7, section 273.16, for the food stamp program and title 45, section 235.112, as of September 30, 1995, for the cash grant, medical care programs, and child care assistance under chapter 119B.

Sec. 3. Minnesota Statutes 2002, section 256B.02, subdivision 12, is amended to read:

Subd. 12. "Third-party payer" means a person, entity, or agency or government program that has a probable obligation to pay all or part of the costs of a medical assistance recipient's health services. Third-party payer includes an entity under contract with the recipient to cover all or part of the recipient's medical costs.

Sec. 4. Minnesota Statutes 2002, section 256B.04, subdivision 14, is amended to read:

Subd. 14. [COMPETITIVE BIDDING.] When determined to be effective, economical, and feasible, the commissioner may utilize volume purchase through competitive bidding and negotiation under the provisions of chapter 16C, to provide items under the medical assistance program including but not limited to the following:

- (1) eyeglasses;
- (2) oxygen. The commissioner shall provide for oxygen needed in an emergency situation on a short-term basis, until the vendor can obtain the necessary supply from the contract dealer;
- (3) hearing aids and supplies; and
- (4) durable medical equipment, including but not limited to:
  - (a) hospital beds;
  - (b) commodes;
  - (c) glide-about chairs;
  - (d) patient lift apparatus;
  - (e) wheelchairs and accessories;
  - (f) oxygen administration equipment;
  - (g) respiratory therapy equipment;
  - (h) electronic diagnostic, therapeutic and life support systems;
- (5) special transportation services; and
- (6) drugs.

Rate changes under chapters 256B, 256D, and 256L, do not effect contract payments under this subdivision unless specifically identified.

Sec. 5. Minnesota Statutes 2002, section 256B.056, subdivision 5, is amended to read:

Subd. 5. [EXCESS INCOME.] (a) A person who has excess income is eligible for medical assistance if the person has expenses for medical care that are more than the amount of the person's excess income, computed by deducting incurred medical expenses from the excess income to reduce the excess to the income standard specified in subdivision 5c. If a person is ineligible for payment of long-term care services due to an uncompensated transfer under section 256B.0595, only the current month's long-term care expenses that are greater than the average medical assistance rate for nursing facility services in the state, along with other incurred medical expenses, may be deducted from excess income. The person shall elect to have the medical expenses deducted at the beginning of a one-month budget period or at the beginning of a six-month budget period.

(b) The commissioner shall allow persons eligible for assistance on a one-month spenddown basis under this subdivision to elect to pay the monthly spenddown amount in advance of the month of eligibility to the state agency in order to maintain eligibility on a continuous basis. If the recipient does not pay the spenddown amount on or before the ~~20th~~ last business day of the month, the recipient is ineligible for this option for the following month. The local agency shall code the Medicaid Management Information System (MMIS) to indicate that the recipient has elected this option. The state agency shall convey recipient eligibility information relative to the collection of the spenddown to providers through the Electronic Verification System (EVS). A recipient electing advance payment must pay the state agency the monthly spenddown amount ~~on or~~ before noon on the 20th last business day of the month in order to be eligible for this option in the following month.

[EFFECTIVE DATE.] The amendment to paragraph (b) is effective upon implementation of HealthMatch.

Sec. 6. Minnesota Statutes 2002, section 256B.056, is amended by adding a subdivision to read:

Subd. 8a. [NOTICE.] The state agency must be given notice of monetary claims against a person, entity, or corporation that may be liable to pay all or part of all of the cost of medical care when the state agency has paid or becomes liable for the cost of that care. Notice must be given as follows:

(a) An applicant for medical assistance shall notify the state or local agency of any possible claims when the applicant submits the application. A recipient of medical assistance shall notify the state or local agency of any possible claims when those claims arise.

(b) A person providing medical care services to a recipient of medical assistance shall notify the state agency when the person has reason to believe that a third party may be liable for payment of the cost of medical care.

(c) A party to a claim that may be assigned to the state agency under this section shall notify the state agency of its potential assignment claim in writing at each of the following stages of a claim:

(1) when a claim is filed;

(2) when an action is commenced; and

(3) when a claim is concluded by payment, award, judgment, settlement, or otherwise.

Every party involved in any stage of a claim under this subdivision is required to provide notice to the state agency at that stage of the claim. However, when one of the parties to the claim provides notice at that stage, every other party to the claim is deemed to have provided the required notice for that stage of the claim. If the required notice under this paragraph is not provided to the state agency, all parties to the claim are deemed to have failed to

provide the required notice. A party to the claim includes the injured person or the person's legal representative, the plaintiff, the defendants, or persons alleged to be responsible for compensating the injured person or plaintiff, and any other party to the cause of action or claim, regardless of whether the party knows the state agency has a potential or actual assignment claim.

Sec. 7. Minnesota Statutes 2002, section 256B.056, is amended by adding a subdivision to read:

Subd. 8b. [JOINDER OF STATE IN ACTIONS AGAINST THIRD PARTIES.] Any medical assistance recipient or the recipient's legal representative asserting a claim against a third party potentially liable for all or part of the recipient's medical costs shall join the state agency as a party to the claim.

Sec. 8. Minnesota Statutes 2002, section 256B.056, is amended by adding a subdivision to read:

Subd. 8c. [SETTLEMENT.] Pursuant to United States Code, title 42, section 1396k(b), no judgment, award, or settlement of any action or claim by or on behalf of a medical assistance recipient to recover damages from a third party potentially liable for all or part of the recipient's medical costs shall be acceded to or satisfied by the recipient or the recipient's legal representative or approved by the court without granting the state agency first recovery from the liable third party to the full extent of its medical expenditures, minus pro rata costs and attorney fees, regardless of whether the recipient has been fully compensated.

Sec. 9. Minnesota Statutes 2003 Supplement, section 256B.0595, subdivision 2, is amended to read:

Subd. 2. [PERIOD OF INELIGIBILITY.] (a) For any uncompensated transfer occurring on or before August 10, 1993, the number of months of ineligibility for long-term care services shall be the lesser of 30 months, or the uncompensated transfer amount divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the month in which the assets were transferred. If the transfer was not reported to the local agency at the time of application, and the applicant received long-term care services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of long-term care services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received.

(b) For uncompensated transfers made after August 10, 1993, the number of months of ineligibility for long-term care services shall be the total uncompensated value of the resources transferred divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the first day of the month after the month in which the assets were transferred except that if one or more uncompensated transfers are made during a period of ineligibility, the total assets transferred during the ineligibility period shall be combined and a penalty period calculated to begin on the first day of the month after the month in which the first uncompensated transfer was made. If the transfer was reported to the local agency after the date advance notice of a period of ineligibility that affects the next month could be provided to the recipient and the recipient received medical assistance services, or the transfer was not reported to the local agency, and the applicant or recipient received medical assistance services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of medical assistance services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The action may be brought by the state or the local



agency responsible for providing medical assistance under chapter 256G. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received. Effective for transfers made on or after March 1, 1996, involving persons who apply for medical assistance on or after April 13, 1996, no cause of action exists for a transfer unless:

(1) the transferee knew or should have known that the transfer was being made by a person who was a resident of a long-term care facility or was receiving that level of care in the community at the time of the transfer;

(2) the transferee knew or should have known that the transfer was being made to assist the person to qualify for or retain medical assistance eligibility; or

(3) the transferee actively solicited the transfer with intent to assist the person to qualify for or retain eligibility for medical assistance.

(c) If a calculation of a penalty period results in a partial month, payments for long-term care services shall be reduced in an amount equal to the fraction, except that in calculating the value of uncompensated transfers, if the total value of all uncompensated transfers made in a month not included in an existing penalty period does not exceed \$200, then such transfers shall be disregarded for each month prior to the month of application for or during receipt of medical assistance.

**[EFFECTIVE DATE.]** This section is effective for transfers occurring on or after July 1, 2004.

Sec. 10. Minnesota Statutes 2003 Supplement, section 256D.03, subdivision 3, is amended to read:

Subd. 3. [GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY.] (a) General assistance medical care may be paid for any person who is not eligible for medical assistance under chapter 256B, including eligibility for medical assistance based on a spenddown of excess income according to section 256B.056, subdivision 5, or MinnesotaCare as defined in paragraph (b), except as provided in paragraph (c), and:

(1) who is receiving assistance under section 256D.05, except for families with children who are eligible under Minnesota family investment program (MFIP), or who is having a payment made on the person's behalf under sections 256L.01 to 256L.06; or

(2) who is a resident of Minnesota; and

(i) who has gross countable income not in excess of 75 percent of the federal poverty guidelines for the family size, using a six-month budget period and whose equity in assets is not in excess of \$1,000 per assistance unit. Exempt assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in section 256B.056, subdivision 3, with the following exception: the maximum amount of undistributed funds in a trust that could be distributed to or on behalf of the beneficiary by the trustee, assuming the full exercise of the trustee's discretion under the terms of the trust, must be applied toward the asset maximum; or

(ii) who has gross countable income above 75 percent of the federal poverty guidelines but not in excess of 175 percent of the federal poverty guidelines for the family size, using a six-month budget period, whose equity in assets is not in excess of the limits in section 256B.056, subdivision 3c, and who applies during an inpatient hospitalization.

(b) General assistance medical care may not be paid for applicants or recipients who meet all eligibility requirements of MinnesotaCare as defined in sections 256L.01 to 256L.16, and are adults with dependent children under 21 whose gross family income is equal to or less than 275 percent of the federal poverty guidelines.

(c) For applications received on or after October 1, 2003, eligibility may begin no earlier than the date of application. For individuals eligible under paragraph (a), clause (2), item (i), a redetermination of eligibility must occur every 12 months. Individuals are eligible under paragraph (a), clause (2), item (ii), only during inpatient hospitalization but may reapply if there is a subsequent period of inpatient hospitalization. Beginning January 1, 2000, Minnesota health care program applications completed by recipients and applicants who are persons described in paragraph (b), may be returned to the county agency to be forwarded to the Department of Human Services or sent directly to the Department of Human Services for enrollment in MinnesotaCare. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available in any month during which a MinnesotaCare eligibility determination and enrollment are pending. Upon notification of eligibility for MinnesotaCare, notice of termination for eligibility for general assistance medical care shall be sent to an applicant or recipient. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available until enrollment in MinnesotaCare subject to the provisions of paragraph (e).

(d) The date of an initial Minnesota health care program application necessary to begin a determination of eligibility shall be the date the applicant has provided a name, address, and Social Security number, signed and dated, to the county agency or the Department of Human Services. If the applicant is unable to provide a name, address, Social Security number, and signature when health care is delivered due to a medical condition or disability, a health care provider may act on an applicant's behalf to establish the date of an initial Minnesota health care program application by providing the county agency or Department of Human Services with provider identification and a temporary unique identifier for the applicant. The applicant must complete the remainder of the application and provide necessary verification before eligibility can be determined. The county agency must assist the applicant in obtaining verification if necessary.

(e) County agencies are authorized to use all automated databases containing information regarding recipients' or applicants' income in order to determine eligibility for general assistance medical care or MinnesotaCare. Such use shall be considered sufficient in order to determine eligibility and premium payments by the county agency.

(f) General assistance medical care is not available for a person in a correctional facility unless the person is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, and the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

(g) General assistance medical care is not available for applicants or recipients who do not cooperate with the county agency to meet the requirements of medical assistance.

(h) In determining the amount of assets of an individual ~~eligible under paragraph (a), clause (2), item (i)~~, there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 60 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care, unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility, including partial months, shall be calculated by dividing the uncompensated transfer amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed 30 months, and a reapplication for benefits after 30 months from the date of

the transfer shall not result in eligibility unless and until the period of ineligibility has expired. The period of ineligibility begins in the month the transfer was reported to the county agency, or if the transfer was not reported, the month in which the county agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.

(i) When determining eligibility for any state benefits under this subdivision, the income and resources of all noncitizens shall be deemed to include their sponsor's income and resources as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law 104-193, sections 421 and 422, and subsequently set out in federal rules.

(j) Undocumented noncitizens and nonimmigrants are ineligible for general assistance medical care, except an individual eligible under paragraph (a), clause (4), remains eligible through September 30, 2003. For purposes of this subdivision, a nonimmigrant is an individual in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), and an undocumented noncitizen is an individual who resides in the United States without the approval or acquiescence of the Immigration and Naturalization Service.

(k) Notwithstanding any other provision of law, a noncitizen who is ineligible for medical assistance due to the deeming of a sponsor's income and resources, is ineligible for general assistance medical care.

(l) Effective July 1, 2003, general assistance medical care emergency services end.

Sec. 11. Minnesota Statutes 2002, section 256D.045, is amended to read:

256D.045 [SOCIAL SECURITY NUMBER REQUIRED.]

To be eligible for general assistance under sections 256D.01 to 256D.21, an individual must provide the individual's Social Security number to the county agency or submit proof that an application has been made. An individual who refuses to provide a Social Security number because of a well-established religious objection as described in Code of Federal Regulations, title 42, section 435.910, may be eligible for general assistance medical care under section 256D.03. The provisions of this section do not apply to the determination of eligibility for emergency general assistance under section 256D.06, subdivision 2. This provision applies to eligible children under the age of 18 effective July 1, 1997.

Sec. 12. Minnesota Statutes 2002, section 256L.04, is amended by adding a subdivision to read:

Subd. 1a. [SOCIAL SECURITY NUMBER REQUIRED.] (a) Individuals and families applying for MinnesotaCare coverage must provide a Social Security number.

(b) The commissioner shall not deny eligibility to an otherwise eligible applicant who has applied for a Social Security number and is awaiting issuance of that Social Security number.

(c) Newborns enrolled under section 256L.05, subdivision 3, are exempt from the requirements of this subdivision.

(d) Individuals who refuse to provide a Social Security number because of well-established religious objections are exempt from this subdivision. The term "well-established religious objections" has the meaning given in Code of Federal Regulations, title 42, section 435.910.

Sec. 13. Minnesota Statutes 2002, section 256L.04, subdivision 2, is amended to read:

Subd. 2. [COOPERATION IN ESTABLISHING THIRD-PARTY LIABILITY, PATERNITY, AND OTHER MEDICAL SUPPORT.] (a) To be eligible for MinnesotaCare, individuals and families must cooperate with the state agency to identify potentially liable third-party payers and assist the state in obtaining third-party payments. "Cooperation" includes, but is not limited to, complying with the notice and settlement requirements in section 256B.056, subdivisions 8a and 8c, identifying any third party who may be liable for care and services provided under MinnesotaCare to the enrollee, providing relevant information to assist the state in pursuing a potentially liable third party, and completing forms necessary to recover third-party payments.

(b) A parent, guardian, relative caretaker, or child enrolled in the MinnesotaCare program must cooperate with the Department of Human Services and the local agency in establishing the paternity of an enrolled child and in obtaining medical care support and payments for the child and any other person for whom the person can legally assign rights, in accordance with applicable laws and rules governing the medical assistance program. A child shall not be ineligible for or disenrolled from the MinnesotaCare program solely because the child's parent, relative caretaker, or guardian fails to cooperate in establishing paternity or obtaining medical support.

Sec. 14. Minnesota Statutes 2002, section 256L.04, is amended by adding a subdivision to read:

Subd. 2a. [APPLICATIONS FOR OTHER BENEFITS.] To be eligible for MinnesotaCare, individuals and families must take all necessary steps to obtain other benefits as described in Code of Federal Regulations, title 42, section 435.608. Applicants and enrollees must apply for other benefits within 30 days.

Sec. 15. Minnesota Statutes 2002, section 549.02, is amended by adding a subdivision to read:

Subd. 3. [LIMITATION.] Notwithstanding subdivisions 1 and 2, where the state agency is joined as a party according to section 256B.056, subdivision 8b, or brings an independent action to enforce the agency's rights under section 256B.056, the state agency shall not be liable for costs to any prevailing defendant.

Sec. 16. Minnesota Statutes 2002, section 549.04, is amended to read:

549.04 [DISBURSEMENTS; TAXATION AND ALLOWANCE.]

Subdivision 1. [GENERALLY.] In every action in a district court, the prevailing party, including any public employee who prevails in an action for wrongfully denied or withheld employment benefits or rights, shall be allowed reasonable disbursements paid or incurred, including fees and mileage paid for service of process by the sheriff or by a private person.

Subd. 2. [LIMITATION.] Notwithstanding subdivision 1, where the state agency is joined as a party according to section 256B.056, subdivision 8b, or brings an independent action to enforce its rights under section 256B.056, the state agency shall not be liable for disbursements to any prevailing defendant.

## ARTICLE 13

### MISCELLANEOUS

Section 1. Minnesota Statutes 2002, section 144.148, is amended by adding a subdivision to read:

Subd. 9. [STATUS OF PREVIOUS AWARDS.] The commissioner must regard grants or loans awarded to eligible rural hospitals before August 1, 1999, as grants subject to the conditions of this section and not subject to repayment as loans under Minnesota Statutes 1998, section 144.148.

Sec. 2. Minnesota Statutes 2002, section 144D.025, is amended to read:

144D.025 [OPTIONAL REGISTRATION.]

An establishment that meets all the requirements of this chapter except that fewer than 80 percent of the adult residents are age 55 or older, or a supportive housing establishment developed and funded in whole or in part with funds provided specifically as part of the plan to end long-term homelessness required under Laws 2003, chapter 128, article 15, section 9, may, at its option, register as a housing with services establishment.

Sec. 3. [145.417] [FAMILY PLANNING GRANT FUNDS NOT USED TO SUBSIDIZE ABORTION SERVICES.]

Subdivision 1. [DEFINITIONS.] (a) For purposes of this section, the following definitions apply.

(b) "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device to intentionally terminate the pregnancy of a female known to be pregnant, with an intention other than to prevent the death of the female, increase the probability of a live birth, preserve the life or health of the child after live birth, or remove a dead fetus.

(c) "Family planning grant funds" means funds distributed through the maternal and child health block grant program under sections 145.881 to 145.889, the family planning special projects grant program under section 145.925, the program to eliminate health disparities under section 145.928, or any other state grant program whose funds are or may be used to fund family planning services.

(d) "Family planning services" means preconception services that limit or enhance fertility, including methods of contraception, the management of infertility, preconception counseling, education, and general reproductive health care.

(e) "Nondirective counseling" means providing patients with:

(1) a list of health care providers and social service providers that provide prenatal care, childbirth care, infant care, foster care, adoption services, alternatives to abortion, or abortion services; and

(2) nondirective, nonmarketing information regarding such providers.

(f) "Public advocacy" means engaging in one or more of the following:

(1) regularly engaging in efforts to encourage the passage or defeat of legislation pertaining to the continued or expanded availability of abortion;

(2) publicly endorsing or recommending the election or defeat of a candidate for public office based on the candidate's position on the legality of abortion; or

(3) engaging in civil litigation against a unit of government as a plaintiff seeking to enjoin or otherwise prohibit enforcement of a statute, ordinance, rule, or regulation pertaining to abortion.

Subd. 2. [USES OF FAMILY PLANNING GRANT FUNDS.] No family planning grant funds may be:

(1) expended to directly or indirectly subsidize abortion services or administrative expenses; or

(2) paid or granted to an organization or an affiliate of an organization that provides abortion services, unless the affiliate is independent as provided in subdivision 4.

Subd. 3. [ORGANIZATIONS RECEIVING FAMILY PLANNING GRANT FUNDS.] An organization that receives family planning grant funds:

(1) may provide nondirective counseling relating to pregnancy, but may not directly refer patients who seek abortion services to any organization that provides abortion services, including an independent affiliate of the organization receiving family planning grant funds. For purposes of this clause, an affiliate is independent if it satisfies the criteria in subdivision 4, paragraph (a);

(2) may not display or distribute marketing materials about abortion services to patients;

(3) may not engage in public advocacy promoting the legality or accessibility of abortion; and

(4) must be separately incorporated from any affiliated organization that provides abortion services.

Subd. 4. [INDEPENDENT AFFILIATES THAT PROVIDE ABORTION SERVICES.] (a) To ensure that the state does not lend its imprimatur to abortion services and to ensure that an organization that provides abortion services does not receive a direct or indirect economic or marketing benefit from family planning grant funds, an organization that receives family planning grant funds may not be affiliated with an organization that provides abortion services unless the organizations are independent from each other. To be independent, the organizations may not share any of the following:

(1) the same or a similar name;

(2) medical facilities or nonmedical facilities, including, but not limited to, business offices, treatment rooms, consultation rooms, examination rooms, and waiting rooms;

(3) expenses;

(4) employee wages or salaries; or

(5) equipment or supplies, including, but not limited to, computers, telephone systems, telecommunications equipment, and office supplies.

(b) An organization that receives family planning grant funds and that is affiliated with an organization that provides abortion services must maintain financial records that demonstrate strict compliance with this subdivision and that demonstrate that its independent affiliate that provides abortion services receives no direct or indirect economic or marketing benefit from the family planning grant funds.

Subd. 5. [INDEPENDENT AUDIT.] When an organization applies for family planning grant funds, the organization must submit with the grant application a copy of the organization's most recent independent audit to ensure the organization is in compliance with this section. The independent audit must have been conducted no more than two years before the organization submits its grant application.

Subd. 6. [ORGANIZATIONS RECEIVING TITLE X FUNDS.] Nothing in this section requires an organization that receives federal funds under Title X of the Public Health Service Act to refrain from performing any service that is required to be provided as a condition of receiving Title X funds, as specified by the provisions of Title X or the Title X program guidelines for project grants for family planning services published by the United States Department of Health and Human Services.

Subd. 7. [SEVERABILITY.] If any one or more provision, word, phrase, clause, sentence, or subdivision of this section, or the application to any person or circumstance, is found to be unconstitutional, it is declared to be severable and the balance of this section shall remain effective notwithstanding such unconstitutionality. The legislature hereby declares that it would have passed this section, and each provision, word, phrase, clause, sentence, or subdivision of it, regardless of the fact that any one or more provision, word, phrase, clause, sentence, or subdivision be declared unconstitutional.

Sec. 4. Minnesota Statutes 2003 Supplement, section 246B.04, as amended by Laws 2004, chapter 134, section 2, is amended to read:

246B.04 [RULES; EVALUATION.]

Subdivision 1. [PROGRAM RULES AND EVALUATION.] The commissioner of human services shall adopt rules to govern the operation, maintenance, and licensure of secure treatment facilities operated by the Minnesota sex offender program or at any other facility operated by the commissioner, for a person committed as a sexual psychopathic personality or a sexually dangerous person. The commissioner shall establish an evaluation process to measure outcomes and behavioral changes as a result of treatment compared with incarceration without treatment, to determine the value, if any, of treatment in protecting the public.

Subd. 2. [BAN ON OBSCENE MATERIAL OR PORNOGRAPHIC WORK.] The commissioner shall prohibit persons civilly committed as sexual psychopathic personalities or sexually dangerous persons under ~~sections~~ Minnesota Statutes 1978, section 246.43 and section 253B.185 from having or receiving material that is obscene as defined under section 617.241, subdivision 1, material that depicts sexual conduct as defined under section 617.241, subdivision 1, or pornographic work as defined under section 617.246, subdivision 1, while receiving services in any secure treatment facilities operated by the Minnesota sex offender program or any other facilities operated by the commissioner.

Sec. 5. Minnesota Statutes 2002, section 256.01, is amended by adding a subdivision to read:

Subd. 14a. [SINGLE BENEFIT DEMONSTRATION.] The commissioner may conduct a demonstration program under a federal Title IV-E waiver to demonstrate the impact of a single benefit level on the rate of permanency for children in long-term foster care through transfer of permanent legal custody or adoption. The commissioner of human services is authorized to waive enforcement of related statutory program requirements, rules, and standards in one or more counties for the purpose of this demonstration. The demonstration must comply with the requirements of the secretary of health and human services under federal waiver and be cost neutral to the state.

The commissioner may measure cost neutrality to the state by the same mechanism approved by the secretary of health and human services to measure federal cost neutrality. The commissioner is authorized to accept and administer county funds and to transfer state and federal funds among the affected programs as necessary for the conduct of the demonstration.

Sec. 6. Minnesota Statutes 2003 Supplement, section 256D.44, subdivision 5, is amended to read:

Subd. 5. [SPECIAL NEEDS.] In addition to the state standards of assistance established in subdivisions 1 to 4, payments are allowed for the following special needs of recipients of Minnesota supplemental aid who are not residents of a nursing home, a regional treatment center, or a group residential housing facility.

(a) The county agency shall pay a monthly allowance for medically prescribed diets if the cost of those additional dietary needs cannot be met through some other maintenance benefit. The need for special diets or dietary items must be prescribed by a licensed physician. Costs for special diets shall be determined as percentages of the allotment for a one-person household under the thrifty food plan as defined by the United States Department of Agriculture. The types of diets and the percentages of the thrifty food plan that are covered are as follows:

- (1) high protein diet, at least 80 grams daily, 25 percent of thrifty food plan;
- (2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent of thrifty food plan;
- (3) controlled protein diet, less than 40 grams and requires special products, 125 percent of thrifty food plan;
- (4) low cholesterol diet, 25 percent of thrifty food plan;
- (5) high residue diet, 20 percent of thrifty food plan;
- (6) pregnancy and lactation diet, 35 percent of thrifty food plan;
- (7) gluten-free diet, 25 percent of thrifty food plan;
- (8) lactose-free diet, 25 percent of thrifty food plan;
- (9) antidumping diet, 15 percent of thrifty food plan;
- (10) hypoglycemic diet, 15 percent of thrifty food plan; or
- (11) ketogenic diet, 25 percent of thrifty food plan.

(b) Payment for nonrecurring special needs must be allowed for necessary home repairs or necessary repairs or replacement of household furniture and appliances using the payment standard of the AFDC program in effect on July 16, 1996, for these expenses, as long as other funding sources are not available.

(c) A fee for guardian or conservator service is allowed at a reasonable rate negotiated by the county or approved by the court. This rate shall not exceed five percent of the assistance unit's gross monthly income up to a maximum of \$100 per month. If the guardian or conservator is a member of the county agency staff, no fee is allowed.

(d) The county agency shall continue to pay a monthly allowance of \$68 for restaurant meals for a person who was receiving a restaurant meal allowance on June 1, 1990, and who eats two or more meals in a restaurant daily. The allowance must continue until the person has not received Minnesota supplemental aid for one full calendar month or until the person's living arrangement changes and the person no longer meets the criteria for the restaurant meal allowance, whichever occurs first.

(e) A fee of ten percent of the recipient's gross income or \$25, whichever is less, is allowed for representative payee services provided by an agency that meets the requirements under SSI regulations to charge a fee for representative payee services. This special need is available to all recipients of Minnesota supplemental aid regardless of their living arrangement.

(f) Notwithstanding the language in this subdivision, an amount equal to the maximum allotment authorized by the federal Food Stamp Program for a single individual which is in effect on the first day of January of the previous year will be added to the standards of assistance established in subdivisions 1 to 4 for individuals under the age of 65 who are relocating from an institution or a Department of Human Services Rule 36 facility, and who are shelter needy. An eligible individual who receives this benefit prior to age 65 may continue to receive the benefit after the age of 65.

"Shelter needy" means that the assistance unit incurs monthly shelter costs that exceed 40 percent of the assistance unit's gross income before the application of this special needs standard. "Gross income" for the purposes of this section is the applicant's or recipient's income as defined in section 256D.35, subdivision 10, or the standard specified in subdivision 3, whichever is greater. A recipient of a federal or state housing subsidy, that limits shelter costs to a percentage of gross income, shall not be considered shelter needy for purposes of this paragraph.



Sec. 7. Minnesota Statutes 2002, section 256I.04, subdivision 2a, is amended to read:

Subd. 2a. [LICENSE REQUIRED.] A county agency may not enter into an agreement with an establishment to provide group residential housing unless:

(1) the establishment is licensed by the Department of Health as a hotel and restaurant; a board and lodging establishment; a residential care home; a boarding care home before March 1, 1985; or a supervised living facility, and the service provider for residents of the facility is licensed under chapter 245A. However, an establishment licensed by the Department of Health to provide lodging need not also be licensed to provide board if meals are being supplied to residents under a contract with a food vendor who is licensed by the Department of Health;

(2) the residence is licensed by the commissioner of human services under Minnesota Rules, parts 9555.5050 to 9555.6265, or certified by a county human services agency prior to July 1, 1992, using the standards under Minnesota Rules, parts 9555.5050 to 9555.6265; or

(3) the establishment is registered under chapter 144D and provides three meals a day, ~~except that or is~~ an establishment voluntarily registered under section 144D.025 as a supportive housing establishment. An establishment voluntarily registered under section 144D.025, other than a supportive housing establishment under this subdivision, is not eligible ~~for an agreement~~ to provide group residential housing.

The requirements under ~~clauses (1), (2), and (3)~~ this subdivision do not apply to establishments exempt from state licensure because they are located on Indian reservations and subject to tribal health and safety requirements.

Sec. 8. Minnesota Statutes 2003 Supplement, section 295.50, subdivision 9b, is amended to read:

Subd. 9b. [PATIENT SERVICES.] (a) "Patient services" means inpatient and outpatient services and other goods and services provided by hospitals, surgical centers, or health care providers. They include the following health care goods and services provided to a patient or consumer:

- (1) bed and board;
- (2) nursing services and other related services;
- (3) use of hospitals, surgical centers, or health care provider facilities;
- (4) medical social services;
- (5) drugs, biologicals, supplies, appliances, and equipment;
- (6) other diagnostic or therapeutic items or services;
- (7) medical or surgical services;
- (8) items and services furnished to ambulatory patients not requiring emergency care; and
- (9) emergency services; ~~and~~
- (10) ~~covered services listed in section 256B.0625 and in Minnesota Rules, parts 9505.0170 to 9505.0475.~~

(b) "Patient services" does not include:

- (1) services provided to nursing homes licensed under chapter 144A;
- (2) examinations for purposes of utilization reviews, insurance claims or eligibility, litigation, and employment, including reviews of medical records for those purposes;
- (3) services provided to and by community residential mental health facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, and to and by children's residential treatment programs licensed under Minnesota Rules, parts 9545.0905 to 9545.1125, or its successor;
- (4) services provided to and by community support programs and family community support programs approved under Minnesota Rules, parts 9535.1700 to 9535.1760 or certified as mental health rehabilitative services under chapter 256B;
- (5) services provided to and by community mental health centers as defined in section 245.62, subdivision 2;
- (6) services provided to and by assisted living programs and congregate housing programs; ~~and~~
- (7) hospice care services;
- (8) home and community-based waived services under sections 256B.0915, 256B.49, 256B.491, and 256B.501;
- (9) targeted case management services under sections 256B.0621; 256B.0625, subdivisions 20, 20a, 33, and 44; and 256B.094; and
- (10) services provided to the following: supervised living facilities for persons with mental retardation or related conditions licensed under Minnesota Rules, parts 4665.0100 to 4665.9900; housing with services establishments required to be registered under chapter 144D; board and lodging establishments providing only custodial services that are licensed under chapter 157 and registered under section 157.17 to provide supportive services or health supervision services; adult foster homes as defined in Minnesota Rules, part 9555.5105; day training and habilitation services for adults with mental retardation and related conditions as defined in section 252.41, subdivision 3; boarding care homes as defined in Minnesota Rules, part 4655.0100; adult day care centers as defined in Minnesota Rules, part 9555.9600; and home health agencies as defined in Minnesota Rules, part 9505.0175, subpart 15.

**[EFFECTIVE DATE.]** This section is effective retroactively from January 1, 2004.

Sec. 9. Minnesota Statutes 2003 Supplement, section 295.53, subdivision 1, is amended to read:

Subdivision 1. [EXEMPTIONS.] (a) The following payments are excluded from the gross revenues subject to the hospital, surgical center, or health care provider taxes under sections 295.50 to 295.59:

- (1) payments received for services provided under the Medicare program, including payments received from the government, and organizations governed by sections 1833 and 1876 of title XVIII of the federal Social Security Act, United States Code, title 42, section 1395, and enrollee deductibles, coinsurance, and co-payments, whether paid by the Medicare enrollee or by a Medicare supplemental coverage as defined in section 62A.011, subdivision 3, clause (10), or by Medicaid payments under title XIX of the federal Social Security Act. Payments for services not covered by Medicare are taxable;
- (2) payments received for home health care services;

(3) payments received from hospitals or surgical centers for goods and services on which liability for tax is imposed under section 295.52 or the source of funds for the payment is exempt under clause (1), (7), (10), or (14);

(4) payments received from health care providers for goods and services on which liability for tax is imposed under this chapter or the source of funds for the payment is exempt under clause (1), (7), (10), or (14);

(5) amounts paid for legend drugs, other than nutritional products, to a wholesale drug distributor who is subject to tax under section 295.52, subdivision 3, reduced by reimbursements received for legend drugs otherwise exempt under this chapter;

(6) payments received by a health care provider or the wholly owned subsidiary of a health care provider for care provided outside Minnesota;

(7) payments received from the chemical dependency fund under chapter 254B;

(8) payments received in the nature of charitable donations that are not designated for providing patient services to a specific individual or group;

(9) payments received for providing patient services incurred through a formal program of health care research conducted in conformity with federal regulations governing research on human subjects. Payments received from patients or from other persons paying on behalf of the patients are subject to tax;

(10) payments received from any governmental agency for services benefiting the public, not including payments made by the government in its capacity as an employer or insurer or payments made by the government for services provided under ~~medical assistance~~, general assistance medical care, ~~or the MinnesotaCare program~~, or the medical assistance program governed by title XIX of the federal Social Security Act, United States Code, title 42, sections 1396 to 1396v;

(11) government payments received by ~~a regional treatment center~~ the commissioner of human services for state-operated services;

(12) payments received by a health care provider for hearing aids and related equipment or prescription eyewear delivered outside of Minnesota;

(13) payments received by an educational institution from student tuition, student activity fees, health care service fees, government appropriations, donations, or grants, and for services identified in and provided under an individualized education plan as defined in section 256B.0625 or Code of Federal Regulations, chapter 34, section 300340(a). Fee for service payments and payments for extended coverage are taxable; and

(14) payments received under the federal Employees Health Benefits Act, United States Code, title 5, section 8909(f), as amended by the Omnibus Reconciliation Act of 1990.

(b) Payments received by wholesale drug distributors for legend drugs sold directly to veterinarians or veterinary bulk purchasing organizations are excluded from the gross revenues subject to the wholesale drug distributor tax under sections 295.50 to 295.59.

**[EFFECTIVE DATE.]** This section is effective retroactively from January 1, 2004.

## ARTICLE 14

## HEALTH AND HUMAN SERVICES FORECAST ADJUSTMENTS

Section 1. Laws 2003, First Special Session chapter 14, article 13C, section 1, is amended to read:

Section 1. [~~HEALTH AND HUMAN SERVICES APPROPRIATIONS FORECAST ADJUSTMENTS.~~]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or any other fund named, to the agencies and for the purposes specified in the sections of this article, to be available for the fiscal years indicated for each purpose. The figures "2004" and "2005" where used in this article, mean that the appropriation or appropriations listed under them are available for the fiscal year ending June 30, 2004, or June 30, 2005, respectively. Where a dollar amount appears in parentheses, it means a reduction of an appropriation.

## SUMMARY BY FUND

	2004	2005	BIENNIAL TOTAL
General	<u>\$3,765,212,000</u> <u>\$3,500,860,000</u>	<u>\$3,727,319,000</u> <u>\$3,746,520,000</u>	<u>\$7,492,531,000</u> <u>\$7,247,380,000</u>
State Government Special Revenue	45,337,000	45,104,000	90,441,000
Health Care Access	<u>294,090,000</u> <u>280,060,000</u>	<u>308,525,000</u> <u>308,609,000</u>	<u>602,615,000</u> <u>588,669,000</u>
Federal TANF	<u>261,552,000</u> <u>276,425,000</u>	<u>270,364,000</u> <u>276,363,000</u>	<u>531,916,000</u> <u>552,788,000</u>
Lottery Prize Fund	1,556,000	1,556,000	3,112,000
Special Revenue	3,340,000	3,340,000	6,680,000
TOTAL	<u>\$4,371,087,000</u> <u>\$4,107,578,000</u>	<u>\$4,356,208,000</u> <u>\$4,381,492,000</u>	<u>\$8,727,295,000</u> <u>\$8,489,070,000</u>

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Sec. 2. Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 1, is amended to read:

Subdivision 1. Total Appropriation	<u>\$4,111,558,000</u>	<u>\$4,110,496,000</u>
	<u>\$3,848,049,000</u>	<u>\$4,135,780,000</u>

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General	<del>3,566,163,000</del> <u>3,301,811,000</u>	<del>3,541,854,000</del> <u>3,561,055,000</u>
State Government		
Special Revenue	534,000	534,000
Health Care Access	<del>287,753,000</del> <u>273,723,000</u>	<del>302,188,000</del> <u>302,272,000</u>
Federal TANF	<del>255,552,000</del> <u>270,425,000</u>	<del>264,364,000</del> <u>270,363,000</u>
Lottery Cash Flow	1,556,000	1,556,000

[FEDERAL CONTINGENCY APPROPRIATION.] (a) ~~Any additional~~ Federal Medicaid funds made available under title IV of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003 are appropriated to the commissioner of human services for use in the state's medical assistance and MinnesotaCare programs. The commissioners of human services and finance shall report to the legislative advisory committee on the additional federal Medicaid matching funds that will be available to the state.

(b) ~~Contingent upon~~ Because of the availability of these funds, the following policies shall become effective ~~and necessary funds are appropriated for those purposes:~~

(1) medical assistance and MinnesotaCare eligibility and local financial participation changes provided for in this act may be implemented prior to September 2, 2003, or may be delayed as necessary to maximize the use of federal funds received under title IV of the Jobs and Growth Tax Relief Reconciliation Act of 2003;

(2) the aggregate cap on the services identified in Minnesota Statutes, section 256L.035, paragraph (a), clause (3), shall be increased from \$2,000 to \$5,000. This increase shall expire at the end of fiscal year 2007. Funds may be transferred from the general fund to the health care access fund as necessary to implement this provision; and

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(3) the following payment shifts shall not be implemented:

(i) MFIP payment shift found in subdivision 11;

(ii) the county payment shift found in subdivision 1; and

(iii) the delay in medical assistance and general assistance medical care fee-for-service payments found in subdivision 6.

(c) Notwithstanding section 14, paragraphs (a) and (b) shall expire June 30, 2007.

[RECEIPTS FOR SYSTEMS PROJECTS.] Appropriations and federal receipts for information system projects for MAXIS, PRISM, MMIS, and SSIS must be deposited in the state system account authorized in Minnesota Statutes, section 256.014. Money appropriated for computer projects approved by the Minnesota office of technology, funded by the legislature, and approved by the commissioner of finance may be transferred from one project to another and from development to operations as the commissioner of human services considers necessary. Any unexpended balance in the appropriation for these projects does not cancel but is available for ongoing development and operations.

[GIFTS.] Notwithstanding Minnesota Statutes, chapter 7, the commissioner may accept on behalf of the state additional funding from sources other than state funds for the purpose of financing the cost of assistance program grants or nongrant administration. All additional funding is appropriated to the commissioner for use as designated by the grantor of funding.

[SYSTEMS CONTINUITY.] In the event of disruption of technical systems or computer operations, the commissioner may use available grant appropriations to ensure continuity of payments for maintaining the health, safety, and well-being of clients served by programs administered by the department of human services. Grant funds must be used in a manner consistent with the original intent of the appropriation.

[NONFEDERAL SHARE TRANSFERS.] The nonfederal share of activities for which federal administrative reimbursement is appropriated to the commissioner may be transferred to the special revenue fund.

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[TANF FUNDS APPROPRIATED TO OTHER ENTITIES.] Any expenditures from the TANF block grant shall be expended in accordance with the requirements and limitations of part A of title IV of the Social Security Act, as amended, and any other applicable federal requirement or limitation. Prior to any expenditure of these funds, the commissioner shall assure that funds are expended in compliance with the requirements and limitations of federal law and that any reporting requirements of federal law are met. It shall be the responsibility of any entity to which these funds are appropriated to implement a memorandum of understanding with the commissioner that provides the necessary assurance of compliance prior to any expenditure of funds. The commissioner shall receipt TANF funds appropriated to other state agencies and coordinate all related interagency accounting transactions necessary to implement these appropriations. Unexpended TANF funds appropriated to any state, local, or nonprofit entity cancel at the end of the state fiscal year unless appropriating language permits otherwise.

[TANF FUNDS TRANSFERRED TO OTHER FEDERAL GRANTS.] The commissioner must authorize transfers from TANF to other federal block grants so that funds are available to meet the annual expenditure needs as appropriated. Transfers may be authorized prior to the expenditure year with the agreement of the receiving entity. Transferred funds must be expended in the year for which the funds were appropriated unless appropriation language permits otherwise. In accelerating transfer authorizations, the commissioner must aim to preserve the future potential transfer capacity from TANF to other block grants.

[TANF MAINTENANCE OF EFFORT.] (a) In order to meet the basic maintenance of effort (MOE) requirements of the TANF block grant specified under Code of Federal Regulations, title 45, section 263.1, the commissioner may only report nonfederal money expended for allowable activities listed in the following clauses as TANF/MOE expenditures:

- (1) MFIP cash, diversionary work program, and food assistance benefits under Minnesota Statutes, chapter 256J;
- (2) the child care assistance programs under Minnesota Statutes, sections 119B.03 and 119B.05, and county child care administrative costs under Minnesota Statutes, section 119B.15;

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(3) state and county MFIP administrative costs under Minnesota Statutes, chapters 256J and 256K;

(4) state, county, and tribal MFIP employment services under Minnesota Statutes, chapters 256J and 256K;

(5) expenditures made on behalf of noncitizen MFIP recipients who qualify for the medical assistance without federal financial participation program under Minnesota Statutes, section 256B.06, subdivision 4, paragraphs (d), (e), and (j); and

(6) qualifying working family credit expenditures under Minnesota Statutes, section 290.0671.

(b) The commissioner shall ensure that sufficient qualified nonfederal expenditures are made each year to meet the state's TANF/MOE requirements. For the activities listed in paragraph (a), clauses (2) to (6), the commissioner may only report expenditures that are excluded from the definition of assistance under Code of Federal Regulations, title 45, section 260.31.

(c) By August 31 of each year, the commissioner shall make a preliminary calculation to determine the likelihood that the state will meet its annual federal work participation requirement under Code of Federal Regulations, title 45, sections 261.21 and 261.23, after adjustment for any caseload reduction credit under Code of Federal Regulations, title 45, section 261.41. If the commissioner determines that the state will meet its federal work participation rate for the federal fiscal year ending that September, the commissioner may reduce the expenditure under paragraph (a), clause (1), to the extent allowed under Code of Federal Regulations, title 45, section 263.1(a)(2).

(d) For fiscal years beginning with state fiscal year 2003, the commissioner shall assure that the maintenance of effort used by the commissioner of finance for the February and November forecasts required under Minnesota Statutes, section 16A.103, contains expenditures under paragraph (a), clause (1), equal to at least 25 percent of the total required under Code of Federal Regulations, title 45, section 263.1.

(e) If nonfederal expenditures for the programs and purposes listed in paragraph (a) are insufficient to meet the state's TANF/MOE requirements, the commissioner shall recommend additional allowable sources of nonfederal expenditures to the legislature, if



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the legislature is or will be in session to take action to specify additional sources of nonfederal expenditures for TANF/MOE before a federal penalty is imposed. The commissioner shall otherwise provide notice to the legislative commission on planning and fiscal policy under paragraph (g).

(f) If the commissioner uses authority granted under section 11, or similar authority granted by a subsequent legislature, to meet the state's TANF/MOE requirement in a reporting period, the commissioner shall inform the chairs of the appropriate legislative committees about all transfers made under that authority for this purpose.

(g) If the commissioner determines that nonfederal expenditures under paragraph (a) are insufficient to meet TANF/MOE expenditure requirements, and if the legislature is not or will not be in session to take timely action to avoid a federal penalty, the commissioner may report nonfederal expenditures from other allowable sources as TANF/MOE expenditures after the requirements of this paragraph are met. The commissioner may report nonfederal expenditures in addition to those specified under paragraph (a) as nonfederal TANF/MOE expenditures, but only ten days after the commissioner of finance has first submitted the commissioner's recommendations for additional allowable sources of nonfederal TANF/MOE expenditures to the members of the legislative commission on planning and fiscal policy for their review.

(h) The commissioner of finance shall not incorporate any changes in federal TANF expenditures or nonfederal expenditures for TANF/MOE that may result from reporting additional allowable sources of nonfederal TANF/MOE expenditures under the interim procedures in paragraph (g) into the February or November forecasts required under Minnesota Statutes, section 16A.103, unless the commissioner of finance has approved the additional sources of expenditures under paragraph (g).

(i) Minnesota Statutes, section 256.011, subdivision 3, which requires that federal grants or aids secured or obtained under that subdivision be used to reduce any direct appropriations provided by law, do not apply if the grants or aids are federal TANF funds.

(j) Notwithstanding section 14, paragraph (a), clauses (1) to (6), and paragraphs (b) to (j) expire June 30, 2007.

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[WORKING FAMILY CREDIT EXPENDITURES AS TANF MOE.] The commissioner may claim as TANF maintenance of effort up to the following amounts of working family credit expenditures for the following fiscal years:

- (1) fiscal year 2004, \$7,013,000;
- (2) fiscal year 2005, \$25,133,000;
- (3) fiscal year 2006, \$6,942,000; and
- (4) fiscal year 2007, \$6,707,000.

[FISCAL YEAR 2003 APPROPRIATIONS CARRYFORWARD.] Effective the day following final enactment, notwithstanding Minnesota Statutes, section 16A.28, or any other law to the contrary, state agencies and constitutional offices may carry forward unexpended and unencumbered nongrant operating balances from fiscal year 2003 general fund appropriations into fiscal year 2004 to offset general budget reductions.

[TRANSFER OF GRANT BALANCES.] Effective the day following final enactment, the commissioner of human services, with the approval of the commissioner of finance and after notification of the chair of the senate health, human services and corrections budget division and the chair of the house of representatives health and human services finance committee, may transfer unencumbered appropriation balances for the biennium ending June 30, 2003, in fiscal year 2003 among the MFIP, MFIP child care assistance under Minnesota Statutes, section 119B.05, general assistance, general assistance medical care, medical assistance, Minnesota supplemental aid, and group residential housing programs, and the entitlement portion of the chemical dependency consolidated treatment fund, and between fiscal years of the biennium.

[TANF APPROPRIATION CANCELLATION.] Notwithstanding the provisions of Laws 2000, chapter 488, article 1, section 16, any prior appropriations of TANF funds to the department of trade and economic development or to the job skills partnership board or any transfers of TANF funds from another agency to the department of trade and economic development or to the job skills partnership board are not available until expended, and if unobligated as of June 30, 2003, these appropriations or transfers shall cancel to the TANF fund.

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[SHIFT COUNTY PAYMENT.] The commissioner shall make up to 100 percent of the calendar year 2005 payments to counties for developmental disabilities semi-independent living services grants, developmental disabilities family support grants, and adult mental health grants from fiscal year 2006 appropriations. This is a onetime payment shift. Calendar year 2006 and future payments for these grants are not affected by this shift. This provision expires June 30, 2006.

[CAPITATION RATE INCREASE.] Of the health care access fund appropriations to the University of Minnesota in the higher education omnibus appropriation bill, \$2,157,000 in fiscal year 2004 and \$2,157,000 in fiscal year 2005 are to be used to increase the capitation payments under Minnesota Statutes, section 256B.69. Notwithstanding the provisions of section 14, this provision shall not expire.

Sec. 3. Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 3, is amended to read:

Subd. 3. Revenue and Pass-Through

Federal TANF	<del>55,855,000</del>	<del>53,315,000</del>
	<u>56,643,000</u>	<u>57,275,000</u>

[TANF TRANSFER TO SOCIAL SERVICES BLOCK GRANT.] \$3,137,000 in fiscal year 2005 is appropriated to the commissioner for the purposes of providing services for families with children whose incomes are at or below 200 percent of the federal poverty guidelines. The commissioner shall authorize a sufficient transfer of funds from the state's federal TANF block grant to the state's federal social services block grant to meet this appropriation. The funds shall be distributed to counties for the children and community services grant according to the formula for the state appropriations in Minnesota Statutes, chapter 256M.

[TANF FUNDS FOR FISCAL YEAR 2006 AND FISCAL YEAR 2007 REFINANCING.] ~~\$12,692,000~~ \$6,692,000 in fiscal year 2006 and ~~\$9,192,000~~ \$3,192,000 in fiscal year 2007 in TANF funds are available to the commissioner to replace general funds in the amount of ~~\$12,692,000~~ \$6,692,000 in fiscal year 2006 and ~~\$9,192,000~~ \$3,192,000 in fiscal year 2007 in expenditures that may be counted toward TANF maintenance of effort requirements or as an allowable TANF expenditure.

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[ADJUSTMENTS IN TANF TRANSFER TO CHILD CARE AND DEVELOPMENT FUND.] Transfers of TANF to the child care development fund for the purposes of MFIP child care assistance shall be reduced by \$116,000 in fiscal year 2004 and shall be increased by \$1,976,000 in fiscal year 2005.

Sec. 4. Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 6, is amended to read:

Subd. 6. Basic Health Care Grants

Summary by Fund

General	<del>1,499,941,000</del>	<del>1,533,016,000</del>
	<u>1,290,454,000</u>	<u>1,475,996,000</u>
Health Care Access	<del>268,151,000</del>	<del>282,605,000</del>
	<u>254,121,000</u>	<u>282,689,000</u>

[UPDATING FEDERAL POVERTY GUIDELINES.] Annual updates to the federal poverty guidelines are effective each July 1, following publication by the United States Department of Health and Human Services for health care programs under Minnesota Statutes, chapters 256, 256B, 256D, and 256L.

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) MinnesotaCare Grants

Health Care Access	<del>267,401,000</del>	<del>281,855,000</del>
	<u>253,371,000</u>	<u>281,939,000</u>

[MINNESOTACARE FEDERAL RECEIPTS.] Receipts received as a result of federal participation pertaining to administrative costs of the Minnesota health care reform waiver shall be deposited as nondedicated revenue in the health care access fund. Receipts received as a result of federal participation pertaining to grants shall be deposited in the federal fund and shall offset health care access funds for payments to providers.

[MINNESOTACARE FUNDING.] The commissioner may expend money appropriated from the health care access fund for MinnesotaCare in either fiscal year of the biennium.

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(b) MA Basic Health Care Grants - Families and Children

General	568,254,000	582,161,000
	<u>427,769,000</u>	<u>489,545,000</u>

[SERVICES TO PREGNANT WOMEN.] The commissioner shall use available federal money for the State-Children's Health Insurance Program for medical assistance services provided to pregnant women who are not otherwise eligible for federal financial participation beginning in fiscal year 2003. This federal money shall be deposited in the federal fund and shall offset general funds for payments to providers. Notwithstanding section 14, this paragraph shall not expire.

[MANAGED CARE RATE INCREASE.] (a) Effective January 1, 2004, the commissioner of human services shall increase the total payments to managed care plans under Minnesota Statutes, section 256B.69, by an amount equal to the cost increases to the managed care plans from by the elimination of: (1) the exemption from the taxes imposed under Minnesota Statutes, section 297I.05, subdivision 5, for premiums paid by the state for medical assistance, general assistance medical care, and the MinnesotaCare program; and (2) the exemption of gross revenues subject to the taxes imposed under Minnesota Statutes, sections 295.50 to 295.57, for payments paid by the state for services provided under medical assistance, general assistance medical care, and the MinnesotaCare program. Any increase based on clause (2) must be reflected in provider rates paid by the managed care plan unless the managed care plan is a staff model health plan company.

(b) The commissioner of human services shall increase by two percent the fee-for-service payments under medical assistance, general assistance medical care, and the MinnesotaCare program for services subject to the hospital, surgical center, or health care provider taxes under Minnesota Statutes, sections 295.50 to 295.57, effective for services rendered on or after January 1, 2004.

(c) The commissioner of finance shall transfer from the health care access fund to the general fund the following amounts in the fiscal years indicated: 2004, \$16,587,000; 2005, \$46,322,000; 2006, \$49,413,000; and 2007, \$52,659,000.

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(d) For fiscal years after 2007, the commissioner of finance shall transfer from the health care access fund to the general fund an amount equal to the revenue collected by the commissioner of revenue on the following:

(1) gross revenues received by hospitals, surgical centers, and health care providers as payments for services provided under medical assistance, general assistance medical care, and the MinnesotaCare program, including payments received directly from the state or from a prepaid plan, under Minnesota Statutes, sections 295.50 to 295.57; and

(2) premiums paid by the state under medical assistance, general assistance medical care, and the MinnesotaCare program under Minnesota Statutes, section 297I.05, subdivision 5.

The commissioner of finance shall monitor and adjust if necessary the amount transferred each fiscal year from the health care access fund to the general fund to ensure that the amount transferred equals the tax revenue collected for the items described in clauses (1) and (2) for that fiscal year.

(e) Notwithstanding section 14, these provisions shall not expire.

(c) MA Basic Health Care Grants - Elderly and Disabled

General	<del>695,421,000</del>	<del>741,605,000</del>
	<u>610,518,000</u>	<u>743,858,000</u>

[DELAY MEDICAL ASSISTANCE FEE-FOR-SERVICE - ACUTE CARE.] The following payments in fiscal year 2005 from the Medicaid Management Information System that would otherwise have been made to providers for medical assistance and general assistance medical care services shall be delayed and included in the first payment in fiscal year 2006:

(1) for hospitals, the last two payments; and

(2) for nonhospital providers, the last payment.

This payment delay shall not include payments to skilled nursing facilities, intermediate care facilities for mental retardation, prepaid health plans, home health agencies, personal care nursing providers, and providers of only waiver services. The provisions of Minnesota Statutes, section 16A.124, shall not apply to these delayed payments. Notwithstanding section 14, this provision shall not expire.

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[DEAF AND HARD-OF-HEARING SERVICES.] If, after making reasonable efforts, the service provider for mental health services to persons who are deaf or hearing impaired is not able to earn \$227,000 through participation in medical assistance intensive rehabilitation services in fiscal year 2005, the commissioner shall transfer \$227,000 minus medical assistance earnings achieved by the grantee to deaf and hard-of-hearing grants to enable the provider to continue providing services to eligible persons.

(d) General Assistance Medical Care Grants

General	<del>223,960,000</del>	<del>196,617,000</del>
	<u>239,861,000</u>	<u>229,960,000</u>

(e) Health Care Grants - Other Assistance

General	3,067,000	3,407,000
Health Care Access	750,000	750,000

[MINNESOTA PRESCRIPTION DRUG DEDICATED FUND.] Of the general fund appropriation, \$284,000 in fiscal year 2005 is appropriated to the commissioner for the prescription drug dedicated fund established under the prescription drug discount program.

[DENTAL ACCESS GRANTS CARRYOVER AUTHORITY.] Any unspent portion of the appropriation from the health care access fund in fiscal years 2002 and 2003 for dental access grants under Minnesota Statutes, section 256B.53, shall not cancel but shall be allowed to carry forward to be spent in the biennium beginning July 1, 2003, for these purposes.

[STOP-LOSS FUND ACCOUNT.] The appropriation to the purchasing alliance stop-loss fund account established under Minnesota Statutes, section 256.956, subdivision 2, for fiscal years 2004 and 2005 shall only be available for claim reimbursements for qualifying enrollees who are members of purchasing alliances that meet the requirements described under Minnesota Statutes, section 256.956, subdivision 1, paragraph (f), clauses (1), (2), and (3).

(f) Prescription Drug Program

General	9,239,000	9,226,000
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[PRESCRIPTION DRUG ASSISTANCE PROGRAM.] Of the general fund appropriation, \$702,000 in fiscal year 2004 and \$887,000 in fiscal year 2005 are for the commissioner to establish and administer the prescription drug assistance program through the Minnesota board on aging.

[REBATE REVENUE RECAPTURE.] Any funds received by the state from a drug manufacturer due to errors in the pharmaceutical pricing used by the manufacturer in determining the prescription drug rebate are appropriated to the commissioner to augment funding of the prescription drug program established in Minnesota Statutes, section 256.955.

Sec. 5. Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 7, is amended to read:

Subd. 7. Health Care Management

Summary by Fund

General	<del>24,845,000</del>	26,199,000
	<u>24,834,000</u>	
Health Care Access	14,522,000	14,533,000

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Health Care Policy Administration

General	5,523,000	7,223,000
Health Care Access	1,066,000	1,200,000

[PAYMENT CODE STUDY.] Of this appropriation, \$345,000 each year is for a study to determine the appropriateness of eliminating reimbursement for certain payment codes under medical assistance, general assistance medical care, or MinnesotaCare. As part of the study, the commissioner shall also examine covered services under the Minnesota health care programs and make recommendations on possible modification of the services covered under the program. The commissioner shall report to the legislature by January 15, 2005, with an analysis of the feasibility of this approach, a list of codes, if any, to be eliminated from the payment system, and estimates of savings to be obtained from this approach.



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[TRANSFERS FROM HEALTH CARE ACCESS FUND.] (a) Notwithstanding Minnesota Statutes, section 295.581, to the extent available resources in the health care access fund exceed expenditures in that fund during fiscal years 2005 to 2007, the excess annual funds shall be transferred from the health care access fund to the general fund on June 30 of fiscal years 2005, 2006, and 2007. These transfers shall not be reduced to accommodate MinnesotaCare expansions. The estimated amounts to be transferred are:

- (1) in fiscal year 2005, \$192,442,000;
- (2) in fiscal year 2006, \$52,943,000; and
- (3) in fiscal year 2007, \$59,105,000.

These estimates shall be updated with each forecast, but in no case shall the transfers exceed the amounts listed in clauses (1) to (3).

(b) The commissioner shall limit transfers under paragraph (a) in order to avoid implementation of Minnesota Statutes, section 256L.02, subdivision 3, paragraph (b).

(c) For fiscal years 2004 to 2007, MinnesotaCare shall be a forecasted program and, if necessary, the commissioner shall reduce transfers under paragraph (a) to meet forecasted expenditures.

(d) The department of human services in recommending its 2007-2008 budget shall consider the repayment of the amount transferred in fiscal years 2006 and 2007 from the health care access fund to the general fund to the health care access fund.

(e) Notwithstanding section 14, this section is in effect until June 30, 2007.

[MINNESOTACARE OUTREACH REIMBURSEMENT.] Federal administrative reimbursement resulting from MinnesotaCare outreach is appropriated to the commissioner for this activity.

[MINNESOTA SENIOR HEALTH OPTIONS REIMBURSEMENT.] Federal administrative reimbursement resulting from the Minnesota senior health options project is appropriated to the commissioner for this activity.

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[UTILIZATION REVIEW.] Federal administrative reimbursement resulting from prior authorization and inpatient admission certification by a professional review organization shall be dedicated to the commissioner for these purposes. A portion of these funds must be used for activities to decrease unnecessary pharmaceutical costs in medical assistance.

(b) Health Care Operations

General	<del>19,322,000</del>	18,976,000
	<u>19,311,000</u>	
Health Care Access	13,456,000	13,333,000

[PREPAID MEDICAL PROGRAMS.] For all counties in which the PMAP program has been operating for 12 or more months, state funding for the nonfederal share of prepaid medical assistance program administration costs for county managed care advocacy and enrollment operations is eliminated. State funding will continue for these activities for counties and tribes establishing new PMAP programs for a maximum of 16 months (four months prior to beginning PMAP enrollment and through the first 12 months of their PMAP program operation). Those counties operating PMAP programs for less than 12 months can continue to receive state funding for advocacy and enrollment activities through their first year of operation.

Sec. 6. Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 9, is amended to read:

Subd. 9. Continuing Care Grants

Summary by Fund

General	<del>1,504,933,000</del>	<del>1,490,958,000</del>
	<u>1,448,029,000</u>	<u>1,567,392,000</u>
Lottery Prize Fund	1,408,000	1,408,000

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Community Social Services

General	496,000	371,000
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## (b) Aging and Adult Service Grant

General	12,998,000	13,951,000
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[LONG-TERM CARE PROGRAM REDUCTIONS.] For the biennium ending June 30, 2005, state funding for the following state long-term care programs is reduced by 15 percent from the level of state funding provided on June 30, 2003: SAIL project grants under Minnesota Statutes, section 256B.0917; senior nutrition programs under Minnesota Statutes, section 256.9752; foster grandparents program under Minnesota Statutes, section 256.976; retired senior volunteer program under Minnesota Statutes, section 256.9753; and the senior companion program under Minnesota Statutes, section 256.977.

## (c) Deaf and Hard-of-hearing Service Grants

General	1,719,000	1,490,000
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## (d) Mental Health Grants

General	53,479,000	<del>34,690,000</del> <u>46,551,000</u>
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Lottery Prize Fund	1,408,000	1,408,000
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[RESTRUCTURING OF ADULT MENTAL HEALTH SERVICES.] The commissioner may make transfers that do not increase the state share of costs to effectively implement the restructuring of adult mental health services.

[COMPULSIVE GAMBLING.] Of the appropriation from the lottery prize fund, \$250,000 each year is for the following purposes:

(1) \$100,000 each year is for a grant to the Southeast Asian Problem Gambling Consortium. The consortium must provide statewide compulsive gambling prevention and treatment services for Lao, Hmong, Vietnamese, and Cambodian families, adults, and adolescents. The appropriation in this clause shall not become part of base level funding for the biennium beginning July 1, 2005. Any unencumbered balance of the appropriation in the first year does not cancel but is available for the second year; and

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(2) \$150,000 each year is for a grant to a compulsive gambling council located in St. Louis county. The gambling council must provide a statewide compulsive gambling prevention and education project for adolescents. Any unencumbered balance of the appropriation in the first year of the biennium does not cancel but is available for the second year.

(e) Community Support Grants

12,523,000	<del>9,093,000</del>
	<u>12,024,000</u>

[CENTERS FOR INDEPENDENT LIVING STUDY.] The commissioner of human services, in consultation with the commissioner of economic security, the centers for independent living, and consumer representatives, shall study the financing of the centers for independent living authorized under Minnesota Statutes, section 268A.11, and make recommendations on options to maximize federal financial participation. Study components shall include:

- (1) the demographics of individuals served by the centers for independent living;
- (2) the range of services the centers for independent living provide to these individuals;
- (3) other publicly funded services received by individuals supported by the centers; and
- (4) strategies for maximizing federal financial participation for eligible activities carried out by centers for independent living.

The commissioner shall report with fiscal and programmatic recommendations to the chairs of the appropriate house of representatives and senate finance and policy committees by January 15, 2004.

(f) Medical Assistance Long-Term Care Waivers and Home Care Grants

General	659,211,000	718,665,000
	<u>624,631,000</u>	<u>748,189,000</u>

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[RATE AND ALLOCATION DECREASES FOR CONTINUING CARE PROGRAMS.] Notwithstanding any law or rule to the contrary, the commissioner of human services shall decrease reimbursement rates or reduce allocations to assure the necessary reductions in state spending for the providers or programs listed in paragraphs (a) to (d). The decreases are effective for services rendered on or after July 1, 2003.

(a) Effective July 1, 2003, the commissioner shall reduce payment rates for services and individual or service limits by one percent. The rate decreases described in this section must be applied to:

(1) home and community-based waived services for the elderly under Minnesota Statutes, section 256B.0915;

(2) day training and habilitation services for adults with mental retardation or related conditions under Minnesota Statutes, sections 252.40 to 252.46;

(3) the group residential housing supplementary service rate under Minnesota Statutes, section 256L.05, subdivision 1a;

(4) chemical dependency residential and nonresidential service rates under Minnesota Statutes, section 245B.03;

(5) consumer support grants under Minnesota Statutes, section 256.476; and

(6) home and community-based services for alternative care services under Minnesota Statutes, section 256B.0913.

(b) The commissioner shall reduce allocations made available to county agencies for home and community-based waived services to assure a one-percent reduction in state spending for services rendered on or after July 1, 2003. The commissioner shall apply the allocation decreases described in this section to:

(1) persons with mental retardation or related conditions under Minnesota Statutes, section 256B.501;

(2) waived services under community alternatives for disabled individuals under Minnesota Statutes, section 256B.49;

(3) community alternative care waived services under Minnesota Statutes, section 256B.49; and

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(4) traumatic brain injury waived services under Minnesota Statutes, section 256B.49.

County agencies will be responsible for 100 percent of any spending in excess of the allocation made by the commissioner. Nothing in this section shall be construed as reducing the county's responsibility to offer and make available feasible home and community-based options to eligible waiver recipients within the resources allocated to them for that purpose.

(c) The commissioner shall reduce deaf and hard-of-hearing grants by one percent on July 1, 2003.

(d) Effective July 1, 2003, the commissioner shall reduce payment rates for each facility reimbursed under Minnesota Statutes, section 256B.5012, by decreasing the total operating payment rate for intermediate care facilities for the mentally retarded by one percent. For each facility, the commissioner shall multiply the adjustment by the total payment rate, excluding the property-related payment rate, in effect on June 30, 2003. A facility whose payment rates are governed by closure agreements, receivership agreements, or Minnesota Rules, part 9553.0075, is not subject to an adjustment otherwise taken under this subdivision.

Notwithstanding section 14, these adjustments shall not expire.

[REDUCE GROWTH IN MR/RC WAIVER.] The commissioner shall reduce the growth in the MR/RC waiver by not allocating the 300 additional diversion allocations that are included in the February 2003 forecast for the fiscal years that begin on July 1, 2003, and July 1, 2004.

[MANAGE THE GROWTH IN THE TBI WAIVER.] During the fiscal years beginning on July 1, 2003, and July 1, 2004, the commissioner shall allocate money for home and community-based programs covered under Minnesota Statutes, section 256B.49, to assure a reduction in state spending that is equivalent to limiting the caseload growth of the TBI waiver to 150 in each year of the biennium. Priorities for the allocation of funds shall be for individuals anticipated to be discharged from institutional settings or who are at imminent risk of a placement in an institutional setting.

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[TARGETED CASE MANAGEMENT FOR HOME CARE RECIPIENTS.] Implementation of the targeted case management benefit for home care recipients, according to Minnesota Statutes, section 256B.0621, subdivisions 2, 3, 5, 6, 7, 9, and 10, will be delayed until July 1, 2005.

[COMMON SERVICE MENU.] Implementation of the common service menu option within the home and community-based waivers, according to Minnesota Statutes, section 256B.49, subdivision 16, will be delayed until July 1, 2005.

[LIMITATION ON COMMUNITY ALTERNATIVES FOR DISABLED INDIVIDUALS CASELOAD GROWTH.] For the biennium ending June 30, 2005, the commissioner shall limit the allocations made available in the community alternatives for disabled individuals waiver program in order not to exceed average caseload growth of 95 per month from June 2003 program levels, plus any additional legislatively authorized program growth. The commissioner shall allocate available resources to achieve the following outcomes:

(1) the establishment of feasible and viable alternatives for persons in institutional or hospital settings to relocate to home and community-based settings;

(2) the availability of timely assistance to persons at imminent risk of institutional or hospital placement or whose health and safety is at immediate risk; and

(3) the maximum provision of essential community supports to eligible persons in need of and waiting for home and community-based service alternatives. The commissioner may reallocate resources from one county or region to another if available funding in that county or region is not likely to be spent and the reallocation is necessary to achieve the outcomes specified in this paragraph.

(g) Medical Assistance Long-term Care Facilities Grants

General	<del>543,999,000</del>	<del>514,483,000</del>
	<u>513,763,000</u>	<u>536,321,000</u>

(h) Alternative Care Grants

General	75,206,000	66,351,000
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APPROPRIATIONS  
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[ALTERNATIVE CARE TRANSFER.] Any money allocated to the alternative care program that is not spent for the purposes indicated does not cancel but shall be transferred to the medical assistance account.

[ALTERNATIVE CARE APPROPRIATION.] The commissioner may expend the money appropriated for the alternative care program for that purpose in either year of the biennium.

[ALTERNATIVE CARE IMPLEMENTATION OF CHANGES TO FEES AND ELIGIBILITY.] Changes to Minnesota Statutes, section 256B.0913, subdivision 4, paragraph (d), and subdivision 12, are effective July 1, 2003, for all persons found eligible for the alternative care program on or after July 1, 2003. All recipients of alternative care funding as of June 30, 2003, shall be subject to Minnesota Statutes, section 256B.0913, subdivision 4, paragraph (d), and subdivision 12, on the annual reassessment and review of their eligibility after July 1, 2003, but no later than January 1, 2004.

(i) Group Residential Housing Grants

General	<del>94,996,000</del>	<del>80,472,000</del>
	<u>94,547,000</u>	<u>81,055,000</u>

[GROUP RESIDENTIAL HOUSING COSTS REFINANCED.]

(1) Effective July 1, 2004, the commissioner shall increase the home and community-based service rates and county allocations provided to programs for persons with disabilities established under section 1915(c) of the Social Security Act to the extent that these programs will be paying for the costs above the rate established in Minnesota Statutes, section 256I.05, subdivision 1.

(2) For persons in receipt of services under Minnesota Statutes, section 256B.0915, who reside in licensed adult foster care beds for which a supplemental room and board payment was being made under Minnesota Statutes, section 256I.05, subdivision 1, counties may request an exception to the individual caps specified in Minnesota Statutes, section 256B.0915, subdivision 3, paragraph (b), not to exceed the difference between the individual cap and the client's monthly service expenditures plus the amount of the supplemental room and board rate. The county must submit a request to exceed the individual cap to the commissioner for approval.



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## (j) Chemical Dependency Entitlement Grants

General	<del>49,251,000</del>	<del>50,337,000</del>
	<u>57,612,000</u>	<u>60,034,000</u>

## (k) Chemical Dependency Nonentitlement Grants

General	1,055,000	1,055,000
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Sec. 7. Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 11, is amended to read:

## Subd. 11. Economic Support Grants

## Summary by Fund

General	<del>122,647,000</del>	<del>117,198,000</del>
	<u>124,697,000</u>	<u>116,985,000</u>
Federal TANF	<del>199,009,000</del>	<del>207,224,000</del>
	<u>212,844,000</u>	<u>209,264,000</u>

The amounts that may be spent from this appropriation for each purpose are as follows:

## (a) Minnesota Family Investment Program

General	<del>59,922,000</del>	<del>39,375,000</del>
	<u>53,818,000</u>	<u>43,942,000</u>
Federal TANF	<del>106,535,000</del>	<del>110,543,000</del>
	<u>114,370,000</u>	<u>106,583,000</u>

## (b) Work Grants

General	<del>666,000</del>	<del>14,678,000</del>
	<u>8,666,000</u>	<u>8,678,000</u>
Federal TANF	<del>92,474,000</del>	<del>96,681,000</del>
	<u>98,474,000</u>	<u>102,681,000</u>

[MFIP SUPPORT SERVICES COUNTY AND TRIBAL ALLOCATION.] When determining the funds available for the consolidated MFIP support services grant in the 18-month period ending December 31, 2004, the commissioner shall apportion the funds appropriated for fiscal year 2005 in such manner as

APPROPRIATIONS  
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necessary to provide \$14,000,000 more to counties and tribes for the period ending December 31, 2004, than would have been available had the funds been evenly divided within the fiscal year between the period before December 31, 2004, and the period after December 31, 2004.

For allocations for the calendar years starting January 1, 2005, the commissioner shall apportion the funds appropriated for each fiscal year in such manner as necessary to provide \$14,000,000 more to counties and tribes for the period ending December 31 of that year than would have been available had the funds been evenly divided within the fiscal year between the period before December 31 and the period after December 31.

(c) Economic Support Grants - Other Assistance

General	3,358,000	3,463,000
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[SUPPORTIVE HOUSING.] Of the general fund appropriation, \$500,000 each year is to provide services to families who are participating in the supportive housing and managed care pilot project under Minnesota Statutes, section 256K.25. This appropriation shall not become part of base level funding for the biennium beginning July 1, 2007.

(d) Child Support Enforcement Grants

General	3,571,000	3,503,000
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(e) General Assistance Grants

General	<del>24,901,000</del>	<del>24,732,000</del>
	<u>26,329,000</u>	<u>26,909,000</u>

[GENERAL ASSISTANCE STANDARD.] The commissioner shall set the monthly standard of assistance for general assistance units consisting of an adult recipient who is childless and unmarried or living apart from parents or a legal guardian at \$203. The commissioner may reduce this amount according to Laws 1997, chapter 85, article 3, section 54.

[EMERGENCY GENERAL ASSISTANCE.] The amount appropriated for emergency general assistance funds is limited to no more than \$7,889,812 in each fiscal year of 2004 and 2005. Funds to counties shall be allocated by the commissioner using the allocation method specified in Minnesota Statutes, section 256D.06.



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2004                      2005

[CHILD CARE DEVELOPMENT.] Of this appropriation, \$1,115,000 in fiscal year 2004, and \$1,164,000 in fiscal year 2005 are for child care development grants according to Minnesota Statutes, section 119B.21.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 to 9 are effective the day following final enactment, unless a different effective date is specified.

## ARTICLE 15

### APPROPRIATIONS

Section 1. [HEALTH AND HUMAN SERVICES APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are added to or, if shown in parentheses, are subtracted from the appropriations in Laws 2003, First Special Session chapter 14, article 13C, or other law, and are appropriated from the general fund, or any other fund named, to the agencies and for the purposes specified in the sections of this article, to be available for the fiscal years indicated for each purpose. The figures "2004" and "2005" where used in this article, mean that the appropriation or appropriations listed under them are available for the fiscal year ending June 30, 2004, or June 30, 2005, respectively.

#### SUMMARY BY FUND

	2004	2005	TOTAL
General	\$137,376,000	\$(118,240,000)	\$19,136,000
Health Care Access	41,994,000	(46,286,000)	(4,292,000)
Federal TANF	-0-	-0-	-0-
Lottery Prize Fund	-0-	75,000	75,000
<b>TOTAL</b>	<b>\$179,370,000</b>	<b>\$(164,301,000)</b>	<b>\$15,069,000</b>

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2004                      2005

Sec. 2. COMMISSIONER OF HUMAN SERVICES

Subdivision 1. Total Appropriation	\$179,370,000	\$(163,613,000)
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
2004 2005

Summary by Fund

General	137,376,000	(117,558,000)
Health Care Access	41,994,000	(46,280,000)
Federal TANF	-0-	-0-
Lottery Prize Fund	-0-	75,000
Other Funds	-0-	150,000

Subd. 2. Agency Management

Summary by Fund

General	-0-	(2,300,000)
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The amounts that may be spent from the appropriation for each purpose are as follows:

(a) Financial Operations

General	-0-	(2,300,000)
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(b) Legal and Regulatory Operations

(c) Management Operations

(d) Information Technology

Subd. 3. Revenue and Pass-Through

Federal TANF	-0-	10,652,000
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[TANF REFINANCING.] In addition to the amount of TANF funds available for use with the Minnesota working family tax credit program under current law appropriations, there is further appropriated the following amounts:

FY 2005	.....	\$10,652,000
FY 2006	.....	\$15,113,000
FY 2007	.....	\$15,339,000

APPROPRIATIONS  
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2004 2005

[ADJUSTMENTS IN WORKING FAMILY CREDIT EXPENDITURES COUNTED AS TANF MOE.] In addition to the amounts identified in Laws 2003, First Special Session chapter 14, article 13C, section 2, the commissioner may claim up to the following amounts of Working Family Credit expenditures for the following fiscal years:

FY 2006	.....	\$27,656,000
FY 2007	.....	\$17,883,000

Subd. 4. Children's Services Grants

[PRIVATIZED ADOPTION GRANT.] For the biennium ending June 30, 2005, federal reimbursement for privatized adoption grant and foster care recruitment grant expenditures is appropriated to the commissioner for adoption grants and foster care and adoption administrative purposes.

[ADJUSTMENTS IN TANF TRANSFERS TO CHILD CARE DEVELOPMENT FUND.] Transfers of TANF to the federal Child Care Development Fund for child care assistance shall be reduced by these amounts in fiscal year 2005:

Basic sliding fee child care	\$370,000
MFIP child care	\$1,152,000

Subd. 5. Children's Services Management

Subd. 6. Basic Health Care Grants

Summary by Fund

General	133,114,000	(138,463,000)
Health Care Access	41,994,000	(46,580,000)

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) MinnesotaCare Grants

Health Care Access	41,944,000	(45,830,000)
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APPROPRIATIONS  
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2004 2005

[HEALTH CARE ACCESS FUND TRANSFER.] Notwithstanding Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 7, the commissioner of finance shall transfer \$70,000,000 from the health care access fund to the general fund on July 1, 2004. This transfer is in addition to all other transfers from the health care access fund to the general fund.

(b) MA Basic Health Care Grants - Families and Children

General	76,265,000	(80,589,000)
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[CAPITATION PAYMENTS.] Capitation payments and performance withhold payments under Minnesota Statutes, chapters 256B, 256D, and 256L, for the months of June 2004 and July 2004 shall be made prior to June 30, 2004. This rider is effective the day following final enactment.

[HEALTH CARE GRANTS FORECAST.] The commissioner of finance, as part of the November 2004 forecast, shall determine the extent to which projected state spending for medical assistance, MFIP, and basic health care grants for the biennium ending June 30, 2007, exceeds the level of spending projected for that biennium in the February 2004 forecast. If the level of state spending projected for the biennium ending June 30, 2007, exceeds the level of state spending projected for that biennium in the February 2004 forecast by more than \$100,000,000, the commissioner of human services shall present to the legislature, by December 15, 2004, draft legislation to reduce the projected increase above the February 2004 estimate to an amount no greater than \$100,000,000. The draft legislation must achieve this reduction without reducing medical assistance reimbursement rates to providers.

(c) MA Basic Health Care Grants - Elderly and Disabled

General	28,821,000	(31,301,000)
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(d) General Assistance Medical Care Grants

General	28,028,000	(26,863,000)
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(e) Health Care Grants - Other Assistance

General	-0-	290,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
2004 2005

[TEMPORARY CONFINEMENT COST OF CARE.] The cost of care shall be ten percent as specified in Minnesota Statutes, section 246.54, subdivision 2, for any individual for whom a county obtained an order from a court authorizing temporary confinement, as defined in Minnesota Statutes, section 253B.045, between January 1, 2004, and June 30, 2004, to the Minnesota sex offender program as defined in Minnesota Statutes, section 253B.02, subdivision 18a, not 100 percent as required under Minnesota Statutes, section 253B.045, subdivision 3.

[MINNESOTA SEX OFFENDER PROGRAM.] The commissioner of human services shall implement cost efficiencies in the Minnesota sex offender program under Minnesota Statutes, chapter 246B, in order to reduce base-level operating costs by \$5,400,000 over the fiscal year 2006-2007 biennium. The \$5,400,000 reduction shall, at a minimum, seek to lower current year per diem operating costs. This reduction shall not result in fewer patients served under the Minnesota sex offender program.

Subd. 9. Continuing Care Grants

Summary by Fund

General	-0-	15,482,000
Lottery Prize Fund	-0-	75,000

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Community Social Services

(b) Aging Adult Service Grant

General	-0-	1,000
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(c) Deaf and Hard-of-Hearing Service Grants

General	-0-	4,000
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(d) Mental Health Grants

Lottery Prize Fund	-0-	75,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
2004 2005

\$75,000 in fiscal year 2005 is appropriated from the lottery prize fund to the commissioner of human services for a grant to the Northstar Problem Gambling Alliance, located in Arlington, Minnesota. The Northstar Problem Gambling Alliance must provide services to increase public awareness of problem gambling, education and training for individuals and organizations providing services to problem gamblers and their families, and research relating to problem gambling. This appropriation is contingent on the demonstration of an equal amount in nonstate matching funds to the commissioner of finance but may be disbursed in two payments of \$37,500 upon receipt of a commitment for an equal amount of matching nonstate funds.

(e) Community Support Grants

General	-0-	111,000
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(f) Medical Assistance Long-Term Waivers and Home Care Grants

General	-0-	2,295,000
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[MANAGE THE GROWTH IN THE TBI WAIVER.] The commissioner shall allocate funding for home and community-based services covered under Minnesota Statutes, section 256B.49, so that new TBI waiver caseload growth is limited to 300 each year of the biennium ending June 30, 2007. State fiscal year 2005 caseload levels, as determined in the February 2004 forecast, will serve as the base against which these limits will be established. Priority for new allocations shall be given to individuals seeking to be discharged from institutional settings or who are at imminent risk of placement in an institutional setting. Notwithstanding any provision to the contrary, this paragraph remains in effect for the biennium ending June 30, 2007.

[MANAGE THE GROWTH IN THE COMMUNITY ALTERNATIVES FOR DISABLED INDIVIDUALS WAIVER.] The commissioner shall allocate funding for home and community-based services covered under Minnesota Statutes, section 256B.49, so that new CADI caseload growth is limited to an average of 160 per month in each year of the biennium ending June 30, 2007. State fiscal year 2005 caseload levels, as determined in the February 2004 forecast, will serve as the base against which these limits will be established. Priority for new allocations shall be given to individuals seeking to be discharged from institutional settings or who are at imminent risk of a placement in an institutional setting. Notwithstanding any provision to the contrary, this paragraph remains in effect for the biennium ending June 30, 2007.

APPROPRIATIONS  
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Ending June 30  
2004 2005

(g) Medical Assistance Long-term Care Facilities Grants

General	-0-	12,591,000
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[NURSING FACILITY SCHOLARSHIP PROGRAM.] For the rate year beginning July 1, 2004, the amount determined under section 256B.431, subdivision 36, shall be removed from each nursing facility's rate.

[RATE AND ALLOCATION INCREASES FOR CONTINUING CARE PROGRAMS.] Notwithstanding any law or rule to the contrary, including Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 9, the commissioner of human services shall increase reimbursement rates or increase allocations to assure the necessary increases in state spending for the providers or programs listed in clauses (1) to (4). The increases are added to base-level funding and are effective for services rendered on or after July 1, 2004.

(1) Effective July 1, 2004, the commissioner shall increase payment rates for services and individual or service limits by up to one-half percent. The rate increases described in this section must be applied to:

(i) home and community-based waived services for the elderly under Minnesota Statutes, section 256B.0915;

(ii) day training and habilitation services for adults with mental retardation or related conditions under Minnesota Statutes, sections 252.40 to 252.46;

(iii) the group residential housing supplementary service rate under Minnesota Statutes, section 256I.05, subdivision 1a;

(iv) chemical dependency residential and nonresidential service rates under Minnesota Statutes, section 245B.03;

(v) consumer support grants under Minnesota Statutes, section 256.476; and

(vi) home and community-based services for alternative care services under Minnesota Statutes, section 256B.0913.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2004 2005

(2) The commissioner shall increase allocations made available to county agencies for home and community-based waived services to assure up to a one-half percent increase in state spending for services rendered on or after July 1, 2004. The commissioner shall apply the allocation increases described in this section to:

(i) persons with mental retardation or related conditions under Minnesota Statutes, section 256B.501;

(ii) waived services under community alternatives for disabled individuals under Minnesota Statutes, section 256B.49;

(iii) community alternative care waived services under Minnesota Statutes, section 256B.49; and

(iv) traumatic brain injury waived services under Minnesota Statutes, section 256B.49.

County agencies will be responsible for 100 percent of any spending in excess of the allocation made by the commissioner. Nothing in this section shall be construed as changing the county's responsibility to offer and make available feasible home and community-based options to eligible waiver recipients within the resources allocated to them for that purpose.

(3) The commissioner shall increase deaf and hard-of-hearing grants by up to one-half percent on July 1, 2004.

(4) Effective July 1, 2004, the commissioner shall increase payment rates for each facility reimbursed under Minnesota Statutes, section 256B.5012, by increasing the total operating payment rate for intermediate care facilities for the mentally retarded by up to one-half percent. For each facility, the commissioner shall multiply the adjustment by the total payment rate, excluding the property-related payment rate, in effect on June 30, 2004. A facility whose payment rates are governed by closure agreements, receivership agreements, or Minnesota Rules, part 9553.0075, is not subject to an adjustment otherwise taken under this subdivision.

Notwithstanding any contrary provision, these adjustments shall not expire.





APPROPRIATIONS  
Available for the Year  
Ending June 30  
2004 2005

[TRANSFER OF LEAD ABATEMENT.] The lead abatement program is transferred from the Department of Education to the Department of Health. The program shall be administered according to Minnesota Statutes, section 119A.46.

Sec. 4. BOARD OF CHIROPRACTIC EXAMINERS

In fiscal year 2004, \$200,000 in state government special revenue funds is transferred from Laws 2003, First Special Session chapter 1, article 1, section 28, to the Board of Chiropractic Examiners to pay for contested case activity. These funds are available until June 30, 2005.

Sec. 5. VETERANS HOMES BOARD

General Fund	-0-	(90,000)"
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Delete the title and insert:

"A bill for an act relating to operation of state government; conforming to federal tax changes to encourage consumer-driven health plans; encouraging efficiency in providing health care; requiring disease management initiatives; implementing health care cost containment, cost-shifting provisions, and reduction of government mandates; implementing health plan competition and reform provisions; changing health maintenance organization regulatory authority; changing provisions related to child care, economic supports, health care, long-term care, continuing care, and program integrity and administration; making health and human services forecast adjustments and reductions; appropriating money; amending Minnesota Statutes 2002, sections 16A.10, by adding a subdivision; 43A.23, by adding a subdivision; 62A.02, subdivision 2; 62D.02, subdivision 4, by adding a subdivision; 62D.03, subdivision 1; 62D.04, subdivision 1; 62D.05, subdivision 1; 62Q.65; 72A.20, by adding a subdivision; 119B.13, by adding a subdivision; 144.148, by adding a subdivision; 144A.10, subdivision 1a, by adding a subdivision; 144D.025; 147.03, subdivision 1; 256.01, by adding subdivisions; 256.9365, subdivision 1; 256.955, subdivisions 2b, 4, 6; 256B.02, subdivision 12; 256B.04, subdivision 14, by adding a subdivision; 256B.056, subdivision 5, by adding subdivisions; 256B.0916, subdivision 2; 256B.431, by adding subdivisions; 256B.49, by adding a subdivision; 256D.045; 256D.051, subdivisions 1a, 3a, 6c; 256I.04, subdivision 2a; 256L.01, subdivision 5; 256L.03, subdivision 5, by adding a subdivision; 256L.04, subdivision 2, by adding subdivisions; 256L.05, subdivision 3; 549.02, by adding a subdivision; 549.04; Minnesota Statutes 2003 Supplement, sections 62E.08, subdivision 1; 62E.091; 62J.26, by adding a subdivision; 119B.09, subdivision 9; 119B.13, subdivision 1; 144.7063, subdivision 3; 144A.071, subdivision 4c; 245A.10, subdivision 4; 246B.04, as amended; 252.27, subdivision 2a; 256.019, subdivision 1; 256.046, subdivision 1; 256.955, subdivisions 2a, 3; 256B.056, subdivision 3c; 256B.057, subdivision 9; 256B.0595, subdivision 2; 256B.06, subdivision 4; 256B.0625, subdivision 9; 256B.0631, subdivision 2; 256B.19, subdivision 1; 256B.434, subdivision 4; 256B.69, subdivision 2; 256D.03, subdivisions 3, 4; 256D.44, subdivision 5; 256J.24, subdivision 6; 256J.37, subdivision 3a; 256J.53, subdivision 1; 256L.03, subdivision 1; 256L.035; 256L.07, subdivisions 1, 3; 290.01, subdivisions 19, 31; 295.50, subdivision 9b; 295.53, subdivision 1; Laws 2003, First Special Session chapter 14, article 9, section 34; Laws 2003, First Special Session chapter 14, article 13C, section 1; Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivisions 1, 3, 6, 7, 9, 11; Laws 2003, First Special Session chapter 14, article 13C, section 10, subdivision 1; proposing

coding for new law in Minnesota Statutes, chapters 62J; 62L; 62Q; 144A; 145; 151; 256B; repealing Minnesota Statutes 2002, sections 62A.309; 62J.17, subdivisions 1, 3, 4a, 5a, 6a, 7, 8; 256.955, subdivisions 1, 2, 2b, 4, 5, 6, 7, 9; 256L.04, subdivision 11; Minnesota Statutes 2003 Supplement, sections 62J.17, subdivision 2; 256.955, subdivisions 2a, 3, 4a; 256B.431, subdivision 36."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Ozment from the Committee on Environment and Natural Resources Finance to which was referred:

H. F. No. 1867, A bill for an act relating to natural resources; appropriating money for state and local trails; authorizing the sale of state bonds.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [ENVIRONMENT AND NATURAL RESOURCES APPROPRIATIONS AND REDUCTIONS.]

The dollar amounts in the columns under "APPROPRIATIONS" are added to or, if shown in parentheses, are subtracted from the appropriations in Laws 2003, chapter 128, article 1, or other law, to the specified agencies. The appropriations are from the general fund or other named fund and are available for the fiscal years indicated for each purpose. The figures "2004" and "2005" means that the addition to or subtraction from the appropriations listed under the figure are for the fiscal year ending June 30, 2004, or June 30, 2005, respectively. The term "first year" means the year ending June 30, 2004, and the term "the second year" means the year ending June 30, 2005.

#### SUMMARY BY FUND

APPROPRIATIONS	2004	2005	TOTAL
General	\$-0-	\$(9,198,000)	\$(9,198,000)
Environmental	-0-	70,000	70,000
Natural Resources	-0-	7,240,000	7,240,000
TOTAL	\$-0-	\$(1,888,000)	\$(1,888,000)

APPROPRIATIONS Available for the Year Ending June 30	
2004	2005

#### Sec. 2. POLLUTION CONTROL AGENCY

Total Appropriation	\$-0-	\$(211,000)
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
2004 2005

Notwithstanding Minnesota Statutes, section 89.37, subdivision 4, up to \$600,000 for fiscal year 2005 is transferred from the forest nursery account to the forest management investment account to provide for cash flow needs. The amount of the transfer shall be repaid to the forest nursery account from the forest management investment account no later than June 30, 2012.

\$400,000 the second year is from the natural resources fund for additional off-highway vehicle trail forest inventory, trail designation, and development. Of this amount, \$280,000 is from the all-terrain vehicle account, \$80,000 is from the off-road vehicle account, and \$40,000 is from the off-highway motorcycle account. This is a onetime only appropriation.

The commissioner must assign three additional trail development specialists to assist off-highway groups with grant-in-aid trail development and trail development-related activities.

\$575,000 the second year is from the natural resources fund for additional grants-in-aid. Of this amount, \$402,500 is from the all-terrain vehicle account, \$115,000 is from the off-road vehicle account, and \$57,500 is from the off-highway motorcycle account. This amount is added to the appropriation in Laws 2003, chapter 128, article 1, section 5, subdivision 6, for a total in the second year of \$1,100,000 in off-highway grants-in-aid. Of this amount, \$877,500 is from the all-terrain vehicle account, \$115,000 is from the off-road vehicle account, and \$107,500 is from the off-highway motorcycle account.

\$240,000 of the reduction in the second year is from the appropriation for a grant to the Metropolitan Council for metropolitan area regional parks maintenance and operations made in Laws 2003, chapter 128, article 1, section 5, subdivision 5.

\$2,606,000 of the general fund reduction is from the appropriation made in Laws 2003, chapter 128, article 1, section 5. The commissioner may make these reductions at the program and activity level to achieve the reduction. None of this reduction may be from grant programs.

Sec. 6. BOARD OF SOIL AND WATER RESOURCES

-0- (127,000)

This reduction is from the appropriation made in Laws 2003, chapter 128, article 1, section 7.

Sec. 7. Minnesota Statutes 2002, section 16A.125, is amended by adding a subdivision to read:

Subd. 11. [APPROPRIATION TO EVALUATE CONSTRUCTION AGGREGATE POTENTIAL.] \$50,000 is appropriated in fiscal year 2005 from money accruing and credited to the forest suspense account to the Division of Lands and Minerals in the Department of Natural Resources to identify, evaluate, and lease construction aggregates located on state trust lands. The appropriation is supervised and controlled by the commissioner of natural resources and remains available until October 30, 2005.

This program has a budget base of \$50,000 for fiscal years 2006 and 2007 only.

Sec. 8. Minnesota Statutes 2003 Supplement, section 84.026, is amended to read:

84.026 [CONTRACTS AND GRANTS FOR PROVISION OF NATURAL RESOURCES SERVICES.]

The commissioner of natural resources is authorized to enter into contractual or grant agreements with any public or private entity for the provision of statutorily prescribed natural resources services by or for the department. The contracts or grants shall specify the services to be provided and, where services are being provided for the department, the amount and method of reimbursement payment after services are rendered. Funds generated in a contractual agreement made pursuant to this section shall be deposited in the special revenue fund and are appropriated to the department for purposes of providing the services specified in the contracts. All contractual and grant agreements shall be processed in accordance with the provisions of section 16C.05. The commissioner shall report revenues collected and expenditures made under this section to the chairs of the Committees on Appropriations in the house and Finance in the senate by January 1 of each odd-numbered year.

Sec. 9. [84.0857] [FACILITIES MANAGEMENT ACCOUNT.]

The commissioner of natural resources may bill organizational units within the Department of Natural Resources for the costs of providing them with building and infrastructure facilities. Costs billed may include modifications and adaptations to allow for appropriate building occupancy, building code compliance, insurance, utility services, maintenance, repair, and other direct costs as determined by the commissioner. Receipts shall be credited to a special account in the state treasury and are appropriated to the commissioner to pay the costs for which the billings were made.

Sec. 10. Minnesota Statutes 2003 Supplement, section 84.773, is amended to read:

84.773 [RESTRICTIONS ON OPERATION.]

Subdivision 1. [RESTRICTIONS.] (a) A person may not intentionally operate an off-highway vehicle:

- (1) on a trail on public land that is designated or signed for nonmotorized use only;
- (2) on restricted areas within public lands that are posted or where gates or other clearly visible structures are placed to prevent unauthorized motorized vehicle access; ~~or~~
- (3) except as specifically authorized by law or rule adopted by the commissioner; ~~in:~~
  - (i) in unfrozen type 3, 4, and 5, ~~and 8~~ wetlands ~~or located on public lands or on private lands, except as provided under paragraph (b);~~
  - (ii) on unfrozen public waters, as defined in section 103G.005;

(iii) in a state park;

(iv) in a scientific and natural area; or

(v) in a wildlife management area; or

(4) in a calcareous fen, as identified by the commissioner.

(b) Paragraph (a), clause (3), item (i), does not apply to a person who operates an off-highway vehicle on private land if the person owns or leases the land or has been given permission by the landowner or leaseholder to operate an off-highway vehicle on the land.

Subd. 2. [UTILITY EXEMPTIONS.] Subdivision 1 does not apply to an off-highway vehicle being used for farming; an off-highway vehicle used for military, fire, emergency, or law enforcement purposes; a construction off-highway vehicle used in the performance of its common function; an off-highway vehicle used to carry out silvicultural activities, including timber cruising, and the harvest and transport of forest products for commercial purposes; an off-highway vehicle owned by or operated under contract with a utility or pipeline company, whether publicly or privately owned, when used for maintenance or work on utilities or pipelines; a commercial off-highway vehicle being used for its intended purpose; or an off-highway vehicle used to conduct duties of a government entity.

Subd. 3. [PRIVATE LAND ACCESS.] The commissioner may grant a three-year permit to exempt a private landowner or leaseholder from this section when the only reasonable access to a permit applicant's land is across forestry administered lands in state forests.

Sec. 11. Minnesota Statutes 2003 Supplement, section 84.777, is amended to read:

84.777 [OFF-HIGHWAY VEHICLE USE OF STATE LANDS RESTRICTED.]

(a) Except as otherwise allowed by law or rules adopted by the commissioner, effective June 1, 2003, notwithstanding sections 84.787 to 84.805 and 84.92 to 84.929, the use of off-highway vehicles is prohibited on state land administered by the commissioner of natural resources, and on county-administered forest land within the boundaries of a state forest, except on roads and trails specifically designated and posted by the commissioner for use by off-highway vehicles.

(b) Paragraph (a) does not apply:

(1) to county-administered land within a state forest if the county board adopts a resolution that modifies restrictions on the use of off-highway vehicles on county-administered land within the forest; or

(2) to forest lands classified as managed.

Sec. 12. Minnesota Statutes 2003 Supplement, section 84.788, subdivision 3, is amended to read:

Subd. 3. [APPLICATION; ISSUANCE; REPORTS.] (a) Application for registration or continued registration must be made to the commissioner or an authorized deputy registrar of motor vehicles in a form prescribed by the commissioner. The form must state the name and address of every owner of the off-highway motorcycle.

(b) A person who purchases from a retail dealer an off-highway motorcycle shall make application for registration to the dealer at the point of sale. The dealer shall issue a temporary ten-day registration permit to each purchaser who applies to the dealer for registration. The dealer shall submit the completed registration applications and fees to the deputy registrar at least once each week. No fee may be charged by a dealer to a purchaser for providing the temporary permit.

(c) Upon receipt of the application and the appropriate fee, the commissioner or deputy registrar shall issue to the applicant, or provide to the dealer, a 60-day temporary receipt and shall assign a registration number that must be affixed to the motorcycle ~~in a manner prescribed by the commissioner according to paragraph (f)~~. A dealer subject to paragraph (b) shall provide the registration materials and temporary receipt to the purchaser within the ten-day temporary permit period.

(d) The commissioner shall develop a registration system to register vehicles under this section. A deputy registrar of motor vehicles acting under section 168.33, is also a deputy registrar of off-highway motorcycles. The commissioner of natural resources in agreement with the commissioner of public safety may prescribe the accounting and procedural requirements necessary to ensure efficient handling of registrations and registration fees. Deputy registrars shall strictly comply with the accounting and procedural requirements.

(e) In addition to other fees prescribed by law, a filing fee of \$4.50 is charged for each off-highway motorcycle registration renewal, duplicate or replacement registration card, and replacement decal and a filing fee of \$7 is charged for each off-highway motorcycle registration and registration transfer issued by:

(1) a deputy registrar and must be deposited in the treasury of the jurisdiction where the deputy is appointed, or kept if the deputy is not a public official; or

(2) the commissioner and must be deposited in the state treasury and credited to the off-highway motorcycle account.

(f) Unless exempted in paragraph (g), the owner of an off-highway motorcycle must display a registration decal issued by the commissioner. If the motorcycle is licensed as a motor vehicle, a registration decal must be affixed on the upper left corner of the rear license plate. If the motorcycle is not licensed as a motor vehicle, the decal must be attached on the side of the motorcycle and may be attached to the fork tube. The decal must be attached in a manner so that it is visible while a rider is on the motorcycle. The issued decals must be of a size to work within the constraints of the electronic licensing system, not to exceed three inches high and three inches wide.

(g) Display of a registration decal is not required for an off-highway motorcycle:

(1) while being operated on private property; or

(2) while competing in a closed-course competition event.

Sec. 13. Minnesota Statutes 2002, section 84.798, subdivision 1, is amended to read:

Subdivision 1. [GENERAL REQUIREMENTS.] Unless exempted under subdivision 2, after January 1, 1995, a person may not operate and an owner may not give permission for another to operate ~~a vehicle off road, nor may a person have an off-road vehicle not registered under chapter 168 in possession at an off road vehicle staging area, or on lands administered by the commissioner on designated trail trails or area areas, or on off-road vehicle grant-in-aid trails and areas funded under section 84.803,~~ unless the vehicle has been registered under this section.

Sec. 14. Minnesota Statutes 2002, section 84.83, subdivision 3, is amended to read:

Subd. 3. [PURPOSES FOR THE ACCOUNT.] The money deposited in the account and interest earned on that money may be expended only as appropriated by law for the following purposes:

(1) for a grant-in-aid program to counties and municipalities for construction and maintenance of snowmobile trails, including maintenance of trails on lands and waters of Voyageurs National Park, on Lake of the Woods, on Rainy Lake, and on the following lakes in St. Louis County: Burntside, Crane, Little Long, Mud, Pelican, Shagawa, and Vermilion;

(2) for acquisition, development, and maintenance of state recreational snowmobile trails;

(3) for snowmobile safety programs; and

(4) for the administration and enforcement of sections 84.81 to 84.91 and appropriated grants to local law enforcement agencies.

**[EFFECTIVE DATE.]** This section is effective July 1, 2005.

Sec. 15. Minnesota Statutes 2003 Supplement, section 84.92, subdivision 8, is amended to read:

Subd. 8. **[ALL-TERRAIN VEHICLE.]** "All-terrain vehicle" or "vehicle" means a motorized flotation-tired vehicle of not less than three low pressure tires, but not more than six tires, that is limited in engine displacement of less than ~~800~~ 900 cubic centimeters and total dry weight less than 900 pounds.

Sec. 16. Minnesota Statutes 2002, section 84.925, subdivision 1, is amended to read:

Subdivision 1. **[PROGRAM ESTABLISHED.]** (a) The commissioner shall establish a comprehensive all-terrain vehicle environmental and safety education and training program, including the preparation and dissemination of vehicle information and safety advice to the public, the training of all-terrain vehicle operators, and the issuance of all-terrain vehicle safety certificates to vehicle operators over the age of 12 years who successfully complete the all-terrain vehicle environmental and safety education and training course.

(b) For the purpose of administering the program and to defray a portion of the expenses of training and certifying vehicle operators, the commissioner shall collect a fee of \$15 from each person who receives the training. Fee proceeds shall be deposited in the all-terrain vehicle account in the natural resources fund. In addition to the fee established by the commissioner, instructors may charge each person up to \$5 for class material and expenses.

(c) The commissioner shall cooperate with private organizations and associations, private and public corporations, and local governmental units in furtherance of the program established under this section. School districts may cooperate with the commissioner and volunteer instructors to provide space for the classroom portion of the training. The commissioner shall consult with the commissioner of public safety in regard to training program subject matter and performance testing that leads to the certification of vehicle operators. By June 30, 2003, the commissioner shall incorporate a riding component in the safety education and training program.

Sec. 17. Minnesota Statutes 2002, section 84.9256, subdivision 1, is amended to read:

Subdivision 1. **[PROHIBITIONS ON YOUTHFUL OPERATORS.]** (a) Except for operation on public road rights-of-way that is permitted under section 84.928, a driver's license issued by the state or another state is required to operate an all-terrain vehicle along or on a public road right-of-way.

(b) A person under 12 years of age shall not:

(1) make a direct crossing of a public road right-of-way;

(2) operate an all-terrain vehicle on a public road right-of-way in the state; or

(3) operate an all-terrain vehicle on public lands or waters.

(c) Except for public road rights-of-way of interstate highways, a person 12 years of age but less than 16 years may make a direct crossing of a public road right-of-way of a trunk, county state-aid, or county highway or operate on public lands and waters, only if that person possesses a valid all-terrain vehicle safety certificate issued by the commissioner and is accompanied on another all-terrain vehicle by a person 18 years of age or older who holds a valid driver's license.

(d) All-terrain vehicle safety certificates issued by the commissioner to persons 12 years old, but less than 16 years old, are not valid for machines in excess of 90cc engine capacity unless:

(1) the person successfully completed the safety education and training program under section 84.925, subdivision 1, including a riding component; and

(2) ~~the riding component of the training was conducted using an all-terrain vehicle with over 90cc engine capacity; and~~

~~(3) the person is able to properly reach and control the handle bars and reach the foot pegs while sitting upright on the seat of the all-terrain vehicle.~~

Sec. 18. Minnesota Statutes 2002, section 84.9257, is amended to read:

84.9257 [PASSENGERS.]

(a) A parent or guardian may operate an all-terrain vehicle carrying one passenger who is under 16 years of age and who wears a safety helmet approved by the commissioner of public safety.

(b) For the purpose of this section, "guardian" means a legal guardian of a person under age 16, or a person 18 or older who has been authorized by the parent or legal guardian to supervise the person under age 16.

(c) A person 18 years of age or older may operate an all-terrain vehicle carrying one passenger who is 16 or 17 years of age and wears a safety helmet approved by the commissioner of public safety.

(d) A person 18 years of age or older may operate an all-terrain vehicle carrying one passenger who is 18 years of age or older.

Sec. 19. Minnesota Statutes 2003 Supplement, section 84.926, is amended to read:

84.926 [VEHICLE USE ~~ALLOWED~~ ON PUBLIC LANDS ~~BY THE COMMISSIONER~~; EXCEPTIONS.]

Subdivision 1. [EXCEPTION BY PERMIT.] Notwithstanding section 84.777, on a case by case basis, the commissioner may issue a permit authorizing a person to operate an off-highway vehicle on individual public trails under the commissioner's jurisdiction during specified times and for specified purposes.

Subd. 2. [ALL-TERRAIN VEHICLES; MANAGED OR LIMITED FORESTS; OFF TRAIL.] Notwithstanding section 84.777, on state forest lands classified as managed or limited, other than the Richard J. Dorer Memorial Hardwood Forest, a person may use an all-terrain vehicle off forest trails or forest roads when:

(1) hunting big game or transporting or installing hunting stands during October, November, and December, when in possession of a valid big game license;

(2) retrieving big game in September when in possession of a valid big game hunting license;

(3) trapping protected furbearers during an open season, when in possession of a valid trapping license; or

(4) trapping minnows when in possession of a valid minnow dealer, private fish hatchery, or aquatic farm license.

Subd. 3. [ALL-TERRAIN VEHICLES; CLOSED FORESTS; HUNTING.] Notwithstanding sections 84.773 and 84.777, on a forest-by-forest basis, the commissioner may determine whether all-terrain vehicles are allowed on forest roads, in state forests classified as closed, for the purpose of hunting big game during an open big game season. The determination shall be by written order as published in the State Register, is exempt from chapter 14, and section 14.386 does not apply.

Subd. 4. [OFF-ROAD AND ALL-TERRAIN VEHICLES; LIMITED OR MANAGED FORESTS; TRAILS.] Notwithstanding sections 84.773 and 84.777, on state forest lands classified as limited or managed, other than the Richard J. Dorer Memorial Hardwood Forest, a person may use vehicles registered under chapter 168, or under section 84.798 or 84.922, during an open big game season on forest trails that are not designated for a specific use when in possession of a valid big game license.

Sec. 20. Minnesota Statutes 2002, section 84.928, subdivision 2, is amended to read:

Subd. 2. [OPERATION GENERALLY.] A person may not drive or operate an all-terrain vehicle:

- (1) at a rate of speed greater than reasonable or proper under the surrounding circumstances;
- (2) in a careless, reckless, or negligent manner so as to endanger or to cause injury or damage to the person or property of another;
- (3) without headlight and taillight lighted at all times if the vehicle is equipped with headlight and taillight;
- (4) without a functioning stoplight if so equipped;
- (5) in a tree nursery or planting in a manner that damages or destroys growing stock;
- (6) without a brake operational by either hand or foot;
- (7) with more ~~persons than one person~~ than one person on the vehicle ~~than it was designed for~~, except as allowed under section 84.9257;
- (8) at a speed exceeding ten miles per hour on the frozen surface of public waters within 100 feet of a person not on an all-terrain vehicle or within 100 feet of a fishing shelter; or
- (9) in a manner that violates operation rules adopted by the commissioner.

Sec. 21. Minnesota Statutes 2002, section 84.928, subdivision 6, is amended to read:

Subd. 6. [REGULATIONS BY POLITICAL SUBDIVISIONS.] (a) Notwithstanding any law to the contrary, a city or town, acting through its governing body, may by resolution or ordinance prohibit the operation of all-terrain vehicles on city streets or town roads in its jurisdiction provided the regulations are otherwise consistent with sections 84.92 to 84.929.



(b) A county or city, or a town acting by its town board, may regulate the operation of all-terrain vehicles on public lands, waters, and property under its jurisdiction other than public road rights-of-way within its boundaries, by resolution or ordinance of the governing body and by giving appropriate notice, provided:

(1) the regulations must be consistent with sections 84.92 to 84.929 and rules adopted under section 84.924;

(2) an ordinance may not impose a fee for the use of public land or water under the jurisdiction of either the Department of Natural Resources or other agency of the state, or for the use of an access to it owned by the state or a county or a city; and

(3) an ordinance may not require an all-terrain vehicle operator to possess a motor vehicle driver's license while operating an all-terrain vehicle.

(c) Notwithstanding any law to the contrary, a county board by ordinance may allow the operation of all-terrain vehicles on the road right-of-way shoulder, or inside bank or slope of a county highway or county state-aid highway, if:

(1) the highway is in the agricultural zone; ~~or~~

(2) safe operation in the ditch or outside slope is impossible, and the county posts the appropriate notice; or

(3) the road is designated as a minimum-maintenance road under section 160.095.

Sec. 22. Minnesota Statutes 2002, section 84A.51, subdivision 2, is amended to read:

Subd. 2. [FUNDS TRANSFERRED; APPROPRIATED.] Money in any fund established under section 84A.03, 84A.22, or 84A.32, subdivision 2, is transferred to the consolidated account, except as provided in subdivision 3. The money in the consolidated account, or as much of it as necessary, is appropriated for the purposes of sections 84A.52 and 84A.53. Of any remaining balance, the amount derived from timber sales receipts is transferred to the forest management investment fund and the amount derived from all other receipts is transferred to the general fund.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004.

Sec. 23. Minnesota Statutes 2002, section 89.035, is amended to read:

89.035 [INCOME FROM STATE FOREST LANDS, DISPOSITION.]

All income which may be received from lands acquired by the state heretofore or hereafter for state forest purposes by gift, purchase or eminent domain and tax-forfeited lands to which the county has relinquished its equity to the state for state forest purposes shall be paid into the state treasury and credited to the ~~general fund~~ following funds except where the conveyance to and acceptance by the state of lands for state forest purposes provides for other disposition of receipts. The income derived from timber sales receipts shall be credited to the forest management investment fund and the amounts derived from all other receipts shall be credited to the general fund.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004.

Sec. 24. [89.039] [FOREST MANAGEMENT INVESTMENT ACCOUNT.]

Subdivision 1. [ACCOUNT ESTABLISHED; SOURCES.] The forest management investment account is created in the natural resources fund in the state treasury and money in the account may be spent only for the purposes provided in subdivision 2. The following revenue shall be deposited in the forest management investment account:

(1) timber sales receipts transferred from the consolidated conservation areas account as provided in section 84A.51, subdivision 2; and

(2) timber sales receipts from forest lands as provided in section 89.035.

Subd. 2. [PURPOSES OF ACCOUNT.] Subject to appropriation by the legislature, money in the forest management investment account may be spent only for the following purposes:

(1) reforestation and timber stand improvement, including forest pest management;

(2) timber sales administration, contract marking of commercial thinning sales, cultural resource reviews, and other timber sales costs; and

(3) state forest road maintenance costs.

**[EFFECTIVE DATE.] This section is effective July 1, 2004.**

Sec. 25. Minnesota Statutes 2002, section 89.19, is amended to read:

89.19 [RULES.]

Subdivision 1. [RULEMAKING AUTHORIZED.] The commissioner may prescribe rules governing the use of forest lands under the authority of the commissioner and state forest roads, or any parts thereof, by the public and governing the exercise by holders of leases or permits on forest lands and state forest roads of all their rights under the leases or permits.

Subd. 2. [RULEMAKING EXEMPTION.] The designation of forest trails by the commissioner shall be by written order that is published in the State Register. These designations are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. Before designating forest trails, the commissioner shall hold a public meeting in the county where the largest portion of the forest lands are located to provide information to and receive comment from the public regarding the proposed trail designation. Sixty days before the public meeting, notice of the proposed forest trail shall be published in the legal newspapers that serve the counties in which the lands are located, in a statewide Department of Natural Resources news release, and in the State Register.

Sec. 26. Minnesota Statutes 2002, section 97C.605, subdivision 2, is amended to read:

Subd. 2. [TURTLE SELLER'S LICENSE.] (a) A person may not take, possess, buy, or transport turtles for sale; sell turtles; or take turtles for sale using commercial equipment without a turtle seller's license, except as provided in subdivision 2c.

(b) ~~Except for renewals, no new turtle seller's licenses may be issued after August 1, 2002.~~ The commissioner must not issue more turtle seller's licenses in any year than the number of licenses issued for the 2004 license year. If more turtle seller's license applications are received than licenses available in any year, the commissioner must give preference for licensing to persons licensed in the previous year.

Sec. 27. Minnesota Statutes 2002, section 103F.225, subdivision 5, is amended to read:

Subd. 5. [EXPIRATION.] This section expires June 30, ~~2004~~ 2008.

**[EFFECTIVE DATE.] This section is effective June 30, 2004.**

Sec. 28. [103G.407] [WATER LEVEL CONTROLS FOR PUBLIC WATERS WITH AN OUTLET.]

(a) The commissioner, upon due consideration of recommendations and objections as provided in paragraph (c), may issue a public waters work permit to establish a control elevation for a public water with an outlet that is different than any previously existing or established control level when:

(1) all of the property abutting the ordinary high water mark of the public water is in public ownership or the public entity has obtained permanent flowage easements; and

(2) the commissioner finds that the proposed change in the control level is in the public interest and causes minimal adverse environmental impact.

(b) In addition to the requirements in section 103G.301, subdivision 6, if the proposed control elevation differs from any historical control level, the permit applicant shall serve a copy of the application on each county and municipality within which any portion of the lake is located and on the lake improvement district, if one exists.

(c) A county, municipality, watershed district, or lake improvement district required to be served under paragraph (b) or section 103G.301, subdivision 6, may file a written recommendation for the issuance of the permit or an objection to the issuance of the permit with the commissioner within 30 days after receiving a copy of the application.

Sec. 29. Minnesota Statutes 2002, section 115.06, subdivision 4, is amended to read:

Subd. 4. [CITIZEN MONITORING OF WATER QUALITY.] (a) The agency ~~may~~ must encourage citizen monitoring of ambient water quality for public waters by:

(1) providing technical assistance to citizen and local group water quality monitoring efforts;

(2) integrating citizen monitoring data into water quality assessments and agency programs, provided that the data adheres to agency quality assurance and quality control protocols; and

(3) seeking public and private funds to:

(i) collaboratively develop clear guidelines for water quality monitoring procedures and data management practices for specific data and information uses;

(ii) distribute the guidelines to citizens, local governments, and other interested parties;

(iii) improve and expand water quality monitoring activities carried out by the agency; and

(iv) continue to improve electronic and Web access to water quality data and information about public waters that have been either fully or partially assessed.

(b) This subdivision does not authorize a citizen to enter onto private property for any purpose.

(c) By January 15 of each odd-numbered year, the commissioner shall report to the senate and house of representatives committees with jurisdiction over environmental policy and finance on activities under this section.

(d) This subdivision shall sunset June 30, ~~2005~~ 2009.

Sec. 30. Minnesota Statutes 2002, section 115.55, subdivision 9, is amended to read:

Subd. 9. [WARRANTIED SYSTEMS.] (a) An individual sewage treatment system may be installed provided that it meets all local ordinance requirements and provided the requirements of paragraphs (b) to ~~(d)~~ (e) are met.

(b) The manufacturer shall provide to the commissioner:

(1) documentation that the manufacturer's system was designated by the agency as a warrantied system as of June 30, 2001, ~~and or~~ the system is a modified version of the system that was designated as a warrantied system and meets the size requirements or other requirements that were the basis for the previous warrantied system classification; or

(2) documentation showing that a minimum of 50 of the manufacturer's systems have been installed and operated and are under normal use across all major soil classifications for a minimum of three years;

~~(3)~~ (c) For each system that meets the requirements of paragraph (b), clause (1) or (2), the manufacturer must provide to the commissioner:

(1) documentation that the system manufacturer or designer will provide full warranty effective for at least five years from the time of installation, covering design, labor, and material costs to remedy failure to meet performance expectations for systems used and installed in accordance with the manufacturer's or designer's instructions; and

~~(4)~~ (2) a commonly accepted financial assurance document or documentation of the manufacturer's or designer's financial ability to cover potential replacement and upgrades necessitated by failure of the system to meet the performance expectations for the duration of the warranty period.

~~(e)~~ (d) The manufacturer shall reimburse the agency an amount of \$1,000 for staff services needed to review the information submitted pursuant to ~~paragraph~~ paragraphs (b) and (c). Reimbursements accepted by the agency shall be deposited in the environmental fund and are appropriated to the agency for the purpose of reviewing information submitted. Reimbursement by the manufacturer shall precede, not be contingent upon, and shall not affect the agency's decision on whether the submittal meets the requirements of ~~paragraph~~ paragraphs (b) and (c).

~~(d)~~ (e) The manufacturer shall provide to the local unit of government reasonable assurance of performance of the manufacturer's system, engineering design of the manufacturer's system, a monitoring plan that will be provided to system owners, and a mitigation plan that will be provided to system owners describing actions to be taken if the system fails.

~~(e)~~ (f) The commissioner may prohibit an individual sewage treatment system from qualifying for installation under this subdivision upon a finding of fraud, system failure, failure to meet warranty conditions, or failure to meet the requirements of this subdivision or other matters that fail to meet with the intent and purpose of this subdivision. Prohibition of installation of a system by the commissioner does not alter or end warranty obligations for systems already installed.

(g) This subdivision expires June 30, 2006. Expiration of this subdivision does not alter or end warranty obligations for systems installed under a previously approved warranty.

Sec. 31. Minnesota Statutes 2003 Supplement, section 115.551, is amended to read:

115.551 [TANK FEE.]

(a) An installer shall pay a fee of \$25 for each septic system tank installed in the previous calendar year. The fees required under this section must be paid to the commissioner by January 30 of each year. The revenue derived from the fee imposed under this section shall be deposited in the environmental fund and is exempt from section 16A.1285.

(b) Notwithstanding paragraph (a), for the purposes of performance based individual sewage treatment systems, the tank fee is limited to \$25 per household system installation.

Sec. 32. [115.59] [ADVANCED TREATMENT SYSTEMS.]

Subdivision 1. [DEFINITIONS.] The definitions in this subdivision apply to sections 115.59 to 115.60.

(a) "Agency" means the Pollution Control Agency.

(b) "Biodigester and water reclamation systems" or "system" means a residential wastewater treatment system that separately collects and segregates greywater from blackwater to be mechanically or biologically treated for reclamation and safe consumptive use or discharge above or below the surface of the ground.

(c) "Blackwater" means sewage from toilets, urinals, and any drains equipped with garbage grinders.

(d) "Greywater" means sewage that does not contain toilet wastes or waste from garbage grinders.

(e) "Sewage" means waste produced by toilets, bathing, laundry, or culinary operations, or the floor drains associated with these sources. Household cleaners in sewage are restricted to amounts normally used for domestic purposes.

Subd. 2. [BIODIGESTER AND WATER RECLAMATION SYSTEMS REQUIREMENTS.] Biodigester and water reclamation systems must meet the following requirements:

(1) all waste that includes any blackwater must be treated as blackwater and must not be discharged for reuse;

(2) wastewater may only be treated as greywater when a plumbing network separately collects and segregates greywater from blackwater;

(3) the two waste streams of greywater and blackwater must be treated to the following standards:

(i) for greywater reuse within the facility, the effluent quality from the system must be within the health risk limits as determined by Minnesota Rules, chapter 4717;

(ii) for greywater discharge outside the residence above ground level, the effluent quality from the system shall meet or exceed standards for the receiving water as set forth in Minnesota Rules, chapter 7050; and

(iii) residuals from blackwater must be treated to levels described in Code of Federal Regulations, title 40, part 503;

(3) residuals from blackwater treatment must be disposed of in accordance with local and federal requirements and state guidelines for septage; and

(4) toilets that do not contain a standard integral water trap must have a water-sealed mechanical valve.

**[EFFECTIVE DATE; EXPIRATION.]** This section is effective the day following final enactment and expires May 1, 2014.

Sec. 33. [115.60] [PILOT PROGRAM FOR ALTERNATIVE SEPTIC SYSTEM TECHNOLOGY.]

Subdivision 1. [MANUFACTURER'S CERTIFICATION.] (a) Under the authority of the Pollution Control Agency, with consultation from the Department of Health, a manufacturer of new wastewater treatment technologies must submit accredited third-party testing documentation to the agency certifying that biodigester and wastewater reclamation systems, as designed and installed, will meet the applicable state standards for above or below surface discharge or potable water.

(b) A manufacturer of biodigester and water reclamation systems technology must provide training approved by the commissioner of the agency to provide certification for persons in the state to properly install, maintain, operate, and monitor systems. An entity that would provide monitoring, installation, maintenance, or operational services must not be a part of certifying system capacities for the commissioner.

(c) A manufacturer shall reimburse the agency an amount not to exceed \$4,000 for staff services needed to review the information submitted pursuant to the certification request. Reimbursements accepted by the agency must be deposited in the environmental fund and are appropriated to the agency for the purpose of reviewing information submitted. The agency shall reimburse the Department of Health for consultation related costs.

Subd. 2. [REQUIREMENTS FOR MANUFACTURER OR CONSUMER PARTICIPATION.] (a) Only trained and certified persons may install, operate, repair, maintain, and monitor a biodigester and water reclamation system.

(b) Systems must be monitored by an entity other than the owner.

(c) Annual monitoring and maintenance reports must be submitted to the commissioners of health and the agency and the local regulatory authority.

(d) Independent documentation of system performance must be reported on a form provided by the agency.

Subd. 3. [APPROVAL REQUIREMENTS.] (a) Permitting of biodigester and water reclamation systems are subject to any local government requirements for installation and use subject to the commissioner's approval.

(b) Any subsurface discharge of treated effluent from any system must be in accordance with environmental standards contained in Minnesota Rules, part 7080.0179, and is regulated under the requirements of sections 115.55 and 115.56.

(c) Any surface discharge of treated effluent from a system must be in accordance with environmental standards contained in Minnesota Rules, part 7080.0030, and be operated under a permit issued by the agency. The agency may issue either individual or general permits to regulate the surface discharges from biodigester and water reclamation systems.

(d) Any reuse of treated effluent from a system must be in accordance with state standards established for potable well water.

Subd. 4. [EXEMPTION.] Biodigester and water reclamation systems are exempt from all state and local requirements pertaining to Minnesota Rules, chapter 4715, until May 1, 2014.

[EFFECTIVE DATE; EXPIRATION.] This section is effective the day following final enactment and expires May 1, 2014.

Sec. 34. Minnesota Statutes 2003 Supplement, section 115A.072, subdivision 1, is amended to read:

Subdivision 1. [ENVIRONMENTAL EDUCATION ADVISORY BOARD.] (a) The director shall provide for the development and implementation of environmental education programs that are designed to meet the goals listed in section 115A.073.

(b) The Environmental Education Advisory Board shall advise the director in carrying out the director's responsibilities under this section. The board consists of 20 members as follows:

- (1) a representative of the Pollution Control Agency, appointed by the commissioner of the agency;
- (2) a representative of the Department of Education, appointed by the commissioner of education;
- (3) a representative of the Department of Agriculture, appointed by the commissioner of agriculture;
- (4) a representative of the Department of Health, appointed by the commissioner of health;
- (5) a representative of the Department of Natural Resources, appointed by the commissioner of natural resources;
- (6) a representative of the Board of Water and Soil Resources, appointed by that board;
- (7) a representative of the Environmental Quality Board, appointed by that board;
- (8) a representative of the Board of Teaching, appointed by that board;
- (9) a representative of the University of Minnesota Extension Service, appointed by the director of the service;
- (10) a citizen member from each congressional district, of which two must be licensed teachers currently teaching in the K-12 system, appointed by the director; and
- (11) three at-large citizen members, appointed by the director.

The citizen members shall serve two-year terms. Compensation of board members is governed by section 15.059, subdivision 6. Notwithstanding section 15.059, subdivision 5, the board expires on June 30, ~~2003~~ 2007.

Sec. 35. Minnesota Statutes 2002, section 115A.12, is amended to read:

115A.12 [ADVISORY COUNCILS.]

(a) The director shall establish a Solid Waste Management Advisory Council and a Prevention, Reduction, and Recycling Advisory Council that are broadly representative of the geographic areas and interests of the state.

(b) The solid waste council shall have not less than nine nor more than 21 members. The membership of the solid waste council shall consist of one-third citizen representatives, one-third representatives from local government units, and one-third representatives from private solid waste management firms. The solid waste

council shall contain at least three members experienced in the private recycling industry and at least one member experienced in each of the following areas: state and municipal finance; solid waste collection, processing, and disposal; and solid waste reduction and resource recovery.

(c) The Prevention, Reduction, and Recycling Advisory Council shall have not less than nine nor more than 24 members. The membership shall consist of one-third citizen representatives, one-third representatives of government, and one-third representatives of business and industry. The director may appoint nonvoting members from other environmental and business assistance providers in the state.

(d) The chairs of the advisory councils shall be appointed by the director. The director shall provide administrative and staff services for the advisory councils. The advisory councils shall have such duties as are assigned by law or the director. The Solid Waste Advisory Council shall make recommendations to the office on its solid waste management activities. The Prevention, Reduction, and Recycling Advisory Council shall make recommendations to the office on policy, programs, and legislation in pollution prevention, waste reduction, reuse and recycling, resource conservation, and the management of hazardous waste. Members of the advisory councils shall serve without compensation but shall be reimbursed for their reasonable expenses as determined by the director. Notwithstanding section 15.059, subdivision 5, the Solid Waste Management Advisory Council and the Prevention, Reduction, and Recycling Advisory Council expire June 30, ~~2003~~ 2007.

Sec. 36. Minnesota Statutes 2003 Supplement, section 115B.20, subdivision 2, is amended to read:

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

(1) preparation by the agency and the commissioner of agriculture for taking removal or remedial action under section 115B.17, or under chapter 18D, including investigation, monitoring and testing activities, enforcement and compliance efforts relating to the release of hazardous substances, pollutants or contaminants under section 115B.17 or 115B.18, or chapter 18D;

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

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

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

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



(6) reimbursement, in an amount to be determined by the agency in each case, to a political subdivision that is not a responsible person under section 115B.03, for reasonable and necessary expenditures resulting from an emergency caused by a release or threatened release of a hazardous substance, pollutant, or contaminant; and

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

Sec. 37. [116.185] [IMPAIRED WATERS PROGRAM; COORDINATION AND COOPERATION.]

In implementing an impaired waters program to meet the requirements of the federal Clean Water Act, the Pollution Control Agency and other public agencies shall take into consideration the relevant provisions of local and other applicable water management, conservation, land use, land management, and development plans and programs. Public agencies with authority for local water management, conservation, land use, land management, and development plans shall take into consideration the manner in which their plans affect the implementation of the impaired waters program. Public agencies, in consultation with the Pollution Control Agency, shall identify opportunities to participate and assist in the successful implementation of the impaired waters program, including the funding or technical assistance needs, if any, that would be necessary to take such actions. In implementing the impaired waters program, the Pollution Control Agency and other public agencies shall endeavor to engage the cooperation of all organizations and individuals whose activities affect the quality of surface waters, including point and nonpoint sources of pollution, and who have authority and responsibility for water management, planning, and protection. To the extent practicable, the Pollution Control Agency and other public agencies shall endeavor to enter into formal and informal agreements and arrangements with federal agencies and departments to jointly utilize staff and resources to deliver programs or conduct activities to implement the impaired waters program, including efforts under the federal Clean Water Act and other federal farm and soil and water conservation programs.

For the purpose of this section, "public agencies" means all state agencies, political subdivisions, and other public organizations with authority, responsibility, or expertise in protecting, restoring, or preserving the quality of surface waters; managing or planning for surface waters and related lands; or financing waters-related projects. Public agencies includes counties, cities, towns, joint powers organizations and special purpose units of government, and the University of Minnesota and other public educational institutions.

Sec. 38. [116.186] [CLEAN WATERS COUNCIL.]

Subdivision 1. [MEMBERSHIP; APPOINTMENT.] A Clean Waters Council of 17 members is created on August 1, 2004, to assist and advise in the implementation of the impaired waters program. The members of the council shall elect a chair from the nonagency members of the council. The commissioners of natural resources, agriculture, and the Pollution Control Agency and the executive director of the Board of Water and Soil Resources, shall each appoint one person from their respective agencies to serve as a member of the council. The commissioner of the Pollution Control Agency, in consultation with the other state agencies represented on the council, shall appoint 13 additional nonagency members of the council as follows:

- (1) two members representing statewide farm organizations;
- (2) two members representing business organizations;
- (3) two members representing environmental organizations;
- (4) one member representing soil and water conservation districts;
- (5) one member representing watershed districts;

(6) one member representing organizations focused on improvement of Minnesota lakes or streams;

(7) one member representing an organization of county governments;

(8) two members representing organizations of city governments; and

(9) one member representing the Metropolitan Council established under section 473.123.

Subd. 2. [TERMS; COMPENSATION; REMOVAL; FILLING OF VACANCIES.] Terms, compensation, removal, and filling of vacancies for the council are as provided in section 15.059, subdivisions 2, 3, and 4.

Subd. 3. [COUNCIL MEETINGS.] Meetings of the council and other groups the council may establish must be conducted in accordance with chapter 13D. Except where prohibited by law, the council shall establish additional processes to broaden public involvement in all aspects of its deliberations.

Sec. 39. Minnesota Statutes 2002, section 116.92, subdivision 4, is amended to read:

Subd. 4. [REMOVAL FROM SERVICE; PRODUCTS CONTAINING MERCURY.] (a) When an item listed in subdivision 3 is removed from service the mercury in the item must be reused, recycled, or otherwise managed to ensure compliance with section 115A.932.

(b) A person who is in the business of replacing or repairing an item listed in subdivision 3 in households shall ensure, or deliver the item to a facility that will ensure, that the mercury contained in an item that is replaced or repaired is reused or recycled or otherwise managed in compliance with section 115A.932.

(c) A person may not crush a motor vehicle unless the person has first ~~made a good faith effort to remove~~ removed all of the mercury switches in the motor vehicle.

(d) A first violation of paragraph (c) of this subdivision is a petty misdemeanor. A subsequent violation of paragraph (c) by the same person is a misdemeanor.

Sec. 40. Minnesota Statutes 2002, section 116P.12, subdivision 1, is amended to read:

Subdivision 1. [LOANS AUTHORIZED.] (a) If the principal of the trust fund equals or exceeds \$200,000,000, the commission may vote to set aside up to five percent of the principal of the trust fund for water system improvement loans. The purpose of water system improvement loans is to offer below market rate interest loans to local units of government or individuals for the purposes of water system improvements.

(b) The interest on a loan shall be calculated on the declining balance at a rate four percentage points below the secondary market yield of one-year United States treasury bills calculated according to section 549.09, subdivision 1, paragraph (c), or may be zero as determined by the commission.

(c) An eligible project must prove that existing federal or state loans or grants have not been adequate.

(d) Payments on the principal and any interest of loans under this section must be credited to the trust fund.

(e) Repayment of loans made under this section must be completed within 20 years.

(f) The Minnesota Public Facilities Authority must report to the commission each year on the loan program under this section.

Sec. 41. Minnesota Statutes 2002, section 116P.12, is amended by adding a subdivision to read:

Subd. 3. [DEFINITION.] For purposes of this section, "water system improvement" means enhancement of existing water system infrastructure to improve water quality, including but not limited to water supply systems and individual sewage treatment systems, and not including municipal water pollution control systems.

Sec. 42. Minnesota Statutes 2003 Supplement, section 473.845, subdivision 1, is amended to read:

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

Sec. 43. Laws 2003, chapter 128, article 1, section 10, is amended to read:

Sec. 10. [FUND TRANSFER.]

(a) By June 30, 2003, the commissioner of the pollution control agency shall transfer \$11,000,000 from the unreserved balance of the solid waste fund to the commissioner of finance for cancellation to the general fund.

(b) The commissioner of the pollution control agency shall transfer \$5,000,000 before July 30, 2003, and \$5,000,000 before July 30, 2004, from the unreserved balance of the environmental fund to the commissioner of finance for cancellation to the general fund.

(c) By June 30, 2005, the commissioner of the pollution control agency shall transfer \$1,370,000 from the environmental fund to the commissioner of finance for cancellation to the general fund.

(d) By June 30, 2007, the commissioner of the pollution control agency shall transfer \$1,370,000 from the environmental fund to the commissioner of finance for cancellation to the general fund.

(e) By June 30, 2004, the commissioner of the pollution control agency shall transfer \$9,905,000 from the metropolitan landfill contingency action trust ~~fund~~ account to the commissioner of finance for cancellation to the general fund. This is a onetime transfer from the metropolitan landfill contingency action trust ~~fund~~ account to the general fund. It is the intent of the legislature to restore these funds to the metropolitan landfill contingency action trust ~~fund~~ account as revenues become available in the future to ensure the state meets future financial obligations under Minnesota Statutes, section 473.845.

Sec. 44. Laws 2003, chapter 128, article 1, section 167, subdivision 1, is amended to read:

Subdivision 1. [FOREST CLASSIFICATION STATUS REVIEW.] (a) By December 31, 2006, the commissioner of natural resources shall complete a review of the forest classification status of all state forests classified as managed or limited, all forest lands under the authority of the commissioner as defined in Minnesota Statutes, section 89.001, subdivision 13, and lands managed by the commissioner under Minnesota Statutes, section 282.011. The review must be conducted on a forest-by-forest and area-by-area basis in accordance with the process and criteria under Minnesota Rules, part 6100.1950. ~~After each forest is reviewed, the commissioner must change its status to limited or closed, and must provide a similar status for each of the other areas subject to review under this section after each individual review is completed.~~

(b) Each state forest deemed capable of sustaining off-highway vehicle use may contain all-terrain vehicle, off-highway motorcycle, and off-road vehicle trails.

(c) The off-road vehicle trails in state forests may provide levels of difficulty, to include:

(1) easy riding trails requiring limited driver skill that are passable with a stock vehicle, comprising ten percent of total off-road vehicle trails;

(2) moderate riding trails requiring some driver skill and machine modification, comprising 80 percent of total off-road vehicle trails; and

(3) technical riding trails requiring a high degree of driver skill and machine modifications, comprising ten percent of total off-road vehicle trails.

(d) Definitions and specifications for the three categories of trails in paragraph (c) may follow the United States Forest Service Trails Management Handbook, FSH2309-18, Four Wheel Driveway Guide, and subsequent updates.

~~(b)~~ (e) If the commissioner determines on January 1, 2005, that the review required under this section cannot be completed by December 31, 2006, the completion date for the review shall be extended to December 31, 2008. By January 15, 2005, the commissioner shall report to the chairs of the legislative committees with jurisdiction over natural resources policy and finance regarding the status of the process required by this section.

~~(e)~~ (f) Until December 31, 2010, the state forests and areas subject to review under this section are exempt from Minnesota Statutes, section 84.777, unless an individual forest or area has been classified as limited or closed.

Sec. 45. [SNOWMOBILE USE AND FUNDING STUDY.]

(a) The commissioner shall contract for and appoint a task force to complete an independent comprehensive study of snowmobile use and funding. The task force shall include representatives of:

(1) the Department of Natural Resources;

(2) the Department of Employment and Economic Development;

(3) the Minnesota Office of Tourism;

(4) the Minnesota United Snowmobilers Association;

(5) the Minnesota Snowmobile Advisory Council; and

(6) other stakeholders.

(b) The study shall examine the future fiscal management of the snowmobile trails and enforcement account in the natural resources fund, including use of the account for land access, trail improvements, and trail development.

(c) The task force shall report the results of the study to the legislature by January 10, 2005.

Sec. 46. [MINNESOTA FUTURE RESOURCES FUND; ENVIRONMENT AND NATURAL RESOURCES TRUST FUND; APPROPRIATIONS CARRYFORWARD.]

(a) The availability of the appropriations for the following projects is extended to June 30, 2005, or for the period of any federal money received for the project: Laws 1999, chapter 231, section 16, subdivision 4, paragraph (b), as extended by Laws 2001, First Special Session chapter 2, section 14, subdivision 18, paragraph (b), Mesabi trail land acquisition and development-continuation; and Laws 2001, First Special Session chapter 2, section 14, subdivision 5, paragraph (i), as extended by Laws 2003, chapter 128, article 1, section 9, subdivision 20, paragraph (a), Gateway Trail Bridge.

(b) The availability of the appropriation for the following project is extended to June 30, 2006: Laws 2003, chapter 128, article 1, section 9, subdivision 11, paragraph (b), bucks and buckthorn: engaging young hunters in restoration.

(c) The availability of the appropriation for the following project is extended to June 30, 2006: Laws 2001, First Special Session chapter 2, section 14, subdivision 4, paragraph (e), restoring Minnesota's fish and wildlife habitat corridors, and after June 30, 2004, the appropriation may be spent as provided in Laws 2003, chapter 128, article 1, section 9, subdivision 5, paragraph (a), restoring Minnesota's fish and wildlife habitat corridors-phase II.

Sec. 47. [LCMR PARKS STUDY.]

The Legislative Commission on Minnesota Resources shall continue studying park issues, including looking at fairness for funding of operation and maintenance costs for regional parks within the seven-county metropolitan area and outside the seven-county metropolitan area. Recommendations may be made to the 2005 legislature.

Sec. 48. [DNR STUDY OF AQUATIC PLANT MANAGEMENT AND LAKE PROTECTION PROGRAMS.]

The Department of Natural Resources, in conjunction with stakeholder groups, shall review the current programs for lake management funded by various sources, including but not limited to the water recreation account, and explore funding a grant program from these monies for local governments and qualified lake organizations. The review must include types of chemical or biological treatment in treating a lake's environment. The review is to be reported back to the house and senate Environment and Natural Resources Policy and Finance Committees by January 15, 2005.

Sec. 49. [REPEALER.]

Minnesota Statutes 2002, section 115.55, subdivision 10, is repealed.

Sec. 50. [EFFECTIVE DATE.]

Except as otherwise specified, this act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to state government; appropriating money for environmental and natural resources purposes; establishing and modifying certain programs; providing for regulation of certain activities and practices; providing for accounts, assessments, and fees; amending Minnesota Statutes 2002, sections 16A.125, by adding a subdivision; 84.798, subdivision 1; 84.83, subdivision 3; 84.925, subdivision 1; 84.9256, subdivision 1; 84.9257; 84.928, subdivisions 2, 6; 84A.51, subdivision 2; 89.035; 89.19; 97C.605, subdivision 2; 103F.225, subdivision 5; 115.06, subdivision 4; 115.55, subdivision 9; 115A.12; 116.92, subdivision 4; 116P.12, subdivision 1, by adding a subdivision; Minnesota Statutes 2003 Supplement, sections 84.026; 84.773; 84.777; 84.788, subdivision 3; 84.92, subdivision 8; 84.926; 115.551; 115A.072, subdivision 1; 115B.20, subdivision 2; 473.845, subdivision 1; Laws 2003, chapter 128, article 1, section 10; Laws 2003, chapter 128, article 1, section 167, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 84; 89; 103G; 115; 116; repealing Minnesota Statutes 2002, section 115.55, subdivision 10."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 2028, A bill for an act relating to civil commitment; establishing a Predatory Offender Screening Committee to make recommendations to the commissioner of corrections regarding referral of sex offenders to civil commitment proceedings; providing for access to data in making these determinations; amending Minnesota Statutes 2002, sections 13.851, subdivision 5; 244.05, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 244.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [CORRECTIONS AND CRIMINAL JUSTICE APPROPRIATIONS AND TRANSFERS.]

The dollar amounts in the columns under "APPROPRIATION CHANGE" are added to or, if shown in parentheses, are subtracted from the appropriations in Laws 2003, First Special Session chapter 2, article 1, or other law to the specified agencies. The appropriations are from the general fund or other named fund and are available for the fiscal years indicated for each purpose. The figures "2004" and "2005" used in this article mean that the addition to or subtraction from the appropriations listed under the figure is for the fiscal years ending June 30, 2004, and June 30, 2005, respectively.

SUMMARY BY FUND

	2004	2005	TOTAL
GENERAL	\$155,000	\$16,818,000	\$16,973,000
STATE GOVERNMENT SPECIAL REVENUE	3,475,000	-0-	3,475,000
TOTAL	\$3,630,000	\$16,818,000	\$20,448,000

APPROPRIATIONS  
Available for the Year  
Ending June 30

2004	2005
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Sec. 2. CORRECTIONS

Subdivision 1. Total Appropriation	\$ -0-	\$6,744,000
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Subd. 2. Eliminate Gate Money for Supervised Release Violators and Short-Term Offenders	-0-	(84,000)
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This reduction is from the appropriation in Laws 2003, First Special Session chapter 2, article 1, section 13.

APPROPRIATIONS  
Available for the Year  
Ending June 30

	2004	2005
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Subd. 3. Increased Prison Population	-0-	2,850,000
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This is a onetime appropriation.

Subd. 4. Methamphetamine Enforcement and Awareness	-0-	322,000
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Subd. 5. Behavioral Treatment Programs for Offenders	-0-	1,000,000
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Subd. 6. GPS for All Level 3 Sex Offenders	-0-	162,000
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Subd. 7. Intensive Supervised Release Services	-0-	1,800,000
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To provide intensive supervised release services in unserved counties and to increase services to existing intensive supervised release programs for high-risk sex offenders.

As of June 30, 2004, any unused funds dedicated to remote electronic alcohol monitoring shall be available for use as grants to counties to establish and operate programs of intensive probation for repeat violators of the driving while impaired laws as provided for in Minnesota Statutes, section 169A.74.

Subd. 8. Assessment and Evaluation of High-Risk Sex Offenders	-0-	335,000
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Subd. 9. Revocation Hearings for Sex Offenders	-0-	190,000
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Subd. 10. Track and Capture Fugitive Sex Offenders	-0-	69,000
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Subd. 11. Community Notification for Sex Offenders Moving into the State	-0-	100,000
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The base for this appropriation shall be \$150,000 in fiscal year 2006 and \$150,000 in fiscal year 2007.

Subd. 12. Increased Sex Offender Impact

The base for this appropriation shall be \$832,000 in fiscal year 2006 and \$2,159,000 in fiscal year 2007.

Subd. 13. Rush City Per Diem

By June 30, 2004, the commissioner of the Department of Corrections shall transfer \$500,000 to the general fund from the per diem receipts collected and deposited in the special revenue fund for renting beds at the Rush City Correctional Facility, as authorized in Laws 2003, First Special Session chapter 2, article 1, section 13, subdivision 2.

APPROPRIATIONS	
Available for the Year	
Ending June 30	
2004	2005
Sec. 3. SENTENCING GUIDELINES	40,000
	-0-

The Sentencing Guidelines Commission, in consultation with the chairs and ranking minority members of the senate and house committees having jurisdiction over criminal justice policy and finance, shall conduct a study of alternatives to Minnesota's current system of determinate sentencing guidelines. The study must explore whether alternative sentencing approaches would improve the operation, effectiveness, and outcomes of Minnesota's criminal justice system. The commission shall report findings and recommendations from this study to the chairs and ranking minority members of the senate and house committees having jurisdiction over criminal justice policy by February 15, 2005.

(a) Study of determinate and indeterminate sentencing. The study must:

- (1) review the underlying philosophy, goals and objectives, structure, operation, and state outcome measures of the two sentencing systems;
- (2) identify the benefits and limitations of each sentencing system to the state;
- (3) define the role and uses of incarceration under each system; and
- (4) outline the potential benefits and limitations of a hybrid determinate and indeterminate sentencing model.

(b) Study of alternative sentencing options. The study must:

- (1) identify categories of offenders for whom the state's current determinate sentencing practices may be inappropriate, explaining in detail the basis for any conclusion;
- (2) identify, describe, and critically evaluate any alternative to determinate sentencing that is deemed to be practical;
- (3) examine and evaluate the factors that might be used to release, after a period of years, offenders convicted of a violent crime, including but not limited to:

- (i) the efficacy of chemical or behavioral treatment;



APPROPRIATIONS  
Available for the Year  
Ending June 30  
2004 2005

(ii) the efficacy of matching the granting or withdrawal of good time credit depending upon the offender's progress in treatment programs; and

(iii) the efficacy of denying release based upon an assessment of recidivism risk;

(4) examine the experience of other states with indeterminate sentencing practices, hybrid practices that blend determinate and indeterminate sentences, and determinate sentencing laws that differ from practices in Minnesota; and

(5) include detailed recommendations for possible statutory or regulatory revisions, as may be needed to implement conclusions in the report.

(c) Study of alternative sentencing options for drug offenders. The study must:

(1) identify categories of offenders for whom the state's current determinate sentencing practices may be inappropriate, explaining in detail the basis for any conclusion;

(2) identify, describe, and critically evaluate any alternative to determinate sentencing that is deemed to be practical;

(3) examine and evaluate the factors that might be used to release or divert drug offenders, including but not limited to:

(i) the efficacy of chemical or behavioral treatment;

(ii) the efficacy of matching the granting or withdrawal of good time credit depending upon the offender's progress in treatment programs; and

(iii) the efficacy of denying release based upon an assessment of recidivism risk;

(4) examine the experience of other states with diversion to treatment programs, hybrid practices that blend determinate sentences and diversion, and determinate sentencing laws that differ from practices in Minnesota; and

APPROPRIATIONS  
Available for the Year  
Ending June 30

2004	2005
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(5) include detailed recommendations for possible statutory or regulatory revisions, as may be needed to implement conclusions in the report.

By December 15, 2004, the Sentencing Guidelines Commission shall disclose a completed draft of the report to the commissioner of corrections, commissioner of health, state public defender, and the attorney general for review of the findings and recommendations in the report. Written comments about the report received by the commission by January 14, 2005, from any of the officials listed in this subdivision shall be included in the appendix to the final report that is submitted to the legislature.

Sec. 4. HUMAN RIGHTS	-0-	(105,000)
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This reduction is from the appropriation in Laws 2003, First Special Session chapter 2, article 1, section 12.

Sec. 5. BOARD ON JUDICIAL STANDARDS	155,000	-0-
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This amount is appropriated in fiscal year 2004 for deficiency costs related to proceedings against a judge and shall remain available for expenditure until June 30, 2005.

Sec. 6. BOARD OF PUBLIC DEFENSE

Subdivision 1. Total Appropriation	-0-	4,943,000
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Subd. 2. Funding Increase Related to Loss of Public Defender Co-Pay Revenue	-0-	3,000,000
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This appropriation is in addition to any appropriation provided by Laws 2003, First Special Session chapter 2, article 1, section 8, and is added to the base level funding.

Subd. 3. Costs for Sex Offender Assessment Process for Community Notification	-0-	200,000
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Subd. 4. Increased Methamphetamine Case Load	-0-	206,000
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The base for this appropriation shall be \$399,000 in fiscal year 2006 and \$399,000 in fiscal year 2007.

APPROPRIATIONS  
Available for the Year  
Ending June 30

	2004	2005
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Subd. 5. Increased Sex Offender Case Load	-0-	1,537,000
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The base for this appropriation shall be \$3,074,000 in fiscal year 2006 and \$3,074,000 in fiscal year 2007.

Sec. 7. SUPREME COURT	-0-	(1,572,000)
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This is a reduction to the appropriation to civil legal services as provided for in Laws 2003, First Special Session chapter 2, article 1, section 2.

The Supreme Court administrator shall study and evaluate the impact of the sex offender legislation contained in this act on the courts and the public defender system and prepare a report to the legislature that identifies and explains the results of the study and evaluation. The report is due to the chairs and ranking minority members of the house and senate committees having jurisdiction over criminal justice policy and finance by February 15, 2005.

Sec. 8. DISTRICT COURTS

Subdivision 1. Total Appropriation	-0-	2,632,000
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Subd. 2. Increased Methamphetamine Case Load	-0-	53,000
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Subd. 3. Ramsey County Criminal Surcharge	-0-	108,000
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This appropriation is for administration of the petty misdemeanor diversion program operated by the Second Judicial District Ramsey County Violations Bureau as provided for in article 8, sections 5 and 6, of this bill.

The base for this appropriation shall be \$118,000 in fiscal year 2006 and \$118,000 in fiscal year 2007.

Subd. 4. Increased Sex Offender Case Load	-0-	2,471,000
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The base for this appropriation shall be \$4,942,000 in fiscal year 2006 and \$4,942,000 in fiscal year 2007.

		APPROPRIATIONS Available for the Year Ending June 30	
		2004	2005
Sec. 9. PUBLIC SAFETY			
Subdivision 1. Total Appropriation		3,475,000	4,136,000
SUMMARY BY FUND			
	2004	2005	
GENERAL	\$ -0-	\$4,136,000	
STATE GOVERNMENT SPECIAL REVENUE	3,475,000	-0-	
		APPROPRIATIONS Available for the Year Ending June 30	
		2004	2005
Subd. 2. Operating Budget Reduction		-0-	(1,452,000)
This reduction is from the appropriation in Laws 2003, First Special Session chapter 2, article 1, section 9.			
Subd. 3. Criminal Apprehension		-0-	1,495,000
For special agents and support staff to enforce predator offender compliance, scientists and equipment to process DNA and other critical evidence, and to improve the predator offender database.			
Subd. 4. Methamphetamine Enforcement and Awareness		-0-	40,000
This appropriation is for the methamphetamine retail and consumer education program described in article 6, section 13. This is a onetime appropriation.			
Subd 5. To Reform and Enhance the Gang and Drug Task Forces		-0-	2,650,000
Subd. 6. To match federal grants in support of state and local delinquency prevention and intervention efforts		-0-	106,000
Subd. 7. Fire Marshal		-0-	565,000
Subd. 8. Homeless Sex Offender Registration		-0-	100,000
This is a onetime appropriation.			
Subd. 9. Community Notification for Sex Offenders Moving Into the State		-0-	100,000

APPROPRIATIONS  
Available for the Year  
Ending June 30

	2004	2005
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Subd. 10. 911 Emergency Telecommunications Services	3,475,000	-0-
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For expenditures related to the 911 program as specified by session law and statute. This appropriation is from the state government special revenue fund for 911 emergency telecommunications services.

This is a onetime appropriation.

Subd. 11. Crime Victims Services	-0-	532,000
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This appropriation is for crime victim services programming to ensure that no one judicial district will receive more than a 12 percent reduction in funding for crime victim services in state fiscal year 2005 versus fiscal year 2004. This is a onetime appropriation.

Subd. 12. Special Revenue Spending Authorization from Criminal Justice Special Projects Account

Remaining balances in the special revenue fund from spending authorized by Laws 2001, First Special Session chapter 8, article 7, section 14, subdivision 1, for which spending authorization ended June 30, 2003, under Laws 2001, First Special Session chapter 8, article 7, section 14, subdivision 3, are transferred to the general fund.

#### Sec. 10. SUNSET OF UNCODIFIED LANGUAGE

All uncodified language contained in this article expires on June 30, 2005, unless a different expiration date is explicit.

### ARTICLE 2

#### MANDATORY LIFE SENTENCES AND INDETERMINATE SENTENCES FOR SEX OFFENDERS; OTHER SEX OFFENDER SENTENCING CHANGES

##### Section 1. [LEGISLATIVE FINDINGS AND PURPOSE.]

The legislature finds that sex offenders pose a significant threat to public safety, are unique in their psychological makeup, and are particularly likely to continue to be dangerous after their release from imprisonment. The legislature also finds that sex offenders inflict long-standing psychological harm on their victims and significantly undermine victim and community safety to a greater extent than most other criminal offenses. Based on these findings, the legislature believes sex offenders need long-term supervision and treatment beyond that provided other offenders. The legislature further believes this type of supervision and treatment is best provided in a secure correctional facility and public safety warrants the use of state resources for this purpose.

The legislature's purpose in enacting this legislation is to provide courts and corrections and treatment professionals with the tools necessary to protect public safety through use of longer, more flexible sentences than currently provided by law. The legislature intends that a sex offender's past and future dangerousness be considered both in sentencing and release decisions.

Sec. 2. [244.048] [DEFINITIONS.]

For the purpose of sections 244.05 to 244.0515, the following terms have the meanings given them, unless otherwise noted.

(a) "Conditional release" means the release of an inmate subject to conditions, as described in sections 244.0514 and 609.3459.

(b) "First eligible for release" has the meaning given in section 609.341, subdivision 23.

(c) "Minimum term of imprisonment" has the meaning given in section 609.341, subdivision 24.

(d) "Minnesota Sex Offender Review Board" or "Board" has the meaning given in section 244.0515, subdivision 1, paragraph (a).

(e) "Sex offense" has the meaning given in section 609.341, subdivision 26.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2002, section 244.05, subdivision 1, is amended to read:

Subdivision 1. [SUPERVISED RELEASE REQUIRED.] Except as provided in subdivisions 1b, 4, ~~and 5,~~ and section 244.0514, every inmate shall serve a supervised release term upon completion of the inmate's term of imprisonment as reduced by any good time earned by the inmate or extended by confinement in punitive segregation pursuant to section 244.04, subdivision 2. ~~Except for a sex offender conditionally released under section 609.108, subdivision 5, the supervised release term shall be equal to the period of good time the inmate has earned, and shall not exceed the length of time remaining in the inmate's sentence.~~

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2002, section 244.05, subdivision 4, is amended to read:

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

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2002, section 244.05, subdivision 5, is amended to read:

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

(b) The commissioner shall require the preparation of a community investigation report and shall consider the findings of the report when making a supervised release decision under this subdivision or a conditional release decision under section 244.0514. The report shall reflect the sentiment of the various elements of the community toward the inmate, both at the time of the offense and at the present time. The report shall include the views of the sentencing judge, the prosecutor, any law enforcement personnel who may have been involved in the case, and any successors to these individuals who may have information relevant to the supervised release or conditional release decision. The report shall also include the views of the victim and the victim's family unless the victim or the victim's family chooses not to participate. The commissioner must submit the report required by this paragraph to the Minnesota Sex Offender Review Board described in section 244.0515 at least six months before the inmate is first eligible for release. The commissioner also shall give the board, on request, any and all information the commissioner gathered for use in compiling the report.

(c) The commissioner shall make reasonable efforts to notify the victim, in advance, of the time and place of the inmate's supervised release review hearing. The victim has a right to submit an oral or written statement at the review hearing. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the inmate should be given supervised release at this time. The commissioner must consider the victim's statement when making the supervised release decision.

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

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2002, section 244.05, subdivision 6, is amended to read:

Subd. 6. [INTENSIVE SUPERVISED RELEASE.] The commissioner may order that an inmate be placed on intensive supervised release for all or part of the inmate's supervised release or parole term if the commissioner determines that the action will further the goals described in section 244.14, subdivision 1, clauses (2), (3), and (4). In addition, the commissioner may order that an inmate be placed on intensive supervised release for all of the inmate's conditional or supervised release term if the inmate was convicted of a sex offense under sections 609.342 to 609.345 or ~~was sentenced under the provisions of section 609.108 609.3453~~. The commissioner may impose appropriate conditions of release on the inmate including but not limited to unannounced searches of the inmate's person, vehicle, or premises by an intensive supervision agent; compliance with court-ordered restitution, if any; random drug testing; house arrest; daily curfews; frequent face-to-face contacts with an assigned intensive supervision agent; work, education, or treatment requirements; and electronic surveillance. In addition, any sex offender placed on intensive supervised release may be ordered to participate in an appropriate sex offender program as a condition of release. If the inmate violates the conditions of the intensive supervised release, the commissioner shall impose sanctions as provided in subdivision 3 and section ~~609.108~~ 244.0514.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2002, section 244.05, subdivision 7, is amended to read:

Subd. 7. [SEX OFFENDERS; CIVIL COMMITMENT DETERMINATION.] (a) Before the commissioner releases from prison any inmate who has ever been convicted of a felony under sections section 609.342 to, 609.343, 609.344, 609.345, or 609.3453 or sentenced as a patterned offender under section 609.108, and determined by the commissioner to be in a high risk category, the commissioner shall make a preliminary determination whether, in the commissioner's opinion, a petition under section 253B.185 may be appropriate.

(b) In making this decision, the commissioner shall have access to the following data only for the purposes of the assessment and referral decision:

(1) private medical data under section 13.384 or 144.335, or welfare data under section 13.46 that relate to medical treatment of the offender;

(2) private and confidential court services data under section 13.84;

(3) private and confidential corrections data under section 13.85; and

(4) private criminal history data under section 13.87.

(c) If the commissioner determines that a petition may be appropriate, the commissioner shall forward this determination, along with a summary of the reasons for the determination, to the county attorney in the county where the inmate was convicted no later than 12 months before the inmate's release date. If the inmate is received for incarceration with fewer than 12 months remaining in the inmate's term of imprisonment, or if the commissioner receives additional information less than 12 months before release which makes the inmate's case appropriate for referral, the commissioner shall forward the determination as soon as is practicable. Upon receiving the commissioner's preliminary determination, the county attorney shall proceed in the manner provided in section 253B.185. The commissioner shall release to the county attorney all requested documentation maintained by the department.

(d) This subdivision does not apply to an inmate sentenced to a mandatory life sentence under section 609.3455 after August 1, 2004.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 8. [244.0514] [CONDITIONAL RELEASE TERM FOR SEX OFFENSES.]

Subdivision 1. [CONDITIONAL RELEASE REQUIRED.] Except as provided in subdivision 3, every inmate sentenced for a sex offense shall serve a conditional release term as provided in section 609.3459 upon the person's release from a state correctional facility.

Subd. 2. [RELATIONSHIP TO SUPERVISED RELEASE.] Except as otherwise provided in this section and sections 244.0515 and 609.3459, the provisions related to supervised release in section 244.05 apply to inmates sentenced to conditional release.

Subd. 3. [MINIMUM IMPRISONMENT; LIFE SENTENCE.] An inmate serving a mandatory life sentence under section 609.342, subdivision 2, or section 609.3458, subdivision 3, must not be given conditional release under this section unless the inmate is serving an indeterminate sentence under section 609.342, subdivision 1, paragraph (a), (b), or (g), or 609.3455. An inmate serving a mandatory life sentence under section 609.3455 must not be given conditional release under this section without having first served the minimum term of imprisonment



specified by the court under section 609.3455, subdivision 2. An inmate serving a mandatory life sentence under section 609.3458, subdivision 3, must not be given conditional release under this section without having served a minimum of 30 years imprisonment.

Subd. 4. [CONDITIONAL RELEASE; LIFE SENTENCE.] (a) Except as provided in paragraph (b), the Minnesota Sex Offender Review Board may give conditional release to an inmate serving a mandatory life sentence under section 609.3455 after the inmate has served the minimum term of imprisonment specified in subdivision 3.

(b) The Minnesota Sex Offender Review Board may give conditional release to an inmate sentenced under section 609.3458, subdivision 3 after the inmate has served 30 years imprisonment.

(c) The terms of conditional release are governed by this section and section 609.3459.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2002, section 244.052, subdivision 3, is amended to read:

Subd. 3. [END-OF-CONFINEMENT REVIEW COMMITTEE.] (a) The commissioner of corrections shall establish and administer end-of-confinement review committees at each state correctional facility and at each state treatment facility where predatory offenders are confined. The committees shall assess on a case-by-case basis the public risk posed by predatory offenders who are about to be released from confinement.

(b) Each committee shall be a standing committee and shall consist of the following members appointed by the commissioner:

(1) the chief executive officer or head of the correctional or treatment facility where the offender is currently confined, or that person's designee;

(2) a law enforcement officer;

(3) a treatment professional who is trained in the assessment of sex offenders;

(4) a caseworker experienced in supervising sex offenders; and

(5) a victim's services professional.

Members of the committee, other than the facility's chief executive officer or head, shall be appointed by the commissioner to two-year terms. The chief executive officer or head of the facility or designee shall act as chair of the committee and shall use the facility's staff, as needed, to administer the committee, obtain necessary information from outside sources, and prepare risk assessment reports on offenders.

(c) The committee shall have access to the following data on a predatory offender only for the purposes of its assessment and to defend the committee's risk assessment determination upon administrative review under this section:

(1) private medical data under section 13.384 or 144.335, or welfare data under section 13.46 that relate to medical treatment of the offender;

(2) private and confidential court services data under section 13.84;

(3) private and confidential corrections data under section 13.85; and

(4) private criminal history data under section 13.87.

Data collected and maintained by the committee under this paragraph may not be disclosed outside the committee, except as provided under section 13.05, subdivision 3 or 4. The predatory offender has access to data on the offender collected and maintained by the committee, unless the data are confidential data received under this paragraph.

(d)(i) Except as otherwise provided in ~~item~~ items (ii), (iii), and (iv), at least 90 days before a predatory offender is to be released from confinement, the commissioner of corrections shall convene the appropriate end-of-confinement review committee for the purpose of assessing the risk presented by the offender and determining the risk level to which the offender shall be assigned under paragraph (e). The offender and the law enforcement agency that was responsible for the charge resulting in confinement shall be notified of the time and place of the committee's meeting. The offender has a right to be present and be heard at the meeting. The law enforcement agency may provide material in writing that is relevant to the offender's risk level to the chair of the committee. The committee shall use the risk factors described in paragraph (g) and the risk assessment scale developed under subdivision 2 to determine the offender's risk assessment score and risk level. Offenders scheduled for release from confinement shall be assessed by the committee established at the facility from which the offender is to be released.

(ii) If an offender is received for confinement in a facility with less than 90 days remaining in the offender's term of confinement, the offender's risk shall be assessed at the first regularly scheduled end of confinement review committee that convenes after the appropriate documentation for the risk assessment is assembled by the committee. The commissioner shall make reasonable efforts to ensure that offender's risk is assessed and a risk level is assigned or reassigned at least 30 days before the offender's release date.

(iii) If the offender is subject to an indeterminate sentence under section 609.3455 or was sentenced under section 609.3458, subdivision 3, the commissioner of corrections shall convene the appropriate end-of-confinement review committee at least nine months before the offender is first eligible for release. If the offender is received for confinement in a facility with fewer than nine months remaining before the offender is first eligible for release, the committee shall conform its procedures to those outlined in item (ii) to the extent practicable.

(iv) If the predatory offender is granted conditional release under section 244.0515, the commissioner of corrections shall notify the appropriate end-of-confinement review committee that it needs to review the offender's previously determined risk level at its next regularly scheduled meeting. The commissioner shall make reasonable efforts to ensure that the offender's earlier risk level determination is reviewed and the risk level is confirmed or reassigned at least 60 days before the offender's release date. The committee shall give the report to the offender and to the law enforcement agency at least 60 days before an offender is released from confinement.

(e) The committee shall assign to risk level I a predatory offender whose risk assessment score indicates a low risk of reoffense. The committee shall assign to risk level II an offender whose risk assessment score indicates a moderate risk of reoffense. The committee shall assign to risk level III an offender whose risk assessment score indicates a high risk of reoffense.

(f) Before the predatory offender is released from confinement, the committee shall prepare a risk assessment report which specifies the risk level to which the offender has been assigned and the reasons underlying the committee's risk assessment decision. Except for an offender subject to an indeterminate sentence under section 609.3455 who has not been granted conditional release by the Minnesota Sex Offender Review Board, the committee shall give the report to the offender and to the law enforcement agency at least 60 days before an offender is released from confinement. If the offender is subject to an indeterminate sentence and has not yet served the entire minimum term of imprisonment, the committee shall give the report to the offender, the commissioner,

and the Minnesota Sex Offender Review Board at least six months before the offender is first eligible for release. The committee also shall give the board, on request, any and all information the committee reviewed in making its risk assessment. If the risk assessment is performed under the circumstances described in paragraph (d), item (ii), the report shall be given to the offender and the law enforcement agency as soon as it is available. The committee also shall inform the offender of the availability of review under subdivision 6.

(g) As used in this subdivision, "risk factors" includes, but is not limited to, the following factors:

(1) the seriousness of the offense should the offender reoffend. This factor includes consideration of the following:

- (i) the degree of likely force or harm;
- (ii) the degree of likely physical contact; and
- (iii) the age of the likely victim;

(2) the offender's prior offense history. This factor includes consideration of the following:

- (i) the relationship of prior victims to the offender;
  - (ii) the number of prior offenses or victims;
  - (iii) the duration of the offender's prior offense history;
  - (iv) the length of time since the offender's last prior offense while the offender was at risk to commit offenses;
- and

(v) the offender's prior history of other antisocial acts;

(3) the offender's characteristics. This factor includes consideration of the following:

- (i) the offender's response to prior treatment efforts; and
- (ii) the offender's history of substance abuse;

(4) the availability of community supports to the offender. This factor includes consideration of the following:

- (i) the availability and likelihood that the offender will be involved in therapeutic treatment;
- (ii) the availability of residential supports to the offender, such as a stable and supervised living arrangement in an appropriate location;
- (iii) the offender's familial and social relationships, including the nature and length of these relationships and the level of support that the offender may receive from these persons; and

(iv) the offender's lack of education or employment stability;

(5) whether the offender has indicated or credible evidence in the record indicates that the offender will reoffend if released into the community; and

(6) whether the offender demonstrates a physical condition that minimizes the risk of reoffense, including but not limited to, advanced age or a debilitating illness or physical condition.

(h) Upon the request of the law enforcement agency or the offender's corrections agent, the commissioner may reconvene the end-of-confinement review committee for the purpose of reassessing the risk level to which an offender has been assigned under paragraph (e). In a request for a reassessment, the law enforcement agency which was responsible for the charge resulting in confinement or agent shall list the facts and circumstances arising after the initial assignment or facts and circumstances known to law enforcement or the agent but not considered by the committee under paragraph (e) which support the request for a reassessment. The request for reassessment by the law enforcement agency must occur within 30 days of receipt of the report indicating the offender's risk level assignment. The offender's corrections agent, in consultation with the chief law enforcement officer in the area where the offender resides or intends to reside, may request a review of a risk level at any time if substantial evidence exists that the offender's risk level should be reviewed by an end-of-confinement review committee. This evidence includes, but is not limited to, evidence of treatment failures or completions, evidence of exceptional crime-free community adjustment or lack of appropriate adjustment, evidence of substantial community need to know more about the offender or mitigating circumstances that would narrow the proposed scope of notification, or other practical situations articulated and based in evidence of the offender's behavior while under supervision. Upon review of the request, the end-of-confinement review committee may reassign an offender to a different risk level. If the offender is reassigned to a higher risk level, the offender has the right to seek review of the committee's determination under subdivision 6.

(i) An offender may request the end-of-confinement review committee to reassess the offender's assigned risk level after three years have elapsed since the committee's initial risk assessment and may renew the request once every two years following subsequent denials. In a request for reassessment, the offender shall list the facts and circumstances which demonstrate that the offender no longer poses the same degree of risk to the community. In order for a request for a risk level reduction to be granted, the offender must demonstrate full compliance with supervised release conditions, completion of required post-release treatment programming, and full compliance with all registration requirements as detailed in section 243.166. The offender must also not have been convicted of any felony, gross misdemeanor, or misdemeanor offenses subsequent to the assignment of the original risk level. The committee shall follow the process outlined in paragraphs (a) to (c) in the reassessment. An offender who is incarcerated may not request a reassessment under this paragraph.

(j) Offenders returned to prison as release violators shall not have a right to a subsequent risk reassessment by the end-of-confinement review committee unless substantial evidence indicates that the offender's risk to the public has increased.

(k) The commissioner shall establish an end-of-confinement review committee to assign a risk level to offenders who are released from a federal correctional facility in Minnesota or another state and who intend to reside in Minnesota, and to offenders accepted from another state under a reciprocal agreement for parole supervision under the interstate compact authorized by section 243.16. The committee shall make reasonable efforts to conform to the same timelines as applied to Minnesota cases. Offenders accepted from another state under a reciprocal agreement for probation supervision are not assigned a risk level, but are considered downward dispositional departures. The probation or court services officer and law enforcement officer shall manage such cases in accordance with section 244.10, subdivision 2a. The policies and procedures of the committee for federal offenders and interstate compact cases must be in accordance with all requirements as set forth in this section, unless restrictions caused by the nature of federal or interstate transfers prevents such conformance.

(l) If the committee assigns a predatory offender to risk level III, the committee shall determine whether residency restrictions shall be included in the conditions of the offender's release based on the offender's pattern of offending behavior.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2002, section 609.1351, is amended to read:

609.1351 [PETITION FOR CIVIL COMMITMENT.]

When a court sentences a person under section ~~609.108~~, 609.342, 609.343, 609.344, ~~or~~ 609.345, or 609.3453, the court shall make a preliminary determination whether in the court's opinion a petition under section 253B.185 may be appropriate and include the determination as part of the sentencing order. If the court determines that a petition may be appropriate, the court shall forward its preliminary determination along with supporting documentation to the county attorney.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2002, section 609.341, is amended by adding a subdivision to read:

Subd. 22. [CONDITIONAL RELEASE.] "Conditional release" has the meaning given in section 244.048, paragraph (a).

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2002, section 609.341, is amended by adding a subdivision to read:

Subd. 23. [FIRST ELIGIBLE FOR RELEASE.] (a) For the purpose of an offender sentenced under section 609.3455, "first eligible for release" means the day after the inmate has served the entire minimum term of imprisonment, plus any disciplinary time imposed by the commissioner of corrections.

(b) In the case of an offender sentenced under section 609.3458, subdivision 3, "first eligible for release" means the day after the inmate has served 30 years imprisonment, plus any disciplinary time imposed by the commissioner of corrections.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2002, section 609.341, is amended by adding a subdivision to read:

Subd. 24. [MINIMUM TERM OF IMPRISONMENT.] "Minimum term of imprisonment" means the minimum length of time an offender is incarcerated for a sentence imposed under section 609.3455. The minimum term of imprisonment is equal to two-thirds of the sentence length called for by the presumptive sentence under the appropriate cell of the Sentencing Guidelines grid, plus any disciplinary time imposed by the commissioner of corrections. If the Sentencing Guidelines do not provide the presumptive sentence for the offense, the minimum term of imprisonment is as provided by statute or, if not so provided, as determined by the court.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2002, section 609.341, is amended by adding a subdivision to read:

Subd. 25. [PREDATORY CRIME.] "Predatory crime" means any felony violation of, or felony attempt to violate, section 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223; 609.24; 609.245; 609.25; 609.255; 609.365; or 609.582, subdivision 1.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 15. Minnesota Statutes 2002, section 609.341, is amended by adding a subdivision to read:

Subd. 26. [SEX OFFENSE.] Unless otherwise provided, "sex offense" means any violation of, or attempt to violate, section 609.342, 609.343, 609.344, 609.345, or 609.3453, or any similar statute of the United States or any other state.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 16. Minnesota Statutes 2002, section 609.342, is amended to read:

609.342 [CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE.]

Subdivision 1. [CRIME DEFINED.] A person who engages in sexual penetration with another person, or in sexual contact with a person under 13 years of age as defined in section 609.341, subdivision 11, paragraph (c), is guilty of criminal sexual conduct in the first degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(b) the complainant is at least 13 years of age but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(c) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(d) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(e) the actor causes personal injury to the complainant, and either of the following circumstances exist:

(i) the actor uses force or coercion to accomplish sexual penetration; or

(ii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(f) the actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) an accomplice uses force or coercion to cause the complainant to submit; or

(ii) an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant reasonably to believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual penetration, and:

- (i) the actor or an accomplice used force or coercion to accomplish the penetration;
- (ii) the complainant suffered personal injury; or
- (iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

Subd. 2. [PENALTY.] (a) ~~Except as otherwise provided in section 609.109,~~ A person convicted under subdivision 1, ~~may clause (c), (d), (e), (f), or (h), or convicted for an attempted violation of subdivision 1, clause (c), (d), (e), (f), or (h), shall be sentenced to imprisonment for not more than 30 years or to a payment of a fine of not more than \$40,000, or both life. A person convicted under subdivision 1, clause (a), (b), or (g), or convicted for an attempted violation of subdivision 1, clause (a), (b), or (g), may be sentenced to imprisonment for life.~~

(b) In addition to the sentence imposed under paragraph (a), the person also may be sentenced to a fine of not more than \$40,000.

(c) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 144 months must be imposed on an offender convicted of violating, ~~this section or attempting to violate, subdivision 1, clause (a), (b), or (g).~~ Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

(d) Unless a longer mandatory minimum sentence is otherwise required or the Sentencing Guidelines call for a longer presumptive executed sentence, for the purpose of section 609.3455, the court shall presume the minimum term of imprisonment for a conviction under subdivision 1, clause (a), (b), or (g) is 96 months and the minimum term of imprisonment for a conviction for an attempted violation of subdivision 1, clause (a), (b), or (g) is 48 months.

Subd. 3. [STAY.] Except when imprisonment is required under section ~~609.109~~ 609.3458, subdivision 3, if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:

- (a) a stay is in the best interest of the complainant or the family unit; and
- (b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

- (1) incarceration in a local jail or workhouse;
- (2) a requirement that the offender complete a treatment program; and
- (3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 17. Minnesota Statutes 2002, section 609.343, is amended to read:

609.343 [CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE.]

Subdivision 1. [CRIME DEFINED.] A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the second degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(c) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(d) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the dangerous weapon to cause the complainant to submit;

(e) the actor causes personal injury to the complainant, and either of the following circumstances exist:

(i) the actor uses force or coercion to accomplish the sexual contact; or

(ii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(f) the actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) an accomplice uses force or coercion to cause the complainant to submit; or

(ii) an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.



Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

Subd. 2. [PENALTY.] (a) ~~Except as otherwise provided in section 609.109, A person convicted under subdivision 1 may be sentenced to imprisonment for not more than 25 years or to a payment of a fine of not more than \$35,000, or both life. The person also may be sentenced to a fine of not more than \$35,000.~~

(b) If section 609.3455 provides the sentence for a conviction under this section, the court shall sentence the person to an indeterminate sentence under section 609.3455. If section 609.3455 does not provide the sentence for a conviction under this section, the court shall sentence the person as provided in paragraph (c).

(c) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 90 months must the minimum sentence that may be imposed on an offender convicted of violating subdivision 1, clause (c), (d), (e), (f), or (h) is an executed sentence of 90 months. Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

(d) Unless a longer mandatory minimum sentence is otherwise required or the Sentencing Guidelines call for a longer presumptive executed sentence, for the purpose of section 609.3455, the court shall presume the minimum term of imprisonment for a conviction under subdivision 1, clause (c), (d), (e), (f), or (h), is 60 months and the minimum term of imprisonment for a conviction for an attempted violation of subdivision 1, clause (c), (d), (e), (f), or (h), is 30 months.

Subd. 3. [STAY.] ~~Except as otherwise provided in this subdivision or when imprisonment is required under section 609.109 609.3457 or 609.3458, subdivision 2 or 3, if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:~~

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

If a person violates a stay of imposition or execution of sentence granted under this subdivision, the person shall be subject to an indeterminate sentence as provided in section 609.3455.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 18. Minnesota Statutes 2002, section 609.344, is amended to read:

609.344 [CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE.]

Subdivision 1. [CRIME DEFINED.] A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 24 months older than the complainant. In any such case it shall be an affirmative defense, which must be proved by a preponderance of the evidence, that the actor believes the complainant to be 16 years of age or older. If the actor in such a case is no more than 48 months but more than 24 months older than the complainant, the actor may be sentenced to imprisonment for not more than five years. Consent by the complainant is not a defense;

(c) the actor uses force or coercion to accomplish the penetration;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual penetration occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.

Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual penetration occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual penetration by means of deception or false representation that the penetration is for a bona fide medical purpose. Consent by the complainant is not a defense;

(l) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual penetration occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual penetration occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense; or

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, and the sexual penetration occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense.

Subd. 2. [PENALTY.] (a) A person convicted under subdivision 1 may be sentenced to imprisonment for ~~not more than 15 years or to a payment of a fine of not more than \$30,000, or both life.~~ The person also may be sentenced to a fine of not more than \$30,000.

(b) If section 609.3455 provides the sentence for a conviction under this section, the court shall sentence the person to an indeterminate sentence under section 609.3455. If section 609.3455 does not provide the sentence for a conviction under this section, the court shall sentence the person to the presumptive sentence under the Sentencing Guidelines for the offense.

Subd. 3. [STAY.] Except as otherwise provided in this subdivision or when imprisonment is required under section ~~609.109 609.3457 or 609.3458,~~ subdivision 2, if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

If a person violates a stay of imposition or execution of sentence granted under this subdivision, the person shall be subject to an indeterminate sentence as provided in section 609.3455.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 19. Minnesota Statutes 2002, section 609.345, is amended to read:

609.345 [CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE.]

Subdivision 1. [CRIME DEFINED.] A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the fourth degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age or consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant or in a position of authority over the complainant. Consent by the complainant to the act is not a defense. In any such case, it shall be an affirmative defense which must be proved by a preponderance of the evidence that the actor believes the complainant to be 16 years of age or older;

(c) the actor uses force or coercion to accomplish the sexual contact;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual contact occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists. Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual contact occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual contact by means of deception or false representation that the contact is for a bona fide medical purpose. Consent by the complainant is not a defense;

(l) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual contact occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual contact occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense; or

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, the complainant is not married to the actor, and the sexual contact occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense.

Subd. 2. [PENALTY.] (a) A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ten years or to a payment of a fine of not more than \$20,000, or both life. The person also may be sentenced to a fine of not more than \$20,000.

(b) If section 609.3455 provides the sentence for a conviction under this section, the court shall sentence the person to an indeterminate sentence under section 609.3455. If section 609.3455 does not provide the sentence for a conviction under this section, the court shall sentence the person to the presumptive sentence under the Sentencing Guidelines for the offense.

Subd. 3. [STAY.] Except as otherwise provided in this subdivision or when imprisonment is required under section ~~609.109~~ 609.3457 or 609.3458, subdivision 2, if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

If a person violates a stay of imposition or execution of sentence granted under this subdivision, the person shall be subject to an indeterminate sentence as provided in section 609.3455.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 20. Minnesota Statutes 2002, section 609.3452, subdivision 4, is amended to read:

Subd. 4. [DEFINITION.] As used in this section, "sex offense" means a violation of section 609.342; 609.343; 609.344; 609.345; 609.3451; 609.3453; 609.746, subdivision 1; 609.79; or 617.23; or another offense arising out of a charge based on one or more of those sections.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 21. [609.3453] [CRIMINAL SEXUAL PREDATORY CONDUCT.]

Subdivision 1. [CRIME DEFINED.] A person is guilty of criminal sexual predatory conduct if the person commits a predatory crime and the predatory crime was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal.

Subd. 2. [PENALTY.] (a) A person convicted under subdivision 1, or for an attempted violation of subdivision 1, shall be sentenced under section 609.3455. The person also may be sentenced to a fine of not more than \$30,000.

(b) The minimum term of imprisonment for a conviction under subdivision 1 is double the minimum term of imprisonment that would apply to the predatory crime. The minimum term of imprisonment for an attempted violation of subdivision 1 is the minimum term of imprisonment that would apply to the predatory crime.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 22. [609.3455] [INDETERMINATE SENTENCES FOR SEX OFFENSES.]

Subdivision 1. [APPLICABILITY.] (a) This section applies to an offender convicted of a violation of section 609.3453 or an attempted violation of section 609.3453. This section also applies to an offender convicted of a violation of section 609.342, subdivision 1, clause (a), (b), or (g); 609.343; 609.344; or 609.345 or an attempted violation of section 609.342, subdivision 1, clause (a), (b), or (g); 609.343; 609.344; or 609.345 when:

(1) the Sentencing Guidelines presume an executed sentence for the offense;

(2) section 609.3458 imposes a mandatory minimum sentence; or

(3) the Sentencing Guidelines presume a stayed sentence for the offense and the court departs from the Sentencing Guidelines and imposes an upward dispositional departure. This section also applies to a person who violates a stay of imposition or execution of sentence under section 609.343, subdivision 3; 609.344, subdivision 3; or 609.345, subdivision 3.

(b) The court shall sentence an offender covered by this subdivision to a minimum and maximum term of imprisonment, as specified in subdivision 2.

Subd. 2. [MINIMUM AND MAXIMUM TERM OF IMPRISONMENT.] (a) Unless a longer mandatory minimum sentence is otherwise required by law, the presumptive minimum term of imprisonment for an offense listed in subdivision 1 is the minimum term of imprisonment for the offense committed or, in the case of an upward dispositional departure, the minimum term of imprisonment is the term of imprisonment specified by the court. In sentencing an offender under this section, the court shall consider whether a longer mandatory minimum sentence is required under section 609.342, 609.343, 609.3457, or 609.3458. The minimum term of imprisonment must be served before the offender may be granted conditional release under sections 244.0514 and 244.0515.

(b) Prior to the time of sentencing, the prosecutor may file a motion for a downward durational departure under the Sentencing Guidelines. The court may grant this motion if the court finds substantial and compelling reasons to do so. In no case shall the court impose a minimum term of imprisonment that is less than one year and one day. A sentence imposed under this subdivision is a departure from the Sentencing Guidelines.

(c) Notwithstanding any other law to the contrary, the maximum sentence for an offense listed in subdivision 1 is life.

(d) Notwithstanding section 609.135, the court may not stay the imposition or execution of the sentence required by this section. An offender committed to the custody of the commissioner of corrections under this section may not be released from incarceration except as provided in sections 244.05, subdivision 8; 244.0514, subdivision 4; and 244.0515.

Subd. 3. [CONDITIONAL RELEASE.] A person who is released from a state correctional facility after receiving a sentence under this section shall be subject to conditional release for the remainder of the person's life. The terms and procedures related to conditional release are governed by sections 244.05, 244.0514, and 609.3459.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 23. [609.3457] [MANDATORY MINIMUM SENTENCES FOR CERTAIN DANGEROUS, PATTERNED SEX OFFENDERS; NO PREVIOUS CONVICTION REQUIRED.]

Subdivision 1. [MANDATORY INCREASED SENTENCE.] (a) A court shall commit a person to the commissioner of corrections for a period of time that is not less than double the presumptive sentence under the Sentencing Guidelines and not more than the statutory maximum, or if the statutory maximum is less than double the presumptive sentence, for a period of time that is equal to the statutory maximum, if:

(1) the court is imposing an executed sentence on a person convicted of committing or attempting to commit a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453;

(2) the court finds that the offender is a danger to public safety; and

(3) the court finds that the offender needs long-term treatment or supervision beyond the presumptive term of imprisonment and supervised release. The finding must be based on a professional assessment by an examiner experienced in evaluating sex offenders that concludes that the offender is a patterned sex offender. The assessment must contain the facts upon which the conclusion is based, with reference to the offense history of the offender or the severity of the current offense, the social history of the offender, and the results of an examination of the offender's mental status unless the offender refuses to be examined. The conclusion may not be based on testing alone. A patterned sex offender is one whose criminal sexual behavior is so engrained that the risk of reoffending is great without intensive psychotherapeutic intervention or other long-term controls.

(b) The court shall consider imposing a sentence under this section whenever a person is convicted of violating section 609.342 or 609.343.

(c) If the court sentences a person under this subdivision and the person is subject to indeterminate sentencing under section 609.3455, the minimum term of imprisonment shall be two-thirds of the minimum sentence specified in this subdivision, plus disciplinary time, unless a longer minimum term of imprisonment is otherwise required for the offense. The maximum term of imprisonment shall be as provided in section 609.3455.

Subd. 2. [DANGER TO PUBLIC SAFETY.] The court shall base its finding that the offender is a danger to public safety on any of the following factors:

(1) the crime involved an aggravating factor that would justify a durational departure from the presumptive sentence under the Sentencing Guidelines; or

(2) the offender previously committed or attempted to commit a predatory crime or a violation of section 609.224 or 609.2242, including:

(i) an offense committed as a juvenile that would have been a predatory crime or a violation of section 609.224 or 609.2242 if committed by an adult; or

(ii) a violation or attempted violation of a similar law of any other state or the United States; or

(3) the offender planned for or prepared for the crime prior to its commission.

Subd. 3. [DEPARTURE FROM GUIDELINES.] A sentence imposed under subdivision 1 is a departure from the Sentencing Guidelines.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 24. [609.3458] [MANDATORY MINIMUM SENTENCES FOR REPEAT OR AGGRAVATED SEX OFFENSES.]

Subdivision 1. [DEFINITION; CONVICTION OF OFFENSE.] For purposes of this section, "offense" means a completed offense or an attempt to commit an offense.

Subd. 2. [PRESUMPTIVE EXECUTED SENTENCE.] (a) Except as provided in subdivision 3, if a person is convicted under section 609.343, 609.344, or 609.345 and has a previous sex offense conviction, the court shall commit the defendant to the commissioner of corrections for a minimum sentence of not less than three years. Except as provided in subdivision 3, if a person is convicted under section 609.343, 609.344, or 609.345 within five years of discharge from sentence for a previous sex offense conviction, the court shall commit the defendant to the commissioner of corrections for a minimum sentence of not less than five years. The court may stay the execution of the sentence imposed under this subdivision only if:

(1) the offense is not governed by an indeterminate sentence under section 609.3455; and

(2) it finds that a professional assessment indicates the offender is accepted by and can respond to treatment at a long-term inpatient program exclusively treating sex offenders and approved by the commissioner of corrections. If the court stays the execution of a sentence, it shall include the following as conditions of probation:

(i) incarceration in a local jail or workhouse; and



(ii) a requirement that the offender successfully complete the treatment program and aftercare as directed by the court.

(b) If the court sentences a person under this subdivision and the person is subject to indeterminate sentencing under section 609.3455, the minimum term of imprisonment shall be two-thirds of the minimum sentence specified in this subdivision, plus disciplinary time, unless a longer minimum term of imprisonment is otherwise required for the offense. The maximum term of imprisonment is life.

Subd. 3. [MANDATORY LIFE SENTENCE.] (a) The court shall sentence a person to imprisonment for life if:

(1) the person is convicted under section 609.342; and

(2) the court determines on the record at the time of sentencing that any of the following circumstances exists:

(i) the person has previously been sentenced under section 609.1095;

(ii) the person has one previous sex offense conviction for a violation of section 609.342, 609.343, or 609.344 that occurred before August 1, 1989, for which the person was sentenced to prison in an upward durational departure from the Sentencing Guidelines that resulted in a sentence at least twice as long as the presumptive sentence; or

(iii) the person has two previous sex offense convictions under section 609.342, 609.343, or 609.344.

(b) Notwithstanding subdivision 2 and section 609.342, subdivision 3, the court may not stay imposition of the sentence required by this subdivision.

Subd. 4. [MANDATORY MINIMUM 30-YEAR SENTENCE.] (a) The court shall commit a person to the commissioner of corrections for a minimum sentence of not less than 30 years if:

(1) the person is convicted under section 609.342, subdivision 1, clause (c), (d), (e), or (f), or 609.343, subdivision 1, clause (c), (d), (e), or (f); and

(2) the court determines on the record at the time of sentencing that:

(i) the crime involved an aggravating factor that would provide grounds for an upward departure under the Sentencing Guidelines other than the aggravating factor applicable to repeat criminal sexual conduct convictions; and

(ii) the person has a previous sex offense conviction under section 609.342, 609.343, or 609.344.

(b) Notwithstanding subdivision 2 and sections 609.342, subdivision 3, or 609.343, subdivision 3, the court may not stay imposition or execution of the sentence required by this subdivision.

(c) If the court sentences a person under this subdivision and the person is subject to indeterminate sentencing under section 609.3455, the minimum term of imprisonment shall be two-thirds of the minimum sentence specified in this subdivision, plus disciplinary time, unless a longer minimum term of imprisonment is otherwise required for the offense. The maximum term of imprisonment is life.

Subd. 5. [PREVIOUS SEX OFFENSE CONVICTIONS.] For the purposes of this section, a conviction is considered a previous sex offense conviction if the person was convicted of a sex offense before the commission of the present offense of conviction. A person has two previous sex offense convictions only if the person was convicted and sentenced for a sex offense committed after the person was earlier convicted and sentenced for a sex offense, and both convictions preceded the commission of the present offense of conviction. A "sex offense" is a violation of sections 609.342 to 609.345 or any similar statute of the United States, this state, or any other state.

Subd. 6. [MANDATORY MINIMUM DEPARTURE FOR SEX OFFENDERS.] (a) The court shall sentence a person to at least twice the presumptive sentence recommended by the Sentencing Guidelines if:

(1) the person is convicted under section 609.342, subdivision 1, clause (c), (d), (e), or (f), 609.343, subdivision 1, clause (c), (d), (e), or (f); or 609.344, subdivision 1, clause (c) or (d); and

(2) the court determines on the record at the time of sentencing that the crime involved an aggravating factor that would provide grounds for an upward departure under the Sentencing Guidelines.

(b) If the court sentences a person under this subdivision and the person is subject to indeterminate sentencing under section 609.3455, the minimum term of imprisonment shall be two-thirds of the minimum sentence specified in this subdivision, plus disciplinary time, unless a longer minimum term of imprisonment is otherwise required for the offense. The maximum term of imprisonment is life.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 25. [609.3459] [CONDITIONAL RELEASE FOR SEX OFFENDERS.]

Subdivision 1. [APPLICABILITY.] This section applies to a person who commits a sex offense.

Subd. 2. [LENGTH OF CONDITIONAL RELEASE SENTENCE.] (a) Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the Sentencing Guidelines, when a court sentences a person to the custody of the commissioner of corrections for a violation or attempted violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453, the court shall provide that, upon the person's release from a state correctional facility, the commissioner of corrections shall place the person on conditional release.

(b) If the person was convicted for a violation or attempted violation of section 609.343, 609.344, or 609.345 and was not sentenced under section 609.3455, the person shall be placed on conditional release for five years, minus the time the person served on supervised release.

(c) If the person was convicted for a violation or attempted violation of section 609.343, 609.344, or 609.345 after a previous sex offense conviction as defined in section 609.3458, subdivision 5, or was sentenced to a mandatory departure under section 609.3458, subdivision 6, the person shall be placed on conditional release for ten years, minus the time the person served on supervised release, unless the person was sentenced under section 609.3455.

(d) If the person was convicted for a sex offense and sentenced under section 609.3455, the person shall be subject to an indeterminate sentence and, if released from a correctional facility under sections 244.0514 and 244.0515, the person shall be placed on conditional release for the remainder of the person's life.

Subd. 3. [TERMS OF CONDITIONAL RELEASE.] (a) The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other conditions the commissioner considers appropriate. Before the offender is released, the commissioner shall notify the sentencing court, the prosecutor in the jurisdiction where the offender was sentenced, and the victim of the offender's crime, whenever possible, of the terms of the offender's conditional release. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve the remaining portion of the conditional release term in prison. For offenders subject to a five- or ten-year conditional release period, the commissioner shall not dismiss the offender from supervision before the conditional release term expires. For offenders subject to conditional release for life, the commissioner shall not dismiss the offender from supervision.

(b) Conditional release under this section is governed by provisions relating to supervised release, except as otherwise provided in this section or section 244.04, subdivision 1, or 244.05. Conditional release under this section also is governed by section 244.0514.

(c) The commissioner shall pay the cost of treatment of a person released under this subdivision. This section does not require the commissioner to accept or retain an offender in a treatment program.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 26. [INSTRUCTION TO SENTENCING GUIDELINES COMMISSION.]

The Minnesota Sentencing Guidelines Commission is directed to review the new and increased penalties for various crimes in this act to ensure the presumptive sentences under the Sentencing Guidelines reflect the legislature's assessment of the severity of these crimes. In those situations where the Sentencing Guidelines do not reflect the legislature's assessment of the severity of these crimes, the commission shall increase the level at which various crimes are ranked and set new presumptive sentences for these crimes, if necessary.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 27. [REPEALER.]

Minnesota Statutes 2002, sections 609.108 and 609.109 are repealed. The revisor shall include a note accompanying the repeal to inform the reader that these statutes have been amended and recodified, from sections 609.108 and 609.109 to sections 609.3457 and 609.3458, respectively.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

### ARTICLE 3

#### MINNESOTA SEX OFFENDER REVIEW BOARD

Section 1. Minnesota Statutes 2002, section 13.851, is amended by adding a subdivision to read:

Subd. 9. [PREDATORY OFFENDERS; MINNESOTA SEX OFFENDER REVIEW BOARD.] Certain data classified under this chapter are made accessible to the Minnesota Sex Offender Review Board under section 244.0515.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 2. Minnesota Statutes 2002, section 13D.01, subdivision 2, is amended to read:

Subd. 2. [EXCEPTIONS.] This chapter does not apply:

(1) to meetings of the commissioner of corrections;

(2) to meetings of the Minnesota Sex Offender Review Board under section 244.0515;

(3) to a state agency, board, or commission when it is exercising quasi-judicial functions involving disciplinary proceedings; or

~~(3)~~ (4) as otherwise expressly provided by statute.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 3. [244.0515] [MINNESOTA SEX OFFENDER REVIEW BOARD.]

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

(a) "Board" means the Minnesota Sex Offender Review Board established under subdivision 2.

(b) "End-of-confinement review committee" means the committee described in section 244.052, subdivision 3.

(c) "Victim" means an individual who suffered harm as a result of the inmate's crime or, if the individual is deceased, the deceased's surviving spouse or next of kin.

Subd. 2. [BOARD; ESTABLISHMENT.] The Minnesota Sex Offender Review Board is established which shall be comprised of five members. The board shall be governed by section 15.0575, except as otherwise provided by this section.

Subd. 3. [MEMBERS.] The Minnesota Sex Offender Review Board shall consist of the following:

(1) the commissioner of corrections or a designee appointed by the commissioner;

(2) the commissioner of human services or a designee appointed by the commissioner;

(3) a retired judge appointed by the governor;

(4) a treatment professional, not employed by the Department of Corrections or the Department of Human Services, trained in the assessment of sex offenders and appointed by the governor; and

(5) one public member appointed by the governor.

When an appointing authority selects individuals for membership on the board, the authority shall make reasonable efforts to appoint qualified members of protected groups, as defined in section 43A.02, subdivision 33.

One of the members shall be designated by the governor as chair of the board.

Subd. 4. [APPOINTMENT TERMS.] Each appointed member shall be appointed for four years and shall continue to serve during that time as long as the member occupies the position that made the member eligible for the appointment. Each member shall continue in office until a successor is duly appointed. Members shall be eligible for reappointment and the appointment may be made to fill an unexpired term. The members of the board shall elect any additional officers necessary for the efficient discharge of their duties.

Subd. 5. [RESPONSIBILITIES.] (a) The board shall hold a hearing and consider whether an inmate shall be granted conditional release at least 90 days before the offender is first eligible for release and whenever an inmate petitions for release from imprisonment under subdivision 6. When determining whether to grant conditional release to an inmate serving a life sentence under section 609.3455, the board shall consider:

(1) the risk assessment report prepared under section 244.052 and any and all information the end-of-confinement review committee reviewed in making its risk assessment;

(2) the community investigation report prepared under section 244.05, subdivision 5, and any and all information gathered for use in compiling that report;

(3) the inmate's criminal offense history;

(4) the inmate's behavior while incarcerated;

(5) the inmate's participation in, and completion of, appropriate treatment;

(6) the inmate's need for additional treatment, training, or supervision;

(7) the danger the inmate poses to the public if released; and

(8) any other information the board deems relevant.

(b) The board shall have access to the following data on an inmate only for purposes of making the conditional release decision:

(1) private medical data under section 13.384 or 144.335, or welfare data under section 13.46 that relate to medical treatment of the inmate;

(2) private and confidential court services data under section 13.84;

(3) private and confidential corrections data under section 13.85;

(4) private criminal history data under section 13.87;

(5) the community investigation report prepared under section 244.05, subdivision 5, and any information gathered for use in compiling the report; and

(6) the risk assessment report prepared under section 244.052, subdivision 5, and any information used to make the risk assessment.

Data collected and maintained by the board under this paragraph may not be disclosed outside the board, except as provided under section 13.05, subdivision 3 or 4. The inmate has access to data on the inmate collected and maintained by the board, unless the data are confidential data received under this paragraph.

(c) The board must make a decision regarding whether or not to grant conditional release within 14 days of the hearing. If the board decides not to grant conditional release to an inmate, the board must specify in writing the reasons for its decision. The board may identify in writing conditions the offender must meet in order to file a petition with the board for release. The board also may inform the inmate in writing that the inmate may petition for release earlier than the time designated in subdivision 6.

(d) If the board grants conditional release to the inmate at the inmate's first hearing before the board, the commissioner of corrections must release the individual at the time the inmate is first eligible for release. If the board subsequently grants conditional release to the inmate, the commissioner of corrections must release the individual 90 days from the date of the board's decision. If the inmate's scheduled release date falls on a Friday, Saturday, Sunday, or holiday, the inmate's conditional release term shall begin as specified in section 244.05, subdivision 1a.

Subd. 6. [PETITION FOR RELEASE.] (a) An inmate who has served the minimum term of imprisonment is eligible to petition the board for release.

(b) Except as provided in paragraph (c), the inmate may not petition the board for release until 24 months have passed since the board last issued a written decision denying release to the inmate, or until the inmate satisfies all conditions set by the board when it previously denied release, whichever is later.

(c) An inmate may petition the board at an earlier time than allowed under paragraph (b) if the board authorizes an earlier petition under subdivision 5.

Subd. 7. [RELEASE HEARING.] (a) Within 45 days of the time the board first considers an inmate's eligibility for release, or within 45 days of the time the inmate files a petition for release, the commissioner of corrections shall give written notice of the time and place of the hearing before the board to all interested parties, including the petitioner, the sentencing court, the county attorney's office involved in prosecuting the case, and the victim.

(b) The victim has a right to submit an oral or written statement to the board at the hearing. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the inmate should be given conditional release. The board must consider the victim's statement when making the conditional release decision.

(c) The hearing must be held on the record. Upon approval of the board, the petitioner may subpoena witnesses to appear at the hearing.

Subd. 8. [ADMINISTRATIVE SERVICES.] The commissioner of corrections shall provide adequate office space and administrative services for the board. The board may utilize the services, equipment, personnel, information, and resources of other state agencies with their consent. The board may accept voluntary and uncompensated services; contract with individuals and public and private agencies; and request information, reports, and data from any agency of the state, or any of its political subdivisions, to the extent authorized by law.

Subd. 9. [ADMINISTRATOR.] The board may select and employ an administrator who shall perform the duties the board directs, including the hiring of any clerical help and other employees as the board may approve. The administrator and other staff shall be in the unclassified service of the state and their compensation shall be established pursuant to chapter 43A. They shall be reimbursed for the expenses necessarily incurred in the performance of their official duties in the same manner as other state employees.

Subd. 10. [EXEMPTION FROM CHAPTER 14.] (a) For the purposes of this section and except as provided in paragraph (b), the Minnesota Sex Offender Review Board and the commissioner of corrections are not subject to chapter 14.

(b) The Minnesota Sex Offender Review Board and the commissioner of corrections may adopt rules under sections 14.389, 244.0514, and 609.3459 when proceeding under this section.

**[EFFECTIVE DATE.] This section is effective August 1, 2004.**

**Sec. 4. [DIRECTION TO COMMISSIONER OF CORRECTIONS.]**

(a) The commissioner of corrections shall establish criteria and procedures for the Minnesota Sex Offender Review Board, established under Minnesota Statutes, section 244.0515, to use in making release decisions on offenders sentenced under Minnesota Statutes, section 609.3455. In establishing criteria and procedures, the commissioner of corrections shall seek the input of the end-of-confinement review committee at each state correctional facility and at each state treatment facility where predatory offenders are confined. The commissioner

also shall seek input from individuals knowledgeable in health and human services; public safety; Minnesota's sex offender treatment program; treatment of sex offenders; crime victim issues; criminal law; sentencing guidelines; law enforcement; and probation, supervised release, and conditional release.

(b) The commissioner of corrections shall establish criteria and procedures to govern the review and release of sex offenders subject to indeterminate sentences by November 15, 2004. These criteria and procedures will become effective on June 1, 2005, unless the legislature takes action before that time to modify or reject the criteria and procedures.

(c) By November 15, 2004, the commissioner of corrections shall provide the legislature with a written report containing the criteria and procedures the commissioner proposes the Minnesota Sex Offender Review Board use in deciding whether to release a sex offender subject to an indeterminate sentence. This report also shall include a summary of the input gathered under paragraph (a).

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

#### ARTICLE 4

##### PREDATORY OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION PROVISIONS

Section 1. Minnesota Statutes 2002, section 243.166, as amended by Laws 2003, chapter 116, section 2, and Laws 2003, First Special Session chapter 2, article 8, sections 4 and 5, is amended to read:

##### 243.166 [REGISTRATION OF PREDATORY OFFENDERS.]

~~Subdivision 1. [REGISTRATION REQUIRED.] (a) A person shall register under this section if:~~

~~(1) the person was charged with or petitioned for a felony violation of or attempt to violate any of the following, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances:~~

~~(i) murder under section 609.185, clause (2); or~~

~~(ii) kidnapping under section 609.25; or~~

~~(iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; or 609.3451, subdivision 3; or~~

~~(iv) indecent exposure under section 617.23, subdivision 3; or~~

~~(2) the person was charged with or petitioned for falsely imprisoning a minor in violation of section 609.255, subdivision 2; soliciting a minor to engage in prostitution in violation of section 609.322 or 609.324; soliciting a minor to engage in sexual conduct in violation of section 609.352; using a minor in a sexual performance in violation of section 617.246; or possessing pornographic work involving a minor in violation of section 617.247, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances; or~~

~~(3) the person was convicted of a predatory crime as defined in section 609.108, and the offender was sentenced as a patterned sex offender or the court found on its own motion or that of the prosecutor that the crime was part of a predatory pattern of behavior that had criminal sexual conduct as its goal; or~~

~~(4) the person was convicted of or adjudicated delinquent for, including pursuant to a court martial, violating a law of the United States, including the Uniform Code of Military Justice, similar to the offenses described in clause (1), (2), or (3).~~

~~(b) A person also shall register under this section if:~~

~~(1) the person was convicted of or adjudicated delinquent in another state for an offense that would be a violation of a law described in paragraph (a) if committed in this state;~~

~~(2) the person enters the state to reside, or to work or attend school; and~~

~~(3) ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of or adjudicated delinquent for the offense that triggers registration, unless the person is subject to lifetime registration, in which case the person must register for life regardless of when the person was released from confinement, convicted, or adjudicated delinquent.~~

For purposes of this paragraph:

~~(i) "school" includes any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education, that the person is enrolled in on a full time or part time basis; and~~

~~(ii) "work" includes employment that is full time or part time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.~~

~~(c) A person also shall register under this section if the person was committed pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States, regardless of whether the person was convicted of any offense.~~

~~(d) A person also shall register under this section if:~~

~~(1) the person was charged with or petitioned for a felony violation or attempt to violate any of the offenses listed in paragraph (a), clause (1), or a similar law of another state or the United States, or the person was charged with or petitioned for a violation of any of the offenses listed in paragraph (a), clause (2), or a similar law of another state or the United States;~~

~~(2) the person was found not guilty by reason of mental illness or mental deficiency after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in states with a guilty but mentally ill verdict; and~~

~~(3) the person was committed pursuant to a court commitment order under section 253B.18 or a similar law of another state or the United States.~~

Subd. 1a. [DEFINITIONS.] (a) As used in this section, unless the context clearly indicates otherwise, the following terms have the meanings given them.

(b) "Bureau" means the Bureau of Criminal Apprehension.

(c) "Dwelling" means the building where the person lives under a formal or informal agreement to do so.

(d) "Incarceration" and "confinement" do not include electronic home monitoring.



(e) "Law enforcement authority" or "authority" means, with respect to a home rule charter or statutory city, the chief of police, and with respect to an unincorporated area, the county sheriff.

(f) "Motor vehicle" has the meaning given in section 169.01, subdivision 2.

(g) "Primary address" means the mailing address of the person's dwelling. If the mailing address is different from the actual location of the dwelling, "primary address" also includes the physical location of the dwelling described with as much specificity as possible.

(h) "School" includes any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education, that the person is enrolled in on a full-time or part-time basis.

(i) "Secondary address" means the mailing address of any place where the person regularly or occasionally stays overnight when not staying at the person's primary address. If the mailing address is different from the actual location of the place, secondary address also includes the physical location of the place described with as much specificity as possible.

(j) "Treatment facility" means a residential facility, as defined in section 244.052, subdivision 1, and residential chemical dependency treatment programs and halfway houses licensed under chapter 245A, including, but not limited to, those facilities directly or indirectly assisted by any department or agency of the United States.

(k) "Work" includes employment that is full time or part time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

Subd. 1b. [REGISTRATION REQUIRED.] (a) A person shall register under this section if:

(1) the person was charged with or petitioned for a felony violation of or attempt to violate, or aiding, abetting, or conspiracy to commit, any of the following, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances:

(i) murder under section 609.185, clause (2);

(ii) kidnapping under section 609.25;

(iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; or 609.3451, subdivision 3; or

(iv) indecent exposure under section 617.23, subdivision 3;

(2) the person was charged with or petitioned for false imprisonment in violation of section 609.255, subdivision 2; soliciting a minor to engage in prostitution in violation of section 609.322 or 609.324; soliciting a minor to engage in sexual conduct in violation of section 609.352; using a minor in a sexual performance in violation of section 617.246; or possessing pornographic work involving a minor in violation of section 617.247, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances;

(3) the person was sentenced as a patterned sex offender under section 609.108; or

(4) the person was convicted of or adjudicated delinquent for, including pursuant to a court martial, violating a law of the United States, including the Uniform Code of Military Justice, similar to the offenses described in clause (1), (2), or (3).

(b) A person also shall register under this section if:

(1) the person was convicted of or adjudicated delinquent in another state for an offense that would be a violation of a law described in paragraph (a) if committed in this state;

(2) the person enters this state to reside, work, or attend school, or enters this state and remains for 14 days or longer; and

(3) ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of or adjudicated delinquent for the offense that triggers registration, unless the person is subject to lifetime registration, in which case the person shall register for life regardless of when the person was released from confinement, convicted, or adjudicated delinquent.

(c) A person also shall register under this section if the person was committed pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States, regardless of whether the person was convicted of any offense.

(d) A person also shall register under this section if:

(1) the person was charged with or petitioned for a felony violation or attempt to violate any of the offenses listed in paragraph (a), clause (1), or a similar law of another state or the United States, or the person was charged with or petitioned for a violation of any of the offenses listed in paragraph (a), clause (2), or a similar law of another state or the United States;

(2) the person was found not guilty by reason of mental illness or mental deficiency after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in states with a guilty but mentally ill verdict; and

(3) the person was committed pursuant to a court commitment order under section 253B.18 or a similar law of another state or the United States.

Subd. 2. [NOTICE.] When a person who is required to register under subdivision ~~4~~ 1b, paragraph (a), is sentenced or becomes subject to a juvenile court disposition order, the court shall tell the person of the duty to register under this section and that, if the person fails to comply with the registration requirements, information about the offender may be made available to the public through electronic, computerized, or other accessible means. The court may not modify the person's duty to register in the pronounced sentence or disposition order. The court shall require the person to read and sign a form stating that the duty of the person to register under this section has been explained. The court shall forward the signed sex offender registration form, the complaint, and sentencing documents to the Bureau of ~~Criminal Apprehension~~. If a person required to register under subdivision ~~4~~ 1b, paragraph (a), was not notified by the court of the registration requirement at the time of sentencing or disposition, the assigned corrections agent shall notify the person of the requirements of this section. When a person who is required to register under subdivision ~~4~~ 1b, paragraph (c) or (d), is released from commitment, the treatment facility shall notify the person of the requirements of this section. The treatment facility shall also obtain the registration information required under this section and forward it to the Bureau of ~~Criminal Apprehension~~.

Subd. 3. [REGISTRATION PROCEDURE.] (a) Except as provided in subdivision 3a, a person required to register under this section shall register with the corrections agent as soon as the agent is assigned to the person. If the person does not have an assigned corrections agent or is unable to locate the assigned corrections agent, the person shall register with the law enforcement ~~agency~~ authority that has jurisdiction in the area of the person's ~~residence~~ primary address.

(b) Except as provided in subdivision 3a, at least five days before the person starts living at a new primary address, including living in another state, the person shall give written notice of the new primary ~~living~~ address to the assigned corrections agent or to the law enforcement authority with which the person currently is registered. If the person will be living in a new state and that state has a registration requirement, the person shall also give written notice of the new address to the designated registration agency in the new state. A person required to register under this section shall also give written notice to the assigned corrections agent or to the law enforcement authority that has jurisdiction in the area of the person's ~~residence~~ primary address that the person is no longer living or staying at an address, immediately after the person is no longer living or staying at that address. The corrections agent or law enforcement authority shall, within two business days after receipt of this information, forward it to the ~~Bureau of Criminal Apprehension~~. The ~~Bureau of Criminal Apprehension~~ shall, if it has not already been done, notify the law enforcement authority having primary jurisdiction in the community where the person will live of the new address. If the person is leaving the state, the ~~Bureau of Criminal Apprehension~~ shall notify the registration authority in the new state of the new address. ~~If the person's obligation to register arose under subdivision 1, paragraph (b)~~; The person's registration requirements under this section terminate ~~when~~ after the person begins living in the new state and the bureau has confirmed the address in the other state through the annual verification process on at least one occasion.

(c) A person required to register under subdivision ~~1~~ 1b, paragraph (b), because the person is working or attending school in Minnesota shall register with the law enforcement ~~agency~~ authority that has jurisdiction in the area where the person works or attends school. In addition to other information required by this section, the person shall provide the address of the school or of the location where the person is employed. A person ~~must~~ shall comply with this paragraph within five days of beginning employment or school. A person's obligation to register under this paragraph terminates when the person is no longer working or attending school in Minnesota.

(d) A person required to register under this section who works or attends school outside of Minnesota shall register as a predatory offender in the state where the person works or attends school. The person's corrections agent, or if the person does not have an assigned corrections agent, the law enforcement authority that has jurisdiction in the area of the person's ~~residence~~ primary address shall notify the person of this requirement.

Subd. 3a. [REGISTRATION PROCEDURE WHEN PERSON LACKS PRIMARY ADDRESS.] (a) If a person leaves a primary address and does not have a new primary address, the person shall register with the law enforcement authority that has jurisdiction in the area where the person is staying within 24 hours of the time the person no longer has a primary address.

(b) A person who lacks a primary address shall register with the law enforcement authority that has jurisdiction in the area where the person is staying within 24 hours after entering the jurisdiction. Each time a person who lacks a primary address moves to a new jurisdiction without acquiring a new primary address, the person shall register with the law enforcement authority that has jurisdiction in the area where the person is staying within 24 hours after entering the jurisdiction.

(c) Upon registering under this subdivision, the person shall provide the law enforcement authority with all of the information the individual is required to provide under subdivision 4a. However, instead of reporting the person's primary address, the person shall describe the location of where the person is staying with as much specificity as possible.

(d) Except as otherwise provided in paragraph (e), if a person continues to lack a primary address, the person shall report in person on a weekly basis to the law enforcement authority with jurisdiction in the area where the person is staying. This weekly report shall occur between the hours of 9:00 a.m. and 5:00 p.m. The person is not required to provide the registration information required under subdivision 4a each time the offender reports to an authority, but the person shall inform the authority of changes to any information provided under this subdivision or subdivision 4a and shall otherwise comply with this subdivision.

(e) If the law enforcement authority determines that it is impractical, due to the person's unique circumstances, to require a person lacking a primary address to report weekly and in person as required under paragraph (d), the authority may authorize the person to follow an alternative reporting procedure. The authority shall consult with the person's corrections agent, if the person has one, in establishing the specific criteria of this alternative procedure, subject to the following requirements:

(1) the authority shall document, in the person's registration record, the specific reasons why the weekly in-person reporting process is impractical for the person to follow;

(2) the authority shall explain how the alternative reporting procedure furthers the public safety objectives of this section;

(3) the authority shall require the person lacking a primary address to report in person at least monthly to the authority or the person's corrections agent and shall specify the location where the person shall report. If the authority determines it would be more practical and would further public safety for the person to report to another law enforcement authority with jurisdiction where the person is staying, it may, after consulting with the other law enforcement authority, include this requirement in the person's alternative reporting process;

(4) the authority shall require the person to comply with the weekly, in-person reporting process required under paragraph (d), if the person moves to a new area where this process would be practical;

(5) the authority shall require the person to report any changes to the registration information provided under subdivision 4a and to comply with the periodic registration requirements specified under paragraph (f); and

(6) the authority shall require the person to comply with the requirements of subdivision 3, paragraphs (b) and (c), if the person moves to a primary address.

(f) If a person continues to lack a primary address and continues to report to the same law enforcement authority, the person shall provide the authority with all of the information the individual is required to provide under this subdivision and subdivision 4a at least annually, unless the person is required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States. If the person is required to register under subdivision 1b, paragraph (c), the person shall provide the law enforcement authority with all of the information the individual is required to report under this subdivision and subdivision 4a at least once every three months.

(g) A law enforcement authority receiving information under this subdivision shall forward registration information and changes to that information to the bureau within two business days of receipt of the information.

(h) For purposes of this subdivision, a person who fails to report a primary address will be deemed to be a person who lacks a primary address, and the person shall comply with the requirements for a person who lacks a primary address.

Subd. 4. [CONTENTS OF REGISTRATION.] (a) The registration provided to the corrections agent or law enforcement authority, must consist of a statement in writing signed by the person, giving information required by the Bureau of ~~Criminal Apprehension~~, a fingerprint card, and photograph of the person taken at the time of the person's release from incarceration or, if the person was not incarcerated, at the time the person initially registered under this section. The registration information also must include a written consent form signed by the person allowing a treatment facility or residential housing unit or shelter to release information to a law enforcement officer about the person's admission to, or residence in, a treatment facility or residential housing unit or shelter. Registration information on adults and juveniles may be maintained together notwithstanding section 260B.171, subdivision 3.

(b) For persons required to register under subdivision 4 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States, in addition to other information required by this section, the registration provided to the corrections agent or law enforcement authority must include the person's offense history and documentation of treatment received during the person's commitment. This documentation ~~shall be~~ is limited to a statement of how far the person progressed in treatment during commitment.

(c) Within three days of receipt, the corrections agent or law enforcement authority shall forward the registration information to the Bureau of ~~Criminal Apprehension~~. The bureau shall ascertain whether the person has registered with the law enforcement authority ~~where the person resides in the area of the person's primary address, if any, or if the person lacks a primary address, where the person is staying, as required by subdivision 3a.~~ If the person has not registered with the law enforcement authority, the bureau shall send one copy to that authority.

(d) The corrections agent or law enforcement authority may require that a person required to register under this section appear before the agent or authority to be photographed. The agent or authority shall forward the photograph to the Bureau of ~~Criminal Apprehension~~.

(e) During the period a person is required to register under this section, the following ~~shall~~ provisions apply:

(1) Except for persons registering under subdivision 3a, the Bureau of ~~Criminal Apprehension~~ shall mail a verification form to the ~~last reported address of the person's residence~~ last reported primary address. This verification form ~~shall~~ must provide notice to the offender that, if the offender does not return the verification form as required, information about the offender may be made available to the public through electronic, computerized, or other accessible means. For persons who are registered under subdivision 3a, the bureau shall mail an annual verification form to the law enforcement authority where the offender most recently reported. The authority shall provide the verification form to the person at the next weekly meeting and ensure that the person completes and signs the form and returns it to the bureau.

(2) The person shall mail the signed verification form back to the Bureau of ~~Criminal Apprehension~~ within ten days after receipt of the form, stating on the form the current and last address of the person's residence and the other information required under subdivision 4a.

(3) In addition to the requirements listed in this section, a person who is assigned to risk level II or risk level III under section 244.052, and who is no longer under correctional supervision, shall have an annual in-person contact with the law enforcement authority in the area of the person's primary address or, if the person has no primary address, where the person is staying. During the month of the person's birth date, the person shall report to the authority to verify the accuracy of the registration information and to be photographed. Within three days of this contact, the authority shall enter information as required by the bureau into the predatory offender registration database and submit an updated photograph of the person to the bureau's predatory offender registration unit.

(4) If the person fails to mail the completed and signed verification form to the Bureau of ~~Criminal Apprehension~~ within ten days after receipt of the form, or if the person fails to report to the law enforcement authority during the month of the person's birth date, the person ~~shall be~~ is in violation of this section.

(5) For any person who fails to mail the completed and signed verification form to the bureau within ten days after receipt of the form and who has been determined to be a level III offender under section 244.052, the bureau shall immediately investigate and notify local law enforcement authorities to investigate the person's location and to ensure compliance with this section. The bureau also shall immediately give notice of the person's violation of this section to the law enforcement authority having jurisdiction over the person's last registered address or addresses.

For persons required to register under subdivision 4 ~~1b~~, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States, the bureau shall comply with clause (1) at least four times each year. ~~For persons who, under section 244.052, are assigned to risk level III and who are no longer under correctional supervision, the bureau shall comply with clause (1) at least two times each year.~~ For all other persons required to register under this section, the bureau shall comply with clause (1) each year within 30 days of the anniversary date of the person's initial registration.

(f) When sending out a verification form, the Bureau of ~~Criminal Apprehension~~ ~~must~~ shall determine whether the person to whom the verification form is being sent has signed a written consent form as provided for in paragraph (a). If the person has not signed such a consent form, the Bureau of ~~Criminal Apprehension~~ ~~must~~ shall send a written consent form to the person along with the verification form. A person who receives this written consent form ~~must~~ shall sign and return it to the Bureau of ~~Criminal Apprehension~~ at the same time as the verification form.

~~(g) For the purposes of this subdivision, "treatment facility" means a residential facility, as defined in section 244.052, subdivision 1, and residential chemical dependency treatment programs and halfway houses licensed under chapter 245A, including, but not limited to, those facilities directly or indirectly assisted by any department or agency of the United States.~~

Subd. 4a. [INFORMATION REQUIRED TO BE PROVIDED.] (a) ~~As used in this section:~~

~~(1) "motor vehicle" has the meaning given "vehicle" in section 169.01, subdivision 2;~~

~~(2) "primary residence" means any place where the person resides longer than 14 days or that is deemed a primary residence by a person's corrections agent, if one is assigned to the person; and~~

~~(3) "secondary residence" means any place where the person regularly stays overnight when not staying at the person's primary residence, and includes, but is not limited to:~~

~~(i) the person's parent's home if the person is a student and stays at the home at times when the person is not staying at school, including during the summer; and~~

~~(ii) the home of someone with whom the person has a minor child in common where the child's custody is shared.~~

~~(b)~~ A person required to register under this section shall provide to the corrections agent or law enforcement authority the following information:

(1) ~~the address of the person's primary residence~~ address;

(2) ~~the addresses of all of the person's secondary residences~~ addresses in Minnesota, including all addresses used for residential or recreational purposes;

(3) the addresses of all Minnesota property owned, leased, or rented by the person;

(4) the addresses of all locations where the person is employed;

(5) the addresses of all ~~residences~~ schools where the person ~~resides while attending school~~ is enrolled; and

(6) the year, model, make, license plate number, and color of all motor vehicles owned or regularly driven by the person.

(~~b~~) (b) The person shall report to the agent or authority the information required to be provided under paragraph (~~a~~) (a), clauses (2) to (6), within five days of the date the clause becomes applicable. If because of a change in circumstances any information reported under paragraph (~~a~~) (a), clauses (1) to (6), no longer applies, the person shall immediately inform the agent or authority that the information is no longer valid. If the person leaves a primary address and does not have a new primary address, the person shall register as provided in subdivision 3a.

Subd. 5. [CRIMINAL PENALTY.] (a) A person required to register under this section who knowingly violates any of its provisions or intentionally provides false information to a corrections agent, law enforcement authority, or the Bureau of Criminal Apprehension is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(b) Except as provided in paragraph (c), a person convicted of violating paragraph (a) shall be committed to the custody of the commissioner of corrections for not less than a year and a day, nor more than five years.

(c) A person convicted of violating paragraph (a), who has previously been convicted of or adjudicated delinquent for violating this section, shall be committed to the custody of the commissioner of corrections for not less than two years, nor more than five years.

(d) Prior to the time of sentencing, the prosecutor may file a motion to have the person sentenced without regard to the mandatory minimum sentence established by this subdivision. The motion ~~shall~~ must be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the person without regard to the mandatory minimum sentence if the court finds substantial and compelling reasons to do so. Sentencing a person in the manner described in this paragraph is a departure from the Sentencing Guidelines.

(e) A person convicted and sentenced as required by this subdivision is not eligible for probation, parole, discharge, work release, conditional release, or supervised release, until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

Subd. 6. [REGISTRATION PERIOD.] (a) Notwithstanding the provisions of section 609.165, subdivision 1, and except as provided in paragraphs (b), (c), and (d), a person required to register under this section shall continue to comply with this section until ten years have elapsed since the person initially registered in connection with the offense, or until the probation, supervised release, or conditional release period expires, whichever occurs later. For a person required to register under this section who is committed under section 253B.18 or 253B.185, the ten-year registration period does not include the period of commitment.

(b) If a person required to register under this section fails to ~~register following a change in residence~~ provide the person's primary address as required by subdivision 3, paragraph (b), fails to comply with the requirements of subdivision 3a, fails to provide information as required by subdivision 4a, or fails to return the verification form referenced in subdivision 4 within ten days, the commissioner of public safety may require the person to continue to register for an additional period of five years. This five-year period is added to the end of the offender's registration period.

(c) If a person required to register under this section is subsequently incarcerated following a conviction for a new offense or following a revocation of probation, supervised release, or conditional release for that any offense, ~~or a conviction for any new offense~~, the person shall continue to register until ten years have elapsed since the person was last released from incarceration or until the person's probation, supervised release, or conditional release period expires, whichever occurs later.

(d) A person shall continue to comply with this section for the life of that person:

(1) if the person is convicted of or adjudicated delinquent for any offense for which registration is required under subdivision ~~4~~ 1b, or any offense from another state or any federal offense similar to the offenses described in subdivision ~~4~~ 1b, and the person has a prior conviction or adjudication for an offense for which registration was or would have been required under subdivision ~~4~~ 1b, or an offense from another state or a federal offense similar to an offense described in subdivision ~~4~~ 1b;

(2) if the person is required to register based upon a conviction or delinquency adjudication for an offense under section 609.185, clause (2), or a similar statute from another state or the United States;

(3) if the person is required to register based upon a conviction for an offense under section 609.342, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); 609.343, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); 609.344, subdivision 1, paragraph (a), (c), or (g); or 609.345, subdivision 1, paragraph (a), (c), or (g); or a statute from another state or the United States similar to the offenses described in this clause; or

(4) if the person is required to register under subdivision ~~4~~ 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States.

Subd. 7. [USE OF INFORMATION.] Except as otherwise provided in subdivision 7a or sections 244.052 and 299C.093, the information provided under this section is private data on individuals under section 13.02, subdivision 12. The information may be used only for law enforcement purposes.

Subd. 7a. [AVAILABILITY OF INFORMATION ON OFFENDERS WHO ARE OUT OF COMPLIANCE WITH REGISTRATION LAW.] (a) The Bureau of ~~Criminal Apprehension~~ may make information available to the public about offenders who are 16 years of age or older and who are out of compliance with this section for 30 days or longer for failure to provide the ~~address of the~~ offenders' primary or secondary ~~residences~~ addresses. This information may be made available to the public through electronic, computerized, or other accessible means. The amount and type of information made available ~~shall be~~ is limited to the information necessary for the public to assist law enforcement in locating the offender.

(b) An offender who comes into compliance with this section after the Bureau of ~~Criminal Apprehension~~ discloses information about the offender to the public may send a written request to the bureau requesting the bureau to treat information about the offender as private data, consistent with subdivision 7. The bureau shall review the request and promptly take reasonable action to treat the data as private, if the offender has complied with the requirement that the offender provide ~~the addresses of~~ the offender's primary and secondary ~~residences~~ addresses, or promptly notify the offender that the information will continue to be treated as public information and the reasons for the bureau's decision.

(c) If an offender believes the information made public about the offender is inaccurate or incomplete, the offender may challenge the data under section 13.04, subdivision 4.

(d) The Bureau of ~~Criminal Apprehension~~ is immune from any civil or criminal liability that might otherwise arise, based on the accuracy or completeness of any information made public under this subdivision, if the bureau acts in good faith.

~~Subd. 8. [LAW ENFORCEMENT AUTHORITY.] For purposes of this section, a law enforcement authority means, with respect to a home rule charter or statutory city, the chief of police, and with respect to an unincorporated area, the sheriff of the county.~~



Subd. 9. [OFFENDERS FROM OTHER STATES.] (a) When the state accepts an offender from another state under a reciprocal agreement under the interstate compact authorized by section 243.16, the interstate compact authorized by section 243.1605, or under any authorized interstate agreement, the acceptance is conditional on the offender agreeing to register under this section when the offender is living in Minnesota.

(b) The Bureau of Criminal Apprehension shall notify the commissioner of corrections:

(1) when the bureau receives notice from a local law enforcement authority that a person from another state who is subject to this section has registered with the authority, unless the bureau previously received information about the offender from the commissioner of corrections;

(2) when a registration authority, corrections agent, or law enforcement agency in another state notifies the bureau that a person from another state who is subject to this section is moving to Minnesota; and

(3) when the bureau learns that a person from another state is in Minnesota and allegedly in violation of subdivision 5 for failure to register.

(c) When a local law enforcement agency notifies the bureau of an out-of-state offender's registration, the agency shall provide the bureau with information on whether the person is subject to community notification in another state and the risk level the person was assigned, if any.

(d) The bureau must forward all information it receives regarding offenders covered under this subdivision from sources other than the commissioner of corrections to the commissioner.

(e) When the bureau receives information directly from a registration authority, corrections agent, or law enforcement agency in another state that a person who may be subject to this section is moving to Minnesota, the bureau must ask whether the person entering the state is subject to community notification in another state and the risk level the person has been assigned, if any.

(f) When the bureau learns that a person subject to this section intends to move into Minnesota from another state or has moved into Minnesota from another state, the bureau shall notify the law enforcement authority with jurisdiction in the area of the person's primary address and provide all information concerning the person that is available to the bureau.

(g) The commissioner of corrections must determine the parole, supervised release, or conditional release status of persons who are referred to the commissioner under this subdivision. If the commissioner determines that a person is subject to parole, supervised release, or conditional release in another state and is not registered in Minnesota under the applicable interstate compact, the commissioner shall inform the local law enforcement agency that the person is in violation of section 243.161. If the person is not subject to supervised release, the commissioner shall notify the bureau and the local law enforcement agency of the person's status.

Subd. 10. [VENUE; AGGREGATION.] (a) A violation of this section may be prosecuted in any jurisdiction where an offense takes place. However, the prosecutorial agency in the jurisdiction where the person last registered a primary address is initially responsible to review the case for prosecution.

(b) When a person commits two or more offenses in two or more counties, the accused may be prosecuted for all of the offenses in any county in which one of the offenses was committed.

Subd. 11. [CERTIFIED COPIES AS EVIDENCE.] Certified copies of predatory offender registration records are admissible as substantive evidence when necessary to prove the commission of a violation of this section.

[EFFECTIVE DATE.] The provisions of this section are effective the day following final enactment, and apply to persons subject to predatory offender registration on or after that date, except for subdivision 9, which is effective July 1, 2004.

Sec. 2. Minnesota Statutes 2002, section 243.167, is amended to read:

243.167 [REGISTRATION UNDER THE PREDATORY OFFENDER REGISTRATION LAW FOR OTHER OFFENSES.]

Subdivision 1. [DEFINITION.] As used in this section, "crime against the person" means a violation of any of the following or a similar law of another state or of the United States: section 609.165; 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223; 609.2231; 609.224, subdivision 2 or 4; 609.2242, subdivision 2 or 4; 609.235; 609.245, subdivision 1; 609.25; 609.255; 609.3451, subdivision 2; 609.498, subdivision 1; 609.582, subdivision 1; or 617.23, subdivision 2; or any felony-level violation of section 609.229; 609.377; 609.749; or 624.713.

Subd. 2. [WHEN REQUIRED.] (a) In addition to the requirements of section 243.166, a person also shall register under section 243.166 if:

(1) the person is convicted of a crime against the person; and

(2) the person was previously convicted of or adjudicated delinquent for an offense listed in section 243.166, ~~subdivision 1, paragraph (a)~~; but was not required to register for the offense because the registration requirements of that section did not apply to the person at the time the offense was committed or at the time the person was released from imprisonment.

(b) A person who was previously required to register ~~under section 243.166 in any state~~ and who has completed the registration requirements of that ~~section~~ state shall again register under section 243.166 if the person commits a crime against the person.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2002, section 244.05, subdivision 7, is amended to read:

Subd. 7. [SEX OFFENDERS; CIVIL COMMITMENT DETERMINATION.] (a) Before the commissioner releases from prison any inmate convicted under sections 609.342 to 609.345 or sentenced as a patterned offender under section 609.108, and determined by the commissioner to be in a high risk category, the commissioner shall make a preliminary determination whether, in the commissioner's opinion, a petition under section 253B.185 may be appropriate. The commissioner's opinion must be based on a recommendation of a Department of Corrections screening committee and a legal review and recommendation from a representative of the Office of the Attorney General knowledgeable in the legal requirements of the civil commitment process.

(b) In making this decision, the commissioner shall have access to the following data only for the purposes of the assessment and referral decision:

(1) private medical data under section 13.384 or 144.335, or welfare data under section 13.46 that relate to medical treatment of the offender;

- (2) private and confidential court services data under section 13.84;
- (3) private and confidential corrections data under section 13.85; and
- (4) private criminal history data under section 13.87.

(c) If the commissioner determines that a petition may be appropriate, the commissioner shall forward this determination, along with a summary of the reasons for the determination, to the county attorney in the county where the inmate was convicted no later than 12 months before the inmate's release date. If the inmate is received for incarceration with fewer than 12 months remaining in the inmate's term of imprisonment, or if the commissioner receives additional information less than 12 months before release ~~which~~ that makes the inmate's case appropriate for referral, the commissioner shall forward the determination as soon as is practicable. Upon receiving the commissioner's preliminary determination, the county attorney shall proceed in the manner provided in section 253B.185. The commissioner shall release to the county attorney all requested documentation maintained by the department.

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

Sec. 4. Minnesota Statutes 2002, section 244.052, subdivision 3, is amended to read:

Subd. 3. **[END-OF-CONFINEMENT REVIEW COMMITTEE.]** (a) The commissioner of corrections shall establish and administer end-of-confinement review committees at each state correctional facility and at each state treatment facility where predatory offenders are confined. The committees shall assess on a case-by-case basis the public risk posed by predatory offenders who are about to be released from confinement.

(b) Each committee shall be a standing committee and shall consist of the following members appointed by the commissioner:

(1) the chief executive officer or head of the correctional or treatment facility where the offender is currently confined, or that person's designee;

(2) a law enforcement officer;

(3) a treatment professional who is trained in the assessment of sex offenders;

(4) a caseworker experienced in supervising sex offenders; and

(5) a victim's services professional.

Members of the committee, other than the facility's chief executive officer or head, shall be appointed by the commissioner to two-year terms. The chief executive officer or head of the facility or designee shall act as chair of the committee and shall use the facility's staff, as needed, to administer the committee, obtain necessary information from outside sources, and prepare risk assessment reports on offenders.

(c) The committee shall have access to the following data on a predatory offender only for the purposes of its assessment and to defend the committee's risk assessment determination upon administrative review under this section:

(1) private medical data under section 13.384 or 144.335, or welfare data under section 13.46 that relate to medical treatment of the offender;

- (2) private and confidential court services data under section 13.84;
- (3) private and confidential corrections data under section 13.85; and
- (4) private criminal history data under section 13.87.

Data collected and maintained by the committee under this paragraph may not be disclosed outside the committee, except as provided under section 13.05, subdivision 3 or 4. The predatory offender has access to data on the offender collected and maintained by the committee, unless the data are confidential data received under this paragraph.

(d)(i) Except as otherwise provided in item (ii), at least 90 days before a predatory offender is to be released from confinement, the commissioner of corrections shall convene the appropriate end-of-confinement review committee for the purpose of assessing the risk presented by the offender and determining the risk level to which the offender shall be assigned under paragraph (e). The offender and the law enforcement agency that was responsible for the charge resulting in confinement shall be notified of the time and place of the committee's meeting. The offender has a right to be present and be heard at the meeting. The law enforcement agency may provide material in writing that is relevant to the offender's risk level to the chair of the committee. The committee shall use the risk factors described in paragraph (g) and the risk assessment scale developed under subdivision 2 to determine the offender's risk assessment score and risk level. Offenders scheduled for release from confinement shall be assessed by the committee established at the facility from which the offender is to be released.

(ii) If an offender is received for confinement in a facility with less than 90 days remaining in the offender's term of confinement, the offender's risk shall be assessed at the first regularly scheduled end of confinement review committee that convenes after the appropriate documentation for the risk assessment is assembled by the committee. The commissioner shall make reasonable efforts to ensure that offender's risk is assessed and a risk level is assigned or reassigned at least 30 days before the offender's release date.

(e) The committee shall assign to risk level I a predatory offender whose risk assessment score indicates a low risk of reoffense. The committee shall assign to risk level II an offender whose risk assessment score indicates a moderate risk of reoffense. The committee shall assign to risk level III an offender whose risk assessment score indicates a high risk of reoffense.

(f) Before the predatory offender is released from confinement, the committee shall prepare a risk assessment report which specifies the risk level to which the offender has been assigned and the reasons underlying the committee's risk assessment decision. The committee shall give the report to the offender and to the law enforcement agency at least 60 days before an offender is released from confinement. If the risk assessment is performed under the circumstances described in paragraph (d), item (ii), the report shall be given to the offender and the law enforcement agency as soon as it is available. The committee also shall inform the offender of the availability of review under subdivision 6.

(g) As used in this subdivision, "risk factors" includes, but is not limited to, the following factors:

(1) the seriousness of the offense should the offender reoffend. This factor includes consideration of the following:

- (i) the degree of likely force or harm;
- (ii) the degree of likely physical contact; and
- (iii) the age of the likely victim;

(2) the offender's prior offense history. This factor includes consideration of the following:

(i) the relationship of prior victims to the offender;

(ii) the number of prior offenses or victims;

(iii) the duration of the offender's prior offense history;

(iv) the length of time since the offender's last prior offense while the offender was at risk to commit offenses; and

(v) the offender's prior history of other antisocial acts;

(3) the offender's characteristics. This factor includes consideration of the following:

(i) the offender's response to prior treatment efforts; and

(ii) the offender's history of substance abuse;

(4) the availability of community supports to the offender. This factor includes consideration of the following:

(i) the availability and likelihood that the offender will be involved in therapeutic treatment;

(ii) the availability of residential supports to the offender, such as a stable and supervised living arrangement in an appropriate location;

(iii) the offender's familial and social relationships, including the nature and length of these relationships and the level of support that the offender may receive from these persons; and

(iv) the offender's lack of education or employment stability;

(5) whether the offender has indicated or credible evidence in the record indicates that the offender will reoffend if released into the community; and

(6) whether the offender demonstrates a physical condition that minimizes the risk of reoffense, including but not limited to, advanced age or a debilitating illness or physical condition.

(h) Upon the request of the law enforcement agency or the offender's corrections agent, the commissioner may reconvene the end-of-confinement review committee for the purpose of reassessing the risk level to which an offender has been assigned under paragraph (e). In a request for a reassessment, the law enforcement agency which was responsible for the charge resulting in confinement or agent shall list the facts and circumstances arising after the initial assignment or facts and circumstances known to law enforcement or the agent but not considered by the committee under paragraph (e) which support the request for a reassessment. The request for reassessment by the law enforcement agency must occur within 30 days of receipt of the report indicating the offender's risk level assignment. The offender's corrections agent, in consultation with the chief law enforcement officer in the area where the offender resides or intends to reside, may request a review of a risk level at any time if substantial evidence exists that the offender's risk level should be reviewed by an end-of-confinement review committee. This evidence includes, but is not limited to, evidence of treatment failures or completions, evidence of exceptional crime-free community adjustment or lack of appropriate adjustment, evidence of substantial community need to

know more about the offender or mitigating circumstances that would narrow the proposed scope of notification, or other practical situations articulated and based in evidence of the offender's behavior while under supervision. Upon review of the request, the end-of-confinement review committee may reassign an offender to a different risk level. If the offender is reassigned to a higher risk level, the offender has the right to seek review of the committee's determination under subdivision 6.

(i) An offender may request the end-of-confinement review committee to reassess the offender's assigned risk level after three years have elapsed since the committee's initial risk assessment and may renew the request once every two years following subsequent denials. In a request for reassessment, the offender shall list the facts and circumstances which demonstrate that the offender no longer poses the same degree of risk to the community. In order for a request for a risk level reduction to be granted, the offender must demonstrate full compliance with supervised release conditions, completion of required post-release treatment programming, and full compliance with all registration requirements as detailed in section 243.166. The offender must also not have been convicted of any felony, gross misdemeanor, or misdemeanor offenses subsequent to the assignment of the original risk level. The committee shall follow the process outlined in paragraphs (a) to (c) in the reassessment. An offender who is incarcerated may not request a reassessment under this paragraph.

(j) Offenders returned to prison as release violators shall not have a right to a subsequent risk reassessment by the end-of-confinement review committee unless substantial evidence indicates that the offender's risk to the public has increased.

~~(k) The commissioner shall establish an end of confinement review committee to assign a risk level to offenders who are released from a federal correctional facility in Minnesota or another state and who intend to reside in Minnesota, and to offenders accepted from another state under a reciprocal agreement for parole supervision under the interstate compact authorized by section 243.16. The committee shall make reasonable efforts to conform to the same timelines as applied to Minnesota cases. Offenders accepted from another state under a reciprocal agreement for probation supervision are not assigned a risk level, but are considered downward dispositional departures. The probation or court services officer and law enforcement officer shall manage such cases in accordance with section 244.10, subdivision 2a. The policies and procedures of the committee for federal offenders and interstate compact cases must be in accordance with all requirements as set forth in this section, unless restrictions caused by the nature of federal or interstate transfers prevents such conformance.~~

(k) If the committee assigns a predatory offender to risk level III, the committee shall determine whether residency restrictions shall be included in the conditions of the offender's release based on the offender's pattern of offending behavior.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004, and applies to persons subject to community notification on or after that date.

Sec. 5. Minnesota Statutes 2002, section 244.052, is amended by adding a subdivision to read:

Subd. 3a. [OFFENDERS FROM OTHER STATES AND OFFENDERS RELEASED FROM FEDERAL FACILITIES.] (a) Except as provided in paragraph (b), the commissioner shall establish an end-of-confinement review committee to assign a risk level:

(1) to offenders who are released from a federal correctional facility in Minnesota or a federal correctional facility in another state and who intend to reside in Minnesota;

(2) to offenders who are accepted from another state under the interstate compact authorized by section 243.16 or 243.1605 or any other authorized interstate agreement; and

(3) to offenders who are referred to the committee by local law enforcement agencies under paragraph (f).

(b) This subdivision does not require the commissioner to convene an end-of-confinement review committee for a person coming into Minnesota who is subject to probation under another state's law. The probation or court services officer and law enforcement officer shall manage such cases in accordance with section 244.10, subdivision 2a.

(c) The committee shall make reasonable efforts to conform to the same timelines applied to offenders released from a Minnesota correctional facility and shall collect all relevant information and records on offenders assessed and assigned a risk level under this subdivision. However, for offenders who were assigned the most serious risk level by another state, the committee must act promptly to collect the information required under this paragraph.

The end-of-confinement review committee must proceed in accordance with all requirements set forth in this section and follow all policies and procedures applied to offenders released from a Minnesota correctional facility in reviewing information and assessing the risk level of offenders covered by this subdivision, unless restrictions caused by the nature of federal or interstate transfers prevent such conformance. All of the provisions of this section apply to offenders who are assessed and assigned a risk level under this subdivision.

(d) If a local law enforcement agency learns or suspects that a person who is subject to this section is living in Minnesota and a risk level has not been assigned to the person under this section, the law enforcement agency shall provide this information to the Bureau of Criminal Apprehension and the commissioner of corrections within three business days.

(e) If the commissioner receives reliable information from a local law enforcement agency or the bureau that a person subject to this section is living in Minnesota and a local law enforcement agency so requests, the commissioner must determine if the person was assigned a risk level under a law comparable to this section. If the commissioner determines that the law is comparable and public safety warrants, the commissioner, within three business days of receiving a request, shall notify the local law enforcement agency that it may, in consultation with the department, proceed with notification under subdivision 4 based on the person's out-of-state risk level. However, if the commissioner concludes that the offender is from a state with a risk level assessment law that is not comparable to this section, the extent of the notification may not exceed that of a risk level II offender under subdivision 4, paragraph (b), unless the requirements of paragraph (f) have been met. If an assessment is requested from the end-of-confinement review committee under paragraph (f), the local law enforcement agency may continue to disclose information under subdivision 4 until the committee assigns the person a risk level. After the committee assigns a risk level to an offender pursuant to a request made under paragraph (f), the information disclosed by law enforcement shall be consistent with the risk level assigned by the End-of-Confinement Review Committee. The commissioner of corrections, in consultation with legal advisers, shall determine whether the law of another state is comparable to this section.

(f) If the local law enforcement agency wants to make a broader disclosure than is authorized under paragraph (e), the law enforcement agency may request that an End-of-Confinement Review Committee assign a risk level to the offender. The local law enforcement agency shall provide to the committee all information concerning the offender's criminal history, the risk the offender poses to the community, and other relevant information. The department shall attempt to obtain other information relevant to determining which risk level to assign the offender. The committee shall promptly assign a risk level to an offender referred to the committee under this paragraph.

[EFFECTIVE DATE.] This section is effective July 1, 2004, and applies to persons subject to community notification on or after that date.

Sec. 6. Minnesota Statutes 2002, section 244.052, subdivision 4, is amended to read:

Subd. 4. [LAW ENFORCEMENT AGENCY; DISCLOSURE OF INFORMATION TO PUBLIC.] (a) The law enforcement agency in the area where the predatory offender resides, expects to reside, is employed, or is regularly found, shall disclose to the public any information regarding the offender contained in the report forwarded to the agency under subdivision 3, paragraph (f), that is relevant and necessary to protect the public and to counteract the offender's dangerousness, consistent with the guidelines in paragraph (b). The extent of the information disclosed and the community to whom disclosure is made must relate to the level of danger posed by the offender, to the offender's pattern of offending behavior, and to the need of community members for information to enhance their individual and collective safety.

(b) The law enforcement agency shall employ the following guidelines in determining the scope of disclosure made under this subdivision:

(1) if the offender is assigned to risk level I, the agency may maintain information regarding the offender within the agency and may disclose it to other law enforcement agencies. Additionally, the agency may disclose the information to any victims of or witnesses to the offense committed by the offender. The agency shall disclose the information to victims of the offense committed by the offender who have requested disclosure and to adult members of the offender's immediate household;

(2) if the offender is assigned to risk level II, the agency also may disclose the information to agencies and groups that the offender is likely to encounter for the purpose of securing those institutions and protecting individuals in their care while they are on or near the premises of the institution. These agencies and groups include the staff members of public and private educational institutions, day care establishments, and establishments and organizations that primarily serve individuals likely to be victimized by the offender. The agency also may disclose the information to individuals the agency believes are likely to be victimized by the offender. The agency's belief shall be based on the offender's pattern of offending or victim preference as documented in the information provided by the department of corrections or human services;

(3) if the offender is assigned to risk level III, the agency shall disclose the information to the persons and entities described in clauses (1) and (2) and to other members of the community whom the offender is likely to encounter, unless the law enforcement agency determines that public safety would be compromised by the disclosure or that a more limited disclosure is necessary to protect the identity of the victim.

Notwithstanding the assignment of a predatory offender to risk level II or III, a law enforcement agency may not make the disclosures permitted or required by clause (2) or (3), if: the offender is placed or resides in a residential facility. However, if an offender is placed or resides in a residential facility, the offender and the head of the facility shall designate the offender's likely residence upon release from the facility and the head of the facility shall notify the commissioner of corrections or the commissioner of human services of the offender's likely residence at least 14 days before the offender's scheduled release date. The commissioner shall give this information to the law enforcement agency having jurisdiction over the offender's likely residence. The head of the residential facility also shall notify the commissioner of corrections or human services within 48 hours after finalizing the offender's approved relocation plan to a permanent residence. Within five days after receiving this notification, the appropriate commissioner shall give to the appropriate law enforcement agency all relevant information the commissioner has concerning the offender, including information on the risk factors in the offender's history and the risk level to which the offender was assigned. After receiving this information, the law enforcement agency shall make the disclosures permitted or required by clause (2) or (3), as appropriate.

(c) As used in paragraph (b), clauses (2) and (3), "likely to encounter" means that:



(1) the organizations or community members are in a location or in close proximity to a location where the offender lives or is employed, or which the offender visits or is likely to visit on a regular basis, other than the location of the offender's outpatient treatment program; and

(2) the types of interaction which ordinarily occur at that location and other circumstances indicate that contact with the offender is reasonably certain.

(d) A law enforcement agency or official who discloses information under this subdivision shall make a good faith effort to make the notification within 14 days of receipt of a confirmed address from the Department of Corrections indicating that the offender will be, or has been, released from confinement, or accepted for supervision, or has moved to a new address and will reside at the address indicated. If a change occurs in the release plan, this notification provision does not require an extension of the release date.

(e) A law enforcement agency or official who discloses information under this subdivision shall not disclose the identity or any identifying characteristics of the victims of or witnesses to the offender's offenses.

(f) A law enforcement agency shall continue to disclose information on an offender as required by this subdivision for as long as the offender is required to register under section 243.166. This requirement on a law enforcement agency to continue to disclose information also applies to an offender who lacks a primary address and is registering under section 243.166, subdivision 3a.

(g) A law enforcement agency that is disclosing information on an offender assigned to risk level III to the public under this subdivision shall inform the commissioner of corrections what information is being disclosed and forward this information to the commissioner within two days of the agency's determination. The commissioner shall post this information on the Internet as required in subdivision 4b.

(h) A city council may adopt a policy that addresses when information disclosed under this subdivision must be presented in languages in addition to English. The policy may address when information must be presented orally, in writing, or both in additional languages by the law enforcement agency disclosing the information. The policy may provide for different approaches based on the prevalence of non-English languages in different neighborhoods.

[EFFECTIVE DATE.] This section is effective the day following final enactment, and applies to persons subject to community notification on or after that date.

Sec. 7. [REVISOR'S INSTRUCTION.]

The revisor of statutes shall change all references to section 243.166, subdivision 1, in Minnesota Statutes to section 243.166. In addition, the revisor shall make other technical changes necessitated by this article.

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

Sec. 8. [REPEALER.]

Minnesota Statutes 2002, section 243.166, subdivisions 1 and 8, are repealed.

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

## ARTICLE 5

## SEX OFFENDER TECHNICAL AND CONFORMING CHANGES

Section 1. Minnesota Statutes 2002, section 241.67, subdivision 3, is amended to read:

Subd. 3. [PROGRAMS FOR ADULT OFFENDERS COMMITTED TO THE COMMISSIONER.] (a) The commissioner shall provide for a range of sex offender programs, including intensive sex offender programs, within the state adult correctional facility system. Participation in any program is subject to the rules and regulations of the Department of Corrections. Nothing in this section requires the commissioner to accept or retain an offender in a program if the offender is determined by prison professionals as unamenable to programming within the prison system or if the offender refuses or fails to comply with the program's requirements. Nothing in this section creates a right of an offender to treatment.

(b) The commissioner shall provide for residential and outpatient sex offender programming and aftercare when required for conditional release under section ~~609.108~~ 609.3459 or as a condition of supervised release.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2002, section 243.166, subdivision 1, is amended to read:

Subdivision 1. [REGISTRATION REQUIRED.] (a) A person shall register under this section if:

(1) the person was charged with or petitioned for a felony violation of or attempt to violate any of the following, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances:

(i) murder under section 609.185, clause (2); or

(ii) kidnapping under section 609.25; or

(iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; or 609.3451, subdivision 3; or

(iv) indecent exposure under section 617.23, subdivision 3; or

(2) the person was charged with or petitioned for falsely imprisoning a minor in violation of section 609.255, subdivision 2; soliciting a minor to engage in prostitution in violation of section 609.322 or 609.324; soliciting a minor to engage in sexual conduct in violation of section 609.352; using a minor in a sexual performance in violation of section 617.246; or possessing pornographic work involving a minor in violation of section 617.247, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances; or

(3) the person was convicted of a predatory crime as defined in section ~~609.108~~ 609.341, subdivision 25, and the offender was sentenced ~~as a patterned sex offender or the court found on its own motion or that of the prosecutor that the crime was part of a predatory pattern of behavior that had criminal sexual conduct as its goal~~ under section 609.3455; or

(4) the person was convicted of or adjudicated delinquent for, including pursuant to a court martial, violating a law of the United States, including the Uniform Code of Military Justice, similar to the offenses described in clause (1), (2), or (3).

(b) A person also shall register under this section if:

(1) the person was convicted of or adjudicated delinquent in another state for an offense that would be a violation of a law described in paragraph (a) if committed in this state;

(2) the person enters the state to reside, or to work or attend school; and

(3) ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of or adjudicated delinquent for the offense that triggers registration, unless the person is subject to lifetime registration, in which case the person must register for life regardless of when the person was released from confinement, convicted, or adjudicated delinquent.

For purposes of this paragraph:

(i) "school" includes any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education, that the person is enrolled in on a full-time or part-time basis; and

(ii) "work" includes employment that is full time or part time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(c) A person also shall register under this section if the person was committed pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States, regardless of whether the person was convicted of any offense.

(d) A person also shall register under this section if:

(1) the person was charged with or petitioned for a felony violation or attempt to violate any of the offenses listed in paragraph (a), clause (1), or a similar law of another state or the United States, or the person was charged with or petitioned for a violation of any of the offenses listed in paragraph (a), clause (2), or a similar law of another state or the United States;

(2) the person was found not guilty by reason of mental illness or mental deficiency after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in states with a guilty but mentally ill verdict; and

(3) the person was committed pursuant to a court commitment order under section 253B.18 or a similar law of another state or the United States.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2002, section 244.05, subdivision 3, is amended to read:

Subd. 3. **[SANCTIONS FOR VIOLATION.]** If an inmate violates the conditions of the inmate's supervised release imposed by the commissioner, the commissioner may:

(1) continue the inmate's supervised release term, with or without modifying or enlarging the conditions imposed on the inmate; or

(2) revoke the inmate's supervised release and reimprison the inmate for the appropriate period of time.

The period of time for which a supervised release may be revoked may not exceed the period of time remaining in the inmate's sentence, except that if a sex offender is sentenced and conditionally released under section ~~609.108, subdivision 5~~ 609.3455, the period of time for which conditional release may be revoked may not exceed the balance of the conditional release term.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2002, section 244.195, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) As used in this subdivision, the following terms have the meanings given them.

(b) "Commissioner" means the commissioner of corrections.

(c) "Conditional release" means parole, supervised release, conditional release as authorized by section ~~609.108, subdivision 6, or 609.109, subdivision 7~~ 609.3459, work release as authorized by sections 241.26, 244.065, and 631.425, probation, furlough, and any other authorized temporary release from a correctional facility.

(d) "Court services director" means the director or designee of a county probation agency that is not organized under chapter 401.

(e) "Detain" means to take into actual custody, including custody within a local correctional facility.

(f) "Local correctional facility" has the meaning given in section 241.021, subdivision 1.

(g) "Release" means to release from actual custody.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2002, section 253B.185, subdivision 2, is amended to read:

Subd. 2. [TRANSFER TO CORRECTIONAL FACILITY.] (a) If a person has been committed under this section and later is committed to the custody of the commissioner of corrections for any reason, including but not limited to, being sentenced for a crime or revocation of the person's supervised release or conditional release under section 244.05, ~~609.108, subdivision 6, or 609.109, subdivision 7~~ or 609.3459, the person shall be transferred to a facility designated by the commissioner of corrections without regard to the procedures provided in section 253B.18.

(b) If a person is committed under this section after a commitment to the commissioner of corrections, the person shall first serve the sentence in a facility designated by the commissioner of corrections. After the person has served the sentence, the person shall be transferred to a treatment program designated by the commissioner of human services.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2002, section 401.01, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] (a) For the purposes of sections 401.01 to 401.16, the following terms have the meanings given them.

(b) "CCA county" means a county that participates in the Community Corrections Act.

(c) "Commissioner" means the commissioner of corrections or a designee.

(d) "Conditional release" means parole, supervised release, conditional release as authorized by section ~~609.108, subdivision 6, or 609.109, subdivision 7~~ 609.3459, work release as authorized by sections 241.26, 244.065, and 631.425, probation, furlough, and any other authorized temporary release from a correctional facility.

(e) "County probation officer" means a probation officer appointed under section 244.19.

(f) "Detain" means to take into actual custody, including custody within a local correctional facility.

(g) "Joint board" means the board provided in section 471.59.

(h) "Local correctional facility" has the meaning given in section 241.021, subdivision 1.

(i) "Local correctional service" means those services authorized by and employees, officers, and agents appointed under section 244.19, subdivision 1.

(j) "Release" means to release from actual custody.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2002, section 609.117, subdivision 1, is amended to read:

Subdivision 1. [UPON SENTENCING.] The court shall order an offender to provide a biological specimen for the purpose of DNA analysis as defined in section 299C.155 when:

(1) the court sentences a person charged with violating or attempting to violate any of the following, and the person is convicted of that offense or of any offense arising out of the same set of circumstances:

(i) murder under section 609.185, 609.19, or 609.195;

(ii) manslaughter under section 609.20 or 609.205;

(iii) assault under section 609.221, 609.222, or 609.223;

(iv) robbery under section 609.24 or aggravated robbery under section 609.245;

(v) kidnapping under section 609.25;

(vi) false imprisonment under section 609.255;

(vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, ~~or 609.3451~~, subdivision 3, or 609.3453;

(viii) incest under section 609.365;

(ix) burglary under section 609.582, subdivision 1; or

(x) indecent exposure under section 617.23, subdivision 3;

(2) ~~the court sentences a person as a patterned sex offender under section 609.108; or~~

(3) the juvenile court adjudicates a person a delinquent child who is the subject of a delinquency petition for violating or attempting to violate any of the following, and the delinquency adjudication is based on a violation of one of those sections or of any offense arising out of the same set of circumstances:

(i) murder under section 609.185, 609.19, or 609.195;

(ii) manslaughter under section 609.20 or 609.205;

(iii) assault under section 609.221, 609.222, or 609.223;

(iv) robbery under section 609.24 or aggravated robbery under section 609.245;

(v) kidnapping under section 609.25;

(vi) false imprisonment under section 609.255;

(vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, ~~or 609.3451, subdivision 3, or 609.3453;~~

(viii) incest under section 609.365;

(ix) burglary under section 609.582, subdivision 1; or

(x) indecent exposure under section 617.23, subdivision 3.

The biological specimen or the results of the analysis shall be maintained by the Bureau of Criminal Apprehension as provided in section 299C.155.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2002, section 609.117, subdivision 2, is amended to read:

Subd. 2. [BEFORE RELEASE.] The commissioner of corrections or local corrections authority shall order a person to provide a biological specimen for the purpose of DNA analysis before completion of the person's term of imprisonment when the person has not provided a biological specimen for the purpose of DNA analysis and the person:

(1) is currently serving a term of imprisonment for or has a past conviction for violating or attempting to violate any of the following or a similar law of another state or the United States or initially charged with violating one of the following sections or a similar law of another state or the United States and convicted of another offense arising out of the same set of circumstances:

(i) murder under section 609.185, 609.19, or 609.195;

(ii) manslaughter under section 609.20 or 609.205;

(iii) assault under section 609.221, 609.222, or 609.223;

(iv) robbery under section 609.24 or aggravated robbery under section 609.245;

(v) kidnapping under section 609.25;

(vi) false imprisonment under section 609.255;

(vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, ~~or 609.3451~~, subdivision 3, or 609.3453;

(viii) incest under section 609.365;

(ix) burglary under section 609.582, subdivision 1; or

(x) indecent exposure under section 617.23, subdivision 3; or

(2) ~~was sentenced as a patterned sex offender under section 609.108, and committed to the custody of the commissioner of corrections; or~~

~~(3)~~ is serving a term of imprisonment in this state under a reciprocal agreement although convicted in another state of an offense described in this subdivision or a similar law of the United States or any other state. The commissioner of corrections or local corrections authority shall forward the sample to the Bureau of Criminal Apprehension.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2002, section 609.347, is amended to read:

609.347 [EVIDENCE IN CRIMINAL SEXUAL CONDUCT CASES.]

Subdivision 1. In a prosecution under sections ~~609.109 or~~ 609.342 to 609.3451 or 609.3453, the testimony of a victim need not be corroborated.

Subd. 2. In a prosecution under sections ~~609.109 or~~ 609.342 to 609.3451, or 609.3453, there is no need to show that the victim resisted the accused.

Subd. 3. In a prosecution under sections ~~609.109, 609.342 to 609.3451, 609.3453, or 609.365~~, evidence of the victim's previous sexual conduct shall not be admitted nor shall any reference to such conduct be made in the presence of the jury, except by court order under the procedure provided in subdivision 4. The evidence can be admitted only if the probative value of the evidence is not substantially outweighed by its inflammatory or prejudicial nature and only in the circumstances set out in paragraphs (a) and (b). For the evidence to be admissible under paragraph (a), subsection (i), the judge must find by a preponderance of the evidence that the facts set out in the accused's offer of proof are true. For the evidence to be admissible under paragraph (a), subsection (ii) or paragraph (b), the judge must find that the evidence is sufficient to support a finding that the facts set out in the accused's offer of proof are true, as provided under Rule 901 of the Rules of Evidence.

(a) When consent of the victim is a defense in the case, the following evidence is admissible:

(i) evidence of the victim's previous sexual conduct tending to establish a common scheme or plan of similar sexual conduct under circumstances similar to the case at issue. In order to find a common scheme or plan, the judge must find that the victim made prior allegations of sexual assault which were fabricated; and

(ii) evidence of the victim's previous sexual conduct with the accused.

(b) When the prosecution's case includes evidence of semen, pregnancy, or disease at the time of the incident or, in the case of pregnancy, between the time of the incident and trial, evidence of specific instances of the victim's previous sexual conduct is admissible solely to show the source of the semen, pregnancy, or disease.

Subd. 4. The accused may not offer evidence described in subdivision 3 except pursuant to the following procedure:

(a) A motion shall be made by the accused at least three business days prior to trial, unless later for good cause shown, setting out with particularity the offer of proof of the evidence that the accused intends to offer, relative to the previous sexual conduct of the victim;

(b) If the court deems the offer of proof sufficient, the court shall order a hearing out of the presence of the jury, if any, and in such hearing shall allow the accused to make a full presentation of the offer of proof;

(c) At the conclusion of the hearing, if the court finds that the evidence proposed to be offered by the accused regarding the previous sexual conduct of the victim is admissible under subdivision 3 and that its probative value is not substantially outweighed by its inflammatory or prejudicial nature, the court shall make an order stating the extent to which evidence is admissible. The accused may then offer evidence pursuant to the order of the court;

(d) If new information is discovered after the date of the hearing or during the course of trial, which may make evidence described in subdivision 3 admissible, the accused may make an offer of proof pursuant to clause (a) and the court shall order an in camera hearing to determine whether the proposed evidence is admissible by the standards herein.

Subd. 5. In a prosecution under sections ~~609.109~~ or 609.342 to 609.3451 or 609.3453, the court shall not instruct the jury to the effect that:

(a) It may be inferred that a victim who has previously consented to sexual intercourse with persons other than the accused would be therefore more likely to consent to sexual intercourse again; or

(b) The victim's previous or subsequent sexual conduct in and of itself may be considered in determining the credibility of the victim; or

(c) Criminal sexual conduct is a crime easily charged by a victim but very difficult to disprove by an accused because of the heinous nature of the crime; or

(d) The jury should scrutinize the testimony of the victim any more closely than it should scrutinize the testimony of any witness in any felony prosecution.

Subd. 6. (a) In a prosecution under sections ~~609.109~~ or 609.342 to 609.3451, or 609.3453, involving a psychotherapist and patient, evidence of the patient's personal or medical history is not admissible except when:

(1) the accused requests a hearing at least three business days prior to trial and makes an offer of proof of the relevancy of the history; and

(2) the court finds that the history is relevant and that the probative value of the history outweighs its prejudicial value.



(b) The court shall allow the admission only of specific information or examples of conduct of the victim that are determined by the court to be relevant. The court's order shall detail the information or conduct that is admissible and no other evidence of the history may be introduced.

(c) Violation of the terms of the order is grounds for mistrial but does not prevent the retrial of the accused.

Subd. 7. [EFFECT OF STATUTE ON RULES.] Rule 412 of the Rules of Evidence is superseded to the extent of its conflict with this section.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2002, section 609.3471, is amended to read:

609.3471 [RECORDS PERTAINING TO VICTIM IDENTITY CONFIDENTIAL.]

Notwithstanding any provision of law to the contrary, no data contained in records or reports relating to petitions, complaints, or indictments issued pursuant to section 609.342; 609.343; 609.344; ~~or 609.345;~~ or 609.3453, which specifically identifies a victim who is a minor shall be accessible to the public, except by order of the court. Nothing in this section authorizes denial of access to any other data contained in the records or reports, including the identity of the defendant.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2002, section 609.348, is amended to read:

609.348 [MEDICAL PURPOSES; EXCLUSION.]

Sections ~~609.109 and~~ 609.342 to 609.3451 and 609.3453 do not apply to sexual penetration or sexual contact when done for a bona fide medical purpose.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2002, section 609.353, is amended to read:

609.353 [JURISDICTION.]

A violation or attempted violation of section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or 609.352 may be prosecuted in any jurisdiction in which the violation originates or terminates.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2002, section 631.045, is amended to read:

631.045 [EXCLUDING SPECTATORS FROM THE COURTROOM.]

At the trial of a complaint or indictment for a violation of sections ~~609.109,~~ 609.341 to 609.3451, 609.3453, or 617.246, subdivision 2, when a minor under 18 years of age is the person upon, with, or against whom the crime is alleged to have been committed, the judge may exclude the public from the courtroom during the victim's testimony or during all or part of the remainder of the trial upon a showing that closure is necessary to protect a witness or

ensure fairness in the trial. The judge shall give the prosecutor, defendant and members of the public the opportunity to object to the closure before a closure order. The judge shall specify the reasons for closure in an order closing all or part of the trial. Upon closure the judge shall only admit persons who have a direct interest in the case.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 14. [REVISOR INSTRUCTION.]

The revisor of statutes shall renumber Minnesota Statutes, section 244.051, as Minnesota Statutes, section 244.0517, and correct cross-references. The revisor of statutes also shall renumber Minnesota Statutes, section 609.3452, as Minnesota Statutes, section 609.3462, and correct cross-references. In addition, the revisor shall delete the reference in Minnesota Statutes, section 13.871, subdivision 3, paragraph (d), to Minnesota Statutes, section 609.3452, and insert a reference to Minnesota Statutes, section 609.3462. The revisor shall include a notation in Minnesota Statutes to inform readers of the statutes of the renumbering of sections 244.051 and 609.3462.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

## ARTICLE 6

### METHAMPHETAMINE PROVISIONS

Section 1. [152.015] [GBL AND BDO.]

Gamma-butyrolactone (GBL) and 1,4-Butanediol (BDO) are not controlled substances and are exempted from regulation under this chapter when:

- (1) intended for industrial use and not for human consumption; or
- (2) occurring in a natural concentration and not the result of deliberate addition.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2003 Supplement, section 152.021, subdivision 2a, is amended to read:

Subd. 2a. [METHAMPHETAMINE MANUFACTURE ~~CRIMES CRIME~~; POSSESSION OF SUBSTANCES WITH INTENT TO MANUFACTURE METHAMPHETAMINE ~~CRIME~~.] (a) Notwithstanding subdivision 1, sections 152.022, subdivision 1, 152.023, subdivision 1, and 152.024, subdivision 1, a person is guilty of controlled substance crime in the first degree if the person manufactures any amount of methamphetamine.

(b) ~~Notwithstanding paragraph (a) and section 609.17,~~ A person is guilty of ~~attempted manufacture of methamphetamine a crime~~ if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine. As used in this section, "chemical reagents or precursors" ~~refers to one or more~~ includes, but is not limited to, any of the following substances, or their salts, isomers, and salts of isomers:

- (1) ephedrine;
- (2) pseudoephedrine;

- (3) phenyl-2-propanone;
- (4) phenylacetone;
- (5) anhydrous ammonia, ~~as defined in section 18C.005, subdivision 1a;~~
- (6) organic solvents;
- (7) hydrochloric acid;
- (8) lithium metal;
- (9) sodium metal;
- (10) ether;
- (11) sulfuric acid;
- (12) red phosphorus;
- (13) iodine;
- (14) sodium hydroxide;
- (15) benzaldehyde;
- (16) benzyl methyl ketone;
- (17) benzyl cyanide;
- (18) nitroethane;
- (19) methylamine;
- (20) phenylacetic acid;
- (21) hydriodic acid; or
- (22) hydriotic acid.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2003 Supplement, section 152.021, subdivision 3, is amended to read:

Subd. 3. [PENALTY.] (a) A person convicted under subdivisions 1 to 2a, paragraph (a), may be sentenced to imprisonment for not more than 30 years or to payment of a fine of not more than \$1,000,000, or both; a person convicted under subdivision 2a, paragraph (b), may be sentenced to imprisonment for not more than ~~three ten~~ years or to payment of a fine of not more than ~~\$5,000~~ \$20,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivisions 1 to 2a, paragraph (a), shall be committed to the commissioner of corrections for not less than four years nor more than 40 years and, in addition, may be sentenced to payment of a fine of not more than \$1,000,000; a person convicted under subdivision 2a, paragraph (b), may be sentenced to imprisonment for not more than ~~four~~ 15 years or to payment of a fine of not more than ~~\$5,000~~ \$30,000, or both.

(c) In a prosecution under subdivision 1 involving sales by the same person in two or more counties within a 90-day period, the person may be prosecuted for all of the sales in any county in which one of the sales occurred.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 4. [152.0275] [CERTAIN CONTROLLED SUBSTANCE OFFENSES; RESTITUTION; PROHIBITIONS ON PROPERTY USE.]

Subdivision 1. [RESTITUTION.] (a) As used in this subdivision:

(1) "clandestine lab site" means any structure or conveyance or outdoor location occupied or affected by conditions or chemicals, typically associated with a clandestine drug lab operation;

(2) "emergency response" includes, but is not limited to, removing and collecting evidence, securing the site, removal, remediation, and hazardous chemical assessment or inspection of the site where the relevant offense or offenses took place, regardless of whether these actions are performed by the public entities themselves or by private contractors paid by the public entities, or the property owner;

(3) "remediation" means proper cleanup, treatment, or containment of hazardous substances or methamphetamine at or in a clandestine lab site, and may include demolition or disposal of structures or other property when an assessment so indicates; and

(4) "removal" means the removal from the clandestine lab site of precursor or waste chemicals, chemical containers, or equipment associated with the manufacture, packaging, or storage of illegal drugs.

(b) A court shall require a person convicted of manufacturing or attempting to manufacture a controlled substance or of an illegal activity involving a precursor substance, where the response to the crime involved an emergency response, to pay restitution to all public entities and property owners that participated in the response. The restitution ordered must cover the reasonable costs of their participation in the response.

(c) Notwithstanding paragraph (b), if the court finds that the convicted person is indigent or that payment of the restitution would create undue hardship for the convicted person's immediate family, the court may reduce the amount of restitution to an appropriate level.

Subd. 2. [PROPERTY-RELATED PROHIBITIONS.] (a) As used in this subdivision:

(1) "clandestine lab site" has the meaning given in subdivision 1, paragraph (a);

(2) "property" includes buildings and other structures, and motor vehicles as defined in section 609.487, subdivision 2a. Property also includes real property whether publicly or privately owned and public waters and rights-of-way;

(3) "remediation" has the meaning given in subdivision 1, paragraph (a); and

(4) "removal" has the meaning given in subdivision 1, paragraph (a).

(b) A peace officer who arrests a person at a clandestine lab site shall notify the appropriate county or local health department, state duty officer, and child protection services of the arrest and the location of the site.

(c) A local unit of government or local health department or sheriff shall order that all property that has been found to be a clandestine lab site and contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine be prohibited from being occupied, rented, sold, or used until it has been assessed and remediated as provided in the Department of Health's clandestine drug labs general cleanup guidelines.

(d) Unless clearly inapplicable, the procedures specified in chapter 145A and any related rules adopted under that chapter addressing the enforcement of public health laws, the removal and abatement of public health nuisances, and the remedies available to property owners or occupants apply to this subdivision.

(e) Upon the proper removal and remediation of any property used as a clandestine lab site, the contractor shall verify that the work was completed according to the Department of Health's clandestine drug labs general cleanup guidelines and best practices and that levels of contamination have been reduced to levels set forth in the guidelines. Following this, the applicable authority shall vacate its order issued under paragraph (c).

(f) If the applicable authority determines under paragraph (c) that a motor vehicle has been contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine and if the authority is able to obtain the certificate of title for the motor vehicle, the authority shall notify the registrar of motor vehicles of this fact and in addition forward the certificate of title to the registrar. The authority shall also notify the registrar when it vacates its order under paragraph (e).

**[EFFECTIVE DATE.]** This section is effective August 1, 2004.

Sec. 5. Minnesota Statutes 2002, section 152.135, subdivision 2, is amended to read:

Subd. 2. [EXCEPTIONS.] (a) A drug product containing ephedrine, its salts, optical isomers, and salts of optical isomers is exempt from subdivision 1 if the drug product:

(1) may be lawfully sold over the counter without a prescription under the federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 321, et seq.;

(2) is labeled and marketed in a manner consistent with the pertinent OTC Tentative Final or Final Monograph;

(3) is manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse;

(4) is not marketed, advertised, or labeled for the indication of stimulation, mental alertness, weight loss, muscle enhancement, appetite control, or energy; ~~and~~

(5) is in solid oral dosage forms, including soft gelatin caplets, that combine 400 milligrams of guaifenesin and 25 milligrams of ephedrine per dose, according to label instructions; or is an anorectal preparation containing not more than five percent ephedrine; and

(6) is sold in a manner that does not conflict with section 152.136.

(b) Subdivisions 1 and 3 shall not apply to products containing ephedra or ma huang and lawfully marketed as dietary supplements under federal law.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 6. [152.136] [SALES OF METHAMPHETAMINE PRECURSOR DRUGS; REPORTING.]

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

(b) "Methamphetamine precursor drug" means:

(1) a drug or product containing as its sole active ingredient ephedrine or pseudoephedrine; or

(2) a combination drug or product containing as one of its active ingredients ephedrine or pseudoephedrine.

(c) "Over-the-counter sale" means a retail sale of a drug or product but does not include the sale of a drug or product pursuant to the terms of a valid prescription.

(d) "Suspicious transaction" means the sale, distribution, delivery, or other transfer of a substance under circumstances that would lead a reasonable person to believe that the substance is likely to be used to illegally manufacture a controlled substance based on factors such as the amount of the substance involved in the transaction, the method of payment, the method of delivery, and any past dealings with any participant in the transaction.

Subd. 2. [PROHIBITED CONDUCT.] (a) No person may sell in a single over-the-counter sale more than three packages or any combination of packages exceeding a total weight of nine grams of a methamphetamine precursor drug or a combination of methamphetamine precursor drugs.

(b) Over-the-counter sales of methamphetamine precursor drugs are limited to:

(1) packages containing not more than a total of three grams of one or more methamphetamine precursor drugs, calculated in terms of ephedrine base and pseudoephedrine base; or

(2) for nonliquid products, sales in blister packs, where each blister contains not more than two dosage units, or, if the use of blister packs is not technically feasible, sales in unit dose packets or pouches.

Subd. 3. [SUSPICIOUS TRANSACTIONS; REPORTING; IMMUNITY.] Any person employed by a business establishment that offers for sale methamphetamine precursor drugs who sells such a drug to any person in a suspicious transaction shall report the transaction to the owner, supervisor, or manager of the establishment. The owner, supervisor, or manager may report the transaction to local law enforcement. A person who reports information under this subdivision in good faith is immune from civil liability relating to the report.

Subd. 4. [EXEMPTION.] This section does not apply to pediatric products labeled pursuant to federal regulation primarily intended for administration to children under 12 years of age according to label instructions.

Subd. 5. [PREEMPTION; INVALIDATION.] This section preempts all local ordinances or regulations governing the sale by a business establishment of over-the-counter products containing ephedrine or pseudoephedrine. All ordinances enacted prior to the effective date of this act are void.

[EFFECTIVE DATE.] This section is effective January 1, 2005.

Sec. 7. [152.137] [ANHYDROUS AMMONIA; PROHIBITED CONDUCT; CRIMINAL PENALTIES; CIVIL LIABILITY.]

Subdivision 1. [DEFINITIONS.] As used in this section, "tamper" means action taken by a person not authorized to take that action by law or by the owner or authorized custodian of an anhydrous ammonia container or of equipment where anhydrous ammonia is used, stored, distributed, or transported.

Subd. 2. [PROHIBITED CONDUCT.] (a) A person may not:

- (1) steal or unlawfully take or carry away any amount of anhydrous ammonia;
- (2) purchase, possess, transfer, or distribute any amount of anhydrous ammonia, knowing, or having reason to know, that it will be used to unlawfully manufacture a controlled substance;
- (3) place, have placed, or possess anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to contain or transport anhydrous ammonia;
- (4) transport anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to transport anhydrous ammonia;
- (5) use, deliver, receive, sell, or transport a container designed and constructed to contain anhydrous ammonia without the express consent of the owner or authorized custodian of the container; or
- (6) tamper with any equipment or facility used to contain, store, or transport anhydrous ammonia.

(b) For the purposes of this subdivision, containers designed and constructed for the storage and transport of anhydrous ammonia are described in rules adopted under section 18C.121, subdivision 1, or in Code of Federal Regulations, title 49.

Subd. 3. [NO CAUSE OF ACTION.] (a) Except as provided in paragraph (b), a person tampering with anhydrous ammonia containers or equipment under subdivision 2 shall have no cause of action for damages arising out of the tampering against:

- (1) the owner or lawful custodian of the container or equipment;
- (2) a person responsible for the installation or maintenance of the container or equipment; or
- (3) a person lawfully selling or offering for sale the anhydrous ammonia.

(b) Paragraph (a) does not apply to a cause of action against a person who unlawfully obtained the anhydrous ammonia or anhydrous ammonia container or who possesses the anhydrous ammonia or anhydrous ammonia container for any unlawful purpose.

Subd. 4. [CRIMINAL PENALTY.] A person who knowingly violates subdivision 2 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$50,000, or both.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 8. [152.138] [METHAMPHETAMINE-RELATED CRIMES INVOLVING CHILDREN AND VULNERABLE ADULTS.]

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

(b) "Chemical substance" means a substance intended to be used as a precursor in the manufacture of methamphetamine or any other chemical intended to be used in the manufacture of methamphetamine.

(c) "Child" means any person under the age of 18 years.

(d) "Methamphetamine paraphernalia" means all equipment, products, and materials of any kind that are used, intended for use, or designed for use in manufacturing, injecting, ingesting, inhaling, or otherwise introducing methamphetamine into the human body.

(e) "Methamphetamine waste products" means substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine.

(f) "Vulnerable adult" has the meaning given in section 626.5572, subdivision 21.

Subd. 2. [PROHIBITED CONDUCT.] (a) No person may knowingly engage in any of the following activities in the presence of a child or vulnerable adult: in the residence of a child or a vulnerable adult; in a building, structure, conveyance, or outdoor location where a child or vulnerable adult might reasonably be expected to be present; in a room offered to the public for overnight accommodation; or in any multiple unit residential building:

(1) manufacturing or attempting to manufacture methamphetamine;

(2) storing any chemical substance;

(3) storing any methamphetamine waste products; or

(4) storing any methamphetamine paraphernalia.

(b) No person may knowingly cause or permit a child or vulnerable adult to inhale, be exposed to, have contact with, or ingest methamphetamine, a chemical substance, or methamphetamine paraphernalia.

Subd. 3. [CRIMINAL PENALTY.] A person who violates subdivision 2 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Subd. 4. [MULTIPLE SENTENCES.] Notwithstanding sections 609.035 and 609.04, a prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 5. [CONSECUTIVE SENTENCES.] Notwithstanding any provision of the Sentencing Guidelines, the court may provide that a sentence imposed for a violation of this section shall run consecutively to any sentence imposed for the intended criminal act. A decision of the court to impose consecutive sentences under this subdivision is not a departure from the Sentencing Guidelines.

Subd. 6. [PROTECTIVE CUSTODY.] A peace officer may take any child present in an area where any of the activities described in subdivision 2, paragraph (a), clauses (1) to (4), are taking place into protective custody in accordance with section 260C.175, subdivision 1, paragraph (b), clause (2). A child taken into protective custody



under this subdivision shall be provided health screening to assess potential health concerns related to methamphetamine as provided in section 260C.188. A child not taken into protective custody under this subdivision but who is known to have been exposed to methamphetamine shall be offered health screening for potential health concerns related to methamphetamine as provided in section 260C.188.

Subd. 7. [REPORTING MALTREATMENT OF VULNERABLE ADULT.] If a vulnerable adult is present in an area where any of the activities described in subdivision 2, paragraph (a), clauses (1) to (4), are taking place, a peace officer or mandated reporter who has reason to believe the vulnerable adult inhaled, was exposed to, had contact with, or ingested methamphetamine, a chemical substance, or methamphetamine paraphernalia shall make a report under section 626.557, subdivision 9b.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 9. [152.185] [METHAMPHETAMINE AWARENESS AND EDUCATIONAL ACCOUNT.]

Subdivision 1. [ACCOUNT ESTABLISHED.] The methamphetamine awareness and educational account is a special revenue account in the state treasury. Money in the account shall be used to support projects relating to educating retailers and the public on the dangers of methamphetamines and methamphetamine precursor drugs and the laws and regulations governing their use.

Subd. 2. [CONTRIBUTIONS.] The state may accept contributions, gifts, grants, and bequests for deposit into the fund.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 10. Minnesota Statutes 2002, section 168A.05, subdivision 3, is amended to read:

Subd. 3. [CONTENT OF CERTIFICATE.] Each certificate of title issued by the department shall contain:

- (1) the date issued;
- (2) the first, middle, and last names, the dates of birth, and addresses of all owners who are natural persons, the full names and addresses of all other owners;
- (3) the names and addresses of any secured parties in the order of priority as shown on the application, or if the application is based on a certificate of title, as shown on the certificate, or as otherwise determined by the department;
- (4) any liens filed pursuant to a court order or by a public agency responsible for child support enforcement against the owner;
- (5) the title number assigned to the vehicle;
- (6) a description of the vehicle including, so far as the following data exists, its make, model, year, identifying number, type of body, whether new or used, and if a new vehicle, the date of the first sale of the vehicle for use;
- (7) with respect to motor vehicles subject to the provisions of section 325E.15, the true cumulative mileage registered on the odometer or that the actual mileage is unknown if the odometer reading is known by the owner to be different from the true mileage;

(8) with respect to vehicles subject to sections 325F.6641 and 325F.6642, the appropriate term "flood damaged," "rebuilt," "prior salvage," or "reconstructed"; ~~and~~

(9) with respect to a vehicle contaminated by methamphetamine production, if the registrar has received the certificate of title and notice described in section 152.0275, subdivision 2, paragraph (f), the term "hazardous waste contaminated vehicle"; and

(10) any other data the department prescribes.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004.

Sec. 11. [446A.083] [METHAMPHETAMINE LABORATORY CLEANUP REVOLVING FUND.]

Subdivision 1. [DEFINITIONS.] As used in this section:

(1) "clandestine lab site" has the meaning given in section 152.0275, subdivision 1, paragraph (a);

(2) "property" has the meaning given in section 152.0275, subdivision 2, paragraph (a), but does not include motor vehicles; and

(3) "remediate" has the meaning given to remediation in section 152.0275, subdivision 1, paragraph (a).

Subd. 2. [FUND ESTABLISHED.] The authority shall establish a methamphetamine laboratory cleanup revolving fund to provide loans to counties and cities to remediate clandestine lab sites. The fund must be credited with repayments.

Subd. 3. [APPLICATIONS.] Applications by a county or city for a loan from the fund must be made to the authority on the forms prescribed by the authority. The application must include, but is not limited to:

(1) the amount of the loan requested and the proposed use of the loan proceeds;

(2) the source of revenues to repay the loan; and

(3) certification by the county or city that it meets the loan eligibility requirements of subdivision 4.

Subd. 4. [LOAN ELIGIBILITY.] A county or city is eligible for a loan under this section if the county or city:

(1) identifies a site or sites designated by a local public health department or law enforcement as a clandestine lab site;

(2) has required the site's property owner to remediate the site at cost, under chapter 145A or a local public health nuisance ordinance that addresses clandestine lab remediation;

(3) certifies that the property owner cannot pay for the remediation immediately; and

(4) certifies that the property owner has not properly remediated the site.

Subd. 5. [USE OF LOAN PROCEEDS; REIMBURSEMENT BY PROPERTY OWNER.] (a) A loan recipient shall use the loan to remediate the clandestine lab site, or if this has already been done, to reimburse the applicable county or city fund for costs paid by the recipient to remediate the clandestine lab site.

(b) A loan recipient shall seek reimbursement from the owner of the property containing the clandestine lab site for the costs of the remediation. In addition to other lawful means of seeking reimbursement, the loan recipient may recover its costs through a property tax assessment by following the procedures specified in section 145A.08, subdivision 2, paragraph (c).

Subd. 6. [AWARD AND DISBURSEMENT OF FUNDS.] The authority shall award loans to recipients on a first-come, first-served basis, provided that the recipient is able to comply with the terms and conditions of the authority loan, which must be in conformance with this section. The authority shall make a single disbursement of the loan upon receipt of a payment request that includes a list of remediation expenses and evidence that a second-party sampling was undertaken to ensure that the remediation work was successful or a guarantee that such a sampling will be undertaken.

Subd. 7. [LOAN CONDITIONS AND TERMS.] (a) When making loans from the revolving fund, the authority shall comply with the criteria in paragraphs (b) to (e).

(b) Loans must be made at a two percent per annum interest rate for terms not to exceed ten years unless the recipient requests a 20-year term due to financial hardship.

(c) The annual principal and interest payments must begin no later than one year after completion of the cleanup. Loans must be amortized no later than 20 years after completion of the cleanup.

(d) A loan recipient must identify and establish a source of revenue for repayment of the loan and must undertake whatever steps are necessary to collect payments within one year of receipt of funds from the authority.

(e) The fund must be credited with all payments of principal and interest on all loans, except the costs as permitted under section 446A.04, subdivision 5, paragraph (a).

(f) Loans must be made only to recipients with clandestine lab ordinances that address remediation.

Subd. 8. [AUTHORITY TO INCUR DEBT.] Counties and cities may incur debt under this section by resolution of the board or council authorizing issuance of a revenue bond to the authority.

**[EFFECTIVE DATE.] This section is effective August 1, 2004.**

Sec. 12. Minnesota Statutes 2002, section 609.1095, subdivision 1, is amended to read:

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

(b) "Conviction" means any of the following accepted and recorded by the court: a plea of guilty, a verdict of guilty by a jury, or a finding of guilty by the court. The term includes a conviction by any court in Minnesota or another jurisdiction.

(c) "Prior conviction" means a conviction that occurred before the offender committed the next felony resulting in a conviction and before the offense for which the offender is being sentenced under this section.

(d) "Violent crime" means a violation of or an attempt or conspiracy to violate any of the following laws of this state or any similar laws of the United States or any other state: ~~section sections~~ sections 152.138; 609.165; 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.66, subdivision 1e;

609.687; 609.855, subdivision 5; any provision of sections 609.229; 609.377; 609.378; 609.749; and 624.713 that is punishable by a felony penalty; or any provision of chapter 152 that is punishable by a maximum sentence of 15 years or more.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 13. [METHAMPHETAMINE RETAIL AND CONSUMER EDUCATION PROGRAM.]

The commissioner of public safety shall develop and implement a program designed to inform retailers and consumers and heighten public and business awareness of the dangers of illicit methamphetamine production, distribution, use, and the ready availability of methamphetamine in Minnesota. Specifically, the commissioner, in consultation with representatives from retail associations, shall develop (1) training posters for retail employees to identify the products that are commonly purchased or stolen for use in manufacturing methamphetamine, (2) an on-line retail employee training Web site, (3) signage, including shelf tags, stickers, and decals to deter criminals and to educate consumers about the program and ingredients used in manufacturing methamphetamine, (4) guidelines for the strategic placement of precursor products in areas that will deter theft or suspicious purchases of large quantities, (5) brochures educating retailers and consumers about the program, and (6) forms for retailers to report suspicious transactions. The commissioner must also provide to businesses information on applicable state and federal laws and regulations relating to methamphetamine and methamphetamine precursor drugs.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 14. [REPEALER.]

Minnesota Statutes 2002, sections 18C.005, subdivisions 1a and 35a; 18C.201, subdivisions 6 and 7; and 18D.331, subdivision 5, are repealed.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

ARTICLE 7

GENERAL CRIMINAL PROVISIONS

Section 1. Minnesota Statutes 2002, section 169.14, subdivision 3, is amended to read:

Subd. 3. [REDUCED SPEED REQUIRED.] (a) The driver of any vehicle shall, consistent with the requirements, drive at an appropriate reduced speed when approaching or passing an authorized emergency vehicle stopped with emergency lights flashing on any street or highway, when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(b) For purposes of this subdivision, "appropriate reduced speed" when approaching or passing an emergency vehicle stopped on a highway with emergency lights flashing is a speed that allows the driver to control the vehicle to the extent necessary, up to and including stopping the vehicle, to prevent a collision, to prevent injury to persons or property, and to avoid interference with the performance of emergency duties by emergency personnel.

(c) A person who fails to reduce speed appropriately when approaching or passing an authorized emergency vehicle stopped with emergency lights flashing on a street or highway shall be assessed an additional surcharge equal to the amount of the fine imposed for the speed violation, but not less than \$25.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2002, section 169.14, is amended by adding a subdivision to read:

Subd. 3a. [DRIVER EDUCATION AND TRAINING PROGRAMS.] The commissioner of public safety shall take all necessary steps to ensure that persons enrolled in driver education programs offered at public schools, and persons enrolled in driver training programs offered at private and parochial schools and commercial driver training schools, are instructed as to the responsibilities of drivers when approaching emergency scenes and stopped emergency vehicles on highways.

**[EFFECTIVE DATE.] This section is effective July 1, 2004.**

Sec. 3. Minnesota Statutes 2002, section 169.14, is amended by adding a subdivision to read:

Subd. 3b. [CAUSE FOR ARREST; VIOLATION; PENALTY.] (a) A peace officer may arrest the driver of a motor vehicle if the peace officer has probable cause to believe that the driver has operated the vehicle in violation of subdivision 3 at the scene of an emergency within the past four hours.

(b) If a motor vehicle is operated in violation of subdivision 3 at the scene of an emergency, the owner of the vehicle or, for a leased motor vehicle, the lessee of the vehicle, is guilty of a petty misdemeanor. The owner or lessee may not be fined under this paragraph if (1) another person is convicted for that violation, or (2) the motor vehicle was stolen at the time of the violation. This paragraph does not apply to a lessor of a motor vehicle if the lessor keeps a record of the name and address of the lessee. This paragraph does not prohibit or limit the prosecution of a motor vehicle operator for violating subdivision 3.

**[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.**

Sec. 4. Minnesota Statutes 2002, section 171.13, is amended by adding a subdivision to read:

Subd. 1i. [DRIVER'S MANUAL; SAFETY AT EMERGENCY SCENE.] The commissioner shall include in each edition of the driver's manual published by the Department of Public Safety after July 1, 2004, a section relating to the responsibilities of motorists when approaching an emergency or a stopped emergency vehicle on a highway.

**[EFFECTIVE DATE.] This section is effective July 1, 2004.**

Sec. 5. Minnesota Statutes 2002, section 243.55, subdivision 1, is amended to read:

Subdivision 1. Any person who brings, sends, or in any manner causes to be introduced into any state correctional facility or state hospital, or within or upon the grounds belonging to or land or controlled by any such facility or hospital, or is found in possession of any controlled substance as defined in section 152.01, subdivision 4, or any firearms, weapons or explosives of any kind, without the consent of the chief executive officer thereof, shall be guilty of a felony and, upon conviction thereof, punished by imprisonment for a term of not more than ten years. Any person who brings, sends, or in any manner causes to be introduced into any state correctional facility or within or upon the grounds belonging to or land controlled by the facility, or is found in the possession of any intoxicating or alcoholic liquor or malt beverage of any kind without the consent of the chief executive officer thereof, shall be guilty of a gross misdemeanor. The provisions of this section shall not apply to physicians carrying drugs or introducing any of the above described liquors into such facilities for use in the practice of their profession; nor to sheriffs or other peace officers carrying revolvers or firearms as such officers in the discharge of duties.

**[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.**

Sec. 6. [590.10] [PRESERVATION OF EVIDENCE.]

Subdivision 1. [PRESERVATION.] Notwithstanding any other provision of law, all appropriate governmental entities shall retain any item of physical evidence which contains biological material that is used to secure a conviction in a criminal case for the period of time that any person remains incarcerated, on probation or parole, civilly committed, or subject to registration as a sex offender in connection with the case. The governmental entity need retain only the portion of such evidence as was used to obtain an accurate biological sample and used to obtain a conviction. This requirement shall apply with or without the filing of a petition for postconviction DNA analysis, as well as during the pendency of proceedings under sections 590.01. If evidence is intentionally destroyed after the filing of a petition under sections 590.01, the court may impose appropriate sanctions on the responsible party or parties.

Subd. 2. [DEFINITION.] For purposes of this section, "biological evidence" means:

(1) the contents of a sexual assault examination kit; or

(2) any item that contains blood, semen, hair, saliva, skin tissue, or other identifiable biological material, whether that material is catalogued separately, on a slide, swab, or in a test tube, or is present on other evidence, including, but not limited to, clothing, ligatures, bedding or other household material, drinking cups, cigarettes, and similar items.

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

Sec. 7. Minnesota Statutes 2002, section 609.185, is amended to read:

609.185 [MURDER IN THE FIRST DEGREE.]

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

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

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

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

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

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

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

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

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

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

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

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

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

**[EFFECTIVE DATE.]** This section is effective the day following final enactment and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2002, section 609.2231, subdivision 1, is amended to read:

Subdivision 1. [PEACE OFFICERS.] Whoever physically assaults a peace officer licensed under section 626.845, subdivision 1, when that officer is effecting a lawful arrest or executing any other duty imposed by law is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both. If the assault inflicts demonstrable bodily harm or the person intentionally throws or otherwise transfers bodily fluids or feces at or onto the officer, the person is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$6,000, or both.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2003 Supplement, section 609.2231, subdivision 3, is amended to read:

Subd. 3. [CORRECTIONAL EMPLOYEES; PROBATION OFFICERS; SEX OFFENDER TREATMENT PROVIDERS.] Whoever commits either of the following acts against an employee of a correctional facility as defined in section 241.021, subdivision 1, paragraph (f), a probation officer or other qualified person employed in supervising offenders, or a person who provides care or treatment at a facility defined in section 252.025, subdivision 7, or 253B.02, subdivision 18a, while the employee person is engaged in the performance of a duty imposed by law, policy, or rule is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both:

- (1) assaults the employee person and inflicts demonstrable bodily harm; or
- (2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the employee person.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2002, section 609.321, subdivision 7, is amended to read:

Subd. 7. **[PROMOTES THE PROSTITUTION OF AN INDIVIDUAL.]** "Promotes the prostitution of an individual" means any of the following wherein the person knowingly:

- (1) solicits or procures patrons for a prostitute; or
- (2) provides, leases or otherwise permits premises or facilities owned or controlled by the person to aid the prostitution of an individual; or
- (3) owns, manages, supervises, controls, keeps or operates, either alone or with others, a place of prostitution to aid the prostitution of an individual; or
- (4) owns, manages, supervises, controls, operates, institutes, aids or facilitates, either alone or with others, a business of prostitution to aid the prostitution of an individual; or
- (5) admits a patron to a place of prostitution to aid the prostitution of an individual; ~~or~~
- (6) transports an individual from one point within this state to another point either within or without this state, or brings an individual into this state to aid the prostitution of the individual; or
- (7) engages in the sex trafficking of an individual.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2002, section 609.321, is amended by adding a subdivision to read:

Subd. 7a. **[SEX TRAFFICKING.]** "Sex trafficking" means receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2002, section 609.487, is amended by adding a subdivision to read:

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

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.



Sec. 13. Minnesota Statutes 2002, section 609.50, subdivision 1, is amended to read:

Subdivision 1. [CRIME.] Whoever intentionally does any of the following may be sentenced as provided in subdivision 2:

(1) obstructs, hinders, or prevents the lawful execution of any legal process, civil or criminal, or apprehension of another on a charge or conviction of a criminal offense;

(2) obstructs, resists, or interferes with a peace officer while the officer is engaged in the performance of official duties;

(3) interferes with or obstructs the prevention or extinguishing of a fire, or disobeys the lawful order of a firefighter present at the fire; ~~or~~

(4) interferes with or obstructs a member of an ambulance service personnel crew, as defined in section 144E.001, subdivision 3a, who is providing, or attempting to provide, emergency care; or

(5) by force or threat of force endeavors to obstruct any employee of the Department of Revenue while the employee is lawfully engaged in the performance of official duties for the purpose of deterring or interfering with the performance of those duties.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2002, section 609.505, is amended to read:

609.505 [FALSELY REPORTING CRIME.]

Subdivision 1. [FALSE REPORTING.] Whoever informs a law enforcement officer that a crime has been committed or otherwise provides false information to an on-duty peace officer regarding the conduct of others, knowing that it is false and intending that the officer shall act in reliance upon it, is guilty of a misdemeanor. A person who is convicted a second or subsequent time under this section is guilty of a gross misdemeanor.

Subd. 2. [REPORTING POLICE MISCONDUCT.] (a) Whoever informs, or causes information to be communicated to, a public officer, as defined in section 609.415, subdivision 1, or an employee thereof, whose responsibilities include investigating or reporting police misconduct, that a peace officer, as defined in section 626.84, subdivision 1, paragraph (c), has committed an act of police misconduct, knowing that the information is false, is guilty of a crime and may be sentenced as follows:

(1) up to the maximum provided for a misdemeanor if the false information does not allege a criminal act; or

(2) up to the maximum provided for a gross misdemeanor if the false information alleges a criminal act.

(b) The court shall order any person convicted of a violation of this subdivision to make full restitution of all reasonable expenses incurred in the investigation of the false allegation unless the court makes a specific written finding that restitution would be inappropriate under the circumstances.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 15. Minnesota Statutes 2002, section 609.5315, subdivision 1, is amended to read:

Subdivision 1. [DISPOSITION.] (a) Subject to paragraph (b), if the court finds under section 609.5313, 609.5314, or 609.5318 that the property is subject to forfeiture, it shall order the appropriate agency to do one of the following:

(1) unless a different disposition is provided under clause (3) or (4), either destroy firearms, ammunition, and firearm accessories that the agency decides not to use for law enforcement purposes under clause (8), or sell them to federally licensed firearms dealers, as defined in section 624.7161, subdivision 1, and distribute the proceeds under subdivision 5 or 5b;

(2) sell property that is not required to be destroyed by law and is not harmful to the public and distribute the proceeds under subdivision 5 or 5b;

(3) sell antique firearms, as defined in section 624.712, subdivision 3, to the public and distribute the proceeds under subdivision 5 or 5b;

(4) destroy or use for law enforcement purposes semiautomatic military-style assault weapons, as defined in section 624.712, subdivision 7;

(5) take custody of the property and remove it for disposition in accordance with law;

(6) forward the property to the federal drug enforcement administration;

(7) disburse money as provided under subdivision 5 or 5b; or

(8) keep property other than money for official use by the agency and the prosecuting agency.

(b) Notwithstanding paragraph (a), the Hennepin or Ramsey county sheriff may not sell firearms, ammunition, or firearm accessories if the policy is disapproved by the applicable county board.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 16. Minnesota Statutes 2002, section 609.5315, is amended by adding a subdivision to read:

Subd. 5b. [DISPOSITION OF CERTAIN FORFEITED PROCEEDS; PROSTITUTION, TRAFFICKING OFFENSES.] (a) For forfeitures resulting from violations of section 609.322, the money or proceeds from the sale of forfeited property, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property must be distributed as follows:

(1) 40 percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the agency's operating fund or similar fund for use in law enforcement;

(2) 20 percent of the proceeds must be forwarded to the county attorney or other prosecuting agency that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes; and

(3) the remaining 40 percent of the proceeds is appropriated to the Department of Public Safety for distribution to crime victims services organizations that provide services to victims of prostitution or sex trafficking offenses.

(b) The commissioner of public safety must submit a report to the legislature that describes the distribution of funds under paragraph (a), clause (3). Beginning in 2005, the report is due to the legislature by April 1 of each year.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 17. Minnesota Statutes 2002, section 609.746, subdivision 1, is amended to read:

Subdivision 1. [SURREPTITIOUS INTRUSION; OBSERVATION DEVICE.] (a) A person is guilty of a gross misdemeanor who:

(1) enters upon another's property;

(2) surreptitiously gazes, stares, or peeps in the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(b) A person is guilty of a gross misdemeanor who:

(1) enters upon another's property;

(2) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(c) A person is guilty of a gross misdemeanor who:

(1) surreptitiously gazes, stares, or peeps in the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(d) A person is guilty of a gross misdemeanor who:

(1) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(e) A person is guilty of a ~~gross misdemeanor~~ felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both, if the person:

(1) violates this subdivision after a previous conviction under this subdivision or section 609.749; or

(2) violates this subdivision against a minor under the age of ~~16~~ 18, knowing or having reason to know that the minor is present.

(f) Paragraphs (b) and (d) do not apply to law enforcement officers or corrections investigators, or to those acting under their direction, while engaged in the performance of their lawful duties. Paragraphs (c) and (d) do not apply to conduct in: (1) a medical facility; or (2) a commercial establishment if the owner of the establishment has posted conspicuous signs warning that the premises are under surveillance by the owner or the owner's employees.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 18. Minnesota Statutes 2002, section 609.748, subdivision 2, is amended to read:

Subd. 2. [RESTRAINING ORDER; JURISDICTION.] A person who is a victim of harassment may seek a restraining order from the district court in the manner provided in this section. The parent, stepparent, or guardian of a minor who is a victim of harassment may seek a restraining order from the district court on behalf of the minor.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004.

Sec. 19. Minnesota Statutes 2002, section 609.748, subdivision 3a, is amended to read:

Subd. 3a. [FILING FEE; COST OF SERVICE.] The filing fees for a restraining order under this section are waived for the petitioner if the petition alleges acts that would constitute a violation of section 609.342; 609.343; 609.344; 609.345; 609.3451; or 609.749, subdivision 2 or 3. The court administrator and the sheriff of any county in this state shall perform their duties relating to service of process without charge to the petitioner. The court shall direct payment of the reasonable costs of service of process if served by a private process server when the sheriff is unavailable or if service is made by publication. The court may direct a respondent to pay to the court administrator the petitioner's filing fees and reasonable costs of service of process if the court determines that the respondent has the ability to pay the petitioner's fees and costs.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004.

Sec. 20. Minnesota Statutes 2002, section 609.749, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] As used in this section, "harass" means to engage in intentional conduct which:

(~~1~~) the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated; ~~and~~

~~(2) causes this reaction on the part of the victim.~~

**[EFFECTIVE DATE.]** This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 21. Minnesota Statutes 2002, section 609.749, subdivision 2, is amended to read:

Subd. 2. [HARASSMENT AND STALKING CRIMES.] (a) A person who harasses another by committing any of the following acts is guilty of a gross misdemeanor:

(1) directly or indirectly manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;

(2) stalks, follows, monitors, or pursues another, whether in person or through technological or other means;

(3) returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;

(4) repeatedly makes telephone calls, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;

(5) makes or causes the telephone of another repeatedly or continuously to ring;

(6) repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, messages, packages, or other objects; or

(7) knowingly makes false allegations against a peace officer concerning the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties.

(b) The conduct described in paragraph (a), clauses (4) and (5), may be prosecuted at the place where any call is either made or received. The conduct described in paragraph (a), clause (6), may be prosecuted where any letter, telegram, message, package, or other object is either sent or received.

(c) A peace officer may not make a warrantless, custodial arrest of any person for a violation of paragraph (a), clause (7).

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

## ARTICLE 8

### COURT POLICY AND PUBLIC DEFENSE

Section 1. Minnesota Statutes 2002, section 2.722, subdivision 1, is amended to read:

Subdivision 1. [DESCRIPTION.] Effective July 1, 1959, the state is divided into ten judicial districts composed of the following named counties, respectively, in each of which districts judges shall be chosen as hereinafter specified:

1. Goodhue, Dakota, Carver, Le Sueur, McLeod, Scott, and Sibley; ~~33~~ 35 judges; and four permanent chambers shall be maintained in Red Wing, Hastings, Shakopee, and Glencoe and one other shall be maintained at the place designated by the chief judge of the district;

2. Ramsey; 26 judges;

3. Wabasha, Winona, Houston, Rice, Olmsted, Dodge, Steele, Waseca, Freeborn, Mower, and Fillmore; 23 judges; and permanent chambers shall be maintained in Faribault, Albert Lea, Austin, Rochester, and Winona;

4. Hennepin; ~~60~~ 62 judges;

5. Blue Earth, Watonwan, Lyon, Redwood, Brown, Nicollet, Lincoln, Cottonwood, Murray, Nobles, Pipestone, Rock, Faribault, Martin, and Jackson; 16 judges; and permanent chambers shall be maintained in Marshall, Windom, Fairmont, New Ulm, and Mankato;

6. Carlton, St. Louis, Lake, and Cook; 15 judges;
7. Benton, Douglas, Mille Lacs, Morrison, Otter Tail, Stearns, Todd, Clay, Becker, and Wadena; ~~25~~ 27 judges; and permanent chambers shall be maintained in Moorhead, Fergus Falls, Little Falls, and St. Cloud;
8. Chippewa, Kandiyohi, Lac qui Parle, Meeker, Renville, Swift, Yellow Medicine, Big Stone, Grant, Pope, Stevens, Traverse, and Wilkin; 11 judges; and permanent chambers shall be maintained in Morris, Montevideo, and Willmar;
9. Norman, Polk, Marshall, Kittson, Red Lake, Roseau, Mahnomen, Pennington, Aitkin, Itasca, Crow Wing, Hubbard, Beltrami, Lake of the Woods, Clearwater, Cass and Koochiching; ~~22~~ 24 judges; and permanent chambers shall be maintained in Crookston, Thief River Falls, Bemidji, Brainerd, Grand Rapids, and International Falls; and
10. Anoka, Isanti, Wright, Sherburne, Kanabec, Pine, Chisago, and Washington; 41 judges; and permanent chambers shall be maintained in Anoka, Stillwater, and other places designated by the chief judge of the district.

**[EFFECTIVE DATE.]** This section is effective January 1, 2005.

Sec. 2. Minnesota Statutes 2002, section 2.724, subdivision 3, is amended to read:

Subd. 3. ~~[RETIRED JUSTICES AND JUDGES, AND COMMISSIONERS.]~~ (a) The chief justice of the Supreme Court may assign a retired justice of the Supreme Court to act as a justice of the Supreme Court pursuant to subdivision 2 or as a judge of any other court. The chief justice may assign a retired judge of any court to act as a judge of any court except the Supreme Court. The chief justice may assign a retired court commissioner to act as a commissioner of any district court. The chief justice of the Supreme Court shall determine the pay and expenses to be received by a judge or commissioner acting pursuant to this paragraph.

(b) A judge who has been elected to office and who has retired as a judge in good standing and is not practicing law may also be appointed to serve as judge of any court except the Supreme Court. A retired judge acting under this paragraph will receive pay and expenses in the amount established by the Supreme Court.

(c) A commissioner who has retired as a commissioner in good standing and is not practicing law may also be appointed to serve as commissioner of any court except the Supreme Court or Court of Appeals. A retired commissioner acting under this paragraph will receive pay and expenses in the amount established by the Supreme Court.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004.

Sec. 3. Minnesota Statutes 2002, section 260C.163, subdivision 3, is amended to read:

Subd. 3. [APPOINTMENT OF COUNSEL.] (a) The child, parent, guardian or custodian has the right to effective assistance of counsel in connection with a proceeding in juvenile court.

(b) Except in proceedings where the sole basis for the petition is habitual truancy, if the child, parent, guardian, or custodian desires counsel but is unable to employ it, the court shall appoint counsel to represent the child who is ten years of age or older or the parents or guardian in any case in which it feels that such an appointment is appropriate. In the case of a child who is ten years of age or older, the counsel appointed shall be the district public defender. Appointed counsel for a parent, guardian, or custodian must not be the district public defender. Appointed counsel for a parent, guardian, or custodian must be paid for by the county in which the petition originates.

(c) In any proceeding where the sole basis for the petition is habitual truancy, the child, parent, guardian, and custodian do not have the right to appointment of a public defender or other counsel at public expense. However, before any out-of-home placement, including foster care or inpatient treatment, can be ordered, the court must appoint a public defender or other counsel at public expense in accordance with paragraph (b).

(d) Counsel for the child shall not also act as the child's guardian ad litem.

(e) In any proceeding where the subject of a petition for a child in need of protection or services is not represented by an attorney, the court shall determine the child's preferences regarding the proceedings, if the child is of suitable age to express a preference.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004.

Sec. 4. Minnesota Statutes 2003 Supplement, section 270A.03, subdivision 5, is amended to read:

Subd. 5. [DEBT.] "Debt" means a legal obligation of a natural person to pay a fixed and certain amount of money, which equals or exceeds \$25 and which is due and payable to a claimant agency. The term includes criminal fines imposed under section 609.10 or 609.125 and restitution. ~~The term also includes the co-payment for the appointment of a district public defender imposed under section 611.17, paragraph (e).~~ A debt may arise under a contractual or statutory obligation, a court order, or other legal obligation, but need not have been reduced to judgment.

A debt includes any legal obligation of a current recipient of assistance which is based on overpayment of an assistance grant where that payment is based on a client waiver or an administrative or judicial finding of an intentional program violation; or where the debt is owed to a program wherein the debtor is not a client at the time notification is provided to initiate recovery under this chapter and the debtor is not a current recipient of food support, transitional child care, or transitional medical assistance.

A debt does not include any legal obligation to pay a claimant agency for medical care, including hospitalization if the income of the debtor at the time when the medical care was rendered does not exceed the following amount:

- (1) for an unmarried debtor, an income of \$8,800 or less;
- (2) for a debtor with one dependent, an income of \$11,270 or less;
- (3) for a debtor with two dependents, an income of \$13,330 or less;
- (4) for a debtor with three dependents, an income of \$15,120 or less;
- (5) for a debtor with four dependents, an income of \$15,950 or less; and
- (6) for a debtor with five or more dependents, an income of \$16,630 or less.

The income amounts in this subdivision shall be adjusted for inflation for debts incurred in calendar years 2001 and thereafter. The dollar amount of each income level that applied to debts incurred in the prior year shall be increased in the same manner as provided in section 1(f) of the Internal Revenue Code of 1986, as amended through December 31, 2000, except that for the purposes of this subdivision the percentage increase shall be determined from the year starting September 1, 1999, and ending August 31, 2000, as the base year for adjusting for inflation for debts incurred after December 31, 2000.

Debt also includes an agreement to pay a MinnesotaCare premium, regardless of the dollar amount of the premium authorized under section 256L.15, subdivision 1a.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004.

Sec. 5. Minnesota Statutes 2003 Supplement, section 357.021, subdivision 6, is amended to read:

Subd. 6. [SURCHARGES ON CRIMINAL AND TRAFFIC OFFENDERS.] (a) The court shall impose and the court administrator shall collect a \$60 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle parking, for which there shall be a \$3 surcharge. In the Second Judicial District, the court shall impose, and the court administrator shall collect, an additional \$1 surcharge on every person convicted of any felony, gross misdemeanor, or petty misdemeanor offense, including a violation of a law or ordinance relating to vehicle parking, if the Ramsey County Board of Commissioners authorizes the \$1 surcharge. The surcharge shall be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed.

(b) If the court fails to impose a surcharge as required by this subdivision, the court administrator shall show the imposition of the surcharge, collect the surcharge and correct the record.

(c) The court may not waive payment of the surcharge required under this subdivision. Upon a showing of indigency or undue hardship upon the convicted person or the convicted person's immediate family, the sentencing court may authorize payment of the surcharge in installments.

(d) The court administrator or other entity collecting a surcharge shall forward it to the commissioner of finance.

(e) If the convicted person is sentenced to imprisonment and has not paid the surcharge before the term of imprisonment begins, the chief executive officer of the correctional facility in which the convicted person is incarcerated shall collect the surcharge from any earnings the inmate accrues from work performed in the facility or while on conditional release. The chief executive officer shall forward the amount collected to the commissioner of finance.

**[EFFECTIVE DATE.]** This section is effective either the day after the governing body of Ramsey County authorizes imposition of the surcharge, or July 1, 2004, whichever is the later date, and applies to convictions on or after the effective date.

Sec. 6. Minnesota Statutes 2003 Supplement, section 357.021, subdivision 7, is amended to read:

Subd. 7. [DISBURSEMENT OF SURCHARGES BY COMMISSIONER OF FINANCE.] (a) Except as provided in paragraphs (b) ~~and~~, (c), and (d), the commissioner of finance shall disburse surcharges received under subdivision 6 and section 97A.065, subdivision 2, as follows:

(1) one percent shall be credited to the game and fish fund to provide peace officer training for employees of the Department of Natural Resources who are licensed under sections 626.84 to 626.863, and who possess peace officer authority for the purpose of enforcing game and fish laws;

(2) 39 percent shall be credited to the peace officers training account in the special revenue fund; and

(3) 60 percent shall be credited to the general fund.

(b) The commissioner of finance shall credit \$3 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, to the general fund.



(c) In addition to any amounts credited under paragraph (a), the commissioner of finance shall credit \$32 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, and the \$3 parking surcharge, to the general fund.

(d) If the Ramsey County Board of Commissioners authorizes imposition of the additional \$1 surcharge provided for in subdivision 6, paragraph (a), the court administrator in the Second Judicial District shall transmit the surcharge to the commissioner of finance who shall credit the surcharge to the general fund.

[EFFECTIVE DATE.] This section is effective either the day after the governing body of Ramsey County authorizes imposition of the surcharge, or July 1, 2004, whichever is the later date, and applies to convictions on or after the effective date.

Sec. 7. Minnesota Statutes 2002, section 489.01, is amended by adding a subdivision to read:

Subd. 4. [COURT COMMISSIONER RETIREMENT.] Upon retirement of a court commissioner, the retired commissioner may be appointed pursuant to section 2.724 and assigned to aid and assist in the performance of such duties as may be assigned by the chief judge of the district and act thereon with full powers of a commissioner as provided in section 489.02.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 8. [545A.01] [APPEAL OF PRETRIAL ORDERS; ATTORNEY FEES; DEFENDANT; NOT GOVERNMENT RESPONSIBILITY.]

(a) Notwithstanding Rule 28.04, subdivision 2, clause (6), of the Rules of Criminal Procedure, the government unit is not required to pay the attorney fees and costs incurred by the defendant on the unit's appeal of the following:

(1) in any case, from a pretrial order of the trial court;

(2) in felony cases, from any sentence imposed or stayed by the trial court;

(3) in any case, from an order granting postconviction relief;

(4) in any case, from a judgment of acquittal by the trial court entered after the jury returns a verdict of guilty under Rule 26.03, subdivision 17(2) or (3), of the Rules of Criminal Procedure; and

(5) in any case, from an order of the trial court vacating judgment and dismissing the case made after the jury returns a verdict of guilty under Rule 26.04, subdivision 2, of the Rules of Criminal Procedure.

(b) Paragraph (a) does not apply if the defendant is represented by the public defender in this matter.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 9. Minnesota Statutes 2003 Supplement, section 611.14, is amended to read:

611.14 [RIGHT TO REPRESENTATION BY PUBLIC DEFENDER.]

The following persons who are financially unable to obtain counsel are entitled to be represented by a public defender:

(1) a person charged with a felony, gross misdemeanor, or misdemeanor including a person charged under sections 629.01 to 629.29;

(2) a person appealing from a conviction of a felony or gross misdemeanor, or a person convicted of a felony or gross misdemeanor, who is pursuing a postconviction proceeding and who has not already had a direct appeal of the conviction, but if the person pled guilty and received a presumptive sentence or a downward departure in sentence, and the state public defender reviewed the person's case and determined that there was no basis for an appeal of the conviction or of the sentence, then the state public defender may decline to represent the person in a postconviction remedy case;

(3) a person who is entitled to be represented by counsel under section 609.14, subdivision 2; or

(4) a minor ten years of age or older who is entitled to be represented by counsel under section 260B.163, subdivision 4, or 260C.163, subdivision 3.

The Board of Public Defense must not provide or pay for public defender services to persons other than those entitled to representation under this section.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004.

Sec. 10. Minnesota Statutes 2002, section 611.16, is amended to read:

611.16 [REQUEST FOR APPOINTMENT OF PUBLIC DEFENDER.]

Any person described in section 611.14 ~~or any other person entitled by law to representation by counsel~~, may at any time request the court in which the matter is pending, or the court in which the conviction occurred, to appoint a public defender to represent the person. In a proceeding defined by clause (2) of section 611.14, application for the appointment of a public defender may also be made to a judge of the Supreme Court.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2003 Supplement, section 611.17, subdivision 1, is amended to read:

Subdivision 1. [STANDARDS FOR DISTRICT PUBLIC DEFENSE ELIGIBILITY.] (a) Each judicial district must screen requests for representation by the district public defender. A defendant is financially unable to obtain counsel if:

(1) the defendant, or any dependent of the defendant who resides in the same household as the defendant, receives means-tested governmental benefits; or

(2) the defendant, through any combination of liquid assets and current income, would be unable to pay the reasonable costs charged by private counsel in that judicial district for a defense of the same matter.

(b) Upon a request for the appointment of counsel, the court shall make appropriate inquiry into the financial circumstances of the applicant, who shall submit a financial statement under oath or affirmation setting forth the applicant's assets and liabilities, including the value of any real property owned by the applicant, whether homestead or otherwise, less the amount of any encumbrances on the real property, the source or sources of income, and any other information required by the court. The applicant shall be under a continuing duty while represented by a public defender to disclose any changes in the applicant's financial circumstances that might be relevant to the applicant's eligibility for a public defender. The state public defender shall furnish appropriate forms for the

financial statements. The forms must contain conspicuous notice of the applicant's continuing duty to disclose to the court changes in the applicant's financial circumstances. The forms must also contain conspicuous notice of the applicant's obligation to make a co-payment for the services of the district public defender, as specified under paragraph (c). The information contained in the statement shall be confidential and for the exclusive use of the court and the public defender appointed by the court to represent the applicant except for any prosecution under section 609.48. A refusal to execute the financial statement or produce financial records constitutes a waiver of the right to the appointment of a public defender. The court shall not appoint a district public defender to a defendant who is financially able to retain private counsel but refuses to do so.

An inquiry to determine financial eligibility of a defendant for the appointment of the district public defender shall be made whenever possible prior to the court appearance and by such persons as the court may direct. This inquiry may be combined with the prerelease investigation provided for in Minnesota Rule of Criminal Procedure 6.02, subdivision 3. In no case shall the district public defender be required to perform this inquiry or investigate the defendant's assets or eligibility. The court has the sole duty to conduct a financial inquiry. The inquiry must include the following:

- (1) the liquidity of real estate assets, including the defendant's homestead;
- (2) any assets that can be readily converted to cash or used to secure a debt;
- (3) the determination of whether the transfer of an asset is voidable as a fraudulent conveyance; and

(4) the value of all property transfers occurring on or after the date of the alleged offense. The burden is on the accused to show that he or she is financially unable to afford counsel. Defendants who fail to provide information necessary to determine eligibility shall be deemed ineligible. The court must not appoint the district public defender as advisory counsel.

(c) Upon ~~appointment of the public defender~~ disposition of the case, an individual who ~~receives~~ has received public defender services shall ~~be obligated to~~ pay to the court a co-payment for representation provided by a public defender, unless the co-payment is, or has been, waived by the court. The co-payment shall be according to the following schedule:

- (1) if the person was charged with a felony, \$200;
- (2) if the person was charged with a gross misdemeanor, \$100; or
- (3) if the person was charged with a misdemeanor, \$50.

If the person is a child and was appointed counsel under the provisions of section 260B.163, subdivision 4, the parents of the child shall pay to the court a co-payment of \$100. If the person is a parent of a child and the parent was appointed counsel under the provisions of section 260C.163, subdivision 3, the parent shall pay to the court a co-payment of \$200. The co-payment shall be deposited in the state general fund.

If a term of probation is imposed as a part of an offender's sentence, the co-payment required by this section must not be made a condition of probation. The co-payment required by this section is a civil obligation and must not be made a condition of a criminal sentence. ~~Collection of the co-payment may be made through the provisions of chapter 270A, the Revenue Recapture Act.~~

~~(d) All public defender co-pay revenue collected under paragraph (c) and revenues less statutory fees collected under chapter 270A shall be deposited in the public defender co-pay account in the special revenue fund.~~

~~The first \$2,740,000 deposited in the public defender co-pay account must be transferred to the general fund. This is not an annual transfer. Receipts in excess of the first \$2,740,000 are appropriated to the Board of Public Defense for public defender services.~~

**[EFFECTIVE DATE.]** This section is effective July 1, 2004, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2002, section 611.215, subdivision 1, is amended to read:

Subdivision 1. [STRUCTURE; MEMBERSHIP.] (a) The State Board of Public Defense is a part of, but is not subject to the administrative control of, the judicial branch of government. The State Board of Public Defense shall consist of seven members including:

(1) ~~four~~ two attorneys admitted to the practice of law, well acquainted with the defense of persons accused of crime, but not employed as prosecutors, appointed by the Supreme Court; ~~and~~

(2) three public members appointed by the governor; and

(3) one attorney admitted to the practice of law, well acquainted with the defense of persons accused of crime, but not employed as a prosecutor, appointed by the speaker of the house of representatives; and

(4) one attorney admitted to the practice of law, well acquainted with the defense of persons accused of crime, but not employed as a prosecutor, appointed by the senate majority leader.

After the expiration of the terms of persons appointed to the board before March 1, 1991, the appointing authorities may not appoint a person who is a judge to be a member of the State Board of Public Defense, other than as a member of the ad hoc Board of Public Defense.

(b) All members shall demonstrate an interest in maintaining a high quality, independent defense system for those who are unable to obtain adequate representation. Appointments to the board shall include qualified women and members of minority groups. At least three members of the board shall be from judicial districts other than the First, Second, Fourth, and Tenth Judicial Districts. The terms, compensation, and removal of members shall be as provided in section 15.0575. The chair shall be elected by the members from among the membership for a term of two years.

(c) In addition, the State Board of Public Defense shall consist of a nine-member ad hoc board when considering the appointment of district public defenders under section 611.26, subdivision 2. The terms of chief district public defenders currently serving shall terminate in accordance with the staggered term schedule set forth in section 611.26, subdivision 2.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004.

Sec. 13. Minnesota Statutes 2003 Supplement, section 611.25, subdivision 1, is amended to read:

Subdivision 1. [REPRESENTATION.] (a) The state public defender shall represent, without charge:

(1) a defendant or other person appealing from a conviction of a felony or gross misdemeanor;

(2) a person convicted of a felony or gross misdemeanor who is pursuing a postconviction proceeding and who has not already had a direct appeal of the conviction, but if the person pled guilty and received a presumptive sentence or a downward departure in sentence, and the state public defender reviewed the person's case and determined that there was no basis for an appeal of the conviction or of the sentence, then the state public defender may decline to represent the person in a postconviction remedy case; and

(3) a child who is appealing from a delinquency adjudication or from an extended jurisdiction juvenile conviction.

(b) The state public defender may represent, without charge, all other persons pursuing a postconviction remedy under section 590.01, who are financially unable to obtain counsel.

~~(c) The state public defender shall represent any other person, who is financially unable to obtain counsel, when directed to do so by the Supreme Court or the Court of Appeals, except that~~ The state public defender shall not represent a person in any action or proceeding in which a party is seeking a monetary judgment, recovery or award. When requested by a district public defender or appointed counsel, the state public defender may assist the district public defender, appointed counsel, or an organization designated in section 611.216 in the performance of duties, including trial representation in matters involving legal conflicts of interest or other special circumstances, and assistance with legal research and brief preparation. ~~When the state public defender is directed by a court to represent a defendant or other person, the state public defender may assign the representation to any district public defender.~~

**[EFFECTIVE DATE.]** This section is effective July 1, 2004, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2003 Supplement, section 611.26, subdivision 6, is amended to read:

Subd. 6. [PERSONS DEFENDED.] The district public defender shall represent, without charge, a defendant charged with a felony, a gross misdemeanor, or misdemeanor when so directed by the district court. The district public defender shall also represent a minor ten years of age or older in the juvenile court when so directed by the juvenile court. The district public defender must not serve as advisory counsel. The juvenile court ~~may~~ must not order the district public defender to represent a minor who is under the age of ten years, to serve as a guardian ad litem, ~~or to represent a guardian ad litem,~~ or to represent a parent, guardian, or custodian under section 260C.163.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004.

Sec. 15. Minnesota Statutes 2003 Supplement, section 611.272, is amended to read:

611.272 [ACCESS TO GOVERNMENT DATA.]

The district public defender, the state public defender, or an attorney working for a public defense corporation under section 611.216 has access to the criminal justice data communications network described in section 299C.46, as provided in this section. Access to data under this section is limited to data ~~regarding the public defender's own client~~ as necessary to prepare criminal cases in which the public defender has been appointed, ~~including as follows:~~

(1) access to data about witnesses in a criminal case shall be limited to records of criminal convictions; and

(2) access to data regarding the public defender's own client which includes, but is not limited to, criminal history data under section 13.87; juvenile offender data under section 299C.095; warrant information data under section 299C.115; incarceration data under section 299C.14; conditional release data under section 299C.147; and diversion program data under section 299C.46, subdivision 5.

The public defender has access to data under this section, whether accessed via CrimNet or other methods. The public defender does not have access to law enforcement active investigative data under section 13.82, subdivision 7; data protected under section 13.82, subdivision 17; ~~or~~ confidential arrest warrant indices data under section 13.82, subdivision 19; or data systems maintained by a prosecuting attorney. The public defender has access to the data at

no charge, except for the monthly network access charge under section 299C.46, subdivision 3, paragraph (b), and a reasonable installation charge for a terminal. Notwithstanding section 13.87, subdivision 3; 299C.46, subdivision 3, paragraph (b); 299C.48, or any other law to the contrary, there shall be no charge to public defenders for Internet access to the criminal justice data communications network.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 16. [REPEALER.]

Minnesota Statutes 2003 Supplement, section 611.18, is repealed.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

## ARTICLE 9

### CORRECTIONS AND PUBLIC SAFETY

Section 1. Minnesota Statutes 2002, section 169A.52, subdivision 7, is amended to read:

Subd. 7. [TEST REFUSAL; DRIVING PRIVILEGE LOST.] (a) On behalf of the commissioner, a peace officer requiring a test or directing the administration of a chemical test shall serve immediate notice of intention to revoke and of revocation on a person who refuses to permit a test or on a person who submits to a test the results of which indicate an alcohol concentration of 0.10 or more.

(b) On behalf of the commissioner, a peace officer requiring a test or directing the administration of a chemical test of a person driving, operating, or in physical control of a commercial motor vehicle shall serve immediate notice of intention to disqualify and of disqualification on a person who refuses to permit a test, or on a person who submits to a test the results of which indicate an alcohol concentration of 0.04 or more.

(c) The officer shall ~~either~~:

(1) ~~take the driver's license or permit, if any, invalidate the person's driver's license or permit card by clipping the upper corner of the card in such a way that no identifying information including the photo is destroyed, and immediately return the card to the person;~~

(2) issue the person a temporary license effective for only seven days; and

(3) send # the notification of this action to the commissioner along with the certificate required by subdivision 3 or 4, and issue a temporary license effective only for seven days; or

~~(2) invalidate the driver's license or permit in such a way that no identifying information is destroyed.~~

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 2. Minnesota Statutes 2002, section 169A.60, subdivision 11, is amended to read:

Subd. 11. [RESCISSION OF REVOCATION; AND DISMISSAL OR ACQUITTAL; NEW PLATES.] If:

(1) the driver's license revocation that is the basis for an impoundment order is rescinded; and

(2) the charges for the plate impoundment violation have been dismissed with prejudice; or

(3) the violator has been acquitted of the plate impoundment violation;

then the registrar of motor vehicles shall issue new registration plates for the vehicle at no cost, when the registrar receives an application that includes a copy of the order rescinding the driver's license revocation, and the order dismissing the charges, or the judgment of acquittal.

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

Sec. 3. Minnesota Statutes 2002, section 169A.63, subdivision 8, is amended to read:

Subd. 8. [ADMINISTRATIVE FORFEITURE PROCEDURE.] (a) A motor vehicle used to commit a designated offense or used in conduct resulting in a designated license revocation is subject to administrative forfeiture under this subdivision.

(b) When a motor vehicle is seized under subdivision 2, the appropriate agency shall serve the driver or operator of the vehicle with a notice of the seizure and intent to forfeit the vehicle. Additionally, when a motor vehicle is seized under subdivision 2, or within a reasonable time after that, all persons known to have an ownership, possessory, or security interest in the vehicle must be notified of the seizure and the intent to forfeit the vehicle. For those vehicles required to be registered under chapter 168, the notification to a person known to have a security interest in the vehicle is required only if the vehicle is registered under chapter 168 and the interest is listed on the vehicle's title. Notice mailed by certified mail to the address shown in Department of Public Safety records is sufficient notice to the registered owner of the vehicle. For motor vehicles not required to be registered under chapter 168, notice mailed by certified mail to the address shown in the applicable filing or registration for the vehicle is sufficient notice to a person known to have an ownership, possessory, or security interest in the vehicle. Otherwise, notice may be given in the manner provided by law for service of a summons in a civil action.

(c) The notice must be in writing and contain:

(1) a description of the vehicle seized;

(2) the date of seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English, Hmong, and Spanish. Substantially the following language must appear conspicuously: "IF YOU DO NOT DEMAND JUDICIAL REVIEW EXACTLY AS PRESCRIBED IN MINNESOTA STATUTES, SECTION 169A.63, SUBDIVISION 8, YOU LOSE THE RIGHT TO A JUDICIAL DETERMINATION OF THIS FORFEITURE AND YOU LOSE ANY RIGHT YOU MAY HAVE TO THE ABOVE DESCRIBED PROPERTY. YOU MAY NOT HAVE TO PAY THE FILING FEE FOR THE DEMAND IF DETERMINED YOU ARE UNABLE TO AFFORD THE FEE. IF THE PROPERTY IS WORTH \$7,500 OR LESS, YOU MAY FILE YOUR CLAIM IN CONCILIATION COURT. YOU DO NOT HAVE TO PAY THE CONCILIATION COURT FILING FEE IF THE PROPERTY IS WORTH LESS THAN \$500."

(d) Within 30 days following service of a notice of seizure and forfeiture under this subdivision, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with: (1) proof of service of a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture, as well as on the appropriate agency that initiated the forfeiture; and (2) the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is \$7,500 or less, the claimant may file an action in conciliation court for recovery of the seized vehicle. A copy of the conciliation court statement of claim must be served personally or by mail on the prosecuting authority having jurisdiction over the forfeiture and on the appropriate agency that initiated the forfeiture within 30 days following

service of the notice of seizure and forfeiture under this subdivision. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee. No responsive pleading is required of the prosecuting authority or the appropriate agency and no court fees may be charged for the prosecuting authority's appearance in the matter. The prosecuting authority may appear for the appropriate agency. Except as provided in this section, judicial reviews and hearings are governed by section 169A.53, subdivisions 2 and 3, and, at the option of the prosecuting authority, may take place at the same time as any judicial review of the person's license revocation under section 169A.53. If the judicial review and hearing under this section do not take place at the same time as the judicial review of the person's license revocation under section 169A.53, the review and hearing must take place at the earliest practicable date. The proceedings may be combined with any hearing on a petition filed under section 169A.53, subdivision 2, and are governed by the Rules of Civil Procedure.

(e) The complaint must be captioned in the name of the claimant as plaintiff and the seized vehicle as defendant, and must state with specificity the grounds on which the claimant alleges the vehicle was improperly seized and the plaintiff's interest in the vehicle seized. Notwithstanding any law to the contrary, an action for the return of a vehicle seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(f) If the claimant makes a timely demand for a judicial determination under this subdivision, the appropriate agency must conduct the forfeiture under subdivision 9.

(g) If a demand for judicial determination of an administrative forfeiture is filed under this subdivision and the court orders the return of the seized vehicle, the court shall order that filing fees be reimbursed to the person who filed the demand. In addition, the court may order sanctions under section 549.211 (sanctions in civil actions).

**[EFFECTIVE DATE.]** This section is effective August 1, 2004.

Sec. 4. Minnesota Statutes 2002, section 241.336, is amended by adding a subdivision to read:

Subd. 3. [PROCEDURES WITHOUT CONSENT; EXPEDITED PROCESS; INMATE NOTICE.] (a) An inmate in a correctional facility is subject to the collection and testing of a blood sample if a significant exposure occurs. In the absence of affirmative consent and cooperation in the collection of a blood sample, the head of a correctional facility may order an inmate to provide a blood sample for testing for bloodborne pathogens if the requirements of this subdivision are met.

(b) The head of a correctional facility must not order the taking of a blood sample under this subdivision unless one or more affidavits have been executed attesting that:

(1) the correctional facility followed the procedures in sections 241.33 to 241.342 and attempted to obtain bloodborne pathogen test results according to those sections;

(2) a licensed physician knowledgeable about the most current recommendations of the United States Public Health Service has determined that a significant exposure has occurred to the corrections employee under section 241.341; and

(3) a physician has documented that the corrections employee has provided a blood sample and consented to testing for bloodborne pathogens, and bloodborne pathogen test results are needed for beginning, continuing, modifying, or discontinuing medical treatment for the corrections employee under section 241.341.

(c) The head of the correctional facility may order the inmate to provide a blood sample for bloodborne pathogen testing if, based on the affidavits submitted under paragraph (b) or other available evidence:



(1) there is probable cause to believe the corrections employee has experienced a significant exposure to the inmate;

(2) the correctional facility imposes appropriate safeguards against unauthorized disclosure, limits uses of samples to those authorized by section 241.338, limits access to the test results to the inmate and to persons who have a direct need for the test results, and establishes a protocol for the destruction of test results after they are no longer needed;

(3) a physician for the corrections employee needs the test results for beginning, continuing, modifying, or discontinuing medical treatment for the corrections employee; and

(4) the head of the correctional facility finds that the interests of the corrections employee and the state in obtaining the test results outweigh the interests of the inmate. In that analysis, the head of the correctional facility may consider the corrections employee's interests, including health, safety, productivity, resumption of normal work and nonwork activities, and peace of mind against the interests of the inmate, including privacy, health, and safety. The head of the correctional facility may also consider the interests of the state and public, including economic, productivity, and safety interests.

(d) Facilities shall cooperate with petitioners in providing any necessary affidavits to the extent that facility staff can attest under oath to the facts in the affidavits.

(e) The commissioner of corrections and local correctional facilities authorities must provide written notice to each inmate through the inmate handbook, or a comparable document, that an inmate may be subject to a blood draw without a hearing if the inmate causes bodily fluids to come into contact with employees of the Department of Corrections or local correctional facilities.

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

Sec. 5. Minnesota Statutes 2002, section 243.24, subdivision 2, is amended to read:

Subd. 2. [CHIEF EXECUTIVE OFFICER TO INCREASE FUND TO \$100.] If the fund standing to the credit of the prisoner on the prisoner's leaving the facility by discharge, supervised release, or on parole be less than \$100, the warden or chief executive officer is directed to pay out of the current expense fund of the facility sufficient funds to make the total of said earnings the sum of \$100. Offenders who have previously received the \$100 upon their initial release from incarceration will not receive the \$100 on any second or subsequent release from incarceration for the same offense. Offenders who were sentenced as a short-term offender under section 609.105 shall not receive gate money.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004.

Sec. 6. Minnesota Statutes 2002, section 299A.38, subdivision 2, is amended to read:

Subd. 2. [STATE AND LOCAL REIMBURSEMENT.] Peace officers and heads of local law enforcement agencies who buy vests for the use of peace officer employees may apply to the commissioner for reimbursement of funds spent to buy vests. On approving an application for reimbursement, the commissioner shall pay the applicant an amount equal to the lesser of one-half of the vest's purchase price or ~~\$300~~ \$600, as adjusted according to subdivision 2a. The political subdivision that employs the peace officer shall pay at least the lesser of one-half of the vest's purchase price or ~~\$300~~ \$600, as adjusted according to subdivision 2a. The political subdivision may not deduct or pay its share of the vest's cost from any clothing, maintenance, or similar allowance otherwise provided to the peace officer by the law enforcement agency.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004.

Sec. 7. Minnesota Statutes 2002, section 299A.38, subdivision 2a, is amended to read:

Subd. 2a. [ADJUSTMENT OF REIMBURSEMENT AMOUNT.] On October 1, ~~1997~~ 2005, the commissioner of public safety shall adjust the ~~\$300~~ \$600 reimbursement amounts specified in subdivision 2, and in each subsequent year, on October 1, the commissioner shall adjust the reimbursement amount applicable immediately preceding that October 1 date. The adjusted rate must reflect the annual percentage change in the Consumer Price Index for all urban consumers, published by the federal Bureau of Labor Statistics, occurring in the one-year period ending on the preceding June 1.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 8. [299A.645] [GANG AND DRUG OVERSIGHT COUNCIL.]

Subdivision 1. [OVERSIGHT COUNCIL ESTABLISHED.] The Gang and Drug Oversight Council is established to provide guidance related to the investigation and prosecution of gang and drug crime.

Subd. 2. [MEMBERSHIP.] The oversight council shall consist of the following individuals or their designees:

- (1) the director of the Office of Special Investigations, as the representative of the commissioner of corrections;
- (2) the superintendent of the Bureau of Criminal Apprehension, as the representative of the commissioner of public safety;
- (3) the attorney general;
- (4) six chiefs of police, selected by the Minnesota Chiefs of Police Association;
- (5) six sheriffs, selected by the Minnesota Sheriffs Association to represent each district;
- (6) the United States Attorney for the District of Minnesota;
- (7) two county attorneys, selected by the Minnesota County Attorneys Association;
- (8) a command-level representative of a gang strike force;
- (9) a representative from a drug task force, selected by the Minnesota State Association of Narcotics Investigators;
- (10) a representative from the United States Drug Enforcement Administration;
- (11) a representative from the United States Bureau of Alcohol, Tobacco and Firearms; and
- (12) two additional members may be selected by the oversight council.

The oversight council may adopt procedures to govern its conduct as necessary and may select a chair from among its members.

Subd. 3. [OVERSIGHT COUNCIL'S DUTIES.] The oversight council shall develop an overall strategy to ameliorate the harm caused to the public by gang and drug crime within the state. This strategy may include the development of protocols and procedures to investigate gang and drug crime and a structure for best addressing these issues in a multijurisdictional manner. Additionally, the oversight council shall have the following responsibilities:

(1) identifying and recommending a candidate or candidates for statewide coordinator to the commissioner of public safety;

(2) establishing multijurisdictional task and strike forces to combat gang and drug crime;

(3) assisting the Department of Public Safety in developing an objective grant review application process that is free from conflicts of interests;

(4) making funding recommendations to the commissioner of public safety on grants to support efforts to combat gang and drug crime;

(5) assisting in developing a process to collect and share information to improve the investigation and prosecution of drug offenses;

(6) developing and approving an operational budget for the office of the statewide coordinator and the oversight council; and

(7) adopting criteria for use in determining whether individuals are or may be members of gangs involved in criminal activity.

Subd. 4. [STATEWIDE COORDINATOR.] The commissioner shall appoint a statewide coordinator as selected by the oversight council. The coordinator, serving in unclassified service, shall be responsible for the following:

(1) coordinating and monitoring the activities of the task forces;

(2) facilitating local efforts and ensuring statewide coordination with efforts to combat gang and drug crime;

(3) facilitating training for personnel;

(4) monitoring compliance with investigative protocols; and

(5) implementing an outcome evaluation and data quality control process.

Subd. 5. [PARTICIPATING OFFICERS; EMPLOYMENT STATUS.] All participating law enforcement officers must be licensed peace officers as defined under section 626.84, subdivision 1, or qualified federal law enforcement officers as defined in section 626.8453. Participating officers remain employees of the same entity that employed them before joining any multijurisdictional entity established under this section. Participating officers are not employees of the state.

Subd. 6. [JURISDICTION AND POWERS.] Law enforcement officers participating in any multijurisdictional entity established under this section have statewide jurisdiction to conduct criminal investigations and have the same powers of arrest as those possessed by a sheriff.

Subd. 7. [GRANTS AUTHORIZED.] After considering recommendations from the oversight council, the commissioner of public safety may make grants to state and local units of government to combat gang and drug crime.

Subd. 8. [OVERSIGHT COUNCIL IS PERMANENT.] Notwithstanding section 15.059, this section does not expire.

Subd. 9. [FUNDING.] Participating agencies may accept lawful grants or contributions from any federal source or legal business or entity.

Subd. 10. [ROLE OF THE ATTORNEY GENERAL.] The attorney general or a designee shall generally advise on any matters that the oversight council deems appropriate.

Subd. 11. [ATTORNEY GENERAL; COMMUNITY LIAISON.] (a) The attorney general or a designee shall serve as a liaison between the oversight council and the councils created in sections 3.922, 3.9223, 3.9225, and 3.9226. The attorney general or designee will be responsible for:

(1) informing the councils of the plans, activities, and decisions, and hearing their reactions to those plans, activities, and decisions; and

(2) providing the oversight council with the council's position on the oversight council's plans, activities, and decisions.

(b) In no event is the oversight council required to disclose the names of individuals identified by it to the councils referenced in this subdivision.

(c) Nothing in this subdivision changes the data classification of any data held by the oversight council.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 9. Minnesota Statutes 2002, section 357.021, is amended by adding a subdivision to read:

Subd. 8. [PROCEEDS COLLECTED FOR THE CRIMINAL JUSTICE SPECIAL PROJECTS ACCOUNT.] Any proceeds received under this section by the treasurer after June 30, 2003, for the criminal justice special projects account in the special revenue fund shall be transferred to the general fund.

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

Sec. 10. [REPEALER.]

Minnesota Statutes 2002, sections 299A.64; 299A.65; and 299A.66, are repealed.

[EFFECTIVE DATE.] This section is effective July 1, 2004."

Delete the title and insert:

"A bill for an act relating to public safety; appropriating money for the courts, public safety, corrections, the Sentencing Guidelines Commission, public defenders, and other agencies and programs; providing a life penalty for most first degree criminal sexual conduct crimes; creating indeterminate sentences and mandatory life sentences for second degree criminal sexual conduct and certain third and fourth degree criminal sexual conduct crimes; creating a criminal sexual predatory conduct crime; establishing minimum sentences for certain sex offenses; establishing the Minnesota Sex Offender Review Board; providing procedures for operation of the review board; specifying when an offender may petition for conditional release; directing the Sentencing Guidelines Commission to assess risk levels and presumptive sentences for certain offenses; requiring the commissioner of corrections to establish criteria and procedures for reviewing offenders' petitions for release; exempting the Minnesota Sex Offender Review Board and certain responsibilities of the commissioner of corrections from rulemaking; specifying that the Open Meeting Law does not apply to meetings and hearings of the Minnesota Sex Offender Review Board; instructing the revisor to renumber various statutes; providing for registration of predatory offenders; providing a registration procedure when

a person lacks a primary address; requiring the commissioner of corrections to convene an end-of-confinement review committee to assess the risk level of offenders coming into Minnesota from another state; clarifying current law requiring assessment of offenders released from federal facilities; allowing community notification pursuant to a risk level assigned in another state; requiring the Bureau of Criminal Apprehension to forward registration and notification information on certain offenders to the Department of Corrections; directing the commissioner of corrections to determine whether notification laws of other states are comparable to Minnesota's notification law; repealing various laws pertaining to sex offenders; making various technical and conforming changes; regulating the sale of methamphetamine precursor drugs; authorizing reporting of suspicious transactions involving these drugs and providing civil immunity for so doing; requiring a methamphetamine educational program for retailers; further regulating while recodifying activities involving anhydrous ammonia; requiring courts to order restitution in certain situations involving controlled substances; imposing property restrictions in certain situations involving controlled substances; increasing the criminal penalties for possessing certain substances with the intent to manufacture methamphetamine and imposing a mandatory minimum sentence for so doing; establishing new methamphetamine-related crimes; expanding the definition of "violent crime" for mandatory sentencing purposes; requiring that vehicles and other property used to manufacture methamphetamine indicate this in the title or deed; establishing a methamphetamine laboratory cleanup revolving fund and authorizing loans to assist counties and cities in conducting methamphetamine cleanup; expanding the crime of causing death while committing child abuse; treating probation officers the same as correctional employees for purposes of certain assaults; specifically including conduct involving sex trafficking in the promoting prostitution crime; modifying the distribution formula for prostitution and sex trafficking-related forfeiture proceeds; prohibiting nonvehicular evasive flight from a peace officer; establishing a crime for interfering with ambulance service personnel who are providing emergency care; increasing the criminal penalties for interfering with privacy; increasing the age of protected minor victims for enhanced penalties for this crime; providing for representation by the public defender; providing public defender access to government data; requiring the public defense co-payment to be deposited in the general fund; increasing the appropriation for fiscal year 2005; permitting Ramsey County to collect and receive a \$1 criminal surcharge in order to fund Ramsey County's petty misdemeanor diversion program; providing that when a person is arrested for driving while impaired, the arresting officer must invalidate and return the person's driver's license card for use as an identification card during the period of license suspension, revocation, or cancellation; clarifying DWI plate impoundment law; establishing an expedited process for the nonconsensual collection of a blood sample from an inmate when a corrections employee is significantly exposed to the potential transfer of a bloodborne pathogen; safety of emergency workers on highways; defining "appropriate reduced speed" when approaching or passing stopped emergency vehicle in certain circumstances; increasing surcharge on failure to drive at appropriate reduced speed when approaching or passing stopped emergency vehicle; authorizing citation within four hours of offense; proscribing a penalty on owner or lessee of vehicle when driver fails to drive at appropriate reduced speed at the scene of an emergency; requiring certain information to be included in driver education curriculum and driver's manual; enacting a model postconviction DNA analysis act; providing procedures for persons convicted of crimes to establish innocence by petitioning the court for DNA analysis; authorizing retired court commissioners to be appointed to perform judicial duties in the district court; providing increased reimbursement for bullet-resistant vests; prohibiting falsely reporting police misconduct; imposing criminal penalties; amending Minnesota Statutes 2002, sections 2.722, subdivision 1; 2.724, subdivision 3; 13.851, by adding a subdivision; 13D.01, subdivision 2; 152.135, subdivision 2; 168A.05, subdivision 3; 169.14, subdivision 3, by adding subdivisions; 169A.52, subdivision 7; 169A.60, subdivision 11; 169A.63, subdivision 8; 171.13, by adding a subdivision; 241.336, by adding a subdivision; 241.67, subdivision 3; 243.166, as amended; 243.167; 243.24, subdivision 2; 243.55, subdivision 1; 244.05, subdivisions 1, 3, 4, 5, 6, 7; 244.052, subdivisions 3, 4, by adding a subdivision; 244.195, subdivision 1; 253B.185, subdivision 2; 260C.163, subdivision 3; 299A.38, subdivisions 2, 2a; 357.021, by adding a subdivision; 401.01, subdivision 2; 489.01, by adding a subdivision; 609.1095, subdivision 1; 609.117, subdivisions 1, 2; 609.1351; 609.185; 609.2231, subdivision 1; 609.321, subdivision 7, by adding a subdivision; 609.341, by adding subdivisions; 609.342; 609.343; 609.344; 609.345; 609.3452, subdivision 4; 609.347; 609.3471; 609.348; 609.353; 609.487, by adding a subdivision; 609.50, subdivision 1; 609.505; 609.5315, subdivision 1, by adding a subdivision; 609.746, subdivision 1; 609.748, subdivisions 2, 3a; 609.749, subdivisions 1, 2; 611.16; 611.215, subdivision 1; 631.045; Minnesota Statutes 2003 Supplement, sections 152.021, subdivisions 2a, 3; 270A.03, subdivision 5; 357.021, subdivisions 6, 7; 609.2231, subdivision 3; 611.14; 611.17, subdivision 1; 611.25,

subdivision 1; 611.26, subdivision 6; 611.272; proposing coding for new law in Minnesota Statutes, chapters 152; 244; 299A; 446A; 545A; 590; 609; repealing Minnesota Statutes 2002, sections 18C.005, subdivisions 1a, 35a; 18C.201, subdivisions 6, 7; 18D.331, subdivision 5; 243.166, subdivisions 1, 8; 299A.64; 299A.65; 299A.66; 609.108; 609.109; Minnesota Statutes 2003 Supplement, section 611.18."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Bradley from the Committee on Health and Human Services Finance to which was referred:

H. F. No. 2127, A bill for an act relating to health; requiring licensure for outpatient surgical centers and diagnostic imaging facilities; providing for review and inspections; requiring certain disclosures; requiring reports; modifying disciplinary grounds for physicians; requiring participation in state health programs for certain reimbursements; amending Minnesota Statutes 2002, sections 144.55, subdivisions 1, 2, 3, 5, 6, 7, by adding subdivisions; 144.651, subdivision 2; 144.653, subdivision 4; 144.696, by adding a subdivision; 144.698, subdivisions 1, 2, 3, 5; 144.699, subdivisions 1, 2; 144.701, subdivisions 1, 2, 3; 144.702, subdivisions 1, 2, 3; 147.091, subdivision 1; 256B.0644; Minnesota Statutes 2003 Supplement, section 144.7063, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 144.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 144.55, subdivision 1, is amended to read:

Subdivision 1. [ISSUANCE.] The state commissioner of health is hereby authorized to issue licenses to operate hospitals, sanitariums, outpatient surgical centers, or other institutions for the hospitalization or care of human beings, which are found to comply with the provisions of sections 144.50 to 144.56 and any reasonable rules promulgated by the commissioner. The commissioner shall not require an outpatient surgical center licensed as part of a hospital to obtain a separate outpatient surgical center license. All decisions of the commissioner thereunder may be reviewed in the district court in the county in which the institution is located or contemplated.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004.

Sec. 2. Minnesota Statutes 2002, section 144.55, is amended by adding a subdivision to read:

Subd. 1a. [LICENSE FEE.] The annual license fee for outpatient surgical centers is \$1,512.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004.

Sec. 3. Minnesota Statutes 2002, section 144.55, is amended by adding a subdivision to read:

Subd. 1b. [STANDARDS FOR NURSING CARE.] As a condition of licensure, outpatient surgical centers must provide nursing care consistent with nationally accepted nursing clinical standards for perioperative nursing, including, but not limited to, Association of Operating Room Nurses and American Nurses Association standards, which are generally accepted in the professional nursing community.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004.

Sec. 4. Minnesota Statutes 2002, section 144.55, subdivision 2, is amended to read:

Subd. 2. [~~DEFINITION~~ DEFINITIONS.] For the purposes of this section, the following terms have the meanings given:

(1) "outpatient surgical center" or "center" means a freestanding facility organized for the specific purpose of providing elective outpatient surgery for preexamined, prediagnosed, low-risk patients. Admissions are limited to procedures that utilize general anesthesia or conscious sedation and that do not require overnight inpatient care. An outpatient surgical center is not organized to provide regular emergency medical services and does not include a physician's or dentist's office or clinic for the practice of medicine or dentistry or the delivery of primary care; and

(2) "joint commission" means the Joint Commission on Accreditation of ~~Hospitals~~ Health Care Organizations.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 5. Minnesota Statutes 2002, section 144.55, subdivision 3, is amended to read:

Subd. 3. [STANDARDS FOR LICENSURE.] (a) Notwithstanding the provisions of section 144.56, for the purpose of hospital licensure, the commissioner of health shall use as minimum standards the hospital certification regulations promulgated pursuant to Title XVIII of the Social Security Act, United States Code, title 42, section 1395, et seq. The commissioner may use as minimum standards changes in the federal hospital certification regulations promulgated after May 7, 1981, if the commissioner finds that such changes are reasonably necessary to protect public health and safety. The commissioner shall also promulgate in rules additional minimum standards for new construction.

(b) Each hospital and outpatient surgical center shall establish policies and procedures to prevent the transmission of human immunodeficiency virus and hepatitis B virus to patients and within the health care setting. The policies and procedures shall be developed in conformance with the most recent recommendations issued by the United States Department of Health and Human Services, Public Health Service, Centers for Disease Control. The commissioner of health shall evaluate a hospital's compliance with the policies and procedures according to subdivision 4.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 6. Minnesota Statutes 2002, section 144.55, subdivision 5, is amended to read:

Subd. 5. [COORDINATION OF INSPECTIONS.] Prior to conducting routine inspections of hospitals and outpatient surgical centers, a state agency shall notify the commissioner of its intention to inspect. The commissioner shall then determine whether the inspection is necessary in light of any previous inspections conducted by the commissioner, any other state agency, or the joint commission. The commissioner shall notify the agency of the determination and may authorize the agency to conduct the inspection. No state agency may routinely inspect any hospital without the authorization of the commissioner. The commissioner shall coordinate, insofar as is possible, routine inspections conducted by state agencies, so as to minimize the number of inspections to which hospitals are subject.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 7. Minnesota Statutes 2002, section 144.55, subdivision 6, is amended to read:

Subd. 6. [SUSPENSION, REVOCATION, AND REFUSAL TO RENEW.] (a) The commissioner may refuse to grant or renew, or may suspend or revoke, a license on any of the following grounds:

(1) violation of any of the provisions of sections 144.50 to 144.56 or the rules or standards issued pursuant thereto, or Minnesota Rules, chapters 4650 and 4675;

- (2) permitting, aiding, or abetting the commission of any illegal act in the institution;
- (3) conduct or practices detrimental to the welfare of the patient; or
- (4) obtaining or attempting to obtain a license by fraud or misrepresentation; or

(5) with respect to hospitals and outpatient surgical centers, if the commissioner determines that there is a pattern of conduct that one or more physicians who have a financial or economic interest, as defined in section 144.6521, subdivision 3, in the hospital or outpatient surgical center have not provided the notice and disclosure of the financial or economic interest required by section 144.6521.

(b) The commissioner shall not renew a license for a boarding care bed in a resident room with more than four beds.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004.

Sec. 8. Minnesota Statutes 2002, section 144.55, subdivision 7, is amended to read:

Subd. 7. [HEARING.] Prior to any suspension, revocation or refusal to renew a license, the licensee shall be entitled to notice and a hearing as provided by sections 14.57 to 14.69. At each hearing, the commissioner shall have the burden of establishing that a violation described in subdivision 6 has occurred.

If a license is revoked, suspended, or not renewed, a new application for license may be considered by the commissioner if the conditions upon which revocation, suspension, or refusal to renew was based have been corrected and evidence of this fact has been satisfactorily furnished. A new license may then be granted after proper inspection has been made and all provisions of sections 144.50 to 144.56 and any rules promulgated thereunder, or Minnesota Rules, chapters 4650 and 4675, have been complied with and recommendation has been made by the inspector as an agent of the commissioner.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004.

Sec. 9. [144.565] [DIAGNOSTIC IMAGING FACILITIES.]

Subdivision 1. [UTILIZATION AND SERVICES DATA; ECONOMIC AND FINANCIAL INTERESTS.] The commissioner shall require diagnostic imaging facilities to annually report to the commissioner, in the form and manner specified by the commissioner:

- (1) utilization data by individual payor;
- (2) medical service data by individual payor; and
- (3) the names of all individuals with a financial or economic interest in the facility.

Subd. 2. [COMMISSIONER'S RIGHT TO INSPECT RECORDS.] If the report is not filed or the commissioner has reason to believe the report is incomplete or false, the commissioner has the right to inspect diagnostic imaging facility books, audits, and records.

Subd. 3. [SEPARATE REPORTS.] For a diagnostic imaging facility that is not attached or not contiguous to a hospital or a hospital affiliate, the commissioner shall require the information in subdivision 1 to be reported separately for each detached diagnostic imaging facility as part of the report required under section 144.702. If an entity owns more than one diagnostic imaging facility, that entity must report by individual facility.



Subd. 4. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given:

(1) "diagnostic imaging facility" means a health care facility that provides diagnostic imaging services through the use of ionizing radiation or other imaging technique including, but not limited to, magnetic resonance imaging (MRI) or computerized tomography (CT) scan on a freestanding or mobile basis;

(2) "financial or economic interest" means a direct or indirect:

(i) equity or debt security issued by an entity, including, but not limited to, shares of stock in a corporation, membership in a limited liability company, beneficial interest in a trust, units or other interests in a partnership, bonds, debentures, notes or other equity interests or debt instruments, or any contractual arrangements;

(ii) membership, proprietary interest, or co-ownership with an individual, group, or organization to which patients, clients, or customers are referred; or

(iii) employer-employee or independent contractor relationship, including, but not limited to, those that may occur in a limited partnership, profit-sharing arrangement, or other similar arrangement with any facility to which patients are referred, including any compensation between a facility and a health care provider, the group practice of which the provider is a member or employee or a related party with respect to any of them;

(3) "freestanding" means a diagnostic imaging facility that is not located within a:

(i) hospital;

(ii) location licensed as a hospital; or

(iii) physician's office or clinic where the professional practice of medicine by licensed physicians is the primary purpose and not the provision of ancillary services such as diagnostic imaging; and

(4) "mobile" means a diagnostic imaging facility that is transported to various sites, not including movement within a hospital or a physician's office or clinic.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 10. Minnesota Statutes 2002, section 144.651, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For the purposes of this section, "patient" means a person who is admitted to an acute care inpatient facility for a continuous period longer than 24 hours, for the purpose of diagnosis or treatment bearing on the physical or mental health of that person. For purposes of subdivisions 4 to 9, 12, 13, 15, 16, and 18 to 20, "patient" also means a person who receives health care services at an outpatient surgical center. "Patient" also means a minor who is admitted to a residential program as defined in section 253C.01. For purposes of subdivisions 1, 3 to 16, 18, 20 and 30, "patient" also means any person who is receiving mental health treatment on an outpatient basis or in a community support program or other community-based program. "Resident" means a person who is admitted to a nonacute care facility including extended care facilities, nursing homes, and boarding care homes for care required because of prolonged mental or physical illness or disability, recovery from injury or disease, or advancing age. For purposes of all subdivisions except subdivisions 28 and 29, "resident" also means a person who is admitted to a facility licensed as a board and lodging facility under Minnesota Rules, parts 4625.0100 to 4625.2355, or a supervised living facility under Minnesota Rules, parts 4665.0100 to 4665.9900, and which operates a rehabilitation program licensed under Minnesota Rules, parts 9530.4100 to 9530.4450.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

## Sec. 11. [144.6521] [DISCLOSURE OF FINANCIAL INTEREST.]

Subdivision 1. [DISCLOSURE.] (a) No health care provider with a financial or economic interest in, or an employment or contractual arrangement that limits referral options with, a hospital, outpatient surgical center, or diagnostic imaging facility, or an affiliate of one of these entities, shall refer a patient to that hospital, center, or facility, or an affiliate of one of these entities, unless the health care provider discloses in writing to the patient, in advance of the referral, the existence of such an interest, employment, or arrangement.

(b) The written disclosure form must be printed in letters of at least 12-point boldface type and must read as follows: "Your health care provider is referring you to a facility or service in which your health care provider has a financial or economic interest."

(c) Hospitals, outpatient surgical centers, and diagnostic imaging facilities shall promptly report to the commissioner of health any suspected violations of this section by a health care provider who has made a referral to such hospital, outpatient surgical center, or diagnostic imaging facility without providing the written notice.

Subd. 2. [POSTING OF NOTICE.] In addition to the requirement in subdivision 1, each health care provider who makes referrals to a hospital, outpatient surgical center, or diagnostic imaging facility, or an affiliate of one of these entities, in which the health care provider has a financial or economic interest, or has an employment or contractual arrangement with one of these entities that limits referral options, shall post a notice of this interest, employment, or arrangement in a patient reception area or waiting room or other conspicuous public location within the provider's facility.

Subd. 3. [DEFINITION.] (a) For purposes of this section, the following definitions apply.

(b) "Affiliate" means an entity that controls, is controlled by, or is under common control with another entity.

(c) "Diagnostic imaging facility" has the meaning provided in section 144.565, subdivision 4.

(d) "Employment or contractual arrangement that limits referral options" means a requirement, or a financial incentive, provided to a health care provider to refer a patient to a specific hospital, outpatient surgical center, or diagnostic imaging facility, or an affiliate of one of these entities, even if other options exist for the patient.

(e) "Freestanding" has the meaning provided in section 144.565, subdivision 4.

(f) "Financial or economic interest" means a direct or indirect:

(1) equity or debt security issued by an entity, including, but not limited to, shares of stock in a corporation, membership in a limited liability company, beneficial interest in a trust, units or other interests in a partnership, bonds, debentures, notes or other equity interests or debt instruments, or any contractual arrangements;

(2) membership, proprietary interest, or co-ownership with an individual, group, or organization to which patients, clients, or customers are referred; or

(3) employer-employee or independent contractor relationship, including, but not limited to, those that may occur in a limited partnership, profit-sharing arrangement, or other similar arrangement with any facility to which patients are referred, including any compensation between a facility and a health care provider, the group practice of which the provider is a member or employee or a related party with respect to any of them.

(g) "Health care provider" means an individual licensed by a health licensing board as defined in section 214.01, subdivision 2, who has the authority, within the individual's scope of practice, to make referrals to a hospital, outpatient surgical center, or diagnostic imaging facility.

(h) "Mobile" has the meaning provided in section 144.565, subdivision 4.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 12. Minnesota Statutes 2002, section 144.653, subdivision 4, is amended to read:

Subd. 4. [WITHOUT NOTICE.] One or more unannounced inspections of each facility required to be licensed under the provisions of sections 144.50 to 144.58 or Minnesota Rules, chapter 4675, shall be made annually.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 13. Minnesota Statutes 2002, section 144.698, subdivision 1, is amended to read:

Subdivision 1. [YEARLY REPORTS.] Each hospital and each outpatient surgical center, which has not filed the financial information required by this section with a voluntary, nonprofit reporting organization pursuant to section 144.702, shall file annually with the commissioner of health after the close of the fiscal year:

- (1) a balance sheet detailing the assets, liabilities, and net worth of the hospital or outpatient surgical center;
- (2) a detailed statement of income and expenses;
- (3) a copy of its most recent cost report, if any, filed pursuant to requirements of Title XVIII of the United States Social Security Act;
- (4) a copy of all changes to articles of incorporation or bylaws;
- (5) information on services provided to benefit the community, including services provided at no cost or for a reduced fee to patients unable to pay, teaching and research activities, or other community or charitable activities;
- (6) information required on the revenue and expense report form set in effect on July 1, 1989, or as amended by the commissioner in rule; ~~and~~
- (7) information on changes in ownership or control; and
- (8) other information required by the commissioner in rule.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 14. Minnesota Statutes 2002, section 144.698, subdivision 5, is amended to read:

Subd. 5. [COMMISSIONER'S RIGHT TO INSPECT RECORDS.] If the report is not filed or the commissioner of health has reason to believe the report is incomplete or false, the commissioner shall have the right to inspect hospital and outpatient surgical center books, audits, and records as reasonably necessary to verify hospital and outpatient surgical center reports.

Sec. 15. Minnesota Statutes 2003 Supplement, section 144.7063, subdivision 3, is amended to read:

Subd. 3. [FACILITY.] "Facility" means a hospital or outpatient surgical center licensed under sections 144.50 to 144.58.

[EFFECTIVE DATE.] This section is effective August 1, 2004, or on the date of full implementation of the adverse health care events reporting system as provided in Laws 2003, chapter 99, section 7, whichever is later.

Sec. 16. Minnesota Statutes 2002, section 147.091, subdivision 1, is amended to read:

Subdivision 1. [GROUNDS LISTED.] The board may refuse to grant a license, may refuse to grant registration to perform interstate telemedicine services, or may impose disciplinary action as described in section 147.141 against any physician. The following conduct is prohibited and is grounds for disciplinary action:

(a) Failure to demonstrate the qualifications or satisfy the requirements for a license contained in this chapter or rules of the board. The burden of proof shall be upon the applicant to demonstrate such qualifications or satisfaction of such requirements.

(b) Obtaining a license by fraud or cheating, or attempting to subvert the licensing examination process. Conduct which subverts or attempts to subvert the licensing examination process includes, but is not limited to: (1) conduct which violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination; (2) conduct which violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials; or (3) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf.

(c) Conviction, during the previous five years, of a felony reasonably related to the practice of medicine or osteopathy. Conviction as used in this subdivision shall include a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered thereon.

(d) Revocation, suspension, restriction, limitation, or other disciplinary action against the person's medical license in another state or jurisdiction, failure to report to the board that charges regarding the person's license have been brought in another state or jurisdiction, or having been refused a license by any other state or jurisdiction.

(e) Advertising which is false or misleading, which violates any rule of the board, or which claims without substantiation the positive cure of any disease, or professional superiority to or greater skill than that possessed by another physician.

(f) Violating a rule promulgated by the board or an order of the board, a state, or federal law which relates to the practice of medicine, or in part regulates the practice of medicine including without limitation sections 148A.02, 609.344, and 609.345, or a state or federal narcotics or controlled substance law.

(g) Engaging in any unethical conduct; conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare or safety of a patient; or medical practice which is professionally incompetent, in that it may create unnecessary danger to any patient's life, health, or safety, in any of which cases, proof of actual injury need not be established.

(h) Failure to supervise a physician's assistant or failure to supervise a physician under any agreement with the board.

(i) Aiding or abetting an unlicensed person in the practice of medicine, except that it is not a violation of this paragraph for a physician to employ, supervise, or delegate functions to a qualified person who may or may not be required to obtain a license or registration to provide health services if that person is practicing within the scope of that person's license or registration or delegated authority.

(j) Adjudication as mentally incompetent, mentally ill or mentally retarded, or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of competent jurisdiction, within or without this state. Such adjudication shall automatically suspend a license for the duration thereof unless the board orders otherwise.

(k) Engaging in unprofessional conduct. Unprofessional conduct shall include any departure from or the failure to conform to the minimal standards of acceptable and prevailing medical practice in which proceeding actual injury to a patient need not be established.

(l) Inability to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills.

(m) Revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law.

(n) Failure by a doctor of osteopathy to identify the school of healing in the professional use of the doctor's name by one of the following terms: osteopathic physician and surgeon, doctor of osteopathy, or D.O.

(o) Improper management of medical records, including failure to maintain adequate medical records, to comply with a patient's request made pursuant to section 144.335 or to furnish a medical record or report required by law.

(p) Fee splitting, including without limitation:

(1) paying, offering to pay, receiving, or agreeing to receive, a commission, rebate, or remuneration, directly or indirectly, primarily for the referral of patients or the prescription of drugs or devices;

(2) dividing fees with another physician or a professional corporation, unless the division is in proportion to the services provided and the responsibility assumed by each professional and the physician has disclosed the terms of the division;

(3) referring a patient to any health care provider as defined in section 144.335 in which the referring physician has a ~~significant~~ financial or economic interest, as defined in section 144.6521, subdivision 3, unless the physician has disclosed the physician's ~~own financial interest~~ financial or economic interest according to section 144.6521; and

(4) dispensing for profit any drug or device, unless the physician has disclosed the physician's own profit interest.

The physician must make the disclosures required in this clause in advance and in writing to the patient and must include in the disclosure a statement that the patient is free to choose a different health care provider. This clause does not apply to the distribution of revenues from a partnership, group practice, nonprofit corporation, or professional corporation to its partners, shareholders, members, or employees if the revenues consist only of fees for services performed by the physician or under a physician's direct supervision, or to the division or distribution of prepaid or capitated health care premiums, or fee-for-service withhold amounts paid under contracts established under other state law.

(q) Engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws.

(r) Becoming addicted or habituated to a drug or intoxicant.

(s) Prescribing a drug or device for other than medically accepted therapeutic or experimental or investigative purposes authorized by a state or federal agency or referring a patient to any health care provider as defined in section 144.335 for services or tests not medically indicated at the time of referral.

(t) Engaging in conduct with a patient which is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior which is seductive or sexually demeaning to a patient.

(u) Failure to make reports as required by section 147.111 or to cooperate with an investigation of the board as required by section 147.131.

(v) Knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo.

(w) Aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(1) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(2) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(3) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(4) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2.

(x) Practice of a board-regulated profession under lapsed or nonrenewed credentials.

(y) Failure to repay a state or federally secured student loan in accordance with the provisions of the loan.

(z) Providing interstate telemedicine services other than according to section 147.032.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004.

Sec. 17. Minnesota Statutes 2002, section 256B.02, subdivision 7, is amended to read:

Subd. 7. [VENDOR OF MEDICAL CARE.] (a) "Vendor of medical care" means any person or persons furnishing, within the scope of the vendor's respective license, any or all of the following goods or services: medical, surgical, hospital, ambulatory surgical center services, optical, visual, dental and nursing services; drugs and medical supplies; appliances; laboratory, diagnostic, and therapeutic services; nursing home and convalescent care; screening and health assessment services provided by public health nurses as defined in section 145A.02, subdivision 18; health care services provided at the residence of the patient if the services are performed by a public health nurse and the nurse indicates in a statement submitted under oath that the services were actually provided; and such other medical services or supplies provided or prescribed by persons authorized by state law to give such services and supplies. The term includes, but is not limited to, directors and officers of corporations or members of

partnerships who, either individually or jointly with another or others, have the legal control, supervision, or responsibility of submitting claims for reimbursement to the medical assistance program. The term only includes directors and officers of corporations who personally receive a portion of the distributed assets upon liquidation or dissolution, and their liability is limited to the portion of the claim that bears the same proportion to the total claim as their share of the distributed assets bears to the total distributed assets.

(b) "Vendor of medical care" also includes any person who is credentialed as a health professional under standards set by the governing body of a federally recognized Indian tribe authorized under an agreement with the federal government according to United States Code, title 25, section 450f, to provide health services to its members, and who through a tribal facility provides covered services to American Indian people within a contract health service delivery area of a Minnesota reservation, as defined under Code of Federal Regulations, title 42, section 36.22.

(c) A federally recognized Indian tribe that intends to implement standards for credentialing health professionals must submit the standards to the commissioner of human services, along with evidence of meeting, exceeding, or being exempt from corresponding state standards. The commissioner shall maintain a copy of the standards and supporting evidence, and shall use those standards to enroll tribal-approved health professionals as medical assistance providers. For purposes of this section, "Indian" and "Indian tribe" mean persons or entities that meet the definition in United States Code, title 25, section 450b.

**[EFFECTIVE DATE.]** This section is effective August 1, 2004."

Delete the title and insert:

"A bill for an act relating to health; requiring licensure for outpatient surgical centers; requiring certain disclosures; requiring reports for diagnostic imaging facilities; providing for inspections; modifying disciplinary grounds for physicians; modifying certain definitions for medical assistance; amending Minnesota Statutes 2002, sections 144.55, subdivisions 1, 2, 3, 5, 6, 7, by adding subdivisions; 144.651, subdivision 2; 144.653, subdivision 4; 144.698, subdivisions 1, 5; 147.091, subdivision 1; 256B.02, subdivision 7; Minnesota Statutes 2003 Supplement, section 144.7063, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 144."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Ozment from the Committee on Environment and Natural Resources Finance to which was referred:

H. F. No. 2602, A bill for an act relating to the environment; requiring motor vehicle recyclers to remove mercury switches; amending Minnesota Statutes 2002, section 116.92, subdivision 4.

Reported the same back with the following amendments:

Page 1, after line 24, insert:

"Sec. 2. [REPORT.]

The Office of Environmental Assistance must report to the chairs of the legislative committees on environment and natural resources on the collection rate for retrieving mercury switches during 2005 and 2006."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "requiring a report;"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

Haas from the Committee on State Government Finance to which was referred:

H. F. No. 2684, A bill for an act relating to utilities; making energy reliability utility assessments retroactive; amending Minnesota Statutes 2003 Supplement, section 216C.052, subdivision 3.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [STATE GOVERNMENT APPROPRIATIONS.]

The dollar amounts shown in the columns marked "APPROPRIATIONS" are added to or, if shown in parentheses, are subtracted from the appropriations in Laws 2003, First Special Session chapter 1, article 1, and are appropriated from the general fund, or any other fund named, to the agencies and for the purposes specified in this article, to be available for the fiscal year indicated for each purpose. The figures "2004" and "2005" used in this article mean that the appropriation or appropriations listed under them are available for the fiscal years ending June 30, 2004, and June 30, 2005, respectively.

#### SUMMARY BY FUND

	2004	2005	TOTAL
General	\$(456,000)	\$3,207,000	\$2,751,000

#### APPROPRIATIONS Available for the Year Ending June 30

2004	2005
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#### Sec. 2. LEGISLATURE

Subdivision 1. Total Appropriation	-0-	(152,000)
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#### Subd. 2. Senate

\$2,000,000 is canceled to the general fund from amounts previously carried forward under Minnesota Statutes, section 16A.281.



APPROPRIATIONS  
Available for the Year  
Ending June 30

	2004	2005
--	------	------

Subd. 3. House of Representatives

\$2,000,000 is canceled to the general fund from amounts previously carried forward under Minnesota Statutes, section 16A.281.

Subd. 4. Legislative Coordinating Commission

	-0-	(152,000)
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The reduction in this subdivision takes effect only if a bill is enacted in 2004 transferring duties related to actuarial services from the Legislative Commission on Pensions and Retirement to public pension funds.

Sec. 3. GOVERNOR AND LIEUTENANT GOVERNOR	-0-	(108,000)
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Sec. 4. STATE AUDITOR	-0-	(249,000)
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Sec. 5. ATTORNEY GENERAL	-0-	(677,000)
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\$2,000,000 of the amount carried forward from fiscal year 2003 to fiscal year 2004 is canceled to the general fund.

Sec. 6. SECRETARY OF STATE	-0-	(181,000)
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Sec. 7. ADMINISTRATION	-0-	(432,000)
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Sec. 8. FINANCE	(456,000)	(456,000)
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The commissioner of finance may use \$40,000 of the general fund appropriation in Laws 2003, First Special Session chapter 1, article 1, section 28, to pay unemployment insurance and other shutdown costs related to the elimination of the Office of Ombudsman for Corrections. The funds remain available until June 30, 2005.

Sec. 9. EMPLOYEE RELATIONS	-0-	(186,000)
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Sec. 10. REVENUE	-0-	(1,402,000)
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Sec. 11. MILITARY AFFAIRS		
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Subdivision 1. Total Appropriation	-0-	4,428,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
2004 2005

## Subd. 2. Appropriation Reduction

	-0-	(222,000)
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## Subd. 3. Reenlistment Bonus Program

	-0-	1,500,000
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The appropriation in this subdivision is for a reenlistment bonus program as authorized by Minnesota Statutes, section 192.501, subdivision 1b. The appropriation for the reenlistment bonus program is available until expended.

## Subd. 4. National Guard Youth Camp

	-0-	50,000
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The appropriation in this subdivision is to assist in the operation of the Minnesota National Guard Youth Camp at Camp Ripley. This appropriation is contingent on a dollar-for-dollar match from nonstate sources. This is a onetime appropriation.

## Subd. 5. Tuition and Textbook Reimbursement Grant Program

	-0-	3,100,000
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The appropriation in this subdivision is in addition to funding provided by Laws 2003, First Special Session chapter 1, article 1, section 16, subdivision 4. This appropriation is available until expended.

## Sec. 12. VETERANS AFFAIRS

	-0-	(78,000)
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## Sec. 13. LOTTERY

Operating budget limits established in Minnesota Statutes, section 349A.10, Laws 2003, First Special Session chapter 1, article 1, section 23, or any amendment to Laws 2003, First Special Session chapter 1, article 1, section 23, adopted by the 2004 legislature, do not apply to new duties relating to lease of gaming machines assigned to the lottery by proposed Minnesota Statutes, section 349A.17 or 349A.20, or by other laws enacted in 2004.

APPROPRIATIONS  
Available for the Year  
Ending June 30

	2004	2005
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Sec. 14. ADMINISTRATION; MOVING COSTS	-0-	2,500,000
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This appropriation is for relocation of state agencies as determined by the commissioner of administration.

Sec. 15. Minnesota Statutes 2002, section 10A.31, subdivision 4, is amended to read:

Subd. 4. [APPROPRIATION.] ~~(a)~~ The amounts designated by individuals for the state elections campaign fund, less three percent, are appropriated from the general fund, must be transferred and credited to the appropriate account in the state elections campaign fund, and are annually appropriated for distribution as set forth in subdivisions 5, 5a, 6, and 7. The remaining three percent must be kept in the general fund for administrative costs.

~~(b) In addition to the amounts in paragraph (a), \$1,500,000 for each general election is appropriated from the general fund for transfer to the general account of the state elections campaign fund.~~

Sec. 16. Minnesota Statutes 2003 Supplement, section 16A.11, subdivision 3, is amended to read:

Subd. 3. [PART TWO: DETAILED BUDGET.] (a) Part two of the budget, the detailed budget estimates both of expenditures and revenues, must contain any statements on the financial plan which the governor believes desirable or which may be required by the legislature. The detailed estimates shall include the governor's budget arranged in tabular form.

(b) Tables listing expenditures for the next biennium must show the appropriation base for each year as well as the governor's total recommendation for that year for each expenditure line. The appropriation base is the amount appropriated for the second year of the current biennium, adjusted in accordance with any provisions of law that specify changes to the base. For a statutory appropriation not specifying a dollar amount or for an appropriation for a forecasted program, the appropriation base is the amount estimated to fulfill the appropriation according to the most recent forecast prepared by the commissioner of finance pursuant to section 16A.103.

(c) The detailed estimates must include a separate line listing the total cost of professional and technical service contracts for the prior biennium and the projected costs of those contracts for the current and upcoming biennium. They must also include a summary of the personnel employed by the agency, reflected as full-time equivalent positions.

(d) The detailed estimates for internal service funds must include the number of full-time equivalents by program; detail on any loans from the general fund, including dollar amounts by program; proposed investments in technology or equipment of \$100,000 or more; an explanation of any operating losses or increases in retained earnings; and a history of the rates that have been charged, with an explanation of any rate changes and the impact of the rate changes on affected agencies.

Sec. 17. Minnesota Statutes 2002, section 16B.55, subdivision 3, is amended to read:

Subd. 3. [PERMITTED USES.] A state vehicle may be used by a state employee to travel to or from the employee's residence:

(1) on a day on which it may be necessary for the employee to respond to a work-related emergency during hours when the employee is not normally working;

(2) if the employee has been assigned the use of a state vehicle for authorized state business on an extended basis, and the employee's primary place of work is not the state work station to which the employee is permanently assigned;

(3) if the employee has been assigned the use of a state vehicle for authorized state business away from the work station to which the employee is permanently assigned, and the number of miles traveled, or the time needed to conduct the business, will be minimized if the employee uses a state vehicle to travel to the employee's residence before or after traveling to the place of state business; or

(4) if the employee is authorized to participate in a ridesharing program established by the commissioner pursuant to section 174.257.

Use of a state vehicle under this subdivision requires the prior approval of the agency head or the designee of the agency head. A state employee must reimburse the employer for the use of a state vehicle to the extent the use would be considered a taxable fringe benefit for the employee under the Internal Revenue Code and regulations implementing the code, but for the employee reimbursing the employer. The reimbursement must be at the same rate per mile as the standard mileage rate for business use of an automobile permitted under the Internal Revenue Code and regulations in effect when the employee uses the state vehicle. A state employee must report use of a state vehicle under this subdivision to the employer within 15 days of use of the vehicle. Notwithstanding any law to the contrary, the employer must deduct from the employee's pay the amount due to the employer under this subdivision.

Sec. 18. Minnesota Statutes 2003 Supplement, section 192.501, subdivision 2, is amended to read:

Subd. 2. [TUITION AND TEXTBOOK REIMBURSEMENT GRANT PROGRAM.] (a) The adjutant general shall establish a program to provide tuition and textbook reimbursement grants to eligible members of the Minnesota National Guard within the limitations of this subdivision.

(b) Eligibility is limited to a member of the National Guard who:

(1) is serving satisfactorily as defined by the adjutant general;

(2) is attending a postsecondary educational institution, as defined by section 136A.15, subdivision 6, including a vocational or technical school operated or regulated by this state or another state or province; and

(3) provides proof of satisfactory completion of coursework, as defined by the adjutant general.

In addition, if a member of the Minnesota National Guard is killed in the line of state active service or federally funded state active service, as defined in section 190.05, subdivisions 5a and 5b, the member's surviving spouse, and any surviving dependent who has not yet reached 24 years of age, is eligible for a tuition and textbook reimbursement grant.

The adjutant general may, within the limitations of this paragraph and other applicable laws, determine additional eligibility criteria for the grant, and must specify the criteria in department regulations and publish changes as necessary.

(c) The amount of a tuition and textbook reimbursement grant must be specified on a schedule as determined and published in department regulations by the adjutant general, but is limited to a maximum of an amount equal to the greater of:

(1) ~~75 percent~~ of the cost of tuition for lower division programs in the College of Liberal Arts at the Twin Cities campus of the University of Minnesota in the most recent academic year; or

(2) ~~50 percent~~ of the cost of tuition for the program in which the person is enrolled at that Minnesota public institution, or if that public institution is outside the state of Minnesota, for the cost of a comparable program at the University of Minnesota, except that in the case of a survivor as defined in paragraph (b), the amount of the tuition and textbook reimbursement grant for coursework satisfactorily completed by the person is limited to 100 percent of the cost of tuition for postsecondary courses at a Minnesota public educational institution.

Paragraph (b) notwithstanding, a person is no longer eligible for a grant under this subdivision once the person has received grants under this subdivision for the equivalent of 208 quarter credits or 144 semester credits of coursework.

(d) Tuition and textbook reimbursement grants received under this subdivision may not be considered by the Minnesota Higher Education Services Office or by any other state board, commission, or entity in determining a person's eligibility for a scholarship or grant-in-aid under sections 136A.095 to 136A.1311.

(e) If a member fails to complete a term of enlistment during which a tuition and textbook reimbursement grant was paid, the adjutant general may seek to recoup a prorated amount as determined by the adjutant general.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004.

Sec. 19. Minnesota Statutes 2002, section 193.29, subdivision 3, is amended to read:

Subd. 3. **[JOINT BOARDS.]** ~~In all cases in which~~ If more than one company or other unit of the military forces ~~shall occupy~~ occupies the same armory, the armory board shall consist of ~~officers~~ military personnel assigned to the units or organizations quartered therein. The adjutant general shall designate by order from time to time the representatives of each unit quartered therein to comprise the armory board for each armory. In the discretion of the adjutant general, the membership of the board may be comprised of officers, warrant officers, and enlisted personnel and may be changed from time to time so as to give the several organizations quartered therein proper representation on the board.

Sec. 20. Minnesota Statutes 2002, section 193.30, is amended to read:

193.30 ~~[COMMANDING OFFICERS ORGANIZATION OF ARMORY BOARD.]~~

The senior ~~officer~~ ranking member on each armory board shall be the chair, and the junior ~~officer~~ ranking member thereof shall be the recorder. A record of the proceedings of the board shall be kept, and all motions offered, whether seconded or not, shall be put to a vote and the result recorded. In the case of a tie vote the adjutant general, upon the request of any member, shall decide. The governor may make and alter rules for the government of armory boards, officers, and other persons having charge of armories, arsenals, or other military property of the state.

Sec. 21. Minnesota Statutes 2002, section 193.31, is amended to read:

193.31 ~~[SENIOR OFFICER RANKING MEMBER TO CONTROL DRILL HALL.]~~

The senior ~~officer~~ ranking member of any company or other organization assembling at an armory for drill or instruction shall have control of the drill hall or other portion of the premises used therefor during such occupancy, subject to the rules prescribed for its use and the orders of that ~~officer's~~ ranking member's superior. Any person who intrudes contrary to orders, or who interrupts, molests, or insults any troops so assembled, or who refuses to leave

the premises when properly requested so to do, shall be guilty of a misdemeanor. Nothing in this section shall prevent reasonable inspection of the premises by the proper municipal officer, or by the lessor thereof in accordance with the terms of the lease.

Sec. 22. [STATE LOTTERY; UNCLAIMED PRIZE MONEY; TRANSFER.]

The director of the state lottery, in consultation with the commissioner of finance, shall determine how much money is still available of the prize money that was considered unclaimed under Minnesota Statutes, section 349A.08, subdivision 5, and that was not committed to the prize of a lottery game under that section before the 2004 fiscal year. The director of the state lottery shall transfer all available prize money to the general fund.

Sec. 23. [SALE OF STATE LAND.]

Subdivision 1. [STATE LAND SALES.] The commissioner of administration shall coordinate with the head of each department or agency having control of state-owned land to identify and sell at least \$6,075,000 of state-owned land before June 30, 2005, and an additional \$6,000,000 by June 30, 2007. Sales should be completed according to law and as provided in this section. Sales required by this section are in addition to sales required by laws enacted in 2003. Notwithstanding Minnesota Statutes, sections 94.09 and 94.10, or any other law to the contrary, the commissioner may offer land for public sale by only providing notice of lands or an offer of sale of lands to state departments or agencies, the University of Minnesota, cities, counties, towns, school districts, or other public entities.

Subd. 2. [ANTICIPATED SAVINGS.] Notwithstanding Minnesota Statutes, section 94.16, subdivision 3, or other law to the contrary, the amount of the proceeds from the sale of land under this section that exceeds the actual expenses of selling the land must be deposited in the general fund, except as otherwise provided by the commissioner of finance. Notwithstanding Minnesota Statutes, section 94.11, the commissioner of finance may establish the timing of payments for land purchased under this section. If the total of all money deposited into the general fund from the proceeds of the sale of land under this section is anticipated to be less than \$6,075,000 in fiscal year 2005 and \$6,000,000 in fiscal years 2006 and 2007, the governor must allocate the amount of the difference as reductions to general fund operating expenditures for other executive agencies.

Subd. 3. [REVOLVING LOAN FUND.] \$192,200 is appropriated from the general fund in fiscal year 2005 and an additional \$200,000 for the period ending June 30, 2007, to the commissioner of administration for purposes of paying the actual expenses of selling state-owned lands to achieve the anticipated savings required in this section. From the gross proceeds of land sales under this section, the commissioner of administration must cancel the amount of the appropriation in this subdivision to the general fund by June 30, 2005.

Sec. 24. [BUILDING RENTAL.]

(a) By July 1, 2004, the commissioner of administration must issue a request for proposal seeking a person or entity to lease the state-owned building at 168 Aurora Avenue in the city of St. Paul. The request for proposal and the resulting lease must specify that:

(1) the tenant will use the building to operate a day care and after-school activity center;

(2) the tenant will make and pay for any improvements needed to allow the building to be used as a day care and after-school activity center; and

(3) the state may terminate the lease as required by law, or within 60 days after passage of a new law requiring the state to terminate the lease.

(b) The commissioner of administration must enter into a lease with a person or entity responding to the request for proposal who demonstrates willingness and ability to meet the conditions in paragraph (a), clauses (1) to (3). The lease may specify terms under which the state will reimburse the tenant for a portion of the improvements the tenant makes to the property at the conclusion of the lease.

Sec. 25. [REPAYMENT.]

If the commissioner of administration is required to repay the energy assessment account in the special revenue fund because certain expenditures from the account did not comply with law, the commissioner must make the repayment from previous general fund appropriations to the Department of Administration. Any reductions in complement resulting from this repayment must come from unclassified management positions.

Sec. 26. [RESTRICTIONS ON DEMOLITION.]

No state money may be used for demolition of the Ford Building at 117 University Avenue, Saint Paul, unless:

(1) the commissioner of administration makes reasonable efforts to attempt to lease or transfer ownership of the building to a person or entity that will preserve the historic features of the building at no cost to the state; and

(2) the commissioner reports to the chairs of the senate Finance Committee and the house Capital Investment Committee on what efforts were made to lease or transfer ownership and why these efforts were not successful.

Sec. 27. [APPROPRIATION FOR ASSISTIVE TECHNOLOGY.]

\$200,000 is appropriated from the general fund to the commissioner of administration for a grant to Assistive Technology of Minnesota as follows:

(1) \$150,000 to administer a microloan program to support the purchase of equipment and devices for people with disabilities and their families and employers; and

(2) \$50,000 to develop the access to telework program.

The appropriation is available until July 1, 2005.

Sec. 28. [EFFECTIVE DATE.]

Unless otherwise specified, sections 1 to 27 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to state government; appropriating money for the general legislative and administrative expenses of state government; modifying provisions related to state government operations; amending Minnesota Statutes 2002, sections 10A.31, subdivision 4; 16B.55, subdivision 3; 193.29, subdivision 3; 193.30; 193.31; Minnesota Statutes 2003 Supplement, sections 16A.11, subdivision 3; 192.501, subdivision 2."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Harder from the Committee on Agriculture and Rural Development Finance to which was referred:

H. F. No. 2755, A bill for an act relating to agriculture; changing the amount of certain grain buyers' bonds and certain financial reporting requirements; amending Minnesota Statutes 2002, section 223.17, subdivision 6; Minnesota Statutes 2003 Supplement, section 223.17, subdivision 4.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [AGRICULTURE APPROPRIATIONS AND REDUCTIONS.]

The dollar amounts in the columns under "APPROPRIATIONS" are added to or, if shown in parentheses, are subtracted from the appropriations in Laws 2003, chapter 128, article 3, or other law, to the specified agencies. The appropriations are from the general fund or other named fund and are available for the fiscal years indicated for each purpose. The figures "2004" and "2005" means that the addition to or subtraction from the appropriations listed under the figure are for the fiscal year ending June 30, 2004, or June 30, 2005, respectively. The term "first year" means the year ending June 30, 2004, and the term "second year" means the year ending June 30, 2005.

#### SUMMARY BY FUND

APPROPRIATIONS	2004	2005	TOTAL
General	\$-0-	\$(390,000)	\$(390,000)

APPROPRIATIONS Available for the Year Ending June 30	
2004	2005

#### Sec. 2. AGRICULTURE

Subdivision 1. Total Appropriations	-0-	(306,000)
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The Department of Agriculture's general fund appropriation is reduced by \$497,000 in fiscal year 2005. This reduction, for the biennium ending June 30, 2005, must be from savings achieved without a reduction in services provided.

Subd. 2. Protection Services	-0-	191,000
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\$191,000 is added in fiscal year 2005 for the invasive species program.

Sec. 3. BOARD OF ANIMAL HEALTH	-0-	(84,000)
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Sec. 4. Minnesota Statutes 2002, section 16C.135, is amended by adding a subdivision to read:

Subd. 4. [COMMISSIONER DUTIES; PERIODIC NOTICE TO AGENCIES; REPORT TO LEGISLATURE.]  
(a) Not later than September 1, 2004, and at intervals not exceeding six months thereafter, the commissioner shall provide a written communication to the head of each agency for which the commissioner acquires or has oversight



authority for the acquisition of passenger automobiles, vans, or pickup trucks used by the agency. The communication must remind the agency head of the statutory requirement in subdivision 2 that state-owned or leased vehicles capable of being operated on E85 fuel (manufactured as flexible-fuel vehicles) should be operated on E85 fuel whenever and wherever the fuel is reasonably available. The communication must also include a form for use by the head of the agency to report to the commissioner on total fuel purchased for use in the flexible-fuel vehicles operated by the agency and the extent to which fuel purchases are E85 fuel.

(b) Not later than March 1 of each year the commissioner shall report to appropriate committees of the senate and the house of representatives on the extent to which flexible-fuel vehicles owned or leased by the state are operated on E85 fuel.

Sec. 5. Minnesota Statutes 2002, section 16C.135, is amended by adding a subdivision to read:

Subd. 5. [AGENCY REPORTS.] Each agency that operates one or more highway vehicles that are flexible-fuel vehicles shall report not later than April 1 and October 1 to the commissioner, on the form provided by the commissioner or in a comparable manner, on the extent to which the agency has complied with the requirement to use E85 fuel in flexible-fuel vehicles operated by the agency.

Sec. 6. Minnesota Statutes 2002, section 17.115, subdivision 2, is amended to read:

Subd. 2. [LOAN CRITERIA.] (a) The shared savings loan program must provide loans for purchase of new or used machinery and installation of equipment for projects that make environmental improvements or enhance farm profitability. Eligible loan uses do not include seed, fertilizer, or fuel.

(b) Loans may not exceed \$25,000 per individual applying for a loan and may not exceed \$100,000 for loans to four or more individuals on joint projects. The loan repayment period may be up to seven years as determined by project cost and energy savings. The interest rate on the loans is must not exceed six percent.

(c) Loans may only be made to residents of this state engaged in farming.

Sec. 7. Minnesota Statutes 2002, section 17.115, subdivision 3, is amended to read:

Subd. 3. [AWARDING OF LOANS.] (a) Applications for loans must be made to the commissioner on forms prescribed by the commissioner.

(b) The applications must be reviewed, ranked, and recommended by a loan review panel appointed by the commissioner. The loan review panel shall consist of two lenders with agricultural experience, two resident farmers of the state using sustainable agriculture methods, two resident farmers of the state using organic agriculture methods, a farm management specialist, a representative from a postsecondary education institution, and a chair from the department.

(c) The loan review panel shall rank applications according to the following criteria:

- (1) realize savings to the cost of agricultural production;
- (2) reduce or make more efficient use of energy or inputs;
- (3) increase overall farm profitability; and
- (4) result in environmental benefits.

(d) A loan application must show that the loan can be repaid by the applicant.

(e) The commissioner must consider the recommendations of the loan review panel and may make loans for eligible projects.

(f) The commissioner may provide loans to resident farmers beginning or expanding organic farming operations.

Sec. 8. Minnesota Statutes 2002, section 17.115, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATION; INFORMATION DISSEMINATION.] ~~The amount in the revolving loan account is appropriated to~~ The commissioner shall use designated funds in the revolving loan account in section 41B.06 to make loans under this section and administer the loan program. ~~The interest on the money in the revolving loan account and the interest on loans repaid to the state may be spent by the commissioner for administrative expenses.~~ The commissioner shall collect and disseminate information relating to projects for which loans are given under this section.

Sec. 9. Minnesota Statutes 2002, section 17B.03, subdivision 1, is amended to read:

Subdivision 1. [COMMISSIONER'S POWERS.] The commissioner of agriculture shall exercise general supervision over the inspection, grading, weighing, sampling, ~~and~~ analysis of grain, and scale testing subject to the provisions of the United States Grain Standards Act of 1976 and the rules promulgated thereunder by the United States Department of Agriculture. This activity may take place within or outside the state of Minnesota. Scale testing may be performed at export locations or, on request from and with the consent of the delegated authority, at domestic locations.

Sec. 10. Minnesota Statutes 2002, section 17B.15, subdivision 1, is amended to read:

Subdivision 1. [ADMINISTRATION; APPROPRIATION.] The fees for inspection and weighing shall be fixed by the commissioner and be a lien upon the grain. The commissioner shall set fees for all inspection and weighing in an amount adequate to pay the expenses of carrying out and enforcing the purposes of sections 17B.01 to 17B.22, including the portion of general support costs and statewide indirect costs of the agency attributable to that function, with a reserve sufficient for up to six months. The commissioner shall review the fee schedule twice each year. Fee adjustments are not subject to chapter 14. Payment shall be required for services rendered.

Fees for the testing of scales and weighing equipment must be uniform with those charged by the Division of Weights and Measures of the Department of Public Service.

All fees collected and all fines and penalties for violation of any provision of this chapter shall be deposited in the grain inspection and weighing account, which is created in the agricultural fund for carrying out the purpose of sections 17B.01 to 17B.22. The money in the account, including interest earned on the account, is annually appropriated to the commissioner of agriculture to administer the provisions of sections 17B.01 to 17B.22. When money from any other account is used to administer sections 17B.01 to 17B.22, the commissioner shall notify the chairs of the Agriculture, Environment and Natural Resources Finance, and Ways and Means Committees of the house of representatives; the Agriculture and Rural Development and Finance Committees of the senate; and the Finance Division of the Environment and Natural Resources Committee of the senate.

Sec. 11. Minnesota Statutes 2003 Supplement, section 18G.10, subdivision 5, is amended to read:

Subd. 5. [CERTIFICATE FEES.] (a) The commissioner shall assess the fees in paragraphs (b) to (f) for the inspection, service, and work performed in carrying out the issuance of a phytosanitary certificate or export certificate. The inspection fee must be based on mileage and inspection time.

(b) Mileage charge: current United States Internal Revenue Service mileage rate.

(c) Inspection time: \$50 per hour minimum or fee necessary to cover department costs. Inspection time includes the driving time to and from the location in addition to the time spent conducting the inspection.

~~(d) A fee must be charged for any certificate issued that requires laboratory analysis before issuance. The fee must be deposited into the laboratory account as authorized in section 17.85. If laboratory analysis or other technical analysis is required to issue a certificate, the commissioner must set and collect the fee to recover this additional cost.~~

(e) Certificate fee for product value greater than \$250: \$75 for each phytosanitary or export certificate issued for any single shipment valued at more than \$250 in addition to any mileage or inspection time charges that are assessed.

(f) Certificate fee for product value less than \$250: \$25 for each phytosanitary or export certificate issued for any single shipment valued at less than \$250 in addition to any mileage or inspection time charges that are assessed.

(g) For services provided under subdivision 7 for goods and services provided for the direct and primary use of a private individual, business, or other entity, the commissioner must set and collect the fees to recover the cost of the services provided.

Sec. 12. Minnesota Statutes 2003 Supplement, section 18G.10, subdivision 7, is amended to read:

Subd. 7. ~~[PLANT PROTECTION INSPECTIONS, SUPPLEMENTAL, ADDITIONAL, OR OTHER CERTIFICATES, AND PERMITS, AND FEES.]~~ (a) The commissioner may provide inspection, sampling, or certification services to ensure that Minnesota plant products or commodities meet import requirements of other states or countries.

~~(b) The state plant regulatory official commissioner may issue permits and certificates verifying that various Minnesota agricultural products or commodities meet specified phytosanitary plant health requirements, treatment requirements, or pest absence assurances based on determinations by the commissioner. The commissioner may collect fees sufficient to recover costs for these permits or certificates. The fees must be deposited in the nursery and phytosanitary account.~~

Sec. 13. Minnesota Statutes 2002, section 27.10, is amended to read:

27.10 [PRODUCE EXAMINED, WHEN.]

When produce is shipped to or received by a dealer at wholesale for handling, purchase, or sale in this state or another state designated in a cooperative agreement between the commissioner and the United States Department of Agriculture, at any market point therein giving inspection service, as provided for in section 27.07, and the dealer at wholesale finds the same to be in a spoiled, damaged, unmarketable, or unsatisfactory condition, unless both parties shall waive inspection before sale or other disposition thereof, the dealer shall cause the same to be examined by an inspector assigned by the commissioner for that purpose, and the inspector shall execute and deliver a certificate to the applicant thereof stating the day, the time and place of the inspection, and the condition of the produce and mail or deliver a copy of the certificate to the shipper thereof.

Sec. 14. Minnesota Statutes 2002, section 35.243, is amended to read:

35.243 [RULES FOR CONTROL OF BRUCELLOSIS IN CATTLE.]

The Board of Animal Health shall adopt rules to provide for the control of brucellosis in cattle. The rules may include provisions for quarantine, tests, and vaccinations, and such other measures as the board deems appropriate. A prescription from a licensed veterinarian is not required for the sale of modified live vaccines used to prevent common diseases in beef cattle, except for brucellosis, rabies, and anthrax.

Sec. 15. Minnesota Statutes 2003 Supplement, section 38.02, subdivision 1, is amended to read:

Subdivision 1. [PRO RATA DISTRIBUTION; CONDITIONS.] (a) Money appropriated to aid county and district agricultural societies and associations shall be distributed among all county and district agricultural societies or associations in the state pro rata, upon condition that each of them has complied with the conditions specified in paragraph (b).

(b) To be eligible to participate in the distribution of aid, each agricultural society or association shall have:

(1) held an annual fair for each of the three years last past, unless prevented from doing so because of a calamity or an epidemic declared by the Board of Health as defined in section 145A.02, subdivision 2, ~~or~~ the state commissioner of health, or the board of animal health to exist;

(2) an annual membership of ~~25~~ 15 or more;

(3) paid out to exhibitors for premiums awarded at the last fair held a sum not less than the amount to be received from the state;

(4) published and distributed, or made available on an Internet Web site, not less than three weeks before the opening day of the fair a premium list, listing all items or articles on which premiums are offered and the amounts of such premiums and shall have paid premiums pursuant to the amount shown for each article or item to be exhibited; provided that premiums for school exhibits may be advertised in the published premium list by reference to a school premium list prepared and circulated during the preceding school year; and shall have collected all fees charged for entering an exhibit at the time the entry was made and in accordance with schedule of entry fees to be charged as published in the premium list;

(5) paid not more than one premium on each article or item exhibited, excluding championship or sweepstake awards, and excluding the payment of open class premium awards to 4H Club exhibits which at this same fair had won a first prize award in regular 4H Club competition; and

(6) submitted its ~~records and~~ annual report of premiums paid to the commissioner of agriculture ~~on a form provided by the commissioner of agriculture~~, on or before the first day of November of the year in which the fair was held.

(c) All payments authorized under the provisions of this chapter shall be made only upon the presentation by the commissioner of agriculture with the commissioner of finance of a statement of premium allocations. As used herein the term premium shall mean the cash award paid to an exhibitor for the merit of an exhibit of livestock, livestock products, grains, fruits, flowers, vegetables, articles of domestic science, handicrafts, hobbies, fine arts, other products of a creative nature, and articles made by school pupils, or the cash award paid to the merit winner of events such as 4H Club or Future Farmer contest, youth group contests, school spelling contests and school current events contests, the award corresponding to the amount offered in the advertised premium list referred to in

schedule 2. Payments of awards for horse races, horse pulls, tractor pulls, demolition derby, automobile or other racing, jackpot premiums, ball games, musical contests, talent contests, parades, and for amusement features for which admission is charged, are specifically excluded from consideration as premiums within the meaning of that term as used herein. ~~Upon receipt of the statement by the commissioner of agriculture, the commissioner of finance shall draw a voucher in favor of the agricultural society or association for the amount to which it is entitled under the provisions of this chapter.~~ The amount shall be computed as follows: On the first \$750 premiums paid by each society or association at the last fair held, the society or association shall receive 100 percent reimbursement; on the second \$750 premiums paid, 80 percent; on the third \$750 premiums paid, 60 percent; and on any sum in excess of \$2,250, 40 percent. The commissioner of finance shall make payments not later than July 15 of the year following the calendar year in which the annual fair was held to those agricultural societies or associations entitled to payments under the provisions of this chapter.

(d) If the total amount of state aid to which the agricultural societies and associations are entitled under the provisions of this chapter exceeds the amount of the appropriation ~~therefor~~, the amounts to which the societies or associations are entitled shall be prorated so that the total payments by the state will not exceed the appropriation.

Sec. 16. Minnesota Statutes 2003 Supplement, section 38.02, subdivision 3, is amended to read:

Subd. 3. [~~CERTIFICATION, COMMISSIONER OF AGRICULTURE ENTITLEMENT FOR PRO RATA DISTRIBUTION.~~] Any A county or district agricultural society which has held its second annual fair is entitled to share pro rata in the distribution. ~~The commissioner of agriculture shall certify to the secretary of the State Agricultural Society, within 30 days after payments have been made, a list of all county or district agricultural societies that have complied with this chapter, and which are entitled to share in the appropriation. All Payments shall be based on reports submitted by agricultural societies under subdivision 1, paragraph (b), clause (6).~~

Sec. 17. Minnesota Statutes 2002, section 38.04, is amended to read:

#### 38.04 [ANNUAL MEETINGS; REPORTS.]

Every county agricultural society shall hold an annual meeting for the election of officers and the transaction of other business on or before the third Tuesday in November. Service on the county agricultural society board or as an officer of the board is not a public office. Elected officials of the state or its political subdivisions may serve on the board or be elected as officers.

At the annual meeting, ~~the society's secretary~~ an officer of the society shall make a report of its proceedings for the preceding year; ~~this report shall contain a statement of all transactions at its fairs, the numbers of entries, the amount and source of all money received, and~~ and a financial statement prepared in accordance with generally accepted accounting principles. The report must also list the amount paid out for premiums and for other purposes; ~~and show in detail its entire receipts and expenditures during the year. The report must contain a separate accounting of any income received from the operation of horse racing on which pari mutuel betting is conducted, and of the disposition of that income.~~

~~The treasurer shall make a comprehensive report of the funds received, paid out, and on hand, and upon whose order paid. Each secretary shall cause a certified copy of the annual report to be filed with the county recorder of the county and the commissioner of agriculture on or before the first day of November each year. Reports of the society are public data under chapter 13 and must be made available for inspection by any person.~~

Sec. 18. Minnesota Statutes 2002, section 38.12, is amended to read:

38.12 [APPROPRIATIONS BY ~~CERTAIN~~ MUNICIPALITIES.]

The council of any city and the board of supervisors of any town having fairs of county and district agricultural societies or associations, who are members of the Minnesota state agricultural society, held within or in close proximity to their corporate limits ~~or in close proximity thereto, are hereby authorized and empowered to may appropriate for and pay money to such~~ the agricultural society or association ~~annually a sum not exceeding \$1,000.~~

Sec. 19. Minnesota Statutes 2002, section 38.14, is amended to read:

38.14 [~~IN COUNTIES OF 150,000:~~ APPROPRIATIONS FOR COUNTY FAIRS.]

Subdivision 1. [CONDITIONS, PROCEDURES, BOND.] ~~In any county in this state now or hereafter having a population of 150,000, the A county board may annually appropriate not to exceed \$3,000, except that counties having more than 300,000 and less than 450,000 inhabitants may appropriate not to exceed \$5,000, money to assist in maintaining a county fair, which fair shall be under the management and control of~~ managed by a county agricultural society. The appropriation shall be made either to the treasurer of the society or to some other suitable person, ~~but before the money is paid, the treasurer or other person shall file with the county auditor a satisfactory bond in double the sum of the appropriation, conditioned upon the faithful disbursing and accounting for all of the funds so appropriated. The funds so appropriated shall be used solely for the purpose of obtaining, preparing, and arranging exhibits and paying premiums to exhibitors. The treasurer or other person to whom the appropriation is paid shall, within four months after the holding of any such aided annual fair, file with the county auditor a verified and detailed report showing the name and address of every person to whom any of the money was paid, together with the date of payment, and a full description of the purposes for which the money was so paid, and shall attach thereto receipts and subvouchers for each payment so made and return to the county treasurer all of the unexpended portion thereof. After the report, receipts, and subvouchers have been audited by the county board and found to be correct, it may, by resolution, release the treasurer or other person and the sureties from all further liabilities under bond.~~

Subd. 2. [EXCEPT RAMSEY COUNTY.] This section and section 38.15 do not apply to Ramsey County.

Sec. 20. Minnesota Statutes 2002, section 38.15, is amended to read:

38.15 [SITES AND BUILDINGS.]

The county board in any ~~such~~ county may also annually appropriate ~~such further sum as it may desire, not exceeding \$7,500, money~~ for the purpose of procuring a suitable site and ~~the erection of~~ erecting on it a suitable county building ~~thereon~~, for the building or repairing of a race track and for grading and improving the grounds, to be used in connection with ~~such a~~ county fair, but the site and the building and improvements ~~shall be and~~ remain the property of the county, and the ~~annual~~ appropriation shall be used only for the purpose of ~~so~~ acquiring the site and building and grading and for the necessary care, repair, maintenance, and upkeep thereof. ~~In any county in this state now or hereafter having a population in excess of 150,000 and an area of more than 5,000 square miles, the county agricultural society may expend funds appropriated to it for the year 1957 for the payment of debts and liabilities incurred during the year 1956 in the construction of county fair buildings, notwithstanding the provisions of Laws 1941, chapter 118.~~

Sec. 21. Minnesota Statutes 2002, section 38.16, is amended to read:

38.16 [EXEMPTION FROM ZONING ORDINANCES.]

When lands lying within the corporate limits of towns or cities ~~of the first or second class of the state~~ are owned by a county or agricultural society and used for agricultural fair purposes, the lands and the buildings now or hereafter erected ~~thereon shall be~~ are exempt from the zoning, building, and other ordinances of the town or city; provided, that no license or permit need be obtained from, nor fee paid to, the town or city in connection with the use of the lands.

Sec. 22. Minnesota Statutes 2003 Supplement, section 41A.09, subdivision 3a, is amended to read:

Subd. 3a. [ETHANOL PRODUCER PAYMENTS.] (a) The commissioner shall make cash payments to producers of ethanol located in the state that have begun production by June 30, 2000. For the purpose of this subdivision, an entity that holds a controlling interest in more than one ethanol plant is considered a single producer. The amount of the payment for each producer's annual production, except as provided in paragraph (c), is 20 cents per gallon for each gallon of ethanol produced on or before June 30, 2000, or ten years after the start of production, whichever is later. ~~The first claim for production after June 30, 2003, must be accompanied by~~ Annually, within 90 days of the end of its fiscal year, an ethanol producer receiving payments under this subdivision must file a disclosure statement on a form provided by the commissioner. The initial disclosure statement must include a detailed summary description of the organization of the business structure of the claimant, a listing of the percentages of ownership by any person or other entity with an ownership interest of five percent or greater, ~~the distribution of income received by the claimant, including operating income and payments under this subdivision and a copy of its annual audited financial statements, including the auditor's report and footnotes.~~ The disclosure statement must include information ~~sufficient to demonstrate that a majority of the ultimate beneficial interest in the~~ demonstrating what percentage of the entity receiving payments under this section is owned by farmers ~~or spouses of farmers, as defined in~~ or other entities eligible to farm or own agricultural land in Minnesota under the provisions of section 500.24, residing in Minnesota. ~~Subsequent quarterly claims~~ annual reports must report ~~reflect~~ noncumulative changes in ownership of ten percent or more of the entity. ~~Payments must not be made to a claimant that has less than a majority of Minnesota farmer control except that the commissioner may grant an exemption from the farmer majority ownership requirement to a claimant that, on May 29, 2003, has demonstrated greater than 40 percent farmer ownership which, when combined with ownership interests of persons residing within 30 miles of the plant, exceeds 50 percent. In addition, a claimant located in a city of the first class which qualifies for payments in all other respects is not subject to this condition. Information provided under this paragraph is~~ The report need not disclose the identity of the persons or entities eligible to farm or own agricultural land with ownership interests, individuals residing within 30 miles of the plant, or of any other entity with less than ten percent ownership interest, but the claimant must retain information within its files confirming the accuracy of the data provided. This data must be made available to the commissioner upon request. Not later than the 15th day of February in each year the commissioner shall deliver to the chairs of the standing committees of the senate and the house of representatives that deal with agricultural policy and agricultural finance issues an annual report summarizing aggregated data from plants receiving payments under this section during the preceding calendar year. Audited financial statements and notes and disclosure statements submitted to the commissioner are nonpublic data under section 13.02, subdivision 9. Notwithstanding the provisions of chapter 13 relating to nonpublic data, summaries of the submitted audited financial reports and notes and disclosure statements will be contained in the report to the committee chairs and will be public data.

(b) No payments shall be made for ethanol production that occurs after June 30, 2010.

(c) If the level of production at an ethanol plant increases due to an increase in the production capacity of the plant, the payment under paragraph (a) applies to the additional increment of production until ten years after the increased production began. Once a plant's production capacity reaches 15,000,000 gallons per year, no additional increment will qualify for the payment.

(d) Total payments under paragraphs (a) and (c) to a producer in a fiscal year may not exceed \$3,000,000.

(e) By the last day of October, January, April, and July, each producer shall file a claim for payment for ethanol production during the preceding three calendar months. A producer that files a claim under this subdivision shall include a statement of the producer's total ethanol production in Minnesota during the quarter covered by the claim. For each claim and statement of total ethanol production filed under this subdivision, the volume of ethanol production must be examined by an independent certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants.

(f) Payments shall be made November 15, February 15, May 15, and August 15. A separate payment shall be made for each claim filed. Except as provided in paragraph (g), the total quarterly payment to a producer under this paragraph may not exceed \$750,000.

(g) Notwithstanding the quarterly payment limits of paragraph (f), the commissioner shall make an additional payment in the fourth quarter of each fiscal year to ethanol producers for the lesser of: (1) 20 cents per gallon of production in the fourth quarter of the year that is greater than 3,750,000 gallons; or (2) the total amount of payments lost during the first three quarters of the fiscal year due to plant outages, repair, or major maintenance. Total payments to an ethanol producer in a fiscal year, including any payment under this paragraph, must not exceed the total amount the producer is eligible to receive based on the producer's approved production capacity. The provisions of this paragraph apply only to production losses that occur in quarters beginning after December 31, 1999.

(h) The commissioner shall reimburse ethanol producers for any deficiency in payments during earlier quarters if the deficiency occurred because appropriated money was insufficient to make timely payments in the full amount provided in paragraph (a). Notwithstanding the quarterly or annual payment limitations in this subdivision, the commissioner shall begin making payments for earlier deficiencies in each fiscal year that appropriations for ethanol payments exceed the amount required to make eligible scheduled payments. Payments for earlier deficiencies must continue until the deficiencies for each producer are paid in full.

Sec. 23. Minnesota Statutes 2002, section 41B.03, subdivision 3, is amended to read:

Subd. 3. [ELIGIBILITY FOR BEGINNING FARMER LOANS.] (a) In addition to the requirements under subdivision 1, a prospective borrower for a beginning farm loan in which the authority holds an interest, must:

(1) have sufficient education, training, or experience in the type of farming for which the loan is desired;

(2) have a total net worth, including assets and liabilities of the borrower's spouse and dependents, of less than ~~\$200,000 in 1994~~ \$350,000 in 2004 and an amount in subsequent years which is adjusted for inflation by multiplying ~~\$200,000~~ that amount by the cumulative inflation rate as determined by the United States All-Items Consumer Price Index;

(3) demonstrate a need for the loan;

(4) demonstrate an ability to repay the loan;

(5) certify that the agricultural land to be purchased will be used by the borrower for agricultural purposes;



(6) certify that farming will be the principal occupation of the borrower;

(7) agree to participate in a farm management program approved by the commissioner of agriculture for at least the first three years of the loan, if an approved program is available within 45 miles from the borrower's residence. The commissioner may waive this requirement for any of the programs administered by the authority if the participant requests a waiver and has either a four-year degree in an agricultural program or certification as an adult farm management instructor; and

(8) agree to file an approved soil and water conservation plan with the Soil Conservation Service office in the county where the land is located.

(b) If a borrower fails to participate under paragraph (a), clause (7), the borrower is subject to penalty as determined by the authority.

Sec. 24. Minnesota Statutes 2002, section 41B.036, is amended to read:

41B.036 [GENERAL POWERS OF THE AUTHORITY.]

For the purpose of exercising the specific powers granted in section 41B.04 and effectuating the other purposes of sections 41B.01 to 41B.23 the authority has the general powers granted in this section.

(a) It may sue and be sued.

(b) It may have a seal and alter the seal.

(c) It may make, and from time to time, amend and repeal rules consistent with sections 41B.01 to 41B.23.

(d) It may acquire, hold, and dispose of real or personal property for its corporate purposes.

(e) It may enter into agreements, contracts, or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association, or organization, including contracts or agreements for administration and implementation of all or part of sections 41B.01 to 41B.23.

(f) It may acquire real property, or an interest therein, in its own name, by purchase or foreclosure, where such acquisition is necessary or appropriate.

(g) It may provide general technical services related to rural finance.

(h) It may provide general consultative assistance services related to rural finance.

(i) It may promote research and development in matters related to rural finance.

(j) It may enter into agreements with lenders, borrowers, or the issuers of securities for the purpose of regulating the development and management of farms financed in whole or in part by the proceeds of qualified agricultural loans.

(k) It may enter into agreements with other appropriate federal, state, or local governmental units to foster rural finance. It may give advance reservations of loan financing as part of the agreements, with the understanding that the authority will only approve the loans pursuant to normal procedures, and may adopt special procedures designed to meet problems inherent in such programs.

(l) It may undertake and carry out studies and analyses of rural financing needs within the state and ways of meeting such needs including: data with respect to geographical distribution; farm size; the distribution of farm credit needs according to debt ratios and similar factors; the amount and quality of available financing and its distribution according to factors affecting rural financing needs and the meeting thereof; and may make the results of such studies and analyses available to the public and may engage in research and disseminate information on rural finance.

(m) It may survey and investigate the rural financing needs throughout the state and make recommendations to the governor and the legislature as to legislation and other measures necessary or advisable to alleviate any existing shortage in the state.

(n) It may establish cooperative relationships with such county and multicounty authorities as may be established and may develop priorities for the utilization of authority resources and assistance within a region in cooperation with county and multicounty authorities.

(o) It may contract with, use, or employ any federal, state, regional, or local public or private agency or organization, legal counsel, financial advisors, investment bankers or others, upon terms it deems necessary or desirable, to assist in the exercise of any of the powers granted in sections 41B.01 to 41B.23 and to carry out the objectives of sections 41B.01 to 41B.23 and may pay for the services from authority funds.

(p) It may establish cooperative relationships with counties to develop priorities for the use of authority resources and assistance within counties and to consider county plans and programs in the process of setting the priorities.

(q) It may delegate any of its powers to its officers or staff.

(r) It may enter into agreements with qualified agricultural lenders or others insuring or guaranteeing to the state the payment of all or a portion of qualified agricultural loans.

(s) It may enter into agreements with eligible agricultural lenders providing for advance reservations of purchases of participation interests in restructuring loans, if the agreements provide that the authority may only purchase participation interests in restructuring loans under the normal procedure. The authority may provide in an agreement for special procedures or requirements designed to meet specific conditions or requirements.

(t) It may allow farmers who are natural persons to combine programs of the federal Agriculture Credit Act of 1987 with programs of the Rural Finance Authority.

(u) It, after providing notice to the State Board of Investment, may transfer funds from the security account created under section 41B.19, subdivision 5, in such amounts and for such time as funds may be available, to a special revenue account for qualified agricultural loans or for participation in qualified agricultural loans created through agreements under paragraph (k).

(v) From within available funds generated by program fees, it may provide partial or full tuition assistance for farm management programs required under section 41B.03, subdivision 3, clause (7).

Sec. 25. Minnesota Statutes 2002, section 41B.039, subdivision 2, is amended to read:

Subd. 2. [STATE PARTICIPATION.] The state may participate in a new real estate loan with an eligible lender to a beginning farmer to the extent of 45 percent of the principal amount of the loan or ~~\$125,000~~ \$200,000, whichever is less. The interest rates and repayment terms of the authority's participation interest may be different than the interest rates and repayment terms of the lender's retained portion of the loan.

Sec. 26. Minnesota Statutes 2002, section 41B.04, subdivision 8, is amended to read:

Subd. 8. [STATE'S PARTICIPATION.] With respect to loans that are eligible for restructuring under sections 41B.01 to 41B.23 and upon acceptance by the authority, the authority shall enter into a participation agreement or other financial arrangement whereby it shall participate in a restructured loan to the extent of 45 percent of the primary principal or ~~\$150,000~~ \$225,000, whichever is less. The authority's portion of the loan must be protected during the authority's participation by the first mortgage held by the eligible lender to the extent of its participation in the loan.

Sec. 27. [41B.041] [DAIRY UPGRADE PILOT LOAN PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] The authority shall establish and implement a dairy upgrade pilot loan program to help finance the purchase of breeding stock, meet feedlot and other environmental regulations, purchase dairy-related equipment, and make dairy facilities improvements.

Subd. 2. [ELIGIBILITY.] Notwithstanding section 41B.03, to be eligible for this program, a borrower must:

(1) be a resident of Minnesota or general partnership or a family farm corporation, authorized farm corporation, family farm partnership, or authorized farm partnership as defined in section 500.24, subdivision 2;

(2) be the principal operator of a dairy farm;

(3) have a total net worth, including assets and liabilities of the borrower's spouse and dependents, no greater than the amount stipulated in section 41B.03, subdivision 3;

(4) demonstrate an ability to repay the loan; and

(5) hold an appropriate feedlot registration or be using the loan under this program to meet registration requirements.

Subd. 3. [LOANS.] (a) The authority may participate in a dairy upgrade loan with an eligible lender to a farmer who is eligible under subdivision 2. Participation is limited to 45 percent of the principal amount of the loan or \$50,000, whichever is less. The interest rates and repayment terms of the authority's participation interest may differ from the interest rates and repayment terms of the lender's retained portion of the loan. The authority may review the interest annually after June 30, 2007, and make adjustments as necessary. Participation interest on loans made under this section before July 1, 2007, must not exceed three percent.

(b) Standards for loan amortization must be set by the rural finance authority and must not exceed ten years.

(c) Security for the dairy upgrade loans must be a personal note executed by the borrower and whatever other security is required by the eligible lender or the authority.

(d) Refinancing of existing debt is not an eligible purpose.

(e) The authority may impose a reasonable, nonrefundable application fee for a dairy upgrade loan. The authority may review the fee annually and make adjustments as necessary. The initial application fee is \$50. Application fees received by the authority must be deposited in the revolving loan account established in section 41B.06.

(f) Dairy upgrade loans under this program must be made using money in the revolving loan account established in section 41B.06.

Sec. 28. Minnesota Statutes 2002, section 41B.042, subdivision 4, is amended to read:

Subd. 4. [PARTICIPATION LIMIT; INTEREST.] The authority may participate in new seller-sponsored loans to the extent of 45 percent of the principal amount of the loan or ~~\$125,000~~ \$200,000, whichever is less. The interest rates and repayment terms of the authority's participation interest may be different than the interest rates and repayment terms of the seller's retained portion of the loan.

Sec. 29. Minnesota Statutes 2002, section 41B.043, subdivision 1b, is amended to read:

Subd. 1b. [LOAN PARTICIPATION.] The authority may participate in an agricultural improvement loan with an eligible lender to a farmer who meets the requirements of section 41B.03, subdivision 1, clauses (1) and (2), and who is actively engaged in farming. Participation is limited to 45 percent of the principal amount of the loan or ~~\$125,000~~ \$200,000, whichever is less. The interest rates and repayment terms of the authority's participation interest may be different than the interest rates and repayment terms of the lender's retained portion of the loan.

Sec. 30. Minnesota Statutes 2002, section 41B.043, is amended by adding a subdivision to read:

Subd. 5. [TOTAL NET WORTH LIMIT.] A prospective borrower for an agricultural improvement loan in which the authority holds an interest must have a total net worth, including assets and liabilities of the borrower's spouse and dependents, of less than \$350,000 in 2004 and an amount in subsequent years which is adjusted for inflation by multiplying that amount by the cumulative inflation rate as determined by the United States All-Items Consumer Price Index.

Sec. 31. Minnesota Statutes 2002, section 41B.045, subdivision 2, is amended to read:

Subd. 2. [LOAN PARTICIPATION.] The authority may participate in a livestock expansion loan with an eligible lender to a livestock farmer who meets the requirements of section 41B.03, subdivision 1, clauses (1) and (2), and who are actively engaged in a livestock operation. A prospective borrower must have a total net worth, including assets and liabilities of the borrower's spouse and dependents, of less than \$400,000 in 1999 and an amount in subsequent years which is adjusted for inflation by multiplying \$400,000 by the cumulative inflation rate as determined by the United States All-Items Consumer Price Index.

Participation is limited to 45 percent of the principal amount of the loan or ~~\$250,000~~ \$275,000, whichever is less. The interest rates and repayment terms of the authority's participation interest may be different from the interest rates and repayment terms of the lender's retained portion of the loan.

Sec. 32. Minnesota Statutes 2002, section 41B.046, subdivision 5, is amended to read:

Subd. 5. [LOANS.] (a) The authority may participate in a stock loan with an eligible lender to a farmer who is eligible under subdivision 4. Participation is limited to 45 percent of the principal amount of the loan or ~~\$24,000~~ \$40,000, whichever is less. The interest rates and repayment terms of the authority's participation interest may differ from the interest rates and repayment terms of the lender's retained portion of the loan, but the authority's interest rate must not exceed 50 percent of the lender's interest rate.

(b) No more than 95 percent of the purchase price of the stock may be financed under this program.

(c) Security for stock loans must be the stock purchased, a personal note executed by the borrower, and whatever other security is required by the eligible lender or the authority.

(d) The authority may impose a reasonable nonrefundable application fee for each application for a stock loan. The authority may review the fee annually and make adjustments as necessary. The application fee is initially \$50. Application fees received by the authority must be deposited in the value-added agricultural product revolving fund.

(e) Stock loans under this program will be made using money in the ~~value added agricultural product revolving fund~~ loan account established under subdivision 3 in section 41B.06.

(f) The authority may not grant stock loans in a cumulative amount exceeding \$2,000,000 for the financing of stock purchases in any one cooperative.

(g) Repayments of financial assistance under this section, including principal and interest, must be deposited into the revolving loan account established in section 41B.06.

Sec. 33. Minnesota Statutes 2002, section 41B.049, subdivision 2, is amended to read:

Subd. 2. ~~[REVOLVING FUND DEPOSIT OF REPAYMENTS.] There is established in the state treasury a revolving fund, which is eligible to receive appropriations and the transfer of funds from other services. All repayments of financial assistance granted under subdivision 1, including principal and interest, must be deposited into this fund. Interest earned on money in the fund accrues to the fund, and money in the fund is appropriated to the commissioner of agriculture for purposes of the manure digester loan program, including costs incurred by the authority to establish and administer the program~~ the revolving loan account established in section 41B.06.

Sec. 34. [41B.06] [RURAL FINANCE AUTHORITY REVOLVING LOAN ACCOUNT.]

There is established in the rural finance administration fund a rural finance authority revolving loan account that is eligible to receive appropriations and the transfer of loan funds from other programs. All repayments of financial assistance granted from this account, including principal and interest, must be deposited into this account. Interest earned on money in the account accrues to the account, and the money in the account is appropriated to the commissioner of agriculture for purposes of the rural finance authority shared savings loan program under section 17.115; dairy upgrade loan program under section 41B.041; methane digester loan program under section 17.115, subdivision 5; and value-added agricultural product loan program under section 41B.046, including costs incurred by the authority to establish and administer the programs.

Sec. 35. Minnesota Statutes 2002, section 41C.02, subdivision 12, is amended to read:

Subd. 12. [LOW OR MODERATE NET WORTH.] "Low or moderate net worth" means:

(1) for an individual, an aggregate net worth of the individual and the individual's spouse and minor children of less than ~~\$200,000 in 1991~~ \$350,000 in 2004 and an amount in subsequent years which is adjusted for inflation by multiplying ~~\$200,000~~ that amount by the cumulative inflation rate as determined by the United States All-Items Consumer Price Index; or

(2) for a partnership, an aggregate net worth of all partners, including each partner's net capital in the partnership, and each partner's spouse and minor children of less than ~~\$400,000 in 1991~~ and an amount in subsequent years which is adjusted for inflation by multiplying \$400,000 by the cumulative inflation rate as determined by the United States All-Items Consumer Price Index twice the amount set for an individual in clause (1). However, the aggregate net worth of each partner and that partner's spouse and minor children may not exceed ~~\$200,000 in 1991~~ and an amount in subsequent years which is adjusted for inflation by multiplying \$200,000 by the cumulative inflation rate as determined by the United States All-Items Consumer Price Index the amount set for an individual in clause (1).

Sec. 36. [116J.407] [DAIRY MODERNIZATION GRANTS.]

Subdivision 1. [GENERALLY.] The commissioner shall make funds available to eligible regional or statewide development organizations defined under section 116J.8731 to be used for the purposes of this section.

Subd. 2. [ELIGIBLE EXPENDITURES.] Grant funds may be used for the acquisition, construction, or improvement of buildings or facilities, or the acquisition of equipment, for dairy animal housing, confinement, animal feeding, milk production, and waste management, including the following, if related to dairy animals:

- (1) freestall barns;
- (2) fences;
- (3) watering facilities;
- (4) feed storage and handling equipment;
- (5) milking parlors;
- (6) robotic equipment;
- (7) scales;
- (8) milk storage and cooling facilities;
- (9) bulk tanks;
- (10) manure pumping and storage facilities;
- (11) pasture and forage improvement measures;
- (12) on-farm processing facilities;
- (13) digesters; and
- (14) equipment used to produce energy.

Subd. 3. [APPLICATION PROCESS.] The commissioner of agriculture and the commissioner of employment and economic development shall establish a process by which an eligible dairy producer may make application for assistance under this section to the county in which the producer is located. The application must require the producer and county to provide information regarding the producer's existing business, the intended use of the requested funds, and other information the commissioners find necessary to evaluate the feasibility, likely success, and economic return of the project, and to ensure that grant funds can be provided consistent with other state and federal laws.

Sec. 37. Minnesota Statutes 2002, section 156.12, subdivision 2, is amended to read:

Subd. 2. [AUTHORIZED ACTIVITIES.] No provision of this chapter shall be construed to prohibit:

(a) a person from rendering necessary gratuitous assistance in the treatment of any animal when the assistance does not amount to prescribing, testing for, or diagnosing, operating, or vaccinating and when the attendance of a licensed veterinarian cannot be procured;

(b) a person who is a regular student in an accredited or approved college of veterinary medicine from performing duties or actions assigned by instructors or preceptors or working under the direct supervision of a licensed veterinarian;

(c) a veterinarian regularly licensed in another jurisdiction from consulting with a licensed veterinarian in this state;

(d) the owner of an animal and the owner's regular employee from caring for and administering to the animal belonging to the owner, except where the ownership of the animal was transferred for purposes of circumventing this chapter;

(e) veterinarians employed by the University of Minnesota from performing their duties with the College of Veterinary Medicine, College of Agriculture, Agricultural Experiment Station, Agricultural Extension Service, Medical School, School of Public Health, or other unit within the university; or a person from lecturing or giving instructions or demonstrations at the university or in connection with a continuing education course or seminar to veterinarians;

(f) any person from selling or applying any pesticide, insecticide or herbicide;

(g) any person from engaging in bona fide scientific research or investigations which reasonably requires experimentation involving animals;

(h) any employee of a licensed veterinarian from performing duties other than diagnosis, prescription or surgical correction under the direction and supervision of the veterinarian, who shall be responsible for the performance of the employee;

(i) a graduate of a foreign college of veterinary medicine from working under the direct personal instruction, control, or supervision of a veterinarian faculty member of the College of Veterinary Medicine, University of Minnesota in order to complete the requirements necessary to obtain an ECFVG certificate; or

(j) a person from performing as a diagnostician at the University of Minnesota Veterinary Diagnostic Laboratory if the person meets the licensure requirements in subdivision 6.

Sec. 38. Minnesota Statutes 2002, section 156.12, is amended by adding a subdivision to read:

Subd. 6. [FACULTY LICENSURE.] (a) Veterinary Medical Center clinicians at the College of Veterinary Medicine, University of Minnesota who are engaged in the practice of veterinary medicine as defined in subdivision 1 and who treat animals owned by clients of the Veterinary Medical Center must possess the same license required by other veterinary practitioners in the state of Minnesota except for persons covered by paragraphs (b) and (c).

(b) A specialty practitioner in a hard-to-fill faculty position who has been employed at the College of Veterinary Medicine, University of Minnesota for five years or more prior to 2003 or is specialty board certified by the American Veterinary Medical Association may be granted a specialty faculty Veterinary Medical Center clinician license which will allow the licensee to practice veterinary medicine in the state of Minnesota in the specialty area of the licensee's training and only within the scope of employment at the Veterinary Medical Center.

(c) A specialty practitioner in a hard-to-fill faculty position at the College of Veterinary Medicine, University of Minnesota who has graduated from a board-approved foreign veterinary school may be granted a temporary faculty Veterinary Medical Center clinician license. The temporary faculty Veterinary Medical Center clinician license expires in two years and allows the licensee to practice veterinary medicine as defined in subdivision 1 and treat animals owned by clients of the Veterinary Medical Center. The temporary faculty Veterinary Medical Center clinician license allows the licensee to practice veterinary medicine in the state of Minnesota in the specialty area of the licensee's training and only within the scope of employment at the Veterinary Medical Center. The holder of a temporary faculty Veterinary Medical Center clinician license who is enrolled in a PhD program may apply for two two-year extensions of an expiring temporary faculty Veterinary Medical Center clinician license. Any other holder of a temporary faculty Veterinary Medical Center clinician license may apply for one two-year extension of the expiring temporary faculty Veterinary Medical Center clinician license. Temporary faculty Veterinary Medical Center clinician licenses that are allowed to expire may not be renewed. The board shall grant an extension to a licensee who demonstrates suitable progress toward completing the requirements of their academic program, specialty board certification, or full licensure in Minnesota by a graduate of a foreign veterinary college.

(d) Temporary and specialty faculty Veterinary Medical Center clinician licensees must abide by all the laws governing the practice of veterinary medicine in the state of Minnesota and are subject to the same disciplinary action as any other veterinarian licensed in the state of Minnesota.

(e) The fee for a license issued under this subdivision is the same as for a regular license to practice veterinary medicine in Minnesota. License payment deadlines, late payment fees, and other license requirements are also the same as for regular licenses.

Sec. 39. Minnesota Statutes 2002, section 223.17, subdivision 3, is amended to read:

Subd. 3. [GRAIN BUYERS AND STORAGE ACCOUNT; FEES.] The commissioner shall set the fees for inspections under sections 223.15 to 223.22 at levels necessary to pay the expenses of administering and enforcing sections 223.15 to 223.22.

The fee for any license issued or renewed after June 30, ~~2004~~ 2004, ~~shall~~ must be set according to the following schedule:

(a) ~~\$125~~ \$140 plus ~~\$100~~ \$110 for each additional location for grain buyers whose gross annual purchases are less than \$100,000;

(b) ~~\$250~~ \$275 plus ~~\$100~~ \$110 for each additional location for grain buyers whose gross annual purchases are at least \$100,000, but not more than \$750,000;

(c) ~~\$375~~ \$415 plus ~~\$200~~ \$220 for each additional location for grain buyers whose gross annual purchases are more than \$750,000 but not more than \$1,500,000;

(d) ~~\$500~~ \$550 plus ~~\$200~~ \$220 for each additional location for grain buyers whose gross annual purchases are more than \$1,500,000 but not more than \$3,000,000; and

(e) ~~\$625~~ \$700 plus ~~\$200~~ \$220 for each additional location for grain buyers whose gross annual purchases are more than \$3,000,000.

(f) A penalty amount not to exceed ten percent of the fees due may be imposed by the commissioner for each month for which the fees are delinquent.



There is created the grain buyers and storage account in the agricultural fund. Money collected pursuant to sections 223.15 to 223.19 ~~shall~~ must be paid into the state treasury and credited to the grain buyers and storage account and is appropriated to the commissioner for the administration and enforcement of sections 223.15 to 223.22.

Sec. 40. Minnesota Statutes 2003 Supplement, section 223.17, subdivision 4, is amended to read:

Subd. 4. [BOND.] Before a grain buyer's license is issued, the applicant for the license must file with the commissioner a bond in a penal sum prescribed by the commissioner but not less than the following amounts:

- (a) \$10,000 for grain buyers whose gross annual purchases are \$100,000 or less;
- (b) \$20,000 for grain buyers whose gross annual purchases are more than \$100,000 but not more than \$750,000;
- (c) \$30,000 for grain buyers whose gross annual purchases are more than \$750,000 but not more than \$1,500,000;
- (d) \$40,000 for grain buyers whose gross annual purchases are more than \$1,500,000 but not more than \$3,000,000; ~~and~~
- (e) \$50,000 for grain buyers whose gross annual purchases ~~exceed~~ are more than \$3,000,000 but not more than \$6,000,000;
- (f) \$70,000 for grain buyers whose gross annual purchases are more than \$6,000,000 but not more than \$12,000,000;
- (g) \$125,000 for grain buyers whose gross annual purchases are more than \$12,000,000 but not more than \$24,000,000; and
- (h) \$150,000 for grain buyers whose gross annual purchases exceed \$24,000,000.

A grain buyer who has filed a bond with the commissioner prior to July 1, ~~1983~~ 2004, is not required to increase the amount of the bond to comply with this section until July 1, ~~1984~~ 2005. The commissioner may postpone an increase in the amount of the bond until July 1, ~~1985~~ 2006, if a licensee demonstrates that the increase will impose undue financial hardship on the licensee, and that producers will not be harmed as a result of the postponement. The commissioner may impose other restrictions on a licensee whose bond increase has been postponed. The amount of the bond shall be based on the most recent financial statement of the grain buyer filed under subdivision 6.

A first-time applicant for a grain buyer's license ~~after July 1, 1983~~ shall file a ~~\$20,000~~ \$50,000 bond with the commissioner. This bond shall remain in effect for the first year of the license. Thereafter, the licensee shall comply with the applicable bonding requirements contained in clauses (a) to ~~(e)~~ (h).

In lieu of the bond required by this subdivision the applicant may deposit with the commissioner of finance cash, a certified check, a cashier's check, a postal, bank, or express money order, assignable bonds or notes of the United States, or an assignment of a bank savings account or investment certificate or an irrevocable bank letter of credit as defined in section 336.5-102, in the same amount as would be required for a bond.

Sec. 41. Minnesota Statutes 2002, section 223.17, subdivision 6, is amended to read:

Subd. 6. [FINANCIAL STATEMENTS.] For the purpose of fixing or changing the amount of a required bond or for any other proper reason, the commissioner shall require an annual financial statement from a licensee which has been prepared in accordance with generally accepted accounting principles and which meets the following requirements:

(a) The financial statement shall include, but not be limited to the following: (1) a balance sheet; (2) a statement of income (profit and loss); (3) a statement of retained earnings; (4) a statement of changes in financial position; and (5) a statement of the dollar amount of grain purchased in the previous fiscal year of the grain buyer.

(b) The financial statement shall be accompanied by a ~~compilation report of the financial statement which is reviewed financial statement or audit~~ prepared by a ~~grain commission firm or a management firm approved by the commissioner or~~ by an independent public accountant, in accordance with standards established by the American Institute of Certified Public Accountants.

(c) The financial statement shall be accompanied by a certification by the chief executive officer or the chief executive officer's designee of the licensee, under penalty of perjury, that the financial statement accurately reflects the financial condition of the licensee for the period specified in the statement.

Only one financial statement must be filed for a chain of warehouses owned or operated as a single business entity, unless otherwise required by the commissioner. Any grain buyer having a net worth in excess of \$500,000,000 need not file the financial statement required by this subdivision but must provide the commissioner with a certified net worth statement. All financial statements filed with the commissioner are private or nonpublic data as provided in section 13.02.

**[EFFECTIVE DATE.]** This section is effective July 1, 2004.

Sec. 42. Minnesota Statutes 2002, section 231.16, is amended to read:

231.16 [WAREHOUSE OPERATOR OR HOUSEHOLD GOODS WAREHOUSE OPERATOR TO OBTAIN LICENSE.]

A warehouse operator or household goods warehouse operator must be licensed annually by the department. The department shall prescribe the form of the written application. If the department approves the license application and the applicant files with the department the necessary bond, in the case of household goods warehouse operators, or proof of warehouse operators legal liability insurance coverage in an amount of \$50,000 or more, as provided for in this chapter, the department shall issue the license upon payment of the license fee required in this section. A warehouse operator or household goods warehouse operator to whom a license is issued shall pay a fee as follows:

Building square footage used for public storage

(1) 5,000 or less	<del>\$100</del> <u>\$110</u>
(2) 5,001 to 10,000	<del>\$200</del> <u>\$220</u>
(3) 10,001 to 20,000	<del>\$300</del> <u>\$330</u>
(4) 20,001 to 100,000	<del>\$400</del> <u>\$440</u>
(5) 100,001 to 200,000	<del>\$500</del> <u>\$550</u>
(6) over 200,000	<del>\$600</del> <u>\$660</u>

A penalty amount not to exceed ten percent of the fees due may be imposed by the commissioner for each month for which the fees are delinquent.

Fees collected under this chapter must be paid into the grain buyers and storage account established in section 232.22.

The license must be renewed annually on or before July 1, and always upon payment of the full license fee required in this section. No license shall be issued for any portion of a year for less than the full amount of the

license fee required in this section. Each license obtained under this chapter must be publicly displayed in the main office of the place of business of the warehouse operator or household goods warehouse operator to whom it is issued. The license authorizes the warehouse operator or household goods warehouse operator to carry on the business of warehousing only in the one city or town named in the application and in the buildings therein described. The department, without requiring an additional bond and license, may issue permits from time to time to any warehouse operator already duly licensed under the provisions of this chapter to operate an additional warehouse in the same city or town for which the original license was issued during the term thereof, upon the filing an application for a permit in the form prescribed by the department.

A license may be refused for good cause shown and revoked by the department for violation of law or of any rule adopted by the department, upon notice and after hearing.

Sec. 43. Minnesota Statutes 2002, section 232.22, subdivision 3, is amended to read:

Subd. 3. [FEES; GRAIN BUYERS AND STORAGE ACCOUNT.] (a) There is created in the agricultural fund an account known as the grain buyers and storage account. The commissioner shall set the fees for inspections, certifications and licenses under sections 232.20 to 232.25 at levels necessary to pay the costs of administering and enforcing sections 232.20 to 232.25. All money collected pursuant to sections 232.20 to 232.25 and chapters 233 and 236 ~~shall~~ must be paid by the commissioner into the state treasury and credited to the grain buyers and storage account and is appropriated to the commissioner for the administration and enforcement of sections 232.20 to 232.25 and chapters 233 and 236. All money collected pursuant to chapter 231 shall be paid by the commissioner into the grain buyers and storage account and is appropriated to the commissioner for the administration and enforcement of chapter 231.

(b) The fees for a license to store grain are as described in paragraphs (c) to (f).

(c) For a license to store grain, the license fee is \$110 for each home rule charter or statutory city or town in which a public grain warehouse is operated.

(d) A person with a license to store grain in a public grain warehouse is subject to an examination fee for each licensed location, based on the following schedule for one examination:

<u>Bushel Capacity</u>	<u>Examination Fee</u>
<u>Less than 150,001</u>	<u>\$300</u>
<u>150,001 to 250,000</u>	<u>\$425</u>
<u>250,001 to 500,000</u>	<u>\$545</u>
<u>500,001 to 750,000</u>	<u>\$700</u>
<u>750,001 to 1,000,000</u>	<u>\$865</u>
<u>1,000,001 to 1,200,000</u>	<u>\$1,040</u>
<u>1,200,001 to 1,500,000</u>	<u>\$1,205</u>
<u>1,500,001 to 2,000,000</u>	<u>\$1,380</u>
<u>More than 2,000,000</u>	<u>\$1,555</u>

(e) The fee for the second examination is \$55 per hour per examiner for warehouse operators who choose to have the examination performed by the commissioner.

(f) A penalty amount not to exceed ten percent of the fees due may be imposed by the commissioner for each month for which the fees are delinquent.

Sec. 44. Minnesota Statutes 2002, section 236.02, subdivision 4, is amended to read:

Subd. 4. [FEES.] ~~The license fee must be set by the commissioner in an amount sufficient to cover the costs of administering and enforcing this chapter. The license fee is \$140 for each home rule charter or statutory city or town in which a private grain warehouse is operated and which will be used to operate a grain bank. A penalty amount not to exceed ten percent of the fees due may be imposed by the commissioner for each month for which the fees are delinquent.~~ Fees collected under this chapter must be paid into the grain buyers and storage account established in section 232.22.

Sec. 45. Minnesota Statutes 2002, section 561.19, subdivision 2, is amended to read:

Subd. 2. [AGRICULTURAL OPERATION NOT A NUISANCE.] (a) For purposes of this subdivision, the term "generally accepted agricultural practices" means those practices commonly used by other farmers in the county and contiguous area in which a nuisance claim is asserted.

~~(b) An agricultural operation is not and shall not become a private or public nuisance after two years from its established date of operation if the operation was not a nuisance at its established date of~~ as a matter of law if the operation:

(1) is located in an agriculturally zoned area;

(2) complies with the provisions of all applicable federal, state, or county laws, regulations, rules, and ordinances and any permits issued for the agricultural operation; and

(3) operates according to generally accepted agricultural practices.

~~(b) An agricultural operation is operating according to generally accepted agricultural practices if it is located in an agriculturally zoned area and complies with the provisions of all applicable federal and state statutes and rules or any issued permits for the operation.~~

(c) The operation of an agricultural operation in compliance with the requirements of paragraph (b) constitutes an affirmative defense to a private or public nuisance claim against the agricultural operation.

(d) The provisions of this subdivision do not apply:

~~(1) to a condition or injury which results from the negligent or improper operation of an agricultural operation or from operations contrary to commonly accepted agricultural practices or to applicable state or local laws, ordinances, rules, or permits;~~

~~(2) when an agricultural operation causes injury or direct threat of injury to the health or safety of any person;~~

~~(3) to the pollution of, or change in the condition of, the waters of the state or the overflow of waters on the lands of any person;~~

~~(4) to an animal feedlot facility with a swine capacity of 1,000 or more animal units as defined in the rules of the Pollution Control Agency for control of pollution from animal feedlots, or a cattle capacity of 2,500 animals or more; or~~

~~(5) (2) to any prosecution for the crime of public nuisance as provided in section 609.74 or to an action by a public authority to abate a particular condition which is a public nuisance, or~~

(3) to any enforcement action brought by a local unit of government related to zoning under chapter 394 or 462.

Sec. 46. [609.599] [EXPOSING DOMESTIC ANIMALS TO DISEASE.]

Subdivision 1. [GROSS MISDEMEANOR.] (a) A person who intentionally exposes a domestic animal to an animal disease contrary to reasonable veterinary practice, or intentionally puts a domestic animal at risk of quarantine or destruction by actions contrary to reasonable veterinary practice, is guilty of a gross misdemeanor.

(b) The provisions of paragraph (a) do not apply to a person performing academic or industry research on domestic animals under protocols approved by an institutional animal care and use committee.

Subd. 2. [CIVIL LIABILITY.] A person who violates subdivision 1 is liable in a civil action for damages in an amount three times the value of any domestic animal destroyed because it has the disease, has been exposed to the disease agent, or is at high risk of being exposed to the disease agent because of proximity to diseased animals.

Subd. 3. [DEFINITION.] For purposes of this section, "domestic animal" means:

(1) those species of animals that live under the husbandry of humans;

(2) livestock within the meaning of section 35.01, subdivision 3;

(3) a farm-raised deer, farm-raised game bird, or farm-raised fish; or

(4) an animal listed as a domestic animal by a rule adopted by the Department of Agriculture.

Sec. 47. Minnesota Statutes 2002, section 609.605, subdivision 1, is amended to read:

Subdivision 1. [MISDEMEANOR.] (a) The following terms have the meanings given them for purposes of this section.

(i) "Premises" means real property and any appurtenant building or structure.

(ii) "Dwelling" means the building or part of a building used by an individual as a place of residence on either a full-time or a part-time basis. A dwelling may be part of a multidwelling or multipurpose building, or a manufactured home as defined in section 168.011, subdivision 8.

(iii) "Construction site" means the site of the construction, alteration, painting, or repair of a building or structure.

(iv) "Owner or lawful possessor," as used in paragraph (b), clause (9), means the person on whose behalf a building or dwelling is being constructed, altered, painted, or repaired and the general contractor or subcontractor engaged in that work.

(v) "Posted," as used in clause (9), means the placement of a sign at least 11 inches square in a conspicuous place on the exterior of the building that is under construction, alteration, or repair, and additional signs in at least two conspicuous places for each ten acres being protected. The sign must carry an appropriate notice and the name of the person giving the notice, followed by the word "owner" if the person giving the notice is the holder of legal title to the land on which the construction site is located or by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land.

(vi) "Business licensee," as used in paragraph (b), clause (9), includes a representative of a building trades labor or management organization.

(vii) "Building" has the meaning given in section 609.581, subdivision 2.

(b) A person is guilty of a misdemeanor if the person intentionally:

(1) permits domestic animals or fowls under the actor's control to go on the land of another within a city;

(2) interferes unlawfully with a monument, sign, or pointer erected or marked to designate a point of a boundary, line or a political subdivision, or of a tract of land;

(3) trespasses on the premises of another and, without claim of right, refuses to depart from the premises on demand of the lawful possessor;

(4) occupies or enters the dwelling or locked or posted building of another, without claim of right or consent of the owner or the consent of one who has the right to give consent, except in an emergency situation;

(5) enters the premises of another with intent to take or injure any fruit, fruit trees, or vegetables growing on the premises, without the permission of the owner or occupant;

(6) enters or is found on the premises of a public or private cemetery without authorization during hours the cemetery is posted as closed to the public;

(7) returns to the property of another with the intent to abuse, disturb, or cause distress in or threaten another, after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent;

(8) returns to the property of another within 30 days after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent; or

(9) enters the locked or posted construction site or aggregate mining site of another without the consent of the owner or lawful possessor, unless the person is a business licensee.

Sec. 48. Minnesota Statutes 2002, section 609.605, is amended by adding a subdivision to read:

Subd. 5. [CERTAIN TRESPASS ON AGRICULTURAL LAND.] (a) A person is guilty of a gross misdemeanor if the person enters the posted premises of another on which cattle, bison, sheep, goats, swine, horses, poultry, farmed cervidae, farmed ratitae, aquaculture stock, or other species of domestic animals for commercial production are kept, without the consent of the owner or lawful occupant of the land.

(b) "Domestic animal," for purposes of this section, has the meaning given in section 609.599.

(c) "Posted," as used in paragraph (a), means the placement of a sign at least 11 inches square in a conspicuous place at each roadway entry to the premises. The sign must provide notice of a bio-security area and wording such as: "Bio-security measures are in force. No entrance beyond this point without authorization." The sign may also contain a telephone number or a location for obtaining such authorization.

(d) The provisions of this subdivision do not apply to employees or agents of the state or county when serving in a regulatory capacity and conducting an inspection on posted premises where domestic animals are kept.

## Sec. 49. [DELAYED PAYMENTS IN 2003.]

Not later than 60 days after the effective date this section, the commissioner of agriculture shall pay any producer denied payment for failure to meet the ownership and reporting requirements imposed by Laws 2003, chapter 128, article 3, section 38, the amount to which the producer would have been otherwise entitled.

## Sec. 50. [TRANSFER OF FUNDS; DEPOSIT OF REPAYMENTS.]

The remaining balances in the revolving accounts in Minnesota Statutes, sections 41B.046 and 41B.049, and in Laws 1988, chapter 688, article 21, section 7, subdivision 1, that are dedicated to rural finance authority loan programs under those sections, are transferred to the revolving loan account established in Minnesota Statutes, section 41B.06, on the effective date of this section. All future receipts from value-added agricultural product loans and methane digester loans originated under Minnesota Statutes, sections 41B.046 and 41B.049, must be deposited in the revolving loan account established in Minnesota Statutes, section 41B.06.

## Sec. 51. [REPEALER.]

Minnesota Statutes 2002, sections 18C.433; 38.02, subdivision 2; 38.13; and 41B.046, subdivision 3, are repealed.

## Sec. 52. [EFFECTIVE DATE.]

(a) Except as otherwise specified, this act is effective the day following final enactment.

(b) Section 46, subdivisions 1 and 3, and section 48 are effective August 1, 2004, for offenses committed on or after that date.

(c) Section 46, subdivisions 2 and 3, are effective August 1, 2004, for causes of action arising on or after that date."

Delete the title and insert:

"A bill for an act relating to agriculture; changing certain duties, loan requirements, procedures, inspection requirements, and fees; regulating certain veterinary treatments; modifying provisions governing county and regional fairs; eliminating an ownership disclosure requirement; changing certain grain buyers' bond and financial reporting requirements; changing certain limits; establishing loan and grant programs; providing for faculty veterinary licensure; limiting certain nuisance claims; prohibiting intentional introduction of disease to domestic animals; prohibiting certain trespass on agricultural land; providing a civil remedy; providing criminal penalties; transferring certain funds; appropriating money; changing certain appropriations; amending Minnesota Statutes 2002, sections 16C.135, by adding subdivisions; 17.115, subdivisions 2, 3, 4; 17B.03, subdivision 1; 17B.15, subdivision 1; 27.10; 35.243; 38.04; 38.12; 38.14; 38.15; 38.16; 41B.03, subdivision 3; 41B.036; 41B.039, subdivision 2; 41B.04, subdivision 8; 41B.042, subdivision 4; 41B.043, subdivision 1b, by adding a subdivision; 41B.045, subdivision 2; 41B.046, subdivision 5; 41B.049, subdivision 2; 41C.02, subdivision 12; 156.12, subdivision 2, by adding a subdivision; 223.17, subdivisions 3, 6; 231.16; 232.22, subdivision 3; 236.02, subdivision 4; 561.19, subdivision 2; 609.605, subdivision 1, by adding a subdivision; Minnesota Statutes 2003 Supplement, sections 18G.10, subdivisions 5, 7; 38.02, subdivisions 1, 3; 41A.09, subdivision 3a; 223.17, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 41B; 116J; 609; repealing Minnesota Statutes 2002, sections 18C.433; 38.02, subdivision 2; 38.13; 41B.046, subdivision 3."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Bradley from the Committee on Health and Human Services Finance to which was referred:

H. F. No. 2970, A bill for an act relating to health; modifying fees for radioactive and nuclear material; approving state agreement with the Nuclear Regulatory Commission; amending Minnesota Statutes 2002, section 144.1205, subdivisions 2, 4, 8, 9; repealing Minnesota Statutes 2003 Supplement, section 144.1202, subdivision 4.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Haas from the Committee on State Government Finance to which was referred:

H. F. No. 3064, A bill for an act relating to state government; requiring the commissioner of administration to rent out space in the state-owned building at 168 Aurora Avenue in St. Paul.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Gunther from the Committee on Jobs and Economic Development Finance to which was referred:

H. F. No. 3090, A bill for an act relating to economic development; creating a program to retain and create jobs; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116J.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [APPROPRIATIONS AND REDUCTIONS.]

The dollar amounts in the columns under "APPROPRIATIONS" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2003, chapter 128, article 10, or other law, to the specified agencies. The appropriations are from the general fund or other named fund and are available for the fiscal years indicated for each purpose. The figure "2004" or "2005" means that the addition to or subtraction from the appropriations listed under the year are for the fiscal year ending June 30, 2004, or June 30, 2005, respectively. The term "the first year" means the year ending June 30, 2004, and the term "the second year" means the year ending June 30, 2005.

#### SUMMARY BY FUND

	2004	2005	TOTAL
General	-0-	\$(1,096,000)	\$(1,096,000)

APPROPRIATIONS Available for the Year Ending June 30	
2004	2005

Sec. 2. EMPLOYMENT AND ECONOMIC DEVELOPMENT	-0-	(599,000)
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
2004 2005

Subdivision 1. Appropriation Reduction

-0- (1,044,000)

Of this amount, \$594,000 is a reduction from the operating budget appropriation made in Laws 2003, chapter 128, article 10, section 2, and does not include any reduction to the operating budget for Minnesota State Services for the Blind. The base operating budget is reduced by an additional \$297,000 per year for fiscal years 2006 and 2007.

Of this amount, \$25,000 is a reduction in the second year in the federal matching fund appropriation made in Laws 2003, chapter 128, article 10, section 2. The base federal matching fund budget is reduced by \$25,000 per year in fiscal years 2006 and 2007.

Of this amount, \$100,000 is the rescission of the second year grant appropriation to the Metropolitan Economic Development Association made in Laws 2003, chapter 128, article 10, section 2. Base funding for this grant is included in fiscal years 2006 and 2007.

Of this amount, \$150,000 is the rescission of the second year grant appropriation to WomenVenture made in Laws 2003, chapter 128, article 10, section 2. Base funding for this grant is included in fiscal years 2006 and 2007.

Of this amount, \$175,000 is the rescission of the second year appropriation for the Minnesota Film Board made in Laws 2003, chapter 128, article 10, section 2. Base funding for this grant is included in fiscal years 2006 and 2007.

Subd. 2. Appropriations

-0- 445,000

\$100,000 in the second year is for a grant to Minnesota Project Innovation to provide assistance to Minnesota businesses in obtaining federal contracts. This appropriation is added to the base budget for this program for fiscal years 2006 and 2007.

\$250,000 the second year is to the Public Facilities Authority to carry out the authority's duties under Minnesota Statutes, section 446A.083.

APPROPRIATIONS  
Available for the Year  
Ending June 30

2004	2005
------	------

The base budget for this program in fiscal years 2006 and 2007 is \$250,000 each year.

\$95,000 in the second year is for a onetime grant to the Minnesota Employment Center for people who are deaf and hard-of-hearing, and is in addition to the appropriation made in Laws 2003, chapter 128, article 10, section 2.

Sec. 3. HOUSING FINANCE AGENCY

-0-           (628,000)

This reduction is from the appropriation made in Laws 2003, chapter 128, article 10, section 4.

This is a onetime reduction and is not to be subtracted from the agency's base for fiscal years 2006 and 2007.

Sec. 4. LABOR AND INDUSTRY

-0-           (85,000)

This reduction is from the operating budget appropriation made in Laws 2003, chapter 128, article 10, section 5. The base operating budget is reduced by an additional \$43,000 per year for fiscal years 2006 and 2007.

Sec. 5. BUREAU OF MEDIATION SERVICES

-0-           (100,000)

This reduction is the rescission of the second year appropriation for labor management cooperation grants made in Laws 2003, chapter 128, article 10, section 6. No base funding for these grants is included in fiscal years 2006 and 2007.

Sec. 6. MINNESOTA HISTORICAL SOCIETY

-0-           349,000

Of this amount, \$589,000 is for fiscal year 2005 for the operation of the following historical sites for the summer of 2004 and spring of 2005: Kelley Farm, Hill House, Lower Sioux Agency, Fort Ridgely, Historic Forestville, the Forest History Center, and the Comstock House. This is a onetime appropriation and is not to be added to the society's base.

Notwithstanding Minnesota Statutes, section 138.668, the Minnesota Historical Society may not charge a fee for its general tours at the Capitol, but may charge for special programs other than general tours.

APPROPRIATIONS  
Available for the Year  
Ending June 30

2004	2005
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Of this amount, \$60,000 in the second year is to offset the revenue loss from the prohibition of charging fees. This appropriation is added to the society's base.

Of this amount, \$300,000 in the second year is a reduction from the appropriation made in Laws 2003, chapter 128, article 10, section 8.

The base budget is reduced by an additional \$368,000 per year for fiscal years 2006 and 2007.

Sec. 7. DEPARTMENT OF EDUCATION

-0-

250,000

\$250,000 in the second year is for transfer to the Department of Human Services for a onetime grant for the transitional housing programs according to Minnesota Statutes, section 119A.43, and is in addition to the appropriation made in Laws 2003, chapter 128, article 10, section 10.

Sec. 8. COMMERCE

-0-

(855,000)

Of this amount, \$347,000 is a reduction from the operating budget appropriation made in Laws 2003, First Special Session chapter 1, article 3, section 2.

The base operating budget is reduced by an additional \$174,000 per year for fiscal years 2006 and 2007.

Of this amount, \$100,000 is a reduction from the appropriation made in Laws 2003, First Special Session chapter 1, article 3, section 2, for the administrative costs of the contractors recovery fund.

Of this amount, \$408,000 is a reduction from the appropriation made in Laws 2003, First Special Session chapter 1, article 3, section 2, for programs to improve the energy efficiency of residential oil-fired heating plants in low-income households and, when necessary, to provide weatherization services to the homes. No base funding for this program is included in fiscal years 2006 and 2007.

APPROPRIATIONS	
Available for the Year	
Ending June 30	
2004	2005

Sec. 9. BOARD OF BARBER AND COSMETOLOGIST  
EXAMINERS

-0-	572,000
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This appropriation is in addition to the appropriation made in Laws 2003, First Special Session chapter 1, article 3, section 5, and is added to the board's base.

Sec. 10. TRANSFERS AND CANCELLATIONS

Subdivision 1. Vocational Rehabilitation Transfer

Beginning in fiscal year 2005, the commissioner of employment and economic development may transfer \$1,325,000 from the independent living program's general fund appropriation to the vocational rehabilitation program. Each year the state director of the vocational rehabilitation program shall immediately restore from the vocational rehabilitation program's federal Social Security Administration program income or federal Title I funds, the \$1,325,000 to the Centers for Independent Living.

Subd. 2. Federal Funds Match

The transferred independent living general funds under subdivision 1 must be used to match federal vocational rehabilitation funds as they become available, and each year the resulting additional federal funds must be divided equally between the vocational rehabilitation program and the Centers for Independent Living.

The maximum amount of federal vocational rehabilitation funds that may be shared with the Centers for Independent Living is \$2,438,000. The vocational rehabilitation program may not use the Centers for Independent Living's share of the additional federal funds for any other purpose than to fund the Centers for Independent Living.

Subd. 3. Data Sharing

The Centers for Independent Living must share data with the vocational rehabilitation program to ensure that the transfer of funds under subdivision 1 and the related contracts meet all legal requirements.



(a) by township mutual fire insurance companies;

(1) for filing certificate of incorporation \$25 and amendments thereto, \$10;

(2) for filing annual statements, \$15;

(3) for each annual certificate of authority, \$15;

(4) for filing bylaws \$25 and amendments thereto, \$10;

(b) by other domestic and foreign companies including fraternal and reciprocal exchanges;

(1) for filing an application for an initial certificate of authority to be admitted to transact business in this state, \$1,500;

(2) for filing certified copy of certificate of articles of incorporation, \$100;

~~(2)~~ (3) for filing annual statement, \$225;

~~(3)~~ (4) for filing certified copy of amendment to certificate or articles of incorporation, \$100;

~~(4)~~ (5) for filing bylaws, \$75 or amendments thereto, \$75;

~~(5)~~ (6) for each company's certificate of authority, \$575, annually;

(c) the following general fees apply:

(1) for each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, \$25;

(2) for each copy of paper on file in the commissioner's office 50 cents per page, and \$2.50 for certifying the same;

(3) for license to procure insurance in unadmitted foreign companies, \$575;

(4) for valuing the policies of life insurance companies, one cent per \$1,000 of insurance so valued, provided that the fee shall not exceed \$13,000 per year for any company. The commissioner may, in lieu of a valuation of the policies of any foreign life insurance company admitted, or applying for admission, to do business in this state, accept a certificate of valuation from the company's own actuary or from the commissioner of insurance of the state or territory in which the company is domiciled;

(5) for receiving and filing certificates of policies by the company's actuary, or by the commissioner of insurance of any other state or territory, \$50;

(6) for each appointment of an agent filed with the commissioner, \$10;

(7) for filing forms and rates, \$75 per filing, which may be paid on a quarterly basis in response to an invoice. Billing and payment may be made electronically;

(8) for annual renewal of surplus lines insurer license, \$300;

(9) \$250 filing fee for a large risk alternative rating option plan that meets the \$250,000 threshold requirement.

The commissioner shall adopt rules to define filings that are subject to a fee.

Sec. 12. Minnesota Statutes 2003 Supplement, section 116J.70, subdivision 2a, is amended to read:

Subd. 2a. [LICENSE; EXCEPTIONS.] "Business license" or "license" does not include the following:

(1) any occupational license or registration issued by a licensing board listed in section 214.01 or any occupational registration issued by the commissioner of health pursuant to section 214.13;

(2) any license issued by a county, home rule charter city, statutory city, township, or other political subdivision;

(3) any license required to practice the following occupation regulated by the following sections:

(i) abstracters regulated pursuant to chapter 386;

(ii) accountants regulated pursuant to chapter 326A;

(iii) adjusters regulated pursuant to chapter 72B;

(iv) architects regulated pursuant to chapter 326;

(v) assessors regulated pursuant to chapter 270;

(vi) athletic trainers regulated pursuant to chapter 148;

(vii) attorneys regulated pursuant to chapter 481;

(viii) auctioneers regulated pursuant to chapter 330;

(ix) barbers and cosmetologists regulated pursuant to chapter 154;

(x) ~~beauticians regulated pursuant to chapter 155A;~~

~~(xi)~~ boiler operators regulated pursuant to chapter 183;

~~(xii)~~ (xi) chiropractors regulated pursuant to chapter 148;

~~(xiii)~~ (xii) collection agencies regulated pursuant to chapter 332;

~~(xiv)~~ ~~cosmetologists regulated pursuant to chapter 155A;~~

~~(xv)~~ (xiii) dentists, registered dental assistants, and dental hygienists regulated pursuant to chapter 150A;

~~(xvi)~~ (xiv) detectives regulated pursuant to chapter 326;

~~(xvii)~~ (xv) electricians regulated pursuant to chapter 326;

~~(xviii)~~ (xvi) mortuary science practitioners regulated pursuant to chapter 149A;

- ~~(xix)~~ (xvii) engineers regulated pursuant to chapter 326;
- ~~(xx)~~ (xviii) insurance brokers and salespersons regulated pursuant to chapter 60A;
- ~~(xxi)~~ (xix) certified interior designers regulated pursuant to chapter 326;
- ~~(xxii)~~ (xx) midwives regulated pursuant to chapter 147D;
- ~~(xxiii)~~ (xxi) nursing home administrators regulated pursuant to chapter 144A;
- ~~(xxiv)~~ (xxii) optometrists regulated pursuant to chapter 148;
- ~~(xxv)~~ (xxiii) osteopathic physicians regulated pursuant to chapter 147;
- ~~(xxvi)~~ (xxiv) pharmacists regulated pursuant to chapter 151;
- ~~(xxvii)~~ (xxv) physical therapists regulated pursuant to chapter 148;
- ~~(xxviii)~~ (xxvi) physician assistants regulated pursuant to chapter 147A;
- ~~(xxix)~~ (xxvii) physicians and surgeons regulated pursuant to chapter 147;
- ~~(xxx)~~ (xxviii) plumbers regulated pursuant to chapter 326;
- ~~(xxxi)~~ (xxix) podiatrists regulated pursuant to chapter 153;
- ~~(xxxii)~~ (xxx) practical nurses regulated pursuant to chapter 148;
- ~~(xxxiii)~~ (xxxi) professional fund-raisers regulated pursuant to chapter 309;
- ~~(xxxiv)~~ (xxxii) psychologists regulated pursuant to chapter 148;
- ~~(xxxv)~~ (xxxiii) real estate brokers, salespersons, and others regulated pursuant to chapters 82 and 83;
- ~~(xxxvi)~~ (xxxiv) registered nurses regulated pursuant to chapter 148;
- ~~(xxxvii)~~ (xxxv) securities brokers, dealers, agents, and investment advisers regulated pursuant to chapter 80A;
- ~~(xxxviii)~~ (xxxvi) steamfitters regulated pursuant to chapter 326;
- ~~(xxxix)~~ (xxxvii) teachers and supervisory and support personnel regulated pursuant to chapter 125;
- ~~(xl)~~ (xxxviii) veterinarians regulated pursuant to chapter 156;
- ~~(xli)~~ (xxxix) water conditioning contractors and installers regulated pursuant to chapter 326;
- ~~(xlii)~~ (xl) water well contractors regulated pursuant to chapter 103I;
- ~~(xliii)~~ (xli) water and waste treatment operators regulated pursuant to chapter 115;
- ~~(xliv)~~ (xlii) motor carriers regulated pursuant to chapter 221;



- (~~xlv~~) (xliii) professional firms regulated under chapter 319B;
- (~~xlvi~~) (xliv) real estate appraisers regulated pursuant to chapter 82B;
- (~~xlviii~~) (xlv) residential building contractors, residential remodelers, residential roofers, manufactured home installers, and specialty contractors regulated pursuant to chapter 326;
- (~~xlviii~~) (xlvi) licensed professional counselors regulated pursuant to chapter 148B;
- (4) any driver's license required pursuant to chapter 171;
- (5) any aircraft license required pursuant to chapter 360;
- (6) any watercraft license required pursuant to chapter 86B;
- (7) any license, permit, registration, certification, or other approval pertaining to a regulatory or management program related to the protection, conservation, or use of or interference with the resources of land, air, or water, which is required to be obtained from a state agency or instrumentality; and
- (8) any pollution control rule or standard established by the Pollution Control Agency or any health rule or standard established by the commissioner of health or any licensing rule or standard established by the commissioner of human services.

Sec. 13. Minnesota Statutes 2003 Supplement, section 116J.8731, subdivision 5, is amended to read:

Subd. 5. [GRANT LIMITS.] A Minnesota investment fund grant may not be approved for an amount in excess of \$1,000,000. This limit covers all money paid to complete the same project, whether paid to one or more grant recipients and whether paid in one or more fiscal years. ~~The portion~~ Twenty percent of a Minnesota investment fund grant ~~that exceeds, but no more than \$100,000 must be repaid to the state when it is repaid to,~~ may be retained by the local community or recognized Indian tribal government when the grant is repaid by the person or entity to which it was loaned by the local community or Indian tribal government. The remainder must be repaid to the state. Money repaid to the state must be credited to a Minnesota investment revolving loan account in the state treasury. Funds in the account are appropriated to the commissioner and must be used in the same manner as are funds appropriated to the Minnesota investment fund. Funds repaid to the state through existing Minnesota investment fund agreements must be credited to the Minnesota investment revolving loan account effective July 1, 2003. A grant or loan may not be made to a person or entity for the operation or expansion of a casino or a store which is used solely or principally for retail sales. Persons or entities receiving grants or loans must pay each employee total compensation, including benefits not mandated by law, that on an annualized basis is equal to at least 110 percent of the federal poverty level for a family of four.

Sec. 14. Minnesota Statutes 2002, section 154.01, is amended to read:

154.01 [REGISTRATION MANDATORY.]

(a) No person shall practice, offer to practice, or attempt to practice barbering without a current certificate of registration as a registered barber, issued pursuant to provisions of ~~this chapter~~ sections 154.01 to 154.26 by the Board of Barber and Cosmetologist Examiners.

(b) No person shall serve, offer to serve, or attempt to serve as an apprentice under a registered barber without a current certificate of registration as a registered apprentice or temporary apprentice permit issued pursuant to provisions of ~~this chapter~~ sections 154.01 to 154.26 by the Board of Barber and Cosmetologist Examiners. The

registered apprentice shall, prior to or immediately upon issuance of the apprentice's certificate of registration, and immediately after changing employment, advise the board of the name, address, and certificate number of the registered barber under whom the registered apprentice is working.

(c) No person shall operate a barber shop unless it is at all times under the direct supervision and management of a registered barber and the owner or operator of the barber shop possesses a current shop registration card, issued under ~~this chapter~~ sections 154.01 to 154.26 by the Board of Barber and Cosmetologist Examiners.

(d) No person shall serve, offer to serve, or attempt to serve as an instructor of barbering without a current certificate of registration as a registered instructor of barbering or a temporary permit as an instructor of barbering, as provided for the board by rule, issued under ~~this chapter~~ sections 154.01 to 154.26 by the Board of Barber and Cosmetologist Examiners.

(e) No person shall operate a barber school unless the owner or operator possesses a current certificate of registration as a barber school, issued under ~~this chapter~~ sections 154.01 to 154.26 by the Board of Barber and Cosmetologist Examiners.

Sec. 15. Minnesota Statutes 2002, section 154.02, is amended to read:

154.02 [WHAT CONSTITUTES BARBERING.]

Any one or any combination of the following practices when done upon the head and neck for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when done for payment directly or indirectly or without payment for the public generally constitutes the practice of barbering within the meaning of ~~this chapter~~ sections 154.01 to 154.26: to shave, trim the beard, cut or bob the hair of any person of either sex for compensation or other reward received by the person performing such service or any other person; to give facial and scalp massage or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances; to singe, shampoo the hair, or apply hair tonics; or to apply cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, or neck.

Sec. 16. Minnesota Statutes 2002, section 154.03, is amended to read:

154.03 [APPRENTICES MAY BE EMPLOYED.]

A registered apprentice may practice barbering only if the registered apprentice is, at all times, under the immediate personal supervision of a registered barber and is in compliance with ~~this chapter~~ sections 154.01 to 154.26 and the rules of the board.

Sec. 17. Minnesota Statutes 2002, section 154.04, is amended to read:

154.04 [PERSONS EXEMPT FROM REGISTRATION.]

The following persons are exempt from the provisions of ~~this chapter~~ sections 154.01 to 154.26 while in the proper discharge of their professional duties:

- (1) persons authorized by the law of this state to practice medicine, surgery, osteopathy, and chiropractic;
- (2) commissioned medical or surgical officers of the United States armed services;

(3) registered nurses, licensed practical nurses, and nursing aides performing services under the direction and supervision of a registered nurse, provided, however, that no additional compensation shall be paid for such service and patients who are so attended shall not be charged for barbering;

(4) ~~persons practicing beauty culture~~ cosmetologists, provided, however, that ~~persons practicing beauty culture~~ cosmetologists shall not hold themselves out as barbers or, except in the case of manicurists, practice their occupation in a barber shop; and

(5) persons who perform barbering services for charitable purposes in nursing homes, shelters, missions, or other similar facilities, provided, however, that no direct or indirect compensation is received for the services, and that persons who receive barbering services are not charged for the services.

Sec. 18. Minnesota Statutes 2002, section 154.06, is amended to read:

154.06 [WHO MAY RECEIVE CERTIFICATES OF REGISTRATION AS A REGISTERED APPRENTICE.]

A person is qualified to receive a certificate of registration as a registered apprentice:

- (1) who has completed at least ten grades of an approved school;
- (2) who has graduated from a barber school approved by the board; and
- (3) who has passed an examination conducted by the board to determine fitness to practice as a registered apprentice.

An applicant for a certificate of registration to practice as an apprentice who fails to pass the examination conducted by the board is required to complete a further course of study of at least 500 hours, of not more than eight hours in any one working day, in a barber school approved by the board.

A certificate of registration of an apprentice shall be valid for four years from the date the certificate of registration is issued by the board and shall not be renewed. During ~~such~~ the four-year period the certificate of registration shall remain in full force and effect only if the apprentice complies with all the provisions of ~~this chapter, as amended~~ sections 154.01 to 154.26, including the payment of an annual fee, and the rules of the board.

If ~~any~~ a registered apprentice ~~shall~~, during the term in which the certificate of registration is in effect, ~~enter full time~~ enters full-time active duty in the armed forces of the United States of America, the expiration date of the certificate of registration shall be extended by a period of time equal to the period or periods of active duty.

Sec. 19. Minnesota Statutes 2002, section 154.07, as amended by Laws 2003, chapter 130, section 12, is amended to read:

154.07 [BARBER SCHOOLS; REQUIREMENTS.]

Subdivision 1. [ADMISSION REQUIREMENTS; COURSE OF INSTRUCTION.] No barber school shall be approved by the board unless it requires, as a prerequisite to admission ~~thereto~~, ten grades of an approved school or its equivalent, as determined by an examination conducted by the commissioner of education, which shall issue a certificate that the student has passed the required examination, and unless it requires, as a prerequisite to graduation, a course of instruction of at least 1,500 hours, of not more than eight hours in any one working day; ~~such~~. The course of instruction ~~to~~ must include the following subjects: scientific fundamentals for barbering;

hygiene; practical study of the hair, skin, muscles, and nerves; structure of the head, face, and neck; elementary chemistry relating to sterilization and antiseptics; diseases of the skin, hair, and glands; massaging and manipulating the muscles of the face and neck; haircutting; shaving, ~~and~~ trimming the beard; bleaching, tinting and dyeing the hair; and the chemical straightening of hair.

Subd. 3. [COSTS.] It ~~shall be~~ is permissible for barber schools to make a reasonable charge for materials used and services rendered by students for work done in ~~such~~ the schools by students.

Subd. 3a. [NUMBER OF INSTRUCTORS.] There ~~shall~~ must be one registered instructor of barbering for every 17 students or minor fraction in excess of 17. ~~No~~ Instruction ~~shall~~ must not be performed by persons not possessing a certificate of registration as an instructor of barbering or a temporary permit as an instructor of barbering.

Subd. 4. [BUILDING REQUIREMENTS.] Each barber school ~~shall~~ must be conducted and operated in one building, or in connecting buildings, and ~~no~~ a barber school ~~shall~~ must not have any department or branch in a building completely separated or removed from the remainder of the barber school.

Subd. 5. [OWNER'S REQUIREMENTS.] Any person may own and operate a barber school if the person has had six years' continuous experience as a barber, provided the person first secures from the board an annual certificate of registration as a barber school, keeps it prominently displayed, and before commencing business:

(1) files with the secretary of state a bond to the state approved by the attorney general in the sum of \$25,000, conditioned upon the faithful compliance of the barber school with ~~all the provisions herein~~ sections 154.01 to 154.26, and to pay all judgments that may be obtained against the school, or the owners thereof, on account of fraud, misrepresentation, or deceit practiced by them or their agents; and

(2) keeps prominently displayed on the exterior a substantial sign indicating that the establishment is a barber school.

Subd. 5a. [STUDENT PERMITS.] All barber schools upon receiving students shall immediately apply to the board for student permits upon forms for that purpose furnished by the board.

Subd. 5b. [DESIGNATED OPERATOR.] When a person who owns a barber school does not meet the requirements of this section to operate a barber school, the owner shall notify the board in writing and under oath of the identity of the person designated to operate the barber school and shall notify the board of any change of operator by telephone within 24 hours of such change, exclusive of Saturdays, Sundays, and legal holidays, and shall notify the board in writing and under oath within 72 hours of such change.

Subd. 6. [OPERATION BY TECHNICAL COLLEGE OR STATE INSTITUTION.] A public technical college or a state institution may operate a barber school provided it has in its employment a qualified instructor holding a current certificate of registration as a barber instructor and provided that it secures from the board ~~of Barber Examiners~~ an annual certificate of registration and does so in accordance with ~~this chapter~~ sections 154.01 to 154.26 and the rules of the board for barber schools but without the requirement to file a performance bond with the secretary of state.

Sec. 20. Minnesota Statutes 2002, section 154.08, is amended to read:

154.08 [APPLICATION; FEE.]

Each applicant for an examination shall:

(1) make application to the Board of Barber and Cosmetologist Examiners on blank forms prepared and furnished by it, ~~such~~ the application to contain proof under the applicant's oath of the particular qualifications of the applicant;

(2) furnish to the board two five inch x three inch signed photographs of the applicant, one to accompany the application and one to be returned to the applicant, to be presented to the board when the applicant appears for examination; and

(3) pay to the board the required fee.

Sec. 21. Minnesota Statutes 2002, section 154.11, is amended to read:

154.11 [EXAMINATION OF NONRESIDENT BARBERS AND INSTRUCTORS OF BARBERING; TEMPORARY APPRENTICE PERMITS.]

Subdivision 1. [EXAMINATION OF NONRESIDENTS.] A person who meets all of the requirements for ~~licensure~~ barber registration in ~~this chapter~~ sections 154.01 to 154.26 and either has a license, certificate of registration, or an equivalent as a practicing barber or instructor of barbering from another state or country which in the discretion of the board has substantially the same requirements for ~~licensing or~~ registering barbers and instructors of barbering as required by ~~this chapter~~ sections 154.01 to 154.26 or can prove by sworn affidavits practice as a barber or instructor of barbering in another state or country for at least five years immediately prior to making application in this state, shall, upon payment of the required fee, be issued a certificate of registration without examination, provided that the other state or country grants the same privileges to holders of Minnesota certificates of registration.

Subd. 2. [TEMPORARY APPRENTICE PERMITS FOR NONRESIDENTS.] Any person who qualifies for examination as a registered barber under this section may apply for a temporary apprentice permit which is effective no longer than six months. All persons holding a temporary apprentice permit are subject to all provisions of ~~this chapter~~ sections 154.01 to 154.26 and the rules adopted by the board under ~~those sections~~ concerning the conduct and obligations of registered apprentices.

Sec. 22. Minnesota Statutes 2002, section 154.12, is amended to read:

154.12 [EXAMINATION OF NONRESIDENT APPRENTICES.]

A person who meets all of the requirements for ~~licensure~~ registration as a barber in ~~this chapter~~ sections 154.01 to 154.26 and who has a license, a certificate of registration, or ~~their~~ its equivalent as an apprentice in a state or country which in the discretion of the board has substantially the same requirements for registration as an apprentice as is provided by ~~this chapter~~ sections 154.01 to 154.26, shall, upon payment of the required fee, be issued a certificate of registration without examination, provided that the other state or country grants the same privileges to holders of Minnesota certificates of registration.

Sec. 23. Minnesota Statutes 2002, section 154.161, subdivision 2, is amended to read:

Subd. 2. [LEGAL ACTIONS.] (a) When necessary to prevent an imminent violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the board, or a complaint committee if authorized by the board, may bring an action in the name of the state in the District Court of Ramsey County in which jurisdiction is proper to enjoin the act or practice and to enforce compliance with the statute, rule, or order. On a showing that a person has engaged in or is about to engage in an act or practice that constitutes a violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the court shall grant a permanent or temporary injunction, restraining order, or other appropriate relief.

(b) For purposes of injunctive relief under this subdivision, irreparable harm exists when the board shows that a person has engaged in or is about to engage in an act or practice that constitutes violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce.

(c) Injunctive relief granted under paragraph (a) does not relieve an enjoined person from criminal prosecution by a competent authority, or from action by the board under subdivision 3, 4, 5, or 6 with respect to the person's ~~license registration~~, certificate, or application for examination, ~~license registration~~, or renewal.

Sec. 24. Minnesota Statutes 2002, section 154.161, subdivision 4, is amended to read:

Subd. 4. [~~LICENSE REGISTRATION ACTIONS.~~] (a) With respect to a person who is a holder of or applicant for a ~~license registration~~ or a shop registration card under ~~this chapter sections 154.01 to 154.26~~, the board may by order deny, refuse to renew, suspend, temporarily suspend, or revoke the application, certificate of registration, or shop registration card, censure or reprimand the person, refuse to permit the person to sit for examination, or refuse to release the person's examination grades, if the board finds that such an order is in the public interest and that, based on a preponderance of the evidence presented, the person has:

- (1) violated a statute, rule, or order that the board has adopted or issued or is empowered to enforce;
- (2) engaged in conduct or acts that are fraudulent, deceptive, or dishonest, whether or not the conduct or acts relate to the practice of barbering, if the fraudulent, deceptive, or dishonest conduct or acts reflect adversely on the person's ability or fitness to engage in the practice of barbering;
- (3) engaged in conduct or acts that constitute malpractice, are negligent, demonstrate incompetence, or are otherwise in violation of the standards in the rules of the board, where the conduct or acts relate to the practice of barbering;
- (4) employed fraud or deception in obtaining a certificate of registration, shop registration card, renewal, or reinstatement, or in passing all or a portion of the examination;
- (5) had a certificate of registration or shop registration card, right to examine, or other similar authority revoked in another jurisdiction;
- (6) failed to meet any requirement for issuance or renewal of the person's certificate of registration or shop registration card;
- (7) practiced as a barber while having an infectious or contagious disease;
- (8) advertised by means of false or deceptive statements;
- (9) demonstrated intoxication or indulgence in the use of drugs, including but not limited to narcotics as defined in section 152.01 or in United States Code, title 26, section 4731, barbiturates, amphetamines, benzedrine, dexedrine, or other sedatives, depressants, stimulants, or tranquilizers;
- (10) demonstrated unprofessional conduct or practice;
- (11) permitted an employee or other person under the person's supervision or control to practice as a registered barber, registered apprentice, or registered instructor of barbering unless that person has (i) a current certificate of registration as a registered barber, registered apprentice, or registered instructor of barbering, (ii) a temporary apprentice permit, or (iii) a temporary permit as an instructor of barbering;

(12) practices, offered to practice, or attempted to practice by misrepresentation;

(13) failed to display a certificate of registration as required by section 154.14;

(14) used any room or place of barbering that is also used for any other purpose, or used any room or place of barbering that violates the board's rules governing sanitation;

(15) in the case of a barber, apprentice, or other person working in or in charge of any barber shop, or any person in a barber school engaging in the practice of barbering, failed to use separate and clean towels for each customer or patron, or to discard and launder each towel after being used once;

(16) in the case of a barber or other person in charge of any barber shop or barber school, (i) failed to supply in a sanitary manner clean hot and cold water in quantities necessary to conduct the shop or barbering service for the school, (ii) failed to have water and sewer connections from the shop or barber school with municipal water and sewer systems where they are available for use, or (iii) failed or refused to maintain a receptacle for hot water of a capacity of at least five gallons;

(17) refused to permit the board to make an inspection permitted or required by ~~this chapter~~ sections 154.01 to 154.26, or failed to provide the board or the attorney general on behalf of the board with any documents or records they request;

(18) failed promptly to renew a certificate of registration or shop registration card when remaining in practice, pay the required fee, or issue a worthless check;

(19) failed to supervise a registered apprentice or temporary apprentice, or permitted the practice of barbering by a person not registered with the board or not holding a temporary permit;

(20) refused to serve a customer because of race, color, creed, religion, disability, national origin, or sex;

(21) failed to comply with a provision of chapter 141 or a provision of another chapter that relates to barber schools; or

(22) with respect to temporary suspension orders, has committed an act, engaged in conduct, or committed practices that the board, or complaint committee if authorized by the board, has determined may result or may have resulted in an immediate threat to the public.

(b) In lieu of or in addition to any remedy under paragraph (a), the board may as a condition of continued registration, termination of suspension, reinstatement of registration, examination, or release of examination results, require that the person:

(1) submit to a quality review of the person's ability, skills, or quality of work, conducted in a manner and by a person or entity that the board determines; or

(2) complete to the board's satisfaction continuing education as the board requires.

(c) Service of an order under this subdivision is effective if the order is served personally on, or is served by certified mail to the most recent address provided to the board by the licensee, certificate holder, applicant, or counsel of record. The order must state the reason for the entry of the order.

(d) Except as provided in subdivision 5, paragraph (c), all hearings under this subdivision must be conducted in accordance with the Administrative Procedure Act.

Sec. 25. Minnesota Statutes 2002, section 154.161, subdivision 5, is amended to read:

Subd. 5. [TEMPORARY SUSPENSION.] (a) When the board, or complaint committee if authorized by the board, issues a temporary suspension order, the suspension provided for in the order is effective on service of a written copy of the order on the ~~licensee~~, certificate holder, or counsel of record. The order must specify the statute, rule, or order violated by the ~~licensee or~~ certificate holder. The order remains in effect until the board issues a final order in the matter after a hearing, or on agreement between the board and the ~~licensee or~~ certificate holder.

(b) An order under this subdivision may (1) prohibit the ~~licensee or~~ certificate holder from engaging in the practice of barbering in whole or in part, as the facts require, and (2) condition the termination of the suspension on compliance with a statute, rule, or order that the board has adopted or issued or is empowered to enforce. The order must state the reasons for entering the order and must set forth the right to a hearing as provided in this subdivision.

(c) Within ten days after service of an order under this subdivision the ~~licensee or~~ certificate holder may request a hearing in writing. The board must hold a hearing before its own members within five working days of the request for a hearing. The sole issue at such a hearing must be whether there is a reasonable basis to continue, modify, or terminate the temporary suspension. The hearing is not subject to the Administrative Procedure Act. Evidence presented to the board or the ~~licensee or~~ certificate holder may be in affidavit form only. The ~~licensee~~, certificate holder, or counsel of record may appear for oral argument.

(d) Within five working days after the hearing, the board shall issue its order and, if the order continues the suspension, shall schedule a contested case hearing within 30 days of the issuance of the order. Notwithstanding any rule to the contrary, the administrative law judge shall issue a report within 30 days after the closing of the contested case hearing record. The board shall issue a final order within 30 days of receiving the report.

Sec. 26. Minnesota Statutes 2002, section 154.161, subdivision 7, is amended to read:

Subd. 7. [REINSTATEMENT.] The board may reinstate a suspended, revoked, or surrendered certificate of registration or shop registration card, on petition of the former or suspended registrant. The board may in its sole discretion place any conditions on reinstatement of a suspended, revoked, or surrendered certificate of registration or shop registration card that it finds appropriate and necessary to ensure that the purposes of ~~this chapter~~ sections 154.01 to 154.26 are met. No certificate of registration or shop registration card may be reinstated until the former registrant has completed at least one-half of the suspension period.

Sec. 27. Minnesota Statutes 2002, section 154.18, is amended to read:

154.18 [FEES.]

(a) The fees collected, as required in this chapter, chapter 214, and the rules of the board, shall be paid in advance by September 1 of the year in which they are due to the executive secretary of the board. The executive secretary shall deposit the fees in the general fund in the state treasury, to be disbursed by the executive secretary on the order of the chair in payment of expenses lawfully incurred by the board.

(b) The board shall charge the following fees:

(1) examination and certificate, registered barber, \$65;

(2) examination and certificate, apprentice, \$60;

(3) examination, instructor, \$160;



- (4) certificate, instructor, \$45;
- (5) temporary teacher or apprentice permit, \$50;
- (6) renewal of license, registered barber, \$50;
- (7) renewal of license, apprentice, \$45;
- (8) renewal of license, instructor, \$60;
- (9) renewal of temporary teacher permit, \$35;
- (10) student permit, \$25;
- (11) initial shop registration, \$60;
- (12) initial school registration, \$1,010;
- (13) renewal shop registration, \$60;
- (14) renewal school registration, \$260;
- (15) restoration of registered barber license, \$75;
- (16) restoration of apprentice license, \$70;
- (17) restoration of shop registration, \$85;
- (18) change of ownership or location, \$35;
- (19) duplicate license, \$20; and
- (20) home study course, \$75.

Sec. 28. Minnesota Statutes 2002, section 154.19, is amended to read:

154.19 [VIOLATIONS.]

Each of the following constitutes a misdemeanor:

- (1) The violation of any of the provisions of section 154.01;
- (2) Permitting any person in one's employ, supervision, or control to practice as a registered barber or registered apprentice unless that person has a certificate of registration as a registered barber or registered apprentice;
- (3) Obtaining or attempting to obtain a certificate of registration for money other than the required fee, or any other thing of value, or by fraudulent misrepresentation;
- (4) Practicing or attempting to practice by fraudulent misrepresentation;
- (5) The willful failure to display a certificate of registration as required by section 154.14;

(6) The use of any room or place for barbering which is also used for residential or business purposes, except the sale of hair tonics, lotions, creams, cutlery, toilet articles, cigars, tobacco, candies in original package, and such commodities as are used and sold in barber shops, and except that shoe-shining and an agency for the reception and delivery of laundry, or either, may be conducted in a barber shop without the same being construed as a violation of this section, unless a substantial partition of ceiling height separates the portion used for residential or business purposes, and where a barber shop is situated in a residence, poolroom, confectionery, store, restaurant, garage, clothing store, liquor store, hardware store, or soft drink parlor, there must be an outside entrance leading into the barber shop independent of any entrance leading into such business establishment, except that this provision as to an outside entrance shall not apply to barber shops in operation at the time of the passage of this ~~chapter~~ section and except that a barber shop and beauty parlor may be operated in conjunction, without the same being separated by partition of ceiling height;

(7) The failure or refusal of any barber or other person in charge of any barber shop, or any person in barber schools or colleges doing barber service work, to use separate and clean towels for each customer or patron, or to discard and launder each towel after once being used;

(8) The failure or refusal by any barber or other person in charge of any barber shop or barber school or barber college to supply clean hot and cold water in such quantities as may be necessary to conduct such shop, or the barbering service of such school or college, in a sanitary manner, or the failure or refusal of any such person to have water and sewer connections from such shop, or barber school or college, with municipal water and sewer systems where the latter are available for use, or the failure or refusal of any such person to maintain a receptacle for hot water of a capacity of not less than five gallons;

(9) For the purposes of ~~this chapter~~ sections 154.01 to 154.26, barbers, students, apprentices, or the proprietor or manager of a barber shop, or barber school or barber college, shall be responsible for all violations of the sanitary provisions of ~~this chapter~~ sections 154.01 to 154.26, and if any barber shop, or barber school or barber college, upon inspection, shall be found to be in an unsanitary condition, the person making such inspection shall immediately issue an order to place the barber shop, or barber school, or barber college, in a sanitary condition, in a manner and within a time satisfactory to the Board of Barber and Cosmetologist Examiners, and for the failure to comply with such order the board shall immediately file a complaint for the arrest of the persons upon whom the order was issued, and any ~~licensed~~ registered barber who shall fail to comply with the rules adopted by the Board of Barber and Cosmetologist Examiners, with the approval of the state commissioner of health, or the violation or commission of any of the offenses described in section 154.16, clauses (1), (2), (3), (4), (5), (6), (7), (8), (9), and of clauses (1), (2), (3), (4), (5), (6), (7), (8), and (9) of this section, shall be fined not less than \$10 or imprisoned for ten days and not more than \$100 or imprisoned for 90 days.

Sec. 29. Minnesota Statutes 2002, section 154.21, is amended to read:

154.21 [PERJURY.]

The willful making of any false statement as to a material matter in any oath or affidavit which is required by the provisions of ~~this chapter~~ sections 154.01 to 154.26 is perjury and punishable as such.

Sec. 30. Minnesota Statutes 2002, section 154.22, is amended to read:

154.22 [BOARD OF BARBER AND COSMETOLOGIST EXAMINERS CREATED; TERMS.]

(a) A Board of Barber and Cosmetologist Examiners is established to consist of ~~four~~ three barber members, three cosmetologist members, and one public member, as defined in section 214.02, appointed by the governor. ~~Three of such~~

(b) The barber members shall be persons who have practiced as a registered barber barbers in this state for at least five years immediately prior to their appointment; shall be graduates from the 12th grade of a high school or have equivalent education, and shall have knowledge of the matters to be taught in registered barber schools, as set forth in section 154.07. The remaining member of the board shall be a public member as defined by section 214.02. One of the members shall be a member of, or recommended by, a union of journeymen barbers which shall have that has existed at least two years, and one shall be a member of, or recommended by, a professional organization of barbers.

(c) All members must be currently licensed in the state of Minnesota, have practiced in the licensed occupation for at least five years immediately prior to their appointment, be graduates from the 12th grade of high school or have equivalent education, and have knowledge of sections 155A.01 to 155A.16 and Minnesota Rules, chapters 2642 and 2644. The members shall be members of, or recommended by, a professional organization of cosmetologists, manicurists, or estheticians.

(d) Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214.

(e) Members appointed to fill vacancies caused by death, resignation, or removal shall serve during the unexpired term of their predecessors.

(f) The barber members of the board shall separately oversee administration, enforcement, and regulation of, and adoption of rules under, sections 154.01 to 154.26. The cosmetologist members of the board shall separately oversee administration, enforcement, and regulation of, and adoption of rules under, sections 155A.01 to 155A.16. Staff hired by the board, including inspectors, shall serve both professions.

Sec. 31. Minnesota Statutes 2002, section 154.23, is amended to read:

154.23 [OFFICERS; COMPENSATION; FEES; EXPENSES.]

The Board of Barber and Cosmetologist Examiners shall annually elect a chair and secretary. It shall adopt and use a common seal for the authentication of its orders and records. The board shall appoint an executive secretary who shall not be a member of the board and who shall be in the unclassified civil service.

The executive secretary shall keep a record of all proceedings of the board. The expenses of administering ~~sections 154.01 to 154.26~~ this chapter shall be paid from the appropriations made to the Board of Barber and Cosmetologist Examiners.

Each member of the board shall take the oath provided by law for public officers.

A majority of the board, in meeting assembled, may perform and exercise all the duties and powers devolving upon the board.

The members of the board shall receive compensation for each day spent on board activities, but not to exceed 20 days in any calendar month nor 100 days in any calendar year.

The board shall have authority to employ such inspectors, clerks, deputies, and other assistants as it may deem necessary to carry out the provisions of this chapter.

Sec. 32. Minnesota Statutes 2002, section 154.24, is amended to read:

154.24 [RULES.]

The Board of Barber and Cosmetologist Examiners shall have authority to make reasonable rules for the administration of the provisions of ~~this chapter~~ sections 154.01 to 154.26 and prescribe sanitary requirements for barber shops and barber schools, subject to the approval of the state commissioner of health. Any member of the board, or its agents or assistants, shall have authority to enter upon and to inspect any barber shop or barber school at any time during business hours. A copy of the rules adopted by the board shall be furnished by it to the owner or manager of each barber shop or barber school and such copy shall be posted in a conspicuous place in such barber shop or barber school.

The board shall keep a record of its proceedings relating to the issuance, refusal, renewal, suspension, and revocation of certificates of registration. This record shall contain the name, place of business and residence of each registered barber and registered apprentice, and the date and number of the certificate of registration. This record shall be open to public inspection at all reasonable times.

Sec. 33. Minnesota Statutes 2002, section 154.25, is amended to read:

154.25 [NOT TO SERVE CERTAIN PERSONS.]

No person practicing the occupation of a barber in any barber shop, barber school, or college in this state shall knowingly serve a person afflicted, in a dangerous or infectious state of the disease, with erysipelas, eczema, impetigo, sycosis, tuberculosis, or any other contagious or infectious disease. Any person so afflicted is hereby prohibited from being served in any barber shop, barber school, or college in this state. Any violation of this section shall be considered a misdemeanor as provided for in ~~this chapter~~ sections 154.01 to 154.26.

Sec. 34. Minnesota Statutes 2002, section 155A.01, is amended to read:

155A.01 [POLICY.]

The legislature finds that the health and safety of the people of the state are served by the licensing of the practice of cosmetology because of the use of chemicals, apparatus, and other appliances requiring special skills and education.

To this end, the public will best be served by vesting these responsibilities in the ~~commissioner of commerce~~ Board of Barber and Cosmetologist Examiners.

Sec. 35. Minnesota Statutes 2002, section 155A.02, is amended to read:

155A.02 [PROHIBITION; LIMITATION.]

It shall be unlawful for any person to engage in cosmetology, or to conduct or operate a cosmetology school or salon, except as ~~hereinafter~~ provided in sections 155A.03 to 155A.16.

Sec. 36. Minnesota Statutes 2002, section 155A.03, subdivision 1, is amended to read:

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

Sec. 37. Minnesota Statutes 2002, section 155A.03, is amended by adding a subdivision to read:

Subd. 1a. [BOARD.] "Board" means the Board of Barber and Cosmetologist Examiners.

Sec. 38. Minnesota Statutes 2002, section 155A.03, subdivision 2, is amended to read:

Subd. 2. [COSMETOLOGY.] "Cosmetology" is the practice of personal services, for compensation, for the cosmetic care of the hair, nails, and skin. These services include cleaning, conditioning, shaping, reinforcing, coloring and enhancing the body surface in the areas of the head, scalp, face, arms, hands, legs, and feet, except where these services are performed by a ~~licensed barber under chapter 154~~ sections 154.01 to 154.26.

Sec. 39. Minnesota Statutes 2002, section 155A.03, is amended by adding a subdivision to read:

Subd. 4a. [LICENSED PRACTICE.] "Licensed practice" means the practice of cosmetology in a licensed salon or the practice of an esthetician in a licensed physician's office.

Sec. 40. Minnesota Statutes 2002, section 155A.03, subdivision 7, is amended to read:

Subd. 7. [SALON.] A "salon" is an area, room, or rooms employed to offer personal services, as defined in subdivision 2. "Salon" does not include the home of a customer but the ~~commissioner~~ board may adopt health and sanitation rules governing practice in the homes of customers.

Sec. 41. Minnesota Statutes 2002, section 155A.045, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE.] The fee schedule for licensees is as follows:

(a) Three-year license fees:

(1) cosmetologist, manicurist, esthetician, ~~\$45~~ \$90 for each initial license, and ~~\$30~~ \$60 for each renewal;

(2) instructor, manager, ~~\$60~~ \$120 for each initial license, and ~~\$45~~ \$90 for each renewal;

(3) licensed physician's office, \$130 for each initial license, and \$100 for each renewal;

(4) salon, \$65 \$130 for each initial license, and \$50 \$100 for each renewal; and

~~(4)~~ (5) school, \$750 \$1,500.

(b) Penalties:

(1) reinspection fee, variable; and

(2) manager with lapsed practitioner, \$25.

(c) Administrative fees:

(1) certificate of identification, \$20; and

(2) school original application, \$150.

(d) All fees established in this subdivision must be paid to the executive secretary of the board on or before September 1 of the year in which they become due. The executive secretary of the board shall deposit the fees in the general fund in the state treasury, to be disbursed by the executive secretary on the order of the chair in payment of expenses lawfully incurred by the board.

Sec. 42. Minnesota Statutes 2002, section 155A.05, is amended to read:

155A.05 [RULES.]

The ~~commissioner~~ board may develop and adopt rules according to chapter 14 that the ~~commissioner~~ board considers necessary to carry out ~~this chapter~~ sections 155A.01 to 155A.16.

Sec. 43. Minnesota Statutes 2002, section 155A.07, subdivision 2, is amended to read:

Subd. 2. [QUALIFICATIONS.] Qualifications for licensing in each classification shall be determined by the ~~commissioner~~ board and established by rule, and shall include educational and experiential prerequisites. The rules shall require a demonstrated knowledge of procedures necessary to protect the health of the practitioner and the consumer of cosmetology services, including but not limited to chemical applications.

Sec. 44. Minnesota Statutes 2002, section 155A.07, subdivision 8, is amended to read:

Subd. 8. [EXEMPTIONS.] Persons licensed to provide cosmetology services in other states visiting this state for cosmetology demonstrations shall be exempted from the licensing provisions of ~~this chapter~~ sections 155A.01 to 155A.16 if services to consumers are in the physical presence of a licensed cosmetologist.

Sec. 45. Minnesota Statutes 2002, section 155A.07, is amended by adding a subdivision to read:

Subd. 10. [NONRESIDENT LICENSES.] A nonresident cosmetologist, manicurist, or esthetician may be licensed in Minnesota if the individual has completed cosmetology school in a state or country with the same or greater school hour requirements, has an active license in that state or country, and has passed the Minnesota-specific written operator examination for cosmetologist, manicurist, or esthetician. If a test is used to verify the qualifications of trained cosmetologists, the test should be translated into their native language within the limits of available resources. Licenses shall not be issued under this subdivision for managers or instructors.

Sec. 46. Minnesota Statutes 2002, section 155A.08, subdivision 1, is amended to read:

Subdivision 1. [LICENSING.] Any person who offers cosmetology services for compensation in this state shall be licensed as a salon if not employed by another licensed salon or as an esthetician in a licensed physician's area.

Sec. 47. Minnesota Statutes 2002, section 155A.08, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENTS.] (a) The conditions and process by which a salon is licensed shall be established by the ~~commissioner~~ board by rule. In addition to those requirements, no license shall be issued unless the ~~commissioner~~ board first determines that ~~paragraphs (a) to (e)~~ the conditions in clauses (1) to (5) have been satisfied:

- ~~(a)~~ (1) compliance with all local and state laws, particularly relating to matters of sanitation, health, and safety;
- ~~(b)~~ (2) the employment of a manager, as defined in section 155A.03, subdivision 6;
- ~~(c)~~ (3) inspection and licensing prior to the commencing of business;

(d) (4) if applicable, evidence of compliance with section 176.182; and

(e) (5) evidence of continued professional liability insurance coverage of at least \$25,000 for each claim and \$50,000 total coverage for each policy year for each operator.

(b) A licensed esthetician or manicurist who complies with the health, safety, sanitation, inspection, and insurance rules promulgated by the ~~commissioner~~ board to operate a salon solely for the performance of those personal services defined in section 155A.03, subdivision 4, in the case of an esthetician, or subdivision 5, in the case of a manicurist.

Sec. 48. Minnesota Statutes 2002, section 155A.08, subdivision 3, is amended to read:

Subd. 3. [HEALTH AND SANITARY STANDARDS.] Minimum health and sanitary standards for the operation of a salon shall be established by rule. A salon shall not be located in a room used for residential purposes. If a salon is in the residence of a person practicing cosmetology, the rooms used for the practice of cosmetology shall be completely partitioned off from the living quarters. The salon may be inspected as often as the ~~commissioner~~ board considers necessary to affirm compliance.

Sec. 49. Minnesota Statutes 2002, section 155A.09, is amended to read:

155A.09 [SCHOOLS.]

Subdivision 1. [LICENSING.] Any person who establishes or conducts a school in this state shall be licensed.

Subd. 2. [STANDARDS.] The ~~commissioner~~ board shall by rule establish minimum standards of course content and length specific to the educational preparation prerequisite to testing and licensing as cosmetologist, esthetician, and manicurist.

Subd. 3. [APPLICATIONS.] Application for a license shall be prepared on forms furnished by the ~~commissioner~~ board and shall contain the following and such other information as may be required:

(a) (1) The name of the school, together with ownership and controlling officers, members, and managing employees ~~and commissioner~~;

(b) (2) The specific fields of instruction which will be offered and reconciliation of the course content and length to meet the minimum standards, as prescribed in subdivision 2;

(c) (3) The place or places where instruction will be given;

(d) (4) A listing of the equipment available for instruction in each course offered;

(e) (5) The maximum enrollment to be accommodated;

(f) (6) A listing of instructors, all of whom shall be licensed as provided in section 155A.07, subdivision 2, except that any school may use occasional instructors or lecturers who would add to the general or specialized knowledge of the students but who need not be licensed;

(g) (7) A current balance sheet, income statement or documentation to show sufficient financial worth and responsibility to properly conduct a school and to assure financial resources ample to meet the school's financial obligations;

~~(h)~~ (8) Other financial guarantees which would assure protection of the public as determined by rule; and

~~(i)~~ (9) A copy of all written material which the school uses to solicit prospective students, including but not limited to a tuition and fee schedule, and all catalogues, brochures and other recruitment advertisements. Each school shall annually, on a date determined by the ~~commissioner~~ board, file with the ~~director~~ board any new or amended materials which it has distributed during the past year.

Subd. 4. [VERIFICATION OF APPLICATION.] Each application shall be signed and certified to under oath by the proprietor if the applicant is a proprietorship, by the managing partner if the applicant is a partnership, or by the authorized officers of the applicant if the applicant is a corporation, association, company, firm, society or trust.

Subd. 5. [CONDITIONS PRECEDENT TO ISSUANCE.] ~~No~~ A license ~~shall~~ must not be issued unless the ~~commissioner~~ board first determines:

~~(a)~~ that the applicant has met the requirements in clauses (1) to (8).

~~(1)~~ The applicant ~~has~~ must have a sound financial condition with sufficient resources available to meet the school's financial obligations; to refund all tuition and other charges, within a reasonable period of time, in the event of dissolution of the school or in the event of any justifiable claims for refund against the school; to provide adequate service to its students and prospective students; and ~~for the~~ to maintain proper use and support of the school ~~to be maintained;~~

~~(b) That~~ (2) The applicant ~~has~~ must have satisfactory training facilities with sufficient tools and equipment and the necessary number of work stations to adequately train the students currently enrolled, and those proposed to be enrolled;

~~(c) That~~ (3) The applicant ~~employs~~ must employ a sufficient number of qualified instructors trained by experience and education to give the training contemplated;

~~(d) That~~ (4) The premises and conditions under which the students work and study ~~are~~ must be sanitary, healthful, and safe according to modern standards;

~~(e) That~~ (5) Each occupational course or program of instruction or study ~~shall~~ must be of such quality and content as to provide education and training which will adequately prepare enrolled students for testing, licensing, and entry level positions as a cosmetologist, esthetician, or manicurist;

~~(f) Evidence of~~ (6) The school's ~~school~~ must have coverage by professional liability insurance of at least \$25,000 per incident and an accumulation of \$150,000 for each premium year;

~~(g)~~ (7) The applicant shall provide evidence of the school's compliance with section 176.182; ~~and~~

~~(h)~~ (8) The applicant, except the state and its political subdivisions as described in section 471.617, subdivision 1, shall file with the ~~commissioner~~ board a continuous corporate surety bond in the amount of \$10,000, conditioned upon the faithful performance of all contracts and agreements with students made by the applicant. The bond shall run to the state of Minnesota and to any person who may have a cause of action against the applicant arising at any time after the bond is filed and before it is canceled for breach of any contract or agreement made by the applicant with any student. The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed \$10,000. The surety of the bond may cancel it upon giving 60 days' notice in writing to the ~~commissioner~~ board and shall be relieved of liability for any breach of condition occurring after the effective date of cancellation.



Subd. 6. [FEES; RENEWALS.] (a) Applications for initial license under ~~this chapter~~ sections 155A.01 to 155A.16 shall be accompanied by a nonrefundable application fee set forth in section 155A.045.

(b) License duration shall be three years. Each renewal application shall be accompanied by a nonrefundable renewal fee set forth in section 155A.045.

(c) Application for renewal of license shall be made as provided in rules adopted by the ~~commissioner~~ board and on forms supplied by the ~~commissioner~~ board.

Subd. 7. [INSPECTIONS.] All schools may be inspected as often as the ~~commissioner~~ board considers necessary to affirm compliance. The ~~commissioner~~ board shall have the authority to assess the cost of the inspection to the school.

Subd. 8. [LIST OF LICENSED SCHOOLS; AVAILABILITY.] The ~~commissioner~~ board shall maintain and make available to the public a list of licensed schools.

Subd. 9. [SEPARATION OF SCHOOL AND PROFESSIONAL DEPARTMENTS.] A school shall display in the entrance reception room of its student section a sign prominently and conspicuously indicating that all work therein is done exclusively by students. Professional departments of a school shall be run as entirely separate and distinct businesses and shall have separate entrances.

Nothing contained in ~~this chapter~~ sections 155A.01 to 155A.16 shall prevent a school from charging for student work done in the school to cover the cost of materials used and expenses incurred in and for the operation of the school. All of the student work shall be prominently and conspicuously advertised and held forth as being student work and not otherwise.

Subd. 10. [DISCRIMINATION PROHIBITED.] No school, duly approved under ~~this chapter~~ sections 155A.01 to 155A.16, shall refuse to teach any student, otherwise qualified, on account of race, sex, creed, color, citizenship, national origin, or sexual preference.

Sec. 50. Minnesota Statutes 2002, section 155A.095, is amended to read:

155A.095 [INSPECTIONS.]

The ~~commissioner~~ board is responsible for inspecting salons and schools licensed pursuant to ~~this chapter~~ sections 155A.01 to 155A.16 to assure compliance with the requirements of ~~this chapter~~ sections 155A.01 to 155A.16. The ~~commissioner~~ board shall direct ~~department~~ board resources first to the inspection of those licensees who fail to meet the requirements of law, have indicated that they present a greater risk to the public, or have otherwise, in the opinion of the ~~commissioner~~ board, demonstrated that they require a greater degree of regulatory attention.

Sec. 51. Minnesota Statutes 2002, section 155A.10, is amended to read:

155A.10 [DISPLAY OF LICENSE.]

(a) Every holder of a license granted by the ~~commissioner~~ board shall display it in a conspicuous place in the place of business.

(b) Notwithstanding the provisions of paragraph (a), nothing contained in ~~this chapter~~ sections 155A.01 to 155A.16 shall be construed to prohibit a person licensed to provide cosmetology services from engaging in any practices defined in ~~this chapter~~ sections 155A.01 to 155A.16 in the homes of customers or patrons, under the sanitary and health rules promulgated by the ~~commissioner~~ board.

Sec. 52. Minnesota Statutes 2002, section 155A.135, is amended to read:

155A.135 [ENFORCEMENT.]

The provisions of section 45.027 apply to the administration of ~~this chapter~~ sections 155A.01 to 155A.16.

Sec. 53. Minnesota Statutes 2002, section 155A.14, is amended to read:

155A.14 [SERVICES EXCEPTED; EMERGENCY.]

Nothing in ~~this chapter~~ sections 155A.01 to 155A.16 prohibits services in cases of emergency where compensation or other reward is not received, nor in the practice of medicine, surgery, dentistry, podiatry, osteopathy, chiropractic, or barbering. This section shall not be construed to authorize any of the persons so exempted to wave the hair, or to color, tint, or bleach the hair, in any manner.

Sec. 54. Minnesota Statutes 2002, section 155A.15, is amended to read:

155A.15 [APPOINTMENT OF AGENT FOR SERVICE OF PROCESS.]

Any person, firm, partnership, or corporation, not a resident of Minnesota, who engages in Minnesota in the practices regulated in ~~this chapter~~ sections 155A.01 to 155A.16 shall file with the ~~commissioner~~ board the name and address of a duly authorized agent for service of legal process, which agent for service shall be a resident of the state of Minnesota.

Sec. 55. Minnesota Statutes 2002, section 155A.16, is amended to read:

155A.16 [VIOLATIONS; PENALTIES.]

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

Sec. 56. Minnesota Statutes 2002, section 177.23, subdivision 7, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 57. Minnesota Statutes 2002, section 182.653, subdivision 9, is amended to read:

Subd. 9. [STANDARD INDUSTRIAL CLASSIFICATION LIST.] The commissioner shall adopt, in accordance with section 182.655, a rule specifying a list of either standard industrial classifications of employers or North American Industry Classifications of employers who must comply with subdivision 8. The commissioner shall demonstrate the need to include each industrial classification on the basis of the safety record or workers' compensation record of that industry segment. An employer must comply with subdivision 8 six months following

the date the standard industrial classification or North American Industry Classification that applies to the employee is placed on the list. An employer having less than 51 employees must comply with subdivision 8 six months following the date the standard industrial classification or North American Industry Classification that applies to the employee is placed on the list or by July 1, 1993, whichever is later. The list shall be updated every two years.

Sec. 58. Minnesota Statutes 2002, section 214.01, subdivision 3, is amended to read:

Subd. 3. [NON-HEALTH-RELATED LICENSING BOARD.] "Non-health-related licensing board" means the Board of Teaching established pursuant to section 122A.07, the Board of Barber and Cosmetologist Examiners established pursuant to section 154.22, the Board of Assessors established pursuant to section 270.41, the Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design established pursuant to section 326.04, the Board of Electricity established pursuant to section 326.241, the Private Detective and Protective Agent Licensing Board established pursuant to section 326.33, the Board of Accountancy established pursuant to section 326A.02, and the Peace Officer Standards and Training Board established pursuant to section 626.841.

Sec. 59. Minnesota Statutes 2003 Supplement, section 214.04, subdivision 3, is amended to read:

Subd. 3. [OFFICERS; STAFF.] The executive director of each health-related board and the executive secretary of each non-health-related board shall be the chief administrative officer for the board but shall not be a member of the board. The executive director or executive secretary shall maintain the records of the board, account for all fees received by it, supervise and direct employees servicing the board, and perform other services as directed by the board. The executive directors, executive secretaries, and other employees of the following boards shall be hired by the board, and the executive directors or executive secretaries shall be in the unclassified civil service, except as provided in this subdivision:

- (1) Dentistry;
- (2) Medical Practice;
- (3) Nursing;
- (4) Pharmacy;
- (5) Accountancy;
- (6) Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design;
- (7) Barber and Cosmetologist Examiners;
- (8) ~~Cosmetology~~;
- ~~(9)~~ Electricity;
- ~~(10)~~ (9) Teaching;
- ~~(11)~~ (10) Peace Officer Standards and Training;
- ~~(12)~~ (11) Social Work;
- ~~(13)~~ (12) Marriage and Family Therapy;

~~(14)~~ (13) Dietetics and Nutrition Practice; and

~~(15)~~ (14) Licensed Professional Counseling.

The executive directors or executive secretaries serving the boards are hired by those boards and are in the unclassified civil service, except for part-time executive directors or executive secretaries, who are not required to be in the unclassified service. Boards not requiring full-time executive directors or executive secretaries may employ them on a part-time basis. To the extent practicable, the sharing of part-time executive directors or executive secretaries by boards being serviced by the same department is encouraged. Persons providing services to those boards not listed in this subdivision, except executive directors or executive secretaries of the boards and employees of the attorney general, are classified civil service employees of the department servicing the board. To the extent practicable, the commissioner shall ensure that staff services are shared by the boards being serviced by the department. If necessary, a board may hire part-time, temporary employees to administer and grade examinations.

Sec. 60. Minnesota Statutes 2002, section 239.011, is amended by adding a subdivision to read:

Subd. 3. [LIQUEFIED PETROLEUM GAS.] (a) The annual testing and inspection requirements for liquefied petroleum gas measuring equipment, as set forth in section 239.10, subdivision 3, shall be deemed to have been met by an owner or seller who has testing and inspection performed annually in compliance with this subdivision. The testing and inspection must meet the following requirements:

(1) all equipment subject to inspection and testing requirements must be inspected and tested annually;

(2) inspection testing must only be done by persons who have demonstrated to the director that they are competent to inspect and test liquefied petroleum gas measuring equipment. Competency may be established by passage of a competency examination, which the director must establish, or by other recognized credentialing processes approved by the director. Persons taking tests established by the director may be charged for the costs of the testing procedure;

(3) testing and inspection procedures must comply with inspection protocol, which must be established by the director. The director may use existing protocol or recognize any other scientifically established and recognized protocol;

(4) persons who inspect or test liquefied petroleum gas measuring equipment must use testing equipment that meets any specifications issued by the director;

(5) equipment used for testing and inspection must be submitted to the director for calibration by the division whenever ordered by the director; and

(6) all inspectors, equipment, and inspection protocol must comply with all relevant requirements of Minnesota Statutes, department rules, and written procedures issued by the director.

(b) Owners or sellers of liquefied petroleum gas may perform their own tests and inspections or have employees do so as long as they meet the requirements of this subdivision. Persons performing inspection and testing may also perform repairs and maintenance on inspected equipment if authorized by the owner. However, they shall not be allowed to take equipment out of service.

(c) Inspectors shall tag meters that fail the testing process as "out of tolerance." For equipment that has passed inspection, the inspector shall provide to the owner or seller a seal indicating that the equipment has been inspected and the date of the inspection. Whenever an inspector issues a seal to an owner or seller, the inspector shall submit

to the director written verification that the equipment was tested by procedures and testing equipment meeting the requirements of this subdivision. The director shall issue seals (stickers) to inspectors for the purposes of this subdivision. The issuance of a seal to an owner or seller establishes only that the equipment was inspected by a certified inspector using qualified equipment and procedures, and that the equipment was found to be within allowable tolerance on the date tested.

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

Sec. 61. Minnesota Statutes 2002, section 239.101, subdivision 3, is amended to read:

Subd. 3. [PETROLEUM INSPECTION FEE.] (a) An inspection fee is imposed (1) on petroleum products when received by the first licensed distributor, and (2) on petroleum products received and held for sale or use by any person when the petroleum products have not previously been received by a licensed distributor. The petroleum inspection fee is ~~85 cents~~ \$1 for every 1,000 gallons received. The commissioner of revenue shall collect the fee. The revenue from the fee must first be applied to cover the amounts appropriated. Fifteen cents of the inspection fee must be deposited in an account in the special revenue fund and is appropriated to the commissioner of commerce for the cost of petroleum product quality inspection expenses, and for the inspection and testing of petroleum product measuring equipment, and for petroleum supply monitoring under chapter 216C. The remainder of the fee must be deposited in the general fund.

(b) The commissioner of revenue shall credit a person for inspection fees previously paid in error or for any material exported or sold for export from the state upon filing of a report as prescribed by the commissioner of revenue.

(c) The commissioner of revenue may collect the inspection fee along with any taxes due under chapter 296A.

Sec. 62. Minnesota Statutes 2002, section 326.975, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] (a) In addition to any other fees, each applicant for a license under sections 326.83 to 326.98 shall pay a fee to the contractor's recovery fund. The contractor's recovery fund is created in the state treasury and must be administered by the commissioner in the manner and subject to all the requirements and limitations provided by section 82.34 with the following exceptions:

(1) each licensee who renews a license shall pay in addition to the appropriate renewal fee an additional fee which shall be credited to the contractor's recovery fund. The amount of the fee shall be based on the licensee's gross annual receipts for the licensee's most recent fiscal year preceding the renewal, on the following scale:

Fee	Gross Receipts
\$100	under \$1,000,000
\$150	\$1,000,000 to \$5,000,000
\$200	over \$5,000,000

Any person who receives a new license shall pay a fee based on the same scale;

(2) the sole purpose of this fund is to:

(i) compensate any aggrieved owner or lessee of residential property located within this state who obtains a final judgment in any court of competent jurisdiction against a licensee licensed under section 326.84, on grounds of fraudulent, deceptive, or dishonest practices, conversion of funds, or failure of performance arising directly out of any transaction when the judgment debtor was licensed and performed any of the activities enumerated under section 326.83, subdivision 19, on the owner's residential property or on residential property rented by the lessee, or on new residential construction which was never occupied prior to purchase by the owner, or which was occupied by the licensee for less than one year prior to purchase by the owner, and which cause of action arose on or after April 1, 1994; and

(ii) reimburse the Department of Commerce for all legal and administrative expenses, including staffing costs, incurred in administering the fund;

(3) nothing may obligate the fund for more than \$50,000 per claimant, nor more than \$75,000 per licensee; and

(4) nothing may obligate the fund for claims based on a cause of action that arose before the licensee paid the recovery fund fee set in clause (1), or as provided in section 326.945, subdivision 3.

(b) Should the commissioner pay from the contractor's recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, the license shall be automatically suspended upon the effective date of an order by the court authorizing payment from the fund. No licensee shall be granted reinstatement until the licensee has repaid in full, plus interest at the rate of 12 percent a year, twice the amount paid from the fund on the licensee's account, and has obtained a surety bond issued by an insurer authorized to transact business in this state in the amount of at least \$40,000.

Sec. 63. Minnesota Statutes 2002, section 327C.01, is amended by adding a subdivision to read:

Subd. 13. [MEASURING DEVICE.] "Measuring device" means any water submetering device used to measure and record water usage of each resident to provide a separate billing amount and actual water usage data on either a monthly or quarterly basis to the resident. At the time of installation, the measuring device must be certified as being in compliance with one of the following national standards: American Water Works Association (AWWA), American Society of Mechanical Engineers (ASME), or American National Standards Institute (ANSI). The measuring devices must be installed in accordance with the manufacturer's instructions or the Minnesota Plumbing Code and equipped with a manual or digital display that is readily accessible to the resident for inspection.

Sec. 64. Minnesota Statutes 2002, section 327C.02, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION OF RULES.] The park owner must give the resident at least 60 days' notice in writing of any rule change. A rule adopted or amended after the resident initially enters into a rental agreement may be enforced against that resident only if the new or amended rule is reasonable and is not a substantial modification of the original agreement. Any security deposit increase is a substantial modification of the rental agreement. A reasonable rent increase made in compliance with section 327C.06, or the implementation and collection of water and/or sewer charges under section 327C.04 as a rent increase or reduction under section 327C.06, is not a substantial modification of the rental agreement and is not considered to be a rule for purposes of section 327C.01, subdivision 8. A rule change necessitated by government action is not a substantial modification of the rental agreement. A rule change requiring all residents to maintain their homes, sheds and other appurtenances in good repair and safe condition shall not be deemed a substantial modification of a rental agreement. If a part of a resident's home, shed or other appurtenance becomes so dilapidated that repair is impractical and total replacement is necessary, the park owner may require the resident to make the replacement in conformity with a generally applicable rule adopted after the resident initially entered into a rental agreement with the park owner.

In any action in which a rule change is alleged to be a substantial modification of the rental agreement, a court may consider the following factors in limitation of the criteria set forth in section 327C.01, subdivision 11:

(a) any significant changes in circumstances which have occurred since the original rule was adopted and which necessitate the rule change; and

(b) any compensating benefits which the rule change will produce for the residents.

Sec. 65. Minnesota Statutes 2002, section 327C.04, is amended by adding a subdivision to read:

Subd. 5. [WATER AND SEWER CHARGES.] If a park owner installs measuring devices which accurately meter each household's use of water, the park owner shall bill the residents based on each household's metered use of water and sewer usage. The park owner may not directly bill the residents for the cost and installation of the measuring devices. Each billing statement shall contain the actual usage amount for the billing period and the rate charged to the resident. If the water and sewer services are provided by a third party, the park owner shall consider only the actual amount billed by the third party and shall not consider administrative, capital, or other expenses. If the water or sewer service is provided by means of a private well or private sewer or septic system, the park owner may bill the residents at the rates permitted for utility charges under subdivision 3. Prior to or with the initial bill for metered usage, the park owner must either:

(1) reduce the resident's monthly rent in an amount equal to the average monthly amount billed over the previous 12 months by the current provider of the services divided by the number of licensed home sites; or

(2) in the case of a private well, the rent reduction shall be calculated by applying the prevailing municipal water rate to the previous 12 months of metering as required by the Department of Natural Resources reporting divided by 12 months and further divided by the number of licensed home sites.

Sec. 66. [446A.083] [METHAMPHETAMINE LABORATORY CLEANUP REVOLVING FUND.]

Subdivision 1. [DEFINITIONS.] As used in this section:

(1) "clandestine lab site" means any structure or conveyance or outdoor location occupied or affected by conditions or chemicals, typically associated with a clandestine drug lab operation;

(2) "property" includes buildings and other structures and motor vehicles as defined in section 609.487, subdivision 2a. Property also includes real property whether publicly or privately owned and public waters and rights-of-way; and

(3) "remediate" or "remediation" means proper cleanup, treatment, or containment of hazardous substances or methamphetamine at or in a clandestine lab site, and may include demolition or disposal of structures or other property when an assessment so indicates.

Subd. 2. [FUND ESTABLISHED.] The authority shall establish a methamphetamine laboratory cleanup revolving fund to provide loans to counties and cities to remediate clandestine lab sites. The fund must be credited with repayments.

Subd. 3. [APPLICATIONS.] Applications by a county or city for a loan from the fund must be made to the authority on the forms prescribed by the authority. The application must include, but is not limited to:

(1) the amount of the loan requested and the proposed use of the loan proceeds;

(2) the source of revenues to repay the loan; and

(3) certification by the county or city that it meets the loan eligibility requirements of subdivision 4.

Subd. 4. [LOAN ELIGIBILITY.] A county or city is eligible for a loan under this section, if the county or city:

(1) identifies a site or sites designated by a local public health department or law enforcement as a clandestine lab site;



(2) has required the site's property owner to remediate the site at cost under chapter 145A or a local public health nuisance ordinance that addresses clandestine lab remediation;

(3) certifies that the property owner cannot pay for the remediation immediately;

(4) certifies that the property owner has not properly remediated the site; and

(5) issues a revenue bond payable to the authority to secure the loan.

Subd. 5. [USE OF LOAN PROCEEDS; REIMBURSEMENT BY PROPERTY OWNER.] (a) A loan recipient shall use the loan to remediate the clandestine lab site or, if this has already been done, to reimburse the applicable county or city fund for costs paid by the recipient to remediate the clandestine lab site.

(b) A loan recipient shall seek reimbursement from the owner of the property containing the clandestine lab site for the costs of the remediation. In addition to other lawful means of seeking reimbursement, the loan recipient may recover its costs through a property tax assessment by following the procedures specified in section 145A.08, subdivision 2, paragraph (c).

Subd. 6. [AWARD AND DISBURSEMENT OF FUNDS.] The authority shall award loans to recipients on a first-come, first-served basis, provided that the recipient is able to comply with the terms and conditions of the authority loan, which must be in conformance with this section. The authority shall make a single disbursement of the loan upon receipt of a payment request that includes a list of remediation expenses and evidence that a second-party sampling was undertaken to ensure that the remediation work was successful or a guarantee that such a sampling will be undertaken.

Subd. 7. [LOAN CONDITIONS AND TERMS.] (a) When making loans from the revolving fund, the authority shall comply with the criteria in paragraphs (b) to (f).

(b) Loans must be made at a two percent per annum interest rate for terms not to exceed ten years unless the recipient requests a 20-year term due to financial hardship.

(c) The annual principal and interest payments must begin no later than one year after completion of the clean up. Loans must be amortized no later than 20 years after completion of the clean up.

(d) A loan recipient must identify and establish a source of revenue for repayment of the loan and must undertake whatever steps are necessary to collect payments within one year of receipt of funds from the authority.

(e) The fund must be credited with all payments of principal and interest on all loans, except the costs as permitted under section 446A.04, subdivision 5, paragraph (a).

(f) Loans must be made only to recipients with clandestine lab ordinances that address remediation.

Subd. 8. [AUTHORITY TO INCUR DEBT.] Counties and cities may incur debt under this section by resolution of the board or council authorizing issuance of a revenue bond to the authority.

Sec. 67. Minnesota Statutes 2002, section 446A.12, subdivision 1, is amended to read:

Subdivision 1. [BONDING AUTHORITY.] The authority may issue negotiable bonds in a principal amount that the authority determines necessary to provide sufficient funds for achieving its purposes, including the making of loans and purchase of securities, the payment of interest on bonds of the authority, the establishment of reserves to secure its bonds, the payment of fees to a third party providing credit enhancement, and the payment of all other

expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers, but not including the making of grants. Bonds of the authority may be issued as bonds or notes or in any other form authorized by law. The principal amount of bonds issued and outstanding under this section at any time may not exceed ~~\$1,000,000,000~~ \$1,250,000,000, excluding bonds for which refunding bonds or crossover refunding bonds have been issued.

Sec. 68. Minnesota Statutes 2002, section 446A.14, is amended to read:

446A.14 [~~INTEREST EXCHANGES~~ RATE SWAPS AND OTHER AGREEMENTS.]

~~The authority may enter into an agreement with a third party for an exchange of interest rates under this subdivision. With respect to outstanding obligations bearing interest at a variable rate, the authority may agree to pay sums equal to interest at a fixed rate or at a different variable rate determined in accordance with a formula set out in the agreement on an amount not exceeding the outstanding principal amount of the obligations, in exchange for an agreement by the third party to pay sums equal to interest on a similar amount at a variable rate determined according to a formula set out in the agreement. With respect to outstanding obligations bearing interest at a fixed rate or rates, the authority may agree to pay sums equal to interest at a variable rate determined according to a formula set out in the agreement on an amount not exceeding the outstanding principal amount of the obligations in exchange for an agreement by the third party to pay sums equal to interest on a similar amount at a fixed rate or rates set out in the agreement. Subject to any applicable bonds covenants, payments required to be made by the municipality under the swap agreement may be made from amounts secured to pay debt service on the obligations with respect to which the swap agreement was made from any other available source of the authority. Subdivision 1. [AGREEMENTS.] (a) The authority may enter into interest rate exchange or swap agreements, hedges, forward purchase or sale agreements, loan sale or pooling agreements or trusts, or other similar agreements in connection with:~~

- (1) the issuance or proposed issuance of bonds;
- (2) the making, proposed making, or sale of loans or other financial assistance or investments;
- (3) outstanding bonds, loans, or other financial assistance; or
- (4) existing similar agreements.

~~(b) The agreements authorized by this subdivision include, without limitation, master agreements, options or contracts to enter into such agreements in the future and related agreements, including, without limitation, agreements to provide credit enhancement, liquidity, or remarketing; valuation; monitoring; or administrative services currently or in the future. However, the term of an option to enter into an interest rate swap, exchange, hedge, or other similar agreement and the term of a contract to sell, buy, or refund bonds in the future must not exceed five years.~~

~~(c) The agreements authorized by this subdivision or supplements to master agreements may be entered into on the basis of negotiation with a qualified third party or through a competitive proposal process on terms and conditions and with covenants and provisions approved by the authority and may include, without limitation:~~

- (1) provisions establishing reserves;
- (2) pledging assets or revenues of the authority for current or other payments or termination payments;
- (3) contracting with the other parties to such agreements as to the custody, collection, securing, investment, and payment of money of the authority or money held in trust; or

(4) requiring the issuance of bonds or entering into loans or other agreements authorized by this subdivision in the future.

(d) Subject to the terms of the agreement and other agreements of the authority with bondholders or other third parties, the agreements authorized by this subdivision may be general or limited obligations of the authority payable from all available or certain specified funds appropriated to the authority. The agreements authorized by this subdivision do not constitute debt of the authority for the purposes of the limits on bonds or notes of the authority set forth in section 446A.12, subdivision 1.

(e) The authority may issue bonds to provide funds to make payments, including, without limitation, termination payments pursuant to an agreement authorized by this subdivision.

(f) The aggregate notional amount of interest rate swap or exchange agreements in effect at any time must not exceed an amount equal to ten percent of the aggregate principal amount of bonds the authority is authorized to have outstanding pursuant to section 446A.12, subdivision 1, including the notional amount of interest rate swap or exchange agreements with respect to which a reversing agreement has been entered into, the effect of which is to terminate the original agreement or a portion thereof, and reversing agreements with respect to all or a portion of existing agreements.

Subd. 2. [POWERS OF AUTHORITY.] For the purposes of this section, the authority may exercise all powers provided in this chapter. The authority may consent, whenever it considers it necessary or desirable in connection with agreements entered into under this subdivision, to modifications, amendments, or waivers of the terms of such agreements. The proceeds of any agreements entered into pursuant to this subdivision are appropriated to the authority pursuant to section 446A.11, subdivision 13. The agreements entered into pursuant to this subdivision are not subject to sections 16C.03, subdivision 4, and 16C.05.

Sec. 69. Minnesota Statutes 2002, section 446A.17, is amended to read:

446A.17 [NONLIABILITY.]

Subdivision 1. [NONLIABILITY OF INDIVIDUALS.] No member of the authority or other person executing the bonds, loans, interest rate swaps, or other agreements or contracts of the authority is liable personally on ~~the bonds~~ such bonds, loans, interest rate swaps, or other agreements or contracts of the authority or is subject to any personal liability or accountability by reason of their issuance, execution, delivery, or performance.

Subd. 2. [NONLIABILITY OF STATE.] The state is not liable on bonds, loans, interest rate swaps, or other agreements or contracts of the authority issued or entered into under this chapter and ~~those bonds~~ such bonds, loans, interest rate swaps, or other agreements or contracts of the authority are not a debt of the state. ~~The bonds~~ Such bonds, loans, interest rate swaps, or other agreements or contracts of the authority must contain on their face a statement to that effect.

Sec. 70. Minnesota Statutes 2002, section 446A.19, is amended to read:

446A.19 [STATE PLEDGE AGAINST IMPAIRMENT OF CONTRACTS.]

The state pledges and agrees with the holders of bonds issued under sections 446A.051, and 446A.12 to 446A.20 or other parties to any loans, interest rate swaps, or other agreements or contracts of the authority that the state will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the bondholders or parties to any loans, interest rate swaps, or other agreements or contracts of the authority or in any way impair the rights and remedies of the holders until the bonds, together with interest on them, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of

the bondholders, are fully met and discharged or, with respect to any loans, interest rate swaps, or other agreements or contracts of the authority, such agreements have been fully performed by the authority or otherwise terminated or discharged. The authority may include this pledge and agreement of the state in any agreement with the holders of bonds issued under sections 446A.051, and 446A.12 to 446A.20 or in any loans, interest rate swaps, or other agreements or contracts of the authority.

Sec. 71. Minnesota Statutes 2002, section 461.12, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATIVE PENALTIES; LICENSEES.] (a) If a licensee or employee of a licensee sells tobacco to a person under the age of 18 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of at least \$75 but no more than \$500. An administrative penalty of at least \$200 but no more than \$1,000 must be imposed for a second violation at the same location within 24 months after the initial violation. An administrative penalty of at least \$250 but no more than \$2,500 and up to a three-day license suspension may be imposed for a third violation at the same location within 24 months after the initial violation. For a ~~third~~ subsequent violation at the same location within 24 months after the initial violation, both of the following may be imposed:

(1) an administrative penalty of at least \$250 ~~must be imposed, and~~ but no more than \$5,000;

(2) the licensee's authority to sell tobacco at that location ~~must~~ may be suspended for ~~not less than~~ up to a maximum of seven days.

(b) The licensing authority may suspend or revoke a tobacco license if the licensee fails to act on any of the following:

(1) imposition of disciplinary sanctions of an employee with multiple noncompliant sales to a minor;

(2) failure to conduct a minimum of one-half hour of training annually, documented by passing a written test on state laws concerning tobacco sales to minors;

(3) failure to adopt and enforce a written employee policy, reviewed by the licensing authority, to prevent the sale of tobacco to minors; or

(4) failure of a third compliance check while not participating in a licensing authority local defined retailer program. For purposes of this clause, "defined retailer program" means a voluntary program between the tobacco licensing authority and the tobacco license holder. The program must:

(1) consist of a tobacco compliance coordinator;

(2) provide training by the licensing authority for tobacco retailer employees;

(3) reward employees for successfully blocking sales to underage customers;

(4) encourage self-reporting of blocked sales to underage customers;

(5) have an advisory panel consisting of city personnel and tobacco retailers to look at the development and review of the training curriculum;

(6) have a review panel consisting of the compliance coordinator, a city council or county board member, a local tobacco retailer, and a member of the local city staff; and

(7) not establish or impose penalties greater or less than those specified in paragraph (a).

(c) No suspension or penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing.

(d) In determining the amount of a penalty and the length of a license suspension, at a hearing as specified in paragraph (c), the local licensing authority shall take into consideration as mitigating circumstances evidence provided by a licensee of a licensee's adoption and enforcement of a written employee policy to prevent the sale of tobacco to minors, a licensee's training program to instruct employees on applicable laws and how to prevent sales of tobacco to minors, a licensee's adoption and imposition of disciplinary sanctions for employee noncompliance with the licensee's policies, a licensee's policy of conducting voluntary internal compliance checks to test compliance with section 609.685, and whether a licensee or a licensee's employee verified the age of the customer during the transaction in question and reasonably relied on the age verification to complete the sale. A decision that a violation has occurred must be in writing and must include a summary of the mitigating circumstances considered by the local licensing authority in assessing a penalty or a license suspension.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to administrative penalties imposed on or after that date.

Sec. 72. Minnesota Statutes 2002, section 461.19, is amended to read:

461.19 [EFFECT ON LOCAL ORDINANCE; NOTICE.]

Sections 461.12 to 461.18 do not preempt a local ordinance that provides for more restrictive regulation of tobacco sales, except that on and after the effective date of this act, a licensing authority shall not assess or impose a penalty on a licensee or an employee of a licensee that is greater than the administrative penalties set forth in section 461.12, subdivisions 2 and 3. A governing body shall give notice of its intention to consider adoption or substantial amendment of any local ordinance required under section 461.12 or permitted under this section. The governing body shall take reasonable steps to send notice by mail at least 30 days prior to the meeting to the last known address of each licensee or person required to hold a license under section 461.12. The notice shall state the time, place, and date of the meeting and the subject matter of the proposed ordinance.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to administrative penalties imposed on or after that date.

Sec. 73. Minnesota Statutes 2003 Supplement, section 462A.03, subdivision 13, is amended to read:

Subd. 13. [ELIGIBLE MORTGAGOR.] "Eligible mortgagor" means a nonprofit or cooperative housing corporation; the Department of Administration for the purpose of developing nursing home beds under section 251.011 or community-based programs as defined in sections 252.50 and 253.28; a limited profit entity or a builder as defined by the agency in its rules, which sponsors or constructs residential housing as defined in subdivision 7; or a natural person of low or moderate income, except that the return to a limited dividend entity shall not exceed ~~ten~~ 15 percent of the capital contribution of the investors or such lesser percentage as the agency shall establish in its rules, provided that residual receipts funds of a limited dividend entity may be used for agency-approved, housing-related investments owned by the limited dividend entity without regard to the limitation on returns. Owners of existing residential housing occupied by renters shall be eligible for rehabilitation loans, only if, as a condition to the issuance of the loan, the owner agrees to conditions established by the agency in its rules relating to rental or other matters that will insure that the housing will be occupied by persons and families of low or moderate income. The agency shall require by rules that the owner give preference to those persons of low or moderate income who occupied the residential housing at the time of application for the loan.

Sec. 74. Minnesota Statutes 2002, section 462A.05, is amended by adding a subdivision to read:

Subd. 3c. [REFINANCING; LONG-TERM MORTGAGES.] It may agree to purchase, make, or otherwise participate in the making and enter into commitments for the purchase, making, or participation in the making of long-term mortgage loans to persons and families of low and moderate income to refinance a long-term mortgage or other financing secured by the residential housing occupied by the owner of the property. The loans shall be made only upon determination by the agency that long-term mortgage loans are not otherwise available, wholly or in part, from private lenders upon equivalent terms and conditions.

Sec. 75. Laws 2003, chapter 128, article 10, section 4, subdivision 3, is amended to read:

Subd. 3. Affordable Rental Investment Fund

\$9,273,000 the first year and \$9,273,000 the second year are for the affordable rental investment fund program under Minnesota Statutes, section 462A.21, subdivision 8b.

This appropriation is to finance the acquisition, rehabilitation, and debt restructuring of federally assisted rental property and for making equity take-out loans under Minnesota Statutes, section 462A.05, subdivision 39. This appropriation also may be used to finance the acquisition, rehabilitation, and debt restructuring of existing supportive housing properties. For purposes of this subdivision, supportive housing means affordable rental housing with linkages to services necessary for individuals, youth, and families with children to maintain housing stability. The owner of the federally assisted rental property must agree to participate in the applicable federally assisted housing program and to extend any existing low-income affordability restrictions on the housing for the maximum term permitted. The owner must also enter into an agreement that gives local units of government, housing and redevelopment authorities, and nonprofit housing organizations the right of first refusal if the rental property is offered for sale. Priority must be given among comparable properties to properties with the longest remaining term under an agreement for federal rental assistance. Priority must also be given among comparable rental housing developments to developments that are or will be owned by local government units, a housing and redevelopment authority, or a nonprofit housing organization.

Sec. 76. [LOGGER SAFETY PROGRAM.]

The commissioner of labor and industry shall contract out for the provision of a safety and education program for Minnesota loggers under Minnesota Statutes, section 176.130.

**[EFFECTIVE DATE.]** This section is effective July 1, 2005.

Sec. 77. [EXTRA UNEMPLOYMENT BENEFITS FOR MILITARY RESERVISTS.]

Subdivision 1. [ENTITLEMENT.] An applicant may be entitled to extra unemployment benefits if:

(1) covered employment was not available to the applicant upon release from active military service, or the applicant was laid off due to lack of work from covered employment within 90 days of release from active military service; and

(2) the applicant then filed an application for unemployment benefits and established a benefit account under Minnesota Statutes, section 268.07.

Subd. 2. [PAYMENT FROM FUND; EFFECT ON EMPLOYER.] Extra unemployment benefits under this section are payable from the trust fund and subject to Minnesota Statutes, section 268.047.

Subd. 3. [ELIGIBILITY CONDITIONS.] An applicant described in subdivision 1 is eligible to collect extra unemployment benefits for any week during the applicant's benefit year, if:

(1) the applicant was in the military reserves;

(2) the applicant had wages paid in covered employment in each of the last four completed calendar quarters prior to being called up for active military service;

(3) the applicant was called up for active military service after January 1, 2003;

(4) the applicant was on active duty in the military for at least six months;

(5) the applicant meets the eligibility requirements of Minnesota Statutes, section 268.085;

(6) the applicant is not subject to a disqualification under Minnesota Statutes, section 268.095; and

(7) the applicant is not entitled to any regular, additional, or extended unemployment benefits for that week and the applicant is not entitled to receive unemployment benefits under any other state or federal law or the law of Canada for that week.

Subd. 4. [WEEKLY AMOUNT OF EXTRA BENEFITS.] The weekly amount of extra unemployment benefits available to an applicant under this section is the same as the applicant's regular weekly benefit amount on the benefit account established under subdivision 1.

Subd. 5. [MAXIMUM AMOUNT OF EXTRA BENEFITS.] The maximum amount of extra unemployment benefits available is 13 times the applicant's weekly extra unemployment benefit amount.

Subd. 6. [PROGRAM EXPIRATION.] This extra unemployment benefit program expires the last Saturday in March 2006. No extra unemployment benefits shall be paid under this section after the expiration of this program.

Subd. 7. [APPLICABILITY.] This section shall apply to applicants whose unemployment benefit entitlement results, in whole or in part, because of United States Code, title 5, section 8522.

Subd. 8. [DEFINITIONS.] The definitions in Minnesota Statutes, section 268.035, shall apply to this section.

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

## Sec. 78. [TRIENNIAL REVIEWS BY DEPARTMENT OF LABOR AND INDUSTRY.]

The commissioner of labor and industry may directly provide triennial review services necessary for shops to maintain national board and ASME stamps. If the department elects to conduct such reviews, the commissioner will by rule, adopt a fee schedule calculated to return sufficient revenue to cover the costs for conducting the reviews and for administrative costs pertaining to the reviews. All fees collected pursuant to this section shall be deposited in the special revenue fund and are appropriated to the commissioner of labor and industry for the purposes of this section.

## Sec. 79. [SUSPENSION OF MORTGAGE CREDIT CERTIFICATE AID.]

Notwithstanding Minnesota Statutes, section 462C.15, during the fiscal years 2006 and 2007, no applications or reports shall be made pursuant to Minnesota Statutes, section 462C.15, subdivision 1; no aid shall be provided pursuant to Minnesota Statutes, section 462C.15, subdivision 3; and no money is appropriated pursuant to Minnesota Statutes, section 462C.15, subdivision 4.

## Sec. 80. [TRANSFER OF POWERS.]

All powers, duties, and obligations of the commissioner of commerce in Minnesota Statutes, chapter 155A, are transferred to the Board of Barber and Cosmetologist Examiners under Minnesota Statutes, section 15.039, except as otherwise prescribed in this act.

## Sec. 81. [TRANSITION AND TRANSFER OF FUNDS.]

The commissioner of commerce shall assist in the transition of regulatory authority over the cosmetology industry from the Department of Commerce to the Board of Barber and Cosmetology Examiners. Funding for this regulation is currently a part of the base budget for the Department of Commerce. To facilitate the transition of funds to the Board of Barber and Cosmetology Examiners, the commissioner of commerce shall enter into interagency agreements with the board for amounts not to exceed \$50,000 in fiscal year 2005, \$100,000 in fiscal year 2006, and \$150,000 in fiscal year 2007. The Department of Commerce's base budget for the 2008-2009 biennium shall be reduced by a total of \$205,000 and the Board of Barber and Cosmetology Examiners base budget must be increased by the same amount.

## Sec. 82. [REVISOR'S INSTRUCTION.]

The revisor shall renumber Minnesota Statutes, sections 154.18, 154.22, and 154.23, as Minnesota Statutes, sections 154.003, 154.001, and 154.002, respectively; renumber Minnesota Statutes, chapter 155A, in Minnesota Statutes, chapter 154, following Minnesota Statutes, section 154.26; and correct references to these sections in Minnesota Statutes and Minnesota Rules. The revisor shall delete "Board of Barber Examiners" and substitute "Board of Barber and Cosmetologist Examiners" in Minnesota Rules and shall delete "commissioner of commerce," "commissioner," and "department" where it means the commissioner or Department of Commerce, and substitute "board" or "Board of Barber and Cosmetologist Examiners," as appropriate, in Minnesota Rules, chapters 2642 and 2644. The revisor shall renumber Minnesota Rules, chapters 2642 and 2644, as chapters 2105 and 2110, respectively, and shall correct references to the renumbered parts and chapters.

## Sec. 83. [REPEALER.]

(a) Minnesota Statutes 2002, sections 155A.03, subdivisions 11 and 13; 155A.04; and 155A.06; and Minnesota Statutes 2003 Supplement, section 239.101, subdivision 7, are repealed.

(b) Minnesota Rules, part 2100.9300, subpart 1, is repealed.



(c) Section 60, is repealed effective January 1, 2007."

Delete the title and insert:

"A bill for an act relating to economic development; reducing appropriations for economic development and certain other programs; appropriating money for economic development and other programs; modifying programs and practices; modifying provisions governing barbers and cosmetologists; regulating petroleum testing and fees; creating a revolving fund; increasing a bonding limit; modifying tobacco sales penalty provisions; granting extra unemployment benefits for certain military reservists; transferring powers and funds; renumbering sections; amending Minnesota Statutes 2002, sections 60A.14, subdivision 1; 154.01; 154.02; 154.03; 154.04; 154.06; 154.07, as amended; 154.08; 154.11; 154.12; 154.161, subdivisions 2, 4, 5, 7; 154.18; 154.19; 154.21; 154.22; 154.23; 154.24; 154.25; 155A.01; 155A.02; 155A.03, subdivisions 1, 2, 7, by adding subdivisions; 155A.045, subdivision 1; 155A.05; 155A.07, subdivisions 2, 8, by adding a subdivision; 155A.08, subdivisions 1, 2, 3; 155A.09; 155A.095; 155A.10; 155A.135; 155A.14; 155A.15; 155A.16; 177.23, subdivision 7; 182.653, subdivision 9; 214.01, subdivision 3; 239.011, by adding a subdivision; 239.101, subdivision 3; 326.975, subdivision 1; 327C.01, by adding a subdivision; 327C.02, subdivision 2; 327C.04, by adding a subdivision; 446A.12, subdivision 1; 446A.14; 446A.17; 446A.19; 461.12, subdivision 2; 461.19; 462A.05, by adding a subdivision; Minnesota Statutes 2003 Supplement, sections 116J.70, subdivision 2a; 116J.8731, subdivision 5; 214.04, subdivision 3; 462A.03, subdivision 13; Laws 2003, chapter 128, article 10, section 4, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 446A; repealing Minnesota Statutes 2002, sections 155A.03, subdivisions 11, 13; 155A.04; 155A.06; Minnesota Statutes 2003 Supplement, section 239.101, subdivision 7; Minnesota Rules, part 2100.9300, subpart 1."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

## **SECOND READING OF HOUSE BILLS**

H. F. No. 3064 was read for the second time.

## **SECOND READING OF SENATE BILLS**

S. F. No. 2626 was read for the second time.

## **INTRODUCTION AND FIRST READING OF HOUSE BILLS**

The following House File was introduced:

Lanning, Simpson, Harder, Lindgren and Magnus introduced:

H. F. No. 3142, A bill for an act relating to property tax credits; making cuts to the market value homestead credit permanent; amending Minnesota Statutes 2003 Supplement, section 273.1384, subdivision 4.

The bill was read for the first time and referred to the Committee on Taxes.

**MESSAGES FROM THE SENATE**

The following message was received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate File, herewith transmitted:

S. F. No. 1792.

PATRICK E. FLAHAVEN, Secretary of the Senate

**FIRST READING OF SENATE BILLS**

S. F. No. 1792, A bill for an act relating to state government; requiring that state agency contracts for services be performed by United States citizens or by individuals authorized to work in the United States; proposing coding for new law in Minnesota Statutes, chapter 16C.

The bill was read for the first time and referred to the Committee on Governmental Operations and Veterans Affairs Policy.

**CALENDAR FOR THE DAY**

Paulsen moved that the Calendar for the Day be continued. The motion prevailed.

**MOTIONS AND RESOLUTIONS**

Samuelson moved that the name of Wasiluk be added as an author on H. F. No. 1804. The motion prevailed.

Sykora moved that the name of Nelson, C., be added as an author on H. F. No. 1982. The motion prevailed.

Latz moved that the name of Carlson be added as an author on H. F. No. 2411. The motion prevailed.

Buesgens moved that H. F. No. 3038 be recalled from the Committee on Education Finance and be re-referred to the Committee on Education Policy. The motion prevailed.

Paulsen moved that the House recess subject to the call of the Chair. The motion prevailed.

**RECESS**

The House of Representatives recessed to hear an address by former President Thomas Jefferson as portrayed by actor Clay Jenkinson.

RECONVENED

The House reconvened and was called to order by Speaker pro tempore Abrams.

ADJOURNMENT

Seifert moved that when the House adjourns today it adjourn until 3:00 p.m., Monday, March 29, 2004. The motion prevailed.

Seifert moved that the House adjourn. The motion prevailed, and Speaker pro tempore Abrams declared the House stands adjourned until 3:00 p.m., Monday, March 29, 2004.

EDWARD A. BURDICK, Chief Clerk, House of Representatives

