

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-THIRD LEGISLATURE

EIGHTY-SIXTH DAY

St. Paul, Minnesota, Monday, April 5, 2004

The Senate met at 10:00 a.m. and was called to order by the President.

CALL OF THE SENATE

Senator Betzold imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Paul A. Tucker.

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

The roll was called, and the following Senators answered to their names:

Bachmann	Hann	Larson	Ortman	Senjem
Bakk	Higgins	LeClair	Ourada	Skoe
Belanger	Hottinger	Limmer	Pappas	Skoglund
Berglin	Johnson, D.E.	Lourey	Pariseau	Solon
Betzold	Johnson, D.J.	Marko	Pogemiller	Sparks
Chaudhary	Jungbauer	Marty	Ranum	Stumpf
Cohen	Kelley	McGinn	Reiter	Tomassoni
Day	Kierlin	Metzen	Rest	Vickerman
Dibble	Kiscaden	Michel	Robling	Wergin
Dille	Kleis	Moua	Rosen	Wiger
Fischbach	Knutson	Murphy	Ruud	
Foley	Koering	Neuville	Sams	
Frederickson	Kubly	Nienow	Saxhaug	
Gaither	Langseth	Olson	Scheid	

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

April 2, 2004

The Honorable James P. Metzen
President of the Senate

Dear President Metzen:

On behalf of the people of Minnesota, I am honored to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 1903, 40 and 2063.

Sincerely,
Tim Pawlenty, Governor

April 2, 2004

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:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2004	Date Filed 2004
1903		147	12:57 p.m. April 2	April 2
	2878	148	1:00 p.m. April 2	April 2
40		149	12:50 p.m. April 2	April 2
	2105	150	12:47 p.m. April 2	April 2
2063		151	12:40 p.m. April 2	April 2

Sincerely,
Mary Kiffmeyer
Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 1681.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 2, 2004

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 1681: A bill for an act relating to operation of state government; making 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, civil commitment, 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; 62A.28; 62A.30, subdivision 2, by adding a subdivision; 62D.02, subdivision 4, by adding a subdivision; 62D.03, subdivision 1; 62D.04, subdivision 1; 62D.05, subdivision 1; 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; 253B.02, by adding subdivisions; 253B.03, by adding a subdivision; 253B.185, by adding a subdivision; 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; 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, subdivisions 1, 2; proposing coding for new law in Minnesota Statutes, chapters 62J; 62L; 62Q; 144; 144A; 145; 151; 253B; 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.

Senator Johnson, D.E. moved that H.F. No. 1681 be laid on the table. The motion prevailed.

REPORTS OF COMMITTEES

Senator Johnson, D.E. moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 2350 and 2646. The motion prevailed.

Senator Anderson from the Committee on Jobs, Energy and Community Development, to which was re-referred

S.F. No. 2350: A bill for an act relating to state government; merging the Department of Economic Security and the Department of Employment and Economic Development; making corresponding technical and housekeeping changes; amending Minnesota Statutes 2002, sections 3.922, subdivision 10; 15.0591, subdivision 2; 116J.01, subdivisions 4, 5; 116J.035, subdivision 2; 116J.551; 116J.64, subdivisions 4, 5, 7, 8, 9, by adding a subdivision; 116L.01, subdivision 1; 116L.05, subdivision 4; 119A.46, subdivision 8; 144.9503, subdivision 1; 171.321, subdivision 2; 181.73, subdivision 1; 216C.10; 242.39, subdivision 3; 246.56, subdivision 1; 256J.08, subdivision 52; 268.001; 268.0111, subdivision 4; 268.0122, subdivision 1; 268.29; 268.66, as amended; 268.665, as amended; 268.976, subdivision 2; 268A.01, subdivisions 5, 13; Minnesota Statutes 2003 Supplement, sections 15.01; 15.057; 15.06, subdivision 1; 15A.0815, subdivision 2; 16C.05, subdivision 3; 116J.011; 116J.401; 116J.64, subdivision 6; 116J.966, subdivision 1; 116J.980, subdivision 1; 116J.994, subdivisions 9, 10; 116M.15, subdivision 1; 248.07, subdivision 8; 256.482, subdivision 1; 256C.233, subdivision 1; 268.014; 268.022, subdivision 1; 268.363; Laws 2003, chapter 128, article 10, section 2, subdivisions 1, 3; proposing coding for new law in Minnesota Statutes, chapters 116J; 116L; 268A; repealing Minnesota Statutes 2002, sections 116J.036; 116J.414; 116L.04, subdivision 4; 268.0111, subdivisions 1, 2, 3a, 4a; 268.0121, subdivisions 1, 2; 268.0122, subdivisions 2, 5, 6; 268.027; 268.028; 268.029; 268.26, subdivisions 2, 3; 268.361, subdivision 3; 268.3661; 268.551; 268.552; 268.56, subdivision 2; 268.561, subdivision 10; 268.61, subdivision 2; 268.65, subdivisions 1, 3, 4, 5; 268.666, subdivision 5; 268.89; 268.918; 268.95; Minnesota Statutes 2003 Supplement, sections 268.0122, subdivision 3; 268.26, subdivision 1; 268.65, subdivision 2; 268.95, subdivision 4; 268.976, subdivision 1; Laws 2001, chapter 175, section 49; Minnesota Rules, parts 3300.0050; 3301.0180; 3301.0190; 3301.0200; 3301.0210; 3301.0220; 3301.0230; 3310.2903; 3310.2904; 3310.2905, subpart 1; 3310.2906; 3310.2907; 3310.2909; 3310.2918; 3315.0100; 3315.0202; 3315.0501, subparts 3, 4, 5; 3315.0510; 3315.0530, subpart 1; 3315.0535; 3315.0545; 3315.0555, subpart 5; 3315.0915;

3315.0920; 3315.1005, subpart 2; 3315.1015; 3315.1301, subparts 3, 6; 3315.1305; 3315.1310; 3315.1650, subpart 1; 3315.2410; 3315.2610; 3315.2750; 3315.2810, subparts 1, 3; 3315.3220, subpart 4; 3320.0010; 3320.0020; 3320.0030; 7380.0200; 7380.0210; 7380.0220; 7380.0230; 7380.0240; 7380.0500; 7380.0510; 7380.0520; 7380.0530; 7380.0540; 7380.0550; 7380.0560; 7380.0570; 7380.0580; 7380.0581; 7380.0582; 7380.0600; 7380.0610; 7380.0620; 7380.0630; 7380.0640; 7380.0650; 7380.0800; 7380.0810; 7380.0820; 7380.0830; 7380.0840.

Reports the same back with the recommendation that the bill be amended as follows:

Page 5, line 31, reinstate the stricken "commissioner of"

Page 5, line 32, before "Job" insert "employment and economic development in consultation with the"

Page 7, line 11, before "individuals" insert "Minnesota"

Pages 18 and 19, delete sections 26 to 28

Page 22, lines 8 and 9, reinstate the stricken language

Page 22, line 10, reinstate the stricken "commissioner of" and after the stricken "security" insert "labor and industry" and reinstate the stricken "may prescribe by rule for each"

Page 22, lines 11 to 13, reinstate the stricken language

Page 22, line 14, after the stricken "security" insert "labor and industry" and reinstate the stricken period

Page 32, line 16, before the period, insert "and may include entities that provide job training services, serve youth, serve individuals with disabilities, serve displaced homemakers, union-related organizations, employer-related nonprofit organizations, and organizations serving nonreservation Indians and tribal governments"

Page 38, delete section 52

Page 40, delete sections 54 and 55 and insert:

"Sec. 50. Minnesota Statutes 2003 Supplement, section 462A.04, subdivision 1, is amended to read:

Subdivision 1. [CREATION; MEMBERS.] There is created a public body corporate and politic to be known as the "Minnesota Housing Finance Agency," which shall perform the governmental functions and exercise the sovereign powers delegated to it in this chapter in furtherance of the public policies and purposes declared in section 462A.02. The agency shall consist of the ~~commissioner of employment and economic development~~, state auditor, and ~~five~~ six public members appointed by the governor with advice and consent of the senate. No more than ~~two~~ three public members shall reside in the area of jurisdiction of the Metropolitan Council as provided in section 473.123, subdivision 1, and no more than one public member shall reside in any one of the development regions established under the provisions of sections 462.381 to 462.396. Each member shall hold office until a successor has been appointed and has qualified. A certificate of appointment or reappointment of any member shall be conclusive evidence of the due and proper appointment of the member.

Sec. 51. Minnesota Statutes 2003 Supplement, section 462A.04, subdivision 4, is amended to read:

Subd. 4. [CHAIRS.] The chair of the board of directors shall be designated by the governor from among the public members appointed. ~~The vice-chair of the board shall be the commissioner of employment and economic development.~~"

Page 43, line 9, delete "116L.04, subdivision 4;"

Page 43, line 12, delete "268.029;"

Page 43, line 16, after "268.95," insert "subdivisions 1, 2, 3, and 5,"

Page 43, line 17, after "3;" insert "268.029;"

Page 44, line 3, delete "57" and insert "53"

Renumber the sections in sequence

Amend the title as follows:

Page 1, delete line 10

Page 1, line 17, delete "subdivisions 5, 13" and insert "subdivision 5"

Page 1, line 25, delete "Laws 2003, chapter" and insert "462A.04, subdivisions 1, 4;"

Page 1, delete line 26

Page 1, line 28, delete "116L;"

Page 1, lines 29 and 30, delete "116L.04, subdivision 4;"

Page 1, line 32, delete "268.029;"

Page 1, line 36, after "268.95" insert ", subdivisions 1, 2, 3, 5"

Page 1, line 38, after "3;" insert "268.029;"

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Anderson from the Committee on Jobs, Energy and Community Development, to which was referred

S.F. No. 2646: A bill for an act relating to employment; modifying state dislocated worker program provisions; amending Minnesota Statutes 2002, section 116L.17, subdivisions 1, 4, 5, 6; Minnesota Statutes 2003 Supplement, section 116L.17, subdivisions 2, 3; repealing Minnesota Statutes 2002, section 116L.17, subdivision 7.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 116L.01, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] For the purposes of ~~this chapter~~ sections 116L.01 to 116L.17, the terms defined in this section have the meanings given them.

Sec. 2. Minnesota Statutes 2002, section 116L.05, subdivision 4, is amended to read:

Subd. 4. [LEGISLATIVE RECOMMENDATIONS.] By January 15 of each odd-numbered year, the board must submit recommendations to the house and senate committees with jurisdiction over workforce development programs, regarding modifications to, or elimination of, existing workforce development programs under the board's oversight and the potential implementation of new programs. The recommendations must include recommendations regarding funding levels and sources.

Sec. 3. Minnesota Statutes 2002, section 116L.17, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) For the purposes of this section, the following terms have the meanings given them in this subdivision.

(b) "Commissioner" means the commissioner of employment and economic development.

(c) "Dislocated worker" means an individual who is a resident of Minnesota at the time employment ceased or was working in the state at the time employment ceased and:

(1) has been ~~terminated~~ permanently separated or has received a notice of ~~termination~~ permanent separation from public or private sector employment, and is eligible for or has exhausted entitlement to unemployment benefits, and is unlikely to return to the previous industry or occupation;

(2) ~~has been terminated or has received a notice of termination of employment as a result of any plant closing or any substantial layoff at a plant, facility, or enterprise;~~

(3) ~~has been long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including older individuals who may have substantial barriers to employment by reason of age;~~

(4) (3) has been self-employed, including farmers and ranchers, and is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters, ~~subject to rules to be adopted by the commissioner; or~~

(5) ~~has been self-employed as a farmer or rancher and, even though that employment has not ceased, has experienced a significant reduction in income due to inadequate crop or livestock prices, crop failures, or significant loss in crop yields due to pests, disease, adverse weather, or other natural phenomenon. This clause expires July 31, 2003; or~~

(6) (4) is a displaced homemaker. A "displaced homemaker" is an individual who has spent a substantial number of years in the home providing homemaking service and (i) has been dependent upon the financial support of another; and now due to divorce, separation, death, or disability of that person, must find employment to self support; or (ii) derived the substantial share of support from public assistance on account of dependents in the home and no longer receives such support.

To be eligible under this clause, the support must have ceased while the worker resided in Minnesota.

(e) (d) "Eligible organization" means a state or local government unit, nonprofit organization, community action agency, business organization or association, or labor organization.

(d) (e) "Plant closing" means the announced or actual permanent shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment.

(e) (f) "Substantial layoff" means a permanent reduction in the workforce, which is not a result of a plant closing, and which results in an employment loss at a single site of employment during any 30-day period for at least 50 employees excluding those employees that work less than 20 hours per week.

Sec. 4. Minnesota Statutes 2003 Supplement, section 116L.17, subdivision 2, is amended to read:

Subd. 2. [GRANTS.] The board shall make grants to workforce service areas or other eligible organizations to provide services to dislocated workers: as follows:

(a) The board shall allocate funds available for the purposes of this section in its discretion to respond to large substantial layoffs and plant closings.

(b) The board shall regularly allocate funds to provide services to individual dislocated workers or small groups. The initial allocation for this purpose must be at least 35 percent and no more than 50 percent of the ~~actual collections, including penalty and interest accounts, interest, and~~

~~other earnings of the workforce development fund during the period for which the allocation is made deposits and transfers into the workforce development fund, less any collection costs paid out of the fund and any amounts appropriated by the legislature from the workforce development fund for programs other than the state dislocated worker program. The board shall consider the need for services to individual workers and workers in small layoffs in comparison to those in large layoffs relative to the needs in previous years when making this allocation.~~

(c) Following the initial allocation, the board may consider additional allocations to provide services to individual dislocated workers. The board's decision to allocate additional funds shall be based on relevant economic indicators including: the number of substantial layoffs to date, notices of substantial layoffs for the remainder of the fiscal year, evidence of declining industries, the number of permanently separated individuals applying for unemployment benefits by workforce service area, and the number of individuals exhausting unemployment benefits by workforce service area. The board must also consider expenditures of allocations to workforce service areas under paragraph (b) made during the first two quarters of the fiscal year and federal resources that have been or are likely to be allocated to Minnesota for the purposes of serving dislocated workers affected by substantial layoffs or plant closings.

(d) The board may, in its discretion, allocate funds carried forward from previous years under subdivision 9 for large, small, or individual layoffs.

Sec. 5. Minnesota Statutes 2003 Supplement, section 116L.17, subdivision 3, is amended to read:

Subd. 3. [ALLOCATION OF FUNDS.] The board, in consultation with local workforce councils investment boards and local elected officials, shall develop a method of distributing funds to provide services for dislocated workers who are dislocated as a result of small or individual layoffs. The board method shall consider current requests for services and the likelihood of future layoffs when making this allocation. The board shall consider factors for determining the allocation amounts that include, but are not limited to, the previous year's obligations and projected layoffs. After the first quarter of the program year, the board shall evaluate the obligations by workforce service areas for the purpose of reallocating funds to workforce service areas with increased demand for services. Periodically throughout the program year, the board shall consider making additional allocations to the workforce service areas with a demonstrated need for increased funding. The board shall make an initial determination regarding allocations under this subdivision by July 15, 2001, and in subsequent years shall make a determination by June 15 reflect recent trends in the number of permanently separated individuals applying for unemployment benefits in a given workforce service area. The board shall evaluate and adjust obligations quarterly, based on a similar method.

Sec. 6. Minnesota Statutes 2002, section 116L.17, subdivision 4, is amended to read:

Subd. 4. [USE OF FUNDS.] Funds granted by the board under this section may be used for any combination of the following, except as otherwise provided in this section:

(1) employment transition services such as developing readjustment plans for individuals; outreach and intake; early readjustment; job or career counseling; testing; orientation; assessment of skills and aptitudes; provision of occupational and labor market information; job placement assistance; job search; job development; prelayoff assistance; relocation assistance; and programs provided in cooperation with employers or labor organizations to provide early intervention in the event of plant closings or substantial layoffs;

(2) ~~services that will allow the participant to become reemployed by retraining for a new occupation or industry, enhancing current skills, or relocating to employ existing skills, including classroom training; occupational skill training; on-the-job training; out-of-area job search; relocation; basic and remedial education; literacy and English for training non-English speakers; entrepreneurial training; and other appropriate training activities directly related to appropriate employment opportunities in the local labor market; and~~

(3) support services, including assistance to help the participant relocate to employ existing

skills; out-of-area job search assistance; family care assistance, including child care; commuting assistance; emergency housing and rental assistance; counseling assistance, including personal and financial; health care; emergency health assistance; emergency financial assistance; work-related tools and clothing; and other appropriate support services that enable a person to participate in an employment and training program: with the goal of reemployment;

(3) specific, short-term training to help the participant enhance current skills in a similar occupation or industry; entrepreneurial training, customized training, or on-the-job training; basic and remedial education to enhance current skills; and literacy and work-related English training for non-English speakers; and

(4) long-term training in a new occupation or industry, including occupational skills training or customized training in an accredited program recognized by one or more relevant industries. Long-term training shall only be provided to dislocated workers whose skills are obsolete and who have no other transferable skills likely to result in employment at a comparable wage rate. Training shall only be provided for occupations or industries with reasonable expectations of job availability based on the service provider's thorough assessment of local labor market information where the individual currently resides or is willing to relocate.

Sec. 7. Minnesota Statutes 2002, section 116L.17, subdivision 5, is amended to read:

Subd. 5. [COST LIMITATIONS.] (a) Funds allocated to a grantee are subject to the following cost limitations:

(1) no more than ten percent may be allocated for administration;

(2) at least 50 percent must be allocated for training assistance as provided in subdivision 4, clause (2) (4); and

(3) no more than 15 percent may be allocated for support services as provided in subdivision 4, clause ~~(3)~~ (2).

(b) A waiver of the training assistance minimum in clause ~~(2)~~ (4) may be sought, but no waiver shall allow less than 30 percent of the grant to be spent on training assistance. A waiver of the support services maximum in clause ~~(3)~~ (2) may be sought, but no waiver shall allow more than 20 percent of the grant to be spent on support services. A waiver may be granted below the minimum and above the maximum otherwise allowed by this paragraph if funds other than state funds appropriated for the dislocated worker program are used to fund training assistance.

Sec. 8. Minnesota Statutes 2002, section 116L.17, subdivision 6, is amended to read:

Subd. 6. [PERFORMANCE STANDARDS.] ~~(a) The board, in consultation with representatives of local workforce councils and local elected officials, shall establish performance standards for the programs and activities administered or funded under this section. The board may use, when appropriate, existing federal performance standards or, if the commissioner determines that federal standards are inadequate or not suitable, may formulate new performance standards to ensure that the programs and activities of the dislocated worker program are effectively administered.~~

~~(b) The board shall, at a minimum, establish performance standards that appropriately gauge the program's effectiveness at placing dislocated workers in employment, replacing lost income resulting from dislocation, early intervention with workers shortly after dislocation, and retraining of workers from one industry or occupation to another.~~ (a) The commissioner, in consultation with the board, shall enter into contracts with local workforce investment boards, including the allocations determined by the board in subdivision 3. Contracts shall also require local workforce investment boards to report participant data to the commissioner regularly, in order to meet the requirements of this subdivision. The commissioner shall also enter into contracts with eligible organizations involved with substantial layoffs or plant closings. These contracts shall require the eligible organizations to report participant data to the commissioner regularly, in order to meet the requirements of this subdivision.

(b) The commissioner and the board shall jointly establish performance outcome measures for all local workforce investment boards and eligible organizations involved with substantial layoffs or plant closings. The commissioner may request additional information to calculate these performance measures.

(c) The commissioner and the board in consultation with local workforce investment boards and eligible organizations involved with substantial layoffs or plant closings, shall establish minimum standards for the performance measures described in paragraph (b).

(d) Local workforce investment boards may establish and report on additional performance outcomes based on unique features of local labor markets and other geographic differences.

(e) The commissioner shall provide a report to the legislature by March 1 of each year on the previous fiscal year's program performance using the data in paragraphs (b) and (d) and analysis of whether local workforce investment boards and eligible organizations involved with substantial layoffs or plant closings are meeting the minimum standards described in paragraph (c). The commissioner shall inform any local workforce investment board or eligible organization that does not meet minimum performance standards in a given year of their status.

Sec. 9. [116L.19] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 116L.19 to 116L.976.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of employment and economic development.

Subd. 3. [DEPARTMENT.] "Department" means the Department of Employment and Economic Development.

Sec. 10. [REPEALER.]

Minnesota Statutes 2002, section 116L.17, subdivision 7, is repealed."

Delete the title and insert:

"A bill for an act relating to employment; modifying state dislocated worker program provisions; amending Minnesota Statutes 2002, sections 116L.01, subdivision 1; 116L.05, subdivision 4; 116L.17, subdivisions 1, 4, 5, 6; Minnesota Statutes 2003 Supplement, section 116L.17, subdivisions 2, 3; proposing coding for new law in Minnesota Statutes, chapter 116L; repealing Minnesota Statutes 2002, section 116L.17, subdivision 7."

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred

H.F. No. 2235 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2235	2243				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred

H.F. No. 2270 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2270	2067				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 2270 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2270 and insert the language after the enacting clause of S.F. No. 2067, the first engrossment; further, delete the title of H.F. No. 2270 and insert the title of S.F. No. 2067, the first engrossment.

And when so amended H.F. No. 2270 will be identical to S.F. No. 2067, and further recommends that H.F. No. 2270 be given its second reading and substituted for S.F. No. 2067, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

SECOND READING OF HOUSE BILLS

H.F. Nos. 2235 and 2270 were read the second time.

MOTIONS AND RESOLUTIONS

Senator Kelley moved that the name of Senator Marty be added as a co-author to S.F. No. 2570. The motion prevailed.

Senator Koering moved that the name of Senator Johnson, D.E. be added as a co-author to S.F. No. 2725. The motion prevailed.

Senator Stumpf introduced--

Senate Resolution No. 141: A Senate resolution congratulating Benjamin L. Tveitbakk of Thief River Falls, Minnesota, for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

CONFIRMATION

Senator Betzold moved that the appointments of notaries public, received March 11, 2004, be taken from the table. The motion prevailed.

Senator Betzold moved that the Senate do now consent to and confirm the appointments of the notaries public. The motion prevailed. So the appointments were confirmed.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Senator Johnson, D.E. moved that the Senate take up the Consent Calendar. The motion prevailed.

CONSENT CALENDAR

H.F. No. 2651: A bill for an act relating to corrections; amending the Interstate Compact for Adult Offender Supervision by providing procedures for retaking and reincarceration of parolees and probationers; delaying the repeal of the interstate compact for the supervision of parolees and probationers to provide more transition time for adoption of rules under the new compact; amending Minnesota Statutes 2002, section 243.1605; Laws 2002, chapter 268, section 8.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Gaither	Kubly	Neuville	Sams
Bakk	Hann	Langseth	Nienow	Saxhaug
Belanger	Higgins	Larson	Olson	Skoe
Berglin	Hottinger	LeClair	Ortman	Skoglund
Betzold	Johnson, D.E.	Limmer	Ourada	Solon
Chaudhary	Johnson, D.J.	Lourey	Pariseau	Sparks
Cohen	Jungbauer	Marko	Pogemiller	Stumpf
Day	Kelley	Marty	Ranum	Tomassoni
Dibble	Kierlin	McGinn	Reiter	Vickerman
Dille	Kiscaden	Metzen	Rest	Wergin
Fischbach	Kleis	Michel	Robling	Wiger
Foley	Knutson	Moua	Rosen	
Frederickson	Koering	Murphy	Ruud	

So the bill passed and its title was agreed to.

H.F. No. 2455: A bill for an act relating to corrections; authorizing a five-level correctional facility classification system; amending Minnesota Statutes 2003 Supplement, section 243.53, subdivision 1.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Gaither	Kubly	Nienow	Sams
Bakk	Hann	Langseth	Olson	Skoe
Belanger	Higgins	Larson	Ortman	Skoglund
Berglin	Hottinger	LeClair	Ourada	Solon
Betzold	Johnson, D.E.	Limmer	Pappas	Sparks
Chaudhary	Johnson, D.J.	Lourey	Pariseau	Stumpf
Cohen	Jungbauer	Marty	Pogemiller	Tomassoni
Day	Kelley	McGinn	Ranum	Vickerman
Dibble	Kierlin	Metzen	Reiter	Wergin
Dille	Kiscaden	Michel	Rest	Wiger
Fischbach	Kleis	Moua	Robling	
Foley	Knutson	Murphy	Rosen	
Frederickson	Koering	Neuville	Ruud	

So the bill passed and its title was agreed to.

S.F. No. 2449: A bill for an act relating to townships; clarifying levy and spending authority; defining total revenue; amending Minnesota Statutes 2002, sections 365.43, subdivision 1; 365.431.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Gaither	Kubly	Olson	Skoe
Bakk	Hann	Larson	Ortman	Skoglund
Belanger	Higgins	LeClair	Ourada	Solon
Berglin	Hottinger	Limmer	Pappas	Sparks
Betzold	Johnson, D.E.	Lourey	Pogemiller	Stumpf
Chaudhary	Johnson, D.J.	Marko	Ranum	Tomassoni
Cohen	Jungbauer	Marty	Reiter	Vickerman
Day	Kelley	McGinn	Rest	Wergin
Dibble	Kierlin	Metzen	Robling	Wiger
Dille	Kiscaden	Michel	Rosen	
Fischbach	Kleis	Moua	Ruud	
Foley	Knutson	Murphy	Sams	
Frederickson	Koering	Nienow	Saxhaug	

So the bill passed and its title was agreed to.

S.F. No. 2422: A bill for an act relating to the environment; modifying regulation of certain PCB wastes; amending Minnesota Statutes 2002, section 116.07, by adding a subdivision.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Gaither	Kubly	Neuville	Ruud
Bakk	Hann	Langseth	Nienow	Sams
Belanger	Higgins	Larson	Olson	Saxhaug
Berglin	Hottinger	LeClair	Ortman	Skoe
Betzold	Johnson, D.E.	Limmer	Ourada	Skoglund
Chaudhary	Johnson, D.J.	Lourey	Pappas	Solon
Cohen	Jungbauer	Marko	Pariseau	Sparks
Day	Kelley	Marty	Pogemiller	Stumpf
Dibble	Kierlin	McGinn	Ranum	Tomassoni
Dille	Kiscaden	Metzen	Reiter	Vickerman
Fischbach	Kleis	Michel	Rest	Wergin
Foley	Knutson	Moua	Robling	Wiger
Frederickson	Koering	Murphy	Rosen	

So the bill passed and its title was agreed to.

H.F. No. 1836: A bill for an act relating to the environment; clarifying permitting for mineral tailing deposition into mine pits; amending Minnesota Statutes 2002, section 116.0717.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Fischbach	Jungbauer	Larson	Moua
Belanger	Foley	Kelley	LeClair	Murphy
Berglin	Frederickson	Kierlin	Limmer	Neuville
Betzold	Gaither	Kiscaden	Lourey	Nienow
Chaudhary	Hann	Kleis	Marko	Olson
Cohen	Higgins	Knutson	Marty	Ortman
Day	Hottinger	Koering	McGinn	Ourada
Dibble	Johnson, D.E.	Kubly	Metzen	Pappas
Dille	Johnson, D.J.	Langseth	Michel	Pariseau

Pogemiller	Robling	Saxhaug	Sparks	Wergin
Ranum	Rosen	Skoe	Stumpf	Wiger
Reiter	Ruud	Skoglund	Tomassoni	
Rest	Sams	Solon	Vickerman	

So the bill passed and its title was agreed to.

S.F. No. 2453: A bill for an act relating to motor fuels; regulating oxygenated gasoline; abolishing a fee and certain requirements and powers of Department of Commerce relating to utility measuring equipment; amending Minnesota Statutes 2002, section 239.791, subdivision 12, by adding a subdivision; repealing Minnesota Statutes 2002, sections 239.12; 239.25.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 61 and nays 3, as follows:

Those who voted in the affirmative were:

Bachmann	Gaither	Langseth	Ourada	Skoe
Bakk	Hann	Larson	Pappas	Skoglund
Belanger	Higgins	Lourey	Pariseau	Solon
Berglin	Hottinger	Marko	Pogemiller	Sparks
Betzold	Johnson, D.E.	McGinn	Ranum	Stumpf
Chaudhary	Johnson, D.J.	Metzen	Reiter	Tomassoni
Cohen	Jungbauer	Michel	Rest	Vickerman
Day	Kelley	Moua	Robling	Wergin
Dibble	Kierlin	Murphy	Rosen	Wiger
Dille	Kiscaden	Neuville	Ruud	
Fischbach	Knutson	Nienow	Sams	
Foley	Koering	Olson	Saxhaug	
Frederickson	Kubly	Ortman	Scheid	

Those who voted in the negative were:

Kleis	LeClair	Limmer
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So the bill passed and its title was agreed to.

S.F. No. 2342: A bill for an act relating to county recorders; providing that the county recorder may accept security deposits to guarantee payment of charges; making conforming changes; amending Minnesota Statutes 2002, section 386.78.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Gaither	Kubly	Nienow	Sams
Bakk	Hann	Langseth	Olson	Saxhaug
Belanger	Higgins	LeClair	Ortman	Scheid
Berglin	Hottinger	Limmer	Ourada	Skoe
Betzold	Johnson, D.E.	Lourey	Pappas	Skoglund
Chaudhary	Johnson, D.J.	Marko	Pariseau	Solon
Cohen	Jungbauer	Marty	Pogemiller	Sparks
Day	Kelley	McGinn	Ranum	Stumpf
Dibble	Kierlin	Metzen	Reiter	Tomassoni
Dille	Kiscaden	Michel	Rest	Vickerman
Fischbach	Kleis	Moua	Robling	Wergin
Foley	Knutson	Murphy	Rosen	Wiger
Frederickson	Koering	Neuville	Ruud	

So the bill passed and its title was agreed to.

S.F. No. 2387: A bill for an act relating to crimes; treating probation officers the same as

correctional employees for purposes of certain assaults; amending Minnesota Statutes 2002, section 609.2231, subdivision 1; Minnesota Statutes 2003 Supplement, section 609.2231, subdivision 3.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 1, as follows:

Those who voted in the affirmative were:

Bachmann	Hann	Langseth	Nienow	Sams
Bakk	Higgins	Larson	Olson	Saxhaug
Belanger	Hottinger	LeClair	Ortman	Scheid
Betzold	Johnson, D.E.	Limmer	Ourada	Skoe
Chaudhary	Johnson, D.J.	Lourey	Pappas	Skoglund
Cohen	Jungbauer	Marko	Pariseau	Solon
Day	Kelley	Marty	Pogemiller	Sparks
Dibble	Kierlin	McGinn	Ranum	Stumpf
Dille	Kiscaden	Metzen	Reiter	Tomassoni
Fischbach	Kleis	Michel	Rest	Vickerman
Foley	Knutson	Moua	Robling	Wergin
Frederickson	Koering	Murphy	Rosen	Wiger
Gaither	Kubly	Neuville	Ruud	

Those who voted in the negative were:

Berglin

So the bill passed and its title was agreed to.

H.F. No. 3005: A bill for an act relating to elections; changing times for voting on changing county seats; amending Minnesota Statutes 2002, section 372.07.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Gaither	Kubly	Neuville	Ruud
Bakk	Hann	Langseth	Nienow	Sams
Belanger	Higgins	Larson	Olson	Saxhaug
Berglin	Hottinger	LeClair	Ortman	Scheid
Betzold	Johnson, D.E.	Limmer	Ourada	Skoe
Chaudhary	Johnson, D.J.	Lourey	Pappas	Skoglund
Cohen	Jungbauer	Marko	Pariseau	Solon
Day	Kelley	Marty	Pogemiller	Sparks
Dibble	Kierlin	McGinn	Ranum	Stumpf
Dille	Kiscaden	Metzen	Reiter	Tomassoni
Fischbach	Kleis	Michel	Rest	Vickerman
Foley	Knutson	Moua	Robling	Wergin
Frederickson	Koering	Murphy	Rosen	Wiger

So the bill passed and its title was agreed to.

S.F. No. 1614: A bill for an act relating to animals; criminalizing certain harm caused to a service animal by a dog; requiring restitution; clarifying civil liability; imposing a criminal penalty; amending Minnesota Statutes 2002, section 609.226, subdivision 3, by adding a subdivision.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 61 and nays 4, as follows:

Those who voted in the affirmative were:

Bachmann	Hann	Lourey	Pappas	Skoe
Bakk	Higgins	Marko	Pariseau	Skoglund
Belanger	Hottinger	Marty	Pogemiller	Solon
Berglin	Johnson, D.E.	McGinn	Ranum	Sparks
Betzold	Jungbauer	Metzen	Reiter	Stumpf
Chaudhary	Kelley	Michel	Rest	Tomassoni
Cohen	Kierlin	Moua	Robling	Vickerman
Dibble	Kiscaden	Murphy	Rosen	Wergin
Dille	Kleis	Neuville	Ruud	Wiger
Fischbach	Knutson	Nienow	Sams	
Foley	Koering	Olson	Saxhaug	
Frederickson	Kubly	Ortman	Scheid	
Gaither	Langseth	Ourada	Senjem	

Those who voted in the negative were:

Day	Johnson, D.J.	LeClair	Limmer
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So the bill passed and its title was agreed to.

S.F. No. 2229: A bill for an act relating to the environment; providing for enforcement for certain aboveground petroleum storage tanks; modifying field citations procedures for petroleum storage tanks; amending Minnesota Statutes 2002, section 115.071, subdivision 7; Minnesota Statutes 2003 Supplement, section 116.073, subdivisions 1, 2.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Hann	Larson	Ortman	Senjem
Bakk	Higgins	LeClair	Ourada	Skoe
Belanger	Hottinger	Limmer	Pappas	Skoglund
Berglin	Johnson, D.E.	Lourey	Pariseau	Solon
Betzold	Johnson, D.J.	Marko	Pogemiller	Sparks
Chaudhary	Jungbauer	Marty	Ranum	Stumpf
Cohen	Kelley	McGinn	Reiter	Tomassoni
Day	Kierlin	Metzen	Rest	Vickerman
Dibble	Kiscaden	Michel	Robling	Wergin
Dille	Kleis	Moua	Rosen	Wiger
Fischbach	Knutson	Murphy	Ruud	
Foley	Koering	Neuville	Sams	
Frederickson	Kubly	Nienow	Saxhaug	
Gaither	Langseth	Olson	Scheid	

So the bill passed and its title was agreed to.

H.F. No. 2906: A bill for an act relating to local government; increasing the efficiency of payroll processing; authorizing the use of electronic time recording systems; amending Minnesota Statutes 2002, section 412.271, subdivision 2.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Berglin	Cohen	Dille	Frederickson
Bakk	Betzold	Day	Fischbach	Gaither
Belanger	Chaudhary	Dibble	Foley	Hann

Higgins	Kubly	Moua	Reiter	Solon
Hottinger	Langseth	Murphy	Rest	Sparks
Johnson, D.E.	Larson	Neuville	Robling	Stumpf
Johnson, D.J.	LeClair	Nienow	Rosen	Tomassoni
Jungbauer	Limmer	Olson	Ruud	Vickerman
Kelley	Lourey	Ortman	Sams	Wergin
Kierlin	Marko	Ourada	Saxhaug	Wiger
Kiscaden	Marty	Pappas	Scheid	
Kleis	McGinn	Pariseau	Senjem	
Knutson	Metzen	Pogemiller	Skoe	
Koering	Michel	Ranum	Skoglund	

So the bill passed and its title was agreed to.

S.F. No. 2609: A bill for an act relating to education; including a mental health community representative on a community transition team; amending Minnesota Statutes 2002, section 125A.22.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 62 and nays 4, as follows:

Those who voted in the affirmative were:

Bakk	Hann	Larson	Ortman	Senjem
Belanger	Higgins	Limmer	Ourada	Skoe
Berglin	Hottinger	Lourey	Pappas	Skoglund
Betzold	Johnson, D.E.	Marko	Pariseau	Solon
Chaudhary	Johnson, D.J.	Marty	Pogemiller	Sparks
Cohen	Kelley	McGinn	Ranum	Stumpf
Day	Kierlin	Metzen	Rest	Tomassoni
Dibble	Kiscaden	Michel	Robling	Vickerman
Dille	Kleis	Moua	Rosen	Wergin
Fischbach	Knutson	Murphy	Ruud	Wiger
Foley	Koering	Neuville	Sams	
Frederickson	Kubly	Nienow	Saxhaug	
Gaither	Langseth	Olson	Scheid	

Those who voted in the negative were:

Bachmann	Jungbauer	LeClair	Reiter
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So the bill passed and its title was agreed to.

S.F. No. 2903: A bill for an act relating to local government; increasing the threshold amount for towns required to have annual audits; amending Minnesota Statutes 2002, section 471.697, subdivision 1.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 2, as follows:

Those who voted in the affirmative were:

Bachmann	Foley	Kleis	McGinn	Pariseau
Bakk	Frederickson	Knutson	Metzen	Pogemiller
Belanger	Gaither	Koering	Michel	Ranum
Berglin	Hann	Kubly	Moua	Reiter
Betzold	Higgins	Langseth	Murphy	Robling
Chaudhary	Johnson, D.E.	Larson	Neuville	Rosen
Cohen	Johnson, D.J.	LeClair	Nienow	Ruud
Day	Jungbauer	Limmer	Olson	Sams
Dibble	Kelley	Lourey	Ortman	Saxhaug
Dille	Kierlin	Marko	Ourada	Scheid
Fischbach	Kiscaden	Marty	Pappas	Senjem

Skoe
Skoglund

Solon
Sparks

Stumpf
Tomassoni

Vickerman
Wergin

Wiger

Those who voted in the negative were:

Hottinger

Rest

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time and referred to the committees indicated.

Senators Bakk, Tomassoni, Saxhaug and Knutson introduced--

S.F. No. 3022: A bill for an act relating to natural resources; requiring permits to be issued for a taconite pellet production facility.

Referred to the Committee on Environment and Natural Resources.

Senator Johnson, D.J. introduced--

S.F. No. 3023: A bill for an act relating to local government; permitting the city of Ham Lake to adopt and implement a long-term comprehensive plan.

Referred to the Committee on State and Local Government Operations.

Senator Betzold introduced--

S.F. No. 3024: A bill for an act relating to taxation; providing income tax checkoffs to fund special programs; proposing coding for new law in Minnesota Statutes, chapter 290.

Referred to the Committee on Taxes.

Senator Wergin introduced--

S.F. No. 3025: A bill for an act relating to state government; declaring that the state does not recognize certain tribal boundaries; requiring the attorney general to reimburse Mille Lacs County for legal expenses.

Referred to the Committee on State and Local Government Operations.

Senator Pappas introduced--

S.F. No. 3026: A bill for an act relating to education; prohibiting a school district or charter school from purchasing chromated copper arsenate treated lumber; proposing coding for new law in Minnesota Statutes, chapter 123B.

Referred to the Committee on Education.

Senator Neuville introduced--

S.F. No. 3027: A bill for an act relating to education finance; authorizing a facilities joint powers agreement; authorizing a levy.

Referred to the Committee on Finance.

RECESS

Senator Johnson, D.E. moved that the Senate do now recess until 2:45 p.m. The motion prevailed.

The hour of 2:45 p.m. having arrived, the President called the Senate to order.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Reports of Committees, Second Reading of Senate Bills and Second Reading of House Bills.

REPORTS OF COMMITTEES

Senator Rest moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Senator Betzold from the Committee on Judiciary, to which was referred

S.F. No. 1889: A bill for an act relating to government data practices; collection and dissemination of data; proposing classifications of data as private and nonpublic; amending Minnesota Statutes 2002, sections 13.3805, by adding a subdivision; 13.44, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 13.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [13.203] [SERVICE COOPERATIVE CLAIMS DATA.]

Claims experience and all related information received from carriers and claims administrators participating in a group health or dental plan, including any long-term disability plan, offered through the Minnesota service cooperatives to Minnesota school districts and other political subdivisions, and survey information collected from employees and employers participating in these plans and programs, except when the executive director of a Minnesota service cooperative determines that release of the data will not be detrimental to the plan or program, are classified as nonpublic data not on individuals.

Sec. 2. [13.371] [ELECTRONIC NEWSLETTER SUBSCRIPTION DATA.]

Data that identify a subscriber to a government entity electronic newsletter or that identify an individual subscriber's account or subscription interests are private data on individuals.

Sec. 3. Minnesota Statutes 2002, section 13.3805, is amended by adding a subdivision to read:

Subd. 3. [OFFICE OF HEALTH FACILITY COMPLAINTS; INVESTIGATIVE DATA.] All investigative data maintained by the Department of Health's Office of Health Facility Complaints are subject to the provisions of and classified pursuant to section 626.557, subdivision 12b, paragraphs (b) and (c). Notwithstanding section 626.557, subdivision 12b, paragraph (b), data identifying an individual substantiated as the perpetrator are public data.

Sec. 4. Minnesota Statutes 2002, section 13.43, subdivision 2, is amended to read:

Subd. 2. [PUBLIC DATA.] (a) Except for employees described in subdivision 5 and subject to the limitations in subdivision 5a, the following personnel data on current and former employees, volunteers, and independent contractors of a state agency, statewide system, or political subdivision and members of advisory boards or commissions is public:

(1) name; employee identification number, which must not be the employee's social security number; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; and the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary;

(2) job title and bargaining unit; job description; education and training background; and previous work experience;

(3) date of first and last employment;

(4) the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action;

(5) the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body;

(6) the terms of any agreement settling any dispute arising out of an employment relationship, including a buyout agreement as defined in section 123B.143, subdivision 2, paragraph (a); except that the agreement must include specific reasons for the agreement if it involves the payment of more than \$10,000 of public money;

(7) work location; a work telephone number; badge number; and honors and awards received; and

(8) payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data; ~~and city and county of residence.~~

(b) For purposes of this subdivision, a final disposition occurs when the state agency, statewide system, or political subdivision makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings, or upon the failure of the employee to elect arbitration within the time provided by the collective bargaining agreement. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the state agency, statewide system, political subdivision, or arbitrator.

(c) The state agency, statewide system, or political subdivision may display a photograph of a current or former employee to a prospective witness as part of the state agency's, statewide system's, or political subdivision's investigation of any complaint or charge against the employee.

(d) A complainant has access to a statement provided by the complainant to a state agency, statewide system, or political subdivision in connection with a complaint or charge against an employee.

(e) Notwithstanding paragraph (a), clause (5), upon completion of an investigation of a complaint or charge against a public official, or if a public official resigns or is terminated from employment while the complaint or charge is pending, all data relating to the complaint or charge are public, unless access to the data would jeopardize an active investigation or reveal confidential sources. For purposes of this paragraph, "public official" means:

(1) the head of a state agency and deputy and assistant state agency heads;

(2) members of boards or commissions required by law to be appointed by the governor or other elective officers; and

(3) executive or administrative heads of departments, bureaus, divisions, or institutions.

Sec. 5. Minnesota Statutes 2002, section 13.43, is amended by adding a subdivision to read:

Subd. 5a. [LIMITATION ON DISCLOSURE OF CERTAIN PERSONNEL DATA.] Notwithstanding any other provision of this section, the following data relating to employees of a secure treatment facility defined in section 253B.02, subdivision 18a, employees of a state correctional facility, or employees of the Department of Corrections directly involved in supervision of offenders in the community, shall not be disclosed to facility patients, corrections inmates, or other individuals who facility or correction administrators reasonably believe will use the information to harass, intimidate, or assault any such employees: place where previous education or training occurred; place of prior employment; and payroll timesheets or other comparable data, to the extent that disclosure of payroll timesheets or other comparable data may disclose future work assignments.

Sec. 6. Minnesota Statutes 2002, section 13.44, is amended by adding a subdivision to read:

Subd. 4. [PERSONAL AND INTANGIBLE PROPERTY; APPRAISAL DATA.] Preliminary and final market value appraisals, which are made by personnel of a city or county or by an independent appraiser acting on behalf of a city or county, of personal and intangible property owned by the city or county, are classified as nonpublic data not on individuals until either (1) a purchase agreement is entered into; or (2) the parties negotiating the transaction exchange appraisals.

Sec. 7. Minnesota Statutes 2002, section 13.46, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in this section:

(a) "Individual" means an individual according to section 13.02, subdivision 8, but does not include a vendor of services.

(b) "Program" includes all programs for which authority is vested in a component of the welfare system according to statute or federal law, including, but not limited to, the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, Minnesota family investment program, temporary assistance for needy families program, medical assistance, general assistance, general assistance medical care, child care assistance program, and child support collections.

(c) "Welfare system" includes the Department of Human Services, local social services agencies, county welfare agencies, private licensing agencies, the public authority responsible for child support enforcement, human services boards, community mental health center boards, state hospitals, state nursing homes, the ombudsman for mental health and mental retardation, and persons, agencies, institutions, organizations, and other entities under contract to any of the above agencies to the extent specified in the contract.

(d) "Mental health data" means data on individual clients and patients of community mental health centers, established under section 245.62, mental health divisions of counties and other providers under contract to deliver mental health services, or the ombudsman for mental health and mental retardation.

(e) "Fugitive felon" means a person who has been convicted of a felony and who has escaped from confinement or violated the terms of probation or parole for that offense.

(f) "Private licensing agency" means an agency licensed by the commissioner of human services under chapter 245A to perform the duties under section 245A.16.

Sec. 8. Minnesota Statutes 2003 Supplement, section 13.46, subdivision 2, is amended to read:

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

(1) according to section 13.05;

(2) according to court order;

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

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

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

(6) to administer federal funds or programs;

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

(8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including to the Department of Revenue to administer and evaluate tax refund or tax credit programs and to identify individuals who may benefit from these programs. The following information may be disclosed under this paragraph: an individual's and their dependent's names, dates of birth, Social Security numbers, income, addresses, and other data as required, upon request by the Department of Revenue to administer the property tax refund law, supplemental housing allowance, early refund of refundable tax credits, and the income tax. "Refundable tax credits" means Tax refund or tax credit programs include, but are not limited to, the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund and rental credit under section 290A.04, and, if the required federal waiver or waivers are granted, the federal earned income tax credit under section 32 of the Internal Revenue Code the Minnesota education credit under section 290.0674. Disclosures by the commissioner of revenue to the commissioner of human services are governed by section 270B.14;

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

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

(11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state according to Part C of Public Law 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

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

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

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

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

(i) the participant:

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

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

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

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

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

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

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

(i) the member:

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

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

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

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

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

(19) the current address of a recipient of Minnesota family investment program, general assistance, general assistance medical care, or food support may be disclosed to law enforcement officers who, in writing, provide the name of the recipient and notify the agency that the recipient is a person required to register under section 243.166, but is not residing at the address at which the recipient is registered under section 243.166;

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

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

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

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

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

(25) to other state agencies, statewide systems, and political subdivisions of this state, including the attorney general, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program;

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

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

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

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

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

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

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

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

Sec. 9. Minnesota Statutes 2003 Supplement, section 13.46, subdivision 4, is amended to read:

Subd. 4. [LICENSING DATA.] (a) As used in this subdivision:

(1) "licensing data" means all data collected, maintained, used, or disseminated by the welfare system pertaining to persons licensed or registered or who apply for licensure or registration or who formerly were licensed or registered under the authority of the commissioner of human services;

(2) "client" means a person who is receiving services from a licensee or from an applicant for licensure; and

(3) "personal and personal financial data" means Social Security numbers, identity of and letters of reference, insurance information, reports from the Bureau of Criminal Apprehension, health examination reports, and social/home studies.

(b)(1) Except as provided in paragraph (c), the following data on current and former licensees are public: name, address, telephone number of licensees, date of receipt of a completed application, dates of licensure, licensed capacity, type of client preferred, variances granted, type of dwelling, name and relationship of other family members, previous license history, class of license, and the existence and status of complaints. When a correction order or fine has been issued, a license is suspended, immediately suspended, revoked, denied, or made conditional, or a complaint is resolved, the following data on current and former licensees are public: the substance and investigative findings of the licensing or maltreatment complaint, ~~licensing violation, or substantiated maltreatment~~; the record of informal resolution of a licensing violation; orders of hearing; findings of fact; conclusions of law; specifications of the final correction order, fine, suspension, immediate suspension, revocation, denial, or conditional license contained in the record of licensing action; and the status of any appeal of these actions. Notwithstanding sections 626.556, subdivision 11, and 626.557, subdivision 12b, when an individual licensee is a substantiated perpetrator of maltreatment in a program licensed under chapter 245A, and the substantiated maltreatment is a reason for the licensing action, the identity of the licensee as a perpetrator is public data. For purposes of this clause, a person is a substantiated perpetrator if the maltreatment determination has been upheld under section 626.556, subdivision 10i, 626.557, subdivision 9d, or 256.045, or chapter 14, or an individual or facility has not timely exercised appeal rights under these sections.

(2) For applicants who withdraw their application prior to licensure or denial of a license, the following data are public: the name of the applicant, the city and county in which the applicant was seeking licensure, the dates of the commissioner's receipt of the initial application and completed application, the type of license sought, and the date of withdrawal of the application.

(3) For applicants who are denied a license, the following data are public: the name of the applicant, the city and county in which the applicant was seeking licensure, the dates of the commissioner's receipt of the initial application and completed application, the type of license sought, the date of denial of the application, the nature of the basis for the denial, and the status of any appeal of the denial.

(4) The following data on persons subject to disqualification under section 245C.14 in connection with a license to provide family day care for children, child care center services, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home, are public: the nature of any disqualification set aside under section 245C.22, subdivisions 2 and 4, and the reasons for setting aside the disqualification; and the reasons for granting any variance under section 245A.04, subdivision 9.

(5) When maltreatment is substantiated under section 626.556 or 626.557 and the victim and the substantiated perpetrator are affiliated with a program licensed under chapter 245A, the commissioner of human services, local social services agency, or county welfare agency may inform the license holder where the maltreatment occurred of the identity of the substantiated perpetrator and the victim.

(c) The following are private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial data on family

day care program and family foster care program applicants and licensees and their family members who provide services under the license.

(d) The following are private data on individuals: the identity of persons who have made reports concerning licensees or applicants that appear in inactive investigative data, and the records of clients or employees of the licensee or applicant for licensure whose records are received by the licensing agency for purposes of review or in anticipation of a contested matter. The names of reporters under sections 626.556 and 626.557 may be disclosed only as provided in section 626.556, subdivision 11, or 626.557, subdivision 12b.

(e) Data classified as private, confidential, nonpublic, or protected nonpublic under this subdivision become public data if submitted to a court or administrative law judge as part of a disciplinary proceeding in which there is a public hearing concerning a license which has been suspended, immediately suspended, revoked, or denied.

(f) Data generated in the course of licensing investigations that relate to an alleged violation of law are investigative data under subdivision 3.

(g) Data that are not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report as defined in section 626.556, subdivision 2, or 626.5572, subdivision 18, are subject to the destruction provisions of sections 626.556, subdivision 11c, and 626.557, subdivision 12b.

(h) Upon request, not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report of substantiated maltreatment as defined in section 626.556 or 626.557 may be exchanged with the Department of Health for purposes of completing background studies pursuant to section 144.057 and with the Department of Corrections for purposes of completing background studies pursuant to section 241.021.

(i) Data on individuals collected according to licensing activities under chapters 245A and 245C, and data on individuals collected by the commissioner of human services according to maltreatment investigations under sections 626.556 and 626.557, may be shared with the Department of Human Rights, the Department of Health, the Department of Corrections, the Ombudsman for Mental Health and Retardation, and the individual's professional regulatory board when there is reason to believe that laws or standards under the jurisdiction of those agencies may have been violated.

(j) In addition to the notice of determinations required under section 626.556, subdivision 10f, if the commissioner or the local social services agency has determined that an individual is a substantiated perpetrator of maltreatment of a child based on sexual abuse, as defined in section 626.556, subdivision 2, and the commissioner or local social services agency knows that the individual is a person responsible for a child's care in another facility, the commissioner or local social services agency shall notify the head of that facility of this determination. The notification must include an explanation of the individual's available appeal rights and the status of any appeal. If a notice is given under this paragraph, the government entity making the notification shall provide a copy of the notice to the individual who is the subject of the notice.

Sec. 10. Minnesota Statutes 2002, section 13.46, subdivision 7, is amended to read:

Subd. 7. [MENTAL HEALTH CENTER DATA.] (a) Mental health data are private data on individuals and shall not be disclosed, except:

(1) pursuant to section 13.05, as determined by the responsible authority for the community mental health center, mental health division, or provider;

(2) pursuant to court order;

(3) pursuant to a statute specifically authorizing access to or disclosure of mental health data or otherwise provided by this subdivision; or

(4) with the consent of the client or patient.

(b) An agency of the welfare system may not require an individual to consent to the release of mental health data as a condition for receiving services or for reimbursing a community mental health center, mental health division of a county, or provider under contract to deliver mental health services.

(c) Notwithstanding section 245.69, subdivision 2, paragraph (f), or any other law to the contrary, the responsible authority for a community mental health center, mental health division of a county, or a mental health provider must disclose mental health data to a law enforcement agency if the law enforcement agency provides the name of a client or patient and communicates that the:

(1) client or patient is currently involved in an emergency interaction with the law enforcement agency; and

(2) data is necessary to protect the health or safety of the client or patient or of another person.

The scope of disclosure under this paragraph is limited to the minimum necessary for law enforcement to respond to the emergency and to protect the health and safety of the client or patient and other persons. Disclosure under this paragraph may include, but is not limited to, the name and telephone number of the psychiatrist, psychologist, therapist, mental health professional, practitioner, or case manager of the client or patient. A law enforcement agency that obtains mental health data under this paragraph shall maintain a record of the requestor, the provider of the information, and the client or patient name. The record maintained by the law enforcement agency is private data on individuals.

(d) In the event of a request under paragraph (a), clause (4), a community mental health center, county mental health division, or provider must release mental health data to Criminal Mental Health Court personnel in advance of receiving a copy of a consent if the Criminal Mental Health Court personnel communicate that the:

(1) client or patient is a defendant in a criminal case pending in the district court;

(2) data being requested is limited to information that is necessary to assess whether the defendant is eligible for participation in the Criminal Mental Health Court; and

(3) client or patient has consented to the release of the mental health data and a copy of the consent will be provided to the community mental health center, county mental health division, or provider within 72 hours of the release of the data.

For purposes of this paragraph, "Criminal Mental Health Court" refers to a specialty criminal calendar of the Hennepin County District Court for defendants with mental illness and brain injury where a primary goal of the calendar is to assess the treatment needs of the defendants and to incorporate those treatment needs into voluntary case disposition plans. This paragraph does not in any way limit the rights of the court to obtain the release of mental health data pursuant to court order or any other means allowed by law.

Sec. 11. Minnesota Statutes 2002, section 13.461, is amended by adding a subdivision to read:

Subd. 28. [CHILD CARE ASSISTANCE PROGRAM.] Data collected, maintained, used, or disseminated by the welfare system pertaining to persons selected as legal nonlicensed child care providers by families receiving child care assistance are classified under section 119B.02, subdivision 6.

Sec. 12. Minnesota Statutes 2002, section 13.47, subdivision 4, is amended to read:

Subd. 4. [DATA PREPARATION.] To produce data required to certify the eligibility of training service providers under section 268.0122, subdivision 3, clause (7), the Workforce Investment Act of 1998, United States Code, title 29, section 2801, or other studies required by law, the commissioner of economic security, in consultation with the governor's Workforce Development Council, employment and economic development may:

(4) enter into a data exchange agreement with a training service provider whereby the commissioner of economic security employment and economic development shall furnish to the provider wage information under section 268.044 on individuals who have received training services from the provider. The provider shall use this wage information to prepare summary data determined necessary by the commissioner ~~in consultation with the governor's Workforce Development Council~~. The provider may use this wage information for conducting studies to improve instruction; ~~or~~

~~(2) if there is no agreement under clause (1), require the training service provider to furnish employment and training data determined necessary by the commissioner in consultation with the governor's Workforce Development Council.~~

Sec. 13. Minnesota Statutes 2002, section 13.51, subdivision 2, is amended to read:

Subd. 2. [INCOME PROPERTY ASSESSMENT DATA.] The following data collected by political subdivisions from individuals or business entities concerning income properties are classified as private or nonpublic data pursuant to section 13.02, subdivisions 9 and 12:

- (a) detailed income and expense figures for the current year plus the previous three years;
- (b) average vacancy factors for the previous three years;
- (c) verified net rentable areas or net usable areas, whichever is appropriate;
- (d) anticipated income and expenses for the current year;
- (e) projected vacancy factor for the current year factors; and
- (f) lease information.

Sec. 14. Minnesota Statutes 2002, section 13.51, is amended by adding a subdivision to read:

Subd. 4. [REQUEST FOR LEGAL DISCOVERY OF INCOME PROPERTY ASSESSMENT DATA.] Upon request by a party to a responsible authority or designee for legal discovery of income property assessment data, as defined in subdivision 2, the requesting party shall notify the owner of record of the property.

Sec. 15. Minnesota Statutes 2002, section 13.598, as amended by Laws 2003, chapter 128, article 13, section 40, and Laws 2003, First Special Session chapter 4, section 1, is amended to read:

13.598 [EMPLOYMENT AND ECONOMIC DEVELOPMENT DATA CODED ELSEWHERE.]

Subdivision 1. [SCOPE.] The sections referred to in subdivisions ~~2~~ 2a to 6 ~~12~~ are codified outside this chapter and include classification of employment and economic development data as other than public, place restrictions on access to government data, or involve data sharing.

Subd. 2a. [COMMISSIONER OF EMPLOYMENT AND ECONOMIC DEVELOPMENT.] Data maintained by the commissioner of employment and economic development are classified under sections 268.19 and 469.154, subdivision 2.

Subd. 3. [MINNESOTA TECHNOLOGY, INC.] Data on a tape of a closed board meeting of Minnesota Technology, Inc. are classified under section 116O.03, subdivision 6. Certain data disclosed to the board or employees of Minnesota Technology, Inc. are classified under section 116O.03, subdivision 7.

Subd. 4. [AIRCRAFT FACILITIES.] Specified data about an airline submitted in connection with state financing of certain aircraft maintenance facilities are classified under section 116R.02, subdivision 3.

Subd. 5. [MINNESOTA BUSINESS FINANCE, INC.] Various data held by Minnesota Business Finance, Inc. are classified under section 116S.02, subdivision 8.

Subd. 6. [LOCAL ECONOMIC DEVELOPMENT DATA.] (a) [PRELIMINARY INFORMATION.] Access to preliminary information submitted to the commissioner of employment and economic development under sections 469.142 to 469.151 or sections 469.152 to 469.165 is limited under section 469.154, subdivision 2.

(b) [ENTERPRISE ZONES.] Data sharing between the commissioner of revenue and the commissioner of employment and economic development or a municipality receiving an enterprise zone designation is governed by section 469.173, subdivision 5.

(c) [TAX INCENTIVES.] Disclosure of data by the Department of Revenue to determine eligibility for tax incentives available under section 272.0212, 469.1732, or 469.1734, is governed by section 469.1733, subdivision 1.

Subd. 7. [PROGRAM DATA.] Program data collected on individuals are classified by section 268.0122, subdivision 7.

Subd. 8. [UNEMPLOYMENT INSURANCE HEARINGS.] Disclosure of unemployment insurance hearing data is governed by section 268.105, subdivision 5.

Subd. 9. [MINNESOTA YOUTH PROGRAM.] Data on individuals under the Minnesota Youth program are classified under section 268.561, subdivision 7.

Subd. 10. [EMPLOYMENT AND TRAINING PROGRAMS; DATA SHARING.] Data sharing of employment and training program data between the commissioner of employment and economic development, the commissioner of human services, state agency personnel, and other users of the inventory, referral and intake system, is governed by section 268.86, subdivision 10.

Subd. 11. [VOCATIONAL REHABILITATION DATA.] Disclosure of data obtained by the Department of Employment and Economic Development regarding the vocational rehabilitation of an injured or disabled employee is governed by section 268A.05.

Subd. 12. [EMPLOYER DATA.] The department may disseminate an employer's name, address, industry code, and the number of employees by ranges of not less than 100 for the purpose of assisting individuals using the Minnesota Workforce Center system in obtaining employment.

Sec. 16. Minnesota Statutes 2002, section 13.685, is amended to read:

13.685 [MUNICIPAL UTILITY CUSTOMER DATA.]

Data on customers of municipal electric utilities and the electronic mail addresses of customers who pay any municipal utility bill electronically are private data on individuals or nonpublic data, but may be released to:

(1) a law enforcement agency that requests access to the data in connection with an investigation;

(2) a school for purposes of compiling pupil census data;

(3) the Metropolitan Council for use in studies or analyses required by law;

(4) a public child support authority for purposes of establishing or enforcing child support; or

(5) a person where use of the data directly advances the general welfare, health, or safety of the public; the commissioner of administration may issue advisory opinions construing this clause pursuant to section 13.072.

Sec. 17. Minnesota Statutes 2002, section 13.7931, is amended by adding a subdivision to read:

Subd. 1a. [SPECIFIC LOCATION DATA.] Specific location data are classified under section 84.0872.

Sec. 18. Minnesota Statutes 2002, section 13.82, subdivision 5, is amended to read:

Subd. 5. [DOMESTIC ABUSE DATA.] The written police report required by section 629.341, subdivision 4, of an alleged incident described in section 629.341, subdivision 1, and arrest data, request for service data, and response or incident data described in subdivision 2, 3, or 6 that arise out of this type of incident or out of an alleged violation of an order for protection must be released upon request at no cost to the victim of domestic abuse, the victim's attorney, or an organization designated by the Minnesota Center for Crime Victims Services, the Department of Corrections, or the Department of Public Safety as providing services to victims of domestic abuse. The executive director or the commissioner of the appropriate state agency shall develop written criteria for this designation in consultation with the Advisory Council on Battered Women and Domestic Abuse.

Sec. 19. Minnesota Statutes 2002, section 13.871, is amended by adding a subdivision to read:

Subd. 1a. [MENTAL HEALTH DATA RECEIVED BY LAW ENFORCEMENT.] A record of certain mental health data received by law enforcement from health care providers is classified under section 144.335, subdivision 3a.

Sec. 20. Minnesota Statutes 2002, section 13D.05, subdivision 3, is amended to read:

Subd. 3. [WHAT MEETINGS MAY BE CLOSED.] (a) A public body may close a meeting to evaluate the performance of an individual who is subject to its authority. The public body shall identify the individual to be evaluated prior to closing a meeting. At its next open meeting, the public body shall summarize its conclusions regarding the evaluation. A meeting must be open at the request of the individual who is the subject of the meeting.

(b) Meetings may be closed if the closure is expressly authorized by statute or permitted by the attorney-client privilege.

(c) Meetings may be closed to receive security briefings and reports, to discuss issues related to security systems, to discuss emergency response procedures and to discuss security deficiencies in or recommendations regarding public services, infrastructure and facilities, if disclosure of the information discussed would pose a danger to public safety or compromise security procedures or responses. Financial issues related to security matters must be discussed and all related financial decisions must be made at an open meeting. Before closing a meeting under this paragraph, the public body, in describing the subject to be discussed, must refer to the facilities, systems, procedures, services, or infrastructures to be considered during the closed meeting. A closed meeting must be tape recorded at the expense of the governing body, and the recording must be preserved for at least eight years.

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

Sec. 21. [15.175] [CERTAIN EMPLOYEE RECORDS.]

Data, records, files, and all written or electronic materials of, or relating to, a state employee who is involuntarily terminated from employment with a state agency must be preserved for a period of at least three years after the employee's termination from employment, or a longer period as required under section 138.17. A state agency that destroys, shreds, or alters data, records, files, or materials in violation of this requirement is liable to the employee for damages resulting from that violation, plus costs and reasonable attorney fees incurred by the employee in enforcing the employee's rights under this section. In addition, the employee is also entitled to reinstatement to the position from which the employee was terminated, plus reimbursement for lost wages and health and retirement benefits.

[EFFECTIVE DATE.] This section is effective retroactively from January 1, 2002.

Sec. 22. 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 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 the amount paid out for premiums and 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. 23. Minnesota Statutes 2002, section 45.027, subdivision 7a, is amended to read:

Subd. 7a. [AUTHORIZED DISCLOSURES OF INFORMATION AND DATA.] (a) The commissioner may release and disclose any active or inactive investigative information and data ~~on~~ licensees to any national securities exchange or national securities association registered under the Securities Exchange Act of 1934 when necessary for the requesting agency in initiating, furthering, or completing an investigation.

(b) The commissioner may release any active or inactive investigative data relating to the conduct of the business of insurance to the Office of the Comptroller of the Currency or the Office of Thrift Supervision in order to facilitate the initiation, furtherance, or completion of the investigation.

Sec. 24. Minnesota Statutes 2002, section 60A.03, subdivision 9, is amended to read:

Subd. 9. [CONFIDENTIALITY OF INFORMATION.] The commissioner may not be required to divulge any information obtained in the course of the supervision of insurance companies, or the examination of insurance companies, including examination related correspondence and workpapers, until the examination report is finally accepted and issued by the commissioner, and then only in the form of the final public report of examinations. Nothing contained in this subdivision prevents or shall be construed as prohibiting the commissioner from disclosing the content of this information to the insurance department of another state or, the National Association of Insurance Commissioners, or the National Association of Securities Dealers if the recipient of the information agrees in writing to hold it as nonpublic data as defined in section 13.02, in a manner consistent with this subdivision. This subdivision does not apply to the extent the commissioner is required or permitted by law, or ordered by a court of law to testify or produce evidence in a civil or criminal proceeding. For purposes of this subdivision, a subpoena is not an order of a court of law.

Sec. 25. Minnesota Statutes 2002, section 60A.031, subdivision 4, is amended to read:

Subd. 4. [EXAMINATION REPORT; FOREIGN AND DOMESTIC COMPANIES.] (a) The commissioner shall make a full and true report of every examination conducted pursuant to this chapter, which shall include (1) a statement of findings of fact relating to the financial status and other matters ascertained from the books, papers, records, documents, and other evidence obtained by investigation and examination or ascertained from the testimony of officers, agents, or other persons examined under oath concerning the business, affairs, assets, obligations, ability to fulfill obligations, and compliance with all the provisions of the law of the company, applicant, organization, or person subject to this chapter and (2) a summary of important points noted in the report, conclusions, recommendations and suggestions as may reasonably be warranted from the facts so ascertained in the examinations. The report of examination shall be verified by the oath of the examiner in charge thereof, and shall be prima facie evidence in any action or proceedings in

the name of the state against the company, applicant, organization, or person upon the facts stated therein.

(b) No later than 60 days following completion of the examination, the examiner in charge shall file with the department a verified written report of examination under oath. Upon receipt of the verified report, the department shall transmit the report to the company examined, together with a notice which provides the company examined with a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to matters contained in the examination report.

(c) Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with the written submissions or rebuttals and the relevant portions of the examiner's workpapers and enter an order:

(1) adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, rule, or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure the violation;

(2) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refile the report as required under paragraph (b); or

(3) calling for an investigatory hearing with no less than 20 days' notice to the company for purposes of obtaining additional documentation, data, information, and testimony.

(d)(1) All orders entered under paragraph (c), clause (1), must be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner workpapers, and any written submissions or rebuttals. The order is a final administrative decision and may be appealed as provided under chapter 14. The order must be served upon the company by certified mail, together with a copy of the adopted examination report. Within 30 days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(2) A hearing conducted under paragraph (c), clause (3), by the commissioner or authorized representative, must be conducted as a nonadversarial confidential investigatory proceeding as necessary for the resolution of inconsistencies, discrepancies, or disputed issues apparent upon the face of the filed examination report or raised by or as a result of the commissioner's review of relevant workpapers or by the written submission or rebuttal of the company. Within 20 days of the conclusion of the hearing, the commissioner shall enter an order as required under paragraph (c), clause (1).

(3) The commissioner shall not appoint an examiner as an authorized representative to conduct the hearing. The hearing must proceed expeditiously. Discovery by the company is limited to the examiner's workpapers which tend to substantiate assertions in a written submission or rebuttal. The commissioner or the commissioner's representative may issue subpoenas for the attendance of witnesses or the production of documents considered relevant to the investigation whether under the control of the department, the company, or other persons. The documents produced must be included in the record. Testimony taken by the commissioner or the commissioner's representative must be under oath and preserved for the record.

This section does not require the department to disclose information or records which would indicate or show the existence or content of an investigation or activity of a criminal justice agency.

(4) The hearing must proceed with the commissioner or the commissioner's representative posing questions to the persons subpoenaed. Thereafter, the company and the department may present testimony relevant to the investigation. Cross-examination may be conducted only by the

commissioner or the commissioner's representative. The company and the department shall be permitted to make closing statements and may be represented by counsel of their choice.

(e)(1) Upon the adoption of the examination report under paragraph (c), clause (1), the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of 30 days except as otherwise provided in paragraph (b). Thereafter, the commissioner may open the report for public inspection if a court of competent jurisdiction has not stayed its publication.

(2) Nothing contained in this subdivision prevents or shall be construed as prohibiting the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating to the reports, to the Commerce Department or the insurance department of another state or country, or to law enforcement officials of this or another state or agency of the federal government at any time, if the agency or office receiving the report or matters relating to the report agrees in writing to hold it confidential and in a manner consistent with this subdivision.

(3) If the commissioner determines that regulatory action is appropriate as a result of an examination, the commissioner may initiate proceedings or actions as provided by law.

(f) All working papers, recorded information, documents and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this subdivision must be given confidential treatment and are not subject to subpoena and may not be made public by the commissioner or any other person, except to the extent provided in paragraph (e). Access may also be granted to the National Association of Insurance Commissioners and the National Association of Securities Dealers. The parties must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained.

Sec. 26. [84.0872] [SPECIFIC LOCATION DATA.]

Subdivision 1. [DEFINITION; GENERAL CLASSIFICATION.] As used in this section, "specific location data" means data that would enable persons to locate the protected wild animal or endangered, threatened, or special concern plant or animal identified by the data. Specific location data are public data unless otherwise classified in this section.

Subd. 2. [NONPUBLIC DATA.] Specific location data procured by the Department of Natural Resources that identify protected wild animals, as defined under section 97A.015, subdivision 39, or species that are designated endangered, threatened, or of special concern under section 84.0895, subdivision 3, are nonpublic data if disclosure is likely to:

- (1) hinder management, propagation, or research;
- (2) facilitate unfair chase or illegal taking, transport, or sale; or
- (3) decrease the likelihood of establishing a protected wild animal or bringing an endangered, threatened, or special concern species to a point at which it is no longer endangered, threatened, or of special concern.

If a request for access to specific location data is denied under this subdivision, the commissioner must provide the requestor with a written explanation of the reason for the denial.

Subd. 3. [DISCLOSURE.] The commissioner may disclose data classified as nonpublic under subdivision 2 to a person, an agency, or the public if the commissioner determines that the disclosure will promote public benefit by:

- (1) aiding the environmental review process;
- (2) aiding research, education, or conservation planning; or

(3) providing information to landowners about locations occurring on the landowners' property, if provision of the information will promote protection of the resource.

Sec. 27. Minnesota Statutes 2002, section 119B.02, subdivision 6, is amended to read:

~~Subd. 6. [DATA.] Data on individuals collected by the commissioner for purposes of administering this chapter are private data on individuals as defined in section 13.02. Data collected, maintained, used, or disseminated by the welfare system pertaining to persons selected as legal nonlicensed child care providers by families receiving child care assistance shall be treated as licensing data as provided in section 13.46, subdivision 4.~~

Sec. 28. Minnesota Statutes 2002, section 144.335, subdivision 3a, is amended to read:

Subd. 3a. [PATIENT CONSENT TO RELEASE OF RECORDS; LIABILITY.] (a) A provider, or a person who receives health records from a provider, may not release a patient's health records to a person without a signed and dated consent from the patient or the patient's legally authorized representative authorizing the release, unless the release is specifically authorized by law. Except as provided in paragraph (c) or (d), a consent is valid for one year or for a lesser period specified in the consent or for a different period provided by law.

(b) This subdivision does not prohibit the release of health records:

(1) for a medical emergency when the provider is unable to obtain the patient's consent due to the patient's condition or the nature of the medical emergency; or

(2) to other providers within related health care entities when necessary for the current treatment of the patient.

(c) Notwithstanding paragraph (a), if a patient explicitly gives informed consent to the release of health records for the purposes and pursuant to the restrictions in clauses (1) and (2), the consent does not expire after one year for:

(1) the release of health records to a provider who is being advised or consulted with in connection with the current treatment of the patient;

(2) the release of health records to an accident and health insurer, health service plan corporation, health maintenance organization, or third-party administrator for purposes of payment of claims, fraud investigation, or quality of care review and studies, provided that:

(i) the use or release of the records complies with sections 72A.49 to 72A.505;

(ii) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited; and

(iii) the recipient establishes adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient.

(d) Notwithstanding paragraph (a), health records may be released to an external researcher solely for purposes of medical or scientific research only as follows:

(1) health records generated before January 1, 1997, may be released if the patient has not objected or does not elect to object after that date;

(2) for health records generated on or after January 1, 1997, the provider must:

(i) disclose in writing to patients currently being treated by the provider that health records, regardless of when generated, may be released and that the patient may object, in which case the records will not be released; and

(ii) use reasonable efforts to obtain the patient's written general authorization that describes the release of records in item (i), which does not expire but may be revoked or limited in writing at any time by the patient or the patient's authorized representative;

(3) authorization may be established if an authorization is mailed at least two times to the patient's last known address with a postage prepaid return envelope and a conspicuous notice that the patient's medical records may be released if the patient does not object, and at least 60 days have expired since the second notice was sent; and the provider must advise the patient of the rights specified in clause (4); and

(4) the provider must, at the request of the patient, provide information on how the patient may contact an external researcher to whom the health record was released and the date it was released.

In making a release for research purposes the provider shall make a reasonable effort to determine that:

(i) the use or disclosure does not violate any limitations under which the record was collected;

(ii) the use or disclosure in individually identifiable form is necessary to accomplish the research or statistical purpose for which the use or disclosure is to be made;

(iii) the recipient has established and maintains adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient; and

(iv) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited.

(e) A person who negligently or intentionally releases a health record in violation of this subdivision, or who forges a signature on a consent form, or who obtains under false pretenses the consent form or health records of another person, or who, without the person's consent, alters a consent form, is liable to the patient for compensatory damages caused by an unauthorized release, plus costs and reasonable attorney's fees.

(f) Upon the written request of a spouse, parent, child, or sibling of a patient being evaluated for or diagnosed with mental illness, a provider shall inquire of a patient whether the patient wishes to authorize a specific individual to receive information regarding the patient's current and proposed course of treatment. If the patient so authorizes, the provider shall communicate to the designated individual the patient's current and proposed course of treatment. Paragraph (a) applies to consents given under this paragraph.

(g) Notwithstanding paragraph (a), a provider must disclose health records relating to a patient's mental health to a law enforcement agency if the law enforcement agency provides the name of the patient and communicates that the:

(1) patient is currently involved in an emergency interaction with the law enforcement agency; and

(2) disclosure of the records is necessary to protect the health or safety of the patient or of another person.

The scope of disclosure under this paragraph is limited to the minimum necessary for law enforcement to respond to the emergency and to protect the health and safety of the patient and other persons. A law enforcement agency that obtains health records under this paragraph shall maintain a record of the requestor, the provider of the information, and the patient's name. The record maintained by the law enforcement agency is private data on individuals, as defined in section 13.02.

(h) In cases where a provider releases health records without patient consent as authorized by law, the release must be documented in the patient's health record. In the case of a release under paragraph (g), the documentation must include the date and circumstances under which the release was made, the person or agency to whom the release was made, and the records that were released.

Sec. 29. Minnesota Statutes 2002, section 144.335, is amended by adding a subdivision to read:

Subd. 3d. [RELEASE OF RECORDS TO COUNTY LOCAL WELFARE AGENCY.] If a provider has been notified by a county local welfare agency under section 626.556, subdivision 3d, the provider must report to the agency the birth of a child to that individual within 24 hours of the birth.

Sec. 30. Minnesota Statutes 2003 Supplement, section 268.19, subdivision 1, is amended to read:

Subdivision 1. [USE OF DATA.] (a) Except as otherwise provided by this section, data gathered from any ~~employer or individual~~ person pursuant to the administration of the Minnesota Unemployment Insurance Law are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except pursuant to a court order or section 13.05. A subpoena shall not be considered a court order. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

- (1) state and federal agencies specifically authorized access to the data by state or federal law;
- (2) any agency of ~~Minnesota or any other state;~~ or any federal agency charged with the administration of an ~~employment security law or~~ unemployment insurance program;
- (3) any agency responsible for the maintenance of a system of public employment offices for the purpose of assisting individuals in obtaining employment;
- ~~(3)~~ (4) human rights agencies within Minnesota that have enforcement powers;
- ~~(4)~~ (5) the Department of Revenue ~~must have access to department private data on individuals and nonpublic data not on individuals only to the extent necessary for enforcement of its duties under Minnesota tax laws;~~
- ~~(5)~~ (6) public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;
- ~~(6)~~ (7) the Department of Labor and Industry on an interchangeable basis with the department ~~subject to the following limitations and regardless of any law to the contrary:~~
 - ~~(i) the department must have access to private data on individuals and nonpublic data not on individuals for uses consistent with the administration of its duties under the Minnesota Unemployment Insurance Law; and~~
 - ~~(ii) the Department of Labor and Industry must have access to private data on individuals and nonpublic data not on individuals for uses consistent with the administration of its duties under Minnesota law;~~
- ~~(7)~~ the Department of Employment and Economic Development ~~may have access to private data on individual employers and nonpublic data not on individual employers for its internal use only; when received by the Department of Employment and Economic Development, the data remain private data on individuals or nonpublic data;~~
- (8) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department or to monitor and evaluate the statewide Minnesota family investment program by providing data on recipients and former recipients of food stamps or food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;
- (9) local, state, and federal law enforcement agencies for the sole purpose of ascertaining the last known address and employment location of ~~the data subject, provided the data subject a person who~~ is the subject of a criminal investigation;
- (10) the federal Immigration and Naturalization Service shall have access to data on specific

individuals and specific employers provided the specific individual or specific employer is the subject of an investigation by that agency; and

(11) ~~the Department of Health may have access to private data on individuals and nonpublic data not on individuals solely for the purposes of epidemiologic investigations.~~

(b) Data on individuals and employers that are collected, maintained, or used by the department in an investigation pursuant to section 268.182 are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3 and 13, and must not be disclosed except pursuant to statute or court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.

~~(c) Tape recordings and transcripts of recordings of proceedings conducted in accordance with section 268.105 and exhibits received into evidence at those proceedings are private data on individuals and nonpublic data not on individuals and must be disclosed only pursuant to the administration of section 268.105, or pursuant to a court order.~~

~~(d) The department may disseminate an employer's name, address, industry code, occupations employed, and the number of employees by ranges of not less than 100 for the purpose of assisting individuals using the Minnesota Workforce Center system in obtaining employment.~~

~~(e) The general aptitude test battery and the nonverbal aptitude test battery as administered by the department are private data on individuals or nonpublic data.~~

(f) Data gathered by the department pursuant to the administration of the Minnesota unemployment insurance program and the job service must not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department.

Sec. 31. Minnesota Statutes 2003 Supplement, section 268.19, subdivision 2, is amended to read:

Subd. 2. [EMPLOYER INFORMATION; ABSOLUTE PRIVILEGE.] (a) Regardless of any provision of law to the contrary, an employer may provide the commissioner with information on an applicant so that the commissioner can determine an applicant's entitlement to unemployment benefits under the Minnesota Unemployment Insurance Law.

(b) The commissioner may disseminate an employer's name and address and the name and address of any employer's unemployment insurance processing agent in order to administer the Minnesota Unemployment Insurance Program.

(c) Information obtained pursuant to the Minnesota Unemployment Insurance Law, in order to determine an applicant's entitlement to unemployment benefits, shall be absolutely privileged and shall not be made the subject matter or the basis for any civil proceeding, administrative, or judicial.

Sec. 32. Minnesota Statutes 2002, section 270B.01, subdivision 8, is amended to read:

Subd. 8. [MINNESOTA TAX LAWS.] For purposes of this chapter only, unless expressly stated otherwise, "Minnesota tax laws" means:

(1) the taxes, refunds, and fees administered by or paid to the commissioner under chapters 115B (except taxes imposed under sections 115B.21 to 115B.24), 289A (except taxes imposed under sections 298.01, 298.015, and 298.24), 290, 290A, 291, 295, 297A, and 297H, or any similar Indian tribal tax administered by the commissioner pursuant to any tax agreement between the state and the Indian tribal government, and includes any laws for the assessment, collection, and enforcement of those taxes, refunds, and fees; and

(2) section 273.1315.

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

Sec. 33. Minnesota Statutes 2002, section 270B.12, subdivision 9, is amended to read:

Subd. 9. [COUNTY ASSESSORS; HOMESTEAD APPLICATION, DETERMINATION, AND INCOME TAX STATUS.] (a) If, as a result of an audit, the commissioner determines that a person is a Minnesota nonresident or part-year resident for income tax purposes, the commissioner may disclose the person's name, address, and Social Security number to the assessor of any political subdivision in the state, when there is reason to believe that the person may have claimed or received homestead property tax benefits for a corresponding assessment year in regard to property apparently located in the assessor's jurisdiction.

(b) To the extent permitted by section 273.124, subdivision 1, paragraph (a), the Department of Revenue may verify to a county assessor whether an individual who is requesting or receiving a homestead classification has filed a Minnesota income tax return as a resident for the most recent taxable year for which the information is available.

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

Sec. 34. Minnesota Statutes 2003 Supplement, section 270B.12, subdivision 13, is amended to read:

Subd. 13. [COUNTY ASSESSORS; CLASS 1B HOMESTEADS.] The commissioner may disclose to a county assessor, and to the assessor's designated agents or employees, a listing of parcels of property qualifying for the class 1b property tax classification under section 273.13, subdivision 22, and the names and addresses of qualified applicants.

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

Sec. 35. Minnesota Statutes 2002, section 270B.14, subdivision 2, is amended to read:

Subd. 2. [DISCLOSURE TO DEPARTMENT OF EMPLOYMENT AND ECONOMIC SECURITY DEVELOPMENT.] (a) Data relating to individuals are treated as follows:

(1) Return information may be disclosed to the Department of Employment and Economic Security Development to the extent provided in clause (2) and for the purposes provided in clause (3).

(2) The data that may be disclosed is limited to the amount of gross income earned by an individual, the total amounts of earnings from each employer, and the employer's name.

(3) Data may be requested pertaining only to individuals who have claimed benefits under sections 268.03 to 268.23 and only if the individuals are the subject of investigations based on other information available to the Department of Employment and Economic Security Development. Data received may be used only as set forth in section 268.19, ~~clause (d)~~ subdivision 1, paragraph (b).

(b) Data pertaining to corporations or other employing units may be disclosed to the Department of Employment and Economic Security Development to the extent necessary for the proper enforcement of chapter 268.

Sec. 36. Minnesota Statutes 2002, section 626.556, is amended by adding a subdivision to read:

Subd. 3d. [REPORT TO PROTECT SAFETY OF AT-RISK NEWBORNS.] If a county local welfare agency determines that a child born to an individual would be subjected to a threatened injury while in the care of that individual, the agency may disclose private data on the individual to providers for the purpose of requesting notification of the birth of a child to the individual. For purposes of this subdivision, "provider" has the meaning given in section 144.335, subdivision 1.

Sec. 37. Minnesota Statutes 2002, section 626.557, subdivision 9a, is amended to read:

Subd. 9a. [EVALUATION AND REFERRAL OF REPORTS MADE TO A COMMON ENTRY POINT UNIT.] The common entry point must screen the reports of alleged or suspected maltreatment for immediate risk and make all necessary referrals as follows:

(1) if the common entry point determines that there is an immediate need for adult protective services, the common entry point agency shall immediately notify the appropriate county agency;

(2) if the report contains suspected criminal activity against a vulnerable adult, the common entry point shall immediately notify the appropriate law enforcement agency;

(3) if the report references alleged or suspected maltreatment and there is no immediate need for adult protective services, the common entry point shall notify the appropriate lead agency as soon as possible, but in any event no longer than two working days;

(4) if the report does not reference alleged or suspected maltreatment, the common entry point may determine whether the information will be referred; and

(5) if the report contains information about a suspicious death, the common entry point shall immediately notify the appropriate law enforcement agencies, the local medical examiner, and the ombudsman established under section 245.92. Law enforcement agencies shall coordinate with the local medical examiner and the ombudsman as provided by law.

Sec. 38. Minnesota Statutes 2002, section 629.341, subdivision 4, is amended to read:

Subd. 4. [REPORT REQUIRED.] Whenever a peace officer investigates an allegation that an incident described in subdivision 1 has occurred, whether or not an arrest is made, the officer shall make a written police report of the alleged incident. The report must contain at least the following information: the name, address and telephone number of the victim, if provided by the victim, a statement as to whether an arrest occurred, the name of the arrested person, and a brief summary of the incident. Data that identify a victim who has made a request under section 13.82, subdivision 17, paragraph (d), and that are private data under that subdivision, shall be private in the report required by this section. A copy of this report must be provided upon request, at no cost, to the victim of domestic abuse, the victim's attorney, or organizations designated by the Minnesota Crime Victims Services Center, the Department of Public Safety, or the commissioner of corrections that are providing services to victims of domestic abuse. The officer shall submit the report to the officer's supervisor or other person to whom the employer's rules or policies require reports of similar allegations of criminal activity to be made.

Sec. 39. Laws 2002, chapter 266, section 1, is amended to read:

Section 1. [DOMESTIC FATALITY REVIEW TEAM PILOT PROJECT EXTENSION.]

The fourth judicial district may extend the duration of the pilot project authorized by Laws 1999, chapter 216, article 2, section 27, and Laws 2000, chapter 468, sections 29 to 32, until December 31, 2004 2006. If the pilot project is extended, the domestic fatality review team shall submit a report on the project to the legislature by January 15, 2005 2007.

Sec. 40. [REPEALER.]

Minnesota Statutes 2002, sections 13.319, subdivision 7; and 13.475, are repealed.

Delete the title and insert:

"A bill for an act relating to data practices; collection and dissemination of data; proposing and modifying classifications of data; providing for sharing and release of certain not public data; requiring release of mental health records to law enforcement in certain emergency situations; amending Minnesota Statutes 2002, sections 13.3805, by adding a subdivision; 13.43, subdivision 2, by adding a subdivision; 13.44, by adding a subdivision; 13.46, subdivisions 1, 7; 13.461, by adding a subdivision; 13.47, subdivision 4; 13.51, subdivision 2, by adding a subdivision; 13.598, as amended; 13.685; 13.7931, by adding a subdivision; 13.82, subdivision 5; 13.871, by adding a subdivision; 13D.05, subdivision 3; 38.04; 45.027, subdivision 7a; 60A.03, subdivision 9; 60A.031, subdivision 4; 119B.02, subdivision 6; 144.335, subdivision 3a, by adding a subdivision; 270B.01, subdivision 8; 270B.12, subdivision 9; 270B.14, subdivision 2; 626.556, by adding a subdivision; 626.557, subdivision 9a; 629.341, subdivision 4; Minnesota Statutes 2003 Supplement, sections 13.46, subdivisions 2, 4; 268.19, subdivisions 1, 2; 270B.12, subdivision 13;

Laws 2002, chapter 266, section 1; proposing coding for new law in Minnesota Statutes, chapters 13; 15; 84; repealing Minnesota Statutes 2002, sections 13.319, subdivision 7; 13.475."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Betzold from the Committee on Judiciary, to which was referred

H.F. No. 730: A bill for an act relating to real property; specifying certain additional warranties; specifying limitation of actions based on breach; amending Minnesota Statutes 2002, sections 327A.02, subdivision 1, by adding a subdivision; 327A.06; 541.051, subdivision 4.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 541.051, subdivision 4, is amended to read:

Subd. 4. [APPLICABILITY.] ~~This section shall not apply to~~ For the purposes of actions based on breach of the statutory warranties set forth in section 327A.02, or to actions based on breach of an express written warranty, ~~provided~~ such actions shall be brought within two years of the discovery of the breach. In the case of an action under section 327A.05, which accrues during the ninth or tenth year after the warranty date, as defined in section 327A.01, subdivision 8, an action may be brought within two years of the discovery of the breach, but in no event may an action under section 327A.05 be brought more than 12 years after the effective warranty date."

Delete the title and insert:

"A bill for an act relating to real property; specifying the statute of limitations for certain actions based on breach of a home warranty; amending Minnesota Statutes 2002, section 541.051, subdivision 4."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Higgins from the Committee on State and Local Government Operations, to which was re-referred

S.F. No. 2263: A bill for an act relating to transportation; providing for cost-sharing agreements with tribal authorities; authorizing commissioner of transportation to require electronic bids for highway contracts valued at \$5,000,000 or more; providing for or changing expiration of certain transportation-related committees; authorizing local governments to designate roads for transporting permitted weights; providing for seasonal load restrictions on gravel roads; making technical changes; amending Minnesota Statutes 2002, sections 161.32, subdivision 1b; 162.021, subdivision 5; 162.07, subdivision 5; 162.09, subdivision 2; 162.13, subdivision 3; 169.832, by adding a subdivision; 169.87, subdivision 2; 174.52, subdivision 3; Minnesota Statutes 2003 Supplement, sections 161.368; 162.02, subdivision 2; repealing Minnesota Statutes 2002, section 174.55, as amended.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, line 35, before "The" insert "Notwithstanding section 15.059, subdivision 5," and delete everything after the period

Page 2, delete line 36

Page 3, delete line 1

Page 4, delete lines 14 to 16 and insert:

"(b) Notwithstanding section 15.059, subdivision 5, the committee expires June 30, 2006."

Page 4, line 34, after "(b)" insert "Notwithstanding section 15.059, subdivision 5," and delete everything after the period

Page 4, delete lines 35 and 36

Page 5, line 26, before "The" insert "Notwithstanding section 15.059, subdivision 5," and delete everything after the period

Page 5, delete line 27

Page 6, line 32, before "The" insert "Notwithstanding section 15.059, subdivision 5," and delete everything after the period

Page 6, delete lines 33 and 34

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Higgins from the Committee on State and Local Government Operations, to which was referred

S.F. No. 676: A bill for an act relating to retirement; Minnesota state retirement system and public employees retirement association; modifying various definitions in the public employees retirement association; making clarifications to disability benefit and reemployed annuitant provisions in the public employees retirement association; providing for disposition of pension assets after death of certain employees in the Minnesota state retirement system and public employees retirement association; amending Minnesota Statutes 2002, sections 353.01, subdivisions 2b, 10, 12a, 12b; 353.33, subdivisions 4, 5, 6, 6b, 7; 353.37, subdivision 3, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 352F; 353F; repealing Minnesota Statutes 2002, sections 353.01, subdivision 38; 353.33, subdivision 5b.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1
MEMBERSHIP ISSUES

Section 1. Minnesota Statutes 2002, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. [EXCLUDED EMPLOYEES.] The following public employees are not eligible to participate as members of the association with retirement coverage by the public employees retirement plan, the local government correctional employees retirement plan under chapter 353E, or the public employees police and fire retirement plan:

(1) public officers, other than county sheriffs, who are elected to a governing body, or persons who are appointed to fill a vacancy in an elective office of a governing body, whose term of office first commences on or after July 1, 2002, for the service to be rendered in that elective position. Elected governing body officials who were active members of the association's coordinated or basic retirement plans as of June 30, 2002, continue participation throughout incumbency in office until termination of public service occurs as defined in subdivision 11a;

(2) election officers or election judges;

(3) patient and inmate personnel who perform services for a governmental subdivision;

(4) ~~except as otherwise specified in subdivision 12a, employees who are hired for a temporary position as defined under subdivision 12a, and employees who resign from a nontemporary position and accept a temporary position within 30 days in the same governmental subdivision; An employer must not apply the definition of temporary position so as to exclude employees who are hired to fill positions that are permanent or that are for an unspecified period but who are serving a probationary period at the start of the employment. If the period of employment extends beyond six consecutive months and the employee earns more than \$425 from one governmental subdivision in any calendar month, the department head shall report the employee for membership and require employee deductions be made on behalf of the employee under section 353.27, subdivision 4.~~

~~The membership eligibility of an employee who resigns or is dismissed from a temporary position and within 30 days accepts another temporary position in the same governmental subdivision is determined on the total length of employment rather than on each separate position. Membership eligibility of an employee who holds concurrent temporary and nontemporary positions in one governmental subdivision is determined by the length of employment and salary of each separate position;~~

(5) employees who are employed by reason of work emergency caused by fire, flood, storm, or similar disaster;

(6) employees who by virtue of their employment in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the Minnesota State Retirement System, the Teachers Retirement Association, the Duluth Teachers Retirement Fund Association, the Minneapolis Teachers Retirement Fund Association, the St. Paul Teachers Retirement Fund Association, the Minneapolis Employees Retirement Fund, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the Public Employees Retirement Association, or any local police or firefighters consolidation account but who have not elected the type of benefit coverage provided by the public employees police and fire fund under sections 353A.01 to 353A.10, or any persons covered by section 353.665, subdivision 4, 5, or 6, who have not elected public employees police and fire plan benefit coverage. This clause must not be construed to prevent a person from being a member of and contributing to the Public Employees Retirement Association and also belonging to and contributing to another public pension plan or fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time becomes a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the Teachers Retirement Association by a teacher as defined in section 354.05, subdivision 2;

(7) persons who are members of a religious order and are excluded from coverage under the federal Old Age, Survivors, Disability, and Health Insurance Program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended through January 1, 1987, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

(8) employees of a governmental subdivision who have not reached the age of 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time basis at an accredited school, college, or university in an undergraduate, graduate, or professional-technical program, or a public or charter high school;

(9) resident physicians, medical interns, and pharmacist residents and pharmacist interns who are serving in a degree or residency program in public hospitals;

(10) students who are serving in an internship or residency program sponsored by an accredited educational institution;

(11) persons who hold a part-time adult supplementary technical college license who render part-time teaching service in a technical college;

(12) except for employees of Hennepin county, foreign citizens working for a governmental subdivision with a work permit of less than three years, or an H-1b visa valid for less than three years of employment. Upon notice to the association that the work permit or visa extends beyond the three-year period, the foreign citizens are to must be reported for membership from the date of the extension;

(13) public hospital employees who elected not to participate as members of the association before 1972 and who did not elect to participate from July 1, 1988, to October 1, 1988;

(14) except as provided in section 353.86, volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify

as public employees under subdivision 2 and may be members of the Public Employees Retirement Association and participants in the public employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel;

(15) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; provided that a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the Public Employees Retirement Association and a participant in the public employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment activities other than those as a volunteer firefighter;

(16) pipefitters and associated trades personnel employed by Independent School District No. 625, St. Paul, with coverage under a collective bargaining agreement by the pipefitters local 455 pension plan who were either first employed after May 1, 1997, or, if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter 241, article 2, section 12;

(17) electrical workers, plumbers, carpenters, and associated trades personnel employed by Independent School District No. 625, St. Paul, or the city of St. Paul, who have retirement coverage under a collective bargaining agreement by the Electrical Workers Local 110 pension plan, the United Association Plumbers Local 34 pension plan, or the Carpenters Local 87 pension plan who were either first employed after May 1, 2000, or, if first employed before May 2, 2000, elected to be excluded under Laws 2000, chapter 461, article 7, section 5;

(18) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers, painters, allied tradesworkers, and plasterers employed by the city of St. Paul or Independent School District No. 625, St. Paul, with coverage under a collective bargaining agreement by the Bricklayers and Allied Craftworkers Local 1 pension plan, the Cement Masons Local 633 pension plan, the Glaziers and Glassworkers Local L-1324 pension plan, the Painters and Allied Trades Local 61 pension plan, or the Twin Cities Plasterers Local 265 pension plan who were either first employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

(19) plumbers employed by the metropolitan airports commission, with coverage under a collective bargaining agreement by the Plumbers Local 34 pension plan, who either were first employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

(20) employees who are hired after June 30, 2002, to fill seasonal positions under subdivision 12b which are limited in duration by the employer to 185 consecutive calendar days or less in each year of employment with the governmental subdivision;

(21) persons who are provided supported employment or work-study positions by a governmental subdivision and who participate in an employment or industries program maintained for the benefit of these persons where the governmental subdivision limits the position's duration to three years or less, including persons participating in a federal or state subsidized on-the-job training, work experience, senior citizen, youth, or unemployment relief program where the training or work experience is not provided as a part of, or for, future permanent public employment;

(22) independent contractors and the employees of independent contractors; and

(23) reemployed annuitants of the association during the course of that reemployment.

Sec. 2. Minnesota Statutes 2002, section 353.01, subdivision 12a, is amended to read:

Subd. 12a. [TEMPORARY POSITION.] (4) (a) "Temporary position" means an employment position predetermined by the employer at the time of hiring to be a period of six months or less. Temporary position also means an employment position occupied by a person hired by the employer as a temporary replacement who is employed for a predetermined period of six months or less.

(2) (b) "Temporary position" does not mean an employment position for a specified or unspecified term in which a person serves a probationary period as a requirement for subsequent employment on a permanent or unlimited basis.

(c) If employment in a temporary position extends beyond six consecutive months, the head of the department shall report the employee for membership if salary in any month exceeds the salary threshold specified in subdivision 2a. The membership eligibility of an employee who resigns or is dismissed from a temporary position and accepts another temporary position in the same governmental subdivision within 30 days must be determined on the total length of employment rather than on each separate position.

Sec. 3. Minnesota Statutes 2002, section 353.01, subdivision 12b, is amended to read:

Subd. 12b. [SEASONAL POSITION.] "Seasonal position" means a position where the nature of the work or its duration are related to a specific season or seasons of the year, regardless of whether or not the employing agency anticipates that the same employee will return to the position each season in which it becomes available. The entire period of employment in a business year must be used to determine whether or not a position may be excluded as seasonal when there is less than a 30-day break between one seasonal position and a subsequent seasonal position for employment with the same governmental employer. Seasonal positions include, but are not limited to, coaching athletic activities or employment to plow snow or to maintain roads or parks, or to operate skating rinks, ski lodges, golf courses, or swimming pools.

Sec. 4. Minnesota Statutes 2002, section 354.05, subdivision 2, is amended to read:

Subd. 2. [TEACHER.] (a) "Teacher" means:

(1) a person who renders service as a teacher, supervisor, principal, superintendent, librarian, nurse, counselor, social worker, therapist, or psychologist in a public school of the state located outside of the corporate limits of a city of the first class, or in any charter school, irrespective of the location of the school, or in any charitable, penal, or correctional institutions of a governmental subdivision, or who is engaged in educational administration in connection with the state public school system, but excluding the University of Minnesota, whether the position be a public office or an employment, and not including the members or officers of any general governing or managing board or body;

(2) an employee of the Teachers Retirement Association;

(3) a person who renders teaching service on a part-time basis and who also renders other services for a single employing unit. A person whose teaching service comprises at least 50 percent of the combined employment salary is a member of the association for all services with the single employing unit. If the person's teaching service comprises less than 50 percent of the combined employment salary, the executive director must determine whether all or none of the combined service is covered by the association; or

(4) a person who is not covered by the plans established under chapter 352D, 354A, or 354B and who is employed by the board of trustees of the Minnesota State Colleges and Universities system in an unclassified position as:

(i) a president, vice-president, or dean;

(ii) a manager or a professional in an academic or an academic support program other than specified in item (i);

(iii) an administrative or a service support faculty position; or

(iv) a teacher or a research assistant.

(b) "Teacher" does not mean:

(1) a person who works for a school or institution as an independent contractor as defined by the Internal Revenue Service;

~~(2) a person employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal Comprehensive Employment and Training Act from and after March 30, 1978, unless the person has, as of the later of March 30, 1978, or the date of employment, sufficient service credit in the retirement association to meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees in writing on forms prescribed by the executive director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal Comprehensive Training and Employment Act, or the person agrees in writing on forms prescribed by the executive director to make the required employer contribution in addition to the required employee contribution;~~

~~(3) a person holding a part-time adult supplementary technical college license who renders part-time teaching service or who is a customized trainer as defined by the Minnesota State Colleges and Universities system in a technical college if (i) the service is incidental to the regular nonteaching occupation of the person; and (ii) the applicable technical college employer stipulates annually in advance that the part-time teaching service or customized training service will not exceed 300 hours in a fiscal year and retains the stipulation in its records; and (iii) the part-time teaching service or customized training service actually does not exceed 300 hours in a fiscal year; or~~

~~(4) (3) a person exempt from licensure under section 122A.30.~~

Sec. 5. Minnesota Statutes 2002, section 354B.20, subdivision 4, is amended to read:

Subd. 4. [COVERED EMPLOYMENT.] (a) "Covered employment" means employment by a person eligible for coverage by this retirement program under section 354B.21 in a faculty position or in an eligible unclassified administrative position.

(b) "Covered employment" does not mean employment specified in paragraph (a) by a faculty member employed in a state university or a community college ~~the Minnesota State Colleges and Universities system~~ if the person's initial appointment is specified as constituting less than 25 percent of a full academic year, exclusive of summer session, for the applicable institution.

Sec. 6. Minnesota Statutes 2002, section 354B.20, subdivision 6, is amended to read:

Subd. 6. [ELIGIBLE UNCLASSIFIED ADMINISTRATIVE POSITION.] "Eligible unclassified administrative position" means the following:

- (1) the chancellor of the board;
- (2) a president of a state college or university; ~~or~~
- (3) an ~~excluded~~ administrator employed in a state university or college, by the board, or by the higher education services office; or
- (4) other managers and professionals in academic and academic support programs in the unclassified service employed in a state university or college, by the board, or by the Higher Education Services Office.

Sec. 7. Minnesota Statutes 2002, section 354C.11, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY.] (a) An individual must participate in the supplemental retirement plan if the individual is employed by the Board of Trustees in the unclassified service of the state and has completed at least two years with a full-time contract of applicable unclassified employment with the board or an applicable predecessor board in any of the positions specified in paragraph (b).

(b) Eligible positions or employment classifications are:

- (1) an unclassified administrative position as defined in section 354B.20, subdivision 6;
- (2) an employment classification included in one of the following collective bargaining units under section 179A.10, subdivision 2:

- (i) the state university instructional unit;
 - (ii) the state college instructional unit; and
 - (iii) the state university administrative unit; or
- (3) an unclassified employee of the board:
- (i) included in the general professional unit or the supervisory employees unit under section 179A.10, subdivision 2; or
 - (ii) an employee who is excluded from one of those units due to the employee's confidential status under section 179A.10, subdivision 1, clause (8).

Sec. 8. [REPEALER.]

Minnesota Statutes 2002, section 352D.02, subdivision 5, is repealed.

Sec. 9. [EFFECTIVE DATE.]

- (a) Sections 1 to 5 and 8 are effective on July 1, 2004.
- (b) Section 6 is effective on July 1, 2004, and applies retroactively to the date of hire of the applicable person in the affected position.
- (c) Section 7 is effective retroactively to July 1, 2001.

ARTICLE 2

COVERED SALARY DEFINITION

Section 1. Minnesota Statutes 2002, section 352.01, subdivision 13, is amended to read:

Subd. 13. [SALARY.] (a) "Salary" means wages, or other periodic compensation, paid to an employee before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs.

(b) "Salary" does not include:

- (1) lump sum sick leave payments;;
- (2) severance payments;;
- (3) lump sum annual leave payments and overtime payments made at the time of separation from state service;;
- (4) payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to an employee with single coverage, ~~and;~~
- (5) payments made as an employer-paid fringe benefit;;
- (6) workers' compensation payments;;
- (7) employer contributions to a deferred compensation or tax sheltered annuity program; and
- (8) amounts contributed under a benevolent vacation and sick leave donation program ~~are not salary.~~

(c) Amounts provided to an employee by the employer through a grievance proceeding or a legal settlement are salary only if the settlement is reviewed by the executive director and the amounts are determined by the executive director to be consistent with paragraph (a) and prior determinations.

Sec. 2. Minnesota Statutes 2002, section 352B.01, subdivision 11, is amended to read:

Subd. 11. [AVERAGE MONTHLY SALARY.] (a) "Average monthly salary" means the average of the highest monthly salaries for five years of service as a member upon which contributions were deducted from pay under section 352B.02, or upon which appropriate contributions or payments were made to the fund to receive allowable service and salary credit as specified under the applicable law. Average monthly salary must be based upon all allowable service if this service is less than five years. †

(b) "Average monthly salary" means the salary of the member as defined in section 352.01, subdivision 13. "Average monthly salary" does not include any lump-sum annual leave payments and overtime payments made at the time of separation from state service, any amounts of severance pay, or any reduced salary paid during the period the person is entitled to workers' compensation benefit payments for temporary disability.

(c) A member on leave of absence receiving temporary workers' compensation payments and a reduced salary or no salary from the employer who is entitled to allowable service credit for the period of absence may make payment to the fund for the difference between salary received, if any, and the salary the member would normally receive if not on leave of absence during the period. The member shall pay an amount equal to the member and employer contribution rate under section 352B.02, subdivisions 1b and 1c, on the differential salary amount for the period of the leave of absence. The employing department, at its option, may pay the employer amount on behalf of the member. Payment made under this subdivision must include interest at the rate of 8.5 percent per year, and must be completed within one year of the return from the leave of absence.

Sec. 3. Minnesota Statutes 2002, section 353.01, subdivision 10, is amended to read:

Subd. 10. [SALARY.] (a) "Salary" means:

(1) the periodic compensation of a public employee, before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs, and also means "wages" and includes net income from fees; and

(2) for a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the Public Employees Retirement Association or to which section 353.665 applies and who has elected coverage either under the public employees police and fire fund benefit plan under section 353A.08 following the consolidation or under section 353.665, subdivision 4, "salary" means the rate of salary upon which member contributions to the special fund of the relief association were made prior to the effective date of the consolidation as specified by law and by bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure and the actual periodic compensation of the public employee after the effective date of consolidation.

(b) Salary does not mean:

(1) the fees paid to district court reporters, unused annual vacation or sick leave payments, in lump-sum or periodic payments, severance payments, reimbursement of expenses, lump-sum settlements not attached to a specific earnings period, or workers' compensation payments;

(2) employer-paid amounts used by an employee toward the cost of insurance coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health care expense accounts, day care expenses, or any payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage and certain amounts determined by the executive director to be ineligible;

(3) the amount equal to that which the employing governmental subdivision would otherwise pay toward single or family insurance coverage for a covered employee when, through a contract or agreement with some but not all employees, the employer:

(i) discontinues, or for new hires does not provide, payment toward the cost of the employee's selected insurance coverages under a group plan offered by the employer;

(ii) makes the employee solely responsible for all contributions toward the cost of the

employee's selected insurance coverages under a group plan offered by the employer, including any amount the employer makes toward other employees' selected insurance coverages under a group plan offered by the employer; and

(iii) provides increased salary rates for employees who do not have any employer-paid group insurance coverages; and

(4) except as provided in section 353.86 or 353.87, compensation of any kind paid to volunteer ambulance service personnel or volunteer firefighters, as defined in subdivision 35 or 36; and

(5) the amount of compensation that exceeds the limitation provided in section 356.611.

(c) Amounts provided to an employee by the employer through a grievance proceeding or a legal settlement are salary only if the settlement is reviewed by the executive director and the amounts are determined by the executive director to be consistent with paragraph (a) and prior determinations.

Sec. 4. Minnesota Statutes 2002, section 354.05, subdivision 35, is amended to read:

Subd. 35. [SALARY.] (a) "Salary" means the periodic compensation, upon which member contributions are required before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs.

(b) "Salary" does not mean:

(1) lump sum annual leave payments;

(2) lump sum wellness and sick leave payments;

(3) employer-paid amounts used by an employee toward the cost of insurance coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health care expense accounts, day care expenses, or any payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage and certain amounts determined by the executive director to be ineligible;

(4) any form of payment made in lieu of any other employer-paid fringe benefit or expense;

(5) any form of severance payments;

(6) workers' compensation payments;

(7) disability insurance payments, including self-insured disability payments;

(8) payments to school principals and all other administrators for services that are in addition to the normal work year contract if these additional services are performed on an extended duty day, Saturday, Sunday, holiday, annual leave day, sick leave day, or any other nonduty day;

(9) payments under section 356.24, subdivision 1, clause (4); and

(10) payments made under section 122A.40, subdivision 12, except for payments for sick leave that are accumulated under the provisions of a uniform school district policy that applies equally to all similarly situated persons in the district.

(c) Amounts provided to an employee by the employer through a grievance proceeding or a legal settlement are salary only if the settlement is reviewed by the executive director and the amounts are determined by the executive director to be consistent with paragraph (a) and prior determinations.

Sec. 5. Minnesota Statutes 2002, section 354A.011, subdivision 24, is amended to read:

Subd. 24. [SALARY; COVERED SALARY.] (a) "Salary" or "covered salary" means the entire compensation, upon which member contributions are required and made, that is paid to a teacher

before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs.

(b) "Salary" does not mean:

(1) lump sum annual leave payments;

(2) lump sum wellness and sick leave payments;

(3) employer-paid amounts used by an employee toward the cost of insurance coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health care expense accounts, day care expenses, or any payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage, and certain amounts determined by the executive secretary or director to be ineligible;

(4) any form of payment that is made in lieu of any other employer-paid fringe benefit or expense;

(5) any form of severance payments;

(6) workers' compensation payments;

(7) disability insurance payments, including self-insured disability payments;

(8) payments to school principals and all other administrators for services that are in addition to the normal work year contract if these additional services are performed on an extended duty day, Saturday, Sunday, holiday, annual leave day, sick leave day, or any other nonduty day;

(9) payments under section 356.24, subdivision 1, clause (4)(ii); and

(10) payments made under section 122A.40, subdivision 12, except for payments for sick leave that are accumulated under the provisions of a uniform school district policy that applies equally to all similarly situated persons in the district.

(c) Amounts provided to an employee by the employer through a grievance proceeding or a legal settlement are salary only if the settlement is reviewed by the executive director and the amounts are determined by the executive director to be consistent with paragraph (a) and prior determinations.

Sec. 6. Minnesota Statutes 2002, section 356.611, subdivision 2, is amended to read:

Subd. 2. [FEDERAL COMPENSATION LIMITS.] (a) For members ~~first contributing to~~ of a covered pension plan enumerated in section 356.30, subdivision 3, ~~on or after July 1, 1995,~~ compensation in excess of the limitation ~~set forth~~ specified in section 401(a)(17) of the Internal Revenue Code, as amended, for changes in the cost of living under section 401(a)(17)(B) of the Internal Revenue Code, may not be included for contribution and benefit computation purposes.

(b) Notwithstanding paragraph (a), for members specified in paragraph (a) who first contributed to a covered plan before July 1, 1995, the annual compensation limit set forth specified in Internal Revenue Code 401(a)(17) on June 30, 1993, applies to members first contributing before July 1, 1995 if that provides a greater allowable annual compensation.

Sec. 7. Minnesota Statutes 2002, section 356.611, is amended by adding a subdivision to read:

Subd. 3. [MAXIMUM BENEFIT LIMITATIONS.] A member's annual benefit, if necessary, must be reduced to the extent required by section 415(b) of the Internal Revenue Code, as adjusted by the United States Secretary of the Treasury under section 415(d) of the Internal Revenue Code. For purposes of section 415 of the Internal Revenue Code, the limitation year of a pension plan covered by this section must be the fiscal year or calendar year of that plan, whichever is applicable. The accrued benefit limitation described in section 415(e) of the Internal Revenue Code must cease to be effective for limitation years beginning after December 31, 1999.

Sec. 8. [EFFECTIVE DATE.]

- (a) Sections 1, 2, 3, 6, and 7 are effective on July 1, 2004.
- (b) Sections 4 and 5 are effective on the day following final enactment.

ARTICLE 3

ALLOWABLE SERVICE CREDIT

Section 1. Minnesota Statutes 2002, section 352.27, is amended to read:

352.27 [CREDIT FOR MILITARY BREAK IN SERVICE TO PROVIDE UNIFORMED SERVICE.]

~~Any (a) An employee given a leave of absence to enter military service who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to state service upon discharge from military service as provided in the uniformed service within the time frames required in United States Code, title 38, section 4312(e), may obtain service credit for the period of military the uniformed service. The employee is not entitled to credit for any voluntary extension of military service at the instance of the employee beyond the initial period of enlistment, induction, or call to active duty, nor to credit for any period of service following a voluntary return to military service as further specified in this section, provided that the employee did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions. An~~

~~(b) The employee may obtain credit by paying into the fund an equivalent employee contribution based upon the contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary received at the date of return from military service. The amount of this contribution must be the applicable amounts required in section 352.04, subdivision 2, plus interest at an annual rate of 8.5 percent compounded annually rate. The annual salary rate is the average annual salary during the purchase period that the employee would have received if the employee had continued to be employed in covered employment rather than to provide uniformed service, or, if the determination of that rate is not reasonably certain, the annual salary rate is the employee's average salary rate during the 12-month period of covered employment rendered immediately preceding the period of the uniformed service.~~

~~(c) The matching equivalent employer contribution and, if applicable, the equivalent additional employer contribution provided in section 352.04 must be paid by the department employing the employee upon return to state service from funds available to the department at the time and in the manner provided in section 352.04, using the employer and additional employer contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent employee contribution.~~

~~(d) If the employee equivalent contributions provided in this section are not paid in full, the employee's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total employee contribution received by the total employee contribution otherwise required under this section.~~

~~(e) To receive service credit under this section, the contributions specified in this section must be transmitted to the Minnesota State Retirement System during the period which begins with the date on which the individual returns to state service and which has a duration of three times the length of the uniformed service period, but not to exceed five years. If the determined payment period is less than one year, the contributions required under this section to receive service credit may be made within one year of the discharge date.~~

~~(f) The amount of service credit obtainable under this section may not exceed five years unless a longer purchase period is required under United States Code, title 38, section 4312.~~

(g) The employing unit shall pay interest on all equivalent employee and employer contribution amounts payable under this section. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or the break in service to the end of the month in which the payment is received.

Sec. 2. Minnesota Statutes 2002, section 352B.01, is amended by adding a subdivision to read:

Subd. 3b. [CREDIT FOR BREAK IN SERVICE TO PROVIDE UNIFORMED SERVICE.]

(a) A member who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to state employment in a position covered by the plan upon discharge from service in the uniformed service within the time frame required in United States Code, title 38, section 4312(e), may obtain service credit for the period of the uniformed service, provided that the member did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(b) The member may obtain credit by paying into the fund an equivalent member contribution based on the contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average annual salary during the purchase period that the member would have received if the member had continued to provide employment services to the state rather than to provide uniformed service, or if the determination of that rate is not reasonably certain, the annual salary rate is the member's average salary rate during the 12-month period of covered employment rendered immediately preceding the purchase period.

(c) The equivalent employer contribution and, if applicable, the equivalent employer additional contribution, must be paid by the employing unit, using the employer and employer additional contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution.

(d) If the member equivalent contributions provided for in this subdivision are not paid in full, the member's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this subdivision.

(e) To receive allowable service credit under this subdivision, the contributions specified in this section must be transmitted to the fund during the period which begins with the date on which the individual returns to state employment covered by the plan and which has a duration of three times the length of the uniformed service period, but not to exceed five years. If the determined payment period is calculated to be less than one year, the contributions required under this subdivision to receive service credit may be within one year from the discharge date.

(f) The amount of allowable service credit obtainable under this section may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.

(g) The employing unit shall pay interest on all equivalent member and employer contribution amounts payable under this subdivision. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received.

Sec. 3. Minnesota Statutes 2002, section 353.01, subdivision 16, is amended to read:

Subd. 16. [ALLOWABLE SERVICE; LIMITS AND COMPUTATION.] (a) "Allowable service" means:

(1) service during years of actual membership in the course of which employee contributions were made, periods covered by payments in lieu of salary deductions under section 353.35;

(2) service in years during which the public employee was not a member but for which the member later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect;

(3) a period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund;

(4) a period of authorized personal, parental, or medical leave of absence without pay, including a leave of absence covered under the federal Family Medical Leave Act, that does not exceed one year, and during or for which a member obtained service credit for each month in the leave period by payments to the fund made in place of salary deductions. The payments must be made in an amount or amounts based on the member's average salary on which deductions were paid for the last six months of public service, or for that portion of the last six months while the member was in public service, to apply to the period in either case that immediately precedes the commencement of the leave of absence. If the employee elects to pay the employee contributions for the period of any authorized personal, parental, or medical leave of absence without pay, or for any portion of the leave, the employee shall also, as a condition to the exercise of the election, pay to the fund an amount equivalent to the required employer and the additional employer contributions, if any, for the employee. The payment must be made within one year from the expiration of the leave of absence or within 20 days after termination of public service under subdivision 11a, whichever is earlier. The employer, by appropriate action of its governing body which is made a part of its official records and which is adopted before the date of the first payment of the employee contribution, may certify to the association in writing its commitment to pay the employer and additional employer contributions from the proceeds of a tax levy made under section 353.28. Payments under this paragraph must include interest at an annual rate of 8.5 percent compounded annually from the date of the termination of the leave of absence to the date payment is made. An employee shall return to public service and render a minimum of three months of allowable service in order to be eligible to pay employee and employer contributions for a subsequent authorized leave of absence without pay. Upon payment, the employee must be granted allowable service credit for the purchased period;

(5) a periodic, repetitive leave that is offered to all employees of a governmental subdivision. The leave program may not exceed 208 hours per annual normal work cycle as certified to the association by the employer. A participating member obtains service credit by making employee contributions in an amount or amounts based on the member's average salary that would have been paid if the leave had not been taken. The employer shall pay the employer and additional employer contributions on behalf of the participating member. The employee and the employer are responsible to pay interest on their respective shares at the rate of 8.5 percent a year, compounded annually, from the end of the normal cycle until full payment is made. An employer shall also make the employer and additional employer contributions, plus 8.5 percent interest, compounded annually, on behalf of an employee who makes employee contributions but terminates public service. The employee contributions must be made within one year after the end of the annual normal working cycle or within 20 days after termination of public service, whichever is sooner. The association shall prescribe the manner and forms to be used by a governmental subdivision in administering a periodic, repetitive leave. Upon payment, the member must be granted allowable service credit for the purchased period;

(6) an authorized temporary layoff under subdivision 12, limited to three months allowable service per authorized temporary layoff in one calendar year. An employee who has received the maximum service credit allowed for an authorized temporary layoff must return to public service and must obtain a minimum of three months of allowable service subsequent to the layoff in order to receive allowable service for a subsequent authorized temporary layoff; or

(7) a period during which a member is ~~on an authorized leave of absence to enter military~~ absent from employment by a governmental subdivision by reason of service in the armed forces of the United States in the uniformed services, as defined in United States Code, title 38, section 4303(13), if the member returns to public service upon discharge from military service in the uniformed service within the time frames required under United States Code, title 38, section 192.262 and 4312(e), provided that the member did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions. The service is credited if the member pays into the fund equivalent employee contributions based upon the ~~employee's~~ contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual

salary at the date of return from military service rate. The annual salary rate is the average annual salary during the purchase period that the member would have received if the member had continued to be employed in covered employment rather than to provide uniformed service, or, if the determination of that rate is not reasonably certain, the annual salary rate is the member's average salary rate during the 12-month period of covered employment rendered immediately preceding the period of the uniformed service. Payment of the member equivalent contributions must be made within during a period which begins with the date on which the individual returns to public employment and that is three times the length of the military leave period, or within five years of the date of discharge from the military service, whichever is less. If the determined payment period is less than one year, the contributions required under this clause to receive service credit may be made within one year of the discharge date. Payment may not be accepted following 20 days after termination of public service under subdivision 11a. The amount of these contributions must be in accord with the contribution rates and salary limitations, if any, in effect during the leave, plus interest at an annual rate of 8.5 percent compounded annually from the date of return to public service to the date payment is made. If the member equivalent contributions provided for in this clause are not paid in full, the member's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this clause. The corresponding equivalent employer contribution, and, if applicable, the equivalent additional employer contribution, if applicable, must be paid by the governmental subdivision employing the member upon the person's return to public service if the member makes the equivalent employee contributions. The employer payments must be made from funds available to the employing unit, using the employer and additional employer contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution. The governmental subdivision involved may appropriate money for those payments. A member may not receive credit for a voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction, or call to active duty. The amount of service credit obtainable under this section may not exceed five years unless a longer purchase period is required under United States Code, title 38, section 4312. The employing unit shall pay interest on all equivalent member and employer contribution amounts payable under this clause. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or the break in service to the end of the month in which the payment is received. Upon payment, the employee must be granted allowable service credit for the purchased period.

(b) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for state officers and employees displaced by the Community Corrections Act, chapter 401, and transferred into county service under section 401.04, "allowable service" means the combined years of allowable service as defined in paragraph (a), clauses (1) to (6), and section 352.01, subdivision 11.

(c) For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the Public Employees Retirement Association or to which section 353.665 applies, and who has elected the type of benefit coverage provided by the public employees police and fire fund either under section 353A.08 following the consolidation or under section 353.665, subdivision 4, "applicable service" is a period of service credited by the local police or firefighters relief association as of the effective date of the consolidation based on law and on bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure.

(d) No member may receive more than 12 months of allowable service credit in a year either for vesting purposes or for benefit calculation purposes.

(e) "Allowable service" also means a period purchased under section 356.555.

Sec. 4. Minnesota Statutes 2002, section 354.091, is amended to read:

354.091 [SERVICE CREDIT.]

(a) In computing service credit, no teacher shall receive credit for more than one year of teaching service for any fiscal year. Commencing July 1, 1961:

(1) if a teacher teaches less than five hours in a day, service credit must be given for the fractional part of the day as the term of service performed bears to five hours;

(2) if a teacher teaches five or more hours in a day, service credit must be given for only one day;

(3) if a teacher teaches at least 170 full days in any fiscal year, service credit must be given for a full year of teaching service; and

(4) if a teacher teaches for only a fractional part of the year, service credit must be given for such fractional part of the year as the period of service performed bears to 170 days.

(b) A teacher shall receive a full year of service credit based on the number of days in the employer's full school year if it is less than 170 days. Teaching service performed before July 1, 1961, must be computed under the law in effect at the time it was performed.

(c) A teacher ~~does~~ must not lose or gain retirement service credit as a result of the employer converting to a flexible or alternate work schedule. If the employer converts to a flexible or alternate work schedule, the forms for reporting and the procedures for determining service credit must be determined by the executive director with the approval of the board of trustees.

(d) For all services rendered on or after July 1, 2003, service credit for all members employed by the Minnesota State Colleges and Universities system must be determined:

(1) for full-time employees, by the definition of full time employment contained in the collective bargaining agreement for those units listed in section 179A.10, subdivision 2, or contained in the applicable personnel or salary plan for those positions designated in section 179A.10, subdivision 1;

(2) for part-time employees, by the appropriate proration of full-time equivalency based on the provisions contained in the collective bargaining agreement for those units listed in section 179A.10, subdivision 2, or contained in the applicable personnel or salary plan for those positions designated in section 179A.10, subdivision 1, and the applicable procedures of the Minnesota State Colleges and Universities system; and

(3) in no case may a member receive more than one year of service credit for any fiscal year.

Sec. 5. Minnesota Statutes 2002, section 354.096, subdivision 1, is amended to read:

Subdivision 1. [CERTIFICATION.] Upon granting a family leave to a member, an employing unit must certify the leave to the association on a form specified by the executive director ~~before the end of the fiscal year during which the leave was granted.~~

Sec. 6. Minnesota Statutes 2002, section 354.53, is amended to read:

354.53 [CREDIT FOR MILITARY BREAK IN SERVICE LEAVE OF ABSENCE TO PROVIDE UNIFORMED SERVICE.]

Subdivision 1. [ELIGIBILITY; EMPLOYEE AND EMPLOYER CONTRIBUTIONS.] (a) Any employee given a leave of absence to enter military service teacher who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to the employer providing teaching service upon discharge from military service as provided in the uniformed service within the time frames required in United States Code, title 38, section 4312(e), may obtain service credit for the period of military the uniformed service but shall not receive credit for any voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction or call to active duty as further specified in this section, provided that the teacher did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(b) The member shall may obtain credit by paying into the fund an equivalent employee

contribution based upon the contribution rate or rates in effect at the time that the military uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate of the member for the year beginning with the date of return from military service and the number of years of military service together with interest thereon at an annual rate of 8.5 percent compounded annually from the time the military service was rendered to the first date of payment. The annual salary rate is the average annual salary during the purchase period that the teacher would have received if the teacher had continued to provide teaching service to the employer rather than provide uniformed service or if the determination of that rate is not reasonably certain, the annual salary rate is the teacher's average salary rate during the 12-month period immediately preceding the period, or, if the preceding period is less than 12 months, the annualized rate derived from the teacher's average salary rate during the period of teacher employment rendered immediately preceding the period of the uniformed service.

(c) The equivalent employer contribution and, if applicable, the equivalent additional contribution provided in section 354.42 must be paid by the employing unit at as provided in section 354.52, subdivision 4, using the employer and employer additional contribution rate or rates in effect at the time that the military uniformed service was performed, applied to the same annual salary rate of or rates used to compute the member for the year beginning with the date of return from military service, in the manner provided in section 354.52, subdivision 4 equivalent employee contribution.

Subd. 2. [CALCULATION OF CREDIT.] (a) For purposes of computing a money purchase annuity under section 354.44, subdivision 2, all payments into the fund pursuant to under this section shall must be considered accumulations after July 1, 1957 for the purpose of computing any annuity in accordance with section 354.44, subdivision 2.

(b) For purposes of computing a formula annuity under section 354.44, subdivision 6, if the employee equivalent contributions and interest thereon provided in this section are not paid in full, the member's formula service credit shall must be calculated prorated by multiplying the full and fractional number of years of military uniformed service eligible for purchase by the ratio obtained by dividing the total amount paid and employee contribution received by the maximum amount payable provided herein total employee contribution otherwise required under this section.

Subd. 3. [PAYMENTS ELIGIBLE PAYMENT PERIOD.] Payments pursuant to this (a) To receive service credit under this section, the contributions specified in this section shall must be made within transmitted to the Teachers Retirement Association during the period which begins with the date on which the individual returns to teaching service and which has a duration of three times the length of the uniformed service period, but not to exceed five years from the date of discharge.

(b) Notwithstanding paragraph (a), if the payment period determined under paragraph (a) is less than one year, the contributions required under this section to receive service credit may be made within one year from the discharge date.

Subd. 4. [LIMITS ON SERVICE CREDIT.] The amount of service credit obtainable under this section may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.

Subd. 5. [INTEREST REQUIREMENTS.] The employer shall pay interest on all equivalent employee and employer contribution amounts payable under this section. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or the break in service to the end of the month in which the payment is received.

Sec. 7. Minnesota Statutes 2002, section 354A.093, is amended to read:

354A.093 [MILITARY BREAK IN SERVICE CREDIT TO PROVIDE UNIFORMED SERVICE.]

Subdivision 1. [ELIGIBILITY.] Any teacher in the coordinated program of either the Minneapolis Teachers Retirement Fund Association or the St. Paul Teachers Retirement Fund

Association or any teacher in the new law coordinated program of the Duluth Teachers Retirement Fund Association who is ~~granted a leave absent from employment by reason of absence to enter military service in the uniformed services as defined in United States Code, title 38, section 4303(13) and who returns to the employer providing active teaching service upon discharge from military uniformed service as provided in within the time frames required under United States Code, title 38, section 192.262 4312(e), shall be entitled to~~ may receive allowable service credit in the applicable association for all or a portion of the period of military uniformed service ~~but, provided that the teacher did not for any voluntary extension of military separate from uniformed service beyond the initial period of enlistment, induction with a dishonorable or call to active duty which occurred at the instance of the teacher~~ bad conduct discharge or under other than honorable conditions.

Subd. 2. [CONTRIBUTIONS.] If the teacher ~~granted the military service leave of absence makes the equivalent employee contribution for a period of military service leave of absence pursuant to service provided to the uniformed services under this section, the employing unit shall make an equivalent employer contribution on behalf of the teacher to the applicable association for the period of the military service leave of absence being purchased in the manner described in section 354A.12, subdivision 2a. The equivalent employee and employer contributions shall must be in an amount equal to the employee and employer contribution rates in effect for other active members of the association covered by the same program applied to a salary figure equal to the teacher's average annual salary rate at the date of return from military service that the teacher would have received if the leave or break in service had not occurred, or if the determination of that average salary rate is not reasonably certain, on the basis of the teacher's average salary rate during the 12-month period immediately preceding the period, or, if the preceding period is less than 12 months, the annualized rate derived from the teacher's average salary rate during the period of teacher employment rendered immediately preceding the period of uniformed service, with the result multiplied by the number of full and fractional years constituting the period of service provided to the military uniformed service leave of absence which the teacher seeks is authorized to purchase under this section. Payment shall include interest on the amount payable pursuant to this section at the rate of six percent compounded annually from the year the military service was rendered to the date of payment.~~

Subd. 3. [PRORATING.] If the payments made by a teacher ~~pursuant to under this section are less than an the full amount equal to the applicable contribution rate applied to a salary figure equal to the teacher's annual salary rate at the date of return from military service, multiplied by the number of years constituting the period of the military service leave of absence determined under subdivision 2, the service credit shall must be prorated. The prorated service credit shall must be determined by the ratio between the amount of the actual equivalent employee payment which was made and the full contribution amount payable pursuant to equivalent employee payment required under this section. In order to be entitled to receive service credit under this section, payment shall be made within five years from the date of discharge from military service.~~

Subd. 4. [ELIGIBLE PAYMENT PERIOD.] (a) ~~To receive service credit under this section, the contributions specified in this section must be transmitted to the applicable first class city teachers retirement fund association during the period which begins with the date the individual returns to teaching service and which has a duration of three times the length of the uniformed service period, but not to exceed five years.~~

(b) ~~Notwithstanding paragraph (a), if the payment period determined under paragraph (a) is less than one year, the contributions required under this section to receive service credit may be made within one year from the discharge date.~~

Subd. 5. [LIMITS ON SERVICE CREDIT.] ~~The amount of service credit obtainable under this section may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.~~

Subd. 6. [INTEREST REQUIREMENTS.] ~~The employer shall pay interest on all equivalent employee and employer contribution amounts payable under this section. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received.~~

Sec. 8. Minnesota Statutes 2002, section 490.121, is amended by adding a subdivision to read:

Subd. 4b. [CREDIT FOR BREAK IN SERVICE TO PROVIDE UNIFORMED SERVICE.]

(a) A judge who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to state employment as a judge upon discharge from service in the uniformed service within the time frame required in United States Code, title 38, section 4312(e) may obtain service credit for the period of the uniformed service, provided that the judge did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(b) The judge may obtain credit by paying into the fund equivalent member contribution based on the contribution rate rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average annual salary during the purchase period that the judge would have received if the judge had continued to provide employment services to the state rather than to provide uniformed service, or if the determination of that rate is not reasonably certain, the annual salary rate is the judge's average salary rate during the 12-month period of judicial employment rendered immediately preceding the purchase period.

(c) The equivalent employer contribution and, if applicable, the equivalent employer additional contribution, must be paid by the employing unit, using the employer and employer additional contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution.

(d) If the member equivalent contributions provided for in this subdivision are not paid in full, the judge's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this subdivision.

(e) To receive allowable service credit under this subdivision, the contributions specified in this section must be transmitted to the fund during the period which begins with the date on which the individual returns to judicial employment and which has a duration of three times the length of the uniformed service period, but not to exceed five years. If the determined payment period is calculated to be less than one year, the contributions required under this subdivision to receive service credit may be within one year from the discharge date.

(f) The amount of allowable service credit obtainable under this section may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.

(g) The state court administrator shall pay interest on all equivalent member and employer contribution amounts payable under this subdivision. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 8 are effective on July 1, 2004.

ARTICLE 4

QUALIFIED PART-TIME TEACHER PROVISIONS

Section 1. Minnesota Statutes 2002, section 354.66, subdivision 2, is amended to read:

Subd. 2. [QUALIFIED PART-TIME TEACHER PROGRAM PARTICIPATION REQUIREMENTS.] (a) A teacher in a Minnesota public elementary school, a Minnesota secondary school, or the Minnesota State Colleges and Universities system who has three years or more of allowable service in the association or three years or more of full-time teaching service in Minnesota public elementary schools, Minnesota secondary schools, or the Minnesota State Colleges and Universities system, by agreement with the board of the employing district or with

the authorized representative of the board, may be assigned to teaching service in a part-time teaching position under subdivision 3. The agreement must be executed before October 1 of the school year for which the teacher requests to make retirement contributions under subdivision 4. A copy of the executed agreement must be filed with the executive director of the association. If the copy of the executed agreement is filed with the association after October 1 of the school year for which the teacher requests to make retirement contributions under subdivision 4, the employing unit shall pay the fine specified in section 354.52, subdivision 6, for each calendar day that elapsed since the October 1 due date. The association may not accept an executed agreement that is received by the association more than 15 months late. The association may not waive the fine required by this section.

(b) Notwithstanding paragraph (a), if the teacher is also a legislator:

(1) the agreement in paragraph (a) must be executed before March 1 of the school year for which the teacher requests to make retirement contributions under subdivision 4; and

(2) the fines specified in paragraph (a) apply if the employing unit does not file the executed agreement with the executive director of the association by March 1.

Sec. 2. Minnesota Statutes 2002, section 354A.094, subdivision 3, is amended to read:

Subd. 3. [QUALIFIED PART-TIME TEACHER PROGRAM PARTICIPATION REQUIREMENTS.] (a) A teacher in the public schools of a city of the first class who has three years or more allowable service in the applicable retirement fund association or three years or more of full-time teaching service in Minnesota public elementary schools, Minnesota secondary schools, and Minnesota State Colleges and Universities system may, by agreement with the board of the employing district, be assigned to teaching service within the district in a part-time teaching position. The agreement must be executed before October 1 of the year for which the teacher requests to make retirement contributions under subdivision 4. A copy of the executed agreement must be filed with the executive director of the retirement fund association. If the copy of the executed agreement is filed with the association after October 1 of the year for which the teacher requests to make retirement contributions under subdivision 4, the employing school district shall pay a fine of \$5 for each calendar day that elapsed since the October 1 due date. The association may not accept an executed agreement that is received by the association more than 15 months late. The association may not waive the fine required by this section.

(b) Notwithstanding paragraph (a), if the teacher is also a legislator:

(1) the agreement in paragraph (a) must be executed before March 1 of the school year for which the teacher requests to make retirement contributions under subdivision 4; and

(2) the fines specified in paragraph (a) apply if the employing unit does not file the executed agreement with the executive director of the applicable Teachers Retirement Fund Association by March 1.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective on July 1, 2004.

ARTICLE 5

RETIREMENT PLAN CONTRIBUTIONS AND TRANSFERS

Section 1. Minnesota Statutes 2002, section 354.42, subdivision 7, is amended to read:

Subd. 7. [ERRONEOUS SALARY DEDUCTIONS OR DIRECT PAYMENTS.] (a) Any Deductions taken from the salary of an employee for the retirement fund in error ~~shall~~ must be refunded to the employee upon the discovery of the error and after the verification of the error by the employing unit making the deduction, ~~and~~. The corresponding employer contribution and additional employer contribution amounts attributable to the erroneous salary deduction must be refunded to the employing unit.

(b) If salary deductions and employer contributions were erroneously transmitted to the retirement fund and should have been transmitted to another Minnesota public pension plan, the ~~retirement association executive director~~ must transfer these salary deductions and employer contributions to the appropriate public pension fund without interest. For purposes of this paragraph, a Minnesota public pension plan means a plan specified in section 356.30, subdivision 3, or the plan governed by chapter 354B.

(c) A potential transfer under paragraph (b) that would cause the plan to fail to be a qualified plan under section 401(a) of the Internal Revenue Code, as amended, must not be made by the executive director. Within 30 days after being notified by the Teachers Retirement Association of an unmade potential transfer under this paragraph, the employer of the affected person must transmit an amount representing the applicable salary deductions and employer contributions, without interest, to the retirement fund of the appropriate Minnesota public pension plan fund. The retirement association must provide a credit for the amount of the erroneous salary deductions and employer contributions against future contributions from the employer.

(d) If a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or if a check has been returned to the funds of the employing unit making the payment, a refund of the amount deducted, or any portion of it that is required to adjust the salary deductions, shall must be made to the employing unit.

~~(d) Any~~ (e) Erroneous direct payments of member-paid contributions or erroneous salary deductions that were not refunded in during the regular payroll cycle processing of an employing unit's annual summary report shall must be refunded to the member with, plus interest computed using the rate and method specified in section 354.49, subdivision 2.

(f) Any refund under this subdivision that would cause the plan to fail to be a qualified plan under section 401(a) of the Internal Revenue Code, as amended, may not be refunded and instead must be credited against future contributions payable by the employer. The employer is responsible for refunding to the applicable employee any amount that was erroneously deducted from the salary of the employee, with interest as specified in paragraph (e).

Sec. 2. Minnesota Statutes 2002, section 354.51, subdivision 5, is amended to read:

Subd. 5. [PAYMENT OF SHORTAGES.] (a) Except as provided in paragraph (b), in the event that full required member contributions are not deducted from the salary of a teacher, payment shall must be made as follows:

~~(a) (1)~~ (1) Payment of shortages in member deductions on salary earned after June 30, 1957, and ~~prior to before~~ July 1, 1981, may be made any time ~~prior to before~~ retirement. Payment shall must include interest at an annual rate of 8.5 percent compounded annually from the end of the fiscal year in which the shortage occurred to the end of the month in which payment is made and the interest shall must be credited to the fund. If payment of a shortage in deductions is not made, the formula service credit of the member shall must be prorated ~~pursuant to~~ under section 354.05, subdivision 25, clause (3).

~~(b) (2)~~ (2) Payment of shortages in member deductions on salary earned after June 30, 1981, shall be the sole obligation of the employing unit and shall be payable by the employing unit upon notification by the executive director of the shortage with interest at an annual rate of 8.5 percent compounded annually from the end of the fiscal year in which the shortage occurred to the end of the month in which payment is made and the interest shall must be credited to the fund. Effective July 1, 1986, the employing unit shall also pay the employer contributions as specified in section 354.42, subdivisions 3 and 5 for ~~such the~~ shortages. If the shortage payment is not paid by the employing unit within 60 days of notification, the executive director shall certify the amount of the shortage payment to the applicable county auditor, who shall spread a levy in the amount of the shortage payment over the taxable property of the taxing district of the employing unit if the employing unit is supported by property taxes, or to the commissioner of finance, who shall deduct the amount from any state aid or appropriation amount applicable to the employing unit if the employing unit is not supported by property taxes.

(e) (3) Payment may not be made for shortages in member deductions on salary earned prior to before July 1, 1957, for shortages in member deductions on salary paid or payable under paragraph (b), or for shortages in member deductions for persons employed by the Minnesota State Colleges and Universities system in a faculty position or in an eligible unclassified administrative position and whose employment was less than 25 percent of a full academic year, exclusive of the summer session, for the applicable institution that exceeds the most recent 36 months.

(b) For a person who is employed by the Minnesota State Colleges and Universities system in a faculty position or in an eligible unclassified administrative position and whose employment was less than 25 percent of a full academic year, exclusive of the summer session, for the applicable institution, upon the person's election under section 354B.21 of retirement coverage under this chapter, the shortage in member deductions on the salary for employment by the Minnesota State Colleges and Universities system institution of less than 25 percent of a full academic year, exclusive of the summer session, for the applicable institution for the most recent 36 months and the associated employer contributions must be paid by the Minnesota State Colleges and Universities system institution, plus annual compound interest at the rate of 8.5 percent from the end of the fiscal year in which the shortage occurred to the end of the month in which the Teachers Retirement Association coverage election is made. If the shortage payment is not made by the institution within 60 days of notification, the executive director shall certify the amount of the shortage payment to the commissioner of finance, who shall deduct the amount from any state appropriation to the system. An individual electing coverage under this paragraph shall repay the amount of the shortage in member deductions, plus interest, through deduction from salary or compensation payments within the first year of employment after the election under section 354B.21, subject to the limitations in section 16D.16. The Minnesota State Colleges and Universities system may use any means available to recover amounts which were not recovered through deductions from salary or compensation payments. No payment of the shortage in member deductions under this paragraph may be made for a period longer than the most recent 36 months.

Sec. 3. Minnesota Statutes 2002, section 354B.23, subdivision 1, is amended to read:

Subdivision 1. [MEMBER CONTRIBUTION RATE.] ~~(a) Except as provided in paragraph (b),~~ The member contribution rate for participants in the individual retirement account plan is 4.5 percent of salary.

~~(b) For participants in the individual retirement account plan who were otherwise eligible to elect retirement coverage in the state unclassified employees retirement program, the member contribution rate is the rate specified in section 352D.04, subdivision 2, paragraph (a).~~

Sec. 4. Minnesota Statutes 2002, section 354B.32, is amended to read:

354B.32 [TRANSFER OF FUNDS TO IRAP.]

A participant in the individual retirement account plan established in this chapter who has less than ten years of allowable service under the Teachers Retirement Association or the a teachers retirement fund association, whichever applies, may elect to transfer an amount equal to the participant's accumulated member contributions to the Teachers Retirement Association or the applicable teachers retirement fund association, plus compound interest at the rate of six percent per annum, to the individual retirement account plan. The transfers are irrevocable ~~fund-to-fund~~ fund-to-fund transfers, and, in no event, may the participant receive direct payment of the money transferred ~~prior to retirement~~ before the termination of employment. If a participant elects the contribution transfer, all of the participant's allowable and formula service credit in the Teachers Retirement Association or the teachers retirement fund association associated with the transferred amount is forfeited.

The executive director of the teachers retirement association and the chief administrative officers of the teachers retirement fund associations, in cooperation with the chancellor of the Minnesota State Colleges and Universities system, shall notify participants who are eligible to transfer of their right to transfer and the amount that they are eligible to transfer, and shall, upon

request, provide forms to implement the transfer. The chancellor of the Minnesota State Colleges and Universities system shall assist the Teachers Retirement Association and the teachers retirement fund associations in developing transfer forms and in implementing the transfers.

Authority to elect a transfer under this section expires on July 1, 2004.

Sec. 5. [EFFECTIVE DATE; RETROACTIVE APPLICATION.]

(a) Section 2 is effective on July 1, 2004.

(b) Section 2 applies to shortages in member deductions that occurred before the effective date of the section.

(c) Sections 1, 3, and 4 are effective on July 1, 2004.

ARTICLE 6

REPORTING AND INFORMATION PROVISION

Section 1. Minnesota Statutes 2002, section 354.07, subdivision 9, is amended to read:

Subd. 9. [INFORMATION DISTRIBUTION.] All school districts, the Minnesota State Colleges and Universities, community colleges and other employers of members of the association are obligated to distribute to their employees ballots for the election of members to the board of trustees, pamphlets, brochures, documents or any other material containing association information which are prepared by the executive director or the board and are delivered to the employers for distribution.

Sec. 2. Minnesota Statutes 2002, section 354.52, subdivision 4a, is amended to read:

Subd. 4a. [MEMBER DATA REPORTING REQUIREMENTS.] ~~(a) An employing unit must initially provide the member data specified in paragraph (b) or any of that data not previously provided to the association for payroll warrants dated after June 30, 1995, in a format prescribed by the executive director. An employing unit must provide the member data specified in paragraph (b) in a format prescribed by the executive director. Data changes and the dates of those changes under this subdivision must be reported to the association in a format prescribed by the executive director on an ongoing basis within 14 calendar days after the date of the end of the payroll cycle in which they occur. These data changes must be reported with the payroll cycle data under subdivision 4b.~~

(b) Data on the member includes:

(1) legal name, address, date of birth, association member number, employer-assigned employee number, and social security number;

(2) association status, including, but not limited to, basic, coordinated, exempt annuitant, exempt technical college teacher, and exempt independent contractor or consultant;

(3) employment status, including, but not limited to, full time, part time, intermittent, substitute, or part-time mobility;

(4) employment position, including, but not limited to, teacher, superintendent, principal, administrator, or other;

(5) employment activity, including, but not limited to, hire, termination, resumption of employment, disability, or death;

(6) leaves of absence;

(7) county district number assigned by the association for the employing unit;

(8) data center identification number, if applicable; and

(9) gender;

(10) position code; and

(11) other information as may be required by the executive director.

Sec. 3. Minnesota Statutes 2002, section 354.52, is amended by adding a subdivision to read:

Subd. 4c. [MNSCU SERVICE CREDIT REPORTING.] For all part-time service rendered on or after July 1, 2004, the service credit reporting requirement in subdivision 4b for all part-time employees of the Minnesota State Colleges and Universities system must be met by the Minnesota State Colleges and Universities system reporting to the association on or before July 31 of each year the final calculation of each part-time member's service credit for the immediately preceding fiscal year based on the employee's assignments for the fiscal year.

Sec. 4. Minnesota Statutes 2002, section 354.52, subdivision 6, is amended to read:

Subd. 6. [NONCOMPLIANCE CONSEQUENCES.] An employing unit that does not comply with the reporting requirements under this section shall subdivision 2a, 4a, or 4b must pay a fine of \$5 per calendar day until the association receives the required data.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 4 are effective on July 1, 2004.

ARTICLE 7

RETIREMENT ANNUITY PROVISIONS

Section 1. Minnesota Statutes 2002, section 352.86, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY; RETIREMENT ANNUITY.] A person who is employed by the Department of Transportation in the civil service employment classification of aircraft pilot or chief pilot who is covered by the general employee retirement plan of the system under section 352.01, subdivision 23, who elects this special retirement coverage under subdivision 3, who is prohibited from performing the duties of aircraft pilot or chief pilot after reaching age ~~62~~ 65 by a rule policy adopted by the commissioner of transportation, and who terminates employment as a state employee on reaching that on or after age 62 but prior to normal retirement age is entitled, upon application, to a retirement annuity computed in accordance with under section 352.115, subdivisions 2 and 3, without any reduction for early retirement under section 352.116, subdivision 1.

Sec. 2. Minnesota Statutes 2002, section 353.37, is amended by adding a subdivision to read:

Subd. 1b. [RETIREMENT AGE.] For purposes of this section, "retirement age" means retirement age as defined in United States Code, title 42, section 416(l).

Sec. 3. Minnesota Statutes 2002, section 353.37, subdivision 3, is amended to read:

Subd. 3. [REDUCTION OF ANNUITY.] The association shall reduce the amount of the annuity as follows:

(a) ~~for~~ of a person who has not reached normal the retirement age, by one-half of the amount in excess of the applicable reemployment income maximum under subdivision 1;

(b) ~~for a person who has reached normal retirement age, but has not reached age 70, one-third of the amount in excess of the applicable reemployment income maximum under subdivision 1;~~

(c) ~~for a person who has reached age 70, or for salary earned through service in an elected office, there is no reduction upon reemployment, regardless of income.~~

There is no reduction upon reemployment, regardless of income, for a person who has reached the retirement age.

Sec. 4. Minnesota Statutes 2002, section 354.44, subdivision 4, is amended to read:

Subd. 4. [RETIEMENT ANNUITY ACCRUAL DATE.] (a) An annuity payment begins to accrue, ~~providing~~ provided that the age and service requirements under subdivision 1 are satisfied, after the termination of teaching service, or after the application for retirement has been filed with the board, whichever is later, as follows:

(1) on the 16th day of the month of termination or filing if the termination or filing occurs on or before the 15th day of the month;

(2) on the first day of the month following the month of termination or filing if the termination or filing occurs on or after the 16th day of the month;

(3) on July 1 for all school principals and other administrators who receive a full annual contract salary during the fiscal year for performance of a full year's contract duties; or

(4) a later date to be either the first or the 16th day of a month occurring within the six-month period immediately following the termination of teaching service as specified under paragraph (b) by the member.

(b) If an application for retirement is filed with the board during the six-month period that occurs immediately following the termination of teaching service, the annuity may begin to accrue as if the application for retirement had been filed with the board on the date teaching service terminated or a later date under paragraph (a), clause (4). ~~An annuity must not begin to accrue more than one month before the date of final salary receipt.~~

Sec. 5. Minnesota Statutes 2002, section 354.44, subdivision 5, is amended to read:

Subd. 5. [RESUMPTION OF TEACHING SERVICE AFTER RETIREMENT.] (a) Any person who retired under the provisions of this chapter and has thereafter resumed teaching in any employer unit to which this chapter applies is eligible to continue to receive payments in accordance with the annuity except that annuity payments must be reduced during the calendar year immediately following any calendar year in which the person's income from the teaching service is in an amount greater than the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services under United States Code, title 42, section 403. The amount of the reduction must be one-half of the amount in excess of the applicable reemployment income maximum specified in this subdivision and must be deducted from the annuity payable for the calendar year immediately following the calendar year in which the excess amount was earned. If the person has not yet reached the minimum age for the receipt of Social Security benefits, the maximum earnings for the person must be equal to the annual maximum earnings allowable for the minimum age for the receipt of Social Security benefits.

(b) If the person is retired for only a fractional part of the calendar year during the initial year of retirement, the maximum reemployment income specified in this subdivision must be prorated for that calendar year.

(c) After a person has reached the Social Security full retirement age of 70, no reemployment income maximum is applicable regardless of the amount of income.

(d) The amount of the retirement annuity reduction must be handled or disposed of as provided in section 356.47.

(e) For the purpose of this subdivision, income from teaching service includes, but is not limited to:

(1) all income for services performed as a consultant or an independent contractor for an employer unit covered by the provisions of this chapter; and

(2) the greater of either the income received or an amount based on the rate paid with respect to

an administrative position, consultant, or independent contractor in an employer unit with approximately the same number of pupils and at the same level as the position occupied by the person who resumes teaching service.

Sec. 6. Minnesota Statutes 2002, section 490.121, subdivision 10, is amended to read:

Subd. 10. [EARLY RETIREMENT DATE.] "Early retirement date" means the last day of any month after a judge attains the age of ~~62~~ 60 until the normal retirement date.

Sec. 7. [PERA-POLICE AND FIRE; TEMPORARY EXEMPTION FROM REEMPLOYED ANNUITANT EARNINGS LIMITATIONS.]

Notwithstanding any provision of Minnesota Statutes, section 353.37, to the contrary, a person who is receiving a retirement annuity from the public employees police and fire plan and who is employed as a sworn peace officer by the Metropolitan Airports Commission is exempt from the limitation on reemployed annuitant earnings for the period January 1, 2004, until June 30, 2007.

Sec. 8. [EFFECTIVE DATE.]

(a) Section 1 is effective on the day following final enactment

(b) Sections 2, 3, 4, 5, and 6 are effective on July 1, 2004.

(c) Sections 7 is effective on the day following final enactment and applies retroactively to January 1, 2004.

ARTICLE 8

DISABILITY BENEFIT PROVISIONS

Section 1. Minnesota Statutes 2002, section 352.113, subdivision 4, is amended to read:

Subd. 4. [MEDICAL OR PSYCHOLOGICAL EXAMINATIONS; AUTHORIZATION FOR PAYMENT OF BENEFIT.] (a) An applicant shall provide medical, chiropractic, or psychological evidence to support an application for total and permanent disability.

(b) The director shall have the employee examined by at least one additional licensed chiropractor, physician, or psychologist designated by the medical adviser. The chiropractors, physicians, or psychologists shall make written reports to the director concerning the employee's disability including medical expert opinions as to whether the employee is permanently and totally disabled within the meaning of section 352.01, subdivision 17.

(c) The director shall also obtain written certification from the employer stating whether the employment has ceased or whether the employee is on sick leave of absence because of a disability that will prevent further service to the employer and as a consequence the employee is not entitled to compensation from the employer.

(d) The medical adviser shall consider the reports of the physicians, psychologists, and chiropractors and any other evidence supplied by the employee or other interested parties. If the medical adviser finds the employee totally and permanently disabled, the adviser shall make appropriate recommendation to the director in writing together with the date from which the employee has been totally disabled. The director shall then determine if the disability occurred within 180 days of filing the application, while still in the employment of the state, and the propriety of authorizing payment of a disability benefit as provided in this section.

(e) A terminated employee may apply for a disability benefit within 180 days of termination as long as the disability occurred while in the employment of the state. The fact that an employee is placed on leave of absence without compensation because of disability does not bar that employee from receiving a disability benefit.

(f) Unless the payment of a disability benefit has terminated because the employee is no longer totally disabled, or because the employee has reached normal retirement age as provided in this

section, the disability benefit shall must cease with the last payment received by the disabled employee or which had accrued during the lifetime of the employee unless there is a spouse surviving. In that event, the surviving spouse is entitled to the disability benefit for the calendar month in which the disabled employee died.

Sec. 2. Minnesota Statutes 2002, section 352.113, subdivision 6, is amended to read:

Subd. 6. [REGULAR MEDICAL OR PSYCHOLOGICAL EXAMINATIONS.] At least once each year during the first five years following the allowance of a disability benefit to any employee, and at least once in every three-year period thereafter, the director may require any disabled employee to undergo a medical, chiropractic, or psychological examination. The examination must be made at the place of residence of the employee, or at any place mutually agreed upon, by a ~~physician or physicians~~ an expert or experts designated by the medical adviser and engaged by the director. If any examination indicates to the medical adviser that the employee is no longer permanently and totally disabled, or is engaged in or can engage in a gainful occupation, payments of the disability benefit by the fund must be discontinued. The payments ~~shall discontinue~~ must be discontinued as soon as the employee is reinstated to the payroll following sick leave, but in no case shall may payment be made for more than 60 days after the medical adviser finds that the employee is no longer permanently and totally disabled.

Sec. 3. Minnesota Statutes 2002, section 352.113, is amended by adding a subdivision to read:

Subd. 7a. [TEMPORARY REEMPLOYMENT BENEFIT REDUCTION WAIVER.] A reduction in benefits under subdivision 7, or a termination of benefits due to the disabled employee resuming a gainful occupation from which earnings are equal to or more than the employee's salary at the date of disability or the salary currently paid for similar positions does not apply until six months after the individual returns to a gainful occupation.

Sec. 4. Minnesota Statutes 2002, section 352.113, subdivision 8, is amended to read:

Subd. 8. [REFUSAL OF EXAMINATION.] If a disabled employee refuses to submit to a medical an expert examination as required, payments by the fund must be discontinued and the director shall revoke all rights of the employee in any disability benefit.

Sec. 5. Minnesota Statutes 2002, section 352.95, subdivision 1, is amended to read:

Subdivision 1. [JOB-RELATED DISABILITY.] A covered correctional employee who becomes disabled and who is expected to be physically or mentally unfit to perform the duties of the position for at least one year as a direct result of an injury, sickness, or other disability that incurred in or arising arose out of any act of duty that makes the employee physically or mentally unable to perform the duties; is entitled to a disability benefit. The disability benefit may be based on covered correctional service only. The benefit amount ~~must equal~~ is 50 percent of the average salary defined in section 352.93, plus an additional percent equal to that specified in section 356.315, subdivision 5, for each year of covered correctional service in excess of 20 years, ten months, prorated for completed months.

Sec. 6. Minnesota Statutes 2002, section 352.95, subdivision 2, is amended to read:

Subd. 2. [NON-JOB-RELATED DISABILITY.] Any A covered correctional employee who, after rendering at least one year of covered correctional service, becomes disabled and who is expected to be physically or mentally unfit to perform the duties of the position for at least one year because of sickness or injury occurring that occurred while not engaged in covered employment; is entitled to a disability benefit based on covered correctional service only. The disability benefit must be computed as provided in section 352.93, subdivisions 1 and 2, and must be computed as though the employee had at least 15 years of covered correctional service.

Sec. 7. Minnesota Statutes 2002, section 352.95, subdivision 4, is amended to read:

Subd. 4. [MEDICAL OR PSYCHOLOGICAL EVIDENCE.] (a) An applicant shall provide medical, chiropractic, or psychological evidence to support an application for disability benefits. The director shall have the employee examined by at least one additional licensed physician,

chiropractor, or psychologist who is designated by the medical adviser. The physicians, chiropractors, or psychologists with respect to a mental impairment, shall make written reports to the director concerning the question of the employee's disability, including medical their expert opinions as to whether the employee is disabled within the meaning of this section. The director shall also obtain written certification from the employer stating whether or not the employee is on sick leave of absence because of a disability that will prevent further service to the employer, and as a consequence, the employee is not entitled to compensation from the employer.

(b) If, on considering the physicians' reports by the physicians, chiropractors, or psychologists and any other evidence supplied by the employee or others, the medical adviser finds the employee disabled within the meaning of this section, the advisor shall make the appropriate recommendation to the director, in writing, together with the date from which the employee has been disabled. The director shall then determine the propriety of authorizing payment of a disability benefit as provided in this section.

(c) Unless the payment of a disability benefit has terminated because the employee is no longer disabled, or because the employee has reached either age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later, the disability benefit shall must cease with the last payment which was received by the disabled employee or which had accrued during the employee's lifetime. While disability benefits are paid, the director has the right, at reasonable times, to require the disabled employee to submit proof of the continuance of the disability claimed. If any examination indicates to the medical adviser that the employee is no longer disabled, the disability payment must be discontinued upon the person's reinstatement to state service or within 60 days of the finding, whichever is sooner.

Sec. 8. Minnesota Statutes 2002, section 352B.10, subdivision 1, is amended to read:

Subdivision 1. [INJURIES; PAYMENT AMOUNTS.] Any A member who becomes disabled and who is expected to be physically or mentally unfit to perform duties for at least one year as a direct result of an injury, sickness, or other disability that incurred in or arising arose out of any act of duty, shall is entitled to receive disability benefits while disabled. The benefits must be paid in monthly installments. The benefit is an amount equal to the member's average monthly salary multiplied by 60 percent, plus an additional percent equal to that specified in section 356.315, subdivision 6, for each year and pro rata for completed months of service in excess of 20 years, if any.

Sec. 9. Minnesota Statutes 2002, section 352B.10, subdivision 2, is amended to read:

Subd. 2. [DISABLED WHILE NOT ON DUTY.] If a member terminates employment after with at least one year of service because of sickness or injury occurring while not on duty and not engaged in state work entitling the member to membership, and the member becomes disabled and is expected to be physically or mentally unfit to perform the duties of the position for at least one year because of sickness or injury occurring that occurred while not engaged in covered employment, the member individual is entitled to disability benefits. The benefit must be in the same amount and computed in the same way as if the member individual were 55 years old at the date of disability and the annuity were paid was payable under section 352B.08. If a disability under this elause subdivision occurs after one year of service but before 15 years of service, the disability benefit must be computed as though the member individual had credit for 15 years of service.

Sec. 10. Minnesota Statutes 2002, section 352B.10, subdivision 3, is amended to read:

Subd. 3. [ANNUAL AND SICK LEAVE; WORK AT LOWER PAY.] No member shall is entitled to receive any a disability benefit payment when the member has unused annual leave or sick leave, or under any other circumstances, when, during the period of disability, there has been no impairment of salary. Should If the member or former member resume disabilitant resumes gainful work employment, the disability benefit must be continued in an amount which, when added to current earnings, does not exceed the salary rate received of by the person at the date of disability as, which must be adjusted over time by the same percentage increase in United States average wages used by the Social Security Administration in calculating average indexed monthly earnings for the old age, survivors, and disability insurance programs for the same period.

Sec. 11. Minnesota Statutes 2002, section 352B.10, subdivision 4, is amended to read:

Subd. 4. [PROOF OF DISABILITY.] (a) ~~No disability benefit payment shall~~ benefits may be made except upon paid unless adequate proof is furnished to the executive director of the existence of the disability. While disability benefits are being paid

(b) Adequate proof of a disability must include a written expert report by a licensed physician, by a licensed chiropractor, or with respect to a mental impairment, by a licensed psychologist.

(c) Following the commencement of benefit payments, the executive director has the right, at reasonable times, to require the disabled former member disabilitant to submit proof of the continuance of the disability claimed.

Sec. 12. Minnesota Statutes 2002, section 352B.10, subdivision 5, is amended to read:

Subd. 5. [OPTIONAL ANNUITY.] ~~A disabled member disabilitant may, in lieu of survivorship coverage under section 352B.11, subdivision 2, choose the normal disability benefit or an optional annuity as provided in section 352B.08, subdivision 3. The choice of an optional annuity must be made in writing, on a form prescribed by the executive director, and must be made before the commencement of the payment of the disability benefit, or within 90 days of attaining before reaching age 65 or before reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. If The optional annuity is effective on the date on which the disability benefit begins to accrue, or the month following the attainment of age 65 or following the five-year anniversary of the effective date of the disability benefit, whichever is later.~~

Sec. 13. Minnesota Statutes 2002, section 352B.105, is amended to read:

352B.105 [TERMINATION OF DISABILITY BENEFITS.]

~~Disability benefits payable under section 352B.10 shall must terminate at on the transfer date, which is the end of the month in which the beneficiary disabilitant becomes 65 years old or the five-year anniversary of the effective date of the disability benefit, whichever is later. If the beneficiary disabilitant is still disabled when on the beneficiary becomes 65 years old transfer date, the beneficiary shall disabilitant must be deemed to be a retired member and, if the beneficiary disabilitant had chosen an optional annuity under section 352B.10, subdivision 5, shall must receive an annuity in accordance with under the terms of the optional annuity previously chosen. If the beneficiary disabilitant had not chosen an optional annuity under section 352B.10, subdivision 5, the beneficiary disabilitant may then choose to receive either a normal retirement annuity computed under section 352B.08, subdivision 2, or an optional annuity as provided in section 352B.08, subdivision 3. An optional annuity must be chosen within 90 days of attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later transfer date. If an optional annuity is chosen, the optional annuity shall begin to acerue accrues on the first of the month next following attainment of age 65 or the five-year anniversary of the effective transfer date of the disability benefit, whichever is later.~~

Sec. 14. Minnesota Statutes 2002, section 352D.065, subdivision 2, is amended to read:

Subd. 2. [DISABILITY BENEFIT AMOUNT.] A participant who becomes totally and permanently disabled has the option, even if on leave of absence without pay, to receive:

- (1) the value of the participant's total shares;
- (2) the value of ~~one-half~~ one-half of a portion of the total shares and an annuity based on the ~~value of one-half remainder~~ value of one-half remainder of the total shares; or
- (3) an annuity based on the value of the participant's total shares.

Sec. 15. Minnesota Statutes 2002, section 353.33, subdivision 4, is amended to read:

Subd. 4. [PROCEDURE TO DETERMINE ELIGIBILITY.] (a) The applicant shall provide an

expert report signed by a licensed physician, psychologist, or chiropractor and the applicant must authorize the release of medical and health care evidence, including all medical records and relevant information from any source, to support the application for total and permanent disability benefits.

(b) The medical adviser shall verify the medical evidence and, if necessary for disability determination, suggest the referral of the applicant to specialized medical consultants.

(c) The association shall also obtain from the employer, a certification of the member's past public service, the dates of any paid sick leave and vacation beyond the last working day and whether or not any sick leave or annual leave has been allowed.

(d) If, upon consideration of the medical evidence received and the recommendations of the medical adviser, it is determined by the executive director that the applicant is totally and permanently disabled within the meaning of the law, the association shall grant the person a disability benefit. The fact that

(e) An employee who is placed on leave of absence without compensation because of a disability does is not bar the person barred from receiving a disability benefit.

Sec. 16. Minnesota Statutes 2002, section 353.33, subdivision 6, is amended to read:

Subd. 6. [CONTINUING ELIGIBILITY FOR BENEFITS.] The association shall determine eligibility for continuation of disability benefits and require periodic examinations and evaluations of disabled members as frequently as deemed necessary. The association shall require the disabled member to provide an expert report signed by a licensed physician, psychologist, or chiropractor and the disabled member shall authorize the release of medical and health care evidence, including all medical and health care records and information from any source, relating to an application for continuation of disability benefits. Disability benefits are contingent upon a disabled person's participation in a vocational rehabilitation program evaluation if the executive director determines that the disabled person may be able to return to a gainful occupation. If a member is found to be no longer totally and permanently disabled, payments must cease the first of the month following the expiration of a 30-day period after the member receives a certified letter notifying the member that payments will cease.

Sec. 17. Minnesota Statutes 2002, section 353.33, subdivision 6b, is amended to read:

Subd. 6b. [DUTIES OF THE MEDICAL ADVISER.] At the request of the executive director, the medical adviser shall designate licensed physicians, psychologists, or chiropractors to examine applicants for disability benefits and review the medical expert reports based upon these examinations to determine whether an applicant is totally and permanently disabled as defined in section 353.01, subdivision 19, disabled as defined in section 353.656, or eligible for continuation of disability benefits under subdivision 6. The medical examiner shall also review, at the request of the executive director, all medical and health care statements on behalf of an applicant for disability benefits, and shall report in writing to the executive director the conclusions and recommendations of the examiner on those matters referred for advice.

Sec. 18. Minnesota Statutes 2002, section 353.33, subdivision 7, is amended to read:

Subd. 7. [PARTIAL REEMPLOYMENT.] If, following a work or non-work-related injury or illness, a disabled person resumes a gainful occupation from which who remains totally and permanently disabled as defined in section 353.01, subdivision 19, has income from employment that is not substantial gainful activity and the rate of earnings from that employment are less than the salary rate at the date of disability or the salary rate currently paid for similar positions similar to the employment position held by the disabled person immediately before becoming disabled, whichever is greater, the board executive director shall continue the disability benefit in an amount that, when added to the earnings and any workers' compensation benefit, does not exceed the salary rate at the date of disability or the salary currently paid for similar positions similar to the employment position held by the disabled person immediately before becoming disabled, whichever is higher, provided. The disability benefit does under this subdivision may not exceed

the disability benefit originally allowed, plus any postretirement adjustments payable after December 31, 1988, in accordance with section 11A.18, subdivision 10. No deductions for the retirement fund may be taken from the salary of a disabled person who is receiving a disability benefit as provided in this subdivision.

Sec. 19. Minnesota Statutes 2002, section 353.33, is amended by adding a subdivision to read:

Subd. 7a. [TRIAL WORK PERIOD.] (a) If, following a work or non-work related injury or illness, a disabled member attempts to return to work for their previous public employer or attempts to return to a similar position with another public employer, on a full-time or less than full-time basis, the Public Employees Retirement Association shall continue paying the disability benefit for a period not to exceed six months. The disability benefit must continue in an amount that, when added to the subsequent employment earnings and workers' compensation benefit, does not exceed the salary at the date of disability or the salary currently paid for similar positions, whichever is higher.

(b) No deductions for the retirement fund may be taken from the salary of a disabled person who is attempting to return to work under this provision unless the member waives further disability benefits.

(c) A member only may return to employment and continue disability benefit payments once while receiving disability benefits from a plan administered by the Public Employees Retirement Association.

Sec. 20. Minnesota Statutes 2002, section 353.656, subdivision 5, is amended to read:

Subd. 5. [PROOF OF DISABILITY.] (a) A disability benefit payment must not be made except upon adequate proof furnished to the executive director of the association of the existence of such a disability, and.

(b) During the time when disability benefits are being paid, the executive director of the association has the right, at reasonable times, to require the disabled member to submit proof of the continuance of the disability claimed.

(c) Adequate proof of a disability must include a written expert report by a licensed physician, by a licensed chiropractor, or with respect to a mental impairment, by a licensed psychologist.

(d) A person applying for or receiving a disability benefit shall provide or authorize release of medical evidence, including all medical records and information from any source, relating to an application for disability benefits or the continuation of those benefits.

Sec. 21. Minnesota Statutes 2002, section 353.656, is amended by adding a subdivision to read:

Subd. 8. [APPLICATION PROCEDURE TO DETERMINE ELIGIBILITY FOR POLICE AND FIRE PLAN DISABILITY BENEFITS.] (a) An application for disability benefits must be made in writing on a form or forms prescribed by the executive director.

(b) If an application for disability benefits is filed within two years of the date of the injury or the onset of the illness that gave rise to the disability application, the application must be supported by evidence that the applicant is unable to perform the duties of the position held by the applicant on the date of the injury or the onset of the illness causing the disability. The employer must provide evidence indicating whether the applicant is able or unable to perform the duties of the position held on the date of the injury or onset of illness causing the disability and the specifications of any duties that the individual can or cannot perform.

(c) If an application for disability benefits is filed more than two years after the date of the injury or the onset of an illness causing the disability, the application must be supported by evidence that the applicant is unable to perform the most recent duties that are expected to be performed by the applicant during the 90 days before the filing of the application. The employer must provide evidence of the duties that are expected to be performed by the applicant during the 90 days before to the filing of the application, whether the applicant can or cannot perform those duties overall, and the specifications of any duties that the applicant can or cannot perform.

(d) Unless otherwise permitted by law, no application for disability benefits can be filed by a former member of the police and fire plan more than three years after the former member has terminated from Public Employees Retirement Association police and fire plan covered employment. If an application is filed within three years after the termination of public employment, the former member must provide evidence that the disability is the direct result of an injury or the contracting of an illness that occurred while the person was still actively employed and participating in the police and fire plan.

(e) Any application for duty-related disability must be supported by a first report of injury as defined in section 176.231.

(f) If a member who has applied for and been approved for disability benefits before the termination of service does not terminate service or is not placed on an authorized leave of absence as certified by the governmental subdivision within 45 days following the date on which the application is approved, the application shall be canceled. If an approved application for disability benefits has been canceled, a subsequent application for disability benefits may not be filed on the basis of the same medical condition for a minimum of one year from the date on which the previous application was canceled.

(g) An applicant may file a retirement application under section 353.29, subdivision 4, at the same time as the disability application is filed. If the disability application is approved, the retirement application is canceled. If the disability application is denied, the retirement application must be initiated and processed upon the request of the applicant. A police and fire fund member may not receive a disability benefit and a retirement annuity from the police and fire fund at the same time.

(h) A repayment of a refund must be made within six months after the effective date of disability benefits or within six months after the date of the filing of the disability application, whichever is later. No purchase of prior service or payment made in lieu of salary deductions otherwise authorized under section 353.01 or 353.36, subdivision 2, may be made after the occurrence of the disability for which an application is filed under this section.

Sec. 22. Minnesota Statutes 2002, section 353.656, is amended by adding a subdivision to read:

Subd. 9. [REFUSAL OF EXAMINATION OR MEDICAL EVIDENCE.] If a person applying for or receiving a disability benefit refuses to submit to a medical examination under subdivision 11, or fails to provide or to authorize the release of medical evidence under subdivisions 5 and 7, the association shall cease the application process or shall discontinue the payment of a disability benefit, whichever is applicable. Upon the receipt of the requested medical evidence, the association shall resume the application process or the payment of a disability benefit upon approval for the continuation, whichever is applicable.

Sec. 23. Minnesota Statutes 2002, section 353.656, is amended by adding a subdivision to read:

Subd. 10. [ACCRUAL OF BENEFITS.] (a) A disability benefit begins to accrue the day following the commencement of disability, 90 days preceding the filing of an application, or, if annual or sick leave is paid for more than the 90-day period, from the date on which the payment of salary ceased, whichever is later.

(b) Payment of the disability benefit must not continue beyond the end of the month in which entitlement has terminated. If the disability benefit recipient dies prior to negotiating the check for the month in which death occurs, payment must be made to the surviving spouse or, if none, to the designated beneficiary or, if none, to the estate.

Sec. 24. Minnesota Statutes 2002, section 353.656, is amended by adding a subdivision to read:

Subd. 11. [INDEPENDENT MEDICAL EXAMINATION; DUTIES OF THE MEDICAL ADVISOR.] Any individual receiving disability benefits or any applicant, if requested by the executive director, must submit to an independent medical examination. The medical examination must be paid for by the association. The medical advisor shall review all medical reports submitted to the association, including the findings of an independent medical examination requested under this section, and shall advise the executive director.

Sec. 25. Minnesota Statutes 2002, section 353.656, is amended by adding a subdivision to read:

Subd. 12. [APPROVAL OF DISABILITY BENEFITS.] Review of disability benefit applications and review of existing disability cases must be made by the executive director based upon all relevant evidence, including advice from the medical advisor and the evidence provided by the member and employer. A member whose application for disability benefits or whose continuation of disability benefits is denied may appeal the executive director's decision to the board of trustees within 45 days of the receipt of a certified letter notifying the member of the decision to deny the application or the benefit continuation.

Sec. 26. Minnesota Statutes 2002, section 354.48, subdivision 2, is amended to read:

Subd. 2. [APPLICATIONS; ACCRUAL.] (a) A person described in subdivision 1, or another person authorized to act on behalf of the person, may make written application on a form prescribed by the executive director for a total and permanent disability benefit only within the 18-month period following the termination of teaching service. This

(b) The benefit accrues from the day following the commencement of the disability or the day following the last day for which salary is paid, whichever is later, but does not begin to accrue more than six months before the date on which the written application is filed with the executive director. If salary is being received for either annual or sick leave during the disability period, payments accrue the disability benefit accrues from the day following the last day for which this salary is paid.

Sec. 27. Minnesota Statutes 2002, section 354.48, subdivision 4, is amended to read:

Subd. 4. [DETERMINATION BY THE EXECUTIVE DIRECTOR.] (a) The executive director shall have the member examined by at least two licensed physicians, licensed chiropractors, or licensed psychologists selected by the medical adviser.

(b) These physicians, chiropractors, or psychologists with respect to a mental impairment, shall make written reports to the executive director concerning the member's disability, including medical expert opinions as to whether or not the member is permanently and totally disabled within the meaning of section 354.05, subdivision 14.

(c) The executive director shall also obtain written certification from the last employer stating whether or not the member was separated from service because of a disability which would reasonably prevent further service to the employer and as a consequence the member is not entitled to compensation from the employer.

(d) If, upon the consideration of the reports of the physicians, chiropractors, or psychologists and any other evidence presented by the member or by others interested therein, the executive director finds that the member is totally and permanently disabled, the executive director shall grant the member a disability benefit. The fact that

(e) An employee who is placed on leave of absence without compensation because of disability shall is not bar the member barred from receiving a disability benefit.

Sec. 28. Minnesota Statutes 2002, section 354.48, subdivision 6, is amended to read:

Subd. 6. [REGULAR PHYSICAL EXAMINATIONS.] At least once each year during the first five years following the allowance of a disability benefit to any member, and at least once in every three-year period thereafter, the executive director shall require the disability beneficiary to undergo a medical expert examination by a physician or physicians, by a chiropractor or chiropractors, or by one or more psychologists with respect to a mental impairment, engaged by the executive director. If any an examination indicates that the member is no longer permanently and totally disabled or that the member is engaged or is able to engage in a substantial gainful occupation, payments of the disability benefit by the association shall must be discontinued. The payments shall discontinue must be discontinued as soon as the member is reinstated to the payroll following sick leave, but payment may not be made for more than 60 days after the physicians, the chiropractors, or the psychologists engaged by the executive director find that the person is no longer permanently and totally disabled.

Sec. 29. Minnesota Statutes 2002, section 354.48, subdivision 6a, is amended to read:

Subd. 6a. [MEDICAL ADVISER; DUTIES.] The state commissioner of health or a licensed physician on the staff of the department of health ~~who is~~ designated by the commissioner ~~shall be~~ is the medical adviser of the executive director. ~~The medical adviser shall designate licensed physicians, licensed chiropractors, or licensed psychologists with respect to a mental impairment, who shall examine applicants for disability benefits. The medical adviser shall pass upon all medical expert reports based on any examinations performed in order to determine whether a teacher is totally and permanently disabled as defined in section 354.05, subdivision 14. The medical adviser shall also investigate all health and medical statements and certificates by or on behalf of a teacher in connection with a disability benefit, and shall report in writing to the director setting forth any conclusions and recommendations on all matters referred to the medical adviser.~~

Sec. 30. Minnesota Statutes 2002, section 354.48, subdivision 10, is amended to read:

Subd. 10. [RETIREMENT STATUS AT NORMAL RETIREMENT AGE.] (a) No person ~~shall be~~ is entitled to receive both a disability benefit and a retirement annuity provided by this chapter.

(b) The disability benefit paid to a person hereunder ~~shall~~ must terminate at the end of the month in which the person attains the normal retirement age. ~~If the person is still totally and permanently disabled at the beginning of the month next following the month in which the person attains the normal retirement age, the person shall~~ must be deemed to be on retirement status and, if the person had elected an optional annuity ~~pursuant to~~ under subdivision 3a, ~~shall~~ must receive an annuity in accordance with the terms of the optional annuity previously elected, or, if the person had not elected an optional annuity ~~pursuant to~~ under subdivision 3a, may elect to receive a straight life retirement annuity equal to the disability benefit paid ~~prior to~~ before the date on which the person attains the normal retirement age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later, or ~~may~~ elect to receive an optional annuity as provided in section 354.45, subdivision 1.

(c) Election of an optional annuity must be made within 90 days of the normal retirement age ~~65~~ or the five-year anniversary of the effective date of the disability benefit, whichever is later.

(d) If an optional annuity is elected, the election ~~shall be~~ is effective on the date on which the person attains the normal retirement age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity ~~shall begin~~ begins to accrue on the first day of the month next following the month in which the person attains the normal retirement age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later.

Sec. 31. Minnesota Statutes 2002, section 354A.36, subdivision 4, is amended to read:

Subd. 4. [DETERMINATION OF DISABILITY.] The board of the teachers retirement fund association shall make the final determination of the existence of a permanent and total disability. The board shall have the coordinated member examined by at least two licensed physicians, licensed chiropractors, or licensed psychologists who ~~shall be~~ are selected by the board. After making any required examinations, each physician, chiropractor, or psychologist with respect to a mental impairment, shall make a written report to the board concerning the coordinated member, which shall include a statement of the physician's medical expert opinion of the physician, chiropractor, or psychologist as to whether or not the member is permanently and totally disabled within the meaning of section 354A.011, subdivision 14. The board shall also obtain a written statement from the school district employer as to whether or not the coordinated member was terminated or separated from active employment due to a disability which is deemed by the district employer to reasonably prevent further service by the member to the district employer and which caused the coordinated member not to be entitled to further compensation from the district employer for services rendered by the member. If, after consideration of the reports of the physicians, chiropractors, or psychologists with respect to a mental impairment, and any evidence presented by the member or by any other interested parties, the board determines that the coordinated member is totally and permanently disabled within the meaning of section 354A.011, subdivision 14, it shall grant the coordinated member a disability benefit. ~~The fact that~~ A member

~~has been who is placed on a leave of absence without compensation as a result of the disability shall is not operate to bar barred a coordinated member from receiving a disability benefit under this section.~~

Sec. 32. Minnesota Statutes 2002, section 354A.36, subdivision 6, is amended to read:

Subd. 6. [REQUIREMENT FOR REGULAR PHYSICAL EXAMINATIONS.] At least once each year during the first five years following the granting of a disability benefit to a coordinated member by the board and at least once in every three year period thereafter, the board shall require the disability benefit recipient to undergo a medical expert examination as a condition for continued entitlement of the benefit recipient to receive a disability benefit. The medical expert examination shall must be made at the place of residence of the disability benefit recipient or at any other place mutually agreeable to the disability benefit recipient and the board. The medical expert examination shall must be made by a physician or physicians, by a chiropractor or chiropractors, or by one or more psychologists engaged by the board. The physician or physicians, the chiropractor or chiropractors, or the psychologist or psychologists with respect to a mental impairment, conducting the medical expert examination shall make a written report to the board concerning the disability benefit recipient and the recipient's disability, including a statement of the physician's medical expert opinion of the physician, chiropractor, or psychologist as to whether or not the member remains permanently and totally disabled within the meaning of section 354A.011, subdivision 14. If the board determines from consideration of the physician's written medical expert examination report of the physician, of the chiropractor, or of the psychologist, with respect to a mental impairment, that the disability benefit recipient is no longer permanently and totally disabled or if the board determines that the benefit recipient is engaged or is able to engage in a gainful occupation, unless the disability benefit recipient is partially employed pursuant to under subdivision 7, then further disability benefit payments from the fund shall must be discontinued. The discontinuation of disability benefits shall must occur immediately if the disability recipient is reinstated to the district payroll following sick leave and within 60 days of the determination by the board following the medical expert examination and report of the physician or physicians, chiropractor or chiropractors, or psychologist or psychologists engaged by the board that the disability benefit recipient is no longer permanently and totally disabled within the meaning of section 354A.011, subdivision 14.

Sec. 33. Minnesota Statutes 2002, section 356.302, subdivision 3, is amended to read:

Subd. 3. [GENERAL EMPLOYEE PLAN ELIGIBILITY REQUIREMENTS.] A disabled member of a covered retirement plan who has credit for allowable service in a combination of general employee retirement plans is entitled to a combined service disability benefit if the member:

(1) is less than ~~65 years of~~ the normal retirement age on the date of the application for the disability benefit;

(2) has become totally and permanently disabled;

(3) has credit for allowable service in any combination of general employee retirement plans totaling at least three years;

(4) has credit for at least one-half year of allowable service with the current general employee retirement plan before the commencement of the disability;

(5) has at least three continuous years of allowable service credit by the general employee retirement plan or has at least a total of three years of allowable service credit by a combination of general employee retirement plans in a 72-month period during which no interruption of allowable service credit from a termination of employment exceeded 29 days; and

(6) was not receiving a retirement annuity or disability benefit from any covered general employee retirement plan at the time of the commencement of the disability.

Sec. 34. Minnesota Statutes 2002, section 422A.18, subdivision 1, is amended to read:

Subdivision 1. [~~MEDICAL EXPERT EXAMINATION.~~] (a) Upon the application of the head of the department in which a contributing employee is employed, or upon the application of the contributing employee or of one acting in the employee's behalf, the retirement board shall place the contributor on disability, provided and pay the person a disability allowance under this section if the medical board, after a medical an expert examination of the contributor made at the place of residence of the contributor or at a place mutually agreed upon, shall certify to the retirement board that the contributor is physically or mentally incapacitated for the performance of further service to the city and recommend that the contributor be placed on disability.

(b) The medical board shall consist of the city physician, a physician, chiropractor, or licensed psychologist to be selected by the retirement board, and a physician, chiropractor, or licensed psychologist to be selected by the employee.

(c) Disability of an employee resulting from injury or illness received in the performance of the duties of the city service shall be defined as duty disability.

(d) Disability incurred as a result of injury or illness not connected with the performance of such service shall be defined as nonduty disability. In order to be entitled to a retirement allowance for a nonduty disability, an employee shall have rendered five or more years of service to the city.

Sec. 35. Minnesota Statutes 2002, section 422A.18, subdivision 4, is amended to read:

Subd. 4. [~~ADDITIONAL MEDICAL EXAMINATIONS.~~] (a) Once each year, the retirement board may require any disability beneficiary while still under the established age for retirement to undergo ~~medical an expert examination by a physician or one or more physicians, one or more chiropractors, or one or more licensed psychologists designated by the retirement board.~~ The examination to must be made at the place of residence of the beneficiary or other place mutually agreed upon. Should

(b) ~~If the medical board report and certify certifies to the retirement board that such the disability beneficiary is no longer physically or mentally incapacitated for the performance of duty, the beneficiary's allowance shall must be discontinued and the head of the department in which the beneficiary was employed at the time of retirement shall, upon notification by the retirement board of the report of the medical board, reemploy the beneficiary at a rate of salary not less than the amount of the disability allowance, but.~~

(c) After the expiration of five years subsequent to the retirement of ~~such the beneficiary, the restoration to duty, notwithstanding the recommendation of the medical board, shall be is optional with the head of the department. Should~~ If any disability beneficiary, while under the established age for retirement ~~refuse, refuses to submit to at least one medical expert examination in any year by a physician or one or more physicians, one or more chiropractors, or one or more licensed psychologists designated by the medical board, the allowance shall must be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, all the beneficiary's rights in and to any retirement or disability allowance shall be are forfeited.~~

Sec. 36. Minnesota Statutes 2002, section 423B.09, subdivision 4, is amended to read:

Subd. 4. [~~CERTIFICATE OF PHYSICIANS REQUIRED.~~] (a) No member is entitled to a pension under subdivision 1, paragraph (b) or (c), except upon the certificate of two or more physicians or, surgeons, chiropractors, licensed psychologists, or a combination of experts chosen by the governing board. This certificate must set forth the cause, nature, and extent of the disability, disease, or injury of the member.

(b) No active member may be awarded, granted, or paid a disability pension under subdivision 1, paragraph (c), unless the certificate states that the disability, disease, or injury was incurred or sustained by the member while in the service of the police department of the city. The certificate must be filed with the secretary of the association.

Sec. 37. Minnesota Statutes 2002, section 423C.05, subdivision 4, is amended to read:

Subd. 4. [TEMPORARY DISABILITY PENSION.] (a) An active member who, by sickness or accident, becomes temporarily disabled from performing firefighter duties for the fire department ~~shall be~~ is entitled to a temporary disability pension.

(b) No allowance for disability ~~shall~~ may be made unless notice of the disability and an application for benefits is made by or on behalf of the disabled member within 90 days after the beginning of the disability. This application ~~shall~~ must include a certificate from a qualified ~~medical professional expert~~ expert setting forth the cause, nature, and extent of the disability. This certificate must also ~~conclude~~ that the disability was incurred or sustained while the member was in the service of the fire department.

(c) The board shall utilize the board of examiners established ~~pursuant to~~ under section 423C.03, subdivision 6, to investigate and report on an application for benefits ~~pursuant to~~ under this section and to make recommendations as to eligibility and the benefit amount to be paid.

(d) A member entitled to a disability pension ~~shall~~ must receive benefits in the amount and manner determined by the board.

Sec. 38. Minnesota Statutes 2002, section 423C.05, subdivision 5, is amended to read:

Subd. 5. [SERVICE-RELATED PERMANENT DISABILITY PENSION.] An active member who becomes permanently disabled as the result of a service-related disease or injury ~~shall~~ is, upon application and approval of the board, ~~be~~ entitled to a pension of 41 units or in the amount determined under subdivision 8. The application for service-related permanent disability ~~shall~~ must include a certificate from a qualified ~~medical professional expert~~ expert setting forth the permanent nature of the disability or disease and that it was service related.

Sec. 39. Minnesota Statutes 2002, section 423C.05, subdivision 6, is amended to read:

Subd. 6. [NON-SERVICE-RELATED PERMANENT DISABILITY PENSION.] An active member who, by reason of sickness or accident, becomes permanently disabled and unable to perform firefighter duties for the fire department due to non-service-related disease or injury ~~shall~~ be is entitled to a permanent disability pension. No allowance for disability ~~shall~~ may be made unless notice of the disability and an application for benefits is made by or on behalf of the disabled member within 90 days after the beginning of the disability. This application ~~shall~~ must include a certificate from a qualified medical professional setting forth the cause, nature, and extent of the disability. A member who is entitled to a disability pension under this subdivision ~~shall~~ must receive benefits in the amount and manner determined by the board, not to exceed 41 units.

Sec. 40. Minnesota Statutes 2002, section 423C.05, is amended by adding a subdivision to read:

Subd. 6a. [QUALIFIED EXPERT.] A qualified expert includes a licensed physician or chiropractor, or in the case of mental impairment, includes a licensed psychologist.

Sec. 41. [REPEALER.]

(a) Minnesota Statutes 2002, sections 353.33, subdivision 5b; and 490.11, are repealed on July 1, 2004.

(b) Sections 3 and 19 are repealed on July 1, 2006.

Sec. 42. [EFFECTIVE DATE.]

Sections 1 to 41 are effective on July 1, 2004.

ARTICLE 9

DEATH AND SURVIVOR BENEFITS AND REFUNDS

Section 1. Minnesota Statutes 2002, section 3A.03, subdivision 2, is amended to read:

Subd. 2. [REFUND.] (a) ~~Any~~ A former member who has made contributions under subdivision

1 and who is no longer a member of the legislature is entitled to receive, upon written application to the executive director on a form prescribed by the executive director, a refund of all contributions credited to the member's account with interest at an annual rate of six percent compounded annually computed as provided in section 352.22, subdivision 2.

(b) The refund of contributions as provided in paragraph (a) terminates all rights of a former member of the legislature ~~or~~ and the survivors of the former member under this chapter.

(c) If the former member of the legislature again becomes a member of the legislature after having taken a refund as provided in paragraph (a), the member must be considered a new member of this plan. However, ~~a new~~ the member may reinstate the rights and credit for service previously forfeited if the new member repays all refunds taken plus interest at an annual rate of 8.5 percent compounded annually from the date on which the refund was taken to the date on which the refund is repaid.

~~(e)~~ (d) No person may be required to apply for or to accept a refund.

Sec. 2. Minnesota Statutes 2002, section 352.12, subdivision 1, is amended to read:

Subdivision 1. [DEATH BEFORE TERMINATION OF SERVICE.] If an employee dies before state service has terminated and neither a survivor annuity nor a reversionary annuity is payable on behalf of the employee, or if a former employee who has sufficient service credit to be entitled to an annuity dies before the benefit annuity has become payable, ~~the director shall make a refund with interest is payable upon filing a written application on a form prescribed by the executive director. The refund is payable to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to the accumulated employee contributions plus interest at the rate of six percent per annum compounded annually. Interest must be computed as provided in section 352.22, subdivision 2, to the first day of the month in which the refund is processed. Upon the death of an employee who has received a refund that was later repaid in full, interest must be paid on the repaid refund only from the date of the repayment. If the repayment was made in installments, interest must be paid only from the date on which the installment payments began. The designated beneficiary, the surviving spouse, or the representative of the estate of an employee who had received a disability benefit is not entitled to the payment of interest upon any balance remaining to the decedent's credit in the fund at the time of death, unless the death occurred before any payment could be negotiated.~~

Sec. 3. Minnesota Statutes 2002, section 352.12, subdivision 6, is amended to read:

Subd. 6. [DEATH AFTER SERVICE TERMINATION.] Except as provided in subdivision 1, if a former employee covered by the system ~~dies and who has not received an annuity, a retirement allowance, or a disability benefit dies, a refund must be made~~ is payable to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to accumulated employee contributions plus interest. The refund must include interest at the rate of six percent per year compounded annually. The interest on the refund must be computed as provided in section 352.22, subdivision 2.

Sec. 4. Minnesota Statutes 2002, section 352.22, subdivision 2, is amended to read:

Subd. 2. [AMOUNT OF REFUND.] Except as provided in subdivision 3, the refund payable to a person who ceased to be a state employee by reason of a termination of state service is ~~in an amount equal to employee accumulated contributions plus interest at the rate of six percent per year compounded annually daily from the date that the contribution was made until the date on which the refund is paid. Included with the refund is any interest paid as part of repayment of a past refund, plus interest thereon from the date of repayment. Interest must be computed to the first day of the month in which the refund is processed and must be based on fiscal year or monthly balances, whichever applies.~~

Sec. 5. Minnesota Statutes 2002, section 352.22, subdivision 3, is amended to read:

Subd. 3. [DEFERRED ANNUITY.] (a) An employee who has at least three years of allowable service when termination occurs may elect to leave the accumulated contributions in the fund and thereby be entitled to a deferred retirement annuity. The annuity must be computed under the law in effect when state service terminated, on the basis of the allowable service credited to the person before the termination of service.

(b) An employee on layoff or on leave of absence without pay, except a leave of absence for health reasons, and who does not return to state service shall must have an annuity, deferred annuity, or other benefit to which the employee may become entitled computed under the law in effect on the employee's last working day.

(c) No application for a deferred annuity may be made more than 60 days before the time the former employee reaches the required age for entitlement to the payment of the annuity. The deferred annuity begins to accrue no earlier than 60 days before the date the application is filed in the office of the system, but not (1) before the date on which the employee reaches the required age for entitlement to the annuity nor (2) before the day following the termination of state service in a position which is not covered by the retirement system.

(d) Application for the accumulated contributions left on deposit with the fund may be made at any time after 30 days following the date of the termination of service.

Sec. 6. Minnesota Statutes 2002, section 352B.10, subdivision 5, is amended to read:

Subd. 5. [OPTIONAL ANNUITY.] A ~~disabled member~~ disablitant may elect, in lieu of spousal survivorship coverage under section 352B.11, ~~subdivision 2~~ subdivisions 2b and 2c, ~~choose~~ the normal disability benefit or an optional annuity as provided in section 352B.08, subdivision 3. The choice of an optional annuity must be made before the commencement of the payment of the disability benefit, or within 90 days of attaining before reaching age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. ~~It~~ The optional annuity is effective on the date on which the disability benefit begins to accrue, or the month following attainment of age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

Sec. 7. Minnesota Statutes 2002, section 352B.11, subdivision 1, is amended to read:

Subdivision 1. [REFUND OF PAYMENTS.] (a) A member who has not received other benefits under this chapter is entitled to a refund of payments made by salary deduction, plus interest, if the member is separated, either voluntarily or involuntarily, from the state service that entitled the member to membership.

(b) In the event of the member's death, if there are no survivor benefits payable under this chapter, a refund plus interest is payable to the last designated beneficiary on a form filed with the director before death, or if no designation is filed, ~~the refund~~ is payable to the member's estate. Interest under this subdivision must be computed at the rate of six percent a year, compounded annually calculated as provided in section 352.22, subdivision 2. To receive a refund, the application must be made on a form prescribed by the executive director.

Sec. 8. Minnesota Statutes 2002, section 352B.11, subdivision 2, is amended to read:

Subd. 2. [DEATH; PAYMENT TO SPOUSE AND DEPENDENT CHILDREN; FAMILY MAXIMUMS.] ~~If a member serving actively as a member, or a member or former member receiving the disability benefit before attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later, provided by section 352B.10, subdivisions 1 and 2, dies from any cause before attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later, the surviving spouse and dependent children are entitled to benefit payments as follows:~~

~~(a) A member with at least three years of allowable service is deemed to have elected a 100 percent joint and survivor annuity payable to a surviving spouse only on or after the date the member or former member became or would have become 55.~~

~~(b) The surviving spouse of a member who had credit for less than three years of service shall receive, for life, a monthly annuity equal to 50 percent of that part of the average monthly salary of the member from which deductions were made for retirement.~~

~~(c) The surviving spouse of a member who had credit for at least three years service and who died after becoming 55 years old, may elect to receive a 100 percent joint and survivor annuity, for life, notwithstanding a subsequent remarriage, in lieu of the annuity prescribed in paragraph (b).~~

~~(d) The surviving spouse of any member who had credit for three years or more and who was not 55 years old at death, shall receive the benefit equal to 50 percent of the average monthly salary as described in clause (b) until the deceased member would have become 55 years old, and beginning the first of the month following that date, may elect to receive the 100 percent joint and survivor annuity.~~

~~(e) Each dependent child shall, as defined in section 352B.01, subdivision 10, is entitled to receive a monthly annuity equal to ten percent of that part of the average monthly salary of the former deceased member from which deductions were made for retirement. A dependent child over 18 and under 23 years of age also may receive the monthly benefit provided in this section; if the child is continuously attending an accredited school as a full-time student during the normal school year as determined by the director. If the child does not continuously attend school, but separates from full-time attendance during any part of a school year, the annuity shall must cease at the end of the month of separation. In addition, a payment of \$20 per month shall must be prorated equally to the surviving dependent children when the former member is survived by more than one or more dependent children child. Payments for the benefit of any qualified dependent child must be made to the surviving spouse, or if there is none, to the legal guardian of the child. The maximum monthly benefit for any one family, including a surviving spouse benefit, if applicable, must not be less than 50 percent nor exceed 70 percent of the average monthly salary for any number of children of the deceased member.~~

~~(f) If the member dies under circumstances that entitle the surviving spouse and dependent children to receive benefits under the workers' compensation law, the workers' compensation benefits received by them must not be deducted from the benefits payable under this section.~~

~~(g) The surviving spouse of a deceased former member who had credit for three or more years of allowable service, but not the spouse of a former member receiving a disability benefit under section 352B.10, subdivision 2, is entitled to receive the 100 percent joint and survivor annuity at the time the deceased member would have become 55 years old. If a former member dies who does not qualify for other benefits under this chapter, the surviving spouse or, if none, the children or heirs are entitled to a refund of the accumulated deductions left in the fund plus interest at the rate of six percent per year compounded annually.~~

Sec. 9. Minnesota Statutes 2002, section 352B.11, is amended by adding a subdivision to read:

Subd. 2b. [SURVIVING SPOUSE BENEFIT ELIGIBILITY.] (a) If an active member with three or more years of allowable service dies before attaining age 55, the surviving spouse is entitled to the benefit specified in subdivision 2c, paragraph (b).

(b) If an active member with less than three years of allowable service dies at any age, the surviving spouse is entitled to receive the benefit specified in subdivision 2c, paragraph (c).

(c) If an active member with three or more years of allowable service dies on or after attaining exact age 55, the surviving spouse is entitled to receive the benefits specified in subdivision 2c, paragraph (d).

(d) If a disabilitant dies while receiving a disability benefit under section 352B.10 or before the benefit under that section commenced, and an optional annuity was not elected under section 352B.10, subdivision 5, the surviving spouse is entitled to receive the benefit specified in subdivision 2c, paragraph (b).

(e) If a former member with three or more years of allowable service, who terminated from service and has not received a refund or commenced receipt of any other benefit provided by this

chapter, dies, the surviving spouse is entitled to receive the benefit specified in subdivision 2c, paragraph (e).

(f) If a former member with less than three years of allowable service, who terminated from service and has not received a refund or commenced receipt of any other benefit, if applicable, provided by this chapter, dies, the surviving spouse is entitled to receive the refund specified in subdivision 2c, paragraph (f).

Sec. 10. Minnesota Statutes 2002, section 352B.11, is amended by adding a subdivision to read:

Subd. 2c. [SURVIVING SPOUSE BENEFIT ENTITLEMENTS.] (a) A surviving spouse specified in subdivision 2b is eligible to receive, following the filing of a valid application and consistent with any other applicable requirements, a benefit as specified in this subdivision. A 100 percent joint and survivor annuity under paragraph (b) must be computed assuming the exact age 55 for the deceased member and the age of the surviving spouse on the date of death. A 100 percent joint and survivor annuity under paragraph (d) or (e) must be computed using the age of the deceased member on the date of death and the age of the surviving spouse on that same date.

(b) For a surviving spouse specified in subdivision 2b, paragraph (a) or (d), the surviving spouse benefit is a benefit for life equal to 50 percent of the average monthly salary of the deceased member. On the first of the month next following the date on which the deceased member would have attained exact age 55, in lieu of continued receipt of the prior benefit, the surviving spouse is eligible to commence receipt of the second half of a 100 percent joint and survivor annuity, if this provides a larger benefit.

(c) For a surviving spouse specified in subdivision 2b, paragraph (b), the surviving spouse benefit is a benefit for life equal to 50 percent of the average monthly salary of the deceased member.

(d) For a surviving spouse specified in subdivision 2b, paragraph (c), the surviving spouse benefit is a benefit for life equal to 50 percent of the average monthly salary of the deceased member, or the second half of a 100 percent joint and survivor annuity, whichever is larger.

(e) For a surviving spouse specified in subdivision 2b, paragraph (e), the surviving spouse benefit is the second half of a 100 percent joint and survivor annuity, commencing on the first of the month next following the deceased member's date of death, or the first of the month next following the date on which the deceased member would have attained age 55, whichever is later.

(f) For a surviving spouse specified in subdivision 2b, paragraph (f), the surviving spouse or, if none, the children or, if none, the deceased member's estate, is entitled to a refund of the employee contributions plus interest computed as specified in subdivision 1.

Sec. 11. Minnesota Statutes 2002, section 352B.11, is amended by adding a subdivision to read:

Subd. 2d. [COORDINATION WITH WORKERS' COMPENSATION BENEFITS.] If the deceased member died under circumstances that entitle the surviving spouse and the dependent child or children to receive benefits under workers' compensation law, the workers' compensation benefits received by the deceased member's survivor or survivors must not be deducted from the benefits payable under this section.

Sec. 12. Minnesota Statutes 2002, section 352D.075, subdivision 2, is amended to read:

Subd. 2. [SURVIVING SPOUSE BENEFIT.] (a) Notwithstanding any designation of a beneficiary to the contrary, if a participant or a former participant dies leaving a spouse and there is no named beneficiary who survives to receive payment or the spouse is named beneficiary before an annuity or a disability benefit becomes payable, the surviving spouse may is entitled to receive:

- (1) a lump sum payment of the value of the participant's total shares;
- (2) The a lump sum payment of a portion of the value of one-half of the total shares and

~~beginning at age 55 or thereafter receive, at any time after the participant's death, an annuity based on the remaining value of one-half of the total shares, provided that. If the spouse dies before receiving any annuity payments, the remaining value of said the shares shall be paid is payable to the spouse's children in equal shares, but and if no such children survive, then to the parents of the spouse in equal shares, but and if no such children or parents survive, then to the estate of the spouse; or~~

~~(3) Beginning at age 55 or thereafter receive at any time after the participant's death, an annuity based on the value of the total shares, provided that. If the spouse dies before receiving any annuity payments, the value of said the shares shall be paid is payable to the spouse's children in equal shares, but and if no such children survive, then to the parents of the spouse in equal shares, but and if no such children or parents survive, then to the estate of the spouse; and further provided, if said the spouse dies after receiving annuity payments but before receiving payments equal to the value of the employee shares, the value of the employee shares remaining shall be paid is payable to the spouse's children in equal shares, but and if no such children survive, then to the parents of the spouse in equal shares, but and if no such children or parents survive, then to the estate of the spouse.~~

~~(b) A participant or a former participant and the person's spouse may make a joint specification, in writing, on a form prescribed by the executive director, that the benefits provided in this section must be paid only to the designated beneficiary.~~

Sec. 13. Minnesota Statutes 2002, section 352D.075, is amended by adding a subdivision to read:

Subd. 2a. [SURVIVING SPOUSE COVERAGE TERM CERTAIN.] In lieu of the annuity under subdivision 2, clause (2) or (3), or in lieu of a distribution under subdivision 2, clause (1), the surviving spouse of a deceased participant may elect to receive survivor coverage in the form of a term certain annuity of five, six, 15, or 20 years, based on the value of the remaining shares. The monthly term certain annuity must be calculated under section 352D.06, subdivision 1.

Sec. 14. Minnesota Statutes 2002, section 352D.075, subdivision 3, is amended to read:

~~Subd. 3. [REFUND TO BENEFICIARY.] If a participant dies and has named a beneficiary no surviving spouse, the value of the total shares shall be paid is payable to such a designated beneficiary, but if such the beneficiary dies before receiving payment, or if no beneficiary has been named and there is no spouse, the value of said the shares shall be paid is payable to the children of the participant in equal shares, but or if no such children survive, then in equal shares to the parents of the participant, but or if no such children or parents survive, then to the estate of the participant.~~

Sec. 15. [352F.052] [APPLICATION OF SURVIVING SPOUSE, DEPENDENT CHILD PROVISION.]

Notwithstanding any provisions of law to the contrary, subdivisions within section 352.12 of the edition of Minnesota Statutes published in the year before the year in which a privatization occurred, applicable to the surviving spouse or dependent children of a former member, apply to the survivors of a terminated hospital employee of Fairview, University of Minnesota Physicians, or University Affiliated Family Physicians.

Sec. 16. [353F.052] [APPLICATION OF SURVIVING SPOUSE, DEPENDENT CHILD PROVISION.]

Notwithstanding any provisions of law to the contrary, subdivisions within section 353.32 of the edition of Minnesota Statutes published in the year before the year in which a privatization occurred, applicable to the surviving spouse or dependent children of a former member as defined in section 353.01, subdivision 7a, apply to the survivors of a terminated medical facility or other public employing unit employee.

Sec. 17. Minnesota Statutes 2002, section 354.05, subdivision 22, is amended to read:

Subd. 22. [DESIGNATED BENEFICIARY.] "Designated beneficiary" means the person, trust, or organization designated by a retiree or member to receive the benefits to which a beneficiary is entitled under this chapter. A beneficiary designation is valid only if it is made on an appropriate form provided by the executive director that is signed by the member and two witnesses to the member's signature. The properly completed form must be received by the association on or before the date of death of the retiree or member. If a retiree or a member does not designate a person, trust, or organization, or if the person who was designated predeceases the retiree or the member, or if the trust or organization ceases to exist before the death of the retiree or the member, the designated beneficiary means is the estate of the deceased retiree or member.

Sec. 18. Minnesota Statutes 2002, section 354.46, subdivision 2, is amended to read:

Subd. 2. [~~DEATH WHILE ELIGIBLE DESIGNATED BENEFICIARY BENEFIT SURVIVING SPOUSE SURVIVOR COVERAGE.~~] (a) ~~The surviving spouse of any member or former member who has~~ If the active or deferred member was at least age 55 and had credit for at least three years of allowable service on the date of death, the surviving spouse is entitled to the second portion of a 100 percent joint and survivor annuity coverage in the event of death of the member prior to retirement. If the surviving spouse does not elect to receive a surviving spouse benefit under subdivision 1, if applicable, or does not elect to receive a refund of accumulated member contributions under section 354.47, subdivision 1, the surviving spouse is entitled to receive, upon written application on a form prescribed by the executive director, a benefit equal to the second portion of a 100 percent joint and survivor annuity specified under section 354.45, based on the age of the active or deferred member and surviving spouse at the time of death of the member, and computed under section 354.44, subdivision 2 or 6, whichever is applicable the age of the surviving spouse at the time the benefit accrues.

(b) ~~If the active or deferred member was under age 55 and has had credit for at least 30 years of allowable service on the date of death, the surviving spouse may elect to receive the second portion of a 100 percent joint and survivor annuity based on the age of the active or deferred member and surviving spouse on the date of death and the age of the surviving spouse at the time the benefit accrues. If section 354.44, subdivision 6, applies, the annuity is payable using the full early retirement reduction under section 354.44, subdivision 6, paragraph clause (3)(ii), to age 55 and one-half of the early retirement reduction from age 55 to the age payment begins.~~

(c) ~~If the active or deferred member was under age 55 and has had credit for at least three years of allowable service on the date of death, but did not yet qualify for retirement, the surviving spouse may elect to receive the second portion of a 100 percent joint and survivor annuity based on the age of the active or deferred member and the surviving spouse at the time of death and the age of the surviving spouse at the time the benefit accrues. If section 354.44, subdivision 6, applies, the annuity is calculated using the full early retirement reduction under section 354.44, subdivision 6, to age 55 and one-half of the early retirement reduction from age 55 to the age the annuity begins. The surviving spouse eligible for a surviving spouse benefit under paragraph (a) may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service.~~

(d) ~~The surviving spouse eligible for surviving spouse benefits under paragraph (b) or (c) this subdivision may apply for the annuity any time after the member's death. This The benefit accrues from the day following the date of the member's death but may not begin to accrue more than six months before the date the application is filed with the executive director and may not accrue before the member's death. Sections 354.55, subdivision 11, and 354.60 apply to a deferred annuity payable under this section. The benefit is payable for life. Any benefit under this subdivision is in lieu of benefits under subdivision 1, if applicable, and in lieu of a refund of accumulated member contributions under section 354.47, subdivision 1.~~

(e) For purposes of this subdivision, a designated beneficiary must be a former spouse or a biological or adopted child of the member.

Sec. 19. Minnesota Statutes 2002, section 354.46, subdivision 2b, is amended to read:

Subd. 2b. [DEPENDENT CHILD SURVIVOR COVERAGE.] If there is no surviving spouse

eligible for benefits under subdivision 2, a each dependent child or children as defined in section 354.05, subdivision 8a, is eligible for monthly payments surviving child benefits. Payments Surviving child benefits to a dependent child must be paid from the date of the member's death to the date the dependent child attains age 20 if the child is under age 15 on the date of the member's death. If the child is 15 years or older on the date of the member's death, payment must be made the surviving child benefit is payable for five years. The payment to a dependent surviving child benefit is an amount that is actuarially equivalent to the value of a 100 percent optional annuity under subdivision 2 calculated using the age of the member and age of the dependent child at as of the date of death in lieu of the age of the member and the spouse. If there is more than one dependent child, each dependent child shall is entitled to receive a proportionate share of the actuarial value of the member's account.

Sec. 20. Minnesota Statutes 2002, section 354.46, subdivision 5, is amended to read:

Subd. 5. [PAYMENT TO DESIGNATED BENEFICIARY.] A member and who is single or, if the member is married, a member and the spouse of the member jointly, may make a joint specification in writing on a form prescribed by the executive director that the benefits provided in subdivision 2, or in section 354.47, subdivision 1, must be paid only to a designated beneficiary or to designated beneficiaries. For purposes of subdivision 2, a designated beneficiary may only be either a former spouse or a biological or an adopted child of the member.

Sec. 21. Minnesota Statutes 2002, section 354.46, is amended by adding a subdivision to read:

Subd. 6. [APPLICATION.] (a) A beneficiary designation and an application for benefits under this section must be in writing on a form prescribed by the executive director.

(b) Sections 354.55, subdivision 11, and 354.60 apply to a deferred annuity payable under this section.

(c) Unless otherwise specified, the annuity must be computed under section 354.44, subdivision 2 or 6, whichever is applicable.

Sec. 22. Minnesota Statutes 2002, section 356.441, is amended to read:

356.441 [~~REPAYMENT OF REFUNDS~~ PAYMENT ACCEPTANCE ALLOWED.]

Subdivision 1. [PAYMENT AUTHORIZATION.] The repayment of a refund and interest on that refund or the payment of equivalent contributions and interest for an eligible leave of absence, as permitted under laws governing any public pension plan in Minnesota, may be made:

(1) with funds distributed or transferred from a plan qualified under the federal Internal Revenue Code of 1986, section 401, subsection (a) or (k); 403; 408; or 457, subsection (b), as amended through December 31, 1988, or an annuity qualified under the federal Internal Revenue Code of 1986, section 403(a). Repayment may also be made from time to time; or

(2) with funds distributed from an individual retirement account used solely to receive a or individual retirement annuity, if done solely in a manner that is eligible for treatment as a nontaxable rollover from that type of a plan or annuity or transfer under the applicable federal law. The repaid refund

Subd. 2. [SEPARATE ACCOUNTING REQUIREMENT.] Nontaxable rollovers or transfer amounts under subdivision 1 received by a public pension fund must be separately accounted for as member contributions not previously taxed. Before accepting any rollovers or transfers to which this section applies, the executive director must shall require the member to provide written documentation to demonstrate that the amounts to be rolled over or transferred are eligible for a tax-free rollover or transfer and qualify for that treatment under the federal Internal Revenue Code of 1986, as amended.

Sec. 23. Minnesota Statutes 2002, section 490.124, subdivision 12, is amended to read:

Subd. 12. [REFUND.] (a) Any A person who ceases to be a judge but who does not qualify for

a retirement annuity or other benefit under section 490.121 ~~shall be~~ is entitled to a refund in an amount equal to all the ~~person's member's employee~~ contributions to the judges' retirement fund plus interest computed ~~to the first day of the month in which the refund is processed based on fiscal year balances at an annual rate of five percent compounded annually under section 352.22, subdivision 2.~~

(b) A refund of contributions under paragraph (a) terminates all service credits and all rights and benefits of the judge and the judge's survivors. A person who becomes a judge again after taking a refund under paragraph (a) may reinstate the previously terminated service credits, rights, and benefits by repaying ~~all refunds~~ the total amount of the previously received refund. ~~A~~ The refund repayment must include interest on the total amount previously received at an annual rate of 8.5 percent compounded annually from the date on which the refund was received until the date on which the refund is repaid.

Sec. 24. [TEACHERS RETIREMENT ASSOCIATION; BENEFICIARY DESIGNATION.]

(a) An eligible person described in paragraph (b) is entitled to make a specification that the benefits provided in Minnesota Statutes, section 354.46, subdivision 2, or in Minnesota Statutes, section 354.47, subdivision 1, may be paid only to a designated beneficiary or beneficiaries.

(b) An eligible person is a person who:

- (1) was born on July 9, 1956;
- (2) is employed as a teacher by Independent School District No. 535, Rochester;
- (3) is a member of the Teachers Retirement Association;
- (4) has more than 19 years of allowable service credit in the Teachers Retirement Association;
- (5) has two minor children;
- (6) has no potential surviving spouse by virtue of a prior marriage dissolution; and
- (7) has been diagnosed with a serious medical condition that is life threatening.

(c) The designated beneficiary or beneficiaries may only be a biological or adopted child, the biological or adopted children of the eligible person, or a trust established for the child or children if the trust is required to provide for the proper health, support, maintenance, and education of the dependent child or children. If two or more children are designated or if a trust established for more than one child is designated, the benefit payable to or on behalf of each child is an equal share of the total benefit.

(d) The specification must be made in writing on a form prescribed by the executive director of the Teachers Retirement Association.

Sec. 25. [REPEALER.]

Minnesota Statutes 2002, section 354A.107, is repealed.

Sec. 26. [EFFECTIVE DATE.]

(a) Sections 1 to 25 are effective on July 1, 2004.

(b) Sections 8 to 11 are not intended to increase, modify, impair, or diminish the benefit entitlements specified in Minnesota Statutes, chapter 352B. If the Minnesota State Retirement System executive director determines that any provision of those sections does increase, modify, impair, or diminish the benefit entitlements as reflected in applicable law just prior to the effective date of this section, the executive director shall certify that determination and a recommendation as to the required legislative correction to the chairs of the Legislative Commission on Pensions and Retirement, the house Governmental Operations Committee, the senate State and Local Government Operations Committee, and the executive director of the Legislative Commission on Pensions and Retirement.

(c) Consistent with Minnesota Statutes, section 645.21, and public pension policy in general, the increased interest rate provided on a refund under section 23 applies only to judges whose termination of service occurs on or after July 1, 2004.

ARTICLE 10

FEDERAL INTERNAL REVENUE

CODE COMPLIANCE

Section 1. Minnesota Statutes 2002, section 356.611, is amended by adding a subdivision to read:

Subd. 4. [COMPENSATION.] (a) For purposes of this section, compensation means a member's compensation actually paid or made available for any limitation year determined as provided by Treasury Regulation Section 1.415-2(d)(10).

(b) Compensation for any period includes:

- (1) any elective deferral as defined in section 402(g)(3) of the Internal Revenue Code;
- (2) any elective amounts that are not includable in a member's gross income by reason of sections 125 or 457 of the Internal Revenue Code; and
- (3) any elective amounts that are not includable in a member's gross income by reason of section 132(f)(4) of the Internal Revenue Code.

Sec. 2. [356.635] [INTERNAL REVENUE CODE COMPLIANCE.]

Subdivision 1. [RETIREMENT BENEFIT COMMENCEMENT.] The retirement benefit of a member who has terminated employment must begin no later than the later of April 1 of the calendar year following the calendar year that the member attains the federal minimum distribution age under section 401(a)(9) of the Internal Revenue Code or April 1 of the calendar year following the calendar year in which the member terminated employment.

Subd. 2. [DISTRIBUTIONS.] Distributions shall be made as required under section 401(a)(9) of the Internal Revenue Code and the treasury regulations adopted under that section, including, but not limited to, the incidental death benefit provisions of section 401(a)(9)(G) of the Internal Revenue Code.

Subd. 3. [DIRECT ROLLOVERS.] A distributee may elect, at the time and in the manner prescribed by the plan administrator, to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan as specified by the distributee.

Subd. 4. [ELIGIBLE ROLLOVER DISTRIBUTION.] An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee.

Subd. 5. [INELIGIBLE AMOUNTS.] An eligible rollover distribution does not include:

- (1) a distribution that is one of a series of substantially equal periodic payments, receivable annually or more frequently, that is made for the life or life expectancy of the distributee, the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;
- (2) a distribution that is required under section 401(a)(9) of the Internal Revenue Code; or
- (3) any other exception required by law or the Internal Revenue Code.

Subd. 6. [ELIGIBLE RETIREMENT PLAN.] (a) An "eligible retirement plan" is:

- (1) an individual retirement account under section 408(a) of the Internal Revenue Code;
- (2) an individual retirement annuity plan under section 408(b) of the Internal Revenue Code;

- (3) an annuity plan under section 403(a) of the Internal Revenue Code;
- (4) a qualified trust plan under section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution;
- (5) an annuity contract under section 403(b) of the Internal Revenue Code; or
- (6) an eligible deferred compensation plan under section 457(b) of the Internal Revenue Code, which is maintained by a state or local government and which agrees to separately account for the amounts transferred into the plan.

(b) For distributions of after-tax contributions which are not includable in gross income, the after-tax portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in either section 401(a), or section 403(a), of the Internal Revenue Code, that agrees to separately account for the amounts transferred, including separately accounting for the portion of the distribution which is includable in gross income and the portion of the distribution which is not includable.

Subd. 7. [DISTRIBUTEES.] A "distributee" is:

- (1) an employee or a former employee;
- (2) the surviving spouse of an employee or former employee; or
- (3) the former spouse of the employee or former employee who is the alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code, or who is a recipient of a court-ordered equitable distribution of marital property, as provided in section 518.58.

Subd. 8. [FORFEITURES.] For defined benefit plans, unless otherwise permitted by section 401(a)(8) of the Internal Revenue Code, forfeitures may not be applied to increase the benefits that any employee would otherwise receive under the plan.

Subd. 9. [MILITARY SERVICE.] Contributions, benefits, and service credit with respect to qualified military service must be provided according to section 414(u) of the Internal Revenue Code.

Sec. 3. [TRANSITIONAL PROVISION.]

(a) An eligible rollover distribution under Minnesota Statutes, section 356.635, does not include the portion of a distribution that is not included in gross income.

(b) For eligible rollover distributions to a surviving spouse, an eligible retirement plan under Minnesota Statutes, section 356.635, is limited to an individual retirement account under section 408(a) of the Internal Revenue Code or an individual retirement annuity plan under section 408(b) of the Internal Revenue Code.

Sec. 4. [EFFECTIVE DATE.]

(a) Section 1, paragraph (a), is effective on July 1, 2004. Section 1, paragraph (b), is effective retroactively as follows: clauses (1) and (2) are effective for limitation years beginning on and after January 1, 1998; and clause (3) is effective for limitation years beginning on and after January 1, 2001.

(b) Sections 2 and 3 are effective on the day following final enactment.

(c) Section 2 is effective retroactively as follows: subdivision 1 is effective on and after January 1, 1989; subdivision 2 is effective for distributions on and after December 31, 1989; subdivision 3 is effective for distributions on and after January 1, 1993; subdivision 6, paragraph (a), clauses (5) and (6), are effective for distributions made after December 31, 2001; subdivision 6, paragraph (b), is effective for distributions after December 31, 2001; and subdivision 9 is effective December 12, 1994.

(d) Section 3 is effective only for distributions made before January 1, 2002.

ARTICLE 11

HEALTH CARE SAVINGS

PLAN MODIFICATIONS

Section 1. Minnesota Statutes 2002, section 352.98, is amended to read:

352.98 [POSTRETIREMENT HEALTH CARE SAVINGS PLAN.]

Subdivision 1. [PLAN CREATED.] The Minnesota State Retirement System shall establish a plan or plans, known as ~~postretirement~~ health care savings plans, through which public employers and employees may save to cover ~~postretirement~~ health care costs. The Minnesota State Retirement System shall make available one or more trusts, including a governmental trust or governmental trusts, authorized under the Internal Revenue Code to be eligible for tax-preferred or tax-free treatment through which employers and employees can save to cover ~~postretirement~~ health care costs.

Subd. 2. [CONTRACTING AUTHORIZED.] The Minnesota State Retirement System is authorized to administer the plan and to contract with public and private entities to provide investment services, record keeping, benefit payments, and other functions necessary for the administration of the plan. If allowed by the Minnesota State Board of Investment, the Minnesota State Board of Investment supplemental investment funds may be offered as investment options under the ~~postretirement~~ health care savings plan or plans.

Subd. 3. [CONTRIBUTIONS.] (a) Contributions to the plan ~~shall~~ must be determined through a personnel policy or in a collective bargaining agreement of a public employer with the exclusive representative of the covered employees in an appropriate unit. The Minnesota State Retirement System may offer different types of trusts permitted under the Internal Revenue Code to best meet the needs of different employee units.

(b) Contributions to the plan by or on behalf of the employee ~~shall~~ must be held in trust for reimbursement of employee and dependent health-related expenses following retirement from public employment or during active employment. The Minnesota State Retirement System shall maintain a separate account of the contributions made by or on behalf of each participant and the earnings thereon. The Minnesota State Retirement System shall make available a limited range of investment options, and each employee may direct the investment of the accumulations in the employee's account among the investment options made available by the Minnesota State Retirement System. At the request of a participating employer and employee group, the Minnesota State Retirement System may determine how the assets of the affected employer and employee group should be invested.

(c) This section does not obligate a public employer to meet and negotiate in good faith with the exclusive bargaining representative of any public employee group regarding an employer contribution to a ~~postretirement or active employee~~ health care savings plan authorized by this section and section 356.24, subdivision 1, clause (7). It is not the intent of the legislature to authorize the state to incur new funding obligations for the costs of retiree health care or the costs of administering retiree health care plans or accounts.

Subd. 4. [REIMBURSEMENT FOR HEALTH-RELATED EXPENSES.] ~~Following termination of public service,~~ The Minnesota State Retirement System shall reimburse employees at least quarterly for submitted health-related expenses, as required by federal and state law, until the employee exhausts the accumulation in the employee's account. If an employee dies prior to exhausting the employee's account balance, the employee's spouse or dependents ~~shall be~~ are eligible to be reimbursed for health care expenses from the account until the account balance is exhausted. If an account balance remains after the death of a participant and all of the participant's legal dependents, the remainder of the account ~~shall~~ must be paid to the employee's beneficiaries or, if none, to the employee's estate.

Subd. 5. [FEES.] The Minnesota state retirement plan is authorized to charge uniform fees to participants to cover the ongoing cost of operating the plan. Any fees not needed ~~shall~~ must revert to participant accounts or be used to reduce plan fees the following year. ~~The Minnesota State Retirement System is authorized to charge participating employers a fee, not to exceed one-sixth of the Federal Insurance Contribution Act savings realized by the employer as a result of participating in the plan, until the initial costs of establishing the plan or plans authorized by this section are recovered, or \$75,000, whichever is less.~~

Subd. 6. [ADVISORY COMMITTEE.] (a) The Minnesota State Retirement System shall establish a participant advisory committee for the health care savings plan, made up of one representative appointed by each employee unit participating in the plan. Each participating unit shall be responsible for the expenses of its own representative.

(b) The advisory committee shall meet at least twice per year and shall be consulted on plan offerings and vendor selection. By October 1 of each year, the Minnesota State Retirement System shall give the advisory committee a statement of fees collected and the use of the fees.

Subd. 7. [CONTRACTING WITH PRIVATE ENTITIES.] Nothing in this section shall ~~prohibit~~ prohibits employers from contracting with private entities to provide for ~~postretirement~~ health care reimbursement plans.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on the day following final enactment.

ARTICLE 12

RETIREMENT COVERAGE FOLLOWING A PRIVATIZATION

Section 1. Minnesota Statutes 2003 Supplement, section 353F.02, subdivision 4, is amended to read:

Subd. 4. [MEDICAL FACILITY.] "Medical facility" means:

- (1) the Fair Oaks Lodge, Wadena;
- (2) the Glencoe Area Health Center;
- ~~(2)~~ (3) the Kanabec Hospital;
- (4) the Luverne Public Hospital;
- (5) the RenVilla Nursing Home; and
- ~~(3)~~ (6) the Waconia-Ridgeview Medical Center; and
- ~~(4) the Kanabec Hospital.~~

Sec. 2. [RENVILLA NURSING HOME; COMPUTATION OF PAYMENT RATES.]

In the first reporting year that Public Employee Retirement Association costs are no longer incurred for the RenVilla Nursing Home, the facility shall have its allowable employee pension or retirement plan costs reported on its Rule 50 cost report treated as Public Employee Retirement Association contributions for the purpose of computing its payment rates.

Sec. 3. [PERA-GENERAL RETENTION OF PUBLIC EMPLOYEE STATUS FOR ANOKA ACHIEVE PROGRAM EMPLOYEES.]

Subdivision 1. [APPLICATION.] This section applies to a person who was:

- (1) employed by Anoka County in connection with the Achieve Program for adults with developmental disabilities on the day before operation of the program is transferred to Achieve Services, Inc; and

(2) a member of the Public Employees Retirement Association on December 31, 2003.

Subd. 2. [CONTINUATION OF COVERAGE.] For purposes of participation in the coordinated plan of the Public Employees Retirement Association, a person to whom this section applies is a "public employee" under Minnesota Statutes, chapter 353, while employed by Achieve Services, Inc., which is a governmental subdivision under Minnesota Statutes, section 353.01, subdivision 6, paragraph (a), for the purposes of reporting contributions for those persons to whom this section applies only.

Sec. 4. [PERA-GENERAL; RETENTION OF PUBLIC EMPLOYEE COVERAGE FOR GOVERNMENT TRAINING SERVICES EMPLOYEES.]

Subdivision 1. [APPLICATION.] Notwithstanding any provision of Minnesota Statutes, chapter 353, this section applies to a person who:

(1) was employed by the state and local government joint powers organization, the Government Training Service, on the day before the operation was transferred to a nonprofit organization, Government Training Services;

(2) was a member of the general employees retirement plan of the Public Employees Retirement Association; and

(3) is employed by Government Training Services.

Subd. 2. [COVERAGE CONTINUATION.] (a) A person described in subdivision 1 is a public employee for purposes of Minnesota Statutes, section 353.01, subdivision 2, and is eligible to continue participation in the coordinated program of the general employees retirement plan of the Public Employees Retirement Association.

(b) While employing a person described in subdivision 1, Government Training Services is a governmental subdivision for purposes of Minnesota Statutes, section 353.01, subdivision 6, paragraph (a).

Sec. 5. [EFFECTIVE DATE.]

(a) Section 1, relating to the Fair Oaks Lodge, Wadena, is effective upon the latter of:

(1) the day after the governing body of Todd County and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3; and

(2) the day after the governing body of Wadena County and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

(b) Section 1, relating to the RenVilla Nursing Home, is effective upon the latter of:

(1) the day after the governing body of the city of Renville and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3; and

(2) the first day of the month next following certification to the governing body of the city of Renville by the executive director of the Public Employees Retirement Association that the actuarial accrued liability of the special benefit coverage proposed for extension to the privatized RenVilla Nursing Home employees under section 1 does not exceed the actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained by the Legislative Commission on Pensions and Retirement.

(c) The cost of the actuarial calculations must be borne by the city of Renville or the purchaser of the RenVilla Nursing Home.

(d) If the required actions under paragraphs (b) and (c) occur, section 1 applies retroactively to the RenVilla Nursing Home as of the date of privatization.

(e) If the required actions under paragraph (a) occur, section 1 applies retroactively to Fair Oaks Lodge, Wadena, as of January 1, 2004.

(f) Sections 3 and 4 are effective on the day following final enactment.

ARTICLE 13

MINNEAPOLIS FIREFIGHTERS RELIEF ASSOCIATION

Section 1. Minnesota Statutes 2003 Supplement, section 423C.03, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION OF OFFICERS AND BOARD MEMBERS.] (a) Notwithstanding any other law to the contrary, the association may provide for payment of the following salaries to its officers and board members: as specified in this subdivision.

~~(1) (b) If the executive secretary is not an active member, the executive secretary may receive a salary to be set by the board, subject to the limitations stated in paragraph (d). If the executive secretary is an active member, the executive secretary may receive a salary not exceeding 50 percent of the maximum salary of a first grade firefighter;~~

~~(2) (c) The president may receive a salary not exceeding ten percent of the maximum salary of a first grade firefighter; and~~

~~(3) all other elected members of the board, other than the executive secretary, may receive a salary not exceeding 2.5 percent of the maximum salary of a first grade firefighter.~~

~~(d) If the executive secretary is not an active member, the executive secretary's salary may not exceed the highest salary currently received by the executive director of the Minnesota State Retirement System, the Public Employees Retirement Association, or the Teachers Retirement Association.~~

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on the day on which the Minneapolis City Council and the chief clerical officer of the city of Minneapolis complete in a timely manner the requirements of Minnesota Statutes, section 645.021, subdivisions 2 and 3.

ARTICLE 14

VOLUNTEER FIREFIGHTER RELIEF ASSOCIATION CHANGES

Section 1. Minnesota Statutes 2002, section 424A.02, subdivision 2, is amended to read:

Subd. 2. [NONFORFEITABLE PORTION OF SERVICE PENSION.] If the articles of incorporation or bylaws of a relief association so provide, a relief association may pay a reduced service pension to a retiring member who has completed fewer than 20 years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of subdivision 1.

The amount of the reduced service pension may not exceed the amount calculated by multiplying the service pension appropriate for the completed years of service as specified in the bylaws times the applicable nonforfeitable percentage of pension.

For a volunteer firefighter relief association that pays a lump sum service pension, a monthly benefit service pension, or a lump sum service pension or a monthly benefit service pension as alternative benefit forms, the nonforfeitable percentage of pension amounts are as follows:

Completed Years of Service	Nonforfeitable Percentage of Pension Amount
5	40 percent
6	44 percent
7	48 percent
8	52 percent

9	56 percent
10	60 percent
11	64 percent
12	68 percent
13	72 percent
14	76 percent
15	80 percent
16	84 percent
17	88 percent
18	92 percent
19	96 percent
20 and thereafter	100 percent

For a volunteer firefighter relief association that pays a defined benefit service pension, the nonforfeitable percentage of pension amounts are as follows:

<u>Completed Years of Service</u>	<u>Nonforfeitable Percentage of Pension Amount</u>
<u>5</u>	<u>40 percent</u>
<u>6</u>	<u>52 percent</u>
<u>7</u>	<u>64 percent</u>
<u>8</u>	<u>76 percent</u>
<u>9</u>	<u>88 percent</u>
<u>10 and thereafter</u>	<u>100 percent</u>

Sec. 2. Minnesota Statutes 2002, section 424A.02, subdivision 7, is amended to read:

Subd. 7. [DEFERRED SERVICE PENSIONS.] (a) A member of a relief association to which this section applies is entitled to a deferred service pension if the member:

(1) has completed the lesser of the minimum period of active service with the fire department specified in the bylaws or 20 years of active service with the fire department;

(2) has completed at least five years of active membership in the relief association; and

(3) separates from active service and membership before reaching age 50 or the minimum age for retirement and commencement of a service pension specified in the bylaws governing the relief association if that age is greater than age 50.

(b) The deferred service pension starts when the former member reaches age 50 or the minimum age specified in the bylaws governing the relief association if that age is greater than age 50 and when the former member makes a valid written application.

(c) A relief association that provides a lump sum service pension may, when its governing bylaws so provide, pay interest on the deferred lump sum service pension during the period of deferral. If provided for in the bylaws, interest must be paid in one of the following manners:

(1) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested by the relief association in a separate account established and maintained by the relief association or if the deferred benefit amount is invested in a separate investment vehicle held by the relief association ~~or, if not;~~

(2) at the interest rate of five percent, compounded annually; or

(3) at a rate equal to the actual time weighted total rate of return investment performance of the special fund as reported by the office of the state auditor under section 356.219, up to five percent, compounded annually, and applied consistently for all deferred service pensioners.

(d) A relief association may not use the method provided for in paragraph (c), clause (3), until it has modified its bylaws to be consistent with that clause.

(e) For a deferred service pension that is transferred to a separate account established and maintained by the relief association or separate investment vehicle held by the relief association, the deferred member bears the full investment risk subsequent to transfer and in calculating the accrued liability of the volunteer firefighters relief association that pays a lump sum service pension, the accrued liability for deferred service pensions is equal to the separate relief association account balance or the fair market value of the separate investment vehicle held by the relief association.

(f) The deferred service pension is governed by and must be calculated under the general statute, special law, relief association articles of incorporation, and relief association bylaw provisions applicable on the date on which the member separated from active service with the fire department and active membership in the relief association.

Sec. 3. [MARINE ON ST. CROIX VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION; EARLY VESTING.]

(a) Notwithstanding Minnesota Statutes, section 424A.02, subdivision 2, to the contrary, the Marine on St. Croix Volunteer Firefighters Relief Association may utilize an early vesting schedule as provided in paragraphs (b) and (c).

(b) If the articles of incorporation or bylaws of the Marine on St. Croix Volunteer Firefighters Relief Association so provide, the relief association may pay a reduced service pension to a retiring member who has completed fewer than ten years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of Minnesota Statutes, section 424A.02, subdivision 1.

(c) The amount of the reduced service pension may not exceed the amount calculated by multiplying the service pension appropriate for the completed years of service as specified in the articles of incorporation or bylaws by the applicable nonforfeitable percentage of the service pension amount. The nonforfeitable percentage of service pension amounts are as follows:

<u>Completed years of service</u>	<u>Nonforfeitable percentage of service pension amount</u>
5	40 percent
6	52 percent
7	64 percent
8	76 percent
9	88 percent
<u>10 and thereafter</u>	<u>100 percent</u>

Sec. 4. [BELLINGHAM FIREFIGHTER RELIEF ASSOCIATION; RATIFICATION OF PRIOR ANNUITY INVESTMENTS.]

Notwithstanding Minnesota Statutes, section 356A.06, subdivision 7, any annuity purchases by the Bellingham Firefighters Relief Association prior to the effective date of this section are ratified as permissible investments.

Sec. 5. [STUDY OF STATEWIDE LUMP SUM VOLUNTEER FIREFIGHTER RETIREMENT PLAN; CREATION OF TASK FORCE.]

Subdivision 1. [TASK FORCE MEMBERSHIP.] (a) A statewide Volunteer Firefighter Retirement Plan Study Task Force is created.

(b) The task force members are:

(1) four members appointed by the president of the Minnesota Area Relief Association coalition;

(2) four members appointed by the president of the Minnesota State Fire Department Association;

- (3) four members appointed by the president of the Minnesota State Fire Chiefs Association;
- (4) four members appointed by the board of directors of the League of Minnesota Cities;
- (5) two members appointed by the board of directors of the Insurance Federation of Minnesota;
- (6) two members appointed by the board of directors of the Minnesota Association of Farm Mutual Insurance Companies;
- (7) the Minnesota state auditor or the auditor's designee; and
- (8) two members appointed by the Minnesota Association of Townships.

(c) Appointments must be made on or before July 1, 2004. If the appointment is not made in a timely manner, or if there is a vacancy, the state auditor shall appoint the task force member or the replacement member.

(d) The chair of the task force must be selected by the task force.

(e) Administrative services for the task force must be provided by the Department of Public Safety.

Subd. 2. [TASK FORCE DUTIES.] The task force shall conduct fact finding regarding the creation of a statewide volunteer firefighter retirement plan.

The task force shall recommend the investment vehicle or vehicles to be utilized by the plan, the administration and corporate governance structure of the plan, the incentives needed to formulate the plan, the limitations applicable to the plan, and the state resources needed to be dedicated to the plan.

Subd. 3. [REPORT.] The task force shall prepare a report detailing its findings about a potential statewide volunteer firefighter retirement plan. The report is due January 15, 2005, and must be filed with the Legislative Reference Library; the chair of the Legislative Commission on Pensions and Retirement; the chair of the State and Local Government Operations Committee of the senate; the chair of the State Government Budget Division of the Senate Finance Committee; the chair of the Governmental Operations and Veterans Affairs Policy Committee of the house of representatives; and the chair of the State Government Finance Committee of the house of representatives.

Sec. 6. [APPROPRIATION.]

\$40,000 is appropriated from the general fund in fiscal year 2005 to the commissioner of public safety to hire a consultant to assist the statewide Volunteer Firefighter Retirement Plan Study Task Force.

Sec. 7. [EFFECTIVE DATE.]

(a) Sections 1, 2, 5, and 6 are effective on July 1, 2004.

(b) Section 3 is effective on the day after the date on which the city council of the city of Marine on St. Croix and the chief clerical officer of the city of Marine on St. Croix comply with Minnesota Statutes, section 645.02, subdivisions 2 and 3.

(c) Section 4 is effective on the day following final enactment.

(d) The deferred service pension interest crediting procedure of Minnesota Statutes, section 424A.02, subdivision 7, paragraph (c), clause (3), expires on December 31, 2008.

ARTICLE 15

PERA POLICE AND FIRE PLAN

MEMBERSHIP INCLUSIONS

Section 1. Minnesota Statutes 2003 Supplement, section 353.01, subdivision 6, is amended to read:

Subd. 6. [GOVERNMENTAL SUBDIVISION.] (a) "Governmental subdivision" means a county, city, town, school district within this state, or a department or unit of state government, or any public body whose revenues are derived from taxation, fees, assessments or from other sources.

(b) Governmental subdivision also means the Public Employees Retirement Association, the League of Minnesota Cities, the Association of Metropolitan Municipalities, public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions, the Association of Minnesota Counties, the Metropolitan Intercounty Association, the Minnesota Municipal Utilities Association, the Metropolitan Airports Commission, the Minneapolis Employees Retirement Fund for employment initially commenced after June 30, 1979, the Range Association of Municipalities and Schools, soil and water conservation districts, economic development authorities created or operating under sections 469.090 to 469.108, the Port Authority of the city of St. Paul, the Spring Lake Park Fire Department, incorporated, the Lake Johanna Volunteer Fire Department, incorporated, the Red Wing Environmental Learning Center, and the Dakota County Agricultural Society.

(c) Governmental subdivision does not mean any municipal housing and redevelopment authority organized under the provisions of sections 469.001 to 469.047; or any port authority organized under sections 469.048 to 469.089 other than the Port Authority of the city of St. Paul; or any hospital district organized or reorganized prior to July 1, 1975, under sections 447.31 to 447.37 or the successor of the district, nor the Minneapolis Community Development Agency.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on the day following final enactment.

ARTICLE 16

ONE PERSON AND SMALL GROUP

PENSION CHANGES

Section 1. [PERA-GENERAL; PURCHASE OF PRIOR SERVICE CREDIT.]

(a) An eligible person described in paragraph (b) is entitled to purchase up to 33 months of allowable service credit from the general employees retirement plan of the Public Employees Retirement Association. The service credit purchase under this section must be made in accordance with Minnesota Statutes, section 356.55 or 356.551, whichever applies.

(b) An eligible person is a person who:

(1) is currently a member of the Teachers Retirement Association;

(2) was employed by Independent School District No. 621, Mounds View, from May 1968 to December 1971, but was not covered by the general employees retirement plan of the Public Employees Retirement Association;

(3) was employed by Independent School District No. 31, Bemidji, but was not covered by the general employees retirement plan of the Public Employees Retirement Association;

(4) was employed as a special education teacher by Independent School District No. 12, Centennial, for the 1974-1975 school year and for the 1977-1978, 1978-1979, and 1979-1980 school years;

(5) was employed as a special education teacher by Independent School District No. 16, Spring Lake Park, for the 1975-1976 school year;

(6) was employed as a special education teacher by Independent School District No. 138, North Branch, for the 1980-1981, 1981-1982, 1982-1983, 1983-1984, 1984-1985, and 1985-1986 school years; and

(7) has been employed by Independent School District No. 11, Anoka-Hennepin, since the 1986-1987 school year.

(c) An eligible person described in paragraph (b) must apply with the executive director of the Public Employees Retirement Association to make the service credit purchase under this section. The application must be in writing and must include all necessary documentation of the applicability of this section, documentation of the eligible person's eligibility for retirement coverage by the general employees retirement plan of the Public Employees Retirement Association if the employment had been properly reported to the association at the time the employment was rendered, and any other relevant information that the executive director may require.

Sec. 2. [PERA-GENERAL EMPLOYEES RETIREMENT PLAN COVERAGE TERMINATION AUTHORIZATION.]

Subdivision 1. [ELIGIBILITY.] (a) An eligible person specified in paragraph (b) is authorized to apply for a retirement annuity from the public employees police and fire retirement plan, provided that the necessary age and service requirements are met, under Minnesota Statutes, section 353.651, as further specified under subdivision 2.

(b) An eligible person is a person who:

(1) was born on October 10, 1956;

(2) was employed as a police officer by the city of Red Wing;

(3) was elected to the Goodhue County Board of Commissioners in November 1998; and

(4) elected under the law then applicable to have retirement coverage by the general employees retirement plan of the Public Employees Retirement Association for the county board service.

Subd. 2. [RETIREMENT ANNUITY.] (a) Notwithstanding an irrevocable election to participate in the general employees retirement plan of the Public Employees Retirement Association as an elected official and the person's continuation of elected service, an eligible person under subdivision 1, paragraph (b), is deemed to have terminated retirement plan membership under Minnesota Statutes, section 353.01, subdivision 11b, on the first day of the first pay period next following the date of enactment.

(b) Upon the change in retirement coverage status under paragraph (a), the eligible person may apply for a retirement annuity under Minnesota Statutes, section 353.651. In computing that annuity, the Public Employees Retirement Association must exclude the salary that was attributable to the Goodhue County board service. The deferred annuity augmentation under Minnesota Statutes, section 353.71, applies to the annuity under this subdivision.

Subd. 3. [TREATMENT OF GOODHUE COUNTY BOARD CONTRIBUTIONS TO PERA.] (a) All member contributions by the eligible person to the coordinated program of the general employee retirement plan of the Public Employees Retirement Association attributable to the Goodhue County board elected service, and all corresponding employer contributions, must be determined.

(b) An eligible person described in subdivision 1, paragraph (b), must elect, within 90 days of the change in retirement coverage status under paragraph (a), between receiving a refund under Minnesota Statutes, section 353.34, subdivision 2, of the member contributions determined under paragraph (a) or having coverage by the public employees defined contribution plan under Minnesota Statutes, chapter 353D, as further specified in paragraph (c).

(c) If coverage by the public employees defined contribution plan is elected under paragraph (b), contributions to that plan commence as of the first day of the first pay period following the election, and the accumulated member and employer contributions determined under paragraph (a) must be transferred with annual compound interest at the rate of six percent to an account established for the eligible person in its public employees defined contribution plan.

(d) If no election is made by an eligible person by the required date in paragraph (b), the individual is assumed to have elected the refund indicated in paragraph (b).

(e) Upon an election under paragraph (b), or upon a mandatory refund under paragraph (d), all rights in the Public Employees Retirement Association coordinated plan due to elected Goodhue County board service are forfeited and may not be reestablished.

Sec. 3. [PUBLIC EMPLOYEES RETIREMENT ASSOCIATION COVERAGE TERMINATION; MINNEAPOLIS PARK BOARD MEMBER.]

Subdivision 1. [ELIGIBILITY.] (a) An eligible individual specified in paragraph (b) is authorized to apply for a retirement annuity, provided necessary age and service requirements are met, under Minnesota Statutes, section 353.29 or 353.30, as applicable, as further specified under subdivision 2.

(b) An eligible individual is an individual who:

(1) was born on April 3, 1946;

(2) was employed as a Hennepin County employee and became a member of the Public Employees Retirement Association general plan due to that service in July 1976;

(3) was elected to the Minneapolis park board and took office in January 1992; and

(4) elected under law then applicable to have Public Employees Retirement Association general plan coverage for the Minneapolis park board elected or appointed service.

Subd. 2. [RETIREMENT ANNUITY.] (a) Notwithstanding an irrevocable election to participate in the Public Employees Retirement Association general plan as an elected official and continuation of elected service, an eligible individual under subdivision 1, paragraph (b), is deemed to have terminated membership under Minnesota Statutes, section 353.01, subdivision 11b, following the termination of all Public Employees Retirement Association general covered employment.

(b) If the requirements of paragraph (a) are satisfied, the eligible individual may apply for a retirement annuity under Minnesota Statutes, section 353.29 or 353.30, as applicable. If there is a delay between the termination date and the commencement of the annuity, deferred annuity augmentation under Minnesota Statutes, section 353.71, applies.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective on the day following final enactment.

ARTICLE 17

PRIOR SERVICE CREDIT PURCHASES

Section 1. Minnesota Statutes 2002, section 352.275, subdivision 1, is amended to read:

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A state employee who has at least three years of allowable service with the Minnesota State Retirement System and who performed service in the United States armed forces before becoming a state employee, or who failed to obtain service credit for a military leave of absence under section 352.27, is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.55 if the employee is not entitled to receive a current or deferred retirement annuity from a United States armed forces pension plan and has not purchased service credit from any other defined benefit public employee pension plan for the same period of service.

Sec. 2. Minnesota Statutes 2002, section 352B.01, subdivision 3a, is amended to read:

Subd. 3a. [UNCREDITED MILITARY SERVICE CREDIT PURCHASE.] (a) A member who has at least three years of allowable service with the State Patrol retirement plan under subdivision

3 and who performed service in the United States armed forces before becoming a member is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.55, ~~if the employee is not entitled to receive a current or deferred retirement annuity from a United States armed forces pension plan and has not purchased service credit from any other defined benefit public employee pension plan for the same period of service.~~

(b) A member who desires to purchase service credit under paragraph (a) must apply with the executive director to make the purchase. The application must include all necessary documentation of the member's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

(c) Allowable service credit for the purchase period must be granted by the State Patrol retirement plan to the purchasing employee upon receipt of the purchase payment amount. Payment must be made before the effective date of retirement of the member.

Sec. 3. Minnesota Statutes 2002, section 353.01, subdivision 16a, is amended to read:

Subd. 16a. [UNCREDITED MILITARY SERVICE CREDIT PURCHASE.] (a) A public employee who has at least three years of allowable service with the Public Employees Retirement Association or the public employees police and fire plan and who performed service in the United States armed forces before becoming a public employee, or who failed to obtain service credit for a military leave of absence under subdivision 16, paragraph (h), is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.55 ~~if the public employee is not entitled to receive a current or deferred retirement annuity from a United States armed forces pension plan and has not purchased service credit from any other defined benefit public employee pension plan for the same period of service.~~

(b) A public employee who desires to purchase service credit under paragraph (a) must apply with the executive director to make the purchase. The application must include all necessary documentation of the public employee's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

(c) Allowable service credit for the purchase period must be granted by the public employees association or the public employees police and fire plan, whichever applies, to the purchasing public employee upon receipt of the purchase payment amount. Payment must be made before the effective date of retirement of the public employee.

Sec. 4. Minnesota Statutes 2002, section 354.533, subdivision 1, is amended to read:

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A teacher who has at least three years of allowable service credit with the Teachers Retirement Association and who performed service in the United States armed forces before becoming a teacher as defined in section 354.05, subdivision 2, or who failed to obtain service credit for a military leave of absence under the provisions of section 354.53, is entitled to purchase allowable and formula service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.55 ~~provided the teacher is not entitled to receive a current or deferred retirement annuity from a United States armed forces pension plan and has not purchased service credit from any other defined benefit public employee pension plan for the same period of service.~~

Sec. 5. Minnesota Statutes 2002, section 354A.097, subdivision 1, is amended to read:

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A teacher who has at least three years of allowable service credit with the teachers retirement fund association and who

performed service in the United States armed forces before becoming a teacher as defined in section 354A.011, subdivision 27, or who failed to obtain service credit for a military leave of absence period under section 354A.093, is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.55, ~~provided the teacher is not entitled to receive a current or deferred retirement annuity from a United States armed forces pension plan and has not purchased service credit from another defined benefit public employee pension plan for the same period of service.~~

Sec. 6. Laws 1999, chapter 222, article 16, section 16, as amended by Laws 2002, chapter 392, article 7, section 1, and Laws 2003, First Special Session chapter 12, article 6, section 2, is amended to read:

Sec. 16. [REPEALER.]

(a) Sections ~~4~~ 2 to 6 and 8 to 13 are repealed on May 16, 2004.

(b) Sections 1 and 7 are repealed on May 16, 2006.

Sec. 7. Laws 2000, chapter 461, article 4, section 4, as amended by Laws 2003, First Special Session chapter 12, article 6, section 4, is amended to read:

Sec. 4. [EFFECTIVE DATE; SUNSET REPEALER.]

(a) Sections 1, 2, and 3 are effective on the day following final enactment.

(b) Sections 1, 2, and 3 are repealed on May 16, ~~2004~~ 2006.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective on the day following final enactment.

ARTICLE 18

PROVISION OF ACTUARIAL SERVICES

Section 1. Minnesota Statutes 2002, section 352.03, subdivision 6, is amended to read:

Subd. 6. [DUTIES AND POWERS OF EXECUTIVE DIRECTOR.] The management of the system is vested in the director, who is the executive and administrative head of the system. The director shall be advisor to the board on matters pertaining to the system and shall also act as the secretary of the board. The director shall:

- (1) attend meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate an assistant director with the approval of the board;
- (5) appoint any employees, both permanent and temporary, that are necessary to carry out the provisions of this chapter;
- (6) organize the work of the system as the director deems necessary to fulfill the functions of the system, and define the duties of its employees and delegate to them any powers or duties, subject to the control of the director and under conditions the director may prescribe. Appointments to exercise delegated power must be by written order and shall be filed with the secretary of state;
- (7) with the advice and consent of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary and fix the

compensation for those services. The contracts are not subject to competitive bidding under chapter 16C. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director, and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement under section 6. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement. Professional management services may not be contracted for more often than once in six years. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the Legislative Reference Library as provided by section 3.195, and to the executive director of the commission at the time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems are qualified to contract with the director;

(8) with the advice and consent of the board provide in-service training for the employees of the system;

(9) make refunds of accumulated contributions to former state employees and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased state employees or deceased former state employees, as provided in this chapter;

(10) determine the amount of the annuities and disability benefits of employees covered by the system and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;

(11) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the system;

(12) certify funds available for investment to the State Board of Investment;

(13) with the advice and approval of the board request the State Board of Investment to sell securities when the director determines that funds are needed for the system;

(14) prepare and submit to the board and the legislature an annual financial report covering the operation of the system, as required by section 356.20;

(15) prepare and submit biennial and annual budgets to the board and with the approval of the board submit the budgets to the Department of Finance; and

(16) with the approval of the board, perform other duties required to administer the retirement and other provisions of this chapter and to do its business.

Sec. 2. Minnesota Statutes 2002, section 352B.02, subdivision 1e, is amended to read:

Subd. 1e. [AUDIT; ACTUARIAL VALUATION.] The legislative auditor shall audit the fund. Any actuarial valuation of the fund required under section 356.215 shall must be prepared by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ under section 6. Any approved actuary retained by the executive director under section 352.03, subdivision 6, may perform actuarial valuations and experience studies to supplement those performed by the commission-retained actuary. Any supplemental actuarial valuation or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement.

Sec. 3. Minnesota Statutes 2002, section 353.03, subdivision 3a, is amended to read:

Subd. 3a. [EXECUTIVE DIRECTOR.] (a) [APPOINTMENT.] The board shall appoint, with the advice and consent of the senate, an executive director on the basis of education, experience in the retirement field, and leadership ability. The executive director shall have had at least five years' experience in an executive level management position, which has included responsibility for pensions, deferred compensation, or employee benefits. The executive director serves at the pleasure of the board. The salary of the executive director is as provided by section 15A.0815.

(b) [DUTIES.] The management of the association is vested in the executive director who shall be the executive and administrative head of the association. The executive director shall act as adviser to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive director shall:

- (1) attend all meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out the provisions of this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate, with the approval of the board, up to two persons who shall serve in the unclassified service and whose salary is set in accordance with section 43A.18, subdivision 3, appoint a confidential secretary in the unclassified service, and appoint employees to carry out this chapter, who are subject to chapters 43A and 179A in the same manner as are executive branch employees;
- (5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the control of, and under such conditions as, the executive director may prescribe;
- (6) with the approval of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary to fulfill the purposes of this chapter. All contracts are subject to chapter 16C. The commissioner of administration shall not approve, and the association shall not enter into, any contract to provide lobbying services or legislative advocacy of any kind. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ under section 6. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement. Copies of professional management survey reports shall be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the Legislative Reference Library as provided by section 3.195, and to the executive director of the commission at the same time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems shall be qualified to contract with the director hereunder;
- (7) with the approval of the board provide in-service training for the employees of the association;
- (8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative or next of kin of deceased members or deceased former members, as provided in this chapter;
- (9) determine the amount of the annuities and disability benefits of members covered by the association and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;
- (10) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the association;
- (11) prepare and submit to the board and the legislature an annual financial report covering the operation of the association, as required by section 356.20;
- (12) prepare and submit biennial and annual budgets to the board for its approval and submit the approved budgets to the department of finance for approval by the commissioner;
- (13) reduce all or part of the accrued interest payable under section 353.27, subdivisions 12,

12a, and 12b, or 353.28, subdivision 5, upon receipt of proof by the association of an unreasonable processing delay or other extenuating circumstances of the employing unit. The executive director shall prescribe and submit for approval by the board the conditions under which such interest may be reduced; and

(14) with the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business.

Sec. 4. Minnesota Statutes 2002, section 354.06, subdivision 2a, is amended to read:

Subd. 2a. [DUTIES OF EXECUTIVE DIRECTOR.] The management of the association is vested in the executive director who shall be the executive and administrative head of the association. The executive director shall act as advisor to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive director shall:

- (1) attend all meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out the provisions of this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate an assistant executive director in the unclassified service and two assistant executive directors in the classified service with the approval of the board, and appoint such employees, both permanent and temporary, as are necessary to carry out the provisions of this chapter;
- (5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the director's control and under such conditions as the director may prescribe;
- (6) with the approval of the board, contract and set the compensation for the services of an approved actuary, professional management services, and any other consulting services. These contracts are not subject to the competitive bidding procedure prescribed by chapter 16C. An approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained ~~by the legislative commission on pensions and retirement~~ under section 6. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the Legislative Reference Library as provided by section 3.195, and to the executive director of the commission at the same time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems are qualified to contract with the executive director;
- (7) with the approval of the board, provide in-service training for the employees of the association;
- (8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased members or deceased former members, under this chapter;
- (9) determine the amount of the annuities and disability benefits of members covered by the association and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, under this chapter;
- (10) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the association;

(11) prepare and submit to the board and the legislature an annual financial report covering the operation of the association, as required by section 356.20;

(12) certify funds available for investment to the State Board of Investment;

(13) with the advice and approval of the board, request the State Board of Investment to sell securities on determining that funds are needed for the purposes of the association;

(14) prepare and submit biennial and annual budgets to the board and with the approval of the board submit those budgets to the department of finance; and

(15) with the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business. The executive director may:

(i) reduce all or part of the accrued interest and fines payable by an employing unit for reporting requirements under section 354.52, based on an evaluation of any extenuating circumstances of the employing unit;

(ii) assign association employees to conduct field audits of an employing unit to ensure compliance with the provisions of this chapter; and

(iii) recover overpayments, if not repaid to the association, by suspending or reducing the payment of a retirement annuity, refund, disability benefit, survivor benefit, or optional annuity under this chapter until the overpayment, plus interest, has been recovered.

Sec. 5. Minnesota Statutes 2002, section 354A.021, subdivision 7, is amended to read:

Subd. 7. [ACTUARIAL CONSULTANT.] The board of trustees or directors of each teachers retirement fund association may contract for the services of an approved actuary and fix the reasonable compensation for those services. Any approved actuary retained by the board shall function as the actuarial advisor to the board and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the Legislative Commission on Pensions and Retirement under section 6. Any supplemental actuarial valuations or experience studies shall must be filed with the executive director of the Legislative Commission on Pensions and Retirement.

Sec. 6. [356.214] [ACTUARIAL VALUATION PREPARATION; JOINT RETENTION OF CONSULTING ACTUARY.]

Subdivision 1. [JOINT RETENTION.] (a) The chief administrative officers of the Minnesota State Retirement System, the Public Employees Retirement Association, the Teachers Retirement Association, the Duluth Teachers Retirement Fund Association, the Minneapolis Teachers Retirement Fund Association, the Minneapolis Employees Retirement Fund, and the St. Paul Teachers Retirement Fund Association, jointly, on behalf of the state, its employees, its taxpayers, and its various public pension plans, shall contract with an established actuarial consulting firm to conduct annual actuarial valuations and related services for the retirement plans named in paragraph (b). The principal from the actuarial consulting firm on the contract must be an approved actuary under section 356.215, subdivision 1, paragraph (c). Prior to becoming effective, the contract under this section is subject to a review and approval by the Legislative Commission on Pensions and Retirement.

(b) The contract for actuarial services must include the preparation of actuarial valuations and related actuarial work for the following retirement plans:

(1) the teachers retirement plan, Teachers Retirement Association;

(2) the general state employees retirement plan, Minnesota State Retirement System;

(3) the correctional employees retirement plan, Minnesota State Retirement System;

(4) the State Patrol retirement plan, Minnesota State Retirement System;

- (5) the judges retirement plan, Minnesota State Retirement System;
- (6) the Minneapolis employees retirement plan, Minneapolis Employees Retirement Fund;
- (7) the public employees retirement plan, Public Employees Retirement Association;
- (8) the public employees police and fire plan, Public Employees Retirement Association;
- (9) the Duluth teachers retirement plan, Duluth Teachers Retirement Fund Association;
- (10) the Minneapolis teachers retirement plan, Minneapolis Teachers Retirement Fund Association;
- (11) the St. Paul teachers retirement plan, St. Paul Teachers Retirement Fund Association;
- (12) the legislators retirement plan, Minnesota State Retirement System;
- (13) the elective state officers retirement plan, Minnesota State Retirement System; and
- (14) local government correctional service retirement plan, Public Employees Retirement Association.

(c) The contract must require completion of the annual actuarial valuation calculations on a fiscal year basis, with the contents of the actuarial valuation calculations as specified in section 356.215, and in conformity with the standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement.

The contract must require completion of annual experience data collection and processing and a quadrennial published experience study for the plans listed in paragraph (b), clauses (1), (2), and (7), as provided for in the standards for actuarial work adopted by the commission. The experience data collection, processing, and analysis must evaluate the following:

- (1) individual salary progression;
- (2) the rate of return on investments based on the current asset value;
- (3) payroll growth;
- (4) mortality;
- (5) retirement age;
- (6) withdrawal; and
- (7) disablement.

The contract must include provisions for the preparation of cost analyses by the jointly retained actuary for proposed legislation that include changes in benefit provisions or funding policies prior to their consideration by the Legislative Commission on Pensions and Retirement.

(d) The actuary retained by the joint retirement systems shall annually prepare a report to the legislature, including a commentary on the actuarial valuation calculations for the plans named in paragraph (b) and summarizing the results of the actuarial valuation calculations. The actuary shall include with the report the actuary's recommendations to the legislature concerning the appropriateness of the support rates to achieve proper funding of the retirement plans by the required funding dates. The actuary shall, as part of the quadrennial experience study, include recommendations to the legislature on the appropriateness of the actuarial valuation assumptions required for evaluation in the study.

(e) If the actuarial gain and loss analysis in the actuarial valuation calculations indicates a persistent pattern of sizable gains or losses, as directed by the joint retirement systems or as requested by the chair of the Legislative Commission on Pensions and Retirement, the actuary shall prepare a special experience study for a plan listed in paragraph (b), clause (3), (4), (5), (6),

(8), (9), (10), (11), (12), (13), or (14), in the manner provided for in the standards for actuarial work adopted by the commission.

(f) The term of the contract between the joint retirement systems and the actuary retained may not exceed five years. The joint retirement system administrative officers shall establish procedures for the consideration and selection of contract bidders and the requirements for the contents of an actuarial services contract under this section. The procedures and requirements must be submitted to the Legislative Commission on Pensions and Retirement for review and comment prior to final approval by the joint administrators. The contract is subject to the procurement procedures under chapter 16C. The consideration of bids and the selection of a consulting actuarial firm by the chief administrative officers must occur at a meeting that is open to the public and reasonable timely public notice of the date and the time of the meeting and its subject matter must be given.

(g) The actuarial services contract may not limit the ability of the Minnesota legislature and its standing committees and commissions to rely on the actuarial results of the work prepared under the contract.

(h) The joint retirement systems shall designate one of the retirement system executive directors as the actuarial services contract manager.

Subd. 2. [ALLOCATION OF ACTUARIAL COSTS.] (a) The actuarial services contract manager shall assess each retirement plan specified in subdivision 1, paragraph (b), its appropriate portion of the total compensation paid to the actuary retained by the joint retirement systems for the actuarial valuation calculations and quadrennial experience studies. The total assessment is 100 percent of the amount of contract compensation for the actuarial consulting firm for actuarial valuation calculations, including any public employees police and fire plan consolidation accounts of the Public Employees Retirement Association established after March 1, 1999, annual experience data collection and processing, and quadrennial experience studies.

The portion of the total assessment payable by each retirement system or pension plan must be determined based on each plan's proportion of the actuarial services required, as determined by the retained actuary, to complete the actuarial valuation calculations, annual experience data collection and processing, and quadrennial experience studies for all plans.

The assessment must be made within 30 days following the end of the fiscal year and must be reported to the chief administrative officers of the applicable retirement plans. The amount of the assessment is appropriated from the retirement fund applicable to the retirement plan.

(b) The actuarial services contract manager shall assess each retirement plan or each interest group which requested the preparation of a cost analysis for proposed legislation the cost of the actuary retained by the joint retirement systems incurred in the cost analysis preparation. With respect to interest groups, the actuarial services contract manager shall obtain a written commitment for the payment of the assessment in advance of the cost analysis preparation and may require an advance deposit or advance payment before authorizing the cost analysis preparation. The retirement plan or the interest group shall pay the assessment within 30 days of the date on which the assessment is billed. The amount of the assessment is appropriated from the retirement fund applicable to the retirement plan for cost analyses requested by a retirement plan or system.

(c) The actuarial services contract manager shall assess to the Legislative Commission on Pensions and Retirement the cost of the actuarial cost analysis preparation for the proposed legislation requested by the chair of the Legislative Commission on Pensions and Retirement or by the commission executive director. The commission shall pay the assessment within 30 days of the date on which the assessment is billed.

Subd. 3. [REPORTING TO THE COMMISSION.] A copy of the actuarial valuations, experience studies, and actuarial cost analyses prepared by the actuary retained by the joint retirement systems under the contract provided for in this section must be filed with the executive director of the Legislative Commission on Pensions and Retirement at the same time that the

document is transmitted to the actuarial services contract manager or to any other document recipient.

Sec. 7. Minnesota Statutes 2002, section 356.215, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENTS.] (a) It is the policy of the legislature that it is necessary and appropriate to determine annually the financial status of tax supported retirement and pension plans for public employees. To achieve this goal:

(1) ~~the Legislative Commission on Pensions and Retirement shall have prepared by the actuary retained by the commission under section 6 shall prepare~~ annual actuarial valuations of the retirement plans enumerated in section ~~3.85 6~~, subdivision ~~11 1~~, paragraph (b), and quadrennial experience studies of the retirement plans enumerated in section ~~3.85 6~~, subdivision ~~11 1~~, paragraph (b), clauses (1), (2), and (7); and

(2) the commissioner of finance may have prepared by the actuary retained by the commission, two years after each set of quadrennial experience studies, quadrennial projection valuations of at least one of the retirement plans enumerated in section ~~3.85 6~~, subdivision ~~11 1~~, paragraph (b), for which the commissioner determines that the analysis may be beneficial.

(b) The governing or managing board or administrative officials of each public pension and retirement fund or plan enumerated in section 356.20, subdivision 2, clauses (9), (10), and (12), shall have prepared by an approved actuary annual actuarial valuations of their respective funds as provided in this section. This requirement also applies to any fund or plan that is the successor to any organization enumerated in section 356.20, subdivision 2, or to the governing or managing board or administrative officials of any newly formed retirement fund, plan, or association operating under the control or supervision of any public employee group, governmental unit, or institution receiving a portion of its support through legislative appropriations, and any local police or fire fund to which section 356.216 applies.

Sec. 8. Minnesota Statutes 2002, section 356.215, subdivision 18, is amended to read:

Subd. 18. [ESTABLISHMENT OF ACTUARIAL ASSUMPTIONS.] (a) The actuarial assumptions used for the preparation of actuarial valuations under this section that are other than those set forth in this section may be changed only with the approval of the Legislative Commission on Pensions and Retirement.

(b) A change in the applicable actuarial assumptions may be proposed by the governing board of the applicable pension fund or relief association, by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ joint retirement systems under section 6, by the actuarial advisor to a pension fund governed by chapter 352, 353, 354, or 354A, or by the actuary retained by a local police or firefighters relief association governed by sections 69.77 or 69.771 to 69.776, if one is retained.

Sec. 9. Minnesota Statutes 2002, section 422A.06, subdivision 2, is amended to read:

Subd. 2. [ACTUARIAL VALUATION REQUIRED.] As of July 1 of each year, an actuarial valuation of the retirement fund shall be prepared by the ~~commission-retained~~ actuary retained by the joint retirement systems under section 6 and filed in conformance with the provisions and requirements of sections 356.215 to 356.23. Experience studies shall be prepared at those times required by statute, required by the standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement or ordered by the board.

The board may contract for the services of an approved actuary and fix the reasonable compensation for those services. Any approved actuary retained by the board shall function as the actuarial advisor to the board and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ joint retirement systems under section 6. Any supplemental actuarial valuations or experience studies shall must be filed with the executive director of the Legislative Commission on Pensions and Retirement.

Sec. 10. [REPEALER.]

Minnesota Statutes 2002, sections 3.85, subdivisions 11 and 12; and 356.217, are repealed.

Sec. 11. [EFFECTIVE DATE.]

Sections 1 to 10 are effective on the day following final enactment.

ARTICLE 19

MINNEAPOLIS POLICE RELIEF ASSOCIATION

Section 1. Minnesota Statutes 2002, section 69.77, subdivision 4, is amended to read:

Subd. 4. [RELIEF ASSOCIATION FINANCIAL REQUIREMENTS; MINIMUM MUNICIPAL OBLIGATION.] (a) The officers of the relief association shall determine the financial requirements of the relief association and minimum obligation of the municipality for the following calendar year in accordance with the requirements of this subdivision. The financial requirements of the relief association and the minimum obligation of the municipality must be determined on or before the submission date established by the municipality under subdivision 5.

(b) The financial requirements of the relief association for the following calendar year must be based on the most recent actuarial valuation or survey of the special fund of the association if more than one fund is maintained by the association, or of the association, if only one fund is maintained, prepared in accordance with sections 356.215, subdivisions 4 to 15, and 356.216, as required under subdivision 10. If an actuarial estimate is prepared by the actuary of the relief association as part of obtaining a modification of the benefit plan of the relief association and the modification is implemented, the actuarial estimate must be used in calculating the subsequent financial requirements of the relief association.

(c) If the relief association has an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey, the total of the amounts calculated under clauses (1), (2), and (3), constitute the financial requirements of the relief association for the following year. If the relief association does not have an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey, the amount calculated under clauses (1) and (2) constitute the financial requirements of the relief association for the following year. The financial requirement elements are:

(1) the normal level cost requirement for the following year, expressed as a dollar amount, which must be determined by applying the normal level cost of the relief association as reported in the actuarial valuation or survey and expressed as a percentage of covered payroll to the estimated covered payroll of the active membership of the relief association, including any projected change in the active membership, for the following year;

(2) for the Bloomington Fire Department Relief Association, the Fairmont Police Relief Association, and the Virginia Fire Department Relief Association, to the dollar amount of normal cost determined under clause (1) must be added an amount equal to the dollar amount of the administrative expenses of the special fund of the association if more than one fund is maintained by the association, or of the association if only one fund is maintained, for the most recent year, multiplied by the factor of 1.035. The administrative expenses are those authorized under section 69.80. No amount of administrative expenses under this clause are to be included in the financial requirements of the Minneapolis Firefighters Relief Association or the Minneapolis Police Relief Association; and

(3) to the dollar amount of normal cost and expenses determined under clauses (1) and (2) must be added an amount equal to the level annual dollar amount which is sufficient to amortize the unfunded actuarial accrued liability by December 31, 2010, for the Bloomington Fire Department Relief Association, the Fairmont Police Relief Association, the Minneapolis Firefighters Relief Association, and the Virginia Fire Department Relief Association, and by December 31, 2020, for the Minneapolis Police Relief Association, as determined from the actuarial valuation or survey of the fund, using an interest assumption set at the applicable rate specified in section 356.215,

subdivision 8. The amortization date specified in this clause applies to all local police or salaried firefighters' relief associations and that date supersedes any amortization date specified in any applicable special law.

(d) The minimum obligation of the municipality is an amount equal to the financial requirements of the relief association reduced by the estimated amount of member contributions from covered salary anticipated for the following calendar year and the estimated amounts anticipated for the following calendar year from the applicable state aid program established under sections 69.011 to 69.051 receivable by the relief association after any allocation made under section 69.031, subdivision 5, paragraph (b), clause (2), or 423A.01, subdivision 2, clause (6), from the local police and salaried firefighters' relief association amortization aid program established under section 423A.02, subdivision 1, from the supplementary amortization state-aid program established under section 423A.02, subdivision 1a, and from the additional amortization state aid under section 423A.02, subdivision 1b.

Sec. 2. Minnesota Statutes 2002, section 356.216, is amended to read:

356.216 [CONTENTS OF ACTUARIAL VALUATIONS FOR LOCAL POLICE AND FIRE FUNDS.]

(a) The provisions of section 356.215 that govern the contents of actuarial valuations must apply to any local police or fire pension fund or relief association required to make an actuarial report under this section, except as follows:

(1) in calculating normal cost and other requirements, if required to be expressed as a level percentage of covered payroll, the salaries used in computing covered payroll must be the maximum rate of salary on which retirement and survivorship credits and amounts of benefits are determined and from which any member contributions are calculated and deducted;

(2) in lieu of the amortization date specified in section 356.215, subdivision 11, the appropriate amortization target date specified in section 69.77, subdivision 4, or 69.773, subdivision 4, clause (c), must be used in calculating any required amortization contribution except that the amortization date for the Minneapolis Police Relief Association is December 31, 2020;

(3) in addition to the tabulation of active members and annuitants provided for in section 356.215, subdivision 13, the member contributions for active members for the calendar year and the prospective annual retirement annuities under the benefit plan for active members must be reported;

(4) actuarial valuations required under section 69.773, subdivision 2, must be made at least every four years and actuarial valuations required under section 69.77 shall be made annually;

(5) the actuarial balance sheet showing accrued assets valued at market value if the actuarial valuation is required to be prepared at least every four years or valued as current assets under section 356.215, subdivision 1, clause (6), or paragraph (b), whichever applies, if the actuarial valuation is required to be prepared annually, actuarial accrued liabilities, and the unfunded actuarial accrued liability must include the following required reserves:

(i) For active members

1. Retirement benefits
2. Disability benefits
3. Refund liability due to death or withdrawal
4. Survivors' benefits

(ii) For deferred annuitants' benefits

(iii) For former members without vested rights

(iv) For annuitants

1. Retirement annuities
2. Disability annuities
3. Surviving spouses' annuities
4. Surviving children's annuities

In addition to those required reserves, separate items must be shown for additional benefits, if any, which may not be appropriately included in the reserves listed above; and

(6) actuarial valuations are due by the first day of the seventh month after the end of the fiscal year which the actuarial valuation covers.

(b) For the Minneapolis Firefighters Relief Association or the Minneapolis Police Relief Association, the following provisions additionally apply:

(1) in calculating the actuarial balance sheet, unfunded actuarial accrued liability, and amortization contribution of the relief association, "current assets" means the value of all assets at cost, including realized capital gains and losses, plus or minus, whichever applies, the average value of total unrealized capital gains or losses for the most recent three-year period ending with the end of the plan year immediately preceding the actuarial valuation report transmission date; and

(2) in calculating the applicable portions of the actuarial valuation, an annual preretirement interest assumption of six percent, an annual postretirement interest assumption of six percent, and an annual salary increase assumption of four percent must be used.

Sec. 3. Minnesota Statutes 2002, section 423B.01, subdivision 12, is amended to read:

Subd. 12. [EXCESS INVESTMENT INCOME.] "Excess investment income" means the amount, if any, by which the average time weighted total rate of return earned by the fund in the most recent prior ~~five~~ two fiscal years has exceeded the actual average percentage increase in the current monthly salary ~~of~~ a first grade patrol officer in the most recent prior ~~five~~ two fiscal years plus two percent, and must be expressed as a dollar amount. The amount may not exceed one percent of the total assets of the fund, except when the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 102 percent of its actuarial accrued liabilities, in which case the amount must not exceed 1-1/2 percent of the total assets of the fund, and does not exist unless the yearly average percentage increase of the time weighted total rate of return of the fund for the previous ~~five~~ two years exceeds by two percent the yearly average percentage increase in monthly salary of a first grade patrol officer during the previous ~~five~~ two calendar years.

Sec. 4. Minnesota Statutes 2002, section 423B.09, subdivision 1, is amended to read:

Subdivision 1. [MINNEAPOLIS POLICE; PERSONS ENTITLED TO RECEIVE PENSIONS.] The association shall grant pensions payable from the police pension fund in monthly installments to persons entitled to pensions in the manner and for the following purposes.

(a) ~~When the actuarial value of assets of the fund according to the most recent annual actuarial valuation performed in accordance with sections 356.215 and 356.216 is less than 90 percent of the actuarial accrued liabilities, an active member or a deferred pensioner who has performed duty as a member of the police department of the city for five years or more, upon written application after retiring from duty and reaching at least age 50, is entitled to be paid monthly for life a service pension equal to eight units. For full years of service beyond five years, the service pension increases by 1.6 units for each full year, to a maximum of 40 units. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 90 percent of actuarial accrued liabilities, Active members, deferred members, and service pensioners are entitled to a service pension according to the following schedule:~~

5 years	8.0 units
6 years	9.6 units
7 years	11.2 units
8 years	12.8 units
9 years	14.4 units
10 years	16.0 units
11 years	17.6 units

12 years	19.2 units
13 years	20.8 units
14 years	22.4 units
15 years	24.0 units
16 years	25.6 units
17 years	27.2 units
18 years	28.8 units
19 years	30.4 units
20 years	34.0 35.0 units
21 years	35.6 36.6 units
22 years	37.2 38.2 units
23 years	38.8 39.8 units
24 years	40.4 41.4 units
25 years	42.0 43.0 units

Fractional years of service may not be used in computing pensions.

(b) An active member who after five years' service but less than 20 years' service with the police department of the city, becomes superannuated so as to be permanently unable to perform the person's assigned duties, is entitled to be paid monthly for life a superannuation pension equal to four units for five years of service and an additional two units for each full year of service over five years and less than 20 years.

(c) An active member who is not eligible for a service pension and who, while a member of the police department of the city, becomes diseased or sustains an injury while in the service that permanently unfits the member for the performance of police duties is entitled to be paid monthly for life a pension equal to 34 units while so disabled.

Sec. 5. Minnesota Statutes 2002, section 423B.09, is amended by adding a subdivision to read:

Subd. 7. [ADDITIONAL UNIT.] The additional unit provided to members by subdivision 1 must also be provided to members who selected a joint annuity option under subdivision 6 and must be in an amount that is actuarially equivalent to the service pension and the automatic survivor coverage for that additional unit.

Sec. 6. Minnesota Statutes 2002, section 423B.10, subdivision 1, is amended to read:

Subdivision 1. [ENTITLEMENT; BENEFIT AMOUNT.] (a) The surviving spouse of a deceased service pensioner, disability pensioner, deferred pensioner, superannuation pensioner, or active member, who was the legally married spouse of the decedent, residing with the decedent, and who was married while or before the time the decedent was on the payroll of the police department, and who, if the deceased member was a service or deferred pensioner, was legally married to the member for a period of at least one year before retirement from the police department, is entitled to a surviving spouse benefit. The surviving spouse benefit is equal to ~~22~~ 23 units per month if the person is the surviving spouse of a deceased active member or disabilitant. The surviving spouse benefit is equal to six units per month, plus an additional one unit for each year of service to the credit of the decedent in excess of five years, to a maximum of ~~22~~ 23 units per month, if the person is the surviving spouse of a deceased service pensioner, deferred pensioner, or superannuation pensioner. The surviving spouse benefit is payable for the life of the surviving spouse.

(b) A surviving child of a deceased service pensioner, disability pensioner, deferred pensioner, superannuation pensioner, or active member, who was living while the decedent was an active member of the police department or was born within nine months after the decedent terminated active service in the police department, is entitled to a surviving child benefit. The surviving child benefit is equal to eight units per month if the person is the surviving child of a deceased active member or disabilitant. The surviving child benefit is equal to two units per month, plus an additional four-tenths of one unit per month for each year of service to the credit of the decedent in excess of five years, to a maximum of eight units, if the person is the surviving child of a deceased

service pensioner, deferred pensioner, or superannuation pensioner. The surviving child benefit is payable until the person attains age 18, or, if in full-time attendance during the normal school year, in a school approved by the board of directors, until the person receives a bachelor's degree or attains the age of 22 years, whichever occurs first. In the event of the death of both parents leaving a surviving child or children entitled to a surviving child benefit as determined in this paragraph, the surviving child is, or the surviving children are, entitled to a surviving child benefit in such sums as determined by the board of directors to be necessary for the care and education of such surviving child or children, but not to exceed the family maximum benefit per month, to the children of any one family.

(c) The surviving spouse and surviving child benefits are subject to a family maximum benefit. The family maximum benefit is 41 units per month.

(d) A surviving spouse who is otherwise not qualified may receive a benefit if the surviving spouse was married to the decedent for a period of five years and was residing with the decedent at the time of death. The surviving spouse benefit is the same as that provided in paragraph (a), except that if the surviving spouse is younger than the decedent, the surviving spouse benefit must be actuarially equivalent to a surviving spouse benefit that would have been paid to the member's spouse had the member been married to a person of the same age or a greater age than the member's age before retirement.

Sec. 7. Minnesota Statutes 2002, section 423B.15, subdivision 3, is amended to read:

Subd. 3. [AMOUNT OF ANNUAL POSTRETIREMENT PAYMENT.] The amount determined under subdivision 2 must be applied in accordance with this subdivision. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is less than 102 percent of its total actuarial liabilities, the relief association shall apply the first one-half of excess investment income to the payment of an annual postretirement payment as specified in this subdivision and the second one-half of excess investment income up to one-half of one percent of the assets of the fund must be applied to reduce the state amortization state aid or supplementary amortization state aid payments otherwise due to the relief association under section 423A.02 for the current calendar year. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is less than 102 percent funded and other conditions are met, the relief association shall pay an annual postretirement payment to all eligible members in an amount not to exceed one-half of one percent of the assets of the fund. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 102 percent of its actuarial accrued liabilities, the relief association shall pay an annual postretirement payment to all eligible members in an amount not to exceed 1-1/2 percent of the assets of the fund. Payment of the annual postretirement payment must be in a lump sum amount on June 1 following the determination date in any year. Payment of the annual postretirement payment may be made only if the average time weighted total rate of return for the most recent prior ~~five~~ two years exceeds by two percent the actual average percentage increase in the current monthly salary of a top grade patrol officer in the most recent prior ~~five~~ two fiscal years. The total amount of all payments to members may not exceed the amount determined under this subdivision. Payment to each eligible member must be calculated by dividing the total number of pension units to which eligible members are entitled into the excess investment income available for distribution to members, and then multiplying that result by the number of units to which each eligible member is entitled to determine each eligible member's annual postretirement payment. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is less than 102 percent of its actuarial accrued liabilities, payment to each eligible member may not exceed an amount equal to the total monthly benefit that the eligible member was entitled to in the prior year under the terms of the benefit plan of the relief association or each eligible member's proportionate share of the excess investment income, whichever is less. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 102 percent of its actuarial accrued liabilities, payment to each eligible member must not exceed the member's proportionate share of 1-1/2 percent of the assets of the fund.

A person who received a pension or benefit for the entire 12 months before the determination date is eligible for a full annual postretirement payment. A person who received a pension or benefit for less than 12 months before the determination date is eligible for a prorated annual postretirement payment.

Sec. 8. [423B.22] [GUARANTEED PENSION PROVISION.]

Once a pension benefit is properly paid in accordance with this law to any member, the dollar amount of that pension benefit shall not be reduced.

Sec. 9. [LOCAL APPROVAL; NONSEVERABILITY.]

Sections 1 to 8 are not severable and are effective on the day after the date of the approval by the city council of the city of Minneapolis and the timely completion by the chief clerical officer of the city of Minneapolis of compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3."

Delete the title and insert:

"A bill for an act relating to retirement; statewide and major local public pension plans; making various changes of an administrative nature; setting various limitations and requirements for public employees police and fire retirement plan disability benefit applications; resolving one person and small group pension problems; reducing the early retirement age for the judges retirement plan; authorizing a shorter vesting schedule for the Marine on St. Croix Volunteer Firefighters Relief Association; revising the salary maximum for the executive secretary of the Minneapolis Firefighters Relief Association; permitting single Teachers Retirement Association members to make survivor benefit designations; authorizing retirement coverage discontinuation by an elected county official; revising the manner in which actuarial services to the Legislative Commission on Pensions and Retirement are provided; continuing retirement coverage by the general employees retirement plan of the Public Employees Retirement Association for Anoka County Achieve Program and the Government Training Services; including in privatized public employee retirement coverage employees of the Fair Oaks Lodge, Wadena, and RenVilla Nursing Home; extending the expiration date on certain prior military service credit purchases; temporarily exempting Metropolitan Airports Commission police from reemployed annuitant earnings limitation; ratifying certain Bellingham volunteer firefighter relief association annuity purchases; including the Lake Johanna fire department employees in Public Employees Retirement Association coverage; limiting the covered salary of school district superintendents and administrators for pension purposes; expanding the health care savings plan; modifying the department of transportation pilots retirement plan; creating a statewide volunteer firefighter retirement plan study task force; authorizing shorter vesting periods for defined contribution volunteer firefighter relief associations; modifying Minneapolis Police Relief Association provisions; appropriating money; amending Minnesota Statutes 2002, sections 3A.03, subdivision 2; 69.77, subdivision 4; 352.01, subdivision 13; 352.03, subdivision 6; 352.113, subdivisions 4, 6, 8, by adding a subdivision; 352.12, subdivisions 1, 6; 352.22, subdivisions 2, 3; 352.27; 352.275, subdivision 1; 352.86, subdivision 1; 352.95, subdivisions 1, 2, 4; 352.98; 352B.01, subdivisions 3a, 11, by adding a subdivision; 352B.02, subdivision 1e; 352B.10, subdivisions 1, 2, 3, 4, 5; 352B.105; 352B.11, subdivisions 1, 2, by adding subdivisions; 352D.065, subdivision 2; 352D.075, subdivisions 2, 3, by adding a subdivision; 353.01, subdivisions 2b, 10, 12a, 12b, 16, 16a; 353.03, subdivision 3a; 353.33, subdivisions 4, 6, 6b, 7, by adding a subdivision; 353.37, subdivision 3, by adding a subdivision; 353.656, subdivision 5, by adding subdivisions; 354.05, subdivisions 2, 22, 35; 354.06, subdivision 2a; 354.07, subdivision 9; 354.091; 354.096, subdivision 1; 354.42, subdivision 7; 354.44, subdivisions 4, 5; 354.46, subdivisions 2, 2b, 5, by adding a subdivision; 354.48, subdivisions 2, 4, 6, 6a, 10; 354.51, subdivision 5; 354.52, subdivisions 4a, 6, by adding a subdivision; 354.53; 354.533, subdivision 1; 354.66, subdivision 2; 354A.011, subdivision 24; 354A.021, subdivision 7; 354A.093; 354A.094, subdivision 3; 354A.097, subdivision 1; 354A.36, subdivisions 4, 6; 354B.20, subdivisions 4, 6; 354B.23, subdivision 1; 354B.32; 354C.11, subdivision 2; 356.215, subdivisions 2, 18; 356.216; 356.302, subdivision 3; 356.441; 356.611, subdivision 2, by adding subdivisions; 422A.06, subdivision 2; 422A.18, subdivisions 1, 4; 423B.01, subdivision 12; 423B.09, subdivisions 1, 4, by adding a

subdivision; 423B.10, subdivision 1; 423B.15, subdivision 3; 423C.05, subdivisions 4, 5, 6, by adding a subdivision; 424A.02, subdivisions 2, 7; 490.121, subdivision 10, by adding a subdivision; 490.124, subdivision 12; Minnesota Statutes 2003 Supplement, sections 353.01, subdivision 6; 353F.02, subdivision 4; 423C.03, subdivision 3; Laws 1999, chapter 222, article 16, section 16, as amended; Laws 2000, chapter 461, article 4, section 4, as amended; proposing coding for new law in Minnesota Statutes, chapters 352F; 353F; 356; 423B; repealing Minnesota Statutes 2002, sections 3.85, subdivisions 11, 12; 352D.02, subdivision 5; 353.33, subdivision 5b; 354A.107; 356.217; 490.11."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Pogemiller from the Committee on Taxes, to which was re-referred

H.F. No. 956: A bill for an act relating to veterans homes; clarifying use of certain funds; amending Minnesota Statutes 2002, section 198.261.

Reports the same back with the recommendation that the bill be amended as follows:

Amend the report from the Committee on Finance, adopted by the Senate April 1, 2004, as follows:

Page 1, after line 11, insert:

"ARTICLE 1
APPROPRIATIONS"

Page 1, line 15, after "appropriations" insert "for state agency operations"

Page 1, line 22, after "agencies" insert "in the executive branch"

Page 1, line 24, after the period, insert "Reductions may not be taken from appropriations for grants unless specifically authorized by 2004 H.F. No. 2028 or other law."

Page 2, line 6, after the period, insert "No reduction may be taken from appropriations to the attorney general."

Page 14, line 12, before the period, insert ", except as follows:

(1) a state trooper pursuing a suspect; or

(2) a correctional employee escorting a prisoner"

Page 14, line 29, delete "act" and insert "article"

Page 14, after line 30, insert:

"ARTICLE 2
TAXES"

Section 1. Minnesota Statutes 2002, section 16C.03, is amended by adding a subdivision to read:

Subd. 18. [CONTRACTS WITH FOREIGN VENDORS.] (a) The commissioner and other agencies to which this section applies and the legislative branch of government shall not contract for goods or services from a vendor or an affiliate of the vendor which has not registered to collect the sales and use tax imposed under chapter 297A on its sales in Minnesota or to a destination in Minnesota. A vendor that sells tangible personal property or provides services subject to tax under chapter 297A to an agency or the legislature, and each affiliate of that vendor, is regarded as a "retailer maintaining a place of business in this state" and is required to collect the Minnesota sales or use tax under chapter 297A. This subdivision does not apply to state colleges and universities,

the courts, and any agency in the judicial branch of government. For purposes of this subdivision, the term "affiliate" means any person or entity that is controlled by, or is under common control of, a vendor through stock ownership or other affiliation.

(b) Beginning on or after January 1, 2005, each vendor or affiliate of a vendor that is offered a contract to sell goods or services subject to tax under chapter 297A to an agency or the legislature must submit to the agency or legislature certification that the vendor is registered to collect Minnesota sales or use tax and acknowledging that the contract may be declared void if the certification is false.

(c) An agency or the legislature is exempted from the provisions of this subdivision in the event of an emergency or when the vendor is the sole source of such goods or services.

[EFFECTIVE DATE.] This section is effective for all contracts entered into after December 31, 2004.

Sec. 2. Minnesota Statutes 2002, section 272.01, is amended by adding a subdivision to read:

Subd. 5. [EFFECTS OF TRANSFER OF INCOME TAX OWNERSHIP INCIDENTS.] If property that is exempt from ad valorem taxes under section 272.02, subdivision 3, 4, 5, 7, or 8, is leased or otherwise subject to legal arrangements that permit an individual, corporation, or other entity to claim the income tax benefits of ownership, such as depreciation, cost recovery allowances, or similar benefits, a tax is imposed for the privilege of so using the property. The tax is imposed in the same amount and to the same extent as though the private individual, corporation, or other entity was the owner of the property. Taxes under this subdivision must be paid and administered in the manner provided for taxes imposed under subdivision 2.

[EFFECTIVE DATE.] This section is effective beginning with property taxes payable in 2005.

Sec. 3. Minnesota Statutes 2002, section 290.01, subdivision 6b, is amended to read:

Subd. 6b. [FOREIGN OPERATING CORPORATION.] The term "foreign operating corporation," when applied to a corporation, means a domestic corporation with the following characteristics:

- (1) it is part of a unitary business at least one member of which is taxable in this state;
- (2) it is not a foreign sales corporation under section 922 of the Internal Revenue Code, as amended through December 31, 1999, for the taxable year; and
- (3) either (i) the average of the percentages of its property and payrolls assigned to locations ~~inside outside the United States and the District of Columbia, excluding the commonwealth of Puerto Rico and possessions of the United States,~~ as determined under section 290.191 or 290.20, is ~~20~~ 80 percent or less greater and it has at least \$2,000,000 of property and \$1,000,000 of payroll as determined under section 290.191 or 290.20; or (ii) it has in effect a valid election under section 936 of the Internal Revenue Code.

[EFFECTIVE DATE.] This section is effective for tax years beginning after December 31, 2003.

Sec. 4. Minnesota Statutes 2003 Supplement, section 290.01, subdivision 19c, is amended to read:

Subd. 19c. [CORPORATIONS; ADDITIONS TO FEDERAL TAXABLE INCOME.] For corporations, there shall be added to federal taxable income:

- (1) the amount of any deduction taken for federal income tax purposes for income, excise, or franchise taxes based on net income or related minimum taxes, including but not limited to the tax imposed under section 290.0922, paid by the corporation to Minnesota, another state, a political subdivision of another state, the District of Columbia, or any foreign country or possession of the United States;

(2) interest not subject to federal tax upon obligations of: the United States, its possessions, its agencies, or its instrumentalities; the state of Minnesota or any other state, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities; the District of Columbia; or Indian tribal governments;

(3) exempt-interest dividends received as defined in section 852(b)(5) of the Internal Revenue Code;

(4) the amount of any net operating loss deduction taken for federal income tax purposes under section 172 or 832(c)(10) of the Internal Revenue Code or operations loss deduction under section 810 of the Internal Revenue Code;

(5) the amount of any special deductions taken for federal income tax purposes under sections 241 to 247 of the Internal Revenue Code;

(6) losses from the business of mining, as defined in section 290.05, subdivision 1, clause (a), that are not subject to Minnesota income tax;

(7) the amount of any capital losses deducted for federal income tax purposes under sections 1211 and 1212 of the Internal Revenue Code;

(8) the exempt foreign trade income of a foreign sales corporation under sections 921(a) and 291 of the Internal Revenue Code;

(9) the amount of percentage depletion deducted under sections 611 through 614 and 291 of the Internal Revenue Code;

(10) for certified pollution control facilities placed in service in a taxable year beginning before December 31, 1986, and for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, as amended through December 31, 1985, the amount of the amortization deduction allowed in computing federal taxable income for those facilities;

(11) the amount of any deemed dividend from a foreign operating corporation determined pursuant to section 290.17, subdivision 4, paragraph (g);

(12) the amount of any environmental tax paid under section 59(a) of the Internal Revenue Code;

(13) the amount of a partner's pro rata share of net income which does not flow through to the partner because the partnership elected to pay the tax on the income under section 6242(a)(2) of the Internal Revenue Code;

(14) the amount of net income excluded under section 114 of the Internal Revenue Code;

(15) any increase in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of section 614 of Public Law 107-147; and

(16) 80 percent of the depreciation deduction allowed under section 168(k) of the Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that in the taxable year generates a deduction for depreciation under section 168(k) and the activity generates a loss for the taxable year that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed under section 168(k)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k) over the amount of the loss from the activity that is not allowed in the taxable year. In succeeding taxable years when the losses not allowed in the taxable year are allowed, the depreciation under section 168(k) is allowed; and

(17) the excess of deductions over income attributable to tax exempt property, as provided under section 290.0711.

[EFFECTIVE DATE.] This section is effective for leases and service contracts or similar arrangements entered into after February 5, 2004, and for taxable years beginning after December 31, 2003.

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

Subd. 19d. [CORPORATIONS; MODIFICATIONS DECREASING FEDERAL TAXABLE INCOME.] For corporations, there shall be subtracted from federal taxable income after the increases provided in subdivision 19c:

(1) the amount of foreign dividend gross-up added to gross income for federal income tax purposes under section 78 of the Internal Revenue Code;

(2) the amount of salary expense not allowed for federal income tax purposes due to claiming the federal jobs credit under section 51 of the Internal Revenue Code;

(3) any dividend (not including any distribution in liquidation) paid within the taxable year by a national or state bank to the United States, or to any instrumentality of the United States exempt from federal income taxes, on the preferred stock of the bank owned by the United States or the instrumentality;

(4) amounts disallowed for intangible drilling costs due to differences between this chapter and the Internal Revenue Code in taxable years beginning before January 1, 1987, as follows:

(i) to the extent the disallowed costs are represented by physical property, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7, subject to the modifications contained in subdivision 19e; and

(ii) to the extent the disallowed costs are not represented by physical property, an amount equal to the allowance for cost depletion under Minnesota Statutes 1986, section 290.09, subdivision 8;

(5) the deduction for capital losses pursuant to sections 1211 and 1212 of the Internal Revenue Code, except that:

(i) for capital losses incurred in taxable years beginning after December 31, 1986, capital loss carrybacks shall not be allowed;

(ii) for capital losses incurred in taxable years beginning after December 31, 1986, a capital loss carryover to each of the 15 taxable years succeeding the loss year shall be allowed;

(iii) for capital losses incurred in taxable years beginning before January 1, 1987, a capital loss carryback to each of the three taxable years preceding the loss year, subject to the provisions of Minnesota Statutes 1986, section 290.16, shall be allowed; and

(iv) for capital losses incurred in taxable years beginning before January 1, 1987, a capital loss carryover to each of the five taxable years succeeding the loss year to the extent such loss was not used in a prior taxable year and subject to the provisions of Minnesota Statutes 1986, section 290.16, shall be allowed;

(6) an amount for interest and expenses relating to income not taxable for federal income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and expenses were disallowed as deductions under the provisions of section 171(a)(2), 265 or 291 of the Internal Revenue Code in computing federal taxable income;

(7) in the case of mines, oil and gas wells, other natural deposits, and timber for which percentage depletion was disallowed pursuant to subdivision 19c, clause (11), a reasonable allowance for depletion based on actual cost. In the case of leases the deduction must be apportioned between the lessor and lessee in accordance with rules prescribed by the commissioner. In the case of property held in trust, the allowable deduction must be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the trust, or if there is no provision in the instrument, on the basis of the trust's income allocable to each;

(8) for certified pollution control facilities placed in service in a taxable year beginning before

December 31, 1986, and for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, as amended through December 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7;

(9) amounts included in federal taxable income that are due to refunds of income, excise, or franchise taxes based on net income or related minimum taxes paid by the corporation to Minnesota, another state, a political subdivision of another state, the District of Columbia, or a foreign country or possession of the United States to the extent that the taxes were added to federal taxable income under section 290.01, subdivision 19c, clause (1), in a prior taxable year;

~~(10) 80 percent of royalties, fees, or other like income accrued or received from a foreign operating corporation or a foreign corporation which is part of the same unitary business as the receiving corporation;~~

(11) income or gains from the business of mining as defined in section 290.05, subdivision 1, clause (a), that are not subject to Minnesota franchise tax;

~~(12)~~ (11) the amount of handicap access expenditures in the taxable year which are not allowed to be deducted or capitalized under section 44(d)(7) of the Internal Revenue Code;

~~(13)~~ (12) the amount of qualified research expenses not allowed for federal income tax purposes under section 280C(c) of the Internal Revenue Code, but only to the extent that the amount exceeds the amount of the credit allowed under section 290.068;

(14) (13) the amount of salary expenses not allowed for federal income tax purposes due to claiming the Indian employment credit under section 45A(a) of the Internal Revenue Code;

(15) (14) the amount of any refund of environmental taxes paid under section 59A of the Internal Revenue Code;

(16) (15) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code;

(17) (16) for a corporation whose foreign sales corporation, as defined in section 922 of the Internal Revenue Code, constituted a foreign operating corporation during any taxable year ending before January 1, 1995, and a return was filed by August 15, 1996, claiming the deduction under section 290.21, subdivision 4, for income received from the foreign operating corporation, an amount equal to 1.23 multiplied by the amount of income excluded under section 114 of the Internal Revenue Code, provided the income is not income of a foreign operating company;

(18) (17) any decrease in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of section 614 of Public Law 107-147; and

(19) (18) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19c, clause (16), an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19c, clause (16). The resulting delayed depreciation cannot be less than zero; and

(20) amounts allowed as carryover subtractions attributable to tax-exempt property, as provided under section 290.0711.

[EFFECTIVE DATE.] This section is effective for leases and service contracts or similar arrangements entered into after February 5, 2004, and for taxable years beginning after December 31, 2003.

Sec. 6. [290.0711] [TAX EXEMPT PROPERTY; LIMITS ON TAX BENEFITS.]

Subdivision 1. [DEFINITIONS.] (a) For purposes of this section, the following terms have the meanings given.

(b) "Tax exempt use property" has the meaning given in section 168(h) of the Internal Revenue Code, except the provisions of clause (2)(C)(ii) and paragraph (3) do not apply. If tangible property is subject to a service contract or other similar arrangement between a taxpayer or any related person and any tax exempt entity, the contract or arrangement must be treated in the same manner as if it is tax exempt property under this subdivision.

(c) "Taxpayer" means a corporation, subject to the corporate franchise tax under this chapter, that is claiming the deduction on the federal return and any member of its unitary group.

Subd. 2. [ADDITION OF EXCESS DEDUCTIONS.] In computing Minnesota taxable income, the taxpayer must add to federal taxable income the excess of:

(1) the aggregate amount of deductions claimed in computing federal taxable income with respect to tax exempt use property; over

(2) the aggregate amount of income includable in federal gross income of the taxpayer for the taxable year with respect to tax exempt use property.

Subd. 3. [CARRYOVER SUBTRACTION.] Unless otherwise provided in this section, any addition under subdivision 2 may be carried to a later taxable year and claimed as a subtraction reducing the federal taxable income of the taxpayer to the extent that income with respect to tax exempt use property exceeds the amount of deductions claimed with respect to tax exempt properties in computing federal taxable income for that taxable year.

Subd. 4. [SPECIAL RULES.] (a) The following rules apply to the computation of the addition under subdivision 2.

(b) Subdivision 2 applies to deductions directly allocable to any tax exempt use property and to a proper share of other deductions that are not directly allocable to tax exempt.

(c) If property of a taxpayer ceases to be tax exempt use property in the hands of the taxpayer, any unused carryover under subdivision 3 with respect to the property is only allowable as a subtraction for any taxable year to the extent of any net income of the taxpayer that is allocable to the property that ceased to be tax exempt property.

(d) If during the taxable year, a taxpayer disposes of the taxpayer's entire interest in tax exempt use property, the taxpayer may claim a subtraction for the lesser of:

(1) the amount of gain realized on the disposition and includable in federal taxable income; or

(2) the amount of additions under subdivision 2 attributable to the property and not claimed in a later year under subdivision 3.

[EFFECTIVE DATE.] This section is effective for leases and service contracts or similar arrangements entered into after February 5, 2004, and for taxable years beginning after December 31, 2003.

Sec. 7. Minnesota Statutes 2002, section 290.17, subdivision 2, is amended to read:

Subd. 2. [INCOME NOT DERIVED FROM CONDUCT OF A TRADE OR BUSINESS.] The income of a taxpayer subject to the allocation rules that is not derived from the conduct of a trade or business must be assigned in accordance with paragraphs (a) to (f):

(a)(1) Subject to paragraphs (a)(2), (a)(3), and (a)(4) clauses (2) and (3), income from wages as defined in section 3401(a) and (f) of the Internal Revenue Code is assigned to this state if, and to the extent that, the work of the employee is performed within it; all other income from such sources is treated as income from sources without this state.

Severance pay shall be considered income from labor or personal or professional services.

(2) In the case of an individual who is a nonresident of Minnesota and who is an athlete or entertainer, income from compensation for labor or personal services performed within this state shall be determined in the following manner:

(i) The amount of income to be assigned to Minnesota for an individual who is a nonresident salaried athletic team employee shall be determined by using a fraction in which the denominator contains the total number of days in which the individual is under a duty to perform for the employer, and the numerator is the total number of those days spent in Minnesota. For purposes of this paragraph, off-season training activities, unless conducted at the team's facilities as part of a team imposed program, are not included in the total number of duty days. Bonuses earned as a result of play during the regular season or for participation in championship, play-off, or all-star games must be allocated under the formula. Signing bonuses are not subject to allocation under the formula if they are not conditional on playing any games for the team, are payable separately from any other compensation, and are nonrefundable; and

(ii) The amount of income to be assigned to Minnesota for an individual who is a nonresident, and who is an athlete or entertainer not listed in clause (i), for that person's athletic or entertainment performance in Minnesota shall be determined by assigning to this state all income from performances or athletic contests in this state.

(3) For purposes of this section, amounts received by a nonresident as "retirement income" as defined in section (b)(1) of the State Income Taxation of Pension Income Act, Public Law 104-95, are not considered income derived from carrying on a trade or business or from wages or other compensation for work an employee performed in Minnesota, and are not taxable under this chapter.

~~(4) Wages, otherwise assigned to this state under clause (1) and not qualifying under clause (3), are not taxable under this chapter if the following conditions are met:~~

~~(i) the recipient was not a resident of this state for any part of the taxable year in which the wages were received; and~~

~~(ii) the wages are for work performed while the recipient was a resident of this state.~~

(b) Income or gains from tangible property located in this state that is not employed in the business of the recipient of the income or gains must be assigned to this state.

(c) Income or gains from intangible personal property not employed in the business of the recipient of the income or gains must be assigned to this state if the recipient of the income or gains is a resident of this state or is a resident trust or estate.

Gain on the sale of a partnership interest is allocable to this state in the ratio of the original cost of partnership tangible property in this state to the original cost of partnership tangible property everywhere, determined at the time of the sale. If more than 50 percent of the value of the partnership's assets consists of intangibles, gain or loss from the sale of the partnership interest is allocated to this state in accordance with the sales factor of the partnership for its first full tax period immediately preceding the tax period of the partnership during which the partnership interest was sold.

Gain on the sale of goodwill or income from a covenant not to compete that is connected with a business operating all or partially in Minnesota is allocated to this state to the extent that the income from the business in the year preceding the year of sale was assignable to Minnesota under subdivision 3.

When an employer pays an employee for a covenant not to compete, the income allocated to this state is in the ratio of the employee's service in Minnesota in the calendar year preceding leaving the employment of the employer over the total services performed by the employee for the employer in that year.

(d) Income from winnings on a bet made by an individual while in Minnesota is assigned to this state. In this paragraph, "bet" has the meaning given in section 609.75, subdivision 2, as limited by section 609.75, subdivision 3, clauses (1), (2), and (3).

(e) All items of gross income not covered in paragraphs (a) to (d) and not part of the taxpayer's income from a trade or business shall be assigned to the taxpayer's domicile.

(f) For the purposes of this section, working as an employee shall not be considered to be conducting a trade or business.

[EFFECTIVE DATE.] This section is effective for tax years beginning after December 31, 2003.

Sec. 8. Minnesota Statutes 2002, section 290.17, subdivision 4, is amended to read:

Subd. 4. [UNITARY BUSINESS PRINCIPLE.] (a) If a trade or business conducted wholly within this state or partly within and partly without this state is part of a unitary business, the entire income of the unitary business is subject to apportionment pursuant to section 290.191. Notwithstanding subdivision 2, paragraph (c), none of the income of a unitary business is considered to be derived from any particular source and none may be allocated to a particular place except as provided by the applicable apportionment formula. The provisions of this subdivision do not apply to business income subject to subdivision 5, income of an insurance company, or income of an investment company determined under section 290.36.

(b) The term "unitary business" means business activities or operations which result in a flow of value between them. The term may be applied within a single legal entity or between multiple entities and without regard to whether each entity is a sole proprietorship, a corporation, a partnership or a trust.

(c) Unity is presumed whenever there is unity of ownership, operation, and use, evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction, but the absence of these centralized activities will not necessarily evidence a nonunitary business. Unity is also presumed when business activities or operations are of mutual benefit, dependent upon or contributory to one another, either individually or as a group.

(d) Where a business operation conducted in Minnesota is owned by a business entity that carries on business activity outside the state different in kind from that conducted within this state, and the other business is conducted entirely outside the state, it is presumed that the two business operations are unitary in nature, interrelated, connected, and interdependent unless it can be shown to the contrary.

(e) Unity of ownership is not deemed to exist when a corporation is involved unless that corporation is a member of a group of two or more business entities and more than 50 percent of the voting stock of each member of the group is directly or indirectly owned by a common owner or by common owners, either corporate or noncorporate, or by one or more of the member corporations of the group. For this purpose, the term "voting stock" shall include membership interests of mutual insurance holding companies formed under section 60A.077.

(f) The net income and apportionment factors under section 290.191 or 290.20 of foreign corporations and other foreign entities which are part of a unitary business shall not be included in the net income or the apportionment factors of the unitary business. A foreign corporation or other foreign entity which is required to file a return under this chapter shall file on a separate return basis. The net income and apportionment factors under section 290.191 or 290.20 of foreign operating corporations shall not be included in the net income or the apportionment factors of the unitary business except as provided in paragraph (g).

(g) The adjusted net income of a foreign operating corporation shall be deemed to be paid as a dividend on the last day of its taxable year to each shareholder thereof, in proportion to each shareholder's ownership, with which such corporation is engaged in a unitary business. Such deemed dividend shall be treated as a dividend under section 290.21, subdivision 4. The dividend received deduction shall not be allowed on dividends, interest, royalties, or capital gains received by the foreign operating corporation included in the deemed dividend.

Dividends actually paid by a foreign operating corporation to a corporate shareholder which is a member of the same unitary business as the foreign operating corporation shall be eliminated from the net income of the unitary business in preparing a combined report for the unitary business. The adjusted net income of a foreign operating corporation shall be its net income adjusted as follows:

(1) any taxes paid or accrued to a foreign country, the commonwealth of Puerto Rico, or a United States possession or political subdivision of any of the foregoing shall be a deduction; and

(2) the subtraction from federal taxable income for payments received from foreign corporations or foreign operating corporations under section 290.01, subdivision 19d, clause (10), shall not be allowed.

If a foreign operating corporation incurs a net loss, neither income nor deduction from that corporation shall be included in determining the net income of the unitary business.

(h) For purposes of determining the net income of a unitary business and the factors to be used in the apportionment of net income pursuant to section 290.191 or 290.20, there must be included only the income and apportionment factors of domestic corporations or other domestic entities other than foreign operating corporations that are determined to be part of the unitary business pursuant to this subdivision, notwithstanding that foreign corporations or other foreign entities might be included in the unitary business.

(i) Deductions for expenses, interest, or taxes otherwise allowable under this chapter that are connected with or allocable against dividends, deemed dividends described in paragraph (g), or royalties, fees, or other like income described in section 290.01, subdivision 19d, clause (10), shall not be disallowed.

(j) Each corporation or other entity, except a sole proprietorship, that is part of a unitary business must file combined reports as the commissioner determines. On the reports, all intercompany transactions between entities included pursuant to paragraph (h) must be eliminated and the entire net income of the unitary business determined in accordance with this subdivision is apportioned among the entities by using each entity's Minnesota factors for apportionment purposes in the numerators of the apportionment formula and the total factors for apportionment purposes of all entities included pursuant to paragraph (h) in the denominators of the apportionment formula.

(k) If a corporation has been divested from a unitary business and is included in a combined report for a fractional part of the common accounting period of the combined report:

(1) its income includable in the combined report is its income incurred for that part of the year determined by proration or separate accounting; and

(2) its sales, property, and payroll included in the apportionment formula must be prorated or accounted for separately.

[EFFECTIVE DATE.] This section is effective for tax years beginning after December 31, 2003.

Sec. 9. Minnesota Statutes 2002, section 290.191, subdivision 5, is amended to read:

Subd. 5. [DETERMINATION OF SALES FACTOR.] For purposes of this section, the following rules apply in determining the sales factor.

(a) The sales factor includes all sales, gross earnings, or receipts received in the ordinary course of the business, except that the following types of income are not included in the sales factor:

(1) interest;

(2) dividends;

(3) sales of capital assets as defined in section 1221 of the Internal Revenue Code;

(4) sales of property used in the trade or business, except sales of leased property of a type which is regularly sold as well as leased;

(5) sales of debt instruments as defined in section 1275(a)(1) of the Internal Revenue Code or sales of stock; and

(6) royalties, fees, or other like income of a type which qualify for a subtraction from federal taxable income under section 290.01, subdivision 19(d)(11); and

(7) lease or other payments received for tax exempt property, as defined in and subject to section 290.0711.

(b) Sales of tangible personal property are made within this state if the property is received by a purchaser at a point within this state, and the taxpayer is taxable in this state, regardless of the f.o.b. point, other conditions of the sale, or the ultimate destination of the property.

(c) Tangible personal property delivered to a common or contract carrier or foreign vessel for delivery to a purchaser in another state or nation is a sale in that state or nation, regardless of f.o.b. point or other conditions of the sale.

(d) Notwithstanding paragraphs (b) and (c), when intoxicating liquor, wine, fermented malt beverages, cigarettes, or tobacco products are sold to a purchaser who is licensed by a state or political subdivision to resell this property only within the state of ultimate destination, the sale is made in that state.

(e) Sales made by or through a corporation that is qualified as a domestic international sales corporation under section 992 of the Internal Revenue Code are not considered to have been made within this state.

(f) Sales, rents, royalties, and other income in connection with real property is attributed to the state in which the property is located.

(g) Receipts from the lease or rental of tangible personal property, including finance leases and true leases, must be attributed to this state if the property is located in this state and to other states if the property is not located in this state. Receipts from the lease or rental of moving property including, but not limited to, motor vehicles, rolling stock, aircraft, vessels, or mobile equipment are included in the numerator of the receipts factor to the extent that the property is used in this state. The extent of the use of moving property is determined as follows:

(1) A motor vehicle is used wholly in the state in which it is registered.

(2) The extent that rolling stock is used in this state is determined by multiplying the receipts from the lease or rental of the rolling stock by a fraction, the numerator of which is the miles traveled within this state by the leased or rented rolling stock and the denominator of which is the total miles traveled by the leased or rented rolling stock.

(3) The extent that an aircraft is used in this state is determined by multiplying the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft.

(4) The extent that a vessel, mobile equipment, or other mobile property is used in the state is determined by multiplying the receipts from the lease or rental of the property by a fraction, the numerator of which is the number of days during the taxable year the property was in this state and the denominator of which is the total days in the taxable year.

(h) Royalties and other income not described in paragraph (a), clause (6), received for the use of or for the privilege of using intangible property, including patents, know-how, formulas, designs, processes, patterns, copyrights, trade names, service names, franchises, licenses, contracts, customer lists, or similar items, must be attributed to the state in which the property is used by the purchaser. If the property is used in more than one state, the royalties or other income must be apportioned to this state pro rata according to the portion of use in this state. If the portion of use in this state cannot be determined, the royalties or other income must be excluded from both the numerator and the denominator. Intangible property is used in this state if the purchaser uses the intangible property or the rights therein in the regular course of its business operations in this state, regardless of the location of the purchaser's customers.

(i) Sales of intangible property are made within the state in which the property is used by the purchaser. If the property is used in more than one state, the sales must be apportioned to this state pro rata according to the portion of use in this state. If the portion of use in this state cannot be determined, the sale must be excluded from both the numerator and the denominator of the sales factor. Intangible property is used in this state if the purchaser used the intangible property in the regular course of its business operations in this state.

(j) Receipts from the performance of services must be attributed to the state where the services are received. For the purposes of this section, receipts from the performance of services provided to a corporation, partnership, or trust may only be attributed to a state where it has a fixed place of doing business. If the state where the services are received is not readily determinable or is a state where the corporation, partnership, or trust receiving the service does not have a fixed place of doing business, the services shall be deemed to be received at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering office cannot be determined, the services shall be deemed to be received at the office of the customer to which the services are billed.

[EFFECTIVE DATE.] This section is effective for leases and service contracts or similar arrangements entered into after February 5, 2004, and for taxable years beginning after December 31, 2003.

Sec. 10. Minnesota Statutes 2002, section 290.191, subdivision 6, is amended to read:

Subd. 6. **[DETERMINATION OF RECEIPTS FACTOR FOR FINANCIAL INSTITUTIONS.]**

(a) For purposes of this section, the rules in this subdivision and subdivision 8 apply in determining the receipts factor for financial institutions.

(b) "Receipts" for this purpose means gross income, including net taxable gain on disposition of assets, including securities and money market instruments, when derived from transactions and activities in the regular course of the taxpayer's trade or business.

(c) "Money market instruments" means federal funds sold and securities purchased under agreements to resell, commercial paper, banker's acceptances, and purchased certificates of deposit and similar instruments to the extent that the instruments are reflected as assets under generally accepted accounting principles.

(d) "Securities" means United States Treasury securities, obligations of United States government agencies and corporations, obligations of state and political subdivisions, corporate stock, bonds, and other securities, participations in securities backed by mortgages held by United States or state government agencies, loan-backed securities and similar investments to the extent the investments are reflected as assets under generally accepted accounting principles.

(e) Receipts from the lease or rental of real or tangible personal property, including both finance leases and true leases, must be attributed to this state if the property is located in this state. Receipts from the lease or rental of tangible personal property that is characteristically moving property, including, but not limited to, motor vehicles, rolling stock, aircraft, vessels, or mobile equipment are included in the numerator of the receipts factor to the extent that the property is used in this state. The extent of the use of moving property is determined as follows:

(1) A motor vehicle is used wholly in the state in which it is registered.

(2) The extent that rolling stock is used in this state is determined by multiplying the receipts from the lease or rental of the rolling stock by a fraction, the numerator of which is the miles traveled within this state by the leased or rented rolling stock and the denominator of which is the total miles traveled by the leased or rented rolling stock.

(3) The extent that an aircraft is used in this state is determined by multiplying the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft.

(4) The extent that a vessel, mobile equipment, or other mobile property is used in the state is determined by multiplying the receipts from the lease or rental of property by a fraction, the numerator of which is the number of days during the taxable year the property was in this state and the denominator of which is the total days in the taxable year.

(f) Interest income and other receipts from assets in the nature of loans that are secured primarily by real estate or tangible personal property must be attributed to this state if the security property is located in this state under the principles stated in paragraph (e).

(g) Interest income and other receipts from consumer loans not secured by real or tangible personal property that are made to residents of this state, whether at a place of business, by traveling loan officer, by mail, by telephone or other electronic means, must be attributed to this state.

(h) Interest income and other receipts from commercial loans and installment obligations that are unsecured by real or tangible personal property or secured by intangible property must be attributed to this state if the proceeds of the loan are to be applied in this state. If it cannot be determined where the funds are to be applied, the income and receipts are attributed to the state in which the office of the borrower from which the application would be made in the regular course of business is located. If this cannot be determined, the transaction is disregarded in the apportionment formula.

(i) Interest income and other receipts from a participating financial institution's portion of participation and syndication loans must be attributed under paragraphs (e) to (h). A participation loan is an arrangement in which a lender makes a loan to a borrower and then sells, assigns, or otherwise transfers all or a part of the loan to a purchasing financial institution. A syndication loan is a loan transaction involving multiple financial institutions in which all the lenders are named as parties to the loan documentation, are known to the borrower, and have privity of contract with the borrower.

(j) Interest income and other receipts including service charges from financial institution credit card and travel and entertainment credit card receivables and credit card holders' fees must be attributed to the state to which the card charges and fees are regularly billed.

(k) Merchant discount income derived from financial institution credit card holder transactions with a merchant must be attributed to the state in which the merchant is located. In the case of merchants located within and outside the state, only receipts from merchant discounts attributable to sales made from locations within the state are attributed to this state. It is presumed, subject to rebuttal, that the location of a merchant is the address shown on the invoice submitted by the merchant to the taxpayer.

(l) Receipts from the performance of fiduciary and other services must be attributed to the state in which the services are received. For the purposes of this section, services provided to a corporation, partnership, or trust must be attributed to a state where it has a fixed place of doing business. If the state where the services are received is not readily determinable or is a state where the corporation, partnership, or trust does not have a fixed place of doing business, the services shall be deemed to be received at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering office cannot be determined, the services shall be deemed to be received at the office of the customer to which the services are billed.

(m) Receipts from the issuance of travelers checks and money orders must be attributed to the state in which the checks and money orders are purchased.

(n) Receipts from investments of a financial institution in securities and from money market instruments must be apportioned to this state based on the ratio that total deposits from this state, its residents, including any business with an office or other place of business in this state, its political subdivisions, agencies, and instrumentalities bear to the total deposits from all states, their residents, their political subdivisions, agencies, and instrumentalities. In the case of an unregulated financial institution subject to this section, these receipts are apportioned to this state based on the

ratio that its gross business income, excluding such receipts, earned from sources within this state bears to gross business income, excluding such receipts, earned from sources within all states. For purposes of this subdivision, deposits made by this state, its residents, its political subdivisions, agencies, and instrumentalities must be attributed to this state, whether or not the deposits are accepted or maintained by the taxpayer at locations within this state.

(o) A financial institution's interest in property described in section 290.015, subdivision 3, paragraph (b), is included in the receipts factor in the same manner as assets in the nature of securities or money market instruments are included in paragraph (n).

(p) Receipts from leases, service contracts, or other arrangements for tax exempt property, as defined in and subject to section 290.0711, are excluded from the receipts factor.

[EFFECTIVE DATE.] This section is effective for leases and service contracts or similar arrangements entered into after February 5, 2004, and for taxable years beginning after December 31, 2003.

Sec. 11. Minnesota Statutes 2002, section 290.191, subdivision 10, is amended to read:

Subd. 10. [PROPERTY FACTOR; TANGIBLE PROPERTY.] (a) Tangible property includes land, buildings, machinery and equipment, inventories, and other tangible personal property actually used by the taxpayer during the taxable year in carrying on the business activities of the taxpayer. Tangible property which is separately allocated under section 290.17 is not includable in the property factor.

(b) Cash on hand or in banks, shares of stock, notes, bonds, accounts receivable, or other evidences of indebtedness, special privileges, franchises, and goodwill, are specifically excluded from the property factor, except as otherwise provided for financial institutions in subdivision 11.

(c) The value of tangible property that is owned by the taxpayer and that is to be used in the apportionment fraction is the original cost adjusted for any later capital additions or improvements and partial disposition by reason of sale, exchange, or abandonment.

(d) For purposes of computing the property factor, United States government property that is used by the taxpayer must be considered owned by the taxpayer.

(e) Property that is rented by the taxpayer is valued at eight times the net annual rental. Net annual rental is the annual rental paid by the taxpayer less any annual rental received by the taxpayer from subrentals. If the subrents taken into account in determining the net annual rental produce a negative or clearly inaccurate value for any item of property, another method that will properly reflect the value of rented property may be required by the commissioner or requested by the taxpayer. In no case, however, shall the value be less than an amount which bears the same ratio to the annual rental paid by the taxpayer for such property as the fair market value of that portion of the property used by the taxpayer bears to the total fair market value of the rented property. Rents paid during the year cannot be averaged.

(f) A person filing a combined report shall use this method of calculating the property factor for all members of the group.

(g) Tax exempt property, as defined in and subject to section 290.0711, is excluded from the property factor.

[EFFECTIVE DATE.] This section is effective for leases and service contracts or similar arrangements entered into after February 5, 2004, and for taxable years beginning after December 31, 2003.

Sec. 12. Minnesota Statutes 2002, section 290.191, subdivision 11, is amended to read:

Subd. 11. [FINANCIAL INSTITUTIONS; PROPERTY FACTOR.] (a) For financial institutions, the property factor includes, as well as tangible property, intangible property as set forth in this subdivision.

(b) Intangible personal property must be included at its tax basis for federal income tax purposes.

(c) Goodwill must not be included in the property factor.

(d) Coin and currency located in this state must be attributed to this state.

(e) Lease financing receivables must be attributed to this state if and to the extent that the property is located within this state.

(f) Assets in the nature of loans that are secured by real or tangible personal property must be attributed to this state if and to the extent that the security property is located within this state.

(g) Assets in the nature of consumer loans and installment obligations that are unsecured or secured by intangible property must be attributed to this state if the loan was made to a resident of this state.

(h) Assets in the nature of commercial loan and installment obligations that are unsecured by real or tangible personal property or secured by intangible property must be attributed to this state if the proceeds of the loan are to be applied in this state. If it cannot be determined where the funds are to be applied, the assets must be attributed to the state in which there is located the office of the borrower from which the application would be made in the regular course of business. If this cannot be determined, the transaction is disregarded in the apportionment formula.

(i) A participating financial institution's portion of participation and syndication loans must be attributed under paragraphs (e) to (h).

(j) Financial institution credit card and travel and entertainment credit card receivables must be attributed to the state to which the credit card charges and fees are regularly billed.

(k) Receivables arising from merchant discount income derived from financial institution credit card holder transactions with a merchant are attributed to the state in which the merchant is located. In the case of merchants located within and without the state, only receivables from merchant discounts attributable to sales made from locations within the state are attributed to this state. It is presumed, subject to rebuttal, that the location of a merchant is the address shown on the invoice submitted by the merchant to the taxpayer.

(l) Assets in the nature of securities and money market instruments are apportioned to this state based upon the ratio that total deposits from this state, its residents, its political subdivisions, agencies and instrumentalities bear to the total deposits from all states, their residents, their political subdivisions, agencies and instrumentalities. In the case of an unregulated financial institution, the assets are apportioned to this state based upon the ratio that its gross business income earned from sources within this state bears to gross business income earned from sources within all states. For purposes of this paragraph, deposits made by this state, its residents, its political subdivisions, agencies, and instrumentalities are attributed to this state, whether or not the deposits are accepted or maintained by the taxpayer at locations within this state.

(m) A financial institution's interest in any property described in section 290.015, subdivision 3, paragraph (b), is included in the property factor in the same manner as assets in the nature of securities or money market instruments are included under paragraph (l).

(n) Tax exempt property, as defined in and subject to section 290.0711, is excluded from the property factor.

[EFFECTIVE DATE.] This section is effective for leases and service contracts or similar arrangements entered into after February 5, 2004, and for taxable years beginning after December 31, 2003.

Sec. 13. Minnesota Statutes 2002, section 297A.61, subdivision 4, is amended to read:

Subd. 4. [RETAIL SALE.] (a) A "retail sale" means any sale, lease, or rental for any purpose other than resale, sublease, or subrent.

(b) A sale of property used by the owner only by leasing it to others or by holding it in an effort to lease it, and put to no use by the owner other than resale after the lease or effort to lease, is a sale of property for resale.

(c) A sale of master computer software that is purchased and used to make copies for sale or lease is a sale of property for resale.

(d) A sale of building materials, supplies, and equipment to owners, contractors, subcontractors, or builders for the erection of buildings or the alteration, repair, or improvement of real property is a retail sale in whatever quantity sold, whether the sale is for purposes of resale in the form of real property or otherwise.

(e) A sale of carpeting, linoleum, or similar floor covering to a person who provides for installation of the floor covering is a retail sale and not a sale for resale since a sale of floor covering which includes installation is a contract for the improvement of real property.

(f) A sale of shrubbery, plants, sod, trees, and similar items to a person who provides for installation of the items is a retail sale and not a sale for resale since a sale of shrubbery, plants, sod, trees, and similar items that includes installation is a contract for the improvement of real property.

(g) A sale of tangible personal property that is awarded as prizes is a retail sale and is not considered a sale of property for resale.

(h) A sale of tangible personal property utilized or employed in the furnishing or providing of services under subdivision 3, paragraph (g), clause (1), including, but not limited to, property given as promotional items, is a retail sale and is not considered a sale of property for resale.

(i) A sale of tangible personal property used in conducting lawful gambling under chapter 349 or the state lottery under chapter 349A, including, but not limited to, property given as promotional items, is a retail sale and is not considered a sale of property for resale.

(j) A sale of machines, equipment, or devices that are used to furnish, provide, or dispense goods or services, including, but not limited to, coin-operated devices, is a retail sale and is not considered a sale of property for resale.

(k) Except as provided in subdivision 7, paragraph (c), in the case of a lease, a retail sale occurs when an obligation to make a lease payment becomes due under the terms of the agreement or the trade practices of the lessor.

(l) In the case of a conditional sales contract, a retail sale occurs upon the transfer of title or possession of the tangible personal property.

[EFFECTIVE DATE.] This section is effective for leases entered into after June 30, 2004.

Sec. 14. Minnesota Statutes 2003 Supplement, section 297A.61, subdivision 7, is amended to read:

Subd. 7. [SALES PRICE.] (a) "Sales price" means the measure subject to sales tax, and means the total amount of consideration, including cash, credit, personal property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

- (1) the seller's cost of the property sold;
- (2) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expenses of the seller;
- (3) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
- (4) delivery charges;

(5) installation charges; and

(6) the value of exempt property given to the purchaser when taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise.

(b) Sales price does not include:

(1) discounts, including cash, terms, or coupons, that are not reimbursed by a third party and that are allowed by the seller and taken by a purchaser on a sale;

(2) interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; and

(3) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(c) In the case of a lease of a motor vehicle, as defined in section 297B.01, subdivision 5, that is taxable under this chapter, the sales tax shall be collected by the vendor at the time the lease is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee under the lease agreement. If the total amount of the consideration for the lease includes amounts that are not calculated at the time the lease is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee. In the case of an open-ended lease, the sales tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial term of the lease, and then for each subsequent renewal period as it becomes due.

[EFFECTIVE DATE.] This section is effective for leases entered into after June 30, 2004.

Sec. 15. Minnesota Statutes 2002, section 297A.67, is amended by adding a subdivision to read:

Subd. 32. [CIGARETTES.] Cigarettes upon which a tax has been imposed under section 297F.25 are exempt.

[EFFECTIVE DATE.] This section is effective for sales and purchases made after July 31, 2004.

Sec. 16. Minnesota Statutes 2003 Supplement, section 297A.68, subdivision 2, is amended to read:

Subd. 2. [MATERIALS CONSUMED IN INDUSTRIAL PRODUCTION.] (a) Materials stored, used, or consumed in industrial production of personal property intended to be sold ultimately at retail are exempt, whether or not the item so used becomes an ingredient or constituent part of the property produced. Materials that qualify for this exemption include, but are not limited to, the following:

(1) chemicals, including chemicals used for cleaning food processing machinery and equipment;

(2) materials, including chemicals, fuels, and electricity purchased by persons engaged in industrial production to treat waste generated as a result of the production process;

(3) fuels, electricity, gas, and steam used or consumed in the production process, except that electricity, gas, or steam used for space heating, cooling, or lighting is exempt if (i) it is in excess of the average climate control or lighting for the production area, and (ii) it is necessary to produce that particular product;

(4) petroleum products and lubricants;

(5) packaging materials, including returnable containers used in packaging food and beverage products;

(6) accessory tools, equipment, and other items that are separate detachable units with an ordinary useful life of less than 12 months used in producing a direct effect upon the product; and

(7) the following materials, tools, and equipment used in metalcasting: crucibles, thermocouple protection sheaths and tubes, stalk tubes, refractory materials, molten metal filters and filter boxes, degassing lances, and base blocks.

(b) This exemption does not include:

(1) machinery, equipment, implements, tools, accessories, appliances, contrivances and furniture and fixtures, except those listed in paragraph (a), clause (6); and

(2) petroleum and special fuels used in producing or generating power for propelling ready-mixed concrete trucks on the public highways of this state.

(c) Industrial production includes, but is not limited to, research, development, design or production of any tangible personal property, manufacturing, processing (other than by restaurants and consumers) of agricultural products (whether vegetable or animal), commercial fishing, refining, smelting, reducing, brewing, distilling, printing, mining, quarrying, lumbering, generating electricity, the production of road building materials, and the research, development, design, or production of computer software. Industrial production does not include painting, cleaning, repairing or similar processing of property except as part of the original manufacturing process. Industrial production does not include the transportation, transmission, or distribution of petroleum, liquefied gas, natural gas, water, or steam, in, by, or through pipes, lines, tanks, mains, or other means of transporting those products.

[EFFECTIVE DATE.] This section is effective for sales and purchases made after June 30, 2004.

Sec. 17. Minnesota Statutes 2003 Supplement, section 297A.68, subdivision 5, is amended to read:

Subd. 5. [CAPITAL EQUIPMENT.] (a) Capital equipment is exempt. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and then refunded in the manner provided in section 297A.75.

"Capital equipment" means machinery and equipment purchased or leased, and used in this state by the purchaser or lessee primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail if the machinery and equipment are essential to the integrated production process of manufacturing, fabricating, mining, or refining. Capital equipment also includes machinery and equipment used to electronically transmit results retrieved by a customer of an on-line computerized data retrieval system.

(b) Capital equipment includes, but is not limited to:

(1) machinery and equipment used to operate, control, or regulate the production equipment;

(2) machinery and equipment used for research and development, design, quality control, and testing activities;

(3) environmental control devices that are used to maintain conditions such as temperature, humidity, light, or air pressure when those conditions are essential to and are part of the production process;

(4) materials and supplies used to construct and install machinery or equipment;

(5) repair and replacement parts, including accessories, whether purchased as spare parts, repair parts, or as upgrades or modifications to machinery or equipment;

(6) materials used for foundations that support machinery or equipment;

(7) materials used to construct and install special purpose buildings used in the production process;

(8) ready-mixed concrete equipment in which the ready-mixed concrete is mixed as part of the delivery process regardless if mounted on a chassis and leases of ready-mixed concrete trucks; and

(9) machinery or equipment used for research, development, design, or production of computer software.

(c) Capital equipment does not include the following:

(1) motor vehicles taxed under chapter 297B;

(2) machinery or equipment used to receive or store raw materials;

(3) building materials, except for materials included in paragraph (b), clauses (6) and (7);

(4) machinery or equipment used for nonproduction purposes, including, but not limited to, the following: plant security, fire prevention, first aid, and hospital stations; support operations or administration; pollution control; and plant cleaning, disposal of scrap and waste, plant communications, space heating, cooling, lighting, or safety;

(5) farm machinery and aquaculture production equipment as defined by section 297A.61, subdivisions 12 and 13;

(6) machinery or equipment purchased and installed by a contractor as part of an improvement to real property; or

(7) machinery or equipment used in the transportation, transmission, or distribution of petroleum, liquefied gas, natural gas, water, or steam, in, by, or through pipes, lines, tanks, mains, or other means of transporting those products; or

(8) any other item that is not essential to the integrated process of manufacturing, fabricating, mining, or refining.

(d) For purposes of this subdivision:

(1) "Equipment" means independent devices or tools separate from machinery but essential to an integrated production process, including computers and computer software, used in operating, controlling, or regulating machinery and equipment; and any subunit or assembly comprising a component of any machinery or accessory or attachment parts of machinery, such as tools, dies, jigs, patterns, and molds.

(2) "Fabricating" means to make, build, create, produce, or assemble components or property to work in a new or different manner.

(3) "Integrated production process" means a process or series of operations through which tangible personal property is manufactured, fabricated, mined, or refined. For purposes of this clause, (i) manufacturing begins with the removal of raw materials from inventory and ends when the last process prior to loading for shipment has been completed; (ii) fabricating begins with the removal from storage or inventory of the property to be assembled, processed, altered, or modified and ends with the creation or production of the new or changed product; (iii) mining begins with the removal of overburden from the site of the ores, minerals, stone, peat deposit, or surface materials and ends when the last process before stockpiling is completed; and (iv) refining begins with the removal from inventory or storage of a natural resource and ends with the conversion of the item to its completed form.

(4) "Machinery" means mechanical, electronic, or electrical devices, including computers and computer software, that are purchased or constructed to be used for the activities set forth in paragraph (a), beginning with the removal of raw materials from inventory through completion of the product, including packaging of the product.

(5) "Machinery and equipment used for pollution control" means machinery and equipment used solely to eliminate, prevent, or reduce pollution resulting from an activity described in paragraph (a).

(6) "Manufacturing" means an operation or series of operations where raw materials are changed in form, composition, or condition by machinery and equipment and which results in the production of a new article of tangible personal property. For purposes of this subdivision, "manufacturing" includes the generation of electricity or steam to be sold at retail.

(7) "Mining" means the extraction of minerals, ores, stone, or peat.

(8) "On-line data retrieval system" means a system whose cumulation of information is equally available and accessible to all its customers.

(9) "Primarily" means machinery and equipment used 50 percent or more of the time in an activity described in paragraph (a).

(10) "Refining" means the process of converting a natural resource to an intermediate or finished product, including the treatment of water to be sold at retail.

[EFFECTIVE DATE.] This section is effective for sales and purchases made after June 30, 2004.

Sec. 18. [297F.25] [CIGARETTE WHOLESALE TAX.]

Subdivision 1. [IMPOSITION.] A tax is imposed on the sale of cigarettes by a cigarette distributor to a retailer or cigarette subjobber for resale in this state. The tax is equal to 6.5 percent of:

(1) 112 percent of the distributor's gross invoice price, before any discounts and including the full face value of any cigarette stamps and the fee imposed under section 297F.24, of the cigarettes sold to a retailer; or

(2) 112 percent of the cost of the retailer, as defined in section 325D.32, subdivision 11, and any fees imposed under section 297F.24 of the cigarettes sold to a cigarette subjobber.

Subd. 2. [TAX COLLECTION REQUIRED.] A cigarette distributor must collect the tax imposed under subdivision 1 from the retailer or cigarette subjobber and the tax must be stated and charged separately. The tax collected must be remitted to the commissioner in the manner prescribed by subdivision 4.

Subd. 3. [PAYMENT.] Each taxpayer must remit payments of the taxes to the commissioner on the same dates prescribed under section 297F.09, subdivision 1, for cigarette tax returns, including the accelerated remittance of the June liability.

Subd. 4. [RETURN.] A taxpayer must file a return with the commissioner on the same dates prescribed under section 297F.09, subdivision 1, for cigarette tax returns.

Subd. 5. [FORM OF RETURN.] The return must contain the information and be in the form prescribed by the commissioner.

Subd. 6. [TAX AS DEBT.] The tax that is required to be collected by the distributor is a debt from the retailer or cigarette subjobber to the distributor recoverable at law in the same manner as other debts.

Subd. 7. [ADMINISTRATION.] The audit, assessment, interest, appeal, refund, and collection provisions applicable to the taxes imposed under this chapter apply to taxes imposed under this section.

Subd. 8. [DEPOSIT OF REVENUES.] Notwithstanding the provisions of section 297F.10, the commissioner shall deposit all revenues, including penalties and interest, derived from the tax imposed by this section, in the general fund.

[EFFECTIVE DATE.] This section is effective for all sales made on or after August 1, 2004.

Sec. 19. [465.716] [TAX SHELTER TRANSACTION PROHIBITED.]

(a) No political subdivision may enter into a lease, sublease, sale-leaseback, service contract, or similar ownership, use, or legal arrangement governing property or facilities of the political subdivision with a private person, if the arrangement:

(1) is intended to transfer the tax title to the private person, permitting it to claim the income tax benefits of ownership, such as depreciation, cost recovery allowances, or similar benefits under the federal or state income or corporate income taxes;

(2) permits or requires the political subdivision to continue operating or using the property or facilities for ten or more years in substantially the same manner as it did prior to the effective date of the arrangement; and

(3) considering the totality of the legal and financial arrangements, does not impose the risk of loss, obsolescence, or other incidents of equity ownership on the private person for a period of 20 years or more.

(b) For purposes of this section, "political subdivision" has the meaning given in section 465.719, subdivision 1.

(c) The political subdivision may rely on the representations of the advisors to the private person in determining whether an arrangement is intended to transfer tax title to the property or facilities.

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

Sec. 20. [FLOOR STOCKS TAX.]

Subdivision 1. [CIGARETTES.] A floor stocks tax is imposed on every retailer or cigarette subjobber, on the stamped cigarettes in the retailer's or cigarette subjobber's possession or under the retailer's or cigarette subjobber's control, at 12:01 a.m. on July 31, 2004. The tax is imposed at the following rates:

(1) on cigarettes weighing not more than three pounds per thousand, 13.5 mills on each cigarette; and

(2) on cigarettes weighing more than three pounds per thousand, 27 mills on each cigarette.

Each retailer shall file a return with the commissioner, in the form the commissioner prescribes, showing the cigarettes on hand at 12:01 a.m. on August 1, 2004, and pay the tax due thereon by September 1, 2004. Tax not paid by the due date bears interest at the rate of one percent a month.

Subd. 2. [AUDIT AND ENFORCEMENT.] The tax imposed by this section is subject to the audit, assessment, and collection provisions applicable to the taxes imposed under Minnesota Statutes, chapter 297F. The commissioner may require a distributor to receive and maintain copies of floor stocks tax returns filed by all retailers requesting a credit for returned cigarettes.

Subd. 3. [DEPOSIT OF PROCEEDS.] Notwithstanding the provisions of Minnesota Statutes, section 297F.10, the revenue from the tax imposed under this section shall be deposited by the commissioner in the general fund.

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

Sec. 21. [DEPARTMENT OF REVENUE.]

The appropriation to the Department of Revenue in Laws 2003, First Special Session chapter 1, article 1, is reduced by \$1,700,000. The reduction in this section must not be used to reduce tax compliance activities or the Tax Research Division."

Delete the title amendment and insert:

"A bill for an act relating to finance; reducing appropriations to state agencies in the executive and legislative branches for fiscal years 2004 and 2005; providing for a loan to the general fund;

requiring reports and recommendations to bring the state budget into compliance with generally accepted governmental accounting principles; requiring disclosure of the impact of inflation on state expenditures; reducing the number of deputy and assistant commissioners in state agencies; reducing the number of unclassified positions in state agencies; reducing the upper limit of salaries in state agencies; imposing limitations on state agency spending; providing for a temporary delay in certification of district judge vacancies; requiring state contractors to register and collect sales tax; changing definition of foreign operating corporations; limiting income tax deductions; allocating income for tax purposes; requiring payment of sales tax on leases of motor vehicles; defining industrial production and capital equipment; providing for collection of sales tax on cigarettes; reduction in appropriation; amending Minnesota Statutes 2002, sections 15.06, subdivision 8; 16A.055, subdivision 1; 16A.103, subdivisions 1a, 1b; 16A.11, subdivision 2; 16B.03; 16C.03, by adding a subdivision; 43A.03, subdivision 3; 43A.17, subdivisions 1, 4; 45.013; 116.03, subdivision 1; 116J.01, subdivision 5; 174.02, subdivision 2; 241.01, subdivision 2; 272.01, by adding a subdivision; 290.01, subdivision 6b; 290.17, subdivisions 2, 4; 290.191, subdivisions 5, 6, 10, 11; 297A.61, subdivision 4; 297A.67, by adding a subdivision; Minnesota Statutes 2003 Supplement, sections 15.01; 15.06, subdivision 1; 15A.0815, subdivision 2; 43A.08, subdivision 1; 84.01, subdivision 3; 290.01, subdivisions 19c, 19d; 297A.61, subdivision 7; 297A.68, subdivisions 2, 5; proposing coding for new law in Minnesota Statutes, chapters 290; 297F; 465; repealing Minnesota Statutes 2002, sections 43A.03, subdivision 4; 43A.08, subdivision 1b; 116J.01, subdivision 4; Minnesota Statutes 2003 Supplement, section 43A.08, subdivision 1a."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Cohen from the Committee on Finance, to which was referred

H.F. No. 2028: 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 without the possibility of release for certain first degree criminal sexual conduct crimes; creating indeterminate sentences and mandatory life sentences for certain first through fourth degree criminal sexual conduct crimes; creating a new criminal sexual predatory conduct crime; 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 designate presumptive sentences for certain offenses; requiring the commissioner of corrections to establish criteria and procedures for reviewing offenders' petitions for release; allowing the Minnesota Sex Offender Review Board and the commissioner of corrections to proceed with expedited rulemaking; exempting the review board from contested case proceedings; granting the review board access to certain data; specifying that the Open Meeting Law does not apply to meetings and hearings of the Minnesota Sex Offender Review Board; providing a registration procedure when a person lacks a primary address; expanding the scope of the predatory offender registration law; requiring the commissioner of corrections to convene an end-of-confinement review committee to assess the risk level of certain offenders coming into Minnesota from another state and 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; 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 and consumers; 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; 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; providing for the safety of emergency workers on highways; defining "appropriate reduced speed" when approaching or passing stopped emergency vehicle in certain circumstances; 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; providing procedures for retention of DNA evidence; 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; providing for the rights of victims of sexual assault; instructing the revisor to recodify and renumber statutes; making various technical and conforming changes; 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; 171.12, subdivision 3; 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.02, by adding a subdivision; 253B.07, subdivisions 1, 4; 253B.08, subdivisions 2, 5a; 253B.16, subdivision 2; 253B.18, subdivisions 4a, 4b, 4c, 5; 253B.185, subdivision 2, by adding a subdivision; 253B.19, subdivision 2; 253B.20, subdivision 3; 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; 604.15, 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; 611A.02, subdivision 2; 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; 590; 609; proposing coding for new law as Minnesota Statutes, chapter 545A; 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; 486.055; 609.108; 609.109; Minnesota Statutes 2003 Supplement, section 611.18.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

SUMMARY

(General Fund Only, After Forecast Adjustments)

BIENNIAL

	2004	2005	TOTAL
APPROPRIATIONS			
K-12 Education	\$(215,000)	\$181,000	\$(34,000)
Higher Education	-0-	(250,000)	(250,000)
Environment	-0-	(5,590,000)	(5,590,000)
Agriculture	-0-	75,000	75,000
Economic Development	-0-	(1,650,000)	(1,650,000)
State Government	155,000	19,520,000	19,675,000
Criminal Justice	-0-	18,936,000	18,936,000
Health and			
Human Services	137,707,000	(126,668,000)	11,039,000
SUBTOTAL	\$137,647,000	\$(95,446,000)	\$42,201,000
TRANSFERS IN	(1,600,000)	(14,031,000)	(15,631,000)
TOTAL	\$136,047,000	\$(109,477,000)	\$26,570,000

ARTICLE 2

EARLY CHILDHOOD EDUCATION

Section 1. Minnesota Statutes 2003 Supplement, section 119A.46, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) The definitions in section 144.9501 and in this subdivision apply to this section.

(b) "Eligible organization" means a lead contractor, city, board of health, community health department, community action agency as defined in section 119A.374, or community development corporation.

(c) "Commissioner" means the commissioner of ~~education~~ health, or the commissioner of the Minnesota Housing Finance Agency as authorized by section ~~462A.05~~, subdivision 15c.

Sec. 2. Minnesota Statutes 2002, section 119A.46, subdivision 2, is amended to read:

Subd. 2. [GRANTS; ADMINISTRATION.] Within the limits of the available appropriation, the commissioner must develop a swab team services program which may make demonstration and training grants to eligible organizations to train workers to provide swab team services and swab team services for residential property. Grants may be awarded to nonprofit organizations to provide technical assistance and training to ensure quality and consistency within the statewide program. Grants must be awarded to help ensure full-time employment to workers providing swab team services and must be awarded for a two-year period.

Grants awarded under this section must be made in consultation with the ~~commissioners~~ commissioner of the ~~Department of health~~ and the Housing Finance Agency, and representatives of neighborhood groups from areas at high risk for toxic lead exposure, a labor organization, the lead coalition, community action agencies, and the legal aid society. The consulting team must review grant applications and recommend awards to eligible organizations that meet requirements for receiving a grant under this section.

Sec. 3. Minnesota Statutes 2002, section 119A.46, subdivision 3, is amended to read:

Subd. 3. [APPLICANTS.] (a) Interested eligible organizations may apply to the commissioner for grants under this section. Two or more eligible organizations may jointly apply for a grant. Priority shall be given to community action agencies in greater Minnesota and to either community action agencies or neighborhood based nonprofit organizations in cities of the first class. Of the total annual appropriation, 12.5 percent may be used for administrative purposes. The commissioner may deviate from this percentage if a grantee can justify the need for a larger administrative allowance. Of this amount, up to five percent may be used by the commissioner for state administrative purposes. Applications must provide information requested by the commissioner, including at least the information required to assess the factors listed in paragraph (d).

(b) ~~The commissioner must coordinate with the commissioner of health who must~~ consult with boards of health to provide swab team services for purposes of secondary prevention. The priority for swab teams created by grants to eligible organizations under this section must be work assigned by the commissioner of health, or by a board of health if so designated by the commissioner of health, to provide secondary prevention swab team services to fulfill the requirements of section 144.9504, subdivision 6, in response to a lead order. Swab teams assigned work under this section by the commissioner, that are not engaged daily in fulfilling the requirements of section 144.9504, subdivision 6, must deliver swab team services in response to elevated blood lead levels as defined in section 144.9501, subdivision 9, where lead orders were not issued, and for purposes of primary prevention in census tracts known to be in areas at high risk for toxic lead exposure as described in section 144.9503, subdivision 2.

(c) Any additional money must be used for grants to establish swab teams for primary prevention under section 144.9503, in census tracts in areas at high risk for toxic lead exposure as determined under section 144.9503, subdivision 2.

(d) In evaluating grant applications, the commissioner must consider the following criteria:

- (1) the use of lead contractors and lead workers for residential swab team services;
- (2) the participation of neighborhood groups and individuals, as swab team workers, in areas at high risk for toxic lead exposure;
- (3) plans for the provision of swab team services for primary and secondary prevention as required under subdivision 4;
- (4) plans for supervision, training, career development, and postprogram placement of swab team members;
- (5) plans for resident and property owner education on lead safety;
- (6) plans for distributing cleaning supplies to area residents and educating residents and property owners on cleaning techniques;
- (7) sources of other funding and cost estimates for training, lead inspections, swab team services, equipment, monitoring, testing, and administration;
- (8) measures of program effectiveness;
- (9) coordination of program activities with other federal, state, and local public health, job training, apprenticeship, and housing renovation programs including programs under sections 268.86 to 268.881; and
- (10) prior experience in providing swab team services.

Sec. 4. Minnesota Statutes 2002, section 119A.46, subdivision 8, is amended to read:

Subd. 8. [TESTING AND EVALUATION.] (a) Testing of the environment is not necessary by swab teams whose work is assigned by the commissioner of health or a designated board of health under section 144.9504. The commissioner of health or designated board of health must share the analytical testing data collected on each residence for purposes of secondary prevention under section 144.9504 with the swab team workers in order to provide constructive feedback on their work and to the commissioner for the purposes set forth in paragraph (c).

(b) For purposes of primary prevention evaluation, the following samples must be collected: pretesting and posttesting of one noncarpeted floor dust lead sample and a notation of the extent and location of bare soil and of deteriorated lead-based paint. The analytical testing data collected on each residence for purposes of primary prevention under section 144.9503 must be shared with the swab team workers in order to provide constructive feedback on their work and to the commissioner for the purposes set forth in paragraph (c).

(c) The commissioner of health must establish a program ~~in cooperation with the commissioner~~

to collect appropriate data as required under paragraphs (a) and (b), in order to conduct an ongoing evaluation of swab team services for primary and secondary prevention. Within the limits of available appropriations, the commissioner of health must conduct ~~or contract with the commissioner,~~ on up to 1,000 residences which have received primary or secondary prevention swab team services, a postremediation evaluation, on at least a quarterly basis for a period of at least two years for each residence. The evaluation must note the condition of the paint within the residence, the extent of bare soil on the grounds, and collect and analyze one noncarpeted floor dust lead sample. The data collected must be evaluated to determine the efficacy of providing swab team services as a method of reducing lead exposure in young children. In evaluating this data, the commissioner of health must consider city size, community location, historic traffic flow, soil lead level of the property by area or census tract, distance to industrial point sources that emit lead, season of the year, age of the housing, age and number of children living at the residence, the presence of pets that move in and out of the residence, and other relevant factors as the commissioner of health may determine. This evaluation of the swab team program may be paid from amounts appropriated to the Department of Economic Security for providing swab team services.

Sec. 5. Minnesota Statutes 2002, section 119B.011, is amended by adding a subdivision to read:

Subd. 19b. [QUALITY CHILD CARE.] "Quality child care" means care provided by:

(1) a child care center or facility providing legal child care services as defined under section 245A.03 and accredited by the National Association for the Education of Young Children, the Council on Accreditation, the National Early Childhood Program Accreditation, the National School-Age Care Association, the American Montessori Academy, the International Montessori Association, or the National Head Start Association Program of Excellence; or

(2) an individual providing legal child care services as defined in section 245A.03 who has earned a child development associate degree, a diploma in child development from a Minnesota state technical college, or a bachelor's degree in early childhood education from an accredited college or university, or who is accredited by the National Association for Family Child Care or the Competency Based Training and Assessment Program.

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

Sec. 6. Minnesota Statutes 2003 Supplement, section 119B.03, subdivision 4, is amended to read:

Subd. 4. [FUNDING PRIORITY.] (a) First priority for child care assistance under the basic sliding fee program must be given to eligible non-MFIP families who do not have a high school or general equivalency diploma or who need remedial and basic skill courses in order to pursue employment or to pursue education leading to employment and who need child care assistance to participate in the education program. Within this priority, the following subpriorities must be used:

- (1) child care needs of minor parents;
- (2) child care needs of parents under 21 years of age; and
- (3) child care needs of other parents within the priority group described in this paragraph.

(b) Second priority must be given to parents who have completed their MFIP or work first transition year, or parents who are no longer receiving or eligible for diversionary work program supports.

(c) Third priority must be given to families who are eligible for portable basic sliding fee assistance through the portability pool under subdivision 9.

(d) Families under paragraph (b) must be added to the basic sliding fee waiting list on the date they begin the transition year under section 119B.011, subdivision 20, and must be moved into the basic sliding fee program as soon as possible after they complete their transition year.

(e) A county may terminate child care assistance for families already receiving assistance when the county receives:

(1) a revised allocation from the child care fund that is smaller than the allocation stated in the notice sent to the county; and

(2) such short notice of a change in its allocation that the county cannot absorb the difference in the allocation. Families should be terminated in the following order of priority:

(i) eligible families who do not meet either of the criteria in paragraphs (a) and (b);

(ii) eligible families who have completed their MFIP or work first transition year, or parents who are no longer receiving or eligible for diversionary work program supports;

(iii) eligible parents who meet the criteria of paragraph (a), who do not meet the criteria in paragraph (d) or this paragraph;

(iv) eligible parents who meet the criteria of paragraph (a), and who are between 18 and 21 years of age; and

(v) eligible parents who meet the criteria of paragraph (a), and who are under 18 years or age.

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

Sec. 7. Minnesota Statutes 2002, section 119B.09, is amended by adding a subdivision to read:

Subd. 1a. [PORTABILITY POOL; CONTINUED ELIGIBILITY.] For each family receiving child care assistance that moves between Minnesota counties and exhausts the family's eligibility for the portability pool under section 119B.03, subdivision 9, the receiving county must keep the family on the waiting list, effective from the date of the move, until:

(1) the family no longer meets the maximum income eligibility level of 250 percent of the federal poverty guidelines at program exit under subdivision 1;

(2) the family no longer meets other eligibility requirements under section 119B.03, subdivision 3; or

(3) basic sliding fee funds are available. Notwithstanding subdivision 1, paragraph (a), clause (3), a family with an adjusted gross income up to 250 percent of the federal poverty guidelines that meets the requirements of this subdivision must be added to the basic sliding fee program when funds become available, if all other eligibility requirements are met.

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

Sec. 8. Minnesota Statutes 2003 Supplement, section 124D.52, subdivision 3, is amended to read:

Subd. 3. [ACCOUNTS; REVENUE; AID.] (a) Each district, group of districts, or private nonprofit organization providing adult basic education programs must establish and maintain a reserve account within the community service fund for the receipt and disbursement of all funds related to these programs. All revenue received pursuant to this section must be utilized solely for the purposes of adult basic education programs. State aid must not equal more than 100 percent of the unreimbursed expenses of providing these programs, excluding in-kind costs.

(b) For purposes of paragraph (a), an adult basic education program may include as valid expenditures for the previous fiscal year program spending that occurs from July 1 to September 30 of the following year. Program spending may only be counted for one fiscal year.

(c) Notwithstanding section 123A.26 or any other law to the contrary, an adult basic education consortium providing an approved adult basic education program may be its own fiscal agent and is eligible to receive state-aid payments directly from the commissioner.

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

Sec. 9. Laws 2003, First Special Session chapter 9, article 7, section 11, subdivision 3, is amended to read:

Subd. 3. [EARLY CHILDHOOD FAMILY EDUCATION AID.] For early childhood family education aid under Minnesota Statutes, section 124D.135:

\$19,675,000	<u>\$19,079,000</u>	.....	2004
\$15,129,000	<u>\$14,407,000</u>	.....	2005

The 2004 appropriation includes \$3,239,000 for 2003 and ~~\$16,436,000~~ \$15,840,000 for 2004.

The 2005 appropriation includes ~~\$4,109,000~~ \$3,959,000 for 2004 and ~~\$11,020,000~~ \$10,448,000 for 2005.

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

Sec. 10. Laws 2003, First Special Session chapter 9, article 8, section 7, subdivision 2, is amended to read:

Subd. 2. [COMMUNITY EDUCATION AID.] For community education aid under Minnesota Statutes, section 124D.20:

\$5,495,000	<u>\$5,351,000</u>	.....	2004
\$3,406,000	<u>\$3,137,000</u>	.....	2005

The 2004 appropriation includes \$956,000 for 2003 and ~~\$4,539,000~~ \$4,395,000 for 2004.

The 2005 appropriation includes ~~\$1,134,000~~ \$1,098,000 for 2004 and ~~\$2,272,000~~ \$2,039,000 for 2005.

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

Sec. 11. Laws 2003, First Special Session chapter 9, article 8, section 7, subdivision 5, is amended to read:

Subd. 5. [SCHOOL-AGE CARE REVENUE.] For extended day care aid under Minnesota Statutes, section 124D.22:

\$41,000	<u>\$40,000</u>	.....	2004
\$22,000	<u>\$24,000</u>	.....	2005

The 2004 appropriation includes \$14,000 for 2003 and ~~\$27,000~~ \$26,000 for 2004.

The 2005 appropriation includes \$6,000 for 2004 and ~~\$16,000~~ \$18,000 for 2005.

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

Sec. 12. Laws 2003, First Special Session chapter 9, article 9, section 9, subdivision 2, is amended to read:

Subd. 2. [ADULT BASIC EDUCATION AID.] For adult basic education aid under Minnesota Statutes, section 124D.52, in fiscal year 2004 and Minnesota Statutes, section 124D.531, in fiscal year 2005:

\$33,153,000	<u>\$33,014,000</u>	.....	2004
\$35,823,000	<u>\$35,808,000</u>	.....	2005

The 2004 appropriation includes ~~\$5,905,000~~ \$5,827,000 for 2003 and ~~\$27,248,000~~ \$27,187,000 for 2004.

The 2005 appropriation includes \$6,811,000 \$6,796,000 for 2004 and \$29,012,000 for 2005.

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

Sec. 13. [SCHOOL READINESS KINDERGARTEN ASSESSMENT INITIATIVE.]

Subdivision 1. [ESTABLISHMENT.] The commissioner of education shall develop a plan to establish a system for assessing the school readiness of children entering kindergarten, building on the two school readiness studies conducted by the Department of Education in 2002 and 2003. The department shall also set biennial milestones for progress in the number of children reaching proficiency on all measures of the assessment.

Subd. 2. [DESCRIPTION.] The plan must show how the school readiness kindergarten assessment initiative would be implemented in all school districts in Minnesota on a voluntary basis over a five-year period, with all children assessed by fiscal year 2009. The plan must include a provision that would add the results of the assessment to the annual school report cards under Minnesota Statutes, section 120B.36.

Subd. 3. [EVALUATION AND REPORTING.] The plan must also include an evaluation component for determining the effectiveness of the data-gathering system for implementing developmental assessments at kindergarten entrance on a school-by-school basis. The commissioner shall also report to the committees of the senate and house of representatives having jurisdiction over early childhood education issues on the progress toward reaching the milestones in odd years beginning with fiscal year 2007.

[EFFECTIVE DATE.] This section is effective on June 30, 2004.

Sec. 14. [LEAD ABATEMENT.]

Responsibility for the lead abatement program under Minnesota Statutes, section 119A.46, is transferred under Minnesota Statutes, section 15.039, from the commissioner of education to the commissioner of health.

ARTICLE 3

GENERAL EDUCATION

Section 1. Minnesota Statutes 2002, section 120A.05, is amended by adding a subdivision to read:

Subd. 18. [KINDERGARTEN.] "Kindergarten" means a program designed for pupils five years of age on September 1 of the calendar year in which the school year commences that prepares pupils to enter first grade the following school year. A program designed for pupils younger than five years of age on September 1 of the calendar year in which the school year commences that prepares pupils to enter kindergarten the following school year is a prekindergarten program.

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

Sec. 2. Minnesota Statutes 2002, section 123A.05, subdivision 2, is amended to read:

Subd. 2. [RESERVE REVENUE.] Each district that is a member of an area learning center must reserve revenue in an amount equal to the sum of (1) at least 90 percent of the district average general education revenue per pupil unit minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without basic skills revenue, transportation sparsity revenue, and the transportation portion of the transition revenue adjustment, times the number of pupil units attending an area learning center program under this section, plus (2) the amount of basic skills revenue generated by pupils attending the area learning center. The amount of reserved revenue under this subdivision may only be spent on program costs associated with the area learning center. Compensatory revenue must be allocated according to section 126C.15, subdivision 2.

Sec. 3. Minnesota Statutes 2002, section 123B.75, is amended by adding a subdivision to read:

Subd. 4a. [TACONITE REVENUE.] Taconite revenue received in a calendar year by a school district under section 298.28, subdivisions 4, paragraphs (b) and (c), and 11, paragraph (d), is fully recognized in the fiscal year in which the February payment falls.

[EFFECTIVE DATE.] This section is effective retroactive to July 1, 2003, for school district revenue for fiscal year 2004.

Sec. 4. Minnesota Statutes 2003 Supplement, section 124D.095, subdivision 8, is amended to read:

Subd. 8. [FINANCIAL ARRANGEMENTS.] (a) For a student enrolled in an on-line learning course, the department must calculate average daily membership and make payments according to this subdivision.

(b) The initial on-line learning average daily membership equals 1/12 for each semester course or a proportionate amount for courses of different lengths. The adjusted on-line learning average daily membership equals the initial on-line learning average daily membership times .88.

(c) No on-line learning average daily membership shall be generated if: (1) the student does not complete the on-line learning course, or (2) the student is enrolled in on-line learning provided by the enrolling district and the student was either enrolled in a Minnesota public school for the school year before the school year in which the student first enrolled in on-line learning, or the student is enrolled in an instructional program in which at least 40 percent of the total instructional time takes place in the school's facilities. For students enrolled in on-line learning according to clause (2), the department shall calculate average daily membership according to section 126C.05, subdivision 8.

(d) On-line learning average daily membership under this subdivision for a student currently enrolled in a Minnesota public school and who was enrolled in a Minnesota public school for the school year before the school year in which the student first enrolled in on-line learning shall be used only for computing average daily membership according to section 126C.05, subdivision 19, paragraph (a), clause ~~(ii)~~ (2), and for computing on-line learning aid according to section 126C.24.

(e) On-line learning average daily membership under this subdivision for students not included in paragraph (c) or (d) shall be used only for computing average daily membership according to section 126C.05, subdivision 19, paragraph (a), clause ~~(ii)~~ (2), and for computing payments under paragraphs (f) and (g).

(f) Subject to the limitations in this subdivision, the department must pay an on-line learning provider an amount equal to the product of the adjusted on-line learning average daily membership for students under paragraph (e) times the student grade level weighting under section 126C.05, subdivision 1, times the formula allowance.

(g) The department must pay each on-line learning provider 100 percent of the amount in paragraph (f) within 45 days of receiving final enrollment and course completion information each quarter or semester.

Sec. 5. Minnesota Statutes 2003 Supplement, section 124D.11, subdivision 1, is amended to read:

Subdivision 1. [GENERAL EDUCATION REVENUE.] (a) General education revenue must be paid to a charter school as though it were a district. The general education revenue for each adjusted marginal cost pupil unit is the state average general education revenue per pupil unit, plus the referendum equalization aid allowance in the pupil's district of residence, minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without basic skills revenue, extended time revenue, transition revenue, and transportation sparsity revenue, plus basic skills revenue and transition revenue as though the school were a school district. The general education revenue for each extended time marginal cost pupil unit equals \$4,378.

(b) Notwithstanding paragraph (a), for charter schools in the first year of operation, general education revenue shall be computed using the number of adjusted pupil units in the current fiscal year.

Sec. 6. Minnesota Statutes 2003 Supplement, section 124D.11, subdivision 2, is amended to read:

Subd. 2. [TRANSPORTATION REVENUE.] Transportation revenue must be paid to a charter school that provides transportation services according to section 124D.10, subdivision 16, according to this subdivision. Transportation aid shall equal transportation revenue.

In addition to the revenue under subdivision 1, a charter school providing transportation services must receive (1) general education aid for each adjusted marginal cost pupil unit equal to the sum of an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, plus the transportation sparsity allowance for the school district in which the charter school is located and (2) general education aid for each extended time marginal cost pupil unit equal to the product of \$223 times the school's extended time marginal cost pupil units.

Sec. 7. Minnesota Statutes 2002, section 124D.68, subdivision 9, is amended to read:

Subd. 9. [ENROLLMENT VERIFICATION.] (a) For a pupil attending an eligible program full time under subdivision 3, paragraph (d), the department must pay 90 percent of the district's average general education revenue less basic skills revenue to the eligible program and ten percent of the district's average general education revenue less basic skills revenue to the contracting district within 30 days after the eligible program verifies enrollment using the form provided by the department. For a pupil attending an eligible program part time, revenue, excluding compensatory revenue, shall be reduced proportionately, according to the amount of time the pupil attends the program, and the payments to the eligible program and the contracting district shall be reduced accordingly. A pupil for whom payment is made according to this section may not be counted by any district for any purpose other than computation of general education revenue. If payment is made for a pupil under this subdivision, a district shall not reimburse a program under section 124D.69 for the same pupil. The basic skills revenue shall be paid generated by pupils attending the eligible program according to section 126C.10, subdivision 4, shall be paid to the eligible program.

(b) The department must pay up to 100 percent of the revenue to the eligible program if there is an agreement to that effect between the school district and the eligible program.

(c) Notwithstanding paragraphs (a) and (b), for an eligible program that provides chemical treatment services to students, the department must pay 100 percent of the revenue to the eligible program.

Sec. 8. Minnesota Statutes 2002, section 124D.69, subdivision 1, is amended to read:

Subdivision 1. [AID.] If a pupil enrolls in an alternative program, eligible under section 124D.68, subdivision 3, paragraph (d), or subdivision 4, operated by a private organization that has contracted with a school district to provide educational services for eligible pupils under section 124D.68, subdivision 2, the district contracting with the private organization must reimburse the provider an amount equal to the sum of (1) at least 95 percent of the district's average general education less basic skills revenue per pupil unit times the number of pupil units for pupils attending the program; and (2) the amount of basic skills revenue shall be paid generated by pupils attending the program according to section 126C.10, subdivision 4. Compensatory revenue must be allocated according to section 126C.15, subdivision 2. For a pupil attending the program part time, the revenue paid to the program, excluding compensatory revenue, must be reduced proportionately, according to the amount of time the pupil attends the program, and revenue paid to the district shall be reduced accordingly. Pupils for whom a district provides reimbursement may not be counted by the district for any purpose other than computation of general education revenue. If payment is made to a district or program for a pupil under this section, the department must not make a payment for the same pupil under section 124D.68, subdivision 9.

Sec. 9. Minnesota Statutes 2003 Supplement, section 125A.79, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the definitions in this subdivision apply.

(a) "Unreimbursed special education cost" means the sum of the following:

(1) expenditures for teachers' salaries, contracted services, supplies, equipment, and transportation services eligible for revenue under section 125A.76; plus

(2) expenditures for tuition bills received under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2; minus

(3) revenue for teachers' salaries, contracted services, supplies, and equipment under section 125A.76; minus

(4) tuition receipts under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2.

(b) "General revenue" means for fiscal year 1996, the sum of the general education revenue according to section 126C.10, subdivision 1, as adjusted according to section 127A.47, subdivision 7, plus the total referendum revenue according to section 126C.17, subdivision 4. For fiscal years 1997 and later, "General revenue" means the sum of the general education revenue according to section 126C.10, subdivision 1, as adjusted according to section 127A.47, subdivisions 7 and 8, plus the total referendum revenue minus transportation sparsity revenue minus total operating capital revenue.

(c) "Average daily membership" has the meaning given it in section 126C.05.

(d) "Program growth factor" means 1.02 for fiscal year 2003, and 1.0 for fiscal year 2004 and later.

Sec. 10. Minnesota Statutes 2002, section 126C.05, is amended by adding a subdivision to read:

Subd. 5a. [EXTENDED TIME PUPIL UNITS.] (a) "Extended time average daily membership for a district or charter school" means the sum of the average daily membership according to subdivision 8, paragraph (a), minus the sum of the average daily membership according to subdivision 8, paragraph (b), for pupils enrolled in a learning year program under section 124D.128; an area learning center under sections 123A.05 and 123A.06; an alternative program under section 124D.68, subdivision 3, paragraph (d); or section 124D.69.

(b) "Extended time pupil units for a district or charter school" means the sum of the average daily membership in paragraph (a) weighted according to subdivision 1 for:

(1) pupils served according to subdivision 7; plus

(2) pupils according to subdivision 1 for whom the district or charter school pays tuition under section 123A.18; 123A.22; 123A.30; 123A.32; 123A.44; 123A.488; 123B.88, subdivision 4; 124D.04; 124D.05; sections 125A.03 to 125A.24; 125A.51; or 125A.65; minus

(3) pupils according to subdivision 1 for whom the district or charter school receives tuition under section 123A.18; 123A.22; 123A.30; 123A.32; 123A.44; 123A.488; 123B.88, subdivision 4; 124D.04; 124D.05; 125A.03 to 125A.24; 125A.51; or 125A.65.

(c) The "extended time marginal cost pupil units" means the greater of:

(1) the sum of .77 times the pupil units defined in paragraph (b) for the current school year and .23 times the pupil units defined in paragraph (b) for the previous school year; or

(2) the number of extended time pupil units defined in paragraph (b) for the current school year.

Sec. 11. Minnesota Statutes 2003 Supplement, section 126C.05, subdivision 15, is amended to read:

Subd. 15. [LEARNING YEAR PUPIL UNITS.] (a) When a pupil is enrolled in a learning year program under section 124D.128, an area learning center under sections 123A.05 and 123A.06, an alternative program approved by the commissioner, or a contract alternative program under section 124D.68, subdivision 3, paragraph (d), or ~~subdivision 3a~~ section 124D.69, for more than 1,020 hours in a school year for a secondary student, more than 935 hours in a school year for an elementary student, or more than 425 hours in a school year for a kindergarten student without a disability, that pupil may be counted as more than one pupil in average daily membership for purposes of section 126C.10, subdivision 2a. The amount in excess of one pupil must be determined by the ratio of the number of hours of instruction provided to that pupil in excess of: (i) the greater of 1,020 hours or the number of hours required for a full-time secondary pupil in the district to 1,020 for a secondary pupil; (ii) the greater of 935 hours or the number of hours required for a full-time elementary pupil in the district to 935 for an elementary pupil in grades 1 through 6; and (iii) the greater of 425 hours or the number of hours required for a full-time kindergarten student without a disability in the district to 425 for a kindergarten student without a disability. Hours that occur after the close of the instructional year in June shall be attributable to the following fiscal year. A kindergarten student must not be counted as more than 1.2 pupils in average daily membership under this subdivision. A student in grades 1 through 12 must not be counted as more than 1.2 pupils in average daily membership under this subdivision.

(b)(i) To receive general education revenue for a pupil in an alternative program that has an independent study component, a district must meet the requirements in this paragraph. The district must develop, for the pupil, a continual learning plan consistent with section 124D.128, subdivision 3. Each school district that has a state-approved public alternative program must reserve revenue in an amount equal to at least 90 percent of the district average general education revenue per pupil unit less compensatory revenue per pupil unit times the number of pupil units generated by students attending a state-approved public alternative program. The amount of reserved revenue available under this subdivision may only be spent for program costs associated with the state-approved public alternative program. Compensatory revenue must be allocated according to section 126C.15, subdivision 2.

(ii) General education revenue for a pupil in an approved alternative program without an independent study component must be prorated for a pupil participating for less than a full year, or its equivalent. The district must develop a continual learning plan for the pupil, consistent with section 124D.128, subdivision 3. Each school district that has a state-approved public alternative program must reserve revenue in an amount equal to at least 90 percent of the district average general education revenue per pupil unit less compensatory revenue per pupil unit times the number of pupil units generated by students attending a state-approved public alternative program. The amount of reserved revenue available under this subdivision may only be spent for program costs associated with the state-approved public alternative program. Compensatory revenue must be allocated according to section 126C.15, subdivision 2.

(iii) General education revenue for a pupil in an approved alternative program that has an independent study component must be paid for each hour of teacher contact time and each hour of independent study time completed toward a credit or graduation standards necessary for graduation. Average daily membership for a pupil shall equal the number of hours of teacher contact time and independent study time divided by 1,020.

(iv) For an alternative program having an independent study component, the commissioner shall require a description of the courses in the program, the kinds of independent study involved, the expected learning outcomes of the courses, and the means of measuring student performance against the expected outcomes.

Sec. 12. Minnesota Statutes 2003 Supplement, section 126C.10, subdivision 31, is amended to read:

Subd. 31. [TRANSITION REVENUE.] (a) A district's transition allowance for fiscal years 2004 through 2008 equals the greater of zero or the product of the ratio of the number of adjusted

marginal cost pupil units the district would have counted for fiscal year 2004 under Minnesota Statutes 2002 to the district's adjusted marginal cost pupil units for fiscal year 2004, times the difference between: (1) the lesser of the district's general education revenue per adjusted marginal cost pupil unit for fiscal year 2003 or the amount of general education revenue the district would have received per adjusted marginal cost pupil unit for fiscal year 2004 according to Minnesota Statutes 2002, and (2) the district's general education revenue for fiscal year 2004 excluding transition revenue divided by the number of adjusted marginal cost pupil units the district would have counted for fiscal year 2004 under Minnesota Statutes 2002. A district's transition allowance for fiscal year 2009 and later is zero.

(b) A district's transition revenue for fiscal year 2004 ~~and later~~ equals the product of the district's transition allowance times the district's adjusted marginal cost pupil units.

(c) A district's transition revenue for fiscal year 2005 equals the sum of:

(1) the product of the district's transition allowance times the district's adjusted marginal cost pupil units, plus (2) the amount of referendum revenue under section 126C.17 and general education revenue, excluding transition revenue, for fiscal year 2004 attributable to pupils four or five years of age on September 1, 2003, enrolled in a prekindergarten program implemented by the district before July 1, 2003, and reported as kindergarten pupils under section 126C.05, subdivision 1, for fiscal year 2004.

(d) A district's transition revenue for fiscal year 2006 and later equals the sum of:

(1) the product of the district's transition allowance times the district's adjusted marginal cost pupil units, plus (2) the amount of referendum revenue under section 126C.17 and general education revenue, excluding transition revenue, for fiscal year 2004 attributable to pupils four or five years of age on September 1, 2003, enrolled in a prekindergarten program implemented by the district before July 1, 2003, and reported as kindergarten pupils under section 126C.05, subdivision 1, for fiscal year 2004, plus (3) the amount of compensatory education revenue under subdivision 3 for fiscal year 2005 attributable to pupils four years of age on September 1, 2003, enrolled in a prekindergarten program implemented by the district before July 1, 2003, and reported as kindergarten pupils under section 126C.05, subdivision 1, for fiscal year 2004.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2005.

Sec. 13. Minnesota Statutes 2003 Supplement, section 126C.15, subdivision 1, is amended to read:

Subdivision 1. **[USE OF THE REVENUE.]** Except for revenue allocated for prekindergarten programs under subdivision 2, paragraph (c), the basic skills revenue under section 126C.10, subdivision 4, must be reserved and used to meet the educational needs of pupils who enroll under-prepared to learn and whose progress toward meeting state or local content or performance standards is below the level that is appropriate for learners of their age. Any of the following may be provided to meet these learners' needs:

(1) direct instructional services under the assurance of mastery program according to section 124D.66;

(2) remedial instruction in reading, language arts, mathematics, other content areas, or study skills to improve the achievement level of these learners;

(3) additional teachers and teacher aides to provide more individualized instruction to these learners through individual tutoring, lower instructor-to-learner ratios, or team teaching;

(4) a longer school day or week during the regular school year or through a summer program that may be offered directly by the site or under a performance-based contract with a community-based organization;

(5) comprehensive and ongoing staff development consistent with district and site plans according to section 122A.60, for teachers, teacher aides, principals, and other personnel to

improve their ability to identify the needs of these learners and provide appropriate remediation, intervention, accommodations, or modifications;

(6) instructional materials and technology appropriate for meeting the individual needs of these learners;

(7) programs to reduce truancy, encourage completion of high school, enhance self-concept, provide health services, provide nutrition services, provide a safe and secure learning environment, provide coordination for pupils receiving services from other governmental agencies, provide psychological services to determine the level of social, emotional, cognitive, and intellectual development, and provide counseling services, guidance services, and social work services;

(8) bilingual programs, bicultural programs, and programs for learners of limited English proficiency;

(9) all day kindergarten;

(10) extended school day and extended school year programs; and

(11) substantial parent involvement in developing and implementing remedial education or intervention plans for a learner, including learning contracts between the school, the learner, and the parent that establish achievement goals and responsibilities of the learner and the learner's parent or guardian.

Sec. 14. Minnesota Statutes 2002, section 126C.15, subdivision 2, is amended to read:

Subd. 2. [BUILDING ALLOCATION.] (a) A district must allocate its compensatory revenue to each school building in the district where the children who have generated the revenue are served unless the school district has received permission from the commissioner under the test score pilot program to allocate compensatory revenue according to test score results.

(b) Notwithstanding paragraph (a), a district may allocate up to five percent of the amount of compensatory revenue that the district ~~received during the previous fiscal year~~ receives to school sites according to a plan adopted by the school board.

(c) Notwithstanding paragraph (a), a district may allocate up to ten percent of the amount of compensatory revenue the district receives to support prekindergarten programs under subdivision 2a.

(d) For the purposes of this section and section 126C.05, subdivision 3, "building" means education site as defined in section 123B.04, subdivision 1.

(d) (e) If the pupil is served at a site other than one owned and operated by the district, the revenue shall be paid to the district and used for services for pupils who generate the revenue.

[EFFECTIVE DATE.] This section is effective July 1, 2004, for revenue for fiscal year 2005.

Sec. 15. Minnesota Statutes 2002, section 126C.15, is amended by adding a subdivision to read:

Subd. 2a. [PREKINDERGARTEN PROGRAMS.] Revenue allocated under subdivision 2, paragraph (c), must be reserved and used for programs and activities that prepare children ages 3-1/2 to to the age of kindergarten entrance for kindergarten. Programs may serve resident and nonresident children. Districts may contract with private preschools and other providers of prekindergarten programs.

Sec. 16. Minnesota Statutes 2002, section 126C.15, subdivision 3, is amended to read:

Subd. 3. [RECOMMENDATION.] A school site decision-making team, as defined in section 123B.04, subdivision 2, paragraph (a), or the instruction and curriculum advisory committee under section 120B.11, if the school has no school site decision team, shall recommend how the compensatory education revenue will be used to carry out the purpose of this section. A school

district that has received permission under the test score pilot program to allocate compensatory revenue according to test results shall share its plan for the distribution of compensatory revenue with the school site decision team.

[EFFECTIVE DATE.] This section is effective July 1, 2004, for revenue for fiscal year 2005.

Sec. 17. Minnesota Statutes 2002, section 126C.21, subdivision 4, is amended to read:

Subd. 4. [TACONITE DEDUCTIONS.] (1) ~~Notwithstanding any provisions of any other law to the contrary, the adjusted net tax capacity used in calculating general education aid may include only that property that is currently taxable in the district.~~

~~(2) For districts that received payments have revenue under sections 298.018; 298.225; 298.24 to 298.28, excluding sections 298.26 and 298.28, subdivision 4, paragraph (d); 298.34 to 298.39; 298.391 to 298.396; and 298.405; 477A.15; or any law imposing a tax upon severed mineral values; or recognized revenue under section 477A.15; the general education aid must be reduced in the final adjustment payment by (1) the difference between the dollar amount of the payments received revenue recognized pursuant to those sections, or revenue recognized under section 477A.15 in for the fiscal year to which the final adjustment is attributable and, less (2) the amount that was calculated, pursuant to section 126C.48, subdivision 8, as a reduction of the levy attributable to the fiscal year to which the final adjustment is attributable. If the final adjustment of a district's general education aid for a fiscal year is a negative amount because of this clause, the next fiscal year's general education aid to that district must be reduced by this negative amount in the following manner: there must be withheld from each scheduled general education aid payment due the district in such fiscal year, 15 percent of the total negative amount, until the total negative amount has been withheld. The amount reduced from general education aid pursuant to this clause must be recognized as reduce revenue in the fiscal year to which the final adjustment payment is attributable.~~

[EFFECTIVE DATE.] This section is effective retroactive to July 1, 2003, for school district revenue for fiscal year 2004.

Sec. 18. Minnesota Statutes 2002, section 126C.48, subdivision 8, is amended to read:

Subd. 8. [TACONITE PAYMENT AND OTHER REDUCTIONS.] (1) Reductions in levies pursuant to sections 126C.48, subdivision 1, and 273.138, must be made prior to the reductions in clause (2).

(2) ~~Notwithstanding any other law to the contrary, districts which received payments that have revenue pursuant to sections 298.018; 298.225; and 298.24 to 298.28, except an amount distributed under section sections 298.26 and 298.28, subdivision 4, paragraph paragraphs (c), clause (ii) and (d); 298.34 to 298.39; 298.391 to 298.396; 298.405; 477A.15; and any law imposing a tax upon severed mineral values; or recognized revenue under section 477A.15 must not include a portion of these aids in their permissible levies pursuant to those sections, but instead must reduce the permissible levies authorized by this chapter and chapters 120B, 122A, 123A, 123B, 124A, 124D, 125A, and 127A by the greater of the following:~~

~~(a) an amount equal to 50 percent of the total dollar amount of the payments received pursuant to those sections or revenue recognized under section 477A.15 in the previous fiscal year; or~~

~~(b) an amount equal to the total dollar amount of the payments received pursuant to those sections or revenue recognized under section 477A.15 in the previous fiscal year less the product of the same dollar amount of payments or revenue times five percent.~~

~~For levy year 2002 only, 77 percent of the amounts distributed under section 298.225 and 298.28, and 100 percent of the amounts distributed under sections 298.018; 298.34 to 298.39; 298.391 to 298.396; 298.405; and any law imposing a tax upon severed mineral values, or recognized revenue under section 477A.15, shall be used for purposes of the calculations under this paragraph. For levy year 2003 only, the levy reductions under this subdivision must be calculated as if section 298.28, subdivision 4, paragraph (f), did not apply for the 2003 distribution 95 percent of the previous year's revenue specified under this clause.~~

(3) The amount of any voter approved referendum, facilities down payment, and debt levies shall not be reduced by more than 50 percent under this subdivision. In administering this paragraph, the commissioner shall first reduce the nonvoter approved levies of a district; then, if any payments, severed mineral value tax revenue or recognized revenue under paragraph (2) remains, the commissioner shall reduce any voter approved referendum levies authorized under section 126C.17; then, if any payments, severed mineral value tax revenue or recognized revenue under paragraph (2) remains, the commissioner shall reduce any voter approved facilities down payment levies authorized under section 123B.63 and then, if any payments, severed mineral value tax revenue or recognized revenue under paragraph (2) remains, the commissioner shall reduce any voter approved debt levies.

(4) Before computing the reduction pursuant to this subdivision of the health and safety levy authorized by sections 123B.57 and 126C.40, subdivision 5, the commissioner shall ascertain from each affected school district the amount it proposes to levy under each section or subdivision. The reduction shall be computed on the basis of the amount so ascertained.

(5) To the extent the levy reduction calculated under paragraph (2) exceeds the limitation in paragraph (3), an amount equal to the excess must be distributed from the school district's distribution under sections 298.225, 298.28, and 477A.15 in the following year to the cities and townships within the school district in the proportion that their taxable net tax capacity within the school district bears to the taxable net tax capacity of the school district for property taxes payable in the year prior to distribution. No city or township shall receive a distribution greater than its levy for taxes payable in the year prior to distribution. The commissioner of revenue shall certify the distributions of cities and towns under this paragraph to the county auditor by September 30 of the year preceding distribution. The county auditor shall reduce the proposed and final levies of cities and towns receiving distributions by the amount of their distribution. Distributions to the cities and towns shall be made at the times provided under section 298.27.

[EFFECTIVE DATE.] This section is effective for taxes payable in 2005.

Sec. 19. Minnesota Statutes 2003 Supplement, section 127A.47, subdivision 7, is amended to read:

Subd. 7. **[ALTERNATIVE ATTENDANCE PROGRAMS.]** The general education aid for districts must be adjusted for each pupil attending a nonresident district under sections 123A.05 to 123A.08, 124D.03, 124D.06, 124D.08, and 124D.68. The adjustments must be made according to this subdivision.

(a) General education aid paid to a resident district must be reduced by an amount equal to the referendum equalization aid attributable to the pupil in the resident district.

(b) General education aid paid to a district serving a pupil in programs listed in this subdivision must be increased by an amount equal to the referendum equalization aid attributable to the pupil in the nonresident district.

(c) If the amount of the reduction to be made from the general education aid of the resident district is greater than the amount of general education aid otherwise due the district, the excess reduction must be made from other state aids due the district.

(d) The district of residence must pay tuition to a district or an area learning center, operated according to paragraph (e), providing special instruction and services to a pupil with a disability, as defined in section 125A.02, or a pupil, as defined in section 125A.51, who is enrolled in a program listed in this subdivision. The tuition must be equal to (1) the actual cost of providing special instruction and services to the pupil, including a proportionate amount for debt service and for capital expenditure facilities and equipment, and debt service but not including any amount for transportation, minus (2) the amount of general education revenue and special education aid but not including any amount for transportation, attributable to that pupil, that is received by the district providing special instruction and services.

(e) An area learning center operated by a service cooperative, intermediate district, education

district, or a joint powers cooperative may elect through the action of the constituent boards to charge the resident district tuition for pupils rather than to have the general education revenue paid to a fiscal agent school district. Except as provided in paragraph (d), the district of residence must pay tuition equal to at least 90 percent of the district average general education revenue per pupil unit minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without basic skills revenue and transportation sparsity revenue, times the number of pupil units for pupils attending the area learning center, plus the amount of ~~compensatory~~ basic skills revenue generated by pupils attending the area learning center.

Sec. 20. Laws 2003, First Special Session chapter 9, article 1, section 53, subdivision 2, is amended to read:

Subd. 2. [GENERAL EDUCATION AID.] For general education aid under Minnesota Statutes, section 126C.13, subdivision 4:

\$4,764,384,000	\$4,726,466,000	.....	2004
\$5,090,303,000	\$5,020,210,000	.....	2005

The 2004 appropriation includes ~~\$857,432,000~~ \$860,552,000 for 2003 and ~~\$3,906,952,000~~ \$3,865,914,000 for 2004.

The 2005 appropriation includes ~~\$1,009,856,000~~ \$1,009,822,000 for 2004 and ~~\$4,080,447,000~~ \$4,010,388,000 for 2005.

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

Sec. 21. [COMPENSATORY REVENUE ALLOCATION; TEST SCORE PILOT PROGRAM.]

Subdivision 1. [PILOT PROGRAM CREATED.] A three-year pilot program is created to allow school districts to allocate compensatory revenue received under Minnesota Statutes, section 126C.10, subdivision 3, among its school buildings according to each building's test scores.

Subd. 2. [APPLICATION PROCESS.] A school district that seeks to allocate its compensatory revenue to school sites based on student performance may submit an application to the commissioner of education by August 1, 2004. The application must include a written resolution approved by the school board that: (1) identifies the test results that will be used to assess student performance; (2) describes the method for distribution of compensatory revenue to the school sites; and (3) summarizes the evaluation procedure the district will use to determine if the redistribution of compensatory revenue improves overall student performance. The application must be submitted in the form and manner specified by the commissioner.

Subd. 3. [COMMISSIONER SELECTION.] The commissioner of education shall select school districts to participate in the pilot program. The commissioner must notify the selected school districts by August 31, 2004.

Subd. 4. [REPORT.] The commissioner of education must submit a report by February 15, 2007, to the education committees of the legislature evaluating the effectiveness of the pilot program.

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

Sec. 22. [KINDERGARTEN REPORTING.]

Notwithstanding Minnesota Statutes, sections 120A.05, subdivision 18; 120A.20, subdivision 1; and 124D.02, subdivision 1, pupils four or five years of age on September 1 of the calendar year in which the school year commences and enrolled in a prekindergarten program implemented by the district before July 1, 2003, may be reported as kindergarten pupils under Minnesota Statutes, section 126C.05, subdivision 1, for fiscal year 2004 and earlier.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to fiscal year 2004 and earlier.

ARTICLE 4
EDUCATION EXCELLENCE

Section 1. [120B.362] [GRANTS FOR SITE-BASED ACHIEVEMENT CONTRACTS.]

Subdivision 1. [ELIGIBLE SCHOOLS.] (a) The commissioner of education shall award grants to public school sites to increase student achievement and eliminate the achievement gap at the school site.

(b) The commissioner shall select sites that meet the following criteria:

- (1) have at least 75 percent of their enrollment eligible for free or reduced-price lunch;
- (2) have an enrollment where at least 75 percent of the students are students of color; and
- (3) have failed to meet adequate yearly progress for at least two consecutive years.

(c) In order to be eligible for a grant under this section, a public school site shall have an approved site decision-making agreement under Minnesota Statutes, section 123B.04, including an achievement contract under Minnesota Statutes, section 123B.04, subdivision 4. The site decision-making team shall include the principal of the school site.

(d) The site team shall have a plan approved by the school board and shall also have an agreement with the exclusive bargaining unit of the district to participate in this grant program.

Subd. 2. [APPLICATION.] (a) The applicant shall submit a plan that will result in at least 80 percent of the students at the site testing at a proficient level for their grade by the end of the grant period of six years, with at least 60 percent of the students testing at a proficient level for their grade at the midpoint of the grant period.

(b) The site team shall include in its application a detailed plan for using multiple objective and measurable methods for tracking student achievement during the duration of the grant and shall also include curriculum and academic requirements that are rigorous and challenging for all students. The site shall have the ability to return timely test data to teachers and have a plan that demonstrates that the teachers at the site can use the data to help improve curriculum as well as monitor student achievement.

(c) The applicant shall have in its site-based plan an agreement between the district and the exclusive bargaining unit of the district that would give the site-based team increased stability in the placement of teachers at the site. The applicant shall include other innovative site-based personnel decision-making items in its agreement that may include, but are not limited to: hiring bonuses, additional ongoing collaborative preparation time, on-site staff development, hiring additional staff, and performance-based incentives.

(d) The site team shall also include in its application a plan for a greater involvement of parents and the community in the school; a plan for ensuring that each student at the site can develop a meaningful relationship with at least one teacher at the school site; and a clear approach to school safety, including promoting respect for students and teachers.

Subd. 3. [GRANT AWARDS.] (a) The commissioner shall award grants to a school site in three parts: one-third of the total grant amount is awarded at the beginning of the grant agreement; one-third is awarded at the midpoint of the grant agreement if the site has met the achievement goals established in subdivision 2, paragraph (a); and one-third is awarded upon the completion of the grant agreement if the site has met the achievement goals established in subdivision 2, paragraph (a).

(b) The total grant award for a school site shall be at least \$150,000 and shall not exceed \$500,000. The commissioner shall determine the grant amount based on the number of students enrolled at the site.

(c) The commissioner shall determine all other aspects of the application and grant award process consistent with this section.

Subd. 4. [REPORT.] The commissioner shall report annually by March 1 during the program, with a final report due by January 15, 2011, to the house of representatives and senate committees having jurisdiction over education on the progress of the program, including at least: improvement in student achievement, the effect of innovative personnel decision making on closing the achievement gap, and the characteristics of highly effective teachers.

Subd. 5. [APPROPRIATION BASE.] The base appropriation for this program is \$500,000 for fiscal years 2006 and 2007.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to the 2005-2006 through 2009-2010 school years.

Sec. 2. [125B.30] [TECHNOLOGY INNOVATION GRANTS.]

Subdivision 1. [SCHOOL DISTRICT TECHNOLOGY INNOVATION GRANT.] (a) A school district, charter school, or nonpublic school may apply for a grant under this subdivision to provide a wireless computing device for each student in a middle school, junior high school, or high school. Applicants receiving an award under this section shall provide the opportunity for each student to receive a wireless computing device that will remain with the student for as long as the student is enrolled in the school or district, or for the duration of the grant agreement with the state or other contracted agreement.

(b) In order to receive a grant, the applicant must demonstrate a local match, which may come from state, local, or other eligible federal funds that have been allocated to the district or the school. Once awarded a grant, the applicant shall receive a decreasing grant amount each year over a three-year period as determined by the department. The applicant may also require a deposit to be paid by the student or parent.

(c) An applicant may elect to purchase or lease wireless computing devices from a vendor other than the statewide partnership described in subdivision 3, paragraph (c), if the department determines that the vendor selected by the applicant meets the requirements of this section.

Subd. 2. [APPLICATION.] To qualify for a grant under this section, the applicant shall submit an application to the department and to the Minnesota Education Telecommunications Council. The application shall include at least the following:

(1) how the applicant will provide the opportunity for each pupil in the school to receive a wireless computing device;

(2) a plan demonstrating how the applicant will use the wireless computing device to increase overall student achievement, help improve adequate yearly progress as determined by the department, and decrease the student achievement gap in the school or district;

(3) a plan for teacher professional development on technology integration, content and curriculum, and communication with parents;

(4) a three-year to five-year plan for increasing the local share of expenses for the wireless computer program;

(5) how the applicant will amend its local technology plan as required under state and federal law to reflect the wireless computer program;

(6) a plan to provide adequate insurance coverage for the computer equipment;

(7) a policy for appropriate use of computer equipment for students;

(8) a plan to provide ongoing technical support for the computer equipment; and

(9) a plan for providing low-cost or free Internet access to students.

Subd. 3. [DEPARTMENT OF EDUCATION.] (a) The department, in consultation with the Minnesota Education Telecommunications Council, shall develop, implement, and operate the technology innovation grant program and make program grants.

(b) The department, in consultation with the Minnesota Education Telecommunications Council, shall award grants under this section using at least \$1,500,000 from the eligible funds under the federal Department of Education, title II, part D, educational technology grant funds. The department shall consider regional diversity in awarding grants.

(c) The department, in consultation with the Minnesota Education Telecommunications Council, shall select a program partner through a request for proposals process for a total learning technology package that includes, but is not limited to, a wireless computing device, software, professional development, service and support, and for management for the overall implementation of the technology innovation grant program.

(d) The commissioner shall report annually by March 1 during the program, with a final report due by March 1, 2009, to the house of representatives and senate committees having jurisdiction over education on the progress of the program, including at least: improvement in student achievement, the effect of integrating innovative technology resources on closing the achievement gap, and the cost-benefits of using innovative technology learning resources as compared to traditional learning resources.

Sec. 3. [127A.095] [IMPLEMENTATION OF NO CHILD LEFT BEHIND ACT.]

Subdivision 1. [CONTINUED IMPLEMENTATION.] The Department of Education shall continue to implement the federal No Child Left Behind Act, Public Law 107-110, without interruption until June 30, 2005.

Subd. 2. [NO CHILD LEFT BEHIND NULLIFICATION.] (a) The consolidated state plan submitted by the state to the federal Department of Education on implementing the No Child Left Behind Act, Public Law 107-110, and any other Minnesota state contract or agreement under the provisions of the No Child Left Behind Act, shall be nullified and revoked by the commissioner of education on July 1, 2005.

(b) The commissioner shall report to the education funding divisions and the education policy committees of the house of representatives and the senate by April 1, 2005, whether the following conditions have been met:

(1) the Department of Education has received approval from the federal Department of Education to allow the state to use a value-added measurement of student achievement for determining adequate yearly progress;

(2) the Department of Education has developed a plan and model legislation to ensure that if an adequate yearly progress determination was made in error, that the error will not adversely affect the school's or school district's sanction status in subsequent years. The Department of Education must have a policy in place to correct errors to accountability reports;

(3) the Department of Education has reported the additional costs for state fiscal years 2005 to 2008 that the No Child Left Behind Act imposes on the state, the state's school districts, and charter schools that are in excess of costs associated with the Improving America's Schools Act of 1994, Public Law 103-382;

(4) the Department of Education has identified new federal funds provided by the No Child Left Behind Act that are sufficient to meet the additional mandates imposed by the act;

(5) the Department of Education has received approval from the federal Department of Education to exclude from sanctions schools that have not made adequate yearly progress solely due to a subgroup of students with disabilities not testing at a proficient level;

(6) the Department of Education has received approval from the federal Department of Education to exclude from sanctions a school that is classified as not having made adequate yearly

progress solely due to different subgroups testing below proficient levels for at least two consecutive years;

(7) the Department of Education has developed a plan and model legislation to monitor the quality of results achieved by supplemental service providers that have been approved by the department;

(8) the Department of Education has implemented a uniform financial reporting system for school districts to report costs related to implementing No Child Left Behind Act requirements, including the costs of complying with sanctions; and

(9) the Department of Education has developed a plan and model legislation for imposing sanctions on school sites that have not made adequate yearly progress for four or more consecutive years, including the criteria used for imposing different sanctions for different school sites.

(c) The state's continued implementation of the No Child Left Behind Act shall be discontinued effective July 1, 2005, unless the legislature passes a law during the 2005 regular legislative session establishing the legislature's satisfaction that the requirements under paragraph (b) have been met.

Subd. 3. [DEPARTMENT OF FINANCE CERTIFICATION.] If the legislature does not pass a law authorizing continued implementation of the No Child Left Behind Act under subdivision 2, paragraph (c), the commissioner of finance shall certify and report to the legislature beginning January 1, 2006, and each year thereafter the amount of federal revenue, if any, that has been withheld by the federal government as a result of the state's discontinued implementation of the No Child Left Behind Act. The report shall also specify the intended purpose of the federal revenue and the amount of revenue withheld from the state, each school district, and each charter school in each fiscal year.

Subd. 4. [ANNUAL CONTINGENT APPROPRIATION.] For fiscal year 2006 and thereafter, an amount equal to the federal revenue withheld in the same fiscal year as a result of the state's discontinued implementation of the No Child Left Behind Act, as certified by the commissioner of finance under subdivision 3, is appropriated from the general fund to the commissioner of education. The commissioner of education shall allocate the appropriation under this section according to the report from the commissioner of finance in subdivision 3.

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

Sec. 4. Minnesota Statutes 2003 Supplement, section 127A.47, subdivision 8, is amended to read:

Subd. 8. [CHARTER SCHOOLS.] (a) The general education aid for districts must be adjusted for each pupil attending a charter school under section 124D.10. The adjustments must be made according to this subdivision.

(b) General education aid paid to a district in which a charter school not providing transportation according to section 124D.10, subdivision 16, is located must be increased by an amount equal to the sum of:

(1) the product of: (1) (i) the sum of an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, plus the transportation sparsity allowance for the district; times (2) (ii) the adjusted marginal cost pupil units attributable to the pupil, plus

(2) the product of \$223 times the extended time marginal cost pupil units attributable to the pupil.

Sec. 5. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 15, is amended to read:

Subd. 15. [BEST PRACTICES SEMINARS.] For best practices seminars and other

professional development capacity building activities that assure proficiency in teaching and implementation of graduation rule standards:

\$1,000,000	.....	2004
\$1,000,000	.....	2005

\$250,000 per year is for a grant to A Chance to Grow/New Visions for the Minnesota learning resource center's comprehensive training program for education professionals charged with helping children acquire basic reading and math skills. In fiscal year 2005 only, \$250,000 is for the Minnesota Humanities Commission.

Sec. 6. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 16, is amended to read:

Subd. 16. [ALTERNATIVE TEACHER COMPENSATION.] For alternative teacher compensation established under Minnesota Statutes, sections 122A.413 to 122A.415:

\$3,700,000	.....	2004
\$3,700,000	.....	2005

If the appropriations under this subdivision are insufficient to fund all program participants, a participant may receive less than the maximum per pupil amount available under Minnesota Statutes, section 122A.415, subdivision 1. A qualifying district or site receiving alternative teacher compensation funding under this subdivision may use the funding it receives to leverage additional funds from a national program for enhancing teacher professionalism.

Any balance in the first year does not cancel but is available in the second year. The base appropriation for this program is \$2,600,000 for fiscal years 2006 and 2007.

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

Sec. 7. [VALUE ADDED ASSESSMENT PROGRAM.]

(a) The commissioner of education, in consultation with the Office of Educational Accountability, must develop a value added assessment program to assist public schools to assess and report growth in student academic achievement under Minnesota Statutes, section 120B.30, subdivision 1a. The program must utilize assessments that measure growth in student academic achievement by making longitudinal comparisons in individual student educational progress over time. School districts, schools, and charter schools may apply to participate in the program on a form and in a manner prescribed by the commissioner. Program participants must represent the urban, suburban, and rural geographic areas of the state with no more than a total of 125,000 students participating in the program.

(b) The commissioner may contract with an organization that utilizes a "value-added" assessment model that reliably estimates school and school district effects on student achievement over time for classroom settings where a single teacher teaches multiple subjects to the same group of students, for team teaching arrangements, and for other teaching circumstances. The model the commissioner selects must accommodate diverse data from various test sources and must use each student's test data across grades and subjects even when the data are incomplete.

Sec. 8. [APPROPRIATION.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. [VALUE ADDED ASSESSMENT.] For the value added assessment program:

\$250,000	2005
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This is a onetime appropriation.

FACILITIES; NUTRITION; ACCOUNTING; OTHER PROGRAMS

Section 1. Minnesota Statutes 2003 Supplement, section 16A.152, subdivision 2, is amended to read:

Subd. 2. [ADDITIONAL REVENUES; PRIORITY.] (a) If on the basis of a forecast of general fund revenues and expenditures, the commissioner of finance determines that there will be a positive unrestricted budgetary general fund balance at the close of the biennium, the commissioner of finance must allocate money to the following accounts and purposes in priority order:

(1) the cash flow account established in subdivision 1 until that account reaches \$350,000,000; and

(2) the budget reserve account established in subdivision 1a until that account reaches \$653,000,000;

(3) the amount necessary to increase the aid payment schedule for school district aids and credits payments in section 127A.45 to not more than 90 percent, excluding special education excess cost aid under section 125A.79; and

(4) the amount necessary to eliminate all or a portion of the property tax revenue recognition shift in section 123B.75, subdivision 5.

(b) The amounts necessary to meet the requirements of this section are appropriated from the general fund within two weeks after the forecast is released or, in the case of transfers under paragraph (a), clauses (3) and (4), as necessary to meet the appropriations schedules otherwise established in statute.

(c) To the extent that a positive unrestricted budgetary general fund balance is projected, appropriations under this section must be made before any transfer is made under section 16A.1522.

(d) The commissioner of finance shall certify the total dollar amount of the reductions under paragraph (a), clauses (3) and (4), to the commissioner of education. The commissioner of education shall increase the aid payment percentage and reduce the property tax shift percentage by these amounts and apply those reductions to the current fiscal year and thereafter.

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

Sec. 2. Minnesota Statutes 2002, section 123B.12, is amended to read:

123B.12 [INSUFFICIENT FUNDS TO PAY ORDERS.]

(a) In the event that a district or a cooperative unit defined in section 123A.24, subdivision 2, has insufficient funds to pay its usual lawful current obligations, subject to section 471.69, the board may enter into agreements with banks or any person to take its orders. Any order drawn, after having been presented to the treasurer for payment and not paid for want of funds shall be endorsed by the treasurer by putting on the back thereof the words "not paid for want of funds," giving the date of endorsement and signed by the treasurer. A record of such presentment, nonpayment and endorsement shall be made by the treasurer. The treasurer shall serve a written notice upon the payee or the payee's assignee, personally, or by mail, when the treasurer is prepared to pay such orders. The notice may be directed to the payee or the payee's assignee at the address given in writing by such payee or assignee to such treasurer, at any time prior to the service of such notice. No order shall draw any interest if such address is not given when the same is unknown to the treasurer, and no order shall draw any interest after the service of such notice.

(b) A district may enter, subject to section 471.69, into a line of credit agreement with a financial institution. The amount of credit available must not exceed 95 percent of average expenditure per month of operating expenditures in the previous fiscal year. Any amount advanced must be repaid no later than 45 180 days after the day of advancement.

Sec. 3. Minnesota Statutes 2003 Supplement, section 123B.54, is amended to read:

123B.54 [DEBT SERVICE APPROPRIATION.]

(a) ~~\$25,987,000 in fiscal year 2002, \$29,941,000 in fiscal year 2003, \$40,075,000 in fiscal year 2004, and \$39,774,000 in fiscal year 2005, \$27,830,000 in fiscal year 2006, and \$24,872,000 in fiscal year 2007~~ \$35,598,000 in fiscal year 2002, \$31,220,000 in fiscal year 2003, \$40,075,000 in fiscal year 2004, and \$39,774,000 in fiscal year 2005, \$27,830,000 in fiscal year 2006, and \$24,872,000 in fiscal year 2007 and later are appropriated from the general fund to the commissioner of education for payment of debt service equalization aid under section 123B.53.

(b) The appropriations in paragraph (a) must be reduced by the amount of any money specifically appropriated for the same purpose in any year from any state fund.

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

Sec. 4. Minnesota Statutes 2003 Supplement, section 124D.1158, subdivision 3, is amended to read:

Subd. 3. [PROGRAM REIMBURSEMENT.] Each school year, the state must reimburse each participating school 30 cents for each reduced price breakfast and ~~55~~ 81 cents for each fully paid breakfast.

Sec. 5. Minnesota Statutes 2003 Supplement, section 124D.118, subdivision 4, is amended to read:

Subd. 4. [REIMBURSEMENT.] In accordance with program guidelines, the commissioner shall reimburse each participating public or nonpublic school ~~nine~~ 14 cents for each half-pint of milk that is served to kindergarten students and is not part of a school lunch or breakfast reimbursed under section 124D.111 or 124D.1158.

Sec. 6. Minnesota Statutes 2003 Supplement, section 126C.63, subdivision 8, is amended to read:

Subd. 8. [MAXIMUM EFFORT DEBT SERVICE LEVY.] (a) "Maximum effort debt service levy" means the lesser of:

(1) a levy in whichever of the following amounts is applicable:

(i) in any district receiving a debt service loan for a debt service levy payable in 2002 and thereafter, or granted a capital loan after January 1, 2002, a levy in total dollar amount computed at a rate of 40 percent of adjusted net tax capacity for taxes payable in 2002 and thereafter;

(ii) in any district receiving a debt service loan for a debt service levy payable in 2001 or earlier, or granted a capital loan before January 2, ~~2001~~ 2002, a levy in a total dollar amount computed at a rate of ~~32~~ 28 percent of adjusted net tax capacity for taxes payable in 2002 and thereafter; or

(2) a levy in any district for which a capital loan was approved prior to August 1, 1981, a levy in a total dollar amount equal to the sum of the amount of the required debt service levy and an amount which when levied annually will in the opinion of the commissioner be sufficient to retire the remaining interest and principal on any outstanding loans from the state within 30 years of the original date when the capital loan was granted.

(b) The board in any district affected by the provisions of paragraph (a), clause (2), may elect instead to determine the amount of its levy according to the provisions of paragraph (a), clause (1). If a district's capital loan is not paid within 30 years because it elects to determine the amount of its levy according to the provisions of paragraph (a), clause (2), the liability of the district for the amount of the difference between the amount it levied under paragraph (a), clause (2), and the amount it would have levied under paragraph (a), clause (1), and for interest on the amount of that difference, must not be satisfied and discharged pursuant to Minnesota Statutes 1988, or an earlier edition of Minnesota Statutes if applicable, section 124.43, subdivision 4.

[EFFECTIVE DATE.] This section is effective for taxes payable in 2005.

Sec. 7. Minnesota Statutes 2002, section 128D.11, subdivision 9, is amended to read:

Subd. 9. [NET DEBT DEFINED.] The net debt of the school district for the purposes of this limitation is the amount of bonds less the amount of all money and the face value of all securities then held as a sinking fund for the payment of such bonds, and shall not include school aid and tax anticipation certificates of indebtedness not in default or bonds issued to pay pension fund liabilities under section 475.52, subdivision 6.

Sec. 8. Laws 2003, First Special Session chapter 9, article 4, section 29, is amended to read:

Sec. 29. [GARAGE LEASE LEVY; SARTELL.]

For taxes payable in 2004, 2005, and 2006, independent school district No. 740 748, Sartell, may levy up to \$107,000 each year for the purpose of leasing a school bus storage facility. For taxes payable in 2007, Independent School District No. 748, Sartell, may levy up to \$115,000 for the purpose of leasing a school bus storage facility. The department of education shall include ~~this levy~~ these levies in the calculation of eligible building lease levy under Minnesota Statutes, section 126C.40, subdivision 1. ~~This levy~~ These levies shall not allow the district to exceed the \$100 per resident marginal cost pupil unit cap in that section. The district is eligible to make ~~this levy~~ these levies only if it sells its current school bus storage site to the city of Sartell and the district may not use ~~this levy~~ these levies as part of a lease purchase agreement to replace its current school bus storage facility.

Sec. 9. Laws 2003, First Special Session chapter 9, article 5, section 35, subdivision 3, is amended to read:

Subd. 3. [TRADITIONAL SCHOOL BREAKFAST; KINDERGARTEN MILK.] For traditional school breakfast aid and kindergarten milk under Minnesota Statutes, sections 124D.1158 and 124D.118:

\$3,088,000	<u>\$4,382,000</u>	.....	2004
\$3,247,000	<u>\$6,282,000</u>	.....	2005

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

Sec. 10. Laws 2003, First Special Session chapter 9, article 6, section 4, is amended to read:

Sec. 4. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [BASIC SYSTEM SUPPORT.] For basic system support grants under Minnesota Statutes, section 134.355:

\$8,072,000	<u>\$8,312,000</u>	.....	2004
\$8,570,000	.....	.....	2005

The 2004 appropriation includes \$1,456,000 for 2003 and ~~\$6,616,000~~ \$6,856,000 for 2004.

The 2005 appropriation includes ~~\$1,654,000~~ \$1,714,000 for 2004 and ~~\$6,916,000~~ \$6,856,000 for 2005.

Subd. 3. [REGIONAL LIBRARY TELECOMMUNICATIONS AID.] For regional library telecommunications aid under Minnesota Statutes, section 134.355:

\$1,200,000	<u>\$960,000</u>	.....	2004
\$1,200,000	.....	.....	2005

The 2004 appropriation includes \$960,000 for 2004.

The 2005 appropriation includes \$240,000 for 2004 and \$960,000 for 2005.

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

Sec. 11. [FORECASTING THE BASE BUDGET FOR EDUCATION.]

Notwithstanding Minnesota Statutes 2003 Supplement, section 16A.11, subdivision 3, paragraph (b), the appropriation base for fiscal years 2006 and 2007 for each forecast program with an appropriation in this act or in Laws 2003, First Special Session chapter 9, is the forecast appropriation level needed to fully fund that program.

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

Sec. 12. [FUND TRANSFERS.]

Subdivision 1. [FOLEY.] Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2004, Independent School District No. 51, Foley, may permanently transfer up to \$190,000 from its reserved operating capital account in its general fund to the undesignated general fund balance.

Subd. 2. [KIMBALL.] Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2004, Independent School District No. 739, Kimball, may permanently transfer up to \$150,000 from its reserved account for bus purchase, or any successor account, to its undesignated general fund balance.

Subd. 3. [BUTTERFIELD.] Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, for calendar years 2004 through 2006, on June 30 of each year, Independent School District No. 836, Butterfield, may permanently transfer up to \$50,000 from its reserved operating capital account in its general fund to its undesignated general fund balance and \$60,000 from its reserved bus purchase account in its general fund to its undesignated general fund balance. The total amount transferred for the three-year period must not total more than \$50,000 from the reserved operating capital account and \$60,000 from the reserved bus purchase account.

Subd. 4. [MCLEOD WEST.] Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2004, Independent School District No. 2887, McLeod West, may permanently transfer up to \$200,000 from its reserved operating capital account in its general fund to the undesignated fund balance.

Subd. 5. [M.A.C.C.R.A.Y.] (a) Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2004, upon approval of the commissioner of education, Independent School District No. 2180, M.A.C.C.R.A.Y., may permanently transfer up to \$230,000 from its reserved account for handicapped access to its undesignated general fund balance.

(b) Prior to making the fund transfer, Independent School District No. 2180, M.A.C.C.R.A.Y., must demonstrate to the commissioner's satisfaction that the district's school buildings are accessible to students and employees with disabilities.

Subd. 6. [NORTHEAST METRO.] Notwithstanding Minnesota Statutes, sections 123B.79; 123B.80; and 475.61, subdivision 4, on June 30, 2004, Intermediate School District No. 916, Northeast Metro, may permanently transfer up to \$240,000 from its debt redemption fund to its capital account in its general fund without making a levy reduction.

Subd. 7. [PILLAGER.] Notwithstanding Minnesota Statutes, sections 123B.79, 123B.80, and 475.61, subdivision 4, Independent School District No. 116, Pillager, on June 30, 2004, may permanently transfer up to \$100,000 from its debt redemption fund to its general fund without making a levy reduction.

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

Sec. 13. [MAXIMUM EFFORT CAPITAL LOAN FORGIVEN; EAST CENTRAL.]

Subdivision 1. [SALE REQUIREMENTS.] Independent School District No. 2580, East Central, may sell its middle school building in accordance with Minnesota Statutes, section 16A.695. The net proceeds from the sale of the property must be paid to the commissioner of finance and deposited in the state bond fund.

Subd. 2. [OUTSTANDING LOAN BALANCE FORGIVEN.] Any remaining outstanding balance on the maximum effort capital loan issued in January 1982 to former Independent School District No. 566, Askov, after the application of the sale proceeds according to subdivision 1, is forgiven.

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

Sec. 14. [SCHOOL BUS LOAN; CARPENTER SCHOOL BUSES.]

Subdivision 1. [BUS LOAN REVENUE.] In fiscal year 2005 only, a school district may receive bus loan revenue equal to up to \$30,000 times the number of Carpenter school buses in its fleet between March 30, 2003, and March 30, 2004, that have been determined to have potentially defective welds and are subject to the limitations imposed by the Department of Public Safety. A school district that is eligible to receive revenue under this subdivision must approve a board resolution to receive revenue according to this section.

Subd. 2. [LEVY.] For taxes payable in 2005 through 2008, a school district that receives revenue under subdivision 1 must levy an amount equal to its bus loan revenue times .25.

Subd. 3. [GENERAL EDUCATION REVENUE WITHHOLDING.] For fiscal years 2006 through 2009, the Department of Education shall reduce the general education aid under Minnesota Statutes, section 126C.13, subdivision 4, for each district that receives revenue under subdivision 1 in an amount equal to the district's bus loan revenue times .25.

Sec. 15. [SUPPLEMENTARY LEVY AUTHORITY.]

(a) For taxes payable in 2005, 2006, and 2007 only, each school district, upon approval of a school board resolution, may levy up to \$12 times the adjusted marginal cost pupil units annually for one or more of the following uses:

- (1) outstanding disability access projects;
- (2) onetime health- and safety-related projects that are not eligible for health and safety revenue under Minnesota Statutes, section 123B.57;
- (3) outstanding construction deficit costs of school facilities shared with the community;
- (4) utility and other costs of operating a district-owned community center where the district colocates services with other local units of government, in proportion to the amount of time the district uses the facility;
- (5) the district's share of the costs of building noninstructional facilities that will be operated in cooperation with other local units of government;
- (6) the cost of leasing school-related storage facilities;
- (7) the costs associated with leases of administrative and classroom space shared with other school districts or higher education institutions;
- (8) outstanding building lease levy amounts under Minnesota Statutes, section 126C.40, subdivision 1; outstanding unemployment insurance amount under Minnesota Statutes, section 126C.43, subdivision 2; outstanding amount necessary for judgments against the district under Minnesota Statutes, section 126C.43, subdivision 3; and additional costs under the safe schools levy under Minnesota Statutes, section 126C.44;
- (9) a school district whose total concentration of free and reduced lunch students increased between fiscal year 2003 and 2004 may utilize the revenue under this section, according to Minnesota Statutes, section 126C.13, subdivision 5;

(10) retired employee health benefits; or

(11) other district deferred maintenance projects or capital projects eligible under Minnesota Statutes, section 126C.10, subdivision 14.

(b) In a form and manner determined by the Department of Education, each district shall submit to the department the amounts levied under this section for each category in paragraph (a).

(c) The Department of Education shall not include the district levy amounts under this section in the calculation of eligible building lease levy under Minnesota Statutes, section 126C.40, subdivision 1.

[EFFECTIVE DATE.] This section is effective for taxes payable in 2005, 2006, and 2007.

Sec. 16. [TAX BASE ADJUSTMENTS, FERTILE-BELTRAMI.]

(a) The commissioner of education, when making offsetting levy adjustments between levy categories to ensure that each levy category is positive for Independent School District No. 599, Fertile-Beltrami, shall make such adjustments first between levy categories that are imposed on identical tax bases before making such adjustments between levy categories that are imposed on different tax bases. The commissioner may make offsetting levy adjustments between the general fund and the debt service fund, if necessary.

(b) The commissioner of education must make the offsetting levy adjustments according to the process in paragraph (a) until Independent School District No. 599, Fertile-Beltrami's current referendum authority, under Minnesota Statutes, section 126C.17, expires.

Sec. 17. [TELECOMMUNICATIONS/INTERNET ACCESS EQUITY AID.]

Subdivision 1. [COSTS TO BE SUBMITTED.] (a) A district or charter school shall submit its actual telecommunications/Internet access costs for the previous fiscal year, adjusted for any e-rate revenue received, to the department by August 15 of each year as prescribed by the commissioner. Costs eligible for reimbursement under this program are limited to the following:

(1) ongoing or recurring telecommunications/Internet access costs associated with Internet access, data lines, and video links providing:

(i) the equivalent of one data line, video link, or integrated data/video link that relies on a transport medium that operates at a speed of 1.544 megabytes per second (T1) for each elementary school, middle school, or high school under section 120A.05, subdivisions 9, 11, and 13, including the recurring telecommunications line lease costs and ongoing Internet access service fees; or

(ii) the equivalent of one data line or video circuit, or integrated data/video link that relies on a transport medium that operates at a minimum speed of 1.544 megabytes per second (T1) for each district, including recurring telecommunications line lease costs and ongoing Internet access service fees;

(2) recurring costs of contractual or vendor-provided maintenance on the school district's wide area network to the point of presence at the school building up to the router, codec, or other service delivery equipment located at the point of presence termination at the school or school district;

(3) recurring costs of cooperative, shared arrangements for regional delivery of telecommunications/Internet access between school districts, postsecondary institutions, and public libraries including network gateways, peering points, regional network infrastructure, Internet2 access, and network support, maintenance, and coordination; and

(4) service provider installation fees for installation of new telecommunications lines or increased bandwidth.

(b) Costs not eligible for reimbursement under this program include:

- (1) recurring costs of school district staff providing network infrastructure support;
- (2) recurring costs associated with voice and standard telephone service;
- (3) costs associated with purchase of network hardware, telephones, computers, or other peripheral equipment needed to deliver telecommunications access to the school or school district;
- (4) costs associated with laying fiber for telecommunications access;
- (5) costs associated with wiring school or school district buildings;
- (6) costs associated with purchase, installation, or purchase and installation of Internet filtering;
and
- (7) costs associated with digital content, including on-line learning or distance learning programming, and information databases.

Subd. 2. [E-RATES.] To be eligible for aid under this section, a district or charter school is required to file an e-rate application either separately or through its telecommunications access cluster and to have a current technology plan on file with the Department of Education. Discounts received on telecommunications expenditures shall be reflected in the costs submitted to the department for aid under this section.

Subd. 3. [REIMBURSEMENT CRITERIA.] The commissioner shall develop criteria for approving costs submitted by school districts and charter schools under subdivision 1.

Subd. 4. [DISTRICT AID.] For fiscal year 2005 and later, a district or charter school's Internet access equity aid equals 90 percent of the district or charter school's approved cost for the previous fiscal year according to subdivision 1 exceeding \$15 times the district's adjusted marginal cost pupil units for the previous fiscal year.

Subd. 5. [TELECOMMUNICATIONS/INTERNET ACCESS SERVICES FOR NONPUBLIC SCHOOLS.] (a) Districts shall provide each year upon formal request by or on behalf of a nonpublic school, not including home schools, located in that district or area, ongoing or recurring telecommunications access services to the nonpublic school either through existing district providers or through separate providers.

(b) The amount of district aid for telecommunications access services for each nonpublic school under this subdivision equals the lesser of:

(1) 90 percent of the nonpublic school's approved cost for the previous fiscal year according to subdivision 1 exceeding \$10 times the number of weighted pupils enrolled at the nonpublic school as of October 1 of the previous school year; or

(2) the product of the district's aid per adjusted marginal cost pupil unit according to subdivision 4 times the number of weighted pupils enrolled at the nonpublic school as of October 1 of the previous school year.

(c) For purposes of this subdivision, nonpublic school pupils shall be weighted by grade level using the weighing factors defined in section 126C.05, subdivision 1.

(d) Each year, a district providing services under paragraph (a) may claim up to five percent of the aid determined in paragraph (b) for costs of administering this subdivision. No district may expend an amount for these telecommunications access services which exceeds the amount allocated under this subdivision. The nonpublic school is responsible for the Internet access costs not covered by this section.

(e) At the request of a nonpublic school, districts may allocate the amount determined in paragraph (b) directly to the nonpublic school to pay for or offset the nonpublic school's costs for telecommunications access services; however, the amount allocated directly to the nonpublic school may not exceed the actual amount of the school's ongoing or recurring telecommunications access costs.

Subd. 6. [SEVERABILITY.] If any portion of this section is found by a court to be unconstitutional, the remaining portions of the section shall remain in effect.

Sec. 18. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sum indicated in this section is appropriated from the general fund to the Department of Education for the fiscal year designated.

Subd. 2. [INTERNET ACCESS EQUITY AID.] For telecommunications/Internet access cost equity aid:

<u>\$3,100,000</u>	<u>2005</u>
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If the appropriation for fiscal year 2005 is insufficient, the aid for that year shall be prorated among participating schools and districts so as not to exceed the total authorized appropriation for that year. This is a onetime appropriation.

Subd. 3. [SCHOOL BUS LOAN REVENUE.] For school bus loan revenue under section 14:

<u>\$3,630,000</u>	<u>2005</u>
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ARTICLE 6

AGENCIES

Section 1. [GOVERNOR'S 2006-2007 PROPOSED BUDGET.]

The governor shall include in the 2006-2007 budget recommendation to the legislature a proposal for permanently funding a voluntary full-day, everyday kindergarten program available to all school districts and charter schools. The proposal should identify the funding sources for the program.

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

Sec. 2. Laws 2003, First Special Session chapter 9, article 10, section 10, subdivision 2, is amended to read:

Subd. 2. [DEPARTMENT.] (a) For the department of education:

\$23,653,000	.....	2004
\$23,653,000 <u>\$21,621,000</u>	.....	2005

Any balance in the first year does not cancel but is available in the second year.

(b) \$260,000 each year is for the Minnesota children's museum.

(c) \$41,000 each year is for the Minnesota academy of science.

(d) \$237,000 of the balance in the state education courseware development account in the state government special revenue fund as of July 1, 2004, is canceled to the general fund.

(e) \$160,000 of the balance in the state item bank revolving account in the state government special revenue fund as of July 1, 2004, is canceled to the general fund.

(f) \$621,000 each year is for the board of teaching.

(g) \$165,000 each year is for the board of school administrators.

(h) The commissioner is encouraged to give priority consideration to the Minnesota humanities commission when issuing grants for professional development of teachers or content development from best practices, Federal Title II, Part A, Federal Title V, Part A, or other appropriate grant resources that have a stated objective of improvement of teacher performance.

(i) An additional \$96,000 in fiscal year 2004 and \$96,000 in fiscal year 2005 are appropriated

from the special revenue fund under Minnesota Statutes, section 517.08, subdivision 1c, for family visitation centers. Any balance in the first year does not cancel but is available for the second year.

(j) Notwithstanding section 127A.80 or 127A.81, the department may not use any amount of this appropriation for agency dues or fees for membership in professional organizations, except the National Association of State Directors of Teacher Education and Certification.

(k) The appropriation base for the Department of Education is \$21,147,000 for fiscal years 2006 and 2007.

Sec. 3. Laws 2003, First Special Session chapter 9, article 10, section 11, is amended to read:

Sec. 11. [APPROPRIATIONS; MINNESOTA STATE ACADEMIES.]

The sums indicated in this section are appropriated from the general fund to the Minnesota state academies for the deaf and the blind for the fiscal years designated:

\$10,466,000	.....	2004
\$10,466,000	.....	2005

Any balance in the first year does not cancel but is available in the second year. The appropriation base for the Minnesota state academies for the deaf and the blind is \$10,435,000 for fiscal years 2006 and 2007. Notwithstanding 2004 H.F. No. 956, if enacted, the only reductions to the Minnesota state academies are those contained in this act.

Sec. 4. Laws 2003, First Special Session chapter 9, article 10, section 12, is amended to read:

Sec. 12. [APPROPRIATIONS; PERPICH CENTER FOR ARTS EDUCATION.]

The sums indicated in this section are appropriated from the general fund to the Perpich center for arts education for the fiscal years designated:

\$6,864,000	.....	2004
\$6,423,000	.....	2005

Any balance in the first year does not cancel but is available in the second year. The appropriation base for the Perpich Center for Arts Education is \$6,393,000 for fiscal years 2006 and 2007. Notwithstanding 2004 H.F. No. 956, if enacted, the only reductions to the Perpich Center for Arts Education are those contained in this act.

Sec. 5. [ELECTION OF UNEMPLOYMENT INSURANCE COVERAGE; PERPICH CENTER FOR ARTS EDUCATION.]

The director of the Perpich Center for Arts Education must file with the commissioner of employment and economic development under Minnesota Statutes, section 268.042, a written election to make employment in a position authorized by Minnesota Statutes, section 43A.08, subdivision 1a, covered employment for the years 2002 and 2003. The commissioner is authorized to and must give approval to the application retroactive for the years 2002 and 2003.

[EFFECTIVE DATE.] This section is effective retroactively from January 1, 2002.

ARTICLE 7

KINDERGARTEN THROUGH GRADE 12 EDUCATION

FORECAST ADJUSTMENTS

A. GENERAL EDUCATION

Section 1. Laws 2003, First Special Session chapter 9, article 1, section 53, subdivision 3, is amended to read:

Subd. 3. [REFERENDUM TAX BASE REPLACEMENT AID.] For referendum tax base replacement aid under Minnesota Statutes, section 126C.17, subdivision 7a:

\$	7,841,000	<u>\$8,096,000</u>	.....	2004
\$	8,543,000	<u>\$8,596,000</u>	.....	2005

The 2004 appropriation includes \$1,419,000 for 2003 and ~~\$6,422,000~~ \$6,677,000 for 2004.

The 2005 appropriation includes ~~\$1,605,000~~ \$1,669,000 for 2004 and ~~\$6,938,000~~ \$6,927,000 for 2005.

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

Sec. 2. Laws 2003, First Special Session chapter 9, article 1, section 53, subdivision 5, is amended to read:

Subd. 5. [ABATEMENT REVENUE.] For abatement aid under Minnesota Statutes, section 127A.49:

\$	2,680,000	<u>\$2,436,000</u>	.....	2004
\$	2,937,000	<u>\$1,559,000</u>	.....	2005

The 2004 appropriation includes \$472,000 for 2003 and ~~\$2,208,000~~ \$1,964,000 for 2004.

The 2005 appropriation includes ~~\$551,000~~ \$491,000 for 2004 and ~~\$2,386,000~~ \$1,068,000 for 2005.

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

Sec. 3. Laws 2003, First Special Session chapter 9, article 1, section 53, subdivision 6, is amended to read:

Subd. 6. [CONSOLIDATION TRANSITION.] For districts consolidating under Minnesota Statutes, section 123A.485:

\$	207,000	<u>\$ 35,000</u>	.....	2004
\$	607,000	<u>\$145,000</u>	.....	2005

The 2004 appropriation includes \$35,000 for 2003 and ~~\$172,000~~ \$0 for 2004.

The 2005 appropriation includes ~~\$42,000~~ \$0 for 2004 and ~~\$565,000~~ \$145,000 for 2005.

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

Sec. 4. Laws 2003, First Special Session chapter 9, article 1, section 53, subdivision 11, is amended to read:

Subd. 11. [NONPUBLIC PUPIL AID.] For nonpublic pupil education aid under Minnesota Statutes, sections 123B.40 to 123B.43 and 123B.87:

\$	14,626,000	<u>\$14,411,000</u>	.....	2004
\$	15,594,000	<u>\$15,072,000</u>	.....	2005

The 2004 appropriation includes \$2,715,000 for 2003 and ~~\$11,911,000~~ \$11,696,000 for 2004.

The 2005 appropriation includes ~~\$2,977,000~~ \$2,923,000 for 2004 and ~~\$12,617,000~~ \$12,149,000 for 2005.

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

Sec. 5. Laws 2003, First Special Session chapter 9, article 1, section 53, subdivision 12, is amended to read:

Subd. 12. [NONPUBLIC PUPIL TRANSPORTATION.] For nonpublic pupil transportation aid under Minnesota Statutes, section 123B.92, subdivision 9:

\$21,477,000	<u>\$20,471,000</u>	.....	2004
\$21,982,000	<u>\$21,421,000</u>	.....	2005

The 2004 appropriation includes \$3,990,000 for 2003 and ~~\$17,487,000~~ \$16,481,000 for 2004.

The 2005 appropriation includes ~~\$4,371,000~~ \$4,120,000 for 2004 and ~~\$17,611,000~~ \$17,301,000 for 2005.

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

B. EDUCATION EXCELLENCE

Sec. 6. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 2, is amended to read:

Subd. 2. [CHARTER SCHOOL BUILDING LEASE AID.] For building lease aid under Minnesota Statutes, section 124D.11, subdivision 4:

\$17,140,000	<u>\$16,753,000</u>	.....	2004
\$21,018,000	<u>\$21,347,000</u>	.....	2005

The 2004 appropriation includes \$2,524,000 for 2003 and ~~\$14,616,000~~ \$14,229,000 for 2004.

The 2005 appropriation includes ~~\$3,654,000~~ \$3,557,000 for 2004 and ~~\$17,364,000~~ \$17,790,000 for 2005.

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

Sec. 7. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 3, is amended to read:

Subd. 3. [CHARTER SCHOOL STARTUP AID.] For charter school startup cost aid under Minnesota Statutes, section 124D.11:

\$824,000	<u>\$844,000</u>	.....	2004
\$151,000	<u>\$156,000</u>	.....	2005

The 2004 appropriation includes \$220,000 for 2003 and ~~\$604,000~~ \$624,000 for 2004.

The 2005 appropriation includes ~~\$151,000~~ \$156,000 for 2004 and \$0 for 2005.

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

Sec. 8. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 4, is amended to read:

Subd. 4. [CHARTER SCHOOL INTEGRATION GRANTS.] For grants to charter schools to promote integration and desegregation under Minnesota Statutes, section 124D.11, subdivision 6, paragraph (e):

\$8,000	<u>\$7,000</u>	2004
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This appropriation includes ~~\$8,000~~ \$7,000 for 2003 and \$0 for 2004.

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

Sec. 9. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 5, is amended to read:

Subd. 5. [INTEGRATION AID.] For integration aid under Minnesota Statutes, section 124D.86, subdivision 5:

\$56,869,000	<u>\$55,911,000</u>	2004
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~~\$56,092,000~~ \$55,893,000 2005

The 2004 appropriation includes \$8,428,000 for 2003 and ~~\$48,441,000~~ \$47,483,000 for 2004.

The 2005 appropriation includes ~~\$12,110,000~~ \$11,870,000 for 2004 and ~~\$43,982,000~~ \$44,023,000 for 2005.

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

Sec. 10. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 7, is amended to read:

Subd. 7. [MAGNET SCHOOL STARTUP AID.] For magnet school startup aid under Minnesota Statutes, section 124D.88:

\$ 37,000 2004
~~\$454,000~~ \$ 40,000 2005

The 2004 appropriation includes \$37,000 for 2003 and \$0 for 2004.

The 2005 appropriation includes \$0 for 2004 and ~~\$437,000~~ \$40,000 for 2005.

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

Sec. 11. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 9, is amended to read:

Subd. 9. [SUCCESS FOR THE FUTURE.] For American Indian success for the future grants under Minnesota Statutes, section 124D.81:

~~\$2,073,000~~ \$2,061,000 2004
~~\$2,137,000~~ 2005

The 2004 appropriation includes ~~\$363,000~~ \$351,000 for 2003 and \$1,710,000 for 2004.

The 2005 appropriation includes \$427,000 for 2004 and \$1,710,000 for 2005.

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

Sec. 12. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 12, is amended to read:

Subd. 12. [TRIBAL CONTRACT SCHOOLS.] For tribal contract school aid under Minnesota Statutes, section 124D.83:

~~\$2,135,000~~ \$1,617,000 2004
~~\$2,336,000~~ \$2,185,000 2005

The 2004 appropriation includes \$285,000 for 2003 and ~~\$1,850,000~~ \$1,332,000 for 2004.

The 2005 appropriation includes ~~\$462,000~~ \$333,000 for 2004 and ~~\$1,874,000~~ \$1,852,000 for 2005.

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

C. SPECIAL PROGRAMS

Sec. 13. Laws 2003, First Special Session chapter 9, article 3, section 20, subdivision 4, is amended to read:

Subd. 4. [AID FOR CHILDREN WITH DISABILITIES.] For aid under Minnesota Statutes, section 125A.75, subdivision 3, for children with disabilities placed in residential facilities within the district boundaries for whom no district of residence can be determined:

\$2,177,000	<u>\$2,311,000</u>	.....	2004
\$2,244,000	<u>\$2,550,000</u>	.....	2005

If the appropriation for either year is insufficient, the appropriation for the other year is available.

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

Sec. 14. Laws 2003, First Special Session chapter 9, article 3, section 20, subdivision 5, is amended to read:

Subd. 5. [TRAVEL FOR HOME-BASED SERVICES.] For aid for teacher travel for home-based services under Minnesota Statutes, section 125A.75, subdivision 1:

\$220,000	<u>\$173,000</u>	.....	2004
\$261,000	<u>\$178,000</u>	.....	2005

The 2004 appropriation includes \$34,000 for 2003 and ~~\$186,000~~ \$139,000 for 2004.

The 2005 appropriation includes ~~\$46,000~~ \$34,000 for 2004 and ~~\$215,000~~ \$144,000 for 2005.

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

Sec. 15. Laws 2003, First Special Session chapter 9, article 3, section 20, subdivision 6, is amended to read:

Subd. 6. [SPECIAL EDUCATION; EXCESS COSTS.] For excess cost aid under Minnesota Statutes, section 125A.79, subdivision 7:

\$92,606,000	<u>\$92,605,000</u>	.....	2004
\$92,984,000	<u>\$92,799,000</u>	.....	2005

The 2004 appropriation includes \$41,754,000 for 2003 and ~~\$50,852,000~~ \$50,851,000 for 2004.

The 2005 appropriation includes ~~\$41,215,000~~ \$41,216,000 for 2004 and ~~\$51,769,000~~ \$51,583,000 for 2005.

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

Sec. 16. Laws 2003, First Special Session chapter 9, article 3, section 20, subdivision 7, is amended to read:

Subd. 7. [LITIGATION COSTS FOR SPECIAL EDUCATION.] For paying the costs a district incurs under Minnesota Statutes, section 125A.75, subdivision 8:

\$346,000	<u>\$201,000</u>	.....	2004
\$—17,000	<u>\$150,000</u>	.....	2005

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

Sec. 17. Laws 2003, First Special Session chapter 9, article 3, section 20, subdivision 8, is amended to read:

Subd. 8. [TRANSITION FOR DISABLED STUDENTS.] For aid for transition programs for children with disabilities under Minnesota Statutes, section 124D.454:

\$8,625,000	<u>\$8,570,000</u>	.....	2004
\$8,867,000	<u>\$8,760,000</u>	.....	2005

The 2004 appropriation includes \$1,516,000 for 2003 and ~~\$7,109,000~~ \$7,054,000 for 2004.

The 2005 appropriation includes ~~\$1,777,000~~ \$1,763,000 for 2004 and ~~\$7,090,000~~ \$6,997,000 for 2005.

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

Sec. 18. Laws 2003, First Special Session chapter 9, article 3, section 20, subdivision 9, is amended to read:

Subd. 9. [COURT-PLACED SPECIAL EDUCATION REVENUE.] For reimbursing serving school districts for unreimbursed eligible expenditures attributable to children placed in the serving school district by court action under Minnesota Statutes, section 125A.79, subdivision 4:

\$152,000 <u>\$36,000</u>	.....	2004
\$160,000 <u>\$61,000</u>	.....	2005

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

D. FACILITIES AND TECHNOLOGY

Sec. 19. Laws 2003, First Special Session chapter 9, article 4, section 31, subdivision 2, is amended to read:

Subd. 2. [HEALTH AND SAFETY REVENUE.] For health and safety aid according to Minnesota Statutes, section 123B.57, subdivision 5:

\$7,839,000 <u>\$5,356,000</u>	.....	2004
\$6,068,000 <u>\$1,920,000</u>	.....	2005

The 2004 appropriation includes \$1,516,000 for 2003 and ~~\$6,323,000~~ \$3,840,000 for 2004.

The 2005 appropriation includes ~~\$1,580,000~~ \$960,000 for 2004 and ~~\$4,488,000~~ \$960,000 for 2005.

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

Sec. 20. Laws 2003, First Special Session chapter 9, article 4, section 31, subdivision 3, is amended to read:

Subd. 3. [DEBT SERVICE EQUALIZATION.] For debt service aid according to Minnesota Statutes, section 123B.53, subdivision 6:

\$34,500,000 <u>\$35,598,000</u>	.....	2004
\$37,575,000 <u>\$31,220,000</u>	.....	2005

The 2004 appropriation includes \$5,586,000 for 2003 and ~~\$28,914,000~~ \$30,012,000 for 2004.

The 2005 appropriation includes ~~\$7,228,000~~ \$7,503,000 for 2004 and ~~\$30,347,000~~ \$23,717,000 for 2005.

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

E. NUTRITION, SCHOOL ACCOUNTING, OTHER PROGRAMS

Sec. 21. Laws 2003, First Special Session chapter 9, article 5, section 35, subdivision 2, is amended to read:

Subd. 2. [SCHOOL LUNCH.] (a) For school lunch aid according to Minnesota Statutes, section 124D.111, and Code of Federal Regulations, title 7, section 210.17:

\$7,800,000 <u>\$7,650,000</u>	.....	2004
\$7,950,000 <u>\$7,760,000</u>	.....	2005

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

Sec. 22. [APPROPRIATIONS IN OTHER BILLS.]

The appropriations for forecast programs in this act prevail over any other appropriations enacted during the 2004 regular legislative session for the same programs, regardless of the date of enactment or effective date of this act and such other appropriations.

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

ARTICLE 8

HIGHER EDUCATION

Section 1. [HIGHER EDUCATION APPROPRIATIONS.]

The sums in the columns marked "APPROPRIATIONS" are added to, or, if shown in parentheses, are subtracted from the appropriations in Laws 2003, chapter 133, or other law to the specified agencies. The appropriations are from the general fund, or other named fund, to the agencies and for the purposes specified. The figure "2004" or "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. If only one figure is shown in the text for the specified purpose, the addition or subtraction is for 2004 unless the context indicates another fiscal year.

SUMMARY BY FUND

	2004	2005	TOTAL
General	\$ -0-	(\$ 250,000)	(\$ 250,000)

SUMMARY BY AGENCY - ALL FUNDS

	2004	2005	TOTAL
Higher Education Services Office	\$ -0-	(\$ 1,640,000)	(\$ 1,640,000)
Department of Health	-0-	1,390,000	1,390,000

APPROPRIATIONS
Available for the Year
Ending June 30
2004 2005

Sec. 2. HIGHER EDUCATION SERVICES OFFICE

Subdivision 1. Total Appropriation Changes

\$ -0- (\$ 1,640,000)

Subd. 2. State Grants

Of the amount appropriated for the state grant program in Laws 2003, chapter 133, article 1, section 2, subdivision 2, for fiscal year 2004, \$2,440,000 is transferred for fiscal year 2005 to the commissioner of human services for employee scholarship costs under Minnesota Statutes, sections 256B.0918 and 256B.431, subdivision 36, and \$150,000 is transferred for fiscal year 2005 to the commissioner of health for the purposes of Minnesota Statutes, section 144.1501.

Beginning with the state general fund forecast due November 2004 for fiscal year 2006 and later, under Minnesota Statutes, section 16A.103, the commissioner of finance shall forecast expenditures for state grants under the requirements of Minnesota Statutes, section 136A.121.

Subd. 3. Interstate Tuition
Reciprocity

-0- (2,000,000)

Beginning in fiscal year 2006, the base appropriation for this program is \$2,000,000 annually.

Subd. 4. United Hospital Residency
Program

-0- 360,000

This appropriation is for resident stipends for the family practice residency program at United Hospital in St. Paul. This appropriation is part of the budget base.

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

Sec. 3. DEPARTMENT OF
HEALTH

-0- 1,390,000

This appropriation is for transfer to the low-income nursing education account in the general fund for the purposes of Minnesota Statutes, section 144.1503.

Sec. 4. Minnesota Statutes 2003 Supplement, section 125B.21, subdivision 1, is amended to read:

Subdivision 1. [STATE COUNCIL MEMBERSHIP.] The membership of the Minnesota Education Telecommunications Council established in Laws 1993, First Special Session chapter 2, is expanded to include representatives of elementary and secondary education. The membership shall consist of three representatives from the University of Minnesota; three representatives of the Board of Trustees for Minnesota State Colleges and Universities; one representative of the higher education services offices; one representative appointed by the Private College Council; one representative selected by the commissioner of administration; eight representatives selected by the commissioner of education, at least one of which must come from each of the six higher education telecommunication regions; a representative from the Office of Technology; two members each from the senate and the house of representatives selected by the Subcommittee on Committees of the Committee on Rules and Administration of the senate and the speaker of the house, one member from each body must be a member of the minority party; and three representatives of libraries, one representing regional public libraries, one representing multitype libraries, and one representing community libraries, selected by the governor; and two members, one selected from and representing the higher education regional coordinators and one selected from and representing the kindergarten through grade 12 cluster regions. The council shall serve as a forum to establish and advocate for a statewide vision and plans for the use of distance learning technologies, including:

- (1) the coordination and collaboration of distance learning opportunities;
- (2) the implementation of the use of distance learning technologies;
- (3) the collaboration of distance learning users;

- (4) the implementation of educational policy relating to telecommunications;
- (5) the exchange of ideas;
- (6) the communications with state government and related agencies and entities;
- (7) the coordination of networks for postsecondary campuses, kindergarten through grade 12 education, and regional and community libraries; and
- (8) the promotion of consistency of the operation of the learning network with standards of an open system architecture.

The council expires June 30, ~~2004~~ 2005.

Sec. 5. [135A.145] [SALE OF STUDENT INFORMATION; MARKETING CREDIT CARDS TO STUDENTS.]

Subdivision 1. [PROHIBITED PRACTICES.] No public or private postsecondary educational institution in this state, including its agents, employees, student or alumni organizations, or affiliates, may:

(1) sell, give, or otherwise transfer to any card issuer student contact or other personal information without the student's affirmative consent, except information designated as public data on individuals by section 13.32, subdivision 5; or

(2) enter into any agreement to market credit cards to undergraduate students at a postsecondary educational institution.

For purposes of this section, the terms "credit," "credit card," and "card issuer" have the meanings given them in the Truth in Lending Act, United States Code, title 15, section 1602.

The University of Minnesota is a public postsecondary educational institution for purposes of this section.

Subd. 2. [VIOLATIONS.] The attorney general may seek the penalties and remedies available under section 8.31 against any person who violates this section.

Sec. 6. [136A.091] [UNDOCUMENTED ALIEN STUDENTS.]

For purposes of tuition charges at public postsecondary institutions, including the University of Minnesota, an undocumented noncitizen is a resident of Minnesota if the noncitizen satisfies one of the conditions of section 136A.101, subdivision 8. This section is not effective if a federal statute or regulation provides that the resident status for tuition purposes created by this section requires the state to provide resident tuition status to individuals other than those specified in this section.

Sec. 7. Minnesota Statutes 2003 Supplement, section 136A.121, subdivision 9, is amended to read:

Subd. 9. [AWARDS.] An undergraduate student who meets the office's requirements is eligible to apply for and receive a grant in any year of undergraduate study unless the student has obtained a baccalaureate degree or previously has been enrolled full time or the equivalent for eight semesters or the equivalent, excluding courses taken from a Minnesota school or postsecondary institution which is not participating in the state grant program and from which a student transferred no credit. A student who withdraws from enrollment for active military service is entitled to an additional semester of grant eligibility. A student enrolled in a two-year program at a four-year institution is only eligible for the tuition and fee maximums established by law for two-year institutions.

Sec. 8. Minnesota Statutes 2003 Supplement, section 136A.121, subdivision 13, is amended to read:

Subd. 13. [DEADLINE.] The deadline for the office to accept applications for state grants for a term is 14 30 days after the start of that term.

[EFFECTIVE DATE.] This section is effective the day following final enactment and is retroactive to July 1, 2003.

Sec. 9. Minnesota Statutes 2002, section 136A.121, is amended by adding a subdivision to read:

Subd. 18. [DATA.] An eligible institution must provide student enrollment and financial aid data to the office to enable the office to carry out its responsibilities under section 136A.01, subdivision 2, clause (6).

Sec. 10. Minnesota Statutes 2003 Supplement, section 136A.125, subdivision 2, is amended to read:

Subd. 2. [ELIGIBLE STUDENTS.] An applicant is eligible for a child care grant if the applicant:

(1) is a resident of the state of Minnesota;

(2) has a child 12 years of age or younger, or 14 years of age or younger who is handicapped as defined in section 125A.02, and who is receiving or will receive care on a regular basis from a licensed or legal, nonlicensed caregiver;

(3) is income eligible as determined by the office's policies and rules, but is not a recipient of assistance from the Minnesota family investment program;

(4) has not earned a baccalaureate degree and has been enrolled full time less than eight semesters or the equivalent;

(5) is pursuing a nonsectarian program or course of study that applies to an undergraduate degree, diploma, or certificate;

(6) is enrolled at least half time in an eligible institution; ~~and~~

(7) is in good academic standing and making satisfactory academic progress; and

(8) is not more than 30 days in arrears for any child support payments owed by a public agency responsible for child support enforcement or, if the applicant is more than 30 days in arrears, is complying with a written payment agreement or order for arrearages. An agreement must provide a repayment of arrearages at no less than 20 percent per month of the amount of the monthly child support obligation or no less than \$30 per month if there is no current monthly child support obligation. Compliance means that payments are made by the payment date.

A student who withdraws from enrollment for active military service is entitled to an additional semester of grant eligibility.

Sec. 11. Minnesota Statutes 2002, section 136F.02, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The board consists of 15 members appointed by the governor with the advice and consent of the senate. At least one member of the board must be a resident of each congressional district. One member must be a representative of labor organizations and one member must be a representative of the business community. Three members must be students who are enrolled at least half time in a degree, diploma, or certificate program or have graduated from an institution governed by the board within one year of the date of appointment. The student members shall include: one member from a community college, one member from a state university, and one member from a technical college. The remaining members must be appointed to represent the state at large.

Sec. 12. Minnesota Statutes 2003 Supplement, section 136G.11, subdivision 1, is amended to read:

Subdivision 1. [MATCHING GRANT QUALIFICATION.] By June 30 of each year, a state matching grant must be added to each account established under the program if the following conditions are met:

- (1) the contributor applies, in writing in a form prescribed by the director, for a matching grant;
- (2) a minimum contribution of \$200 was made during the preceding calendar year; and
- (3) the beneficiary's family meets Minnesota college savings plan residency requirements; and
- (4) the family income of the beneficiary did not exceed \$80,000.

Sec. 13. Minnesota Statutes 2003 Supplement, section 136G.11, subdivision 3, is amended to read:

Subd. 3. [RESIDENCY REQUIREMENT.] (a) If the beneficiary is under age 25, the beneficiary's parents or legal guardians must be Minnesota residents to qualify for a matching grant. If the beneficiary is age 25 or older, the beneficiary must be a Minnesota resident to qualify for a matching grant.

(b) To meet the residency requirements, the parent or legal guardian of beneficiaries under age 25 must have filed a Minnesota individual income tax return as a Minnesota resident and claimed the beneficiary as a dependent on the parent or legal guardian's federal tax return for the calendar year in which contributions were made. If the beneficiary's parents are divorced, the parent or legal guardian claiming the beneficiary as a dependent on the federal individual income tax return must be a Minnesota resident. For beneficiaries age 25 or older, the beneficiary, and a spouse, if any, must have filed a Minnesota and a federal individual income tax return as a Minnesota resident for the calendar year in which contributions were made.

(c) A parent of beneficiaries under age 25 and beneficiaries age 25 or older who did not reside in Minnesota in the calendar year in which contributions were made are not eligible for a matching grant.

Sec. 14. Minnesota Statutes 2002, section 136G.11, is amended by adding a subdivision to read:

Subd. 3a. [FAMILY INCOME.] (a) For purposes of this section, "family income" means:

(1) if the beneficiary is under age 25, the combined adjusted gross income of the beneficiary's parents or legal guardians as reported on the federal tax return or returns for the calendar year in which contributions were made. If the beneficiary's parents or legal guardians are divorced, the income of the parent claiming the beneficiary as a dependent on the federal individual income tax return and the income of that parent's spouse, if any, is used to determine family income; or

(2) if the beneficiary is age 25 or older, the combined adjusted gross income of the beneficiary and spouse, if any.

(b) For a parent or legal guardian of beneficiaries under age 25 and for beneficiaries age 25 or older who resided in Minnesota and filed a federal individual income tax return, the matching grant must be based on family income from the calendar year in which contributions were made.

Sec. 15. Minnesota Statutes 2003 Supplement, section 136G.13, subdivision 1, is amended to read:

Subdivision 1. [QUALIFIED DISTRIBUTION METHODS.] (a) Qualified distributions may be made:

- (1) directly to participating eligible educational institutions on behalf of the beneficiary; or
- (2) in the form of a check payable to both the beneficiary and the eligible educational institution; or

(3) to an account owner.

(b) Qualified distributions must be withdrawn proportionally from contributions and earnings in an account owner's account on the date of distribution as provided in section 529 of the Internal Revenue Code.

Sec. 16. Minnesota Statutes 2003 Supplement, section 137.0245, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] ~~The Regent Candidate Advisory Council shall consist of 24 18 members. Twelve Six members shall be appointed by the governor. Six members shall be appointed by the Subcommittee on Committees of the Committee on Rules and Administration of the senate. Twelve Two members appointed by the subcommittee must be persons recommended by the minority leader of the senate. Six members shall be appointed by the speaker of the house of representatives. Two members appointed by the speaker must be persons recommended by the house minority leader. Each appointing authority~~ The subcommittee and the speaker must each appoint one member who is a student enrolled in a degree program at the University of Minnesota at the time of appointment. No more than one-third of the members appointed by each appointing authority may be current or former legislators. No more than two-thirds of the members appointed by each appointing authority may belong to the same political party; however, political activity or affiliation is not required for the appointment of any member. Geographical representation must be taken into consideration when making appointments. Section 15.0575 shall govern the advisory council, except that:

(1) the members shall be appointed to six-year terms with one-third appointed each even-numbered year; and

(2) student members are appointed to two-year terms with two students appointed each even-numbered year.

Sec. 17. Minnesota Statutes 2002, section 137.0245, subdivision 3, is amended to read:

Subd. 3. [DUTIES.] The advisory council shall:

(1) develop, in consultation with current and former regents and the administration of the University of Minnesota, a statement of the selection criteria to be applied and a description of the responsibilities and duties of a regent, and shall distribute this to potential candidates; and

(2) for each position on the board, identify and recruit qualified candidates for the Board of Regents, based on the background and experience of the candidates, and their potential for discharging the responsibilities of a member of the Board of Regents.

The guidelines developed under clause (1) must include a guide that regents represent diversity in geography; gender; race; occupation, including business and labor; and experience. The advisory council must submit its candidate recommendations to the budget divisions of the house of representatives and senate with jurisdiction over higher education finance by February 1 for vacancies to be filled during that year's legislative session.

Sec. 18. [137.0246] [REGENT SELECTION; LEGISLATURE.]

By March 7 of each odd-numbered year, or at a date agreed to by concurrent resolution, a joint legislative committee shall meet to recommend nominees for regent of the University of Minnesota to be presented to a joint convention of the legislature. The members of the joint committee are the members of the senate and house finance divisions with jurisdiction over higher education finance. A majority of the members from each house is a quorum of the joint committee.

The joint committee shall determine the number of persons, and the person or persons to be recommended for each open seat.

Each person recommended by the Regent Candidate Advisory Council is considered to be

nominated. Other persons may be nominated by a member of the committee at the meeting. Nominations may be made by committee members only. Nominations must be made for a specified congressional or student seat, or for any at-large seat.

Sec. 19. [144.1503] [NURSING LOW-INCOME LOAN REPAYMENT.]

Subdivision 1. [DEFINITION.] For purposes of this section, "qualifying educational loans" means government, commercial, and foundation loans for actual costs paid for tuition, reasonable education expenses, and reasonable living expenses related to the graduate or undergraduate education of a licensed practical nurse or registered nurse.

Subd. 2. [CREATION OF ACCOUNT; LOAN REPAYMENT PROGRAM.] A low-income nursing education account is created in the special revenue fund. The commissioner of health shall use money from the account to establish a loan repayment program for licensed practical or registered nurses who agree to practice in a Minnesota nursing home or work in a position in Minnesota as a nurse educator. Appropriations made to the account do not cancel and are available until expended.

Subd. 3. [ELIGIBILITY.] (a) To be eligible to apply to participate in the loan repayment program, an individual must:

(1) be a resident of Minnesota;

(2) currently be attending a program leading to a degree in practical or registered nursing or a graduate nursing degree in a public or private postsecondary education institution located in Minnesota; and

(3) submit an application to the commissioner of health.

(b) An applicant selected to participate must sign a contract to agree to serve a minimum three-year, full-time service obligation according to subdivision 2, which shall begin no later than March 31 following completion of required training. If fewer applications are submitted by nursing students than there are participant slots available, the commissioner may consider applications submitted by nursing program graduates who are licensed or registered nurses or nurses who are nurse educators. Nurses selected for loan repayment must comply with all terms and conditions of this section.

Subd. 4. [LOAN REPAYMENT.] The commissioner of health may accept applicants each year for participation in the loan repayment program, within the limits of available funding. Applicants are responsible for securing their own loans. The commissioner shall select participants in a priority based upon lowest family income, followed in order of ascending family income. Family income may be determined in the same manner as for state grants under section 136A.121 or in another manner the commissioner determines fairly represents family income. The commissioner shall give preference to applicants closest to completing their training. For each year that a participant meets the service obligation required under subdivision 3, up to a maximum of four years, the commissioner shall make annual disbursements directly to the participant equivalent to 15 percent of the average educational debt for indebted nursing school graduates in the year closest to the applicant's selection for which information is available or the balance of the qualifying educational loans, whichever is less. The maximum annual loan repayment for a participant is \$2,500. Before receiving loan repayment disbursements and as requested, the participant must complete and return to the commissioner an affidavit of practice form provided by the commissioner verifying that the participant is practicing as required under subdivision 3. The participant must provide the commissioner with verification that the full amount of loan repayment disbursement received by the participant has been applied toward the designated loans. After each disbursement, verification must be received by the commissioner and approved before the next loan repayment disbursement is made. Participants remain eligible for loan repayment as long as they practice as required under subdivision 3.

Subd. 5. [PENALTY FOR NONFULFILLMENT.] If a participant does not fulfill the service commitment under subdivision 3, the commissioner of health shall collect from the participant 100

percent of any payments made for qualified educational loans and interest at a rate established according to section 270.75. The commissioner shall credit the money collected to the low-income nursing education account established under subdivision 2.

Subd. 6. [SUSPENSION OR WAIVER OF OBLIGATION.] Payment or service obligations cancel in the event of a participant's death. The commissioner of health may waive or suspend payment or service obligations in cases of total and permanent disability or long-term temporary disability lasting for more than two years. The commissioner shall evaluate all other requests for suspension or waivers on a case-by-case basis and may grant a waiver of all or part of the money owed as a result of a nonfulfillment penalty if emergency circumstances prevented fulfillment of the required service commitment.

Sec. 20. Minnesota Statutes 2002, section 299A.45, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] Following certification under section 299A.44 and compliance with this section and rules of the commissioner of public safety and the higher education services office, dependent children less than 23 years of age and the surviving spouse of a public safety officer killed in the line of duty on or after January 1, 1973, are eligible to receive educational benefits under this section. To qualify for an award, they must be enrolled in undergraduate degree or certificate programs after June 30, 1990, at an eligible Minnesota institution as provided in section 136A.101, subdivision 4. Persons who have received a baccalaureate degree or have been enrolled full time or the equivalent of ten semesters or the equivalent, whichever occurs first, are no longer eligible. A student who withdraws from enrollment for active military service is entitled to an additional semester of eligibility for educational benefits.

Sec. 21. Minnesota Statutes 2002, section 299A.45, subdivision 4, is amended to read:

Subd. 4. [RENEWAL.] Each award must be given for one academic year and is renewable for a maximum of eight semesters or the equivalent. A student who withdraws from enrollment for active military service is entitled to an additional semester of eligibility for an award. An award must not be given to a dependent child who is 23 years of age or older on the first day of the academic year.

Sec. 22. [APPLICATION OF ELIGIBILITY.]

The additional semester of grant eligibility under sections 7, 10, 20, and 21 applies to any student with a state grant who withdrew from enrollment in a postsecondary institution beginning January 1, 2003, because the student was ordered to active military service as defined in Minnesota Statutes, section 190.05, subdivision 5b or 5c.

Sec. 23. [RECIPROCITY NEGOTIATIONS.]

The Higher Education Services Office shall, as soon as possible, commence negotiations with the state of Wisconsin concerning the higher education reciprocity agreement between Minnesota and Wisconsin. The negotiations shall include the issue of the disparity between the tuition paid by Wisconsin residents and Minnesota residents at campuses of the University of Minnesota with a goal of reducing or eliminating that disparity. This section does not mandate the inclusion of any particular term in a reciprocity agreement.

Sec. 24. [FIRST GENERATION STUDENTS; ADDITIONAL STATE AID GRANT.]

As part of the state grant program under Minnesota Statutes, section 136A.121, for fiscal year 2005 only, the grant aid for an eligible student is increased by \$2,000 over that which would otherwise be awarded. An "eligible student" is a student:

- (1) who is receiving a regular state grant under this section;
- (2) who is in the first year of postsecondary education;
- (3) who has a family income of \$20,000 or less; and

(4) none of whose natural or stepparents graduated from a postsecondary institution.

The maximum total lifetime additional grant aid to a student under this section is \$2,000.

The institution that a student is attending must obtain and provide to the office information necessary to administer this section.

Sec. 25. [REPEALER.]

(a) Minnesota Statutes 2003 Supplement, sections 136A.121, subdivision 7; and 136G.11, subdivision 2, are repealed.

(b) Minnesota Rules, parts 4815.0100; 4815.0110; 4815.0120; 4815.0130; 4815.0140; 4815.0150; 4815.0160; 4830.8100; 4830.8110; 4830.8120; 4830.8130; 4830.8140; and 4830.8150, are repealed.

ARTICLE 9

ENVIRONMENT AND NATURAL RESOURCES

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" mean 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-	\$ (5,590,000)	(5,590,000)
Natural Resources	-0-	6,835,000	6,835,000
TOTAL	\$ -0-	\$ 1,245,000	1,245,000

APPROPRIATIONS	
Available for the Year	
Ending June 30	
2004	2005

Sec. 2. POLLUTION CONTROL AGENCY

Grant programs may not be reduced disproportionately more than the overall appropriation reductions to the agency.

The governor shall make a recommendation for bonding or some other state funding source in an amount sufficient to provide for implementation of total maximum daily load plans necessary to clean up impaired waters, including an amount for matching grants to municipalities to cover a portion of the cost of wastewater treatment projects made necessary by wasteload reductions under total maximum daily load plans approved by the commissioner, to the chairs of the environment finance and capital investment

committees in the house and senate no later than January 15, 2005.

Sec. 3. OFFICE OF ENVIRONMENTAL ASSISTANCE

Grant programs may not be reduced disproportionately more than the overall appropriation reductions to the office.

Sec. 4. NATURAL RESOURCES

Total Appropriation	-0-	1,145,000
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Summary by Fund

General	-0-	(5,690,000)
Natural Resources	-0-	6,835,000

\$5,615,000 of the general fund reduction is from the appropriation in Laws 2003, chapter 128, article 1, section 5, subdivision 4.

\$6,215,000 the second year is from the forest management investment account in the natural resources fund for only the purposes specified in Minnesota Statutes, section 89.039, subdivision 2.

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 trail development. Of this amount, \$240,000 is from the all-terrain vehicle account, \$140,000 is from the off-road vehicle account, and \$20,000 is from the off-highway motorcycle account. This is a onetime only appropriation.

\$50,000 is from the all-terrain account in the natural resources fund for a task force of three members to determine the amount of unrefunded gasoline tax attributable to all-terrain vehicle use in the state and report to the legislature by March 1, 2005, with a proposed revision to Minnesota Statutes, section 296A.18. This is a onetime appropriation. The task force shall be composed of:

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

(2) the commissioner of transportation or the commissioner's designee; and

(3) the commissioner of revenue or the commissioner's designee. The commissioner of natural resources or the commissioner's designee shall chair the committee and provide appropriate staffing.

\$120,000 is from the natural resources fund for a study and report on wetlands and off-highway vehicle use. Of this amount, \$6,000 is from the off-highway motorcycle account, \$42,000 from the off-road vehicle account, and \$72,000 from the all-terrain vehicle account. The commissioner shall examine the following issues:

(1) the general location, types, and ownership of wetlands in this state and the proximity of the wetlands to all classes of roads; and

(2) by a review of scientific and standard operational literature, the probable effects of driving off-highway vehicles in the different types of wetlands on wildlife habitat, wetlands ecology, and hydrology and how seasonal weather variations change those effects. This analysis must be done in the context of the Wetlands Conservation Act, the wetlands conservation plan, and associated state policies. The commissioner may conduct and include on-site observation of effects. The commissioner shall report the findings of this study by January 15, 2005, to the legislative committees with jurisdiction over environment and natural resources.

Grant programs may not be reduced disproportionately more than the overall appropriation reductions to the department.

\$75,000 is reduced from the general fund appropriation made in Laws 2003, chapter 128, article 1, section 5, subdivision 9.

\$50,000 is appropriated from the snowmobile trails and enforcement account in the environmental fund to contract for an independent comprehensive study of snowmobile use and funding according to this paragraph. This is a onetime appropriation. The commissioner shall appoint a task force to complete the study required under this section. 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. The study shall examine the past and future fiscal management of the snowmobile trails and enforcement account, including use of the account for land access, trail improvements, and trail development and the past and future economic impact of snowmobile use in the state. The task force shall report the results of the study to the legislature by January 10, 2005.

Sec. 5. BOARD OF WATER AND SOIL RESOURCES

-0-

100,000

Grant programs may not be reduced disproportionately more than the overall appropriation reductions to the board.

\$100,000 is to develop and implement a pilot program, in consultation with the commissioner of agriculture, for the delivery of technical and financial assistance to counties that choose to establish and maintain an environmental protection framework designed to protect surface and groundwater in accordance with current Minnesota rules, enhance wildlife habitat, and implement the University of Minnesota odor offset model for the establishment or expansion of livestock feedlots. The board shall provide technical and financial support under this initiative to establish a pilot program with at least two participating counties and report the results to the legislature by December 31, 2004. The pilot program must be designed to encourage the widespread county adoption and maintenance of countywide environmental protection frameworks.

Sec. 6. 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 annually appropriated from money accruing and credited to the forest suspense account to the commissioner 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.

Sec. 7. Minnesota Statutes 2002, section 84.025, subdivision 10, is amended to read:

Subd. 10. [RECREATIONAL VEHICLES AND BOATS USED FOR PUBLIC PURPOSES.] All snowmobiles and Outboard motors of 250 horsepower or less and all snowmobiles that are purchased by the commissioner of natural resources must be of the four-stroke engine model. All all-terrain vehicles purchased by the commissioner must be manufactured in the state of Minnesota.

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. [84.0286] [CONSERVATION OFFICER PATROL VEHICLE SECURITY BARRIER; EXEMPTION.]

Marked conservation officer patrol vehicles are exempt from any law or rule requiring a security barrier in the vehicle.

Sec. 10. Minnesota Statutes 2003 Supplement, section 84.029, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT, DEVELOPMENT, MAINTENANCE AND OPERATION.] In addition to other lawful authority, the commissioner of natural resources may establish, develop, maintain, and operate recreational areas, including but not limited to trails and canoe routes, for the use and enjoyment of the public on any state-owned or leased land under the commissioner's jurisdiction. The commissioner may employ and designate individuals according to section 85.04 84.0835 to enforce laws governing the use of recreational areas.

Sec. 11. [84.0835] [DESIGNATION OF EMPLOYEES FOR LIMITED NATURAL RESOURCES LAW ENFORCEMENT.]

Subdivision 1. [COMMISSIONER'S AUTHORITY TO DESIGNATE EMPLOYEES.] As provided in this section, the commissioner may designate by written order certain employees to enforce laws governing the use of state parks, state monuments, state recreation areas, state waysides, forest subareas, forest lands under the authority of the commissioner when incidental to trail management or normal forestry duties, and game preserves and other lands administered as wildlife management areas. The designation by the commissioner is not subject to rulemaking under chapter 14 and section 14.386 does not apply.

Subd. 2. [DESIGNATED EMPLOYEE AUTHORITIES; GENERALLY.] An employee designated under subdivision 1:

(1) has citizen arrest powers according to sections 629.37 to 629.39;

(2) may issue citations, on a form prescribed by the commissioner, in lieu of arrest for petty misdemeanor violations and misdemeanor violations, unless the violation occurs in the presence of a conservation officer or other peace officer, as defined under section 626.84, subdivision 1, paragraph (c); and

(3) may issue a report of violation to be turned over to a conservation officer or other peace officer for possible charges at the peace officer's discretion.

Subd. 3. [CITATION AUTHORITY.] Employees designated by the commissioner under subdivision 2 may issue citations, as specifically authorized under this subdivision, for violations of:

(1) sections 85.052, subdivision 3 (payment of camping fees in state parks) and 85.45, subdivision 1 (cross-country ski pass);

(2) rules relating to hours and days of operation, restricted areas, noise, fireworks, environmental protection, fires and refuse, pets, picnicking, camping and dispersed camping,

nonmotorized uses, construction of unauthorized permanent trails, mooring of boats, fish cleaning, swimming, storage and abandonment of personal property, structures and stands, animal trespass, state park individual and group motor vehicle permits, licensed motor vehicles, designated roads, and snowmobile operation off trails;

(3) rules relating to off-highway vehicle registration, display of registration numbers, required equipment, operation restrictions, off-trail use for hunting and trapping, and operation in lakes, rivers, and streams;

(4) rules relating to off-highway vehicle and snowmobile operation causing damage or in closed areas within the Richard J. Dorer Memorial Hardwood State Forest;

(5) rules relating to parking, snow removal, and damage on state forest roads; and

(6) rules relating to controlled hunting zones on major wildlife management units.

Sec. 12. [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. 13. 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, 2004.

Sec. 14. Minnesota Statutes 2002, section 84.83, subdivision 4, is amended to read:

Subd. 4. [PROVISIONS APPLICABLE TO FUNDING RECIPIENTS.] (a) Recipients of Minnesota trail assistance program funds must be afforded the same protection and be held to the same standard of liability as a political subdivision under chapter 466 for activities associated with the administration, design, construction, maintenance, and grooming of snowmobile trails.

(b) Recipients of Minnesota trail assistance program funds who maintain ice trails on public waters listed under subdivision 3, clause (1), or on waters of Voyageurs National Park are expressly immune from liability under section 466.03, subdivision 6e.

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

Sec. 15. Minnesota Statutes 2003 Supplement, section 84A.02, is amended to read:

84A.02 [DEPARTMENT TO MANAGE PRESERVE.]

(a) The Department of Natural Resources shall manage and control the Red Lake Game Preserve. The department may adopt and enforce rules for the care, preservation, protection, breeding, propagation, and disposition of all species of wildlife in the preserve. The department may adopt and enforce rules for the regulation, issuance, sale, and revocation of special licenses or special permits for hunting, fishing, camping, and other uses of this area, consistent with sections 84A.01 to 84A.11. The department may by rule set the terms, conditions, and charges for these licenses and permits.

(b) The rules may specify and control the terms under which wildlife may be taken, captured, or killed in the preserve, and under which fur-bearing animals, or animals and fish otherwise having commercial value, may be taken, captured, trapped, killed, sold, and removed from it. These rules may also provide for (1) the afforestation and reforestation of state lands in the preserve, (2) the sale of merchantable timber from these lands when, in the opinion of the department, it can be sold and removed without damage or injury to the further use and development of the land for wildlife and game in the preserve, and (3) the purposes for which the preserve is established by sections 84A.01 to 84A.11.

(c) The department may provide for the policing of the preserve as necessary for its proper development and use for the purposes specified. The commissioner of natural resources may employ and designate individuals according to section 85.04 84.0835 to enforce laws governing the use of the preserve.

(d) The department shall also adopt and enforce rules concerning the burning of grass, timber slashings, and other flammable matter, and the clearing, development, and use of lands in the preserve as necessary to prevent forest fires and grass fires that would injure the use and development of this area for wildlife preservation and propagation and to protect its forest and wooded areas.

(e) Lands within the preserve are subject to the rules, whether owned by the state or privately, consistent with the rights of the private owners and with applicable state law. The rules may establish areas and zones within the preserve where hunting, fishing, trapping, or camping is prohibited or specially regulated, to protect and propagate particular wildlife in the preserve.

(f) Rules adopted under sections 84A.01 to 84A.11 must be posted on the boundaries of the preserve.

Sec. 16. Minnesota Statutes 2003 Supplement, section 84A.21, is amended to read:

84A.21 [DEPARTMENT TO MANAGE PROJECTS.]

(a) The department shall manage and control each project approved and accepted under section 84A.20. The department may adopt and enforce rules for the purposes in section 84A.20, subdivision 1, for the prevention of forest fires in the projects, and for the sale of merchantable timber from lands so acquired by the state when, in the opinion of the department, the timber may be sold and removed without damage to the project.

(b) These rules may relate to the care, preservation, protection, breeding, propagation, and disposition of any species of wildlife in the project and the regulation, issuance, sale, and revocation of special licenses or special permits for hunting, fishing, camping, and other uses of the areas consistent with applicable state law.

(c) The department may provide for the policing of each project as needed for the proper development, use, and protection of the project and its purposes. The commissioner of natural resources may employ and designate individuals according to section 85.04 84.0835 to enforce laws governing the use of the projects.

(d) Lands within a project are subject to these rules, whether owned by the state or privately, consistent with the rights of the private owners or with applicable state law. The rules must be published once in one qualified newspaper in each county affected and take effect after publication. They must also be posted on the boundaries of each project affected.

Sec. 17. Minnesota Statutes 2003 Supplement, section 84A.32, subdivision 1, is amended to read:

Subdivision 1. [RULES.] (a) The department shall manage and control each project approved and accepted under section 84A.31. The department may adopt and enforce rules for the purposes in section 84A.31, subdivision 1, for the prevention of forest fires in the projects, and for the sale of merchantable timber from lands acquired by the state in the projects when, in the opinion of the department, the timber may be sold and removed without damage to the purposes of the projects. Rules must not interfere with, destroy, or damage any privately owned property without just compensation being made to the owner of the private property by purchase or in lawful condemnation proceedings. The rules may relate to the care, preservation, protection, breeding, propagation, and disposition of any species of wildlife in the projects and the regulation, issuance, sale, and revocation of special licenses or special permits for hunting, fishing, camping, or other uses of these areas consistent with applicable state law.

(b) The department may provide for the policing of each project as necessary for the proper development, use, and protection of the project, and of its purpose. The commissioner of natural resources may employ and designate individuals according to section 85.04 84.0835 to enforce laws governing the use of the projects.

(c) Lands within the project are subject to these rules, whether owned by the state, or privately, consistent with the constitutional rights of the private owners or with applicable state law. The department may exclude from the operation of the rules any lands owned by private individuals upon which taxes are delinquent for three years or less. Rules must be published once in the official newspaper of each county affected and take effect 30 days after publication. They must also be posted on each of the four corners of each township of each project affected.

(d) In the management, operation, and control of areas taken for afforestation, reforestation, flood control projects, and wild game and fishing reserves, nothing shall be done that will in any manner obstruct or interfere with the operation of ditches or drainage systems existing within the areas, or damage or destroy existing roads or highways within these areas or projects, unless the ditches, drainage systems, roads, or highways are first taken under the right of eminent domain and compensation made to the property owners and municipalities affected and damaged. Each area or project shall contribute from the funds of the project, in proportion of the state land within the project, for the construction and maintenance of roads and highways necessary within the areas and projects to give the settlers and private owners within them access to their land. The department may construct and maintain roads and highways within the areas and projects as it considers necessary.

Sec. 18. 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 account and the amount derived from all other receipts is transferred to the general fund.

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

Sec. 19. Minnesota Statutes 2003 Supplement, section 84A.55, subdivision 8, is amended to read:

Subd. 8. [POLICING.] The commissioner may police the game preserves, areas, and projects as necessary to carry out this section. The commissioner may employ and designate individuals according to section 85.04 84.0835 to enforce laws governing the use of the game preserves, areas, and projects.

Sec. 20. Minnesota Statutes 2003 Supplement, section 85.04, subdivision 2, is amended to read:

Subd. 2. [OTHER EMPLOYEES.] ~~Until August 1, 2004, The commissioner of natural resources may designate certain employees according to section 84.0835 to enforce laws governing the use of state parks, state monuments, state recreation areas, state waysides, state forest lands when incidental to normal forestry duties, and state forest subareas. The designation by the commissioner is not subject to rulemaking under chapter 14.~~

Sec. 21. 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 as provided in this section, 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 account 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. 22. [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;

(2) timber sales receipts from forest lands as provided in section 89.035; and

(3) interest accruing from investment of the account.

Subd. 2. [PURPOSES OF ACCOUNT.] Subject to appropriation by the legislature, money in the forest management investment account may be spent by the Department of Natural Resources in accordance with the forest resource management policy and plan for any of 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 that exceed appropriations under section 89.70.

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

Sec. 23. Minnesota Statutes 2002, section 97A.061, subdivision 1, is amended to read:

Subdivision 1. [APPLICABILITY; AMOUNT.] (a) The commissioner shall annually make a payment to each county having public hunting areas and game refuges. Money to make the payments is annually appropriated for that purpose from the general fund. Except as provided in paragraph (b), this section does not apply to state trust fund land and other state land not purchased for game refuge or public hunting purposes. Except as provided in paragraph (b), the payment shall be the greatest of:

(1) 35 percent of the gross receipts from all special use permits and leases of land acquired for public hunting and game refuges;

(2) 50 cents per acre on land purchased actually used for public hunting or game refuges; or

(3) three-fourths of one percent of the appraised value of purchased land actually used for public hunting and game refuges.

(b) The payment shall be \$1.50, as adjusted for inflation under section 477A.145, multiplied by the number of acres of land in the county that are owned by another state agency for military purposes and designated as a game refuge under section 97A.085.

(c) The payment must be reduced by the amount paid under subdivision 3 for croplands managed for wild geese.

(e) (d) The appraised value is the purchase price for five years after acquisition. The appraised value shall be determined by the county assessor every five years after acquisition.

[EFFECTIVE DATE.] This section is effective July 1, 2005, and applies to payments made after that date.

Sec. 24. Minnesota Statutes 2003 Supplement, section 97A.482, is amended to read:

97A.482 [LICENSE APPLICATIONS; COLLECTION OF SOCIAL SECURITY NUMBERS.]

(a) All applicants for individual noncommercial game and fish licenses under this chapter and chapters 97B and 97C must include the applicant's social security number on the license application. If an applicant does not have a Social Security number, the applicant must certify that the applicant does not have a Social Security number.

(b) The Social Security numbers collected by the commissioner on game and fish license applications are private data under section 13.49, subdivision 1, and must be provided by the commissioner to the commissioner of human services for child support enforcement purposes. Title IV-D of the Social Security Act, United States Code, title 42, section 666(a)(13), requires the collection of Social Security numbers on game and fish license applications for child support enforcement purposes.

(c) The commissioners of human services and natural resources shall request a waiver from the secretary of health and human services to exclude any applicant under the age of 16 from the requirement under this section to provide the applicant's Social Security number. If a waiver is granted, this section will be so amended effective January 1, 2005, or upon the effective date of the waiver, whichever is later.

Sec. 25. Minnesota Statutes 2002, section 97C.355, subdivision 7, is amended to read:

Subd. 7. [DATES AND TIMES HOUSES MAY REMAIN ON ICE.] (a) Except as provided in paragraph (d), a fish house or dark house may not be on the ice between 12:00 a.m. and one hour before sunrise after the following dates:

(1) the last day of February, for state waters south of a line starting at the Minnesota-North Dakota border and formed by rights-of-way of U.S. Route No. 10, then east along U.S. Route No. 10 to Trunk Highway No. 34, then east along Trunk Highway No. 34 to Trunk Highway No. 200, then east along Trunk Highway No. 200 to U.S. Route No. 2, then east along U.S. Route No. 2 to the Minnesota-Wisconsin border; and

(2) March 15, for other state waters.

A fish house or dark house on the ice in violation of this subdivision is subject to the enforcement provisions of paragraph (b). The commissioner may, by rule, change the dates in this paragraph for any part of state waters. Copies of the rule must be conspicuously posted on the shores of the waters as prescribed by the commissioner.

(b) A conservation officer must confiscate a fish house or dark house in violation of paragraph (a). The officer may remove, burn, or destroy the house. The officer shall seize the contents of the house and hold them for 60 days. If the seized articles have not been claimed by the owner, they

may be retained for the use of the division or sold at the highest price obtainable in a manner prescribed by the commissioner.

(c) When the last day of February, under paragraph (a), clause (1), or March 15, under paragraph (a), clause (2), falls on a Saturday, a fish house or dark house may be on the ice between 12:00 a.m. and one hour before sunrise until 12:00 a.m. the following Monday.

(d) A person may have a fish house or dark house on the ice between 12:00 a.m. and one hour before sunrise on waters within the area prescribed in paragraph (a), clause (2), but the house may not be unattended during those hours.

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.

(c) A turtle seller's license is transferable by the turtle seller licensee by making application to the commissioner. A turtle seller's license may be transferred only once under this paragraph and the transfer must be to a child of the person holding the turtle seller's license.

Sec. 27. Minnesota Statutes 2002, section 103F.225, subdivision 5, is amended to read:

Subd. 5. [EXPIRATION.] This section expires June 30, ~~2004~~ 2008.

Sec. 28. Minnesota Statutes 2002, section 103F.505, is amended to read:

103F.505 [PURPOSE AND POLICY.]

It is the purpose of sections 103F.505 to 103F.531 to keep certain marginal agricultural land out of crop production to protect soil and water quality, prevent flood damage, and support fish and wildlife habitat. It is state policy to encourage the retirement of marginal, highly erodible land, particularly land adjacent to public waters, drainage systems, wetlands, and locally designated priority waters, from crop production and to reestablish a cover of perennial vegetation.

Sec. 29. Minnesota Statutes 2002, section 103F.515, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT OF PROGRAM.] The board, in consultation with the commissioner of agriculture and the commissioner of natural resources, shall establish and administer a conservation reserve program. The board shall implement sections 103F.505 to 103F.531. Selection of land for the conservation reserve program must be based on its potential for fish and wildlife production, reducing erosion, preventing flood damage, and protecting water quality.

Sec. 30. Minnesota Statutes 2002, section 103F.515, subdivision 2, is amended to read:

Subd. 2. [ELIGIBLE LAND.] (a) Land may be placed in the conservation reserve program if the land meets the requirements of paragraphs (b) and (c).

(b) Land is eligible if the land:

(1) is marginal agricultural land;

(2) is adjacent to marginal agricultural land and is either beneficial to resource protection or necessary for efficient recording of the land description;

(3) consists of a drained wetland;

(4) is land that with a windbreak would be beneficial to resource protection;

(5) is land in a sensitive groundwater area;

(6) is riparian land;

(7) is cropland or noncropland adjacent to restored wetlands to the extent of up to four acres of cropland or one acre of noncropland for each acre of wetland restored;

(8) is a woodlot on agricultural land;

(9) is abandoned building site on agricultural land, provided that funds are not used for compensation of the value of the buildings; ~~or~~

(10) is land on a hillside used for pasture; or

(11) is land that is subject to frequent flooding events.

(c) Eligible land under paragraph (a) must:

(1) be owned by the landowner, or a parent or other blood relative of the landowner, for at least one year before the date of application;

(2) be at least five acres in size, except for a drained wetland area, riparian area, windbreak, woodlot, or abandoned building site, or be a whole field as defined by the United States Agricultural Stabilization and Conservation Services;

(3) not be set aside, enrolled or diverted under another federal or state government program unless enrollment in the conservation reserve program would provide additional conservation benefits or a longer term of enrollment than under the current federal or state program; and

(4) have been in agricultural crop production for at least two of the last five years before the date of application except drained wetlands, riparian lands, woodlots, abandoned building sites, or land on a hillside used for pasture.

(d) In selecting drained wetlands for enrollment in the program, the highest priority must be given to wetlands with a cropping history during the period 1976 to 1985.

(e) In selecting land for enrollment in the program, highest priority must be given to permanent easements that are consistent with the purposes stated in section 103F.505.

Sec. 31. Minnesota Statutes 2002, section 103F.515, subdivision 4, is amended to read:

Subd. 4. [NATURE OF PROPERTY RIGHTS ACQUIRED.] (a) A conservation easement must prohibit:

(1) alteration of wildlife habitat and other natural features, unless specifically approved by the board;

(2) agricultural crop production, unless specifically approved by the board for wildlife management purposes or as provided in clause (3);

(3) grazing of livestock or haying ~~except, for agreements entered before the effective date of Laws 1990, chapter 391,;~~

(i) the grazing of livestock or haying may be allowed only if approved by the board after consultation with the ~~commissioner~~ commissioners of natural resources, and agriculture; or

(ii) in the case of severe drought, or a local emergency declared under section 12.29; ~~and~~

~~(4) spraying with chemicals or mowing, except as necessary to comply with noxious weed control laws or emergency control of pests necessary to protect public health.~~

(b) The easement must require that the landowner control noxious weeds in accordance with sections 18.77 to 18.88.

(c) A conservation easement is subject to the terms of the agreement provided in subdivision 5.

(e) (d) A conservation easement must allow repairs, improvements, and inspections necessary to maintain public drainage systems provided the easement area is restored to the condition required by the terms of the conservation easement.

Sec. 32. Minnesota Statutes 2002, section 103F.515, subdivision 5, is amended to read:

Subd. 5. [AGREEMENTS BY LANDOWNER.] The board may enroll eligible land in the conservation reserve program by signing an agreement in recordable form with a landowner in which the landowner agrees:

(1) to convey to the state a conservation easement that is not subject to any prior title, lien, or encumbrance;

(2) to seed the land subject to the conservation easement, as specified in the agreement, to establish and maintain perennial cover of either a grass-legume mixture or native grasses for the term of the easement, at seeding rates determined by the board; or to plant trees or carry out other long-term capital improvements approved by the board for soil and water conservation or wildlife management;

(3) to convey to the state a permanent easement for the wetland restoration; and

~~(4) that other land supporting natural vegetation owned or leased as part of the same farm operation at the time of application, if it supports natural vegetation or has not been used in agricultural crop production, will not be converted to agricultural crop production or pasture; and~~

~~(5) that the easement duration may be lengthened through mutual agreement with the board in consultation with the commissioners of agriculture and natural resources if they determine that the changes effectuate the purpose of the program or facilitate its administration.~~

Sec. 33. [103F.790] [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.

Subd. 4. [CLEAN WATERS COUNCIL DIRECTIVE.] The Clean Waters Council shall address the following issues and report its recommendations to the legislature no later than January 15, 2005:

(1) procedures for public scientific review of a total maximum daily load plan prior to agency approval of the total maximum daily load plan;

(2) methods the agency can employ to mitigate effects of total maximum daily load plans and the impaired waters process on economic development in municipalities;

(3) identification of resources needed to comply with total maximum daily load allocations;

(4) notice and comment procedures for total maximum daily load plan and impaired waters processes;

(5) agency consideration of critiques of total maximum daily load models and alternative studies in the total maximum daily load process;

(6) development of a contested case process for the public to challenge proposed total maximum daily load plans before they are approved by the agency; and

(7) other issues that may arise and relate to the total maximum daily load plan development process.

Subd. 5. [POLLUTION CONTROL AGENCY REPORTS.] (a) At the time the agency approves a total maximum daily load plan, the commissioner of the Pollution Control Agency shall submit to the Clean Waters Council and the chairs of the environment and capital investment committees in the house and senate an estimate for the cost of compliance of the approved total maximum daily load plan.

(b) The commissioner shall provide a quarterly report to the Clean Waters Council and the chairs of the environment and capital investment committees in the house and senate that lists any economic development projects that have been delayed as a result of a total maximum daily load plan or other impaired waters process.

Sec. 34. Minnesota Statutes 2002, section 103G.2242, subdivision 2, is amended to read:

Subd. 2. [EVALUATION.] (a) Questions concerning the public value, location, size, or type of a wetland shall be submitted to and determined by a Technical Evaluation Panel after an on-site inspection. The Technical Evaluation Panel shall be composed of a technical professional employee of the board, a technical professional employee of the local soil and water conservation district or districts, a technical professional with expertise in water resources management appointed by the local government unit, and a technical professional employee of the Department of Natural Resources for projects affecting public waters or wetlands adjacent to public waters. The panel shall use the "United States Army Corps of Engineers Wetland Delineation Manual" (January 1987), including updates, supplementary guidance, and replacements, if any, "Wetlands of the United States" (United States Fish and Wildlife Service Circular 39, 1971 edition), and "Classification of Wetlands and Deepwater Habitats of the United States" (1979 edition). The panel shall provide the wetland determination and recommendations on other technical matters to the local government unit that must approve a replacement plan, wetland banking plan, exemption determination, no-loss determination, or wetland boundary or type determination and may recommend approval or denial of the plan. The authority must consider and include the decision of the Technical Evaluation Panel in their approval or denial of a plan or determination.

(b) Persons conducting wetland or public waters boundary delineations or type determinations are exempt from the requirements of chapter 326. By January 15, 2001, the board, in consultation

with the Minnesota Association of Professional Soil Scientists, the University of Minnesota, and the Wetland Delineators' Association, shall submit a plan for a professional wetland delineator certification program to the legislature.

(c) The board, in cooperation with other appropriate institutions and state and federal agencies, shall implement a professional wetland delineator certification program. The board shall post on its Web site a list of certified professional wetland delineators and any sanctions that have been issued against them. By January 15, 2006, the board shall report to the legislature on the implementation of the voluntary professional wetland delineator certification program. The report shall include, but not be limited to, an analysis of future rulemaking needs, an estimate of the cost of the rulemaking, the appropriateness of the fee amount, and other potential sources of funding for the certification. The board may develop rules for implementing the professional wetland delineator certification program. The rules shall establish specific standards for education, experience, testing, ethics, and performance for persons conducting regulatory delineations. The board shall charge an annual fee of up to \$75 for professional wetland delineator certification. Money collected under this subdivision shall be deposited in the special revenue fund and is appropriated to the board for the purpose of the wetland delineator certification program.

Sec. 35. Minnesota Statutes 2002, section 115.03, subdivision 4a, is amended to read:

Subd. 4a. [SECTION 401 CERTIFICATIONS.] (a) The following definitions apply to this subdivision:

(1) "section 401 certification" means a water quality certification required under section 401 of the federal Clean Water Act, United States Code, title 33, section 1341; and

(2) "~~nationwide federal general permit~~" means a ~~nationwide general permit issued by the United States Army Corps of Engineers and listed in Code of Federal Regulations, title 40, part 330, appendix A under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344.~~

(b) The agency is responsible for providing section 401 certifications for ~~nationwide permits~~ all federal permits or licenses that require certification before issuance of the federal permit or license. The agency may waive a section 401 certification. If the agency waives a section 401 certification, the agency shall publish the waiver decision along with the written explanation on the agency's Internet Web site, and may also publish the decision and explanation in any other appropriate public medium as determined by the agency, such as the State Register, newspapers, or other applicable periodicals of general circulation. The agency shall publish its waiver decision and explanation even if the agency finds that a federal agency or department has prepared and distributed or will prepare and distribute public notice concerning a section 401 certification. All public comments shall be attached to the official public record waiver decision, maintained along with the waiver decision, and made available for review upon request.

(c) Before making a final decision on a section 401 certification for regional conditions on a ~~nationwide federal general permit~~, the agency shall hold at least one public meeting outside the seven-county metropolitan area.

(d) In addition to other notice required by law, the agency shall provide written notice of a meeting at which the agency will be considering a section 401 certification for regional conditions on a ~~nationwide permit federal general permit~~, at least 21 days before the date of the meeting to the members of the senate and house of representatives environment and natural resources committees, the senate Agriculture and Rural Development Committee, and the house of representatives Agriculture Committee.

Sec. 36. 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. 37. 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 \$2,000 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.

Sec. 38. 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. 39. [115.59] [ADVANCED TREATMENT SYSTEMS.]

Subdivision 1. [DEFINITIONS.] The definitions in this subdivision apply to this section and section 115.60.

(a) "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.

(b) "Blackwater" means sewage from toilets, urinals, and any drains equipped with garbage grinders.

(c) "Greywater" means sewage that does not contain toilet wastes or waste from garbage grinders.

(d) "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 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.

Subd. 3. [EXPIRATION.] This section expires May 1, 2014.

Sec. 40. [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 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 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 Pollution Control 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 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 and the local regulatory authority.

(d) Independent documentation of system performance must be reported on a form provided by the commissioner.

Subd. 3. [APPROVAL REQUIREMENTS.] (a) Permitting of biodigester and water reclamation systems is 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.

Subd. 5. [EXPIRATION.] This section expires May 1, 2014.

Sec. 41. 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. The board expires on June 30, ~~2003~~ 2007.

Sec. 42. 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. 43. [115A.9165] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] For the purposes of sections 115A.9165 to 115A.9169, the following terms have the meanings given them.

Subd. 2. [END-OF-LIFE MOTOR VEHICLE.] "End-of-life motor vehicle" means any motor vehicle that is sold, given, or otherwise conveyed to a motor vehicle crusher, recycler, or scrap recycling facility for the purpose of recycling.

Subd. 3. [MANUFACTURER.] "Manufacturer" means any person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that produces or assembles motor vehicles, or in the case of an imported motor vehicle, the importer or domestic distributor of the motor vehicle.

Subd. 4. [MERCURY SWITCH.] "Mercury switch" means a light switch or an antilock brake system switch installed by an automotive manufacturer in a motor vehicle.

Subd. 5. [MOTOR VEHICLE RECYCLER.] "Motor vehicle recycler" means any person or entity engaged in the business of acquiring, dismantling, or crushing six or more motor vehicles in a calendar year for the primary purpose of resale of their parts or materials.

Sec. 44. [115A.9166] [MERCURY SWITCH COLLECTION PROGRAM.]

Subdivision 1. [OFFICE OF ENVIRONMENTAL ASSISTANCE.] (a) By January 1, 2005, the Office of Environmental Assistance shall implement a program to remove, collect, transport, recycle, and appropriately dispose of mercury switches before crushing or shredding of motor vehicles. Every manufacturer of motor vehicles who has sold new motor vehicles containing mercury switches in this state after January 1, 1980, shall, either individually or as part of a group, pay the cost of the program up to a total maximum annual cost of \$300,000.

(b) The manufacturers may allocate the cost among themselves based on the number of motor vehicles containing mercury switches sold in this state or other factors as they may determine. The Office of Environmental Assistance shall annually certify to the commissioner of finance the annual cost to operate the program. The cost must not overfund or underfund the program. The commissioner of finance, in consultation with the Office of Environmental Assistance, shall inform the manufacturers of the costs to be paid and deposit the money in the environmental fund. The money is appropriated to the Office of Environmental Assistance for the purposes of the program. The Office of Environmental Assistance may use up to \$150,000 annually to pay the \$1 fee to motor vehicle recyclers for each mercury switch or pellet collected. Not more than \$150,000 may be used for other program costs.

Subd. 2. [PROGRAM COMPONENTS.] The mercury switch collection program, at a minimum, must include:

(1) a mercury switch capture rate of at least 90 percent from end-of-life motor vehicles, consistent with the principle that the mercury switch must be recovered unless it is inaccessible due to significant damage to the motor vehicle in the area surrounding the switch;

(2) a method for marking motor vehicles processed for shredding or crushing to indicate removal of switches, absence of switches, or presence of switches that could not be removed;

(3) a system to track switch removal, including the number of end-of-life motor vehicles and the number of switches;

(4) appropriate containers for collection and transporting of mercury switches;

(5) a system to track mercury switches from the point of collection to disposal;

(6) a requirement that mercury switches collected be processed, recycled, stored, and disposed of as a hazardous waste, or, if applicable, a universal waste, under state and federal hazardous waste regulations and may not be disposed of as hazardous debris as defined in federal regulations and similar state regulations;

(7) training and assistance to motor vehicle recyclers and other businesses dealing with end-of-life motor vehicles; and

(8) a fee of \$1 paid to motor vehicle recyclers for each mercury switch or mercury pellet collected.

Sec. 45. [115A.9167] [ANNUAL REPORT.]

Beginning January 15, 2005, the Office of Environmental Assistance shall annually report on the mercury switch collection program to the legislative committees with jurisdiction over the environment and natural resources.

The report must include:

(1) documentation of the capture rate achieved, including the number of switches collected, the amount of mercury collected, and the number of end-of-life motor vehicles;

(2) a description of how the mercury was recycled and otherwise appropriately managed; and

(3) a plan of action to improve the capture rate, if necessary.

Sec. 46. [115A.9168] [REPRESENTATIONS.]

It is unlawful for any person to represent that mercury switches have been removed from a motor vehicle or motor vehicle hulk being sold, given, or otherwise conveyed for recycling or crushing, if the mercury switches have not been removed.

Sec. 47. [115A.9169] [PHASE-OUT OF MERCURY-ADDED COMPONENTS IN MOTOR VEHICLES AND EXEMPTIONS.]

Subdivision 1. [PHASE-OUT OF MERCURY-ADDED COMPONENTS.] To prevent emissions or other releases of mercury from motor vehicles, by January 1, 2007, no new motor vehicle offered for sale in this state may contain any mercury-added component, except as provided in subdivision 2.

Subd. 2. [EXEMPTION AND LABELING.] (a) A manufacturer may obtain an exemption to install a mercury-added component in a motor vehicle if the manufacturer submits a written application to the commissioner describing:

(1) how the manufacturer will ensure that a system exists, and how the manufacturer will fund a system for the removal, collection, and recovery of the mercury-added component upon failure of the component or at the end of the motor vehicle's useful life; and

(2) certification by the manufacturer that the motor vehicle will be labeled so as to clearly inform purchasers that mercury is present in the motor vehicle, and that the mercury-added component may not be disposed of or placed in a waste stream destined for disposal until the mercury is removed or reused, recovered, or properly disposed of as a hazardous waste, or otherwise managed to ensure that the mercury does not become mixed with other solid waste or released to the environment. The label must identify the component with sufficient detail so that it can be readily located for removal. The label shall be placed on the doorpost and be sufficiently durable to remain legible for the useful life of the motor vehicle.

(b) Subject to the issuance of public notice and solicitation of public comment, the commissioner shall, within 90 days, accept or reject the application for exemption.

(c) The commissioner may grant an exemption only upon a clear demonstration that the system for removal, collection, and recovery of the mercury-added component will ensure recovery of the mercury and prevent its release to the environment.

(d) An exemption granted under this section is valid for a period not to exceed two years and may be renewed for periods not to exceed two years.

Sec. 48. [115A.9566] [RECOVERY AND RECYCLING OF WASTE ELECTRONIC PRODUCTS.]

Subdivision 1. [DEFINITIONS.] For the purpose of this section, the following definitions apply.

(a) "Cathode-ray tube" or "CRT" means a vacuum tube or picture tube used to convert an electronic signal into a visual image.

(b) "Full truckload" means a quantity of video display devices weighing 25,000 pounds or more.

(c) "Household" means a single detached dwelling unit or a single unit of a multiple dwelling unit and appurtenant structures.

(d) "Intermediate consolidation point" means a facility or location in the state where persons can deliver for consolidation video display devices generated by households and destined for reuse or recycling. The facility or location may be operated by a private entity or a local unit of government, and must be capable of consolidating a full truckload of video display devices in accordance with all applicable federal, state and local laws, rules, regulations, and ordinances.

(e) "Manufacturer" means a person who manufactures a video display device that is sold in this state or a person who sells a video display device in this state under its own brand label.

(f) "Manufacturer abandoned waste" means a video display device for which the manufacturer or a successor exists but the state is unable to enforce this section for any reason, including because video display devices from the manufacturer or successor are no longer sold in the state.

(g) "Orphan waste" means a video display device covered by this section for which (1) no manufacturer can be identified, or (2) the manufacturer no longer exists and no successor can be identified.

(h) "Pro rata share" means a percentage of all video display devices delivered to intermediate consolidation points excluding orphan waste and manufacturer abandoned waste. Pro rata shares shall be calculated by return weight and shall be differentiated by type of device. Each manufacturer shall have the pro rata share represented by the brands it manufactures among the types of devices it manufactures.

(i) "Type of device" means either a television or similar device or a computer monitor or similar device.

(j) "Video display device" means an electronic product containing: (1) a cathode-ray tube; or (2) a flat panel display, or any other similar video display device with a screen size that is greater than eight inches in size measured diagonally, but does not include those in an automobile or other vehicle.

Subd. 2. [MANUFACTURER RESPONSIBILITY.] (a) Effective July 1, 2005, all manufacturers of video display devices sold in Minnesota, including video display devices sold by means of distance communication, shall:

(1) collect any and all video display devices from intermediate consolidation points within three working days of being notified by an intermediate consolidation point approved by the director

that at least a full truckload of video display devices from households has been consolidated at that point;

(2) ensure that collection of video display devices from intermediate consolidation points is without charge;

(3) ensure that video display devices collected from intermediate consolidation points are reused or recycled; and

(4) clearly inform each purchaser of a video display device of opportunities for reuse or recycling of end-of-life video display devices.

(b) The requirements of paragraph (a), clauses (1) to (3), shall be fulfilled each year by a manufacturer after the manufacturer has collected and reused or recycled its pro rata share of video display devices. Each manufacturer shall also be responsible for collection and reuse or recycling each year of its pro rata share of orphan waste and manufacturer abandoned waste, except that no manufacturer shall be responsible for manufacturer abandoned waste in an annual amount that exceeds five percent by weight of other video display devices collected by the manufacturer under this subdivision.

(c) A manufacturer may fulfill its responsibilities under this subdivision through a representative organization of manufacturers.

Subd. 3. [MANUFACTURER REGISTRATION AND CERTIFICATION.] (a) On and after July 1, 2005, it shall be unlawful to sell a video display device in this state unless the manufacturer of the video display device has (1) registered with the agency, and (2) certified that the manufacturer is in compliance with subdivision 2. A retailer shall not be responsible for an unlawful sale pursuant to this subdivision if the certification relied upon by the retailer in making the unlawful sale was incorrect, or if the registration expired or was revoked and the retailer took possession of the video display device prior to the expiration or revocation of the registration and the unlawful sale occurred within six months after the expiration or revocation.

(b) By December 31, 2004, and each year thereafter, each manufacturer of a video display device sold in Minnesota shall submit a registration and certification to the commissioner. Registration shall include but not be limited to a listing of all brand labels owned by the manufacturer, its subsidiaries, or any companies acquired by the manufacturer. The registration shall also specify the entity that will be responsible for implementing the manufacturer's requirements as specified in subdivision 2, and the entity's contact information.

(c) By December 31, 2004, and each year thereafter, each manufacturer of a video display device sold in Minnesota shall submit a written certification, signed by an official of the manufacturer, that the manufacturer is in compliance with the requirements in subdivision 2. The commissioner shall accept the certification as prima facie evidence that the manufacturer is in compliance with subdivision 2.

(d) The commissioner may, at any time, revoke a registration upon being presented with evidence that the manufacturer is not in compliance with the requirements of this section.

(e) The commissioner may charge a registration fee to cover the agency's costs of administering the requirements under this section.

(f) By March 31, 2005, and each year thereafter, the commissioner shall publish on the agency's Web site a list of video display device manufacturers and all brand labels for which the commissioner has received registrations, certifications, and contact information for each entity responsible for implementing the requirements of subdivision 2.

(g) By October 31, 2004, and each year thereafter, the manufacturers or an industry group representing the manufacturers shall contract with an independent entity to determine the pro rata share of video display devices, calculated by return weight by brand, to be collected by each manufacturer in accordance with subdivision 2. The results of the independent study shall be transmitted to the commissioner to review and publish on the agency Web site. These results shall

determine the pro rata share of video display devices that each manufacturer is responsible for under subdivision 2 for the time until the next study is published on the agency Web site. Any manufacturer who disputes the pro rata share information in the independent study may contract, at its own expense, with the consolidation facilities to sort and recycle their own branded product. Any manufacturer who chooses to pay for sorting and recycling of their own branded product shall still remain responsible for their pro rata share of the orphan and manufacturer abandoned waste as calculated in the original independent study.

Subd. 4. [MANUFACTURER REPORTING.] By October 1, 2006, and each year thereafter, a manufacturer of video display devices or a representative organization of manufacturers shall provide information to the office that specifies the following information regarding video display devices from Minnesota households:

(1) the total number and pounds of video display devices collected during the preceding year, together with the total number and pounds of video display devices reused or refurbished for reuse, and the total number and pounds of video display devices recycled or resold; and

(2) a general description of the processes and methods used to recycle, refurbish, or reuse the video display devices and any disassembly, physical recovery operation, or other operation that was used, the location where these activities occurred, and whether these activities were conducted in accordance with applicable rules, standards, and requirements adopted by the Organization for Economic Cooperation and Development for the environmentally sound management of electronic waste.

If a manufacturer fulfills its responsibilities under subdivision 2 through a representative organization of manufacturers, the reporting requirements in this subdivision may be satisfied by the representative organization.

Subd. 5. [PERFORMANCE STANDARDS.] It is the goal of the state to ensure that all video display devices discarded by households are collected, and reused or recycled. In order to meet this goal, the state hereby establishes the following minimum annual performance standards for responsibilities established under this section:

(1) by July 1, 2006, the total amount of video display devices collected from households for reuse or recycling equals 0.050 video display devices per resident of the state;

(2) by July 1, 2007, the total amount of video display devices collected from households for reuse or recycling equals 0.055 video display devices per resident of the state; and

(3) by July 1, 2008, the total amount of video display devices collected from households for reuse or recycling equals 0.060 video display devices per resident of the state.

Subd. 6. [OFFICE OF ENVIRONMENTAL ASSISTANCE DUTIES.] (a) The director shall, by July 1, 2004, seek applications for the establishment of intermediate consolidation points from persons eligible to operate the points. The director shall seek to receive at least 15 applications with at least ten of the applications from outside the metropolitan area. By November 1, 2004, the director shall establish a list of approved intermediate consolidation points and shall make a list available to manufacturers, any representative organization of manufacturers, local government, solid waste haulers, and the general public. The director shall thereafter maintain and update the list by approving new applications qualified to be intermediate consolidation points, and deleting the points no longer eligible for placement on the list.

(b) By December 1, 2006, and each year thereafter, the director shall assess progress in meeting the performance standards in subdivision 5. By December 1, 2007, and every two years thereafter, the director shall submit a report as part of the report required in section 115A.411 to the legislature evaluating the programs established under this section and progress in meeting the state performance standards in subdivision 5. If the director determines that the performance standards in subdivision 5 have not been met, the director shall recommend alternative methods for ensuring that the state performance standards are met. The report due on December 1, 2007, shall include an assessment of the ratio of discarded CRTs to other discarded video display devices, and a

recommendation for the minimum performance standards for 2009 and 2010. The office shall also publish its assessment and evaluation of video display device collection, transportation, and reuse or recycling programs in the state on the office's Web site and through any of its other usual methods of providing public information.

(c) In addition to the report described in this section, the director shall evaluate in each odd-numbered year beginning in 2007, the amount and composition of other household electronic wastes such as computer central processing units, and shall recommend the addition or deletion of products to be covered under this section.

Subd. 7. [ENFORCEMENT.] This provision may be enforced under sections 115.071 and 116.072.

Subd. 8. [TERMINATION.] The requirements under subdivisions 1 to 7 shall terminate 30 days after the director publishes a notice in the State Register that a national program for effectively collecting, transporting, and reusing or recycling waste video display devices is established and implemented throughout the state.

Sec. 49. 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. 50. Minnesota Statutes 2002, section 115B.49, subdivision 4a, is amended to read:

Subd. 4a. [INTERIM FEES.] For the period from July 1, ~~2001~~ 2003, to June 30, ~~2003~~ 2005, ~~notwithstanding section 16A.1283, the commissioner shall, after a public hearing, but notwithstanding section 16A.1285, subdivision 4,~~ annually adjust the fees in subdivision 4 as necessary to maintain an annual income of \$650,000.

[EFFECTIVE DATE.] This section is effective retroactively from July 1, 2003.

Sec. 51. Minnesota Statutes 2002, section 116.92, subdivision 3, is amended to read:

Subd. 3. [LABELING; PRODUCTS CONTAINING MERCURY.] A manufacturer or wholesaler may not sell and a retailer may not knowingly sell any of the following items in this state that contain mercury unless the item is labeled in a manner to clearly inform a purchaser or, consumer, or motor vehicle recycler that mercury is present in the item and that the item may not be placed in the garbage or otherwise disposed of until the mercury is removed and reused, recycled, or otherwise managed to ensure that it does not become part of solid waste or wastewater:

- (1) a thermostat or thermometer;
- (2) an electric switch or mercury-added component of a motor vehicle, individually or as part of another product, ~~other than a motor vehicle;~~
- (3) an appliance;
- (4) a medical or scientific instrument; and
- (5) an electric relay or other electrical device.

Sec. 52. 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~~ recycler must remove all of the mercury switches in the motor vehicle before it is crushed.

Sec. 53. Minnesota Statutes 2002, section 116D.02, subdivision 2, is amended to read:

Subd. 2. In order to carry out the policy set forth in Laws 1973, chapter 412, it is the continuing responsibility of the state government to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate state and local government plans, functions, programs and resources to the end that the state may:

- (1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
- (2) assure for all people of the state safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
- (3) discourage ecologically unsound aspects of population, economic and technological growth, and develop and implement a policy such that growth occurs only in an environmentally acceptable manner;
- (4) preserve important historic, cultural, and natural aspects of our national heritage, and

maintain, wherever practicable, an environment that supports diversity, and variety of individual choice;

(5) encourage, through education, a better understanding of natural resources management principles that will develop attitudes and styles of living that minimize environmental degradation;

(6) develop and implement land use and environmental policies, plans, and standards for the state as a whole and for major local regions thereof through a coordinated program of planning and land use control;

(7) define, designate, and protect environmentally sensitive areas;

(8) establish and maintain statewide environmental information systems sufficient to gauge environmental conditions;

(9) practice thrift in the use of energy and maximize the use of energy efficient systems for the utilization of energy, and minimize the environmental impact from energy production and use;

(10) preserve important existing natural habitats of rare and endangered species of plants, wildlife, and fish, and provide for the wise use of our remaining areas of natural habitation, including necessary protective measures where appropriate;

(11) reduce wasteful practices which generate solid wastes;

(12) minimize wasteful and unnecessary depletion of nonrenewable resources;

(13) conserve natural resources and minimize environmental impact by encouraging extension of product lifetime, by reducing the number of unnecessary and wasteful materials practices, and by recycling materials to conserve both materials and energy;

(14) improve management of renewable resources in a manner compatible with environmental protection;

(15) provide for reclamation of mined lands and assure that any mining is accomplished in a manner compatible with environmental protection;

(16) reduce the deleterious impact on air and water quality from all sources, including the deleterious environmental impact due to operation of vehicles with internal combustion engines in urbanized areas;

(17) minimize noise, particularly in urban areas;

(18) prohibit, where appropriate, flood plain development in urban and rural areas; and

(19) encourage advanced waste treatment in abating water pollution.

Sec. 54. Minnesota Statutes 2002, section 116D.04, subdivision 5a, is amended to read:

Subd. 5a. The board shall, ~~by January 1, 1981, promulgate~~ adopt rules in conformity with this chapter and the provisions of chapter ~~15~~ 14, establishing:

(1) the governmental unit which shall be responsible for environmental review of a proposed action;

(2) the form and content of environmental assessment worksheets, including, by January 15, 2005, the consideration of relevant plans approved by local governmental units;

(3) a scoping process in conformance with subdivision 2a, clause (e);

(4) a procedure for identifying during the scoping process the permits necessary for a proposed action and, by January 15, 2005, relevant plans approved by local governmental units, and a process for coordinating review of appropriate permits with the preparation of the environmental impact statement;

- (5) a standard format for environmental impact statements;
- (6) standards for determining the alternatives to be discussed in an environmental impact statement;
- (7) alternative forms of environmental review which are acceptable pursuant to subdivision 4a;
- (8) a model ordinance which may be adopted and implemented by local governmental units in lieu of the environmental impact statement process required by this section, providing for an alternative form of environmental review where an action does not require a state agency permit and is consistent with an applicable comprehensive plan. The model ordinance shall provide for adequate consideration of appropriate alternatives, and shall ensure that decisions are made in accordance with the policies and purposes of Laws 1980, chapter 447;
- (9) procedures to reduce paperwork and delay through intergovernmental cooperation and the elimination of unnecessary duplication of environmental reviews;
- (10) procedures for expediting the selection of consultants by the governmental unit responsible for the preparation of an environmental impact statement; and
- (11) any additional rules which are reasonably necessary to carry out the requirements of this section.

Sec. 55. Minnesota Statutes 2002, section 116D.04, is amended by adding a subdivision to read:

Subd. 10a. [GUIDANCE.] The board shall, by January 15, 2005, develop guidance for the governmental units that are responsible for environmental review of proposed actions. The guidance must include explanations of the procedural requirements for environmental review, such as deadlines set out in statute and rules and public notice and comment requirements, the respective roles of governmental units, project proposers and consultants in environmental review, and sample lists of mitigation measures that governmental units may consider for various types of projects in order to minimize the significant environmental effects of those projects. The list of mitigation measures shall provide examples of possible mitigation for different types of projects as well as in different impact areas, including, but not limited to, energy conservation measures, stormwater, water quality, and air quality. The board shall report back to the legislature by January 15, 2006, regarding the effectiveness of this guidance.

Sec. 56. 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. 57. Laws 1997, chapter 216, section 151, is amended to read:

Sec. 151. [HORSESHOE BAY LEASES.]

Subdivision 1. [DEFINITIONS.] (a) "Lessee" means a lessee of lands leased under Minnesota Statutes, section 92.46, that are located in Section 16, Township 62 North, Range 4 East, Cook County, of record with the commissioner of natural resources as of May 14, 1993.

(b) "New lease" means a lease issued ~~after the effective date of this act from May 31, 1997, to May 31, 2004,~~ under the terms and conditions specified in Minnesota Statutes, section 92.46, subdivisions 1, 1a, and 3, except that the lease may be for a life term and is not assignable or transferable and may not be amended to include additional lessees.

(c) "Amended lease" means a lease issued after May 31, 2004, under the terms and conditions specified in Minnesota Statutes, section 92.46, subdivisions 1, 1a, and 3, except that:

(1) the term of the lease shall be for the lifetime of the party being issued the amended lease and, if transferred, for the lifetime of the party to whom the lease is transferred;

(2) the lease shall provide that the lease may be transferred only once and the transfer must be to a person within the second degree of kindred according to civil law;

(3) the commissioner shall limit the number of transferees per lease to no more than two persons who have attained legal age; and

(4) the lease rates shall be as provided in Laws 2003, First Special Session chapter 9, article 1, section 52.

Subd. 2. [OPTIONS FOR LESSEES.] (a) If requested in writing by a lessee before January 1, 1998, the commissioner shall, at the lessee's option:

(1) pay to the lessee the appraised value of the lessee's improvements on the land and terminate the existing lease as of the date of payment for improvements; or

(2) issue a new lease for the life of the lessee that provides that when the lease term expires, the commissioner shall pay to the lessee or a beneficiary that must be designated in writing by the lessee the appraised value of the lessee's improvements on the land. A lessee who elects this option may elect to terminate the lease at any time during the term of the lease in exchange for payment by the commissioner for the appraised value of the lessee's improvements on the land.

(b) If the commissioner has not received written notice of a lessee's election under paragraph (a) by January 1, 1998, the commissioner may proceed under paragraph (a), clause (1).

(c) If requested in writing by the lessee before January 1, 2005, the commissioner shall issue an amended lease to a lessee who holds a new lease issued under paragraph (a). When the amended lease term expires, the commissioner shall pay to the lessee, the transferee, or a beneficiary that must be designated in writing by the lessee or the transferee, the appraised value of the lessee's or transferee's improvements on the land. A lessee or transferee may elect to terminate the lease at any time during the term of the lease in exchange for payment by the commissioner for the appraised value of the lessee's or transferee's improvements on the land.

~~(d) After the effective date of this section May 31, 1997, no lessee under paragraph (a), clause (2), or (c), shall construct or remodel, other than necessary for maintenance and upkeep, a cabin or other structure during the lease.~~

~~(d)~~ (e) The commissioner may use money appropriated from the land acquisition account under Minnesota Statutes, section 94.165, for payments under paragraph (a) or (c).

(e) (f) Notwithstanding Minnesota Statutes, section 92.46, subdivision 1a, the commissioner may elect whether to amend the leases in paragraph (a) or (c) to expand lot size to conform with current shoreline standards.

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

Sec. 58. 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. 59. [ENVIRONMENTAL REVIEW RULES; PUBLIC WATERS.]

The Environmental Quality Board, in consultation with the Department of Natural Resources and interested stakeholders, shall study and adopt rules pursuant to Minnesota Statutes, chapter 14, to revise the requirements for mandatory environmental assessment worksheets and mandatory environmental impact statements for projects involving residential development within the shorelands of public waters. In revising the thresholds for review and assigning the responsible governmental unit, the board must consider at least the following factors: the size of the project compared to its riparian frontage, the method by which residents of the project will have access to the water body, whether the water body borders more than one county, whether the water body now has public access, and the number of mooring spaces associated with the project. By January 15, 2005, the board must submit a copy of the proposed rules and a summary of public comments received on the rules to the committees of the senate and house of representatives with jurisdiction over natural resources and environment policy and finance. The rules may not become effective before May 23, 2005.

Sec. 60. [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. 61. [LCMR PARKS STUDY.]

Subdivision 1. [REGIONAL PARKS.] The Legislative Commission on Minnesota Resources shall continue studying park issues, including the study of funding for operation and maintenance costs at regional parks within the seven-county metropolitan area and outside the seven-county metropolitan area. The commission may make additional recommendations on park issues to the 2005 legislature.

Subd. 2. [FUNDING AUTHORIZATION.] To begin implementing the recommendations in the Legislative Commission on Minnesota Resources February 2004 parks report, up to \$6,000 of the appropriation in Laws 2003, chapter 128, article 1, section 9, subdivision 3, clause (b), is for

an agreement with the Association of Minnesota Counties to identify and develop a comprehensive list of regional parks outside of the seven-county metropolitan area, including an inventory of park facilities.

Sec. 62. [ROADSIDE WILDLIFE HABITAT STUDY; REPORT.]

The commissioner of natural resources, in consultation with the commissioner of transportation and other interested persons, shall study and make recommendations to improve and promote wildlife habitat within the right-of-ways of public roads in the state and the impact of those recommendations on public safety. The study must include, but is not limited to, an analysis of current mowing restrictions and any recommendations for changes to those restrictions, under Minnesota Statutes, section 160.232. By January 15, 2005, the commissioner of natural resources shall provide a report of the study and recommendations under this section to the senate and house committees with jurisdiction over natural resource policy and transportation policy.

Sec. 63. [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 that money for local governments and qualified lake organizations. 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. 64. [EFFECTIVE DATE.]

Except as otherwise specified, this article is effective the day following final enactment.

ARTICLE 10

AGRICULTURE

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-	\$	75,000	75,000
Bond Proceeds		-0-		18,000,000	18,000,000
TOTAL	\$	-0-	\$	18,075,000	18,075,000

APPROPRIATIONS
Available for the Year
Ending June 30
2004 2005

Sec. 2. AGRICULTURE

Subdivision 1. Total Appropriations		-0-		18,075,000	18,075,000
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SUMMARY BY FUND

2004 2005

General	-0-	75,000
Bond Proceeds	-0-	18,000,000

Grant programs may not be reduced disproportionately more than the overall appropriation reduction to the department.

\$75,000 is appropriated from the general fund to the commissioner of agriculture for transfer to the Board of Trustees of the Minnesota State Colleges and Universities for mental health counseling support to farm families and business operators through farm business management programs at Central Lakes College and Ridgewater College. This appropriation is available until June 30, 2005.

In spending money appropriated for environmental response, compensation, and compliance in the remediation fund under Laws 2003, chapter 128, article, 1, section 2, subdivision 4, the commissioner of agriculture shall give priority for surveying, testing, and clean-up of industrial arsenic contamination of soil in residential yards, grounds of buildings serving children, and land used for purposes of community gardens.

\$18,000,000 is appropriated from the bond proceeds fund for purposes as set forth in the Minnesota Constitution, article XI, section 5, clause (h), to the Rural Finance Authority to purchase participation interests in or to make direct agricultural loans to farmers under Minnesota Statutes, chapter 41B. This appropriation is for the beginning farmer program under Minnesota Statutes, section 41B.039, the loan restructuring program under Minnesota Statutes, section 41B.04, the seller-sponsored program under Minnesota Statutes, section 41B.042, the agricultural improvement loan program under Minnesota Statutes, section 41B.043, and the livestock expansion loan program under Minnesota Statutes, section 41B.045. All debt service on bond proceeds used to finance this appropriation must be repaid by the Rural Finance Authority under Minnesota Statutes, section 16A.643. Loan participations must be priced to provide full interest and principal coverage and a reserve for potential losses. Priority for loans must be given first to basic beginning farmer loans; second, to seller-sponsored loans; and third, to agricultural improvement loans.

Sec. 3. BOND SALE

To provide the money appropriated in this act from the bond proceeds fund, the commissioner of finance shall sell and issue bonds of the state in an amount up to \$18,000,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.

Sec. 4. 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. 5. 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 Commerce.

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. 6. Minnesota Statutes 2002, section 18B.05, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] A pesticide regulatory account is established in the agricultural fund. Fees, assessments, and penalties collected under this chapter must be deposited in the agricultural fund and credited to the pesticide regulatory account. Money in the account, including interest, is appropriated to the commissioner for the administration and enforcement of this chapter.

Sec. 7. Minnesota Statutes 2002, section 18C.433, is amended to read:

18C.433 [PRIVATE COMMERCIAL MANURE APPLICATOR—CERTIFICATION APPLICATION REQUIREMENT.]

Subdivision 1. [REQUIREMENT.] Beginning January 1, 2005 ~~2006~~, ~~except for only a commercial animal waste technician, only a certified private manure applicator~~ may apply animal waste from a feedlot that:

(1) has a capacity of 300 animal units or more; and

(2) does not have an updated manure management plan that meets the requirements of Pollution Control Agency rules.

~~Subd. 2. [CERTIFICATION.] (a) The commissioner shall prescribe certification requirements and provide training. The training may be done in cooperation with other government agencies and must be at least three hours in duration.~~

~~(b) A person must apply to the commissioner for certification as a private manure applicator. The certification expires March 1 of the third calendar year after the initial year of certification.~~

~~(c) The commissioner shall issue a private manure applicator card to a certified private manure applicator.~~

~~Subd. 3. [FEES.] (a) A person applying to be certified as a private manure applicator must pay a nonrefundable \$10 application fee.~~

~~(b) A \$5 fee must be paid for the issuance of a duplicate private manure applicator card.~~

Sec. 8. 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. 9. 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. 10. 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. 11. Minnesota Statutes 2002, section 41B.049, is amended to read:

41B.049 [METHANE DIGESTER AND ON-FARM PROCESSING LOAN PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] The authority shall establish and implement a methane digester and on-farm processing loan program to help finance the purchase of necessary equipment and the construction of a system that will utilize manure to produce electricity or on-farm processing of agricultural products.

Subd. 2. [REVOLVING FUND.] There is established in the state treasury a methane digester and on-farm processing 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 methane digester and on-farm processing loan program, including costs incurred by the authority to establish and administer the program.

Subd. 3. [ELIGIBILITY.] (a) Notwithstanding section 41B.03, to be eligible for a loan under this section a borrower must:

- (1) locate the projects and utilize the equipment and practices on land located in Minnesota;
- (2) provide evidence of financial stability;
- (3) demonstrate an ability to repay the loan; and
- (4) provide evidence that the practices implemented and capital assets purchased will be properly managed and maintained.

(b) In addition to the requirements in paragraph (a), equipment and practices for an on-farm processing loan must be located on the farm of the applicant.

Subd. 4. [LOANS.] (a) The authority may make a direct loan or participate in a loan with an eligible lender to a farmer who is eligible under subdivision 3. ~~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's interest rate for a direct loan or a loan participation must not exceed four percent. Loans made under this section before July 1, 2003, must be no-interest loans.~~

(b) Application for a direct loan or a loan participation must be made on forms prescribed by the authority.

(c) Standards for loan amortization shall be set by the Rural Finance Authority not to exceed ten years.

(d) Security for the loans must be a personal note executed by the borrower and whatever other security is required by the eligible lender or the authority.

(e) No loan proceeds may be used to refinance a debt existing prior to application.

(f) The authority may impose a reasonable nonrefundable application fee for each application for a direct loan or a loan participation. The authority may review the application fees annually and make adjustments as necessary. The application fee is initially set at \$100 for a loan under subdivision 1. The fees received by the authority must be deposited in the revolving fund created in subdivision 2.

Subd. 5. [LOAN CRITERIA.] (a) To be eligible, a borrower must be a resident of Minnesota or an entity that is not prohibited from owning agricultural land under section 500.24.

(b) State participation in a participation loan is limited to 45 percent of the principal amount of the loan. A direct loan or loan participation may not exceed \$250,000.

(c) Loans under ~~this program~~ subdivision 1 may be used as a match for federal loans or grants.

(d) A borrower who has previously received a loan under subdivision 1 is prohibited from receiving another methane digester or on-farm processing loan under subdivision 1.

[EFFECTIVE DATE.] This section is effective retroactive from July 1, 2003.

Sec. 12. [116J.407] [DAIRY MODERNIZATION.]

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 loans 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) digesters;
- (12) equipment used to produce energy; and
- (13) capital investment in pasture.

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. 13. 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.

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. 14. 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	\$100 <u>\$110</u>
(2) 5,001 to 10,000	\$200 <u>\$220</u>
(3) 10,001 to 20,000	\$300 <u>\$330</u>
(4) 20,001 to 100,000	\$400 <u>\$440</u>
(5) 100,001 to 200,000	\$500 <u>\$550</u>
(6) over 200,000	\$600 <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. 15. 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. 16. 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. 17. Minnesota Statutes 2002, section 500.221, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section, "agricultural land" means land capable of use in the production of agricultural crops, livestock or livestock products, poultry or poultry products, milk or dairy products, or fruit and other horticultural products but does not include any land zoned by a local governmental unit for a use other than and nonconforming with agricultural use. For the purposes of this section, "interest in agricultural land" includes any leasehold interest. For the purposes of this section, a "permanent resident alien of the United States" is a natural person who:

(1) has been lawfully admitted to the United States for permanent residence ~~and in fact maintains;~~ or

(2) is a holder of a nonimmigrant treaty investment visa pursuant to United States Code, title 8, section 1101(a)15(E)(ii).

A person who qualifies as a permanent resident alien of the United States under clause (1) must also maintain that person's principal, actual dwelling place within the United States for at least six months out of every consecutive 12-month period without regard to intent. A person who qualifies as a permanent resident alien of the United States under clause (2) must also maintain that person's principal actual dwelling place in Minnesota for at least ten months out of every 12-month period, and is limited to dairy farming and up to 1,500 acres of agricultural land. The eligibility of a person under clause (2) is limited to three years, unless the commissioner waives the three-year limitation upon finding that the person is actively pursuing the status under clause (1) or United States citizenship. For the purposes of this section, "commissioner" means the commissioner of agriculture.

Sec. 18. Minnesota Statutes 2002, section 500.221, subdivision 1a, is amended to read:

Subd. 1a. [DETERMINATION OF ALIEN STATUS.] An alien who qualifies under subdivision 1, clause (1), and has been physically absent from the United States for more than six months out of any 12-month period shall be presumed not to be a permanent resident alien. An alien who qualifies under subdivision 1, clause (2), and has been physically absent from Minnesota for more than two months out of any 12-month period shall be presumed not to be a permanent resident alien. Every permanent resident alien of the United States who owns purchases property subject to this section shall must:

(1) file a report with the commissioner within 30 days of the date of purchase; and

(2) annually, at some time during the month of January, file with the commissioner a statement setting forth the dates and places of that person's residence in the United States during the prior calendar year.

The statement ~~shall~~ required under clause (2) must include an explanation of absences totaling more than ~~six~~ two months during the prior calendar year and any facts which support the continuation of permanent resident alien status. Upon receipt of the statement, the commissioner shall have 30 days to review the statement and notify the resident alien whether the facts support continuation of the permanent resident alien status.

Sec. 19. Minnesota Statutes 2002, section 500.221, subdivision 5, is amended to read:

Subd. 5. [PENALTY.] Willful failure to properly file a report required under subdivision 1a or to properly register any parcel of land as required by subdivision 4 is a gross misdemeanor. ~~Each full month of failure to register is a separate offense.~~

Sec. 20. Minnesota Statutes 2002, section 561.19, subdivision 1, is amended to read:

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

(a) "Agricultural operation" means a facility and its appurtenances for the production of crops, livestock, poultry, dairy products or poultry products, but not a facility primarily engaged in processing agricultural products.

(b) "Established date of operation" means the date on which the agricultural operation commenced. If the agricultural operation is subsequently expanded or significantly altered, the established date of operation for each expansion or alteration is deemed to be the date of commencement of the expanded or altered operation. As used in this paragraph, "expanded" means an expansion by at least 25 percent in the number of a particular kind of animal or livestock located on an agricultural operation.

"Significantly altered" does not mean:

(1) a transfer of an ownership interest to and held by persons or the spouses of persons related to each other within the third degree of kindred according to the rules of civil law to the person making the transfer so long as at least one of the related persons is actively operating the farm, or to a family farm trust under section 500.24;

(2) temporary cessation or interruption of cropping activities;

(3) adoption of new technologies; or

(4) a change in the crop product produced.

(c) "Generally accepted agricultural practices" means those practices commonly used by other farmers in the county or a contiguous county in which a nuisance claim is asserted.

[EFFECTIVE DATE.] This section is effective for actions commenced on or after August 1, 2004.

Sec. 21. Minnesota Statutes 2002, section 561.19, subdivision 2, is amended to read:

Subd. 2. [AGRICULTURAL OPERATION NOT A NUISANCE.] (a) 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) For a period of two years from its established date of operation, there is a rebuttable presumption that an agricultural operation in compliance with the requirements of paragraph (a), clauses (1) to (3), is not a public or private nuisance.~~

(c) 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.~~

[EFFECTIVE DATE.] This section is effective for actions commenced on or after August 1, 2004.

Sec. 22. **[ABOLISHMENT OF ACCOUNT; TRANSFER OF FUNDS.]**

The waste pesticide account in the agriculture fund is abolished. All amounts remaining in the waste pesticide account are transferred to the pesticide regulatory account in the agricultural fund.

Sec. 23. **[REPEALER.]**

Minnesota Statutes 2002, section 18B.065, subdivision 5, is repealed.

Sec. 24. **[EFFECTIVE DATE.]**

Except as otherwise specified, this article is effective the day following final enactment.

ARTICLE 11

ECONOMIC DEVELOPMENT

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-	\$(1,650,000)	\$(1,650,000)
Workforce Development		250,000	250,000
TOTAL		\$(1,400,000)	\$(1,400,000)

APPROPRIATIONS

Available for the Year Ending June 30	
2004	2005

Sec. 2. **DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT**

Subdivision 1. Total Appropriations		(2,250,000)	(2,250,000)
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Summary by Fund

General	(2,500,000)	(2,500,000)	
Workforce Development	250,000	250,000	

Subd. 2. Appropriation Reduction

-0-	(2,600,000)		
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This reduction is from the appropriation made in Laws 2003, chapter 128, article 10, section 2.

The commissioners of administration and employment and economic development must not enter into any agreements, contracts, or leases, to move from any location or space the Department of Employment and Economic Development currently leases or occupies. The only exception is that the Minnesota Trade Office may move from the Wells Fargo Center to space in the Metro Square Building. Budget savings identified in the Department of Employment and Economic Development to pay for a proposed move, estimated at \$759,000, shall be transferred or canceled to the general fund immediately.

Subd. 3. Appropriations

Total Appropriation			350,000
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Summary by Fund

General	-0-	100,000	
Workforce Development	-0-	250,000	

\$100,000 in the second year is for a grant to Minnesota Project Innovation to provide assistance to Minnesota businesses in obtaining federal contracts.

\$250,000 is for a grant to the Minnesota Alliance of Boys and Girls Clubs to develop and administer a statewide demonstration project of youth job skills development. This project, which may have career guidance components, is to encourage, train, and assist youth in job-seeking skills, workplace orientation, and job site knowledge through coaching. This appropriation is from the workforce development fund, and requires a 25 percent match from nonstate resources.

\$8,500 from the department's budget base in fiscal year 2005 is for the commissioner of

employment and economic development to make a grant to the Twin Cities Community Voice Mail to provide funds to maintain the toll-free phone numbers for the Greater Minnesota Project.

Sec. 3. DEPARTMENT OF EDUCATION

750,000

\$750,000 in the second year is for transfer to the Department of Human Services for a onetime grant for the transitional housing programs under Minnesota Statutes, section 119A.43, and is in addition to the appropriation made in Laws 2003, chapter 128, article 10, section 10.

Sec. 4. HUMANITIES COMMISSION

100,000

\$100,000 in the second year is to the Humanities Commission.

Sec. 5. LEGISLATIVE INTENT

It is the legislature's intent that base reductions in any agency's funding in this article be distributed proportionately across the agency's accounts and grants.

If any reductions would violate federal requirements regarding maintenance of effort, the commissioner may exempt from reduction the affected programs to the extent required to comply with federal law.

The commissioner shall realize the reductions that would otherwise apply from programs and administrative costs funded with general fund dollars that do not have maintenance of effort requirements. Any additional program reductions resulting from this provision shall be done in a proportional manner.

Sec. 6. TRANSFERS

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.

Sec. 7. 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. 8. Minnesota Statutes 2002, section 129D.02, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION.] Members shall be compensated at the rate of ~~\$35~~ \$55 per day spent on board activities. In addition, members shall receive reimbursement for expenses in the same manner and amount as state employees. Employees of the state or its political subdivisions shall not be entitled to the per diem, but they shall suffer no loss in compensation or benefits as a result of service on the board. Members not entitled to the per diem shall receive expenses as provided in this subdivision unless the expenses are reimbursed from another source.

Sec. 9. [138.90] [MINNESOTA HUMANITIES COMMISSION.]

Subdivision 1. [REPORTS.] The Minnesota Humanities Commission shall report to the legislature by September 1 of each year on the use of state funds appropriated to the commission. The report shall include an itemized account of the programs and projects supported and the source of money for each. The report shall show actual expenditures for the fiscal year ending the preceding June 30 and proposed expenditures for the fiscal year beginning the preceding July 1.

Subd. 2. [HUMANITIES CENTER.] (a) The Minnesota Humanities Commission may establish a humanities center to ensure balance in public education and in the cultural life of the state, and to improve humanities education through the establishment of two institutes: the Minnesota Institute for Lifelong Learning, and the Minnesota Institute for the Advancement of Teaching.

(b) The humanities center may transport people and resources to small towns, rural communities, and urban settings to provide grants, technical assistance, and high quality educational and cultural programs to schools and community organizations throughout Minnesota.

(c) The Minnesota Institute for the Advancement of Teaching may conduct seminars and other activities for the recognition of the teaching profession and the advancement of teaching in Minnesota.

Subd. 3. [SALARY SUPPLEMENT.] The Minnesota Humanities Commission is eligible for a salary supplement in the same manner as state agencies. The commissioner of finance shall determine the amount of the salary supplement based on available appropriations. Employees of the commission shall be paid in accordance with the appropriate pay plan.

Sec. 10. Minnesota Statutes 2002, section 176.136, subdivision 1a, is amended to read:

Subd. 1a. [RELATIVE VALUE FEE SCHEDULE.] The liability of an employer for services included in the medical fee schedule is limited to the maximum fee allowed by the schedule in effect on the date of the medical service, or the provider's actual fee, whichever is lower. The medical fee schedule effective on October 1, 1991, remains in effect until the commissioner adopts a new schedule by permanent rule. The commissioner shall adopt permanent rules regulating fees allowable for medical, chiropractic, podiatric, surgical, and other health care provider treatment or service, including those provided to hospital outpatients, by implementing a relative value fee schedule to be effective on October 1, 1993. The commissioner may adopt by reference the relative value fee schedule adopted for the federal Medicare program or a relative value fee schedule adopted by other federal or state agencies. The relative value fee schedule must contain reasonable classifications including, but not limited to, classifications that differentiate among health care provider disciplines. The conversion factors for the original relative value fee schedule must reasonably reflect a 15 percent overall reduction from the medical fee schedule most recently in effect. The reduction need not be applied equally to all treatment or services, but must represent a gross 15 percent reduction. Provided, however, that the actual reimbursement for any service provider shall not be greater than 15 percent more than the reimbursement for the provider receiving the lowest reimbursement for providing the same service.

After permanent rules have been adopted to implement this section, the conversion factors must be adjusted annually on October 1 by no more than the percentage change computed under section 176.645, but without the annual cap provided by that section. The commissioner shall annually give notice in the State Register of the adjusted conversion factors and may also give annual notice of any additions, deletions, or changes to the relative value units or service codes adopted by the federal Medicare program. The relative value units may be statistically adjusted in the same manner as for the original workers' compensation relative value fee schedule. The notices of the adjusted conversion factors and additions, deletions, or changes to the relative value units and service codes is in lieu of the requirements of chapter 14. The commissioner shall follow the requirements of section 14.386, paragraph (a). The annual adjustments to the conversion factors and the medical fee schedules adopted under this section, including all previous fee schedules, are not subject to expiration under section 14.386, paragraph (b).

Sec. 11. 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. 12. Minnesota Statutes 2002, section 181.939, is amended to read:

181.939 [NURSING MOTHER.]

An employer must provide reasonable unpaid break time each day to an employee who needs to express breast milk for her infant child. The break time must, if possible, run concurrently with any break time already provided to the employee. An employer is not required to provide break time under this section if to do so would unduly disrupt the operations of the employer.

The employer must make reasonable efforts to provide a room or other location, in close proximity to the work area, other than a toilet stall, where the employee can express her milk in privacy. The employer must make reasonable efforts to provide the room or other location with a locking door or other security device to ensure the privacy of the employee. The door lock or other security device must allow for outside access in case of emergency. The employer would be held harmless if reasonable effort has been made.

For the purposes of this section, "employer" means a person or entity that employs one or more employees and includes the state and its political subdivisions.

An employer must make reasonable efforts to notify employees of the provisions of this section.

Sec. 13. 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. 14. 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. 15. 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. 16. Minnesota Statutes 2002, section 469.018, is amended by adding a subdivision to read:

Subd. 3. [PROHIBITION ON LEASE RESTRICTIONS.] Notwithstanding any other law to the contrary, no declaration governing a common interest community, as defined in chapter 515B, whether or not the common interest community is subject to chapter 515B, and no bylaw, regulation, rule, or policy adopted by or on behalf of the unit owners' association for a common interest community, may prohibit or limit an authority from leasing a residential unit owned by it to eligible persons of low or moderate income and their families under applicable state or federal legislation. Nothing in this subdivision shall prohibit common interest community declarations, bylaws, regulations, rules, or policies from otherwise regulating the use of a unit owned by an authority or the conduct of unit occupants, provided the regulations apply to all units in the common interest community; nor from enforcing a prohibition against leasing residential units that was effective before the authority owned the unit. This subdivision applies to all common interest community units owned by an authority for which title was acquired by the authority after January 1, 1999.

Sec. 17. Minnesota Statutes 2002, section 469.050, subdivision 5, is amended to read:

Subd. 5. [PAY.] A commissioner, including the president, must be paid ~~\$35~~ \$55 for each regular or special port authority meeting attended and shall receive reimbursement for expenses incurred while performing duties. The advisory members of the Duluth authority from the legislature must not be paid for their service to the authority.

Sec. 18. Laws 2003, chapter 128, article 10, section 2, subdivision 5, is amended to read:

Subd. 5. Office of Tourism

8,066,000 8,059,000

To develop maximum private sector involvement in tourism, \$3,500,000 the first year and \$3,500,000 the second year of the amounts appropriated for marketing activities are contingent on receipt of an equal contribution from nonstate sources that have been certified by the commissioner. Up to one-half of the match may be given in in-kind contributions.

In order to maximize marketing grant benefits, the commissioner must give priority for joint venture marketing grants to organizations with year-round sustained tourism activities. For programs and projects submitted, the commissioner must give priority to those that encompass two or more areas or that attract nonresident travelers to the state.

If an appropriation for either year for grants is not sufficient, the appropriation for the other year is available for it.

The commissioner may use grant dollars or the value of in-kind services to provide the state contribution for the partnership program.

Any unexpended money from general fund

appropriations made under this subdivision does not cancel but must be placed in a special advertising account for use by the office of tourism to purchase additional media.

Of this amount, \$50,000 the first year is for a onetime grant to the Mississippi River parkway commission to support the increased promotion of tourism along the Great River Road. This appropriation is available until June 30, 2005.

Of this amount, \$175,000 the first year and \$175,000 the second year are for the Minnesota film board. The appropriation in each year is available only upon receipt by the board of \$1 in matching contributions of money or in-kind from nonstate sources for every \$3 \$1 provided by this appropriation.

Sec. 19. 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. 20. [REPEALER.]

Minnesota Statutes 2002, section 270.97, is repealed. Laws 2003, chapter 128, article 10, section 15, is repealed.

ARTICLE 12 TRANSPORTATION

Section 1. Minnesota Statutes 2003 Supplement, section 171.20, subdivision 4, is amended to read:

Subd. 4. [REINSTATEMENT FEE.] (a) Before the license is reinstated, (1) a person whose driver's license has been suspended under section 171.16, subdivision 2; 171.18, except subdivision 1, clause (10); or 171.182, or who has been disqualified from holding a commercial driver's license under section 171.165, and (2) a person whose driver's license has been suspended under section 171.186 and who is not exempt from such a fee, must pay a fee of \$20.

(b) Before the license is reinstated, a person whose license has been suspended ~~or revoked~~ under sections 169.791 to 169.798 must pay a \$20 reinstatement fee.

(c) When fees are collected by a licensing agent appointed under section 171.061, a handling charge is imposed in the amount specified under section 171.061, subdivision 4. The reinstatement fee and surcharge must be deposited in an approved state depository as directed under section 171.061, subdivision 4.

(d) A suspension may be rescinded without fee for good cause.

Sec. 2. [171.324] [HAZARDOUS MATERIALS LICENSE ENDORSEMENT BACKGROUND CHECKS.]

Subdivision 1. [ENDORSEMENT; FEE; ACCOUNT; APPROPRIATION.] (a) Before being issued or renewing a class C, class B, or class A driver's license with a hazardous materials endorsement, an applicant must comply with the federal regulations incorporated in this section.

(b) The commissioner may charge the applicant a fee of up to \$100 to cover the department's costs of conducting the required background check of persons applying for a Minnesota driver's license with a hazardous materials endorsement. The proceeds of the fee must be deposited in an account in the special revenue fund. Money in the account is annually appropriated to the commissioner to pay the costs associated with conducting the required background checks.

Subd. 2. [ADOPTION OF FEDERAL REGULATIONS.] Public Law 107-56, section 1012, as implemented in Code of Federal Regulations, title 49, part 1572, is incorporated by reference except for sections 1572.9 and 1572.11.

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

Sec. 3. Minnesota Statutes 2003 Supplement, section 297B.09, subdivision 1, is amended to read:

Subdivision 1. [DEPOSIT OF REVENUES.] (a) Money collected and received under this chapter must be deposited as provided in this subdivision.

(b) ~~From July 1, 2002, to June 30, 2003, 32 percent of the money collected and received must be deposited in the highway user tax distribution fund, 20.5 percent must be deposited in the metropolitan area transit fund under section 16A.88, and 1.25 percent must be deposited in the greater Minnesota transit fund under section 16A.88. The remaining money must be deposited in the general fund.~~

(c) ~~From July 1, 2003, to~~ Until June 30, 2007, ~~30~~ 26.48 percent of the money collected and received must be deposited in the highway user tax distribution fund, ~~21.5~~ 22.77 percent must be deposited in the metropolitan area transit fund under section 16A.88, ~~1.43~~ 1.75 percent must be deposited in the greater Minnesota transit fund under section 16A.88, ~~0.65~~ 1.80 percent must be deposited in the county state-aid highway fund, and ~~0.17~~ 0.47 percent must be deposited in the municipal state-aid street fund. The remaining money must be deposited in the general fund.

(d) ~~(c)~~ On and after July 1, 2007, 32 percent of the money collected and received must be deposited in the highway user tax distribution fund, 20.5 percent must be deposited in the metropolitan area transit fund under section 16A.88, and 1.25 percent must be deposited in the greater Minnesota transit fund under section 16A.88. The remaining money must be deposited in the general fund.

Sec. 4. [PORT DEVELOPMENT GRANT.]

Notwithstanding Minnesota Statutes, section 457A.02, the commissioner may grant up to \$100,000 of the funds available in the port development assistance program to the Duluth Port Authority to determine the cause of freshwater corrosion of harbor sheet piling, provided state funds are matched on a dollar-for-dollar basis by nonstate funds.

Sec. 5. [METRO MOBILITY; PREMIUM PARATRANSIT PILOT PROJECT.]

The Metropolitan Council shall, by October 1, 2004, implement a pilot project for subsidizing premium paratransit for certified metro mobility users. The council shall make agreements with taxi providers or other providers of small vehicle passenger service under which the council subsidizes trips made by certified Metro Mobility users who have been denied same day reservations by metro mobility. Under the pilot project, the user shall pay a base fare of \$7 for each such trip, the council shall pay the remainder of the fare up to a maximum subsidy of \$13 per trip, and the user shall pay that portion of the fare that exceeds \$20. The council shall report to the legislative committees having jurisdiction over transportation policy and finance by January 14, 2005, on the council's activities under this section. The council may not enter into any provider contracts for metro mobility that are in effect in fiscal year 2006 or 2007 until after the report has been submitted.

Sec. 6. [HIGHWAY CLEANUP REPORT REQUIRED.]

The commissioner of transportation shall by January 15, 2005, submit a report to the house and senate committees with jurisdiction over transportation policy and finance regarding the department's policies and procedures for the removal of debris and litter from interstate and trunk highway rights-of-way. The report must include a description of the department's current methodologies and procedures for removal of debris and litter from highway rights-of-way; a description of the adopt-a-highway program and location of trunk highways that have been adopted within the state; an estimate of the frequency that debris and litter is removed from highway rights-of-way, both within the metropolitan construction district and other construction districts within the state; and an estimate of department spending on right-of-way cleanup activities in each construction district for each of the past five fiscal years.

Sec. 7. [TRANSPORTATION APPROPRIATION CHANGES.]

If the reduction in revenues to the trunk highway fund under section 3 necessitates a reduction in fiscal year 2005 trunk highway fund expenditures by the Department of Transportation, the commissioner must not allocate the reductions to appropriations for state road construction or infrastructure operations and maintenance.

Sec. 8. [EFFECTIVE DATE.]

This article is effective July 1, 2004.

ARTICLE 13

STATE GOVERNMENT

Section 1. [STATE GOVERNMENT APPROPRIATIONS.]

The dollar amounts in the columns under "APPROPRIATIONS" are added to or, if shown in parentheses, are subtracted from the appropriations in Laws 2003, First Special Session chapter 1, article 1; 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

(General Fund Only)

	2004	2005	TOTAL
APPROPRIATIONS	\$ 155,000	\$19,020,000	\$19,175,000
TRANSFERS IN	-0-	(2,768,000)	(2,768,000)
TOTAL	\$ 155,000	\$16,252,000	\$16,407,000

APPROPRIATIONS

Available for the Year
Ending June 30

	2004	2005
Sec. 2. LEGISLATURE	-0-	-0-

The balance of appropriations to the Legislative Coordinating Commission for the Electronic Real Estate Recording Task Force established by Laws 2000, chapter 391, as amended, that exceeds \$1,450,000 is canceled and transferred to the general fund. The amount canceled to the general fund is estimated to be \$1,000,000. The task force may use previous appropriations to complete phase one of the pilot project and prepare a report for submission by December 15, 2004, to the chairs of the legislative committees with jurisdiction over judiciary policy and finance that describes the results and accomplishments of phase one.

Sec. 3. GOVERNOR AND LIEUTENANT GOVERNOR

By July 1, 2004, the governor must cancel all interagency agreements used to fund the operation of the Washington, D.C., office.

Sec. 4. MILITARY AFFAIRS	-0-	5,020,000
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\$370,000 in fiscal year 2005 is to restore the base cut made by 2004 H.F. No. 956.

\$1,500,000 in fiscal year 2005 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.

\$3,100,000 in fiscal year 2005 is for the tuition

reimbursement program under Minnesota Statutes, section 192.501, subdivision 2. This appropriation is available until expended.

\$50,000 in fiscal year 2005 is to assist in the operation and staffing 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.

Sec. 5. VETERANS AFFAIRS	-0-	130,000
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To restore the base cut made by 2004 H.F. No. 956.

Sec. 6. REVENUE	-0-	2,878,000
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For additional activities to identify and collect tax liabilities from individuals and businesses that currently do not pay all taxes owed. This initiative is expected to result in additional general fund revenue of \$16,000,000 for the biennium ending June 30, 2005. The appropriation for this purpose in fiscal years 2006 and 2007 is estimated to be \$2,758,000 in each year.

Sec. 7. COMMERCE	-0-	100,000
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For the preparation of a Minnesota climate protection plan.

Sec. 8. BOARD ON JUDICIAL STANDARDS	155,000	-0-
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For deficiency costs related to proceedings against a judge and shall remain available for expenditure until June 30, 2005.

Sec. 9. SUPREME COURT	-0-	3,465,000
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For legal services under Minnesota Statutes, sections 480.24 to 480.244. This appropriation is added to base level funding.

Sec. 10. TRIAL COURTS	-0-	1,458,000
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For additional judges, administrative staff, and increased jury costs. The base budget amount for the biennium ending June 30, 2007, is \$6,930,000.

Sec. 11. PUBLIC SAFETY

Subdivision 1. Total Appropriation	3,966,000	20,353,000
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Summary by Fund

	2004	2005
General	-0-	6,469,000
State Government		
Special Revenue	3,966,000	13,884,000

Subd. 2. Criminal Apprehension

-0- 286,000

\$246,000 in fiscal year 2005 is for special agents to improve predatory offender compliance.

\$40,000 in fiscal year 2005 is for a methamphetamine awareness and education program. This is a onetime appropriation.

\$50,000 in fiscal year 2005 is to implement additional requirements for predatory offender registration and community notification.

Subd. 3. Fire Marshal

-0- 800,000

\$750,000 in fiscal year 2005 is for fire inspections under Minnesota Statutes, section 299F.46.

\$50,000 in fiscal year 2005 is for a study regarding current needs and legal requirements for fire inspections throughout the state. The study must describe the sources of funding provided for the inspections during the previous ten years, determine whether current funding is sufficient to meet the legal requirements for inspection, and recommend future sources of funding for required inspections. The fire marshall must submit the study to the chairs of the legislative committees with jurisdiction over the fire marshal by January 15, 2005. This is a onetime appropriation.

Subd. 4. Law Enforcement and Community Grants

-0- 2,756,000

\$2,650,000 in fiscal year 2005 is for gang strike force grants under Minnesota Statutes, section 299A.66.

The superintendent of the Bureau of Criminal Apprehension shall convene a working group of stakeholders representing the multijurisdictional narcotics task forces in operation in Minnesota. The working group shall review the operational structure and organization of these task forces, the legislative authority and laws governing the task forces, and any needs related to the task forces. By January 15, 2005, the superintendent shall report the working group's findings and recommendations to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding. At a minimum, the report must include

recommendations for legislation on a statutory framework for the task forces.

\$106,000 in fiscal year 2005 is to match federal grants in support of state and local delinquency prevention and intervention efforts.

Subd. 5. Criminal Justice
Special Projects Account

The unobligated balance in the criminal justice special projects account is canceled and transferred to the general fund. The amount canceled to the general fund is estimated to be \$508,000.

Subd. 6. Office of Justice
Programs

-0-	2,577,000
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\$2,000,000 in fiscal year 2005 is for crime victims services grants and must be distributed so that allocations among judicial districts are not reduced from fiscal year 2004 levels. Of this amount, \$500,000 is for services for victims of sexual assault.

\$577,000 in fiscal year 2005 is for grants to reimburse local units of government for costs incurred by the unit of government to remove and remediate clandestine methamphetamine lab sites.

Subd. 7. 911 Emergency
Telecommunications

3,966,000	13,884,000
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The appropriations in this subdivision are from the 911 emergency telecommunications service account in the special revenue fund.

\$3,475,000 the first year and \$4,235,000 the second year are to fund a deficiency due to increased costs for network and database charges and implementing enhanced wireless 911 services.

\$491,000 the first year and \$3,287,000 the second year are to fund a deficiency due to prior year obligations under Minnesota Statutes, section 403.11, that were estimated at a total of \$9,357,896 in the February 2004 911 fund statement. "Prior year obligations" means reimbursable costs under Minnesota Statutes, section 403.11, subdivision 1, incurred under the terms and conditions of a contract with the state for a fiscal year preceding fiscal year 2004, that have been certified in a timely manner in accordance with Minnesota Statutes, section

403.11, subdivision 3a, and that are not barred by statute of limitation or other defense. The appropriations for this purpose are estimated to be \$4,506,000 in fiscal year 2006, \$1,074,000 in fiscal year 2007, and none thereafter.

\$5,692,000 the second year is for public safety answering points, to be distributed as provided in Minnesota Statutes, section 403.113, subdivision 2. This appropriation may only be used for public safety answering points that have implemented phase 2 wireless enhanced 911 service or whose governmental agency has made a binding commitment to the commissioner of public safety to implement phase 2 wireless enhanced 911 service by January 1, 2008.

\$670,000 the second year is for grants to the Minnesota Emergency Medical Services Regulatory Board for the Metro East and Metro West Medical Resource Communication Centers that were in operation before January 1, 2000.

Sec. 12. STATE LOTTERY

-0-

75,000

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 state treasury, to be credited as follows: 40 percent to the Minnesota environment and natural resources trust fund and 60 percent to the general fund. The amount of the transfer to the trust fund is estimated to be \$840,000, and the transfer to the general fund is estimated to be \$1,260,000.

\$75,000 in fiscal year 2005 is 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 must be matched by an equal amount of nonstate funds and may be disbursed in two payments of \$37,500 each upon receipt of a commitment for an equal amount of matching nonstate funds.

Sec. 13. 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~~ 34 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~~ 26 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~~ 23 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. 14. 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 who has retired by August 1, 2004, 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 before August 1, 2004, 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.

Sec. 15. Minnesota Statutes 2002, section 4.46, is amended to read:

4.46 [WASHINGTON OFFICE.]

The governor may appoint employees for the Washington, D.C., office of the state of Minnesota and may prescribe their duties. In the operation of the office, the governor may expend money appropriated by the legislature for promotional purposes in the same manner as private persons, firms, corporations, and associations expend money for promotional purposes. Promotional expenditures for food, lodging, or travel are not governed by the travel rules of the commissioner of employee relations. The governor may not enter into any agreements under section 471.59 to fund the operation of the office.

Sec. 16. Minnesota Statutes 2002, section 11A.24, subdivision 6, is amended to read:

Subd. 6. [OTHER INVESTMENTS.] (a) In addition to the investments authorized in subdivisions 1 to 5, and subject to the provisions in paragraph (b), the state board may invest funds in:

(1) venture capital investment businesses through participation in limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations;

(2) real estate ownership interests or loans secured by mortgages or deeds of trust or shares of real estate investment trusts through investment in limited partnerships, bank sponsored collective funds, trusts, mortgage participation agreements, and insurance company commingled accounts, including separate accounts;

(3) regional and mutual funds through bank sponsored collective funds and open-end investment companies registered under the Federal Investment Company Act of 1940, and closed-end mutual funds listed on an exchange regulated by a governmental agency;

(4) resource investments through limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations; and

(5) international securities.

(b) The investments authorized in paragraph (a) must conform to the following provisions:

(1) the aggregate value of all investments made according to paragraph (a), clauses (1) to (4), may not exceed 35 percent of the market value of the fund for which the state board is investing;

(2) there must be at least four unrelated owners of the investment other than the state board for investments made under paragraph (a), clause (1), (2), (3), or (4);

(3) except as provided in subdivision 8, state board participation in an investment vehicle is limited to 20 percent thereof for investments made under paragraph (a), clause (1), (2), (3), or (4); and

(4) state board participation in a limited partnership does not include a general partnership interest or other interest involving general liability. The state board may not engage in any activity as a limited partner which creates general liability.

(c) The following data received, prepared, used, or retained by the state board in connection with investments authorized by paragraph (a) is public:

(1) the name of the legal entity in which the state board has invested or in which the state board has considered an investment;

(2) the state board commitment amount, if any;

(3) the funded amount of the state board's commitment to date, if any;

- (4) the market value of the investment by the state board;
- (5) the state board's internal rate of return; and
- (6) the age of the investment in years.

All other financial or proprietary data received, prepared, used, or retained by the state board in connection with these investments or in which the state board has considered an investment that is considered nonpublic by the legal entity or portfolio companies or other entities providing the data is protected nonpublic data under section 13.02, subdivision 9. As used in this section, "financial or proprietary information" means information that has not been publicly disseminated or that is unavailable from other sources, the release of which might cause competitive harm to the state board or to the legal entity or to a portfolio company in which the legal entity holds an interest.

Sec. 17. Minnesota Statutes 2002, section 11A.24, is amended by adding a subdivision to read:

Subd. 8. [MINNESOTA EARLY STAGE VENTURE CAPITAL INVESTMENTS.] (a) For purposes of this subdivision, "Minnesota early stage company" means an early stage company with its headquarters and principal place of business located in this state.

(b) Notwithstanding the limits in subdivision 6, paragraph (b), clause (3), and until June 30, 2019, the state board may invest in early stage venture capital investments, subject to the following conditions:

(1) the state board may not make initial investments of more than a total of \$200,000,000 under this subdivision and no more than 65 percent of the amount invested may be committed to bioscience investments;

(2) each separate investment vehicle must commit 50 percent or more of its assets to investments in Minnesota early stage companies;

(3) the state board investment may not exceed 50 percent of the total investment in an investment vehicle;

(4) no new investment vehicles may be purchased after June 30, 2007; and

(5) the state board may reinvest returns from investments made under this subdivision.

The state board may set different evaluation criteria for investment vehicles and fund managers of investments under this subdivision than it uses for other investments.

(c) For the purposes of this paragraph, "minimum rate of return" is the lesser of either:

(1) an 8.5 percent annual rate of return; or

(2) the annual rate of return for the applicable time period for all venture capital investments made under subdivision 6, paragraph (a), clause (1).

By July 30, 2019, the state board must determine the annual rate of return on the aggregate total of all Minnesota early stage venture capital investments made under this subdivision between July 1, 2004, and July 1, 2019, and compare that rate of return with the minimum rate of return, as applied to the initial investments, up to the \$200,000,000 limit, made in Minnesota early stage venture capital investment vehicles. If there is a deficiency in comparison to the minimum rate of return, the board must notify the commissioner of finance of the amount necessary to provide the minimum rate of return for initial investments, up to the \$200,000,000 limit, in Minnesota early stage venture capital investment vehicles made under this subdivision between July 1, 2004, and July 1, 2019. The amount necessary is appropriated from the general fund to the state board for distribution in the same manner provided for the investment proceeds from investments under subdivision 6.

(d) This subdivision expires August 1, 2019.

Sec. 18. Minnesota Statutes 2002, section 13.635, is amended by adding a subdivision to read:

Subd. 1a. [STATE BOARD OF INVESTMENT.] Certain government data of the State Board of Investment related to venture capital investments are classified under section 11A.24, subdivision 6.

Sec. 19. Minnesota Statutes 2002, section 15.52, is amended by adding a subdivision to read:

Subd. 4. [SALARY.] "Salary" means total compensation and benefits provided to an employee.

Sec. 20. Minnesota Statutes 2002, section 15.56, subdivision 3, is amended to read:

Subd. 3. [NOT CONSIDERED EMPLOYEES.] Employees who are detailed to the receiving agency shall not by virtue of such detail be considered to be employees thereof, except as provided in subdivision 4. The salary and supervision of the duties of such employees during the period of detail may be governed by agreement between the sending agency and the receiving agency, except that the salary that is paid by the state under an agreement may not exceed the maximum salary otherwise allowed by law for the position.

Sec. 21. Minnesota Statutes 2002, section 15A.081, subdivision 8, is amended to read:

Subd. 8. [EXPENSE ALLOWANCE.] Notwithstanding any law to the contrary, positions listed in section 15A.0815, subdivisions 2 and 3, constitutional officers, and the commissioner of Iron Range resources and rehabilitation, and the director of the state lottery are authorized an annual expense allowance not to exceed \$1,500 for necessary expenses in the normal performance of their duties for which no other reimbursement is provided. The expenditures under this subdivision are subject to any laws and rules relating to budgeting, allotment and encumbrance, preaudit and postaudit. The commissioner of finance may adopt rules to assure the proper expenditure of these funds and to provide for reimbursement.

Sec. 22. Minnesota Statutes 2002, section 16B.49, is amended to read:

16B.49 [CENTRAL MAILING SYSTEM.]

(a) The commissioner shall maintain and operate for state agencies, departments, institutions, and offices a central mail handling unit. Official, outgoing mail for units in St. Paul must be delivered unstamped to the unit. The unit shall also operate an interoffice mail distribution system. The department may add personnel and acquire equipment that may be necessary to operate the unit efficiently and cost-effectively. Account must be kept of the postage required on that mail, which is then a proper charge against the agency delivering the mail. To provide funds for the payment of postage, each agency shall make advance payments to the commissioner sufficient to cover its postage obligations for at least 60 days. For purposes of this section, the Minnesota State Colleges and Universities is a state agency.

(b) Notwithstanding paragraph (a) or section 16C.09, the commissioner may approve the performance of mail-related functions by an agency outside the state's central mail-handling unit if the agency demonstrates it furthers improved program effectiveness, better use of services, greater efficiency, and economy in state government.

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

Sec. 23. Minnesota Statutes 2002, section 45.0135, is amended by adding a subdivision to read:

Subd. 2a. [AUTHORIZATION.] The commissioner may appoint peace officers, as defined in section 626.84, subdivision 1, paragraph (c), and establish a law enforcement agency, as defined in section 626.84, subdivision 1, paragraph (h), known as the Division of Insurance Fraud Prevention, to conduct investigations and to make arrests under sections 629.30 and 629.34. The jurisdiction of the law enforcement agency is limited to offenses related to insurance fraud.

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

Sec. 24. Minnesota Statutes 2002, section 45.0135, is amended by adding a subdivision to read:

Subd. 2b. [DUTIES.] The Division of Insurance Fraud Prevention shall:

(1) review notices and reports of insurance fraud submitted by authorized insurers, their employees, and agents or producers;

(2) respond to notifications or complaints of suspected insurance fraud generated by other law enforcement agencies, state or federal governmental units, or any other person;

(3) initiate inquiries and conduct investigations when the division has reason to believe that insurance fraud has been or is being committed; and

(4) report incidents of alleged insurance fraud disclosed by its investigations to appropriate law enforcement agencies, including, but not limited to, the attorney general, county attorneys, or any other appropriate law enforcement or regulatory agency and assemble evidence, prepare charges, and otherwise assist any law enforcement authority having jurisdiction.

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

Sec. 25. Minnesota Statutes 2002, section 45.0135, is amended by adding a subdivision to read:

Subd. 2c. [ARRESTS AND INVESTIGATIONS.] The initial processing of a person arrested by the Division of Insurance Fraud Prevention for an offense within its jurisdiction is the responsibility of the Division of Insurance Fraud Prevention unless otherwise directed by the law enforcement agency with primary jurisdiction. Subsequent investigation shall be the responsibility of the Division of Insurance Fraud Prevention unless otherwise directed by the law enforcement agency with primary jurisdiction. At the request of the law enforcement agency with primary jurisdiction, the Division of Insurance Fraud Prevention may assist in a subsequent investigation being carried out by the law enforcement agency with primary jurisdiction.

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

Sec. 26. Minnesota Statutes 2002, section 45.0135, is amended by adding a subdivision to read:

Subd. 2d. [POLICY FOR NOTICE OF INVESTIGATIONS.] The Division of Insurance Fraud Prevention must develop a policy for notifying the law enforcement agency with primary jurisdiction when it has initiated investigation of any person within the jurisdiction of that agency.

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

Sec. 27. Minnesota Statutes 2002, section 45.0135, is amended by adding a subdivision to read:

Subd. 2e. [CHIEF LAW ENFORCEMENT OFFICER.] The commissioner shall appoint a peace officer employed full time to be the chief law enforcement officer and to be responsible for the management of the Division of Insurance Fraud Prevention. The chief law enforcement officer shall possess the necessary police and management experience to manage a law enforcement agency. The chief law enforcement officer may appoint, discipline, and discharge all employees of the Division of Insurance Fraud Prevention. All police managerial and supervisory personnel must be full-time employees of the Division of Insurance Fraud Prevention. Supervisory personnel must be on duty and available any time peace officers of the Division of Insurance Fraud Prevention are on duty.

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

Sec. 28. Minnesota Statutes 2002, section 45.0135, is amended by adding a subdivision to read:

Subd. 2f. [COMPLIANCE.] Except as otherwise provided in this section, the Division of Insurance Fraud Prevention shall comply with all statutes and administrative rules relating to the operation and management of a law enforcement agency.

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

Sec. 29. Minnesota Statutes 2002, section 45.0135, subdivision 6, is amended to read:

Subd. 6. [INSURANCE FRAUD PREVENTION ACCOUNT.] The insurance fraud prevention account is created in the state treasury. It consists of any appropriations made by law money credited as described in subdivision 7. Money in this fund is appropriated to the commissioner of commerce for the purposes specified in this section and sections 60A.951 to 60A.956.

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

Sec. 30. Minnesota Statutes 2002, section 45.0135, is amended by adding a subdivision to read:

Subd. 7. [ASSESSMENT.] Each insurer authorized to sell insurance in Minnesota shall remit an assessment to the commissioner for deposit in the state treasury and credit to the insurance fraud prevention account described in subdivision 6 on or before June 1 of each year. The amount of the assessment shall be based on the insurer's total assets and on the insurer's total written Minnesota premium, for the preceding fiscal year, as reported pursuant to section 60A.13. The assessment is calculated as follows:

<u>Total Assets</u>	<u>Assessment</u>
Less than \$100,000,000	\$ 200
<u>\$100,000,000 to \$1,000,000,000</u>	<u>\$ 750</u>
<u>Over \$1,000,000,000</u>	<u>\$2,000</u>
<u>Minnesota Written Premium</u>	<u>Assessment</u>
Less than \$10,000,000	\$ 200
<u>\$10,000,000 to \$100,000,000</u>	<u>\$ 750</u>
<u>Over \$100,000,000</u>	<u>\$2,000</u>

For purposes of this subdivision, the following entities are not considered to be insurers authorized to sell insurance in Minnesota: risk retention groups; township mutuals organized under chapter 67A; or health maintenance organizations organized under chapter 62D.

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

Sec. 31. Minnesota Statutes 2002, section 60A.14, subdivision 1, is amended to read:

Subdivision 1. [FEES OTHER THAN EXAMINATION FEES.] In addition to the fees and charges provided for examinations, the following fees must be paid to the commissioner for deposit in the general fund:

- (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; and
 - (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; and
 - (5) (6) for each company's certificate of authority, \$575, annually; and

(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; and

(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. 32. Minnesota Statutes 2002, section 82B.09, subdivision 1, is amended to read:

Subdivision 1. [AMOUNTS.] ~~The following fees~~ A \$150 fee must be paid to the commissioner for each initial individual real estate appraiser's license: ~~\$150 if the license expires more than 12 months after issuance, \$100 if the license expires less than 12 months after issuance; and a fee of \$100 for each annual renewal of the license.~~

Sec. 33. Minnesota Statutes 2002, section 119B.09, is amended by adding a subdivision to read:

Subd. 4a. [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 deactivation. 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.

Sec. 34. Minnesota Statutes 2003 Supplement, section 122A.41, subdivision 2, is amended to read:

Subd. 2. [PROBATIONARY PERIOD; DISCHARGE OR DEMOTION.] (a) All teachers in the public schools in cities of the first class during the first three years of consecutive employment shall be deemed to be in a probationary period of employment during which period any annual contract with any teacher may, or may not, be renewed as the school board, after consulting with the peer review committee charged with evaluating the probationary teachers under subdivision 3, shall see fit. The school site management team or the school board if there is no school site management team, shall adopt a plan for a written evaluation of teachers during the probationary period according to subdivision 3. Evaluation by the peer review committee charged with evaluating probationary teachers under subdivision 3 shall occur at least three times each year for a teacher performing services on 120 or more school days, at least two times each year for a

teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school shall not be included in determining the number of school days on which a teacher performs services. The school board may, during such probationary period, discharge or demote a teacher for any of the causes as specified in this code. A written statement of the cause of such discharge or demotion shall be given to the teacher by the school board at least 30 days before such removal or demotion shall become effective, and the teacher so notified shall have no right of appeal therefrom.

(b) A teacher who is a member of the National Guard or other reserve component of the armed forces of the United States and is called into active service before the probationary period is ended must be credited with the amount of probationary period already served when the teacher returns from military service.

Sec. 35. Minnesota Statutes 2002, section 168A.40, subdivision 3, is amended to read:

Subd. 3. [SURCHARGE.] Each insurer engaged in the writing of policies of automobile insurance shall collect a surcharge, at the rate of 50 cents per vehicle for every six months of coverage, on each policy of automobile insurance providing comprehensive insurance coverage issued or renewed in this state. The surcharge may not be considered premium for any purpose, including the computation of premium tax or agents' commissions. The amount of the surcharge must be separately stated on either a billing or policy declaration sent to an insured. Insurers shall remit the revenue derived from this surcharge at least quarterly to the commissioner of public safety commerce for purposes of the automobile theft prevention program described in section 299A.75. For purposes of this subdivision, "policy of automobile insurance" has the meaning given it in section 65B.14, covering only the following types of vehicles as defined in section 168.011:

- (1) a passenger automobile;
- (2) a pickup truck;
- (3) a van but not commuter vans as defined in section 168.126; or
- (4) a motorcycle,

except that no vehicle with a gross vehicle weight in excess of 10,000 pounds is included within this definition.

Sec. 36. [181.535] [ARMED FORCES RESERVES OR NATIONAL GUARD STATUS.]

(a) No person, whether acting directly or through an agent or as the agent or employee of another, may:

(1) ask a person seeking employment with that person or the employer represented by that person whether the person seeking employment is a member of the National Guard or a reserve component of the United States armed forces; or

(2) require the person seeking employment to make any oral or written statement concerning National Guard or reserve status as a condition precedent to employment.

(b) The adjutant general and the commissioner of veterans affairs shall use reasonable means to publicize this section. This section does not apply to public employers asking a question or requesting a statement for the purpose of determining whether a veterans preference applies.

Sec. 37. 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 up to 100 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 up to 100 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.

Sec. 38. Minnesota Statutes 2003 Supplement, section 197.78, subdivision 1, is amended to read:

Subdivision 1. The commissioner of ~~education~~ veterans affairs shall foster and support educational programs for the benefit of veterans to assure that no Minnesotan shall be deprived of earned veterans benefits by virtue of the unavailability of programs for which the veteran is entitled to enroll and receive subsistence, tuition, and other benefits under federal programs. It shall be the responsibility of the commissioner to measure the demand for veterans service educational programs based on the criteria mandated by federal veterans benefits laws and to authorize, promote, and make grants within appropriated amounts to assure such program availability.

Sec. 39. [197.781] [VETERANS TRAINING PROGRAM.]

The commissioner of veterans affairs shall administer the veterans training program. Money in the veterans training revolving fund for the veterans training program is appropriated to the commissioner to pay the necessary expenses of operating the program. The Department of Veterans Affairs must act as the state agency for approving educational institutions for purposes of United States Code, title 38, chapter 36, relating to educational benefits for veterans and other persons and it may adopt rules to fulfill its obligations as the state approving agency. All federal money received for purposes of the veterans training program must be deposited in the veterans training revolving fund.

Sec. 40. Minnesota Statutes 2003 Supplement, section 216C.052, subdivision 3, is amended to read:

Subd. 3. [ASSESSMENT AND APPROPRIATION.] In addition to the amount noted in subdivision 2, the commissioner may assess utilities, using the mechanism specified in that subdivision, up to an additional \$500,000 annually through June 30, 2006. The amounts assessed under this subdivision are appropriated to the commissioner, and some or all of the amounts assessed may be transferred to the commissioner of administration, for the purposes specified in section 16B.325 and Laws 2001, chapter 212, article 1, section 3, as needed to implement those sections.

This subdivision is effective retroactively from July 1, 2001.

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

Sec. 41. 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.

(d) This subdivision expires January 1, 2007.

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

Sec. 42. 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 credited to 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 credited to 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. 43. Minnesota Statutes 2002, section 299A.66, subdivision 2, is amended to read:

Subd. 2. [GRANT TO EXPAND LOCAL CAPACITY TO COMBAT CRIMINAL GANGS.] (a) The commissioner of public safety, upon recommendation of the council, may award grants to local law enforcement agencies and city and county attorneys' offices to expand the agency's or office's capacity to successfully investigate and prosecute crimes committed by criminal gangs.

(b) Grant applicants under this subdivision shall submit to the commissioner and the council a detailed plan describing the uses for which the money will be put. The commissioner and the council shall evaluate grant applications and award grants in a manner that will best ensure positive results. The commissioner and the council must use their best efforts to ensure that grants are distributed among applicants in proportion to the estimated amount of criminal gang activity occurring within regions of the state and the metropolitan area. The commissioner may award grants to purchase necessary equipment and to develop or upgrade computer systems if the commissioner determines that those uses would best aid the recipient's attempts to combat criminal gangs. The commissioner shall require recipients of grants to provide follow-up reports to the council detailing the success of the recipient in combating criminal gangs.

(c) The commissioner shall condition grants made under this subdivision to require that recipients agree to cooperate with the council and the Bureau of Criminal Apprehension in establishing and expanding the criminal gang investigative data system described in section 299C.091 and in implementing the strategy developed by the council to combat criminal gangs. Grant recipients must agree to provide the council and bureau with any requested information regarding the activities and characteristics of criminal gangs and gang members operating within their jurisdictions.

Sec. 44. Minnesota Statutes 2002, section 299A.75, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM DESCRIBED; COMMISSIONER'S DUTIES.] (a) The commissioner of ~~public safety~~ commerce shall:

(1) develop and sponsor the implementation of statewide plans, programs, and strategies to combat automobile theft, improve the administration of the automobile theft laws, and provide a forum for identification of critical problems for those persons dealing with automobile theft;

(2) coordinate the development, adoption, and implementation of plans, programs, and strategies relating to interagency and intergovernmental cooperation with respect to automobile theft enforcement;

(3) annually audit the plans and programs that have been funded in whole or in part to evaluate the effectiveness of the plans and programs and withdraw funding should the commissioner determine that a plan or program is ineffective or is no longer in need of further financial support from the fund;

(4) develop a plan of operation including:

(i) an assessment of the scope of the problem of automobile theft, including areas of the state where the problem is greatest;

(ii) an analysis of various methods of combating the problem of automobile theft;

(iii) a plan for providing financial support to combat automobile theft;

(iv) a plan for eliminating car hijacking; and

(v) an estimate of the funds required to implement the plan; and

(5) distribute money pursuant to subdivision 3 from the automobile theft prevention special revenue account for automobile theft prevention activities, including:

(i) paying the administrative costs of the program;

(ii) providing financial support to the State Patrol and local law enforcement agencies for automobile theft enforcement teams;

(iii) providing financial support to state or local law enforcement agencies for programs designed to reduce the incidence of automobile theft and for improved equipment and techniques for responding to automobile thefts;

(iv) providing financial support to local prosecutors for programs designed to reduce the incidence of automobile theft;

(v) providing financial support to judicial agencies for programs designed to reduce the incidence of automobile theft;

(vi) providing financial support for neighborhood or community organizations or business organizations for programs designed to reduce the incidence of automobile theft and to educate people about the common methods of automobile theft, the models of automobiles most likely to be stolen, and the times and places automobile theft is most likely to occur; and

(vii) providing financial support for automobile theft educational and training programs for state and local law enforcement officials, driver and vehicle services exam and inspections staff, and members of the judiciary.

(b) The commissioner may not spend in any fiscal year more than ten percent of the money in the fund for the program's administrative and operating costs. The commissioner is annually appropriated and must distribute the amount of the proceeds credited to the automobile theft prevention special revenue account each year, less the transfer of \$1,300,000 each year to the general fund described in section 168A.40, subdivision 4.

Sec. 45. Minnesota Statutes 2002, section 299C.65, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP, DUTIES.] (a) The criminal and juvenile justice information policy group consists of the commissioner of corrections, the commissioner of public safety, the commissioner of administration, the commissioner of finance, and four members of the judicial branch appointed by the chief justice of the Supreme Court. The policy group may appoint additional, nonvoting members as necessary from time to time.

(b) The commissioner of public safety is designated as the chair of the policy group. The commissioner and the policy group have overall responsibility for the successful completion of statewide criminal justice information system integration (CriMNet). The policy group may hire a program manager to manage the CriMNet projects and to be responsible for the day-to-day operations of CriMNet. The program manager shall serve at the pleasure of the policy group in the unclassified service. The policy group must ensure that generally accepted project management techniques are utilized for each CriMNet project, including:

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

(c) Products and services for CriMNet project management, system design, implementation, and application hosting must be acquired using an appropriate procurement process, which includes:

- (1) a determination of required products and services;
- (2) a request for proposal development and identification of potential sources;
- (3) competitive bid solicitation, evaluation, and selection; and
- (4) contract administration and close-out.

(d) The policy group shall study and make recommendations to the governor, the Supreme Court, and the legislature on:

(1) a framework for integrated criminal justice information systems, including the development and maintenance of a community data model for state, county, and local criminal justice information;

(2) the responsibilities of each entity within the criminal and juvenile justice systems concerning the collection, maintenance, dissemination, and sharing of criminal justice information with one another;

(3) actions necessary to ensure that information maintained in the criminal justice information systems is accurate and up-to-date;

(4) the development of an information system containing criminal justice information on gross misdemeanor-level and felony-level juvenile offenders that is part of the integrated criminal justice information system framework;

(5) the development of an information system containing criminal justice information on misdemeanor arrests, prosecutions, and convictions that is part of the integrated criminal justice information system framework;

(6) comprehensive training programs and requirements for all individuals in criminal justice agencies to ensure the quality and accuracy of information in those systems;

(7) continuing education requirements for individuals in criminal justice agencies who are responsible for the collection, maintenance, dissemination, and sharing of criminal justice data;

(8) a periodic audit process to ensure the quality and accuracy of information contained in the criminal justice information systems;

(9) the equipment, training, and funding needs of the state and local agencies that participate in the criminal justice information systems;

(10) the impact of integrated criminal justice information systems on individual privacy rights;

(11) the impact of proposed legislation on the criminal justice system, including any fiscal impact, need for training, changes in information systems, and changes in processes;

(12) the collection of data on race and ethnicity in criminal justice information systems;

(13) the development of a tracking system for domestic abuse orders for protection;

(14) processes for expungement, correction of inaccurate records, destruction of records, and other matters relating to the privacy interests of individuals; and

(15) the development of a database for extended jurisdiction juvenile records and whether the records should be public or private and how long they should be retained.

Sec. 46. Minnesota Statutes 2002, section 299C.65, subdivision 2, is amended to read:

Subd. 2. ~~[REPORT, TASK FORCE.] (a) The policy group shall file an annual report with the governor, Supreme Court, and chairs and ranking minority members of the senate and house committees and divisions with jurisdiction over criminal justice funding and policy by December 1 of each year.~~

~~(b) The report must make recommendations concerning any legislative changes or appropriations that are needed to ensure that the criminal justice information systems operate accurately and efficiently. To assist them in developing their recommendations, The policy group shall appoint a task force consisting to assist them in their duties. The task force shall monitor, review, and report to the policy group on CrimNet-related projects and provide oversight to ongoing operations as directed by the policy group. The task force shall consist of its members or their designees and the following additional members:~~

~~(1) the director of the Office of Strategic and Long-Range Planning;~~

~~(2) two sheriffs recommended by the Minnesota Sheriffs Association;~~

~~(3) (2) two police chiefs recommended by the Minnesota Chiefs of Police Association;~~

~~(4) (3) two county attorneys recommended by the Minnesota County Attorneys Association;~~

~~(5) (4) two city attorneys recommended by the Minnesota League of Cities;~~

~~(6) (5) two public defenders appointed by the Board of Public Defense;~~

~~(7) (6) two district judges appointed by the Conference of Chief Judges, one of whom is currently assigned to the juvenile court;~~

~~(8) (7) two community corrections administrators recommended by the Minnesota Association of Counties, one of whom represents a community corrections act county;~~

(9) (8) two probation officers;

(10) (9) four public members, one of whom has been a victim of crime, and two who are representatives of the private business community who have expertise in integrated information systems;

(11) (10) two court administrators;

(12) (11) one member of the house of representatives appointed by the speaker of the house;

(13) (12) one member of the senate appointed by the majority leader;

(14) (13) the attorney general or a designee;

(15) (14) the commissioner of administration or a designee;

(16) ~~an individual~~ (15) two individuals recommended by the Minnesota League of Cities; and

(17) ~~an individual~~ (16) two county commissioners recommended by the Minnesota Association of Counties; and

(17) two county administrators recommended by the Minnesota Association of County Administrators.

In making these appointments, the appointing authority shall select members with expertise in integrated data systems or best practices.

(e) The commissioner of public safety may appoint additional, nonvoting members to the task force as necessary from time to time.

Sec. 47. Minnesota Statutes 2002, section 299C.65, is amended by adding a subdivision to read:

Subd. 2a. [REPORT.] The policy group, with the assistance of the task force, shall file a report with the governor, Supreme Court, and chairs and ranking minority members of the senate and house committees and divisions with jurisdiction over criminal justice funding and policy by December 1 of each year. The report must provide the following:

(1) the status and a review of current integration efforts and projects;

(2) recommendations concerning any legislative changes or appropriations that are needed to ensure that the criminal justice information systems operate accurately and efficiently; and

(3) a summary of the activities of the policy group and task force.

Sec. 48. [299C.651] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] The definitions in this section apply to sections 299C.651 and 299C.652.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of finance.

Subd. 3. [CRIMNET.] "CrimNet" means the criminal justice information sharing, integration, and management services administered by the Criminal and Juvenile Information Policy Group.

Sec. 49. [299C.652] [CRIMNET LOCAL USER IMPLEMENTATION PLAN.]

Subdivision 1. [PHASED IMPLEMENTATION.] The Criminal and Juvenile Information Policy Group, in collaboration with the task force appointed under section 299C.65, subdivision 2, must prepare its state and local user implementation plan by no later than December 31, 2005. The task force must approve the implementation plan by a 60 percent majority vote of those present and voting on the question.

Subd. 2. [PLAN ELEMENTS.] (a) The implementation plan must be prepared in cooperation

with the state, county, and city administration for each agency. The plan shall identify the information requirements of local criminal justice agencies and identify existing shortcomings. The plan shall propose the business and technology changes necessary for integration and information sharing. The plan must provide phases of implementation, with the last phase to be completed no later than December 31, 2009, with all state and local users having complete connectivity to information sharing service function capabilities, some of which are search, publish, subscription, work flow, and notification, by that date. This plan shall include proposed mandated statewide standards for information sharing and the technology capability requirements for all criminal justice agencies. The CriMNet director shall consult with the Office of Technology to ensure consistency with information and communications technology standards and architecture developed by the Office of Technology. The implementation plan shall be submitted to house and senate committees with jurisdiction over the subject areas.

(b) The implementation plan must set forth the cost estimate to implement the proposed mandated statewide standards and improvements for integration and information sharing for all state and local users of CriMNet in Minnesota by no later than December 31, 2009. The implementation plan must also include a definition of "CriMNet user" for purposes of establishing the proposed mandated statewide standards for CriMNet capability for criminal justice agencies in Minnesota.

Subd. 3. [LOCAL USER TECHNICAL PANEL.] The implementation plan and the specific recommendation for the scope of work to be committed to a local system modification plan shall be prepared with the assistance and advice of a local user technical panel. The panel is comprised of information technology specialists appointed as follows: two members from the CriMNet office, one from each of the regional districts of the Association of Minnesota Counties, five from the League of Minnesota Cities, five from the Coalition of Greater Minnesota Cities, and one from the Metropolitan Inter-County Association. The Office of Technology shall provide technical advice to the local user technical panel.

Sec. 50. 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 purposes of this fund is are 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. 51. Minnesota Statutes 2002, section 349A.10, subdivision 6, is amended to read:

Subd. 6. [BUDGET APPEARANCE PLANS.] The director shall prepare and submit a biennial budget plan to the commissioner of finance. The governor shall recommend the maximum amount available for the lottery in the budget the governor submits to the legislature under section 16A.11. The maximum amount available to the lottery for operating expenses and capital expenditures shall be determined by law. Operating expenses shall not include expenses that are a direct function of lottery sales, which include the cost of lottery prizes, amounts paid to lottery retailers as sales commissions or other compensation, amounts paid to produce and deliver scratch lottery games, and amounts paid to an outside vendor to operate and maintain an on-line gaming system. In addition, the director shall appear at least once each fiscal year before the senate and house of representatives committees having jurisdiction over gambling policy to present and explain the lottery's budget plans for future games and the related advertising and promotions and spending plans for the next fiscal year.

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

Sec. 52. 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.

Sec. 53. Minnesota Statutes 2002, section 357.18, subdivision 3, is amended to read:

Subd. 3. [SURCHARGE.] In addition to the fees imposed in subdivision 1, a \$5 ~~\$9~~ surcharge shall be collected: on each fee charged under subdivision 1, clauses (1) and (6), and for each abstract certificate under subdivision 1, clause (4). ~~Fifty cents~~ One dollar of each surcharge shall be retained by the county to cover its administrative costs, ~~50 cents shall be appropriated to the Legislative Coordinating Commission for the Task Force on Electronic Real Estate Recording created by Laws 2000, chapter 391, and \$4~~ \$8 shall be paid to the state treasury and credited to the general fund.

[EFFECTIVE DATE.] This section is effective July 1, 2004, and applies to documents acknowledged on or after that date.

Sec. 54. Minnesota Statutes 2003 Supplement, section 403.11, subdivision 1, is amended to read:

Subdivision 1. [EMERGENCY TELECOMMUNICATIONS SERVICE FEE.] (a) Each customer of a wireless or wire line telecommunications service provider that furnishes service capable of originating a 911 emergency telephone call is assessed a fee to cover the costs of ongoing maintenance and related improvements for trunking and central office switching equipment for 911 emergency telecommunications service, plus administrative and staffing costs of the commissioner related to managing the 911 emergency telecommunications service program.

Recurring charges by a wire line telecommunications service provider for updating the information required by section 403.07, subdivision 3, must be paid by the commissioner if the wire line telecommunications service provider is included in an approved 911 plan and the charges are made pursuant to ~~tariff, price list, or contract~~. The fee assessed under this section must also be used for the purpose of offsetting the costs, including administrative and staffing costs, incurred by the State Patrol Division of the Department of Public Safety in handling 911 emergency calls made from wireless phones.

(b) Money remaining in the 911 emergency telecommunications service account after all other obligations are paid must not cancel and is carried forward to subsequent years and may be appropriated from time to time to the commissioner to provide financial assistance to counties for the improvement of local emergency telecommunications services. The improvements may include providing access to 911 service for telecommunications service subscribers currently without access and upgrading existing 911 service to include automatic number identification, local location identification, automatic location identification, and other improvements specified in revised county 911 plans approved by the commissioner.

(c) The fee may not be less than eight cents nor more than ~~40~~ 65 cents a month for each customer access line or other basic access service, including trunk equivalents as designated by the Public Utilities Commission for access charge purposes and including wireless telecommunications services. With the approval of the commissioner of finance, the commissioner of public safety shall establish the amount of the fee within the limits specified and inform the companies and carriers of the amount to be collected. When the revenue bonds authorized under section 403.27, subdivision 1, have been fully paid or defeased, the commissioner shall reduce the fee to reflect that debt service on the bonds is no longer needed. The commissioner shall provide companies and carriers a minimum of 45 days' notice of each fee change. The fee must be the same for all customers.

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

(e) This subdivision does not apply to customers of interexchange carriers.

(f) The installation and recurring charges for integrating wireless 911 calls into enhanced 911 systems must be paid by the commissioner if the 911 service provider is included in the statewide design plan and the charges are made pursuant to ~~tariff, price list, or contract~~.

(g) Notwithstanding any provision of this chapter to the contrary, the commissioner need not contract for or agree to pay for any services that a wire line or wireless telecommunication service provider is required by federal law or federal regulation to provide.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to contracts entered into on or after that date.

Sec. 55. Minnesota Statutes 2003 Supplement, section 403.11, subdivision 3, is amended to read:

Subd. 3. **[METHOD OF PAYMENT.]** (a) Any wireless or wire line telecommunications service provider incurring reimbursable costs under subdivision 1 shall submit an invoice itemizing rate elements by county or service area to the commissioner for 911 services furnished under ~~tariff, price list, or contract~~. Any wireless or wire line telecommunications service provider is eligible to receive payment for 911 services rendered according to the terms and conditions specified in the contract. Competitive local exchange carriers holding certificates of authority from the Public Utilities Commission are eligible to receive payment for recurring 911 services provided after July 1, 2001. The commissioner shall pay the invoice within 30 days following

receipt of the invoice unless the commissioner notifies the service provider that the commissioner disputes the invoice.

(b) The commissioner shall estimate the amount required to reimburse wireless and wire line telecommunications service providers for the state's obligations under subdivision 1 and the governor shall include the estimated amount in the biennial budget request.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to contracts entered into on or after that date.

Sec. 56. Minnesota Statutes 2003 Supplement, section 403.11, subdivision 3a, is amended to read:

Subd. 3a. **[TIMELY CERTIFICATION.]** A certification must be submitted to the commissioner no later than ~~two years~~ 90 days after commencing a new or additional eligible 911 service. ~~Any wireless or wire line telecommunications service provider incurring reimbursable costs under this section at any time before January 1, 2003, may certify those costs for payment to the commissioner according to this section for a period of 90 days after January 1, 2003. During this period, the commissioner shall reimburse any wireless or wire line telecommunications service provider for approved, certified costs without regard to any contrary provision of this subdivision. Each applicable contract must provide that, if certified expenses under the contract deviate from estimates in the contract by more than ten percent, the commissioner may reduce the level of service without incurring any termination fees.~~

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to contracts entered into on or after that date.

Sec. 57. Minnesota Statutes 2003 Supplement, section 403.113, subdivision 1, is amended to read:

Subdivision 1. **[FEE.]** (a) Each customer receiving service from a wireless or wire line telecommunications service provider is assessed a fee to fund implementation, operation, maintenance, enhancement, and expansion of enhanced 911 service, including acquisition of necessary equipment and the costs of the commissioner to administer the program. The actual fee assessed under section 403.11 and the enhanced 911 service fee must be collected as one amount and may not exceed the amount specified in section 403.11, subdivision 1, paragraph (c).

(b) The enhanced 911 service fee must be collected and deposited in the same manner as the fee in section 403.11 and used solely for the purposes of paragraph (a) and subdivision 3.

(c) The commissioner, in consultation with counties and 911 system users, shall determine the amount of the enhanced 911 service fee. The fee must include at least ~~ten~~ 20 cents per month to be distributed under subdivision 2. ~~If a greater amount is appropriated, the greater amount must be distributed.~~ The commissioner shall inform wireless and wire line telecommunications service providers that provide service capable of originating a 911 emergency telephone call of the total amount of the 911 service fees in the same manner as provided in section 403.11.

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

Sec. 58. Minnesota Statutes 2003 Supplement, section 403.21, subdivision 3, is amended to read:

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

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

Sec. 59. Minnesota Statutes 2003 Supplement, section 403.22, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] The Metropolitan Radio Board is established as a political subdivision with jurisdiction in the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, and Washington. The board shall be organized, structured, and administered as provided in this section. Until funds to administer the board become available under section 403.23, subdivision 19, the Metropolitan Council shall provide office space and administrative support to the board at no cost.

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

Sec. 60. Minnesota Statutes 2003 Supplement, section 403.22, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] The board consists of ~~17~~ 19 members. ~~Fifteen~~ Seventeen members shall be local officials and shall include:

(1) one county commissioner appointed by each respective county board from each of the ~~seven~~ metropolitan counties in the board's jurisdiction;

(2) an elected official from each of the cities of Minneapolis, St. Paul, and Bloomington appointed by each respective city governing body;

(3) two elected officials from other metropolitan cities appointed by the governor, who shall consider recommendations made by the Association of Metropolitan Municipalities when making these appointments;

(4) an elected official from a county or a city within a county in Minnesota that is contiguous to the metropolitan area appointed by the governor, who shall consider recommendations made by the League of Minnesota Cities when making this appointment;

(5) a sheriff appointed by the governor, who shall consider recommendations made by the Metropolitan Sheriffs Association when making this appointment; and

(6) a police chief appointed by the governor, who shall consider recommendations made by the Minnesota Police Chiefs Association when making this appointment.

The ~~16th~~ 18th member shall be a member of the Metropolitan Council appointed by the council. The ~~17th~~ 19th member shall be the director of electronic communications of the Minnesota Department of Transportation. As provided in section 403.23, subdivision 20, the chair of the Technical Operations Committee serves as an ex officio member of the board.

~~The members shall be appointed within 30 days of the effective date of Laws 1995, chapter 195. Upon the effective date of Laws 1995, chapter 195, the Metropolitan Council shall inform the entities listed in this subdivision of the appointments required by this subdivision and shall provide whatever assistance is necessary to facilitate the appointment process and establish the radio board.~~

Board members have no set term and remain on the board until a successor is appointed as provided by this subdivision. However, with respect to those board members who, under this subdivision, must be elected officials, a successor must be appointed as provided by this subdivision no later than the date that a member is no longer an elected official, unless the member dies while in office, in which case a successor must be named as soon as practicable.

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

Sec. 61. Minnesota Statutes 2003 Supplement, section 403.27, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZATION.] (a) After consulting with the commissioner of finance, the council, if requested by a vote of at least two-thirds of all of the members of the ~~Public Safety Radio Communication System Planning Committee established under section 403.36 Metropolitan Radio Board~~, may, by resolution, authorize the issuance of its revenue bonds for any of the following purposes to:

- (1) provide funds for regionwide mutual aid and emergency medical services communications;
- (2) provide funds for the elements of the first phase of the regionwide public safety radio communications system that the board determines are of regionwide benefit and support mutual aid and emergency medical services communication including, but not limited to, costs of master controllers of the backbone;
- (3) provide money for the second phase of the public safety radio communication system;
- (4) ~~provide money for the third phase of the public safety radio communication system;~~
- (5) to the extent money is available after meeting the needs described in clauses (1) to (3), provide money to reimburse local units of government for amounts expended for capital improvements to the first phase system previously paid for by the local government units; or
- (6) (5) refund bonds issued under this section.

(b) After consulting with the commissioner of finance, the council, if requested by a vote of at least two-thirds of all of the members of the Public Safety Radio Communication System Planning Committee established under section 403.36, may, by resolution, authorize the issuance of its revenue bonds to provide money for the third phase of the Public Safety Radio Communication System.

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

Sec. 62. Minnesota Statutes 2003 Supplement, section 403.27, subdivision 3, is amended to read:

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

(b) In addition to the amount authorized under paragraph (a), the council may issue bonds under subdivision 1 in a principal amount of \$3,306,300, plus the amount the council determines necessary to pay the cost of issuance, fund reserves, debt service, and any bond insurance or other credit enhancement. The proceeds of bonds issued under this paragraph may not be used to finance portable or subscriber radio sets.

(c) In addition to the amount authorized under paragraphs (a) and (b), the council may issue bonds under subdivision 1 in a principal amount of ~~\$18,000,000~~ \$20,000,000, plus the amount the council determines necessary to pay the costs of issuance, fund reserves, debt service, and any bond insurance or other credit enhancement. The proceeds of bonds issued under this paragraph must be used to pay up to 50 percent of the cost to a local government unit of building a subsystem and may not be used to finance portable or subscriber radio sets. The bond proceeds may be used to make improvements to an existing 800 MHz radio system that will interoperate with the regionwide public safety radio communication system, provided that the improvements conform to the board's plan and technical standards. The council must time the sale and issuance of the bonds so that the debt service on the bonds can be covered by the additional revenue that will become available ~~in the fiscal year ending June 30, 2005~~ beginning July 1, 2004, generated under section 403.11 and appropriated under section 403.30.

(d) In addition to the amount authorized under paragraphs (a) to (c), the council may issue bonds under subdivision 1 in a principal amount of up to ~~\$27,000,000~~ \$40,000,000, plus the amount the council determines necessary to pay the costs of issuance, fund reserves, debt service, and any bond insurance or other credit enhancement. The proceeds of bonds issued under this paragraph are appropriated to the commissioner of public safety for phase three of the public safety radio communication system. In anticipation of the receipt by the commissioner of public safety of the bond proceeds, the Metropolitan Radio Board may advance money from its operating appropriation to the commissioner of public safety to pay for design and preliminary engineering for phase three. The commissioner of public safety must return these amounts to the Metropolitan

Radio Board when the bond proceeds are received. The council must time the sale and issuance of the bonds so that the debt service on the bonds can be covered by the additional revenue that will become available beginning July 1, 2004, generated under section 403.11 and appropriated under section 403.30.

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

Sec. 63. Minnesota Statutes 2003 Supplement, section 403.30, subdivision 1, is amended to read:

Subdivision 1. ~~[STANDING OPEN APPROPRIATION; COSTS COVERED.] For each fiscal year beginning with the fiscal year commencing July 1, 1997,~~ The amount necessary to pay the following costs is appropriated to the commissioner of public safety from the 911 emergency telecommunications service account established under section 403.11:

- (1) debt service costs and reserves for bonds issued pursuant to section 403.27;
- (2) repayment of the right-of-way acquisition loans;
- (3) costs of design, construction, maintenance of, and improvements to those elements of the first, second, and third phases that support mutual aid communications and emergency medical communication services;
- (4) recurring charges for leased sites and equipment for those elements of the first, second, and third phases that support mutual aid and emergency medical communication services; or
- (5) aid to local units of government for sites and equipment in support of mutual aid and emergency medical communications services.

This appropriation shall be used to pay annual debt service costs and reserves for bonds issued pursuant to section 403.27 prior to use of fee money to pay other costs eligible under this subdivision, section 403.11, or section 403.113. In no event shall If a direct appropriation for these purposes is insufficient to pay all debt service as it comes due, the commissioner shall notify the Committee on Finance of the senate and the Committee on Ways and Means of the house of representatives of the amount of the deficiency and shall then pay the necessary amount under this appropriation. Before each sale of bonds under section 403.27, the council shall calculate the amount of debt service payments that will be needed on bonds previously issued and shall estimate the amount of debt service payments that will be needed on the bonds scheduled to be sold. The council shall adjust the amount of bonds scheduled to be sold so that the appropriation for each fiscal year for the life of the bonds will not exceed an amount equal to four cents a month for each customer access line or other basic access service, including trunk equivalents as designated by the Public Utilities Commission for access charge purposes and including cellular and other nonwire access services, in the fiscal year. Beginning July 1, 2004, this amount will increase to 13 cents a month. The portion of this amount that is not needed to pay debt service and fund reserves under clause (1) may be used for the purposes listed in clauses (2) to (5).

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

Sec. 64. Minnesota Statutes 2003 Supplement, section 403.30, subdivision 3, is amended to read:

Subd. 3. ~~[MONTHLY APPROPRIATION TRANSFERS.] Each month, before the 25th day of the month,~~ The commissioner shall transmit to the Metropolitan Council ~~1/12 of its total approved appropriation for the regionwide public safety communication system~~ the amount needed to cover debt service costs and reserves for bonds issued under section 403.27.

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

Sec. 65. Minnesota Statutes 2003 Supplement, section 471.975, is amended to read:

471.975 ~~[MAY PAY SALARY DIFFERENTIAL OF NATIONAL GUARD OR OTHER RESERVE COMPONENT ON ACTIVE DUTY.]~~

(a) Except as provided in paragraph (b), a statutory or home rule charter city, county, town, school district, or other political subdivision may pay to each eligible member of the National Guard or other reserve component of the armed forces of the United States an amount equal to the difference between the member's basic active duty military salary and the salary the member would be paid as an active political subdivision employee, including any adjustments the member would have received if not on leave of absence. This payment may be made only to a person whose basic active duty military salary is less than the salary the person would be paid as an active political subdivision employee. Back pay authorized by this section may be paid in a lump sum. Payment under this section must not extend beyond four years from the date the employee reported for active service, plus any additional time the employee may be legally required to serve.

(b) Subject to the limits under paragraph (g), each school district shall pay to each eligible member of the National Guard or other reserve component of the armed forces of the United States an amount equal to the difference between the member's basic active duty military salary and the salary the member would be paid as an active school district employee, including any adjustments the member would have received if not on leave of absence. The pay differential must be based on a comparison between the member's daily rate of active duty pay, calculated by dividing the member's military monthly salary by the number of paid days in the month, and the member's daily rate of pay for the member's school district salary, calculated by dividing the member's total school district salary by the number of contract days. The member's salary as a school district employee must include the member's basic salary and any additional salary the member earns from the school district for cocurricular activities. The differential payment under this paragraph must be the difference between the daily rates of military pay and school district pay times the number of school district contract days the member misses because of military active duty. This payment may be made only to a person whose basic active duty military salary is less than the salary the person would be paid as an active school district employee. Payments may be made at the intervals at which the member received pay as a school district employee. Payment under this section must not extend beyond four years from the date the employee reported for active service, plus any additional time the employee may be legally required to serve.

(c) An eligible member of the reserve components of the armed forces of the United States is a reservist or National Guard member who was an employee of a political subdivision at the time the member reported for active service on or after May 29, 2003, or who is on active service on May 29, 2003.

(e) (d) Notwithstanding other obligations under law and except as provided in paragraph (e), a statutory or home rule charter city, county, town, or other political subdivision has total discretion regarding employee benefit continuation for a member who reports for active service and the terms and conditions of any benefit.

(e) A school district must continue the employee's enrollment in health and dental coverage, and the employer contribution toward that coverage, until the employee is covered by health and dental coverage provided by the armed forces. If the employee had elected dependent coverage for health or dental coverage as of the time that the employee reported for active service, a school district must offer the employee the option to continue the dependent coverage at the employee's own expense. A school district must permit the employee to continue participating in any pretax account in which the employee participated when the employee reported for active service, to the extent of employee pay available for that purpose.

(d) (f) For purposes of this section, "active service" has the meaning given in section 190.05, subdivision 5, but excludes service performed exclusively for purposes of:

(1) basic combat training, advanced individual training, annual training, and periodic inactive duty training;

(2) special training periodically made available to reserve members; and

(3) service performed in accordance with section 190.08, subdivision 3.

(g) A school district making payments under paragraph (b) shall place a sum equal to any

difference between the amount of salary that would have been paid to the employee who is receiving the payments and the amount of salary being paid to substitutes for that employee into a special fund that must be used to pay or partially pay the deployed employee's payments under paragraph (b). A school district is required to pay only this amount to the deployed school district employee.

Sec. 66. Minnesota Statutes 2003 Supplement, section 471.999, is amended to read:

471.999 [REPORT TO LEGISLATURE.]

The commissioner of employee relations shall report to the legislature by January 1 of each year on the status of compliance with section 471.992, subdivision 1, by governmental subdivisions.

The report must include a list of the political subdivisions in compliance with section 471.992, subdivision 1, and the estimated cost of compliance. The report must also include a list of political subdivisions found by the commissioner to be not in compliance, the basis for that finding, recommended changes to achieve compliance, estimated cost of compliance, and recommended penalties, if any. The commissioner's report must include a list of subdivisions that did not comply with the reporting requirements of this section. The commissioner may request, and a subdivision shall provide, any additional information needed for the preparation of a report under this subdivision.

~~Notwithstanding any rule to the contrary, beginning in 2005, a political subdivision must report on its compliance with the requirements of sections 471.991 to 471.999 no more frequently than once every five years. No report from a political subdivision is required for 2003 and 2004.~~

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

Sec. 67. Minnesota Statutes 2002, section 484.77, is amended to read:

484.77 [FACILITIES.]

Subdivision 1. [GENERAL.] The county board in each county shall provide suitable facilities for court purposes at the county seat, or at other locations agreed upon by the district court and the county. The county shall also be responsible for the costs of renting, maintaining, operating, remodeling, insuring, and renovating those facilities occupied by the court. The county board and the district court must mutually agree upon relocation, renovation, new construction, and remodeling decisions related to court facility needs. The state court administrator shall convene court and county representatives who shall develop written model guidelines for facilities that may be adopted in each county.

Subd. 2. [WASHINGTON COUNTY; LOCATION OF FACILITIES.] Notwithstanding subdivision 1, the county board of Washington County shall provide suitable facilities for court purposes in the city of Stillwater and at other northern and southern suburban locations dispersed in the county. At the locations holding regular terms of court established under this subdivision, all functions of the court may be discharged, including both court and jury trials of civil and criminal matters. Nothing in this subdivision is to be construed to reduce the level of services to the suburban and rural citizens of Washington County.

Sec. 68. Minnesota Statutes 2002, section 489.01, is amended by adding a subdivision to read:

Subd. 4. [COURT COMMISSIONER RETIREMENT.] After the retirement of a court commissioner who retired before August 1, 2004, 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.

Sec. 69. Minnesota Statutes 2002, section 507.093, is amended to read:

507.093 [STANDARDS FOR DOCUMENTS TO BE RECORDED OR FILED.]

(a) The following standards are imposed on documents to be recorded with the county recorder or filed with the registrar of titles:

(1) The document shall consist of one or more individual sheets measuring no larger than 8.5 inches by 14 inches.

(2) The form of the document shall be printed, typewritten, or computer generated in black ink and the form of the document shall not be smaller than 8-point type.

(3) The document shall be on white paper of not less than 20-pound weight with no background color, images, or writing and shall have a clear border of approximately one-half inch on the top, bottom, and each side.

(4) The first page of the document shall contain a blank space at the top measuring three inches, as measured from the top of the page. The right half to be used by the county recorder for recording information or registrar of titles for filing information and the left half to be used by the county auditor or treasurer for certification.

(5) The title of the document shall be prominently displayed at the top of the first page below the blank space referred to in clause (4).

(6) No additional sheet shall be attached or affixed to a page that covers up any information or printed part of the form.

(7) A document presented for recording or filing must be sufficiently legible to reproduce a readable copy using the county recorder's or registrar of title's current method of reproduction.

The standards in this paragraph do not apply to a document that is recorded or filed: (1) as part of a pilot project for the electronic filing of real estate documents implemented by the task force created in Laws 2000, chapter 391; or (2) after termination of the task force, provided that the document meets standards adopted by the task force that have been determined by the task force to have been successfully tested by counties participating in a pilot project.

(b) The recording or filing fee for a document that does not conform to the standards in paragraph (a) shall be increased as provided in sections 357.18, subdivision 5; 508.82; and 508A.82.

(c) The recorder or registrar shall refund the recording or filing fee to the applicant if the real estate documents are not filed or registered within 30 days after receipt, or as otherwise provided by section 386.30.

Sec. 70. Minnesota Statutes 2003 Supplement, section 507.24, subdivision 2, is amended to read:

Subd. 2. [ORIGINAL SIGNATURES REQUIRED.] Unless otherwise provided by law, an instrument affecting real estate that is to be recorded as provided in this section or other applicable law must contain the original signatures of the parties who execute it and of the notary public or other officer taking an acknowledgment. However, a financing statement that is recorded as a filing pursuant to section 336.9-502(b) need not contain: (1) the signatures of the debtor or the secured party; or (2) an acknowledgment. Any electronic instruments, including signatures and seals, affecting real estate may only be recorded: (1) as part of a pilot project for the electronic filing of real estate documents implemented by the task force created in Laws 2000, chapter 391; or (2) after termination of the task force, under standards adopted by the task force that have been determined by the task force to have been successfully tested by counties participating in a pilot project. Notices filed pursuant to section 168A.141, subdivisions 1 and 3, need not contain an acknowledgment.

Sec. 71. Minnesota Statutes 2003 Supplement, section 508.12, subdivision 1, is amended to read:

Subdivision 1. [EXAMINER AND DEPUTY EXAMINER.] The judges of the district court

shall appoint a competent attorney in each county within their respective districts to be an examiner of titles and legal adviser to the registrar in said county, to which examiner all applications to register title to land are referred without further order, and may appoint attorneys to serve as deputy examiners who shall act in the name of the examiner and under the examiner's supervision and control, and the deputy's acts shall be the acts of the examiners. The examiner of titles and deputy examiners shall hold office subject to the will and discretion of the district court by whom appointed. The examiner's compensation and that of the examiner's deputies shall be fixed and determined by the court and paid in the same manner as the compensation of other county employees is paid except that in all counties having fewer than 75,000 inhabitants, and in Stearns, Dakota, Scott, Wright, and Olmsted counties the fees and compensation of the examiners for services as legal adviser to the registrar shall be determined by the judges of the district court and paid in the same manner as the compensation of other county employees is paid, but in every other instance shall be paid by the person applying to have the person's title registered or for other action or relief which requires the services, certification or approval of the examiner. In counties where the compensation of the examiner of titles is paid in the same manner as the compensation of other county employees, the board of county commissioners of the county may establish a fee for examiner services. The fee must be equal to or less than the actual cost paid by the county for the services and must be deposited in the county general fund.

Sec. 72. Minnesota Statutes 2003 Supplement, section 508.82, subdivision 1, is amended to read:

Subdivision 1. [STANDARD DOCUMENTS.] The fees to be paid to the registrar shall be as follows:

(1) of the fees provided herein, five percent of the fees collected under clauses (3), (5), (11), (13), (14), (16), and (17), for filing or memorializing shall be paid to the commissioner of finance and credited to the general fund; plus a \$5 ~~\$9~~ surcharge shall be charged and collected in addition to the total fees charged for each transaction under clauses (2), (3), (5), (11), (13), (14), (16), and (17), with ~~50 cents~~ \$1 of this surcharge to be retained by the county to cover its administrative costs, ~~50 cents must be deposited in the state treasury to provide an additional funding sourcee for the appropriations in Laws 2001, First Special Session chapter 10, article 2, sections 98 and 99, to the Legislative Coordinating Commission for the Real Estate Task Force established under Laws 2000, chapter 391, and \$4~~ ~~\$8~~ to be paid to the state treasury and credited to the general fund;

(2) for registering a first certificate of title, including issuing a copy of it, \$30;

(3) for registering each instrument transferring the fee simple title for which a new certificate of title is issued and for the registration of the new certificate of title, including a copy of it, \$30;

(4) for issuance of a CECT pursuant to section 508.351, \$15;

(5) for the entry of each memorial on a certificate, \$15;

(6) for issuing each residue certificate, \$20;

(7) for exchange certificates, \$10 for each certificate canceled and \$10 for each new certificate issued;

(8) for each certificate showing condition of the register, \$10;

(9) for any certified copy of any instrument or writing on file in the registrar's office, the same fees allowed by law to county recorders for like services;

(10) for a noncertified copy of any certificate of title, other than the copies issued under clauses (2) and (3), any instrument or writing on file in the office of the registrar of titles, or any specified page or part of it, an amount as determined by the county board for each page or fraction of a page specified. If computer or microfilm printers are used to reproduce the instrument or writing, a like amount per image;

(11) for filing two copies of any plat in the office of the registrar, \$30;

(12) for any other service under this chapter, such fee as the court shall determine;

(13) for filing an amendment to a declaration in accordance with chapter 515, \$10 for each certificate upon which the document is registered and \$30 for an amended floor plan filed in accordance with chapter 515;

(14) for filing an amendment to a common interest community declaration and plat or amendment complying with section 515B.2-110, subsection (c), \$10 for each certificate upon which the document is registered and \$30 for the filing of the condominium or common interest community plat or amendment;

(15) for a copy of a condominium floor plan filed in accordance with chapter 515, or a copy of a common interest community plat complying with section 515B.2-110, subsection (c), the fee shall be \$1 for each page of the floor plan or common interest community plat with a minimum fee of \$10;

(16) for the filing of a certified copy of a plat of the survey pursuant to section 508.23 or 508.671, \$10;

(17) for filing a registered land survey in triplicate in accordance with section 508.47, subdivision 4, \$30; and

(18) for furnishing a certified copy of a registered land survey in accordance with section 508.47, subdivision 4, \$10.

[EFFECTIVE DATE.] This section is effective July 1, 2004, and applies to documents acknowledged on or after that date.

Sec. 73. Minnesota Statutes 2003 Supplement, section 508A.82, subdivision 1, is amended to read:

Subdivision 1. [STANDARD DOCUMENTS.] The fees to be paid to the registrar shall be as follows:

(1) of the fees provided herein, five percent of the fees collected under clauses (3), (5), (11), (13), (14), and (17), for filing or memorializing shall be paid to the commissioner of finance and credited to the general fund; plus a \$5 \$9 surcharge shall be charged and collected in addition to the total fees charged for each transaction under clauses (2), (3), (5), (11), (13), (14), and (17), with ~~50 cents~~ \$1 of this surcharge to be retained by the county to cover its administrative costs, ~~50 cents to be deposited in the state treasury to provide an additional funding source for the appropriations in Laws 2001, First Special Session chapter 10, article 2, sections 98 and 99, to the Legislative Coordinating Commission for the Real Estate Task Force established under Laws 2000, chapter 391, and \$4~~ \$8 to be paid to the state treasury and credited to the general fund;

(2) for registering a first CPT, including issuing a copy of it, \$30;

(3) for registering each instrument transferring the fee simple title for which a new CPT is issued and for the registration of the new CPT, including a copy of it, \$30;

(4) for issuance of a CECT pursuant to section 508A.351, \$15;

(5) for the entry of each memorial on a CPT, \$15;

(6) for issuing each residue CPT, \$20;

(7) for exchange CPTs or combined certificates of title, \$10 for each CPT and certificate of title canceled and \$10 for each new CPT or combined certificate of title issued;

(8) for each CPT showing condition of the register, \$10;

(9) for any certified copy of any instrument or writing on file in the registrar's office, the same fees allowed by law to county recorders for like services;

(10) for a noncertified copy of any CPT, other than the copies issued under clauses (2) and (3), any instrument or writing on file in the office of the registrar of titles, or any specified page or part of it, an amount as determined by the county board for each page or fraction of a page specified. If computer or microfilm printers are used to reproduce the instrument or writing, a like amount per image;

(11) for filing two copies of any plat in the office of the registrar, \$30;

(12) for any other service under sections 508A.01 to 508A.85, the fee the court shall determine;

(13) for filing an amendment to a declaration in accordance with chapter 515, \$10 for each certificate upon which the document is registered and \$30 for an amended floor plan filed in accordance with chapter 515;

(14) for filing an amendment to a common interest community declaration and plat or amendment complying with section 515B.2-110, subsection (c), and issuing a CECT if required, \$10 for each certificate upon which the document is registered and \$30 for the filing of the condominium or common interest community plat or amendment;

(15) for a copy of a condominium floor plan filed in accordance with chapter 515, or a copy of a common interest community plat complying with section 515B.2-110, subsection (c), the fee shall be \$1 for each page of the floor plan, or common interest community plat with a minimum fee of \$10;

(16) in counties in which the compensation of the examiner of titles is paid in the same manner as the compensation of other county employees, for each parcel of land contained in the application for a CPT, as the number of parcels is determined by the examiner, a fee which is reasonable and which reflects the actual cost to the county, established by the board of county commissioners of the county in which the land is located;

(17) for filing a registered land survey in triplicate in accordance with section 508A.47, subdivision 4, \$30; and

(18) for furnishing a certified copy of a registered land survey in accordance with section 508A.47, subdivision 4, \$10.

[EFFECTIVE DATE.] This section is effective July 1, 2004, and applies to documents acknowledged on or after that date.

Sec. 74. Minnesota Statutes 2002, section 626.84, subdivision 1, is amended to read:

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

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

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

(c) "Peace officer" means:

(1) an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the board, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota State Patrol, agents of the Division of Alcohol and Gambling Enforcement, state conservation officers, Metropolitan Transit police officers, and Department of Corrections' Fugitive Apprehension Unit officers, and Department of Commerce insurance fraud unit officers; and

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

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

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

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

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

(h) "Law enforcement agency" means:

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

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

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

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

Sec. 75. Laws 2000, chapter 391, section 1, subdivision 2, as amended by Laws 2002, chapter 365, section 5, is amended to read:

Subd. 2. **[STUDY AND RECOMMENDATIONS.]** The task force shall study and make recommendations regarding implementation of a system for electronic filing and recording of real estate documents and shall consider:

(1) technology and computer needs;

(2) legal issues such as authenticity, security, timing and priority of recordings, and the relationship between electronic and paper recording systems;

(3) cost-effectiveness of electronic recording systems;

(4) timetable and plan for implementing an electronic recording system, considering types of documents and entities using the system and volume of recordings;

(5) permissive versus mandatory systems; and

(6) other relevant issues identified by the task force.

The task force shall submit a report to the legislature by January 15, 2001, outlining a proposed work plan and budget for consideration by the legislature. The task force expires ~~June 30~~ December 31, 2004.

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

Sec. 76. Laws 2003, First Special Session chapter 1, article 1, section 23, is amended to read:

Sec. 23. STATE LOTTERY

Notwithstanding Minnesota Statutes, section 349A.10, the operating budget must not exceed \$43,538,000 ~~\$27,419,000~~ in fiscal year 2004 and \$43,538,000 ~~\$27,419,000~~ in fiscal year 2005 and thereafter. ~~The savings must be transferred 60 percent to the general fund in the state treasury and 40 percent to the Minnesota environment and natural resources trust fund in the state treasury.~~

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

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. Amounts collected under section 78 must reduce the maximum amount that may be collected under this section.

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, apply to this section.

Subd. 9. [EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 78. [EXTRA UNEMPLOYMENT BENEFITS.]

Subdivision 1. [AVAILABILITY.] Extra unemployment benefits are available to an applicant who was laid off due to lack of work if the applicant was laid off by Northwest Airlines.

Subd. 2. [PAYMENT FROM FUND; EFFECT ON EMPLOYER.] Extra unemployment benefits under this section are payable from the unemployment insurance trust fund and subject to Minnesota Statutes, section 268.047, subdivision 1.

Subd. 3. [ELIGIBILITY CONDITIONS.] An applicant described in subdivision 1 is eligible to collect extra unemployment benefits for any week through December 25, 2004, if:

(1) a majority of the applicant's wage credits were earned while working as an airline mechanic with the employer responsible for the layoff described in subdivision 1;

(2) the applicant exhausted all regular unemployment benefits available after December 21, 2003, and on or before June 26, 2004;

(3) the applicant meets the eligibility requirements of Minnesota Statutes, section 268.085;

(4) the applicant is not subject to a disqualification under Minnesota Statutes, section 268.095;

(5) 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; and

(6) the applicant is enrolled in, or has within the last two weeks successfully completed, a program that qualifies as reemployment assistance training under the state dislocated worker program except that an applicant whose training is scheduled to begin in more than 30 days may be considered to be in training if:

(i) the applicant's chosen training program does not offer an available start date within 30 days;

(ii) the applicant is scheduled to begin training on the earliest available start date for the chosen training program; and

(iii) the applicant is scheduled to begin training in no more than 60 days.

If an applicant qualifies for a new regular benefit account at any time after exhausting regular unemployment benefits as a result of the layoff under subdivision 1, the applicant must apply for and exhaust entitlement to those new regular or any other type of unemployment benefits under any state or federal law.

Subd. 4. [WEEKLY AMOUNT OF EXTRA BENEFITS.] The weekly unemployment extra benefits amount available to an applicant under this section is the same as the applicant's regular weekly benefit amount on the benefit account established as a result of the layoff under subdivision 1.

Subd. 5. [MAXIMUM AMOUNT OF EXTRA UNEMPLOYMENT 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 December 25, 2004. No extra unemployment benefits shall be paid under this section after the expiration of this program.

Subd. 7. [EFFECTIVE DATE.] This section is effective the day following final enactment retroactively from June 1, 2001.

Sec. 79. [MINNESOTA COUNTY ATTORNEY PRACTICE SYSTEM GRANT.]

The criminal and juvenile justice information policy group created under Minnesota Statutes 2002, section 299C.65, shall award a onetime grant not to exceed \$200,000 to the Minnesota cooperative computer consortium to purchase, upgrade, and maintain the Minnesota county attorney practice system for use by member county and city attorneys. The \$200,000 shall be allocated from federal fiscal year 2004 federal grant funds and must be matched by an equal amount of nonstate money.

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

Sec. 80. [CLIMATE PROTECTION PLAN.]

(a) The commissioner of commerce, with input from other state agencies, shall propose a plan to reduce greenhouse gas emissions from electric generation facilities and other sources in the state. The plan shall propose appropriate reduction goals and a list of alternative cost-effective ways to achieve those goals and shall recommend specific actions necessary to meet the goals for each of the following sectors: energy, transportation, industrial, commercial, institutional, and residential. The plan must allow for a regional cap and trade program involving emissions from sources in neighboring states. The plan must allow sustainable managed forestry, agricultural, and other natural resource activities to be used to sequester greenhouse gas emissions. The commissioner shall submit the action plan to the Environmental Quality Board and to the chairs of the senate Committee on Jobs, Energy and Community Development, the senate Committee on Environment and Natural Resources, the house Committee on Environment and Natural Resources Policy, and the house Committee on Regulated Industries by December 1, 2004.

(b) Until July 1, 2005, the Public Utilities Commission and the Pollution Control Agency must promptly report any actions they take or permit that would reasonably be expected to increase or decrease the emission of greenhouse gases from sources in the state. Reports must be made to the chairs of the senate Committee on Jobs, Energy and Community Development, the senate Committee on Environment and Natural Resources, the house Committee on Environment and Natural Resources Policy, and the house Committee on Regulated Industries.

(c) For purposes of this section, "greenhouse gases" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Sec. 81. [STUDY OF OUTREACH EVENTS TO PROMOTE SERVICES TO VETERANS.]

The commissioner of veterans affairs, in consultation with county veterans services officers in Minnesota, shall study the feasibility and make recommendations regarding outreach events designed to identify eligible veterans in this state and assist them in accessing all benefits available to them as veterans. By January 15, 2005, the commissioner shall report their recommendations to the legislative committees with jurisdiction over veterans affairs.

Sec. 82. [LABOR AGREEMENTS AND COMPENSATION PLANS.]

Subdivision 1. [AFSCME.] The labor agreement between the state of Minnesota and the American Federation of State, County, and Municipal Employees, units 2, 3, 4, 6, and 7, approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on November 17, 2003, is ratified.

Subd. 2. [MAPE.] The labor agreement between the state of Minnesota and the Minnesota Association of Professional Employees, approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on November 17, 2003, is ratified.

Subd. 3. [COMMISSIONER'S PLAN.] The commissioner of employee relations' plan for unrepresented employees, approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on November 17, 2003, is ratified.

Subd. 4. [MANAGERIAL PLAN.] The managerial plan approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on November 17, 2003, is ratified.

Subd. 5. [MNSCU ADMINISTRATORS.] The personnel plan for Minnesota State Colleges and Universities administrators, approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on December 29, 2003, is ratified.

Subd. 6. [HESO.] The proposal to increase the salary of the director of the Higher Education Services Office, approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on December 29, 2003, is ratified.

Subd. 7. [MSUAASF.] The labor agreement between the state of Minnesota and the Minnesota State University Association of Administrative and Service Faculty, approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on February 2, 2004, is ratified.

Subd. 8. [COLLEGE FACULTY.] The labor agreement between the state of Minnesota and the Minnesota state college faculty, approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on February 2, 2004, is ratified.

Subd. 9. [SRSEA.] The labor agreement between the state of Minnesota and the State Residential Schools Education Association (SRSEA), approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on March 19, 2004, is ratified.

Subd. 10. [MMA.] The labor agreement between the state of Minnesota and the Middle Management Association (MMA), approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on March 19, 2004, is ratified.

Subd. 11. [SICK AND BEREAVEMENT LEAVE.] (a) If a collective bargaining agreement or compensation plan ratified in this section or approved by the Legislative Coordinating Commission between the 2004 and 2005 legislative sessions provides for sick leave with pay, an employee must be granted sick leave with pay, to the extent of the employee's accumulation of sick leave, for absences:

(1) due to illness or disability of a regular member of the employee's immediate household for a reasonable period as the employee's attendance is necessary; and

(2) due to the death of a regular member of the employee's immediate household, for a reasonable period.

(b) The benefit provided under paragraph (a) is not a replacement for any other sick leave benefit provided for in the collective bargaining agreement or compensation plan as ratified in this section.

Sec. 83. [TRANSFER OF RESPONSIBILITIES; AUTO THEFT PREVENTION PROGRAM.]

The responsibilities of the Department of Public Safety under Minnesota Statutes, section 299A.75, are transferred to the Department of Commerce. Minnesota Statutes, section 15.039, applies to this transfer.

Sec. 84. [REVISOR INSTRUCTION.]

The revisor of statutes shall recodify Minnesota Statutes, section 299A.75, into a chapter of Minnesota Statutes dealing with the Department of Commerce.

Sec. 85. [REPEALER.]

(a) Minnesota Statutes 2002, sections 45.0135, subdivisions 1 and 2; 124D.97; and 299C.65, subdivisions 3 and 4, are repealed.

(b) Minnesota Statutes 2003 Supplement, sections 239.101, subdivision 7; and 299F.46, subdivision 3, are repealed.

(c) Laws 1995, chapter 195, article 1, section 18, as amended by Laws 1999, chapter 238, article 2, section 78, and by Laws 2001, chapter 176, is repealed.

ARTICLE 14

CRIMINAL JUSTICE

APPROPRIATIONS

Section 1. [CRIMINAL JUSTICE APPROPRIATIONS AND TRANSFERS.]

The dollar amounts in the columns under "APPROPRIATIONS" 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 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

	2004	2005	TOTAL
GENERAL	\$ -0-	\$18,936,000	\$18,936,000
		APPROPRIATIONS	
		Available for the Year	
		Ending June 30	
		2004	2005

Sec. 2. CORRECTIONS

Subdivision 1. Total Appropriation

\$ -0-	\$ 7,731,000
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The commissioner, in consultation with other knowledgeable individuals, shall study issues relating to the drugs currently used in state correctional facilities to treat inmates with mental health problems. The study must address the effectiveness of the drugs being used, the comprehensiveness of the coverage provided by the drugs being used compared to the needs of the inmates, the types of drugs offered compared to drugs commonly used in private medical practices, and any other related issues deemed relevant by the commissioner. By February 1, 2005, the commissioner shall report the findings and recommendations of the study to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice and health and human services policy and funding.

The commissioner shall convene a working group to study issues related to reinstating a parole board or other type of release mechanism

to make decisions concerning releasing offenders from prison. The commissioner shall invite interested and knowledgeable individuals representing all facets of the criminal justice system to serve on the working group, including, but not limited to, the attorney general. To the degree practicable, the working group shall study and consider:

- (1) the advisability, including the pros and cons, of reinstating a parole board or other type of release mechanism;
- (2) the specific forms of the release mechanisms that should be considered for implementation;
- (3) how the release mechanism should be implemented, including whether it should be implemented prospectively only or include offenders currently in prison, whether it should apply to all offenders or to certain classes of offender, the criteria for releasing offenders, and what statutory changes would be necessary to implement it;
- (4) financial issues related to the release mechanism;
- (5) the past experience of Minnesota with the parole board and the current and past experience of other states related to their sentencing structures; and
- (6) any other issues considered relevant by the working group.

By February 1, 2005, the working group shall report its findings and recommendations to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding.

Subd. 2. Eliminate Gate Money
for Supervised Release Violators
and Short-Term Offenders

-0- (84,000)

This reduction is from the appropriation in Laws 2003, First Special Session chapter 2, article 1, section 13.

Subd. 3. Increased
Prison Population Over Forecast

-0- 2,850,000

This is a onetime appropriation.

Subd. 4. Increased Prison
Population based on this act

-0- 120,000

Subd. 5. Behavioral Treatment
Programs for Offenders

-0- 1,000,000

Subd. 6. GPS Bracelets	-0-	162,000
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For the acquisition of bracelets equipped with tracking devices designed to track and monitor the movement and location of criminal offenders. The commissioner shall use these bracelets to monitor high-risk sex offenders who are on supervised release or probation to help ensure that the offenders do not violate conditions of their release or probation.

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.

By August 1, 2004, the commissioner of corrections shall enter into a contract with the Dodge, Fillmore, and Olmsted County community corrections agency to have the agency provide intensive supervised release agent services, for sex offenders and other intensive supervised release offenders.

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. Polygraph Examinations	-0-	239,000
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For polygraph examinations detailed in Minnesota Statutes, section 609.3455.

Subd. 12. Methamphetamine Report	-0-	50,000
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By January 15, 2006, the commissioner shall report to the chairs and ranking minority members of the senate and house committees or divisions having jurisdiction over criminal justice policy and funding on issues related to methamphetamine. The report must include, but is not limited to, an analysis of the current number of state correctional inmates incarcerated on a methamphetamine-related crime, information on how that number compares to that of recent years, a projection of the number of future state correctional inmates incarcerated on a methamphetamine-related charge, recidivism information for released methamphetamine offenders, the types of

treatment offered to methamphetamine offenders in prison and the costs of this treatment, and to the degree possible, the same information described in this section for methamphetamine offenders at the local level.

This is a onetime appropriation.

Subd. 13. Community Treatment
Grants to Counties

-0- 1,000,000

For grants to counties to provide chemical dependency and sex offender treatment to criminal offenders incarcerated at local correctional facilities or ordered to complete treatment as a condition of probation or release.

Sec. 3. BOARD OF PUBLIC DEFENSE

Subdivision 1. Total
Appropriation

-0- 10,655,000

Subd. 2. Funding Increase
Related to Loss of Public
Defender Co-Pay Revenue

-0- 7,681,000

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

Subd. 4. Increased Sex
Offender Caseload

-0- 2,113,000

Subd. 5. Increased
Methamphetamine Caseload

-0- 70,000

Subd. 6. Methamphetamine
Trial Team

-0- 206,000

Subd. 7. Increased Appeals
Caseload

-0- 385,000

Sec. 4. HUMAN SERVICES

-0- 300,000

For grants to counties or groups of grants to counties or groups of counties to fund three pilot project methamphetamine treatment programs for offenders convicted of methamphetamine-related crimes.

The commissioner shall report the following relating to these grants to the chairs and ranking minority members of the senate and house committees or divisions having jurisdiction over human services and criminal justice funding:

(1) by January 15, 2006, the commissioner shall report the amount of each grant, who the grant

recipient was, and specific information about the treatment program funded, including, but not limited to, the nature of the treatment offered, the structure of the program, and initial information about the completion rate of offenders who entered the program; and

(2) by January 15, 2008, the commissioner shall report information on the success of the pilot programs funded, including recidivism data on offenders who entered the program.

Sec. 5. EMPLOYMENT AND
ECONOMIC DEVELOPMENT

-0-

250,000

To carry out the public facilities authority's duties involving the methamphetamine laboratory cleanup revolving fund under Minnesota Statutes, section 446A.083.

ARTICLE 15

SEX OFFENDERS:

MANDATORY LIFE SENTENCES FOR REPEAT SEX OFFENSES;

OTHER SENTENCING CHANGES

Section 1. [LEGISLATIVE FINDINGS AND INTENT.]

The legislature finds that sex offenders pose a significant public safety threat. Based upon the harm they cause to their victims and the community, psychological factors unique to their makeup, and their future dangerousness, these types of offenders merit long-term supervision and treatment more so than do other types of criminal offenders. The legislature further finds that this type of supervision and treatment is best provided in a correctional setting and that the costs associated with this are an appropriate use of state resources.

It is the legislature's intent in enacting this act to provide a flexible approach that allows dangerous sex offenders to be incarcerated for longer periods of time than is currently possible. The legislature specifically intends that a sex offender's future dangerousness be taken into consideration when making sentencing and release decisions concerning the offender.

Sec. 2. 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 3, 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. An inmate serving a mandatory life sentence under section 609.342, subdivision 2, paragraph (b); 609.343, subdivision 2, paragraph (b); 609.344, subdivision 2, paragraph (b); 609.345, subdivision 2, paragraph (b); or 609.3453, subdivision 2, paragraph (b), must not be given supervised release under this section without having served the minimum term of imprisonment specified by the court in its sentence.

[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 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 3; 609.342, subdivision 2, paragraph (b); 609.343, subdivision 2, paragraph (b); 609.344, subdivision 2, paragraph (b); 609.345, subdivision 2, paragraph (b); 609.3453, subdivision 2, paragraph (b); 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. 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 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.

(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) When considering whether to give supervised release to an inmate serving a life sentence under section 609.342, subdivision 2, paragraph (b); 609.343, subdivision 2, paragraph (b); 609.344, subdivision 2, paragraph (b); 609.345, subdivision 2, paragraph (b); or 609.3453, subdivision 2, paragraph (b), the commissioner shall consider, at a minimum, the following: the risk the inmate poses to the community if released, the inmate's progress in treatment, the inmate's behavior while incarcerated, psychological or other diagnostic evaluations of the inmate, the inmate's criminal history, and any other relevant conduct of the inmate while incarcerated or before incarceration.

(e) 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. 4. Minnesota Statutes 2002, section 609.108, subdivision 1, is amended to read:

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, based on a Sentencing Guidelines presumptive imprisonment sentence or a dispositional departure for aggravating circumstances or a mandatory minimum sentence, on a person convicted of committing or attempting to commit a violation of section 609.342, 609.343, 609.344, or 609.345, or on a person convicted of committing or attempting to commit any other crime listed in subdivision 3 if it reasonably appears to the court that the 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 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.

[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 609.108, subdivision 3, is amended to read:

Subd. 3. [PREDATORY CRIME.] ~~A predatory crime is a felony violation of 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, 609.342, 609.343, 609.344, 609.345, 609.365, 609.498, 609.561, or 609.582, subdivision 1. As used in this section, "predatory crime" has the meaning given in section 609.341, subdivision 24.~~

[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 609.109, subdivision 7, is amended to read:

Subd. 7. [CONDITIONAL RELEASE OF SEX OFFENDERS.] (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 prison for a violation of section 609.342, 609.343, 609.344, ~~or 609.345, or 609.3453,~~ the court shall provide that after the person has completed the sentence imposed, the commissioner of corrections shall place the person on conditional release.

If the person was convicted for a violation of section 609.342, 609.343, 609.344, ~~or 609.345, or 609.3453,~~ the person shall be placed on conditional release for five years, minus the time the person served on supervised release.

If the person was convicted for a violation of one of those sections ~~after a previous~~ and the violation is a second or subsequent sex offense ~~conviction~~ as defined in section 609.341, subdivision 5 23, or sentenced under subdivision 6 to a mandatory departure, the person shall be placed on conditional release for ten years, minus the time the person served on supervised release.

(b) 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. 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. The commissioner shall not dismiss the offender from supervision before the conditional release term expires.

Conditional release under this subdivision is governed by provisions relating to supervised release, except as otherwise provided in this subdivision, section 244.04, subdivision 1, or 244.05.

(c) The commissioner shall develop a plan to pay the cost of treatment of a person released under this subdivision. The plan may include various means of paying for this treatment, including co-payments from offenders, payment or reimbursement from third parties, payments from local agencies, and funding from other sources, as these sources are identified. 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. 7. Minnesota Statutes 2002, section 609.341, is amended by adding a subdivision to read:

Subd. 22. [SEX OFFENSE.] Except for section 609.3452, "sex offense" means any violation of, or attempt to violate, section 609.342, 609.343, 609.344, 609.345, 609.3453, or any similar statute of the United States, this state, or any other state.

[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 609.341, is amended by adding a subdivision to read:

Subd. 23. [SECOND OR SUBSEQUENT SEX OFFENSE.] "Second or subsequent sex offense" means a sex offense for which the offender is convicted or adjudicated delinquent after the offender has already been convicted or adjudicated delinquent for another sex offense in a separate behavioral incident, regardless of when the behavioral incidents occurred.

[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 609.341, is amended by adding a subdivision to read:

Subd. 24. [PREDATORY CRIME.] "Predatory crime" means a felony violation of 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, 609.498, 609.561, 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. 10. Minnesota Statutes 2002, section 609.342, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] (a) Except as otherwise provided in ~~section 609.109~~ paragraph (b), a person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~30~~ 60 years or to a payment of a fine of not more than \$40,000, or both.

(b) 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. Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

(b) A person convicted under subdivision 1 of a second or subsequent sex offense shall be sentenced to imprisonment for life. At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.

[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 609.342, subdivision 3, is amended to read:

Subd. 3. [STAY.] Except when imprisonment is required under ~~section 609.109~~ subdivision 2, paragraph (b), 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. 12. Minnesota Statutes 2002, section 609.343, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] (a) Except as otherwise provided in ~~section 609.109~~ paragraph (b), a person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~25~~ 60 years or to a payment of a fine of not more than \$35,000, or both.

(b) 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 be imposed on an offender convicted of violating subdivision 1, clause (c), (d), (e), (f), or (h). Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

(b) A person convicted under subdivision 1 of a second or subsequent sex offense shall be sentenced to imprisonment for life. At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.

[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 609.343, subdivision 3, is amended to read:

Subd. 3. [STAY.] Except when imprisonment is required under ~~section 609.109~~ subdivision 2, paragraph (b), 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. 14. Minnesota Statutes 2002, section 609.344, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] (a) Except as otherwise provided in paragraph (b), a person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~15~~ 60 years or to a payment of a fine of not more than \$30,000, or both.

(b) A person convicted under subdivision 1 of a second or subsequent sex offense shall be sentenced to imprisonment for life. At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.

[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 609.344, subdivision 3, is amended to read:

Subd. 3. [STAY.] Except when imprisonment is required under ~~section 609.109~~ subdivision 2, paragraph (b), 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.

[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 609.345, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] (a) Except as otherwise provided in paragraph (b), a person convicted under subdivision 1 may be sentenced to imprisonment for not more than ten 60 years or to a payment of a fine of not more than \$20,000, or both.

(b) A person convicted under subdivision 1 of a second or subsequent sex offense shall be sentenced to imprisonment for life. At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.

[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 609.345, subdivision 3, is amended to read:

Subd. 3. [STAY.] Except when imprisonment is required under ~~section 609.109~~ subdivision 2, paragraph (b), 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.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 18. [609.3453] [CRIMINAL SEXUAL CONDUCT IN THE SIXTH DEGREE.]

Subdivision 1. [CRIME DEFINED.] A person is guilty of criminal sexual conduct in the sixth degree if the person commits a predatory crime that 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) Except as provided in paragraph (b), a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 60 years or to payment of a fine of not more than \$20,000, or both.

(b) A person convicted under subdivision 1 of a second or subsequent sex offense shall be sentenced to imprisonment for life. At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 19. [REPEALER.]

Minnesota Statutes 2002, section 609.108, subdivision 2, is repealed.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

ARTICLE 16

SEX OFFENDERS:

PREDATORY OFFENDER REGISTRATION;

COMMUNITY NOTIFICATION; NONSENTENCING CHANGES

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 of "vehicle" 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, paragraph (a), clause (2); or

(ii) kidnapping under section 609.25; or

(iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; 609.3451, subdivision 3; or 609.3453; or

(iv) indecent exposure under section 617.23, subdivision 3; or

(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; or

(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 the state to reside, work, or attend school, or enters the 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.

A person described in this paragraph shall register with the bureau within five days after the registration requirement becomes applicable.

(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 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 subdivision 4a or this subdivision 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).

(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 subdivision 4a and this subdivision 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 subdivision 4a and this subdivision 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 require a person required to register under this section who is classified as a level III offender under section 244.052 to appear before the agent or authority at least every six months 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 residencee 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 under section 244.052 is assigned to risk level II or risk level III, 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. The authority may waive the photograph requirement for a person assigned to risk level III who has recently been photographed under paragraph (d).

(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.

For persons required to register under subdivision ~~1~~ 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.~~

~~(e) (b) The person shall report to the agent or authority the information required to be provided under paragraph (b) (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 (b) (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, 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 the person's primary or secondary address, employment, school, or motor vehicle information; fails to report any property the person owns, leases, or rents; or fails to return the annual verification form 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 ~~1~~ 1b, or any offense from another state or any federal offense similar to the offenses described in subdivision ~~1~~ 1b, and the person has a prior conviction or adjudication for an offense for which registration was or would have been required under subdivision 1b, or an offense from another state or a federal offense similar to an offense described in subdivision ~~1~~ 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 ~~1~~ 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.] When the state accepts an offender from another state under a reciprocal agreement under the interstate compact authorized by section 243.16 or 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.

Subd. 11. [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. 12. [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.] This section is effective August 1, 2004, and applies to persons subject to predatory offender registration on or after that date.

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. [243.95] [REPORT ON COMMUNITY CORRECTIONAL SUPERVISION.]

By January 15 of each year, the commissioner of corrections shall report to the chairs of the senate and house committees having jurisdiction over criminal justice policy on the number, geographic location, and aggregate and average caseloads for each caseload type of level II and level III sex offender residing in the state for the preceding calendar year. In addition, the commissioner shall provide this information for all other types of offenders. The commissioner shall compile and include in the report comparative historical data for the five calendar years preceding the year included in the report.

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:

(1) are released from a any federal correctional facility in Minnesota or from any state correctional facility of another state, and who intend to reside in Minnesota, and to offenders; or

(2) are accepted from another state under a reciprocal agreement for parole supervision under the interstate compact authorized by section 243.16 or 243.1605.

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 offenders entering the state, released from confinement, subject to community notification, or sentenced on or after that date.

Sec. 5. Minnesota Statutes 2002, section 244.052, is amended by adding a subdivision to read:

Subd. 3a. [OUT-OF-STATE OFFENDERS; NOTIFICATION AUTHORIZED.] (a) This subdivision applies to offenders who move or have moved to Minnesota from other states and who:

(1) at the time of the move are subject to a community notification statute similar to this section in the state from which the offender is moving; and

(2) are not assigned a risk level under subdivision 3, paragraph (k).

(b) The law enforcement agency in the area where an offender described in paragraph (a) resides, expects to reside, or is regularly found, may disclose information regarding the offender consistent with subdivision 4, paragraph (a). The extent of the notification must be consistent with the notification made about the offender in the state from which the offender is moving or has moved. However, 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 (c) have been met. Except as otherwise provided in this subdivision and unless clearly inapplicable, the provisions of subdivision 4 apply to notifications made under this paragraph.

(c) If the notification made concerning the offender in the state from which the offender is moving or has moved is broader than that authorized for a level II offender under subdivision 4, paragraph (b), and the agency wants to make a broader disclosure, the agency may request the end of confinement review committee at the nearest state correctional or treatment facility to assign a

risk level to the offender. The 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. In addition, the committee shall attempt to obtain other information relevant to determining which risk level to assign the offender. Except as provided in this subdivision and unless clearly inapplicable, the provisions of subdivision 3 govern the risk assessment under this paragraph. If the committee assigns the offender to risk level III, the agency may disclose information in a manner consistent with a level III offender under subdivision 4, paragraph (b).

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to offenders entering the state, released from confinement, subject to community notification, or sentenced 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 August 1, 2004, and applies to offenders entering the state, released from confinement, subject to community notification, or sentenced on or after that date.

Sec. 7. Minnesota Statutes 2002, section 244.10, subdivision 2a, is amended to read:

Subd. 2a. [NOTICE OF INFORMATION REGARDING PREDATORY OFFENDERS.] (a) Subject to paragraph (b), in any case in which a person is convicted of an offense and the presumptive sentence under the Sentencing Guidelines is commitment to the custody of the commissioner of corrections, if the court grants a dispositional departure and stays imposition or execution of sentence, the probation or court services officer who is assigned to supervise the offender shall provide in writing to the following the fact that the offender is on probation and the terms and conditions of probation:

(1) a victim of and any witnesses to the offense committed by the offender, if the victim or the witness has requested notice; and

(2) the chief law enforcement officer in the area where the offender resides or intends to reside.

The law enforcement officer, in consultation with the offender's probation officer, may provide all or part of this information to any of the following agencies or groups the offender is likely to encounter: public and private educational institutions, day care establishments, and establishments or organizations that primarily serve individuals likely to be victimized by the offender. The law enforcement officer, in consultation with the offender's probation officer, also may disclose the information to individuals the officer believes are likely to be victimized by the offender. The officer'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 Department of Human Services.

The probation officer is not required under this subdivision to provide any notice while the offender is placed or resides in a residential facility that is licensed under section 245A.02, subdivision 14, or 241.021, if the facility staff is trained in the supervision of sex offenders.

(b) Paragraph (a) applies only to offenders required to register under section 243.166, as a result of the conviction.

(c) The notice authorized by paragraph (a) shall be limited to data classified as public under section 13.84, subdivision 6, unless the offender provides informed consent to authorize the release of nonpublic data or unless a court order authorizes the release of nonpublic data.

(d) Nothing in this subdivision shall be interpreted to impose a duty on any person to use any information regarding an offender about whom notification is made under this subdivision.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to offenders entering the state, released from confinement, subject to community notification, or sentenced on or after that date.

Sec. 8. [609.3455] [USE OF POLYGRAPHS FOR SEX OFFENDERS ON PROBATION OR CONDITIONAL RELEASE.]

(a) A court may order as an intermediate sanction under section 609.135 and the commissioner of corrections may order as a condition of release under section 244.05, 609.108, or 609.109 that an offender under supervision for a sex offense submit to polygraphic examinations to ensure compliance with the terms of probation or conditions of release.

(b) The court or commissioner may order the offender to pay all or a portion of the costs of the examinations. The fee may be waived if the offender is indigent or if payment would result in an economic hardship to the offender's immediate family.

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

Sec. 9. [PROTOCOL ON USE OF POLYGRAPHS.]

By September 1, 2004, the chief justice of the Supreme Court, in consultation with the Conference of Chief Judges, is requested to develop a protocol for the use of polygraphic examinations for sex offenders placed on probation under Minnesota Statutes, section 609.3455. This protocol shall be distributed to judges across the state.

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

Sec. 10. [REVISOR 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.

Sec. 11. [REPEALER.]

Minnesota Statutes 2002, section 243.166, subdivisions 1 and 8, are repealed.

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

ARTICLE 17

SEX OFFENDERS:

TECHNICAL AND CONFORMING CHANGES

Section 1. Minnesota Statutes 2003 Supplement, section 14.03, subdivision 3, is amended to read:

Subd. 3. [RULEMAKING PROCEDURES.] (a) The definition of a rule in section 14.02, subdivision 4, does not include:

(1) rules concerning only the internal management of the agency or other agencies that do not directly affect the rights of or procedures available to the public;

(2) an application deadline on a form; and the remainder of a form and instructions for use of the form to the extent that they do not impose substantive requirements other than requirements contained in statute or rule;

(3) the curriculum adopted by an agency to implement a statute or rule permitting or mandating minimum educational requirements for persons regulated by an agency, provided the topic areas to be covered by the minimum educational requirements are specified in statute or rule;

(4) procedures for sharing data among government agencies, provided these procedures are consistent with chapter 13 and other law governing data practices.

(b) The definition of a rule in section 14.02, subdivision 4, does not include:

(1) rules of the commissioner of corrections relating to the release, placement, term, and supervision of inmates serving a supervised release or conditional release term, the internal management of institutions under the commissioner's control, and rules adopted under section 609.105 governing the inmates of those institutions;

(2) rules relating to weight limitations on the use of highways when the substance of the rules is indicated to the public by means of signs;

(3) opinions of the attorney general;

(4) the data element dictionary and the annual data acquisition calendar of the Department of Education to the extent provided by section 125B.07;

(5) the occupational safety and health standards provided in section 182.655;

(6) revenue notices and tax information bulletins of the commissioner of revenue;

(7) uniform conveyancing forms adopted by the commissioner of commerce under section 507.09; or

(8) the interpretive guidelines developed by the commissioner of human services to the extent provided in chapter 245A.

[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 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~~ section 609.342 to, 609.343, 609.344, 609.345, or 609.3453 or was sentenced under the provisions of section 609.108. 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.

[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~~ 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.

[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 244.052, 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 a mandatory life sentence under section 609.342, subdivision 2, paragraph (b); 609.343, subdivision 2, paragraph (b); 609.344, subdivision 2, paragraph (b); 609.345, subdivision 2, paragraph (b); or 609.3453, subdivision 2, paragraph (b), the commissioner of corrections shall convene the appropriate end-of-confinement review committee at least nine months before the offender's minimum term of imprisonment has been served. If the offender is received for confinement in a facility with less than nine months remaining before the

offender's minimum term of imprisonment has been served, the committee shall conform its procedures to those outlined in item (ii) to the extent practicable.

(iv) If the offender is granted supervised release, 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 a mandatory life sentence under section 609.342, subdivision 2, paragraph (b); 609.343, subdivision 2, paragraph (b); 609.344, subdivision 2, paragraph (b); 609.345, subdivision 2, paragraph (b); or 609.3453, subdivision 2, paragraph (b), who has not been granted supervised release, 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 a mandatory life sentence and has not yet served the entire minimum term of imprisonment, the committee shall give the report to the offender and to the commissioner at least six months before the offender is first eligible for release. 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.

(1) 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. 5. 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. 6. 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. 7. 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. 8. 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. 9. 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. 10. 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. 11. 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. 12. [REVISOR INSTRUCTION.]

(a) The revisor of statutes shall renumber Minnesota Statutes, section 609.3452, as Minnesota Statutes, section 609.3457, 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 609.3457. The revisor shall include a notation in Minnesota Statutes to inform readers of the statutes of the renumbering of section 609.3457.

(b) In addition to the specific changes described in paragraph (a), the revisor of statutes shall make other technical changes necessitated by this act.

ARTICLE 18

METHAMPHETAMINE PROVISIONS

Section 1. Minnesota Statutes 2002, section 82.197, subdivision 6, is amended to read:

Subd. 6. [MATERIAL FACTS.] (a) Licensees shall disclose to any prospective purchaser all material facts of which the licensees are aware, which could adversely and significantly affect an ordinary purchaser's use or enjoyment of the property, or any intended use of the property of which the licensees are aware.

(b) It is not a material fact relating to real property offered for sale and no regulatory action shall be brought against a licensee for failure to disclose in any real estate transaction the fact or suspicion that the property:

(1) is or was occupied by an owner or occupant who is or was suspected to be infected with human immunodeficiency virus or diagnosed with acquired immunodeficiency syndrome;

(2) was the site of a suicide, accidental death, natural death, or perceived paranormal activity;
or

(3) is located in a neighborhood containing any adult family home, community-based residential facility, or nursing home.

(c) A licensee or employee of the licensee has no duty to disclose information regarding an offender who is required to register under section 243.166, or about whom notification is made under that section, if the broker or salesperson, in a timely manner, provides a written notice that information about the predatory offender registry and persons registered with the registry may be obtained by contacting local law enforcement where the property is located or the Department of Corrections.

(d) A licensee is not required to disclose, except as otherwise provided in paragraph (e), information relating to the physical condition of the property or any other information relating to the real estate transaction, if a written report that discloses the information has been prepared by a qualified third party and provided to the person. For the purposes of this paragraph, "qualified third party" means a federal, state, or local governmental agency, or any person whom the broker, salesperson, or a party to the real estate transaction reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation that has been conducted by the third party in order to prepare the written report and who is acceptable to the person to whom the disclosure is being made.

(e) A licensee shall disclose to the parties to a real estate transaction any facts known by the broker or salesperson that contradict any information included in a written report, if a copy of the report is provided to the licensee, described in paragraph (d).

(f) For property that was ever subject to an order under section 152.0275, subdivision 2, paragraph (c), unless the order has been vacated under section 152.0275, subdivision 2, paragraph (e), a licensee shall disclose to the parties to a real estate transaction the fact that the property was 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. It is the duty of the licensee to ascertain whether the property was subject to such an order.

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

Sec. 2. [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 July 1, 2004.

Sec. 3. [152.016] [SURCHARGE ON VIOLATIONS OF THIS CHAPTER.]

Subdivision 1. [WHEN REQUIRED.] (a) When a court sentences a person convicted of an offense under this chapter, it shall impose a surcharge of \$50. This section applies when the sentence is executed, stayed, or suspended. The court may not waive payment or authorize payment of the surcharge in installments unless it makes written findings on the record that the convicted person is indigent or that the surcharge would create undue hardship for the convicted person or that person's immediate family.

(b) The surcharge required under this section is in addition to the surcharge required by section 357.021, subdivision 6 (surcharges on criminal and traffic offenders).

Subd. 2. [DISTRIBUTION OF MONEY.] The county shall collect and forward the surcharge to the commissioner of finance within 60 days after sentencing or explain to the commissioner in writing why the money was not forwarded within this time period. The commissioner shall credit the money to the methamphetamine awareness and educational account under section 152.185.

[EFFECTIVE DATE.] This section is effective July 1, 2004, and applies to crimes committed on or after that date.

Sec. 4. 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 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. 5. 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. 6. [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 the manufacturing of methamphetamine;

(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 that participated in the response. The restitution ordered must cover the reasonable costs of their participation in the response.

(c) In addition to the restitution required in paragraph (b), a court shall require a person convicted of manufacturing or attempting to manufacture a controlled substance or of illegal activity involving a precursor substance to pay restitution to a property owner who incurred removal or remediation costs because of the crime.

(d) Notwithstanding paragraphs (b) and (c), 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; WEB SITE.] (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 county 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 to the applicable authority that issued the order under paragraph (c) 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.

(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).

(g) The commissioner of health shall create and maintain an Internet Web site and post on the Web site contact information for each local community health services administrator.

(h) Each local community health services administrator shall maintain information related to property within the administrator's jurisdiction that is currently or was previously subject to an order issued under paragraph (c). The information maintained must include the location of the property, the extent of the contamination, the status of the removal and remediation work on the property, and whether the order has been vacated. The administrator shall make this information available to the public either upon request or by other means.

[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 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. 8. [152.136] [SALES OF METHAMPHETAMINE PRECURSOR DRUGS; CRIMINAL PENALTIES; REPORTING.]

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

(b) "Methamphetamine precursor drug" includes single-source methamphetamine precursor drugs and non-single-source methamphetamine precursor drugs.

(c) "Non-single-source methamphetamine precursor drug" means a combination drug or product containing as one of its active ingredients ephedrine or pseudoephedrine. However, the term does not include a single-source methamphetamine precursor drug.

(d) "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.

(e) "Single-source methamphetamine precursor drug" means a drug or product containing as its sole active ingredient ephedrine or pseudoephedrine.

(f) "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 of a methamphetamine precursor drug or a combination of methamphetamine precursor drugs or any combination of packages exceeding a total weight of nine grams.

(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 or 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.

(c) A business establishment that offers for sale single-source methamphetamine precursor drugs in an over-the-counter sale shall do one of the following:

(1) ensure that all packages of the drugs are displayed and offered for sale only:

(i) behind a checkout counter where the public is not permitted;

(ii) inside a locked display case; or

(iii) within ten feet of an unobstructed view of an attended checkout counter;

(2) utilize an electronic antitheft system having a product tag and detection alarm designed to specifically prevent the theft of the drugs from the business establishment; or

(3) prohibit sales of the drugs to persons under the age of 18 years.

It is an affirmative defense to a charge under clause (3) if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6.

Subd. 3. [CRIMINAL PENALTY.] A person who knowingly violates subdivision 2 is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days, or to payment of a fine of not more than \$1,000, or both.

Subd. 4. [EXCEPTION TO CRIMINAL PENALTY.] (a) An owner, operator, supervisor, or manager of a business establishment that offers for sale methamphetamine precursor drugs whose employee or agent is convicted of or charged with violating this section is not subject to the criminal penalties for violating this section if the person:

(1) did not have prior knowledge of, participate in, or direct the employee or agent to commit the violation; and

(2) documents that an employee training program was in place to provide the employee or agent with information on the state and federal regulations regarding methamphetamine precursor drugs.

(b) Subdivisions 2 and 3 do not apply to a methamphetamine precursor drug that is manufactured in a manner that prevents the drug from being used to manufacture methamphetamine.

Subd. 5. [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. 6. [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. 7. [EFFECT ON LOCAL ORDINANCES.] This section preempts all local ordinances or regulations governing the sale by a retail distributor of over-the-counter products containing ephedrine or pseudoephedrine. Any existing local ordinance or regulation is void.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 9. [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. 10. [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 609.232, subdivision 11.

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. [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. 6. [REPORTING MALTREATMENT OF VULNERABLE ADULT.] (a) A peace officer shall make a report of suspected maltreatment of a vulnerable adult if the 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, and the peace officer has reason to believe the vulnerable adult inhaled, was exposed to, had contact with, or ingested methamphetamine, a chemical substance, or methamphetamine paraphernalia. The peace officer shall immediately report to the county common entry point as described in section 626.557, subdivision 9b.

(b) As required in section 626.557, subdivision 9b, law enforcement is the primary agency to conduct investigations of any incident when there is reason to believe a crime has been committed. Law enforcement shall initiate a response immediately. If the common entry point notified a county agency for adult protective services, law enforcement shall cooperate with that county agency when both agencies are involved and shall exchange data to the extent authorized in section 626.557, subdivision 12b, paragraph (g). County adult protection shall initiate a response immediately.

(c) The county social services agency shall immediately respond as required in section 626.557, subdivision 10, upon receipt of a report from the common entry point staff.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 11. [152.185] [METHAMPHETAMINE AWARENESS AND EDUCATIONAL ACCOUNT; MINNESOTA METH WATCH.]

Subdivision 1. [ACCOUNT ESTABLISHED; EDUCATIONAL PROGRAM.] The methamphetamine awareness and educational account is a special revenue account in the state treasury. Money in the account is appropriated to the commissioner of public safety to 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, including an educational initiative entitled "Minnesota meth watch" addressing methamphetamine, its use and manufacture, and the impact of methamphetamine-related activities on children, the environment, and the state's quality of life.

Subd. 2. [CONTRIBUTIONS.] The state may accept contributions, gifts, grants, and bequests for deposit into the fund.

Subd. 3. [LIMIT.] The commissioner of finance may not credit more than \$40,000 per year to this account from the surcharge established in section 152.016. Any money collected from that surcharge in excess of \$40,000 must be credited to the general fund.

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

Sec. 12. 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. 13. [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;

(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 (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 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.

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

Sec. 14. 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 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. 15. [REQUESTED LEGISLATIVE AUDITOR'S REPORT; DRUG TREATMENT.]

(a) The Legislative Audit Commission is requested to direct the legislative auditor to study and issue a report on the efficacy of controlled substance treatment programs for criminal offenders in Minnesota. The report must include programs offered in state and local correctional facilities and community-based programs. The auditor shall study the programs offered for each type of controlled substance addiction. The report must compare the costs of the programs and their success rates. To the degree feasible, the auditor shall investigate treatment programs offered in other states for controlled substance offenders and compare the breadth and comprehensiveness of the treatment options available in Minnesota, their costs, and their success rates to those in other states.

(b) If the Legislative Audit Commission directs the legislative auditor to conduct the study described in paragraph (a), the auditor shall report its findings to the legislature by February 1, 2005.

Sec. 16. [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, and applies to crimes committed on or after that date.

ARTICLE 19

MISCELLANEOUS CRIMINAL PROVISIONS

Section 1. [169A.093] [DETERMINATION OF PRIOR IMPAIRED DRIVING-RELATED LOSS OF LICENSE LOOK-BACK PERIOD.]

When determining whether a prior impaired driving-related loss of license is considered an aggravating factor or a predicate for a first-degree driving while impaired crime, the ten-year look-back period begins with the date of the license or privilege suspension, revocation, cancellation, denial, or disqualification.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2002, section 169A.095, is amended to read:

169A.095 [DETERMINING NUMBER OF AGGRAVATING FACTORS.]

(a) When determining the number of aggravating factors present for purposes of this chapter, subject to section 169A.09 (sanctions for prior behavior to be based on separate courses of conduct), each qualified prior impaired driving incident within the ten years immediately preceding the current offense is counted as a separate aggravating factor.

(b) No more than one aggravating factor may be counted for having a child under the age of 16 in the motor vehicle at the time of the offense regardless of the number of children in the vehicle.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to crimes committed on or after that date.

Sec. 3. 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 in such a way that no identifying information 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 it 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 the day following final enactment and applies to crimes committed on or after that date.

Sec. 4. 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. 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. 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 (c).~~ 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, and applies to crimes committed on or after that date.

Sec. 7. 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. 8. 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. 9. Minnesota Statutes 2002, section 299A.38, subdivision 3, is amended to read:

Subd. 3. [ELIGIBILITY REQUIREMENTS.] (a) Only vests that either meet or exceed the requirements of standard 0101.03 of the National Institute of Justice or that meet or exceed the requirements of that standard, except wet armor conditioning, are eligible for reimbursement.

(b) Eligibility for reimbursement is limited to vests bought after December 31, 1986, by or for peace officers (1) who did not own a vest meeting the requirements of paragraph (a) before the purchase, or (2) who owned a vest that was at least six five years old.

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

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 609.505, is amended to read:

609.505 [FALSELY REPORTING CRIME; PROVIDING FALSE INFORMATION.]

Subdivision 1. [FALSE REPORTING.] Whoever informs a law enforcement officer that a crime has been committed, 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. [FALSE INFORMATION.] (a) Except as provided in subdivision 1 and unless a more severe penalty is imposed elsewhere in law, whoever provides false information about another person to a law enforcement officer knowing that it is false, intending that the officer shall act in reliance upon it, and intending to obstruct justice, is guilty of a gross misdemeanor. A person who is convicted a second or subsequent time under this section 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.

(b) Paragraph (a) does not apply to a report of police misconduct.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2003 Supplement, section 609.527, subdivision 3, is amended to read:

Subd. 3. [PENALTIES.] A person who violates subdivision 2 may be sentenced as follows:

(1) if the offense involves a single direct victim and the total, combined loss to the direct victim and any indirect victims is \$250 or less, the person may be sentenced as provided in section 609.52, subdivision 3, clause (5);

(2) if the offense involves a single direct victim and the total, combined loss to the direct victim and any indirect victims is more than \$250 but not more than \$500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (4);

(3) if the offense involves two or three direct victims or the total, combined loss to the direct and indirect victims is more than \$500 but not more than \$2,500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (3);

(4) if the offense involves more than three but not more than seven direct victims, or if the total combined loss to the direct and indirect victims is more than \$2,500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (2); and

(5) if the offense involves eight or more direct victims; or if the total, combined loss to the direct and indirect victims is more than \$35,000; or if the offense is related to possession or distribution of pornographic work in violation of section 617.246 or 617.247; the person may be sentenced as provided in section 609.52, subdivision 3, clause (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 609.527, subdivision 4, is amended to read:

Subd. 4. [RESTITUTION; ITEMS PROVIDED TO VICTIM.] (a) A direct or indirect victim of an identity theft crime shall be considered a victim for all purposes, including any rights that accrue under chapter 611A and rights to court-ordered restitution.

(b) The court shall order a person convicted of violating this section to pay restitution of not less than \$1,000 to each direct victim of the offense.

(c) Upon request of a direct victim or the prosecutor, the court shall provide to the victim, without cost, a certified copy of the complaint filed in the matter, the judgment of conviction, and an order setting forth the facts and circumstances of the offense.

[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, 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 firearms 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. 17. Minnesota Statutes 2002, section 609.5315, is amended by adding a subdivision to read:

Subd. 5b. **[DISPOSITION OF CERTAIN FORFEITED PROCEEDS; PROSTITUTION, TRAFFICKING OFFENSES.]** 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 must be forwarded to the commissioner of public safety and are appropriated to the commissioner for distribution to crime victims services organizations that provide services to victims of prostitution or sex trafficking offenses.

[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 609.5315, is amended by adding a subdivision to read:

Subd. 6a. **[REPORT.]** By February 15 of each year, the commissioner of public safety shall report to the chairs and ranking minority members of the senate and house committees or divisions having jurisdiction over criminal justice funding on the money collected under subdivision 5b, clause (3). The report must indicate the following relating to the preceding calendar year:

(1) the amount of money forwarded to the department;

(2) how the money was distributed by the department; and

(3) what the organizations that received the money did with it.

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

Sec. 19. 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~~ one year 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 of another without the consent of the owner or lawful possessor, unless the person is a business licensee.

[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 609.605, subdivision 4, is amended to read:

Subd. 4. [TRESPASSES ON SCHOOL PROPERTY.] (a) It is a misdemeanor for a person to

enter or be found in a public or nonpublic elementary, middle, or secondary school building unless the person:

(1) is an enrolled student in, a parent or guardian of an enrolled student in, or an employee of the school or school district;

(2) has permission or an invitation from a school official to be in the building;

(3) is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; or

(4) has reported the person's presence in the school building in the manner required for visitors to the school.

(b) It is a misdemeanor for a person to be on the roof of a public or nonpublic elementary, middle, or secondary school building unless the person has permission from a school official to be on the roof of the building.

(c) It is a gross misdemeanor for a group of three or more persons to enter or be found in a public or nonpublic elementary, middle, or secondary school building unless one of the persons:

(1) is an enrolled student in, a parent or guardian of an enrolled student in, or an employee of the school or school district;

(2) has permission or an invitation from a school official to be in the building;

(3) is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; or

(4) has reported the person's presence in the school building in the manner required for visitors to the school.

~~(e)~~ (d) It is a misdemeanor for a person to enter or be found on school property within ~~six months~~ one year after being told by the school principal or the principal's designee to leave the property and not to return, unless the principal or the principal's designee has given the person permission to return to the property. As used in this paragraph, "school property" has the meaning given in section 152.01, subdivision 14a, clauses (1) and (3).

~~(d)~~ (e) A school principal or a school employee designated by the school principal to maintain order on school property, who has reasonable cause to believe that a person is violating this subdivision may detain the person in a reasonable manner for a reasonable period of time pending the arrival of a peace officer. A school principal or designated school employee is not civilly or criminally liable for any action authorized under this paragraph if the person's action is based on reasonable cause.

~~(e)~~ (f) A peace officer may arrest a person without a warrant if the officer has probable cause to believe the person violated this subdivision within the preceding four hours. The arrest may be made even though the violation did not occur in the peace officer's presence.

[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 609.746, 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. 22. [609.896] [CRIMINAL USE OF REAL PROPERTY.]

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

(a) "Audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part of a motion picture by means of any technology now known or later developed.

(b) "Convicted" includes a conviction for a similar offense under the law of another state or the federal government.

(c) "Motion picture theater" means a movie theater, screening room, or other venue when used primarily for the exhibition of a motion picture.

Subd. 2. [CRIME.] (a) Any person in a motion picture theater while a motion picture is being exhibited who knowingly operates an audiovisual recording function of a device without the consent of the owner or lessee of the motion picture theater is guilty of criminal use of real property.

(b) If a person is convicted of a first offense, it is a misdemeanor.

(c) If a person is convicted of a second offense, it is a gross misdemeanor.

(d) If a person is convicted of a third or subsequent offense, it is a felony and the person 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.

Subd. 3. [DETAINING SUSPECTS.] An owner or lessee of a motion picture theater is a merchant for purposes of section 629.366.

Subd. 4. [EXCEPTION.] This section does not prevent any lawfully authorized investigative, law enforcement protective, or intelligence gathering employee or agent of the state or federal government from operating any audiovisual recording device in a motion picture theater where a motion picture is being exhibited, as part of lawfully authorized investigative, law enforcement protective, or intelligence gathering activities.

Subd. 5. [NOT PRECLUDE ALTERNATIVE PROSECUTION.] Nothing in this section prevents prosecution under any other provision of law.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 23. 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. 24. 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 (e).~~ 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.

~~(e) Upon appointment of the public defender, an individual who receives public defender services shall be obligated to pay to the court a co-payment for representation provided by a public defender. 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.~~

~~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. 25. 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. 26. 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 to 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, and applies to crimes committed on or after that date.

Sec. 27. [REQUESTED LEGISLATIVE AUDITOR'S REPORT; COMMUNITY SUPERVISION FOR CRIMINAL OFFENDERS.]

(a) The Legislative Audit Commission is requested to direct the legislative auditor to study and issue a report on the correctional supervision of criminal sex offenders who are on probation, supervised release, or conditional release. To the degree feasible, the report must analyze current and historical supervisor-to-offender caseload ratios, the conditions imposed on offenders, and the effectiveness of the supervision provided. If the evaluation is authorized by the commission, the legislative auditor shall have access to all data, regardless of classification, the legislative auditor determines is necessary to conduct the evaluation.

(b) If the Legislative Audit Commission directs the legislative auditor to conduct the study described in paragraph (a), the auditor shall report its findings to the legislature by February 1, 2005.

Sec. 28. [TEMPORARY EXCEPTION RELATED TO BULLET-RESISTANT VEST REIMBURSEMENTS.]

Notwithstanding Minnesota Statutes, section 299A.38, subdivision 3, paragraph (b), a peace officer who meets the other requirements of Minnesota Statutes, section 299A.38, is eligible for the reimbursements described in Minnesota Statutes, section 299A.38, subdivision 2, if the officer previously purchased a vest made of zylon-based materials that the commissioner of public safety determines is not as effective as other vests. To be eligible for reimbursement under this section, the officer shall apply to the commissioner of public safety for reimbursement in a manner indicated by the commissioner by June 30, 2004.

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

Sec. 29. [REPEALER.]

Minnesota Statutes 2003 Supplement, section 611.18, is repealed.

[EFFECTIVE DATE.] This section is effective July 1, 2004, and applies to crimes committed on or after that date.

ARTICLE 20

HEALTH CARE COST CONTAINMENT

Section 1. Minnesota Statutes 2002, section 62A.65, subdivision 3, is amended to read:

Subd. 3. [PREMIUM RATE RESTRICTIONS.] No individual health plan may be offered, sold, issued, or renewed to a Minnesota resident unless the premium rate charged is determined in accordance with the following requirements:

(a) Premium rates must be no more than 25 percent above and no more than 25 percent below the index rate charged to individuals for the same or similar coverage, adjusted pro rata for rating periods of less than one year. The premium variations permitted by this paragraph must be based

only upon health status, claims experience, and occupation. For purposes of this paragraph, health status includes refraining from tobacco use or other actuarially valid lifestyle factors associated with good health, provided that the lifestyle factor and its effect upon premium rates have been determined by the commissioner to be actuarially valid and have been approved by the commissioner. Variations permitted under this paragraph must not be based upon age or applied differently at different ages. This paragraph does not prohibit use of a constant percentage adjustment for factors permitted to be used under this paragraph.

(b) Premium rates may vary based upon the ages of covered persons only as provided in this paragraph. In addition to the variation permitted under paragraph (a), each health carrier may use an additional premium variation based upon age of up to plus or minus 50 percent of the index rate.

(c) A health carrier may request approval by the commissioner to establish no more than three geographic regions and to establish separate index rates for each region, provided that the index rates do not vary between any two regions by more than 20 percent. Health carriers that do not do business in the Minneapolis/St. Paul metropolitan area may request approval for no more than two geographic regions, and clauses (2) and (3) do not apply to approval of requests made by those health carriers. The commissioner may grant approval if the following conditions are met:

- (1) the geographic regions must be applied uniformly by the health carrier;
- (2) one geographic region must be based on the Minneapolis/St. Paul metropolitan area;
- (3) for each geographic region that is rural, the index rate for that region must not exceed the index rate for the Minneapolis/St. Paul metropolitan area; and
- (4) the health carrier provides actuarial justification acceptable to the commissioner for the proposed geographic variations in index rates, establishing that the variations are based upon differences in the cost to the health carrier of providing coverage.

(d) Health carriers may use rate cells and must file with the commissioner the rate cells they use. Rate cells must be based upon the number of adults or children covered under the policy and may reflect the availability of Medicare coverage. The rates for different rate cells must not in any way reflect generalized differences in expected costs between principal insureds and their spouses.

(e) In developing its index rates and premiums for a health plan, a health carrier shall take into account only the following factors:

- (1) actuarially valid differences in rating factors permitted under paragraphs (a) and (b); and
- (2) actuarially valid geographic variations if approved by the commissioner as provided in paragraph (c).

(f) All premium variations must be justified in initial rate filings and upon request of the commissioner in rate revision filings. All rate variations are subject to approval by the commissioner.

(g) The loss ratio must comply with the section 62A.021 requirements for individual health plans.

(h) Notwithstanding paragraphs (a) to (g), the rates must not be approved, unless the commissioner has determined that the rates are reasonable. In determining reasonableness, the commissioner shall consider the growth rates applied under section 62J.04, subdivision 1, paragraph (b) apply the premium growth limits established under section 62J.04, subdivision 1b, to the calendar year or years that the proposed premium rate would be in effect, and shall consider actuarially valid changes in risks associated with the enrollee populations; and actuarially valid changes as a result of statutory changes in Laws 1992, chapter 549.

Sec. 2. Minnesota Statutes 2002, section 62J.04, is amended by adding a subdivision to read:

Subd. 1b. [PREMIUM GROWTH LIMITS.] (a) For calendar year 2005 and each year thereafter, the commissioner shall set annual premium growth limits for health plan companies. The premium limits set by the commissioner for calendar years 2005 to 2010 shall not exceed the regional Consumer Price Index for urban consumers for the preceding calendar year plus two percentage points and an additional one percentage point to be used to finance the implementation of the electronic medical record system described under section 62J.565. The commissioner shall ensure that the additional percentage point is being used to provide financial assistance to health care providers to implement electronic medical record systems either directly or through an increase in reimbursement.

(b) For the calendar years beyond 2010, the rate of premium growth shall be limited to the change in the Consumer Price Index for urban consumers for the previous calendar year plus two percentage points. The commissioners of health and commerce shall make a recommendation to the legislature by January 15, 2009, regarding the continuation of the additional percentage point to the growth limit described in paragraph (a). The recommendation shall be based on the progress made by health care providers in instituting an electronic medical record system and in creating a statewide interactive electronic health record system.

(c) The commissioner may add additional percentage points as needed to the premium limit for a calendar year if a major disaster, bioterrorism, or a public health emergency occurs that results in higher health care costs. Any additional percentage points must reflect the additional cost to the health care system directly attributed to the disaster or emergency.

(d) The commissioner shall publish the annual premium growth limits in the State Register by January 31 of the year that the limits are to be in effect.

(e) For the purpose of this subdivision, premium growth is measured as the percentage change in per member, per month premium revenue from the current year to the previous year. Premium growth rates shall be calculated for the following lines of business: individual, small group, and large group. Data used for premium growth rate calculations shall be submitted as part of the cost containment filing under section 62J.38.

(f) For purposes of this subdivision, "health plan company" has the meaning given in section 62J.041.

(g) For coverage that is provided by a health plan company under the terms of a contract with the Department of Employee Relations, the commissioner shall direct the contracting health plan companies to reduce reimbursement to providers in order to meet the premium growth limitations required by this section.

Sec. 3. Minnesota Statutes 2003 Supplement, section 62J.04, subdivision 3, is amended to read:

Subd. 3. [COST CONTAINMENT DUTIES.] The commissioner shall:

(1) establish statewide and regional cost containment goals for total health care spending under this section and collect data as described in sections 62J.38 to 62J.41 to monitor statewide achievement of the cost containment goals and premium growth limits;

(2) divide the state into no fewer than four regions, with one of those regions being the Minneapolis/St. Paul metropolitan statistical area but excluding Chisago, Isanti, Wright, and Sherburne Counties, for purposes of fostering the development of regional health planning and coordination of health care delivery among regional health care systems and working to achieve the cost containment goals;

(3) monitor the quality of health care throughout the state and take action as necessary to ensure an appropriate level of quality;

(4) issue recommendations regarding uniform billing forms, uniform electronic billing procedures and data interchanges, patient identification cards, and other uniform claims and administrative procedures for health care providers and private and public sector payers. In developing the recommendations, the commissioner shall review the work of the work group on

electronic data interchange (WEDI) and the American National Standards Institute (ANSI) at the national level, and the work being done at the state and local level. The commissioner may adopt rules requiring the use of the Uniform Bill 82/92 form, the National Council of Prescription Drug Providers (NCPDP) 3.2 electronic version, the Centers for Medicare and Medicaid Services 1500 form, or other standardized forms or procedures;

(5) undertake health planning responsibilities;

(6) authorize, fund, or promote research and experimentation on new technologies and health care procedures;

(7) within the limits of appropriations for these purposes, administer or contract for statewide consumer education and wellness programs that will improve the health of Minnesotans and increase individual responsibility relating to personal health and the delivery of health care services, undertake prevention programs including initiatives to improve birth outcomes, expand childhood immunization efforts, and provide start-up grants for worksite wellness programs;

(8) undertake other activities to monitor and oversee the delivery of health care services in Minnesota with the goal of improving affordability, quality, and accessibility of health care for all Minnesotans; and

(9) make the cost containment goal and premium growth limit data available to the public in a consumer-oriented manner.

Sec. 4. Minnesota Statutes 2002, section 62J.041, is amended to read:

62J.041 ~~[INTERIM HEALTH PLAN COMPANY COST CONTAINMENT GOALS HEALTH CARE EXPENDITURE LIMITS.]~~

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

(b) "Health plan company" has the definition provided in section 62Q.01 and also includes employee health plans offered by self-insured employers.

(c) "Total Health care expenditures" means incurred claims or expenditures on health care services, ~~administrative expenses, charitable contributions, and all other payments~~ made by health plan companies ~~out of premium revenues.~~

(d) ~~"Net expenditures" means total expenditures minus exempted taxes and assessments and payments or allocations made to establish or maintain reserves.~~

(e) ~~"Exempted taxes and assessments" means direct payments for taxes to government agencies, contributions to the Minnesota Comprehensive Health Association, the medical assistance provider's surcharge under section 256.9657, the MinnesotaCare provider tax under section 295.52, assessments by the Health Coverage Reinsurance Association, assessments by the Minnesota Life and Health Insurance Guaranty Association, assessments by the Minnesota Risk Adjustment Association, and any new assessments imposed by federal or state law.~~

(f) "Consumer cost-sharing or subscriber liability" means enrollee coinsurance, co-payment, deductible payments, and amounts in excess of benefit plan maximums.

Subd. 2. ~~[ESTABLISHMENT.]~~ The commissioner of health shall establish ~~cost containment goals health care expenditure limits for the increase in net calendar year 2005, and each year thereafter, for health care expenditures by each health plan company for calendar years 1994, 1995, 1996, and 1997. The cost containment goals must be the same as the annual cost containment goals for health care spending established under section 62J.04, subdivision 1, paragraph (b).~~ Health plan companies that are affiliates may elect to meet one combined ~~cost containment goal health care expenditure limit.~~ The limits set by the commissioner shall not exceed the premium limits established in section 62J.04, subdivision 1b.

Subd. 3. [DETERMINATION OF EXPENDITURES.] Health plan companies shall submit to the commissioner of health, by April 1, 1994, for calendar year 1993; April 1, 1995, for calendar year 1994; April 1, 1996, for calendar year 1995; April 1, 1997, for calendar year 1996; and April 1, 1998, for calendar year 1997 of each year beginning in 2005, all information the commissioner determines to be necessary to implement this section. The information must be submitted in the form specified by the commissioner. The information must include, but is not limited to, health care expenditures per member per month or cost per employee per month, and detailed information on revenues and reserves. The commissioner, to the extent possible, shall coordinate the submittal of the information required under this section with the submittal of the financial data required under chapter 62J, to minimize the administrative burden on health plan companies. The commissioner may adjust final expenditure figures for demographic changes, risk selection, changes in basic benefits, and legislative initiatives that materially change health care costs, as long as these adjustments are consistent with the methodology submitted by the health plan company to the commissioner, and approved by the commissioner as actuarially justified. The methodology to be used for adjustments and the election to meet one cost containment goal for affiliated health plan companies must be submitted to the commissioner by September 1, 1994. Community integrated service networks may submit the information with their application for licensure. The commissioner shall also accept changes to methodologies already submitted. The adjustment methodology submitted and approved by the commissioner must apply to the data submitted for calendar years 1994 and 1995. The commissioner may allow changes to accepted adjustment methodologies for data submitted for calendar years 1996 and 1997. Changes to the adjustment methodology must be received by September 1, 1996, and must be approved by the commissioner.

Subd. 4. [MONITORING OF RESERVES.] (a) The commissioners of health and commerce shall monitor health plan company reserves and net worth as established under chapters 60A, 62C, 62D, 62H, and 64B, with respect to the health plan companies that each commissioner respectively regulates to assess the degree to which savings resulting from the establishment of cost containment goals are passed on to consumers in the form of lower premium rates.

(b) Health plan companies shall fully reflect in the premium rates the savings generated by the cost containment goals. No premium rate, currently reviewed by the Department of Health or Commerce, may be approved for those health plan companies unless the health plan company establishes to the satisfaction of the commissioner of commerce or the commissioner of health, as appropriate, that the proposed new rate would comply with this paragraph.

(c) Health plan companies, except those licensed under chapter 60A to sell accident and sickness insurance under chapter 62A, shall annually before the end of the fourth fiscal quarter provide to the commissioner of health or commerce, as applicable, a projection of the level of reserves the company expects to attain during each quarter of the following fiscal year. These health plan companies shall submit with required quarterly financial statements a calculation of the actual reserve level attained by the company at the end of each quarter including identification of the sources of any significant changes in the reserve level and an updated projection of the level of reserves the health plan company expects to attain by the end of the fiscal year. In cases where the health plan company has been given a certificate to operate a new health maintenance organization under chapter 62D, or been licensed as a community integrated service network under chapter 62N, or formed an affiliation with one of these organizations, the health plan company shall also submit with its quarterly financial statement, total enrollment at the beginning and end of the quarter and enrollment changes within each service area of the new organization. The reserve calculations shall be maintained by the commissioners as trade secret information, except to the extent that such information is also required to be filed by another provision of state law and is not treated as trade secret information under such other provisions.

(d) Health plan companies in paragraph (c) whose reserves are less than the required minimum or more than the required maximum at the end of the fiscal year shall submit a plan of corrective action to the commissioner of health or commerce under subdivision 7.

(e) The commissioner of commerce, in consultation with the commissioner of health, shall report to the legislature no later than January 15, 1995, as to whether the concept of a reserve

corridor or other mechanism for purposes of monitoring reserves is adaptable for use with indemnity health insurers that do business in multiple states and that must comply with their domiciliary state's reserves requirements.

Subd. 5. [NOTICE.] The commissioner of health shall publish in the State Register and make available to the public by July 1, 1995 2006, and each year thereafter, a list of all health plan companies that exceeded their ~~cost containment goal~~ health care expenditure limit for the 1994 ~~previous~~ calendar year. ~~The commissioner shall publish in the State Register and make available to the public by July 1, 1996, a list of all health plan companies that exceeded their combined cost containment goal for calendar years 1994 and 1995.~~ The commissioner shall notify each health plan company that the commissioner has determined that the health plan company exceeded its ~~cost containment goal, health care expenditure limit~~ at least 30 days before publishing the list, and shall provide each health plan company with ten days to provide an explanation for exceeding the ~~cost containment goal health care expenditure limit~~. The commissioner shall review the explanation and may change a determination if the commissioner determines the explanation to be valid.

Subd. 6. [ASSISTANCE BY THE COMMISSIONER OF COMMERCE.] The commissioner of commerce shall provide assistance to the commissioner of health in monitoring health plan companies regulated by the commissioner of commerce.

Sec. 5. [62J.255] [HEALTH RISK INFORMATION SHEET.]

(a) A health plan company shall provide to each enrollee on an annual basis information on the increased personal health risks and the additional costs to the health care system due to obesity and to the use of tobacco.

(b) The commissioner, in consultation with the Minnesota Medical Association, shall develop an information sheet on the personal health risks of obesity and smoking and on the additional costs to the health care system due to obesity and smoking. The information sheet shall be posted on the Minnesota Department of Health's Web site.

(c) When providing the information required in paragraph (a), the health plan company must also provide each enrollee with information on the best practices care guidelines and quality of care measurement identified in section 62J.43 as well as the availability of this information on the department's Web site.

Sec. 6. Minnesota Statutes 2002, section 62J.301, subdivision 3, is amended to read:

Subd. 3. [GENERAL DUTIES.] The commissioner shall:

(1) collect and maintain data which enable population-based monitoring and trending of the access, utilization, quality, and cost of health care services within Minnesota;

(2) collect and maintain data for the purpose of estimating total Minnesota health care expenditures and trends;

(3) collect and maintain data for the purposes of setting cost containment goals and premium growth limits under section 62J.04, and measuring cost containment goal and premium growth limit compliance;

(4) conduct applied research using existing and new data and promote applications based on existing research;

(5) develop and implement data collection procedures to ensure a high level of cooperation from health care providers and health plan companies, as defined in section 62Q.01, subdivision 4;

(6) work closely with health plan companies and health care providers to promote improvements in health care efficiency and effectiveness; and

(7) participate as a partner or sponsor of private sector initiatives that promote publicly disseminated applied research on health care delivery, outcomes, costs, quality, and management.

Sec. 7. Minnesota Statutes 2002, section 62J.38, is amended to read:

62J.38 [COST CONTAINMENT DATA FROM GROUP PURCHASERS.]

(a) The commissioner shall require group purchasers to submit detailed data on total health care spending for each calendar year. Group purchasers shall submit data for the 1993 calendar year by April 1, 1994, and each April 1 thereafter shall submit data for the preceding calendar year.

(b) The commissioner shall require each group purchaser to submit data on revenue, expenses, and member months, as applicable. Revenue data must distinguish between premium revenue and revenue from other sources and must also include information on the amount of revenue in reserves and changes in reserves. Premium revenue data, information on aggregate enrollment, and data on member months must be broken down to distinguish between individual market, small group market, and large group market. Filings under this section for calendar year 2005 must also include information broken down by individual market, small group market, and large group market for calendar year 2004. Expenditure data must distinguish between costs incurred for patient care and administrative costs. Patient care and administrative costs must include only expenses incurred on behalf of health plan members and must not include the cost of providing health care services for nonmembers at facilities owned by the group purchaser or affiliate. Expenditure data must be provided separately for the following categories and for other categories required by the commissioner: physician services, dental services, other professional services, inpatient hospital services, outpatient hospital services, emergency, pharmacy services and other nondurable medical goods, mental health, and chemical dependency services, other expenditures, subscriber liability, and administrative costs. Administrative costs must include costs for marketing; advertising; overhead; salaries and benefits of central office staff who do not provide direct patient care; underwriting; lobbying; claims processing; provider contracting and credentialing; detection and prevention of payment for fraudulent or unjustified requests for reimbursement or services; clinical quality assurance and other types of medical care quality improvement efforts; concurrent or prospective utilization review as defined in section 62M.02; costs incurred to acquire a hospital, clinic, or health care facility, or the assets thereof; capital costs incurred on behalf of a hospital or clinic; lease payments; or any other costs incurred pursuant to a partnership, joint venture, integration, or affiliation agreement with a hospital, clinic, or other health care provider. Capital costs and costs incurred must be recorded according to standard accounting principles. The reports of this data must also separately identify expenses for local, state, and federal taxes, fees, and assessments. The commissioner may require each group purchaser to submit any other data, including data in unaggregated form, for the purposes of developing spending estimates, setting spending limits, and monitoring actual spending and costs. In addition to reporting administrative costs incurred to acquire a hospital, clinic, or health care facility, or the assets thereof; or any other costs incurred pursuant to a partnership, joint venture, integration, or affiliation agreement with a hospital, clinic, or other health care provider; reports submitted under this section also must include the payments made during the calendar year for these purposes. The commissioner shall make public, by group purchaser data collected under this paragraph in accordance with section 62J.321, subdivision 5. Workers' compensation insurance plans and automobile insurance plans are exempt from complying with this paragraph as it relates to the submission of administrative costs.

(c) The commissioner may collect information on:

(1) premiums, benefit levels, managed care procedures, and other features of health plan companies;

(2) prices, provider experience, and other information for services less commonly covered by insurance or for which patients commonly face significant out-of-pocket expenses; and

(3) information on health care services not provided through health plan companies, including information on prices, costs, expenditures, and utilization.

(d) All group purchasers shall provide the required data using a uniform format and uniform definitions, as prescribed by the commissioner.

Sec. 8. [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, and health plan companies. The commissioner of health shall facilitate access to best practice guidelines and quality of care measurement information to 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 all information available to the commissioner on adherence to best practices care by physicians and other health care providers in Minnesota;

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

(4) making all best practices and quality care measurement information available to enrollees and program participants through the Department of Health's Web site. The commissioner may convene an advisory committee to ensure that the Web site is designed to provide user friendly and easy accessibility.

(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 and assist in the collection of the data.

(c) The initial best practices and quality of care measurement criteria developed shall include asthma, diabetes, and at least two other preventive health measures. Hypertension and coronary artery disease shall be included within one year following this availability.

(d) The commissioners of human services and employee relations shall use the data to make decisions about contracts they enter into with health plan companies and shall establish payment withholds based on best practices and quality of care measurements as part of the contracts in effect January 1, 2005. The health plan companies may pass the withholds through to physicians and other health care providers if the physician or health care provider fails to follow the best practices and quality of care measurement criteria identified in this section. The withholds established by the commissioner of human services shall be included with the withholds described in sections 256B.69, subdivision 5a, and 256L.12, subdivision 9. If a payment withhold is passed through, a provider may not terminate an existing contract with a health plan company based solely on this withhold.

Sec. 9. [62J.565] [IMPLEMENTATION OF ELECTRONIC MEDICAL RECORD SYSTEM.]

Subdivision 1. [GENERAL PROVISIONS.] (a) The legislature finds that there is a need to advance the use of electronic medical record systems by health care providers in the state in order to achieve significant administrative cost savings and to improve the safety, quality, and efficiency of health care delivery in the state. The legislature also finds that in order to advance the use of an electronic medical record system in a cost-effective manner and to ensure an electronic medical record system's interoperability and compatibility with other systems, the state needs to develop a standard, definitional model of an electronic medical record system that includes uniform formats, data standards, and technology standards for the collection, storage, and exchange of electronic health records. These standards must be nationally accepted, widely recognized, and available for immediate use.

(b) By January 1, 2010, all hospitals and physicians must have in place an electronic medical record system within their hospital system or clinical practice setting. The commissioner may grant exemptions from this requirement if the commissioner determines that the cost of compliance would place the provider in financial distress or if the commissioner determines that appropriate technology is not available or advantageous to that type of practice. Before an exemption is granted for financial reasons, the commissioner must ensure that the provider has explored all possible alliances or partnerships with other provider groups in the provider's geographical area to become part of the larger provider group's system.

(c) The commissioner shall provide assistance to hospitals and provider groups in establishing an electronic medical record system, including, but not limited to, provider education, facilitation of possible alliances or partnerships among provider groups for purposes of implementing a system, identification or establishment of low-interest financing options for hardware and software, and systems implementation support.

Subd. 2. [MODEL ELECTRONIC MEDICAL RECORD SYSTEM.] (a) The commissioner of health, in consultation with the Minnesota Administrative Uniformity Committee, shall develop a functional model for an electronic medical record system according to the following schedule:

(1) by October 1, 2005, the commissioner shall develop a model system that provides immediate, electronic on-site access to complete patient information, including information necessary for quality assurance at the point of care delivery;

(2) by October 1, 2005, the commissioner shall develop standards for secure Internet or other viewing-only access to patient medical records that require the patient to provide access information to an off-site provider and do not allow interaction with the records; and

(3) by January 15, 2006, the commissioner shall develop standards for interoperable systems for sharing and synchronizing patient data across systems. The standards must include a requirement for a secure, biometric patient identification system to ensure access security and identity authentication. In creating the infrastructure of the system, the model must include the development of uniform data standards in terms of clinical terminology, the exchange of data among systems, and the representation of medical information and must include the development of a common set of requirements for functional capabilities for the system software components. The uniform standards developed must be functional for use by providers of all disciplines and care settings. The standards must also be compatible with federal and private sector efforts to develop a national electronic medical record and must incorporate existing standards and state and federal regulatory requirements. In developing a model, the commissioner shall consider data privacy and security concerns and must ensure compliance with federal law.

(b) The commissioner of human services shall convene an advisory committee with representatives of safety-net hospitals, community health clinics, and other providers who serve low-income patients to address their specific needs and concerns regarding the establishment of an electronic medical record system within their hospital or practice setting. As part of addressing the specific needs of these providers, the commissioner shall explore the implementation of an accessible interactive system created collaboratively by publicly owned hospitals and clinics. The commissioner shall also explore financial assistance options, including bonding and federal grants.

(c) The commissioner shall report to the legislature by January 15, 2005, on the progress in the development of uniform standards and on a functional model for an electronic medical record system.

Sec. 10. [62J.82] [ELECTRONIC MEDICAL RECORD SYSTEM LOAN PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] The commissioner shall establish and implement a loan program to help health care providers or group practices obtain the necessary finances to install an electronic medical record system.

Subd. 2. [RULES.] The commissioner may adopt rules to administer the loan program.

Subd. 3. [ELIGIBILITY.] To be eligible for a loan under this section, the borrower must:

(1) have a signed contract with a vendor;

(2) be a physician licensed in this state or a physician group practice located in this state;

(3) provide evidence of financial stability;

(4) demonstrate an ability to repay the loan;

(5) demonstrate that the borrower has explored possible alliances or contractual opportunities with other provider groups located in the same geographical area to become part of the larger provider group's system; and

(6) meet any other requirement the commissioner imposes by administrative procedure or by rule.

Subd. 4. [LOANS.] (a) The commissioner may make a direct loan to a provider or provider group who is eligible under subdivision 3. The total accumulative loan principal must not exceed \$65,000 per loan.

(b) The commissioner may prescribe forms and establish an application process and, notwithstanding section 16A.1283, may impose a reasonable nonrefundable application fee to cover the cost of administering the loan program.

(c) Loan principal balance outstanding plus all assessed interest must be repaid no later than 15 years from the date of the loan.

Sec. 11. [62J.83] [ELECTRONIC MEDICAL RECORD SYSTEM LOAN FUND.]

Subdivision 1. [CREATION.] The electronic medical record system loan fund is established as a special account in the state treasury. Loan repayments and other revenue received under section 62J.82 must be credited to the fund.

Subd. 2. [BOND PROCEEDS ACCOUNT.] An electronic medical record system revenue bond proceeds account is established in the electronic medical record system loan fund. The proceeds of any bonds issued under section 62J.84 must be credited to the account. Money in the account is appropriated to the commissioner to make loans under section 62J.82.

Subd. 3. [DEBT SERVICE ACCOUNT.] An electronic medical record system revenue bond debt service account is established in the electronic medical record system loan fund. There must be credited to this debt service account in each fiscal year from the income to the electronic medical record system loan fund an amount sufficient to increase the balance on hand in the debt service account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding bonds issued under section 62J.84 to and including the second following July 1. The assets of the account are pledged to and may only be used to pay principal and interest on bonds issued under section 62J.84. Money in the debt service account is appropriated to the commissioner of finance to pay principal and interest on bonds issued under section 62J.84.

Sec. 12. [62J.84] [ELECTRONIC MEDICAL RECORD SYSTEM REVENUE BONDS.]

Subdivision 1. [BONDING AUTHORITY.] Upon request of the commissioner, the commissioner of finance may sell and issue state revenue bonds to make loans under section 62J.82, to establish a reserve fund or funds, and to pay the cost of issuance of the bonds.

Subd. 2. [AMOUNT.] The principal amount of the bonds issued for the purposes specified in subdivision 1 must not exceed \$5,000,000.

Subd. 3. [PROCEDURE.] The commissioner may sell and issue the bonds on the terms and conditions the commissioner determines to be in the best interests of the state. The bonds may be sold at public or private sale. The commissioner may enter any agreements or pledges the commissioner determines necessary or useful to sell the bonds that are not inconsistent with sections 62J.82 to 62J.84. Sections 16A.672 to 16A.675 apply to the bonds.

Subd. 4. [REVENUE SOURCES.] The bonds are payable only from the following sources:

- (1) loan repayments credited to the electronic medical record system loan fund;
- (2) the principal and any investment earnings on the assets of the debt service account; and
- (3) other revenues pledged to the payment of the bonds.

Subd. 5. [REFUNDING BONDS.] The commissioner may issue bonds to refund outstanding bonds issued under subdivision 1, including the payment of any redemption premiums on the bonds and any interest accrued or to accrue to the first redemption date after delivery of the refunding bonds. The proceeds of the refunding bonds may, in the discretion of the commissioner, be applied to the purchases or payment at maturity of the bonds to be refunded, or the redemption of the outstanding bonds on the first redemption date after delivery of the refunding bonds and may, until so used, be placed in escrow to be applied to the purchase, retirement, or redemption. Refunding bonds issued under this subdivision must be issued and secured in the manner provided by the commissioner.

Subd. 6. [NOT A GENERAL OR MORAL OBLIGATION.] Bonds issued under this section are not public debt, and the full faith, credit, and taxing powers of the state are not pledged for their payment. The bonds may not be paid, directly in whole or part from a tax of statewide application on any class of property, income, transaction, or privilege. Payment of the bonds is limited to the revenues explicitly authorized to be pledged under this section. The state neither makes nor has a moral obligation to pay the bonds if the pledged revenues and other legal security for them is insufficient.

Subd. 7. [TRUSTEE.] The commissioner may contract with and appoint a trustee for bondholders. The trustee has the powers and authority vested in it by the commissioner under the bond and trust indentures.

Subd. 8. [PLEDGES.] Any pledge made by the commissioner is valid and binding from the time the pledge is made. The money or property pledged and later received by the commissioner is immediately subject to the lien of the pledge without any physical delivery of the property or money or further act, and the lien of any pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the commissioner, whether or not those parties have notice of the lien or pledge. Neither the order nor any other instrument by which a pledge is created need be recorded.

Subd. 9. [BONDS; PURCHASE AND CANCELLATION.] The commissioner, subject to agreements with bondholders that may then exist, may, out of any money available for the purpose, purchase bonds of the commissioner at a price not exceeding:

(1) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon; or

(2) if the bonds are not redeemable, the redemption price applicable on the first date after the purchase upon which the bonds become subject to redemption plus accrued interest to that date.

Subd. 10. [STATE PLEDGE AGAINST IMPAIRMENT OF CONTRACTS.] The state pledges and agrees with the holders of any bonds that the state will not limit or alter the rights vested in the commissioner to fulfill the terms of any agreements made with the bondholders, 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. The commissioner may include this pledge and agreement of the state in any agreement with the holders of bonds issued under this section.

Sec. 13. Minnesota Statutes 2002, section 62L.08, subdivision 8, is amended to read:

Subd. 8. [FILING REQUIREMENT.] (a) No later than July 1, 1993, and each year thereafter, a health carrier that offers, sells, issues, or renews a health benefit plan for small employers shall file with the commissioner the index rates and must demonstrate that all rates shall be within the rating restrictions defined in this chapter. Such demonstration must include the allowable range of rates from the index rates and a description of how the health carrier intends to use demographic factors including case characteristics in calculating the premium rates.

(b) Notwithstanding paragraph (a), the rates shall not be approved, unless the commissioner has determined that the rates are reasonable. In determining reasonableness, the commissioner shall

~~consider the growth rates applied under section 62J.04, subdivision 1, paragraph (b) apply the premium growth limits established under section 62J.04, subdivision 1b, to the calendar year or years that the proposed premium rate would be in effect, and shall consider actuarially valid changes in risk associated with the enrollee population, and actuarially valid changes as a result of statutory changes in Laws 1992, chapter 549. For premium rates proposed to go into effect between July 1, 1993 and December 31, 1993, the pertinent growth rate is the growth rate applied under section 62J.04, subdivision 1, paragraph (b), to calendar year 1994.~~

Sec. 14. [HEALTH CARE REPORTING CONSOLIDATION STUDY.]

The commissioners of human services, health, and commerce shall meet with representatives of health plans, insurance companies, nonprofit health service plan corporations, and hospitals to discuss all of the reports and reporting requirements that are required of these entities with the intention of consolidating and, where appropriate, reducing the number of reports and reporting requirements. These discussions shall be conducted prior to November 30, 2004. The commissioners of human services, health, and commerce shall submit a report to the legislature by January 15, 2005. The report shall identify the name and scope of each required report with justification as to the need and use of each report, including the value to consumers and to what extent the report is used to help decrease costs or increase the quality of care or services provided.

Sec. 15. [QUALITY IMPROVEMENT.]

The commissioners of human services and employee relations shall jointly develop a written plan for a provider payment system to be implemented by July 1, 2005. Under the provider payment system, a minimum of five percent of a provider's payment shall be withheld. Return of the withhold to a provider will be conditioned on the provider achieving certain quality improvement performance standards. The commissioners shall consult with local and national quality improvement groups to identify appropriate standards and measures related to performance.

ARTICLE 21

HEALTH CARE

Section 1. Minnesota Statutes 2003 Supplement, section 62J.692, subdivision 3, is amended to read:

Subd. 3. [APPLICATION PROCESS.] (a) A clinical medical education program conducted in Minnesota by a teaching institution to train physicians, doctor of pharmacy practitioners, dentists, chiropractors, or physician assistants is eligible for funds under subdivision 4 if the program:

- (1) is funded, in part, by patient care revenues;
- (2) occurs in patient care settings that face increased financial pressure as a result of competition with nonteaching patient care entities; and
- (3) emphasizes primary care or specialties that are in undersupply in Minnesota.

A clinical medical education program that trains pediatricians is requested to include in its program curriculum training in case management and medication management for children suffering from mental illness to be eligible for funds under subdivision 4.

(b) A clinical medical education program for advanced practice nursing is eligible for funds under subdivision 4 if the program meets the eligibility requirements in paragraph (a), clauses (1) to (3), and is sponsored by the University of Minnesota Academic Health Center, the Mayo Foundation, or institutions that are part of the Minnesota State Colleges and Universities system or members of the Minnesota Private College Council.

(c) Applications must be submitted to the commissioner by a sponsoring institution on behalf of an eligible clinical medical education program and must be received by October 31 of each year for distribution in the following year. An application for funds must contain the following information:

(1) the official name and address of the sponsoring institution and the official name and site address of the clinical medical education programs on whose behalf the sponsoring institution is applying;

(2) the name, title, and business address of those persons responsible for administering the funds;

(3) for each clinical medical education program for which funds are being sought; the type and specialty orientation of trainees in the program; the name, site address, and medical assistance provider number of each training site used in the program; the total number of trainees at each training site; and the total number of eligible trainee FTEs at each site. Only those training sites that host 0.5 FTE or more eligible trainees for a program may be included in the program's application; and

(4) other supporting information the commissioner deems necessary to determine program eligibility based on the criteria in paragraphs (a) and (b) and to ensure the equitable distribution of funds.

(d) An application must include the information specified in clauses (1) to (3) for each clinical medical education program on an annual basis for three consecutive years. After that time, an application must include the information specified in clauses (1) to (3) in the first year of each biennium:

(1) audited clinical training costs per trainee for each clinical medical education program when available or estimates of clinical training costs based on audited financial data;

(2) a description of current sources of funding for clinical medical education costs, including a description and dollar amount of all state and federal financial support, including Medicare direct and indirect payments; and

(3) other revenue received for the purposes of clinical training.

(e) An applicant that does not provide information requested by the commissioner shall not be eligible for funds for the current funding cycle.

Sec. 2. [62Q.175] [COVERAGE EXEMPTIONS.]

Notwithstanding any law to the contrary, no health plan company is required to provide coverage for any health care service included on the list established under section 256B.0625, subdivision 46.

Sec. 3. Minnesota Statutes 2003 Supplement, section 256.954, subdivision 4, is amended to read:

Subd. 4. [ELIGIBLE PERSONS.] To be eligible for the program, an applicant must:

(1) be a permanent resident of Minnesota as defined in section 256L.09, subdivision 4;

(2) not be enrolled in Medicare, medical assistance, general assistance medical care, MinnesotaCare, or the prescription drug program under section 256.955;

(3) not be enrolled in and have currently available prescription drug coverage under a health plan offered by a health carrier or employer or under a pharmacy benefit program offered by a pharmaceutical manufacturer; and

(4) not be enrolled in and have currently available prescription drug coverage under a Medicare supplement plan, as defined in sections 62A.31 to 62A.44, or policies, contracts, or certificates that supplement Medicare issued by health maintenance organizations or those policies, contracts, or certificates governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395, et seq., as amended; ~~and~~

~~(5) have a gross household income that does not exceed 250 percent of the federal poverty guidelines.~~

Sec. 4. Minnesota Statutes 2003 Supplement, section 256.954, subdivision 5, is amended to read:

Subd. 5. [APPLICATION PROCEDURE.] (a) Applications and information on the program must be made available at county social services agencies, health care provider offices, and agencies and organizations serving senior citizens. Individuals shall submit applications and any information specified by the commissioner as being necessary to verify eligibility directly to the commissioner. The commissioner shall determine an applicant's eligibility for the program within 30 days from the date the application is received. Upon notice of approval, the applicant must submit to the commissioner the enrollment fee specified in subdivision 10. Eligibility begins the month after approval the enrollment fee is received by the commissioner.

(b) An enrollee's eligibility must be renewed every 12 months with the 12-month period beginning in the month after the application is approved.

(c) The commissioner shall develop an application form that does not exceed one page in length and requires information necessary to determine eligibility for the program.

Sec. 5. Minnesota Statutes 2003 Supplement, section 256.954, subdivision 6, is amended to read:

Subd. 6. [PARTICIPATING PHARMACY.] According to a valid prescription, a participating pharmacy must sell a covered prescription drug to an enrolled individual at the pharmacy's usual and customary retail price, minus an amount that is equal to the rebate amount described in subdivision 8, plus the amount of any ~~administrative fee and switch fee~~ established by the commissioner under subdivision 10. Each participating pharmacy shall provide the commissioner with all information necessary to administer the program, including, but not limited to, information on prescription drug sales to enrolled individuals and usual and customary retail prices.

Sec. 6. Minnesota Statutes 2003 Supplement, section 256.954, subdivision 9, is amended to read:

Subd. 9. [PAYMENT TO PHARMACIES.] The commissioner shall distribute on a biweekly basis an amount that is equal to an amount collected under subdivision 8 to each participating pharmacy based on the prescription drugs sold by that pharmacy to enrolled individuals, ~~minus the amount of the administrative fee established by the commissioner under subdivision 10.~~

Sec. 7. Minnesota Statutes 2003 Supplement, section 256.954, subdivision 10, is amended to read:

Subd. 10. [~~ADMINISTRATIVE ENROLLMENT FEE; SWITCH FEE.~~] (a) The commissioner shall establish a ~~reasonable administrative~~ annual enrollment fee that covers the commissioner's expenses for enrollment, processing claims, and distributing rebates under this program. The fee shall be set at \$100.

(b) The commissioner shall establish a reasonable switch fee that covers expenses incurred by pharmacies in formatting for electronic submission claims for prescription drugs sold to enrolled individuals.

Sec. 8. Minnesota Statutes 2003 Supplement, section 256.954, subdivision 11, is amended to read:

Subd. 11. [DEDICATED FUND; CREATION; USE OF FUND.] (a) The Minnesota prescription drug dedicated fund is established as an account in the state treasury. The commissioner of finance shall credit to the dedicated fund all rebates paid under subdivision 8, any federal funds received for the program, all enrollment fees paid by the enrollees, and any appropriations or allocations designated for the fund. The commissioner of finance shall ensure that fund money is invested under section 11A.25. All money earned by the fund must be credited to the fund. The fund shall earn a proportionate share of the total state annual investment income.

(b) Money in the fund is appropriated to the commissioner of human services to reimburse participating pharmacies for prescription drug discounts provided to enrolled individuals under this section, to reimburse the commissioner of human services for costs related to enrollment, processing claims, distributing rebates, and for other reasonable administrative costs related to administration of the prescription drug discount program, and to repay the appropriation provided for this section. The commissioner must administer the program so that the costs total no more than funds appropriated plus the drug rebate proceeds.

Sec. 9. 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.] This section is effective July 1, 2004, or when enrollment for the Medicare drug discount card is available, whichever is later.

Sec. 10. 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.] This section is effective July 1, 2004, or when enrollment for the Medicare drug discount card is available, whichever is later.

Sec. 11. 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).~~ a Medicare drug discount card plan subsidy unless:

(i) the prescription drug is not included in the Medicare 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. 12. 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. 13. 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. 14. Minnesota Statutes 2002, section 256.969, subdivision 9, is amended to read:

Subd. 9. [DISPROPORTIONATE NUMBERS OF LOW-INCOME PATIENTS SERVED.] (a) For admissions occurring on or after October 1, 1992, through December 31, 1992, the medical assistance disproportionate population adjustment shall comply with federal law and shall be paid to a hospital, excluding regional treatment centers and facilities of the federal Indian Health Service, with a medical assistance inpatient utilization rate in excess of the arithmetic mean. The adjustment must be determined as follows:

(1) for a hospital with a medical assistance inpatient utilization rate above the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service but less than or equal to one standard deviation above the mean, the adjustment must be determined by multiplying the total of the operating and property payment rates by the difference between the hospital's actual medical assistance inpatient utilization rate and the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service; and

(2) for a hospital with a medical assistance inpatient utilization rate above one standard deviation above the mean, the adjustment must be determined by multiplying the adjustment that would be determined under clause (1) for that hospital by 1.1. If federal matching funds are not available for all adjustments under this subdivision, the commissioner shall reduce payments on a pro rata basis so that all adjustments qualify for federal match. The commissioner may establish a separate disproportionate population operating payment rate adjustment under the general assistance medical care program. For purposes of this subdivision medical assistance does not include general assistance medical care. The commissioner shall report annually on the number of hospitals likely to receive the adjustment authorized by this paragraph. The commissioner shall specifically report on the adjustments received by public hospitals and public hospital corporations located in cities of the first class.

(b) For admissions occurring on or after July 1, 1993, the medical assistance disproportionate population adjustment shall comply with federal law and shall be paid to a hospital, excluding regional treatment centers and facilities of the federal Indian Health Service, with a medical assistance inpatient utilization rate in excess of the arithmetic mean. The adjustment must be determined as follows:

(1) for a hospital with a medical assistance inpatient utilization rate above the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service but less than or equal to one standard deviation above the mean, the adjustment must be determined by multiplying the total of the operating and property payment rates by the difference between the hospital's actual medical assistance inpatient utilization rate and the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service;

(2) for a hospital with a medical assistance inpatient utilization rate above one standard deviation above the mean, the adjustment must be determined by multiplying the adjustment that would be determined under clause (1) for that hospital by 1.1. The commissioner may establish a separate disproportionate population operating payment rate adjustment under the general assistance medical care program. For purposes of this subdivision, medical assistance does not include general assistance medical care. The commissioner shall report annually on the number of hospitals likely to receive the adjustment authorized by this paragraph. The commissioner shall specifically report on the adjustments received by public hospitals and public hospital corporations located in cities of the first class; and

(3) for a hospital that had medical assistance fee-for-service payment volume during calendar year 1991 in excess of 13 percent of total medical assistance fee-for-service payment volume, a medical assistance disproportionate population adjustment shall be paid in addition to any other disproportionate payment due under this subdivision as follows: \$1,515,000 due on the 15th of each month after noon, beginning July 15, 1995. For a hospital that had medical assistance fee-for-service payment volume during calendar year 1991 in excess of eight percent of total medical assistance fee-for-service payment volume and was the primary hospital affiliated with the University of Minnesota, a medical assistance disproportionate population adjustment shall be paid in addition to any other disproportionate payment due under this subdivision as follows: \$505,000 due on the 15th of each month after noon, beginning July 15, 1995;

(4) for a hospital with medical assistance patient days greater than three percent of total patient days and equal to or less than 18 percent of total patient days during the base year, a medical assistance disproportionate population adjustment equal to 2.8 percent of the total of the operating and property payment rates shall be paid in addition to any other disproportionate payments due under this subdivision, effective for admissions occurring on or after July 1, 2004;

(5) for a hospital not eligible under clause (6) with medical assistance patient days greater than 18 percent of total patient days during the base year, a medical assistance disproportionate population adjustment equal to four percent of the total of the operating and property payment rates shall be paid in addition to any other disproportionate payments due under this subdivision, effective for admissions occurring on or after July 1, 2004; and

(6) for a hospital with medical assistance patient days greater than 24 percent of total patient

days during the base year that provides obstetrical services as defined in United States Code, title 42, section 1396r-4(d)(1), a medical assistance disproportionate population adjustment equal to nine percent of the total of the operating and property payment rates shall be paid in addition to any other disproportionate payment due under this subdivision, effective for admissions occurring on or after July 1, 2004.

(c) The commissioner shall adjust rates paid to a health maintenance organization under contract with the commissioner to reflect rate increases provided in paragraph (b), clauses (1) and (2), on a nondiscounted hospital-specific basis but shall not adjust those rates to reflect payments provided in clause clauses (3), (4), (5), and (6).

(d) If federal matching funds are not available for all adjustments under paragraph (b), the commissioner shall reduce payments under paragraph (b), clauses (1) and (2), on a pro rata basis so that all adjustments under paragraph (b) qualify for federal match.

(e) For purposes of this subdivision, medical assistance does not include general assistance medical care.

Sec. 15. Minnesota Statutes 2002, section 256.969, subdivision 23, is amended to read:

Subd. 23. [HOSPITAL PAYMENT ADJUSTMENT AFTER JUNE 30, 1993.] (a) For admissions occurring after June 30, 1993, the commissioner shall adjust the medical assistance payment paid to a hospital, excluding regional treatment centers and facilities of the federal Indian Health Service, with a medical assistance inpatient utilization rate in excess of the arithmetic mean. The adjustment must be determined as follows:

(1) for a hospital with a medical assistance inpatient utilization rate above the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service, the adjustment must be determined by multiplying the total of the operating and property payment rates by the difference between the hospital's actual medical assistance inpatient utilization rate and the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service; ~~and~~

(2) for a hospital with a medical assistance inpatient utilization rate above one standard deviation above the mean, the adjustment must be determined by multiplying the adjustment under clause (1) for that hospital by 1.1;

(3) for a hospital with medical assistance patient days greater than three percent of total patient days and equal to or less than 18 percent of total patient days during the base year, an adjustment equal to 2.8 percent of the total of the operating and property payment rates shall be paid in addition to any other payments due under this subdivision, effective for admissions occurring on or after July 1, 2004;

(4) for a hospital not eligible under clause (5) with medical assistance patient days greater than 18 percent of total patient days during the base year, an adjustment equal to four percent of the total of the operating and property payment rates shall be paid in addition to any other payments due under this subdivision, effective for admissions occurring on or after July 1, 2004; and

(5) for a hospital with medical assistance patient days greater than 24 percent of total patient days during the base year that provides obstetrical services as defined in United States Code, title 42, section 1396r-4(d)(1), an adjustment equal to nine percent of the total of the operating and property payment rates shall be paid in addition to any other payment due under this subdivision, effective for admissions occurring on or after July 1, 2004.

(b) Any payment under this subdivision must be reduced by the amount of any payment received under subdivision 9, paragraph (b), clause (1) ~~or~~, (2), (4), (5), or (6). For purposes of this subdivision, medical assistance does not include general assistance medical care.

(c) The commissioner shall adjust rates paid to a health maintenance organization under contract with the commissioner to reflect rate increases provided in this section, excluding payments under paragraph (a), clauses (3), (4), and (5). The adjustment must be made on a nondiscounted hospital-specific basis.

Sec. 16. Minnesota Statutes 2003 Supplement, section 256.975, subdivision 9, is amended to read:

Subd. 9. [PRESCRIPTION DRUG ASSISTANCE.] (a) The Minnesota Board on Aging shall establish and administer a prescription drug assistance program to assist individuals in accessing programs offered by pharmaceutical manufacturers that provide free or discounted prescription drugs or provide coverage for prescription drugs. The board shall use computer software programs to:

(1) list eligibility requirements for pharmaceutical assistance programs offered by manufacturers;

(2) list drugs that are included in a supplemental rebate contract between the commissioner and a pharmaceutical manufacturer under section 256.01, subdivision 2, clause (23); and

(3) link individuals with the pharmaceutical assistance programs most appropriate for the individual. The board shall make information on the prescription drug assistance program available to interested individuals and health care providers and shall coordinate the program with the statewide information and assistance service provided through the Senior LinkAge Line under subdivision 7.

~~(b) The board shall work with the commissioner and county social service agencies to coordinate the enrollment of individuals who are referred to the prescription drug assistance program from the prescription drug program, as required under section 256.955, subdivision 4a.~~

Sec. 17. Minnesota Statutes 2002, section 256B.03, subdivision 3, is amended to read:

Subd. 3. [TRIBAL PURCHASING MODEL.] (a) Notwithstanding subdivision 1 and sections 256B.0625 and 256D.03, subdivision 4, paragraph (i) (h), the commissioner may make payments to federally recognized Indian tribes with a reservation in the state to provide medical assistance and general assistance medical care to Indians, as defined under federal law, who reside on or near the reservation. The payments may be made in the form of a block grant or other payment mechanism determined in consultation with the tribe. Any alternative payment mechanism agreed upon by the tribes and the commissioner under this subdivision is not dependent upon county or health plan agreement but is intended to create a direct payment mechanism between the state and the tribe for the administration of the medical assistance and general assistance medical care programs, and for covered services.

(b) A tribe that implements a purchasing model under this subdivision shall report to the commissioner at least annually on the operation of the model. The commissioner and the tribe shall cooperatively determine the data elements, format, and timetable for the report.

(c) For purposes of this subdivision, "Indian tribe" means a tribe, band, or nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and for which a reservation exists as is consistent with Public Law 100-485, as amended.

(d) Payments under this subdivision may not result in an increase in expenditures that would not otherwise occur in the medical assistance program under this chapter or the general assistance medical care program under chapter 256D.

Sec. 18. Minnesota Statutes 2002, section 256B.055, is amended by adding a subdivision to read:

Subd. 10b. [CHILDREN.] This subdivision supercedes subdivision 10 as long as the Minnesota health care reform waiver remains in effect. When the waiver expires, the commissioner of human services shall publish a notice in the State Register and notify the revisor of statutes. Medical assistance may be paid for a child less than two years of age with countable family income as established for infants under section 256B.057, subdivision 1.

[EFFECTIVE DATE.] This section is effective retroactively from July 1, 2003.

Sec. 19. Minnesota Statutes 2003 Supplement, section 256B.055, subdivision 13, is amended to read:

Subd. 13. ~~[RESIDENTS OF CERTAIN INSTITUTIONS FOR MENTAL DISEASES.]~~ (a) Beginning October 1, 2003, persons who would be eligible for medical assistance under this chapter but for residing in a facility that is determined by the commissioner or the federal Centers for Medicare and Medicaid Services to be an institution for mental diseases are eligible for medical assistance without federal financial participation, except that coverage shall not include payment for a nursing facility determined to be an institution for mental diseases.

~~(b) Beginning September 12, 2002, persons who would be eligible for medical assistance under this chapter but for residing in the state facility as defined in section 252.025, subdivision 7, who do not meet a level of care of an intermediate care facility for the mentally retarded, are eligible for medical assistance without federal financial participation, except that coverage shall not include payment for residential services.~~

[EFFECTIVE DATE.] This section is effective retroactively from September 12, 2002.

Sec. 20. Minnesota Statutes 2003 Supplement, section 256B.057, subdivision 1, is amended to read:

Subdivision 1. ~~[PREGNANT WOMEN AND INFANTS.]~~ (a)(4) An infant less than one year of age is eligible for medical assistance if countable family income is equal to or less than 275 percent of the federal poverty guideline for the same family size. A pregnant woman who has written verification of a positive pregnancy test from a physician or licensed registered nurse is eligible for medical assistance if countable family income is equal to or less than ~~200~~ 275 percent of the federal poverty guideline for the same family size. For purposes of this subdivision, "countable family income" means the amount of income considered available using the methodology of the AFDC program under the state's AFDC plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, except for the earned income disregard and employment deductions.

~~(2) For applications processed within one calendar month prior to the effective date, eligibility shall be determined by applying the income standards and methodologies in effect prior to the effective date for any months in the six-month budget period before that date and the income standards and methodologies in effect on the effective date for any months in the six-month budget period on or after that date. The income standards for each month shall be added together and compared to the applicant's total countable income for the six-month budget period to determine eligibility.~~

~~(b)(1) [EXPIRED.] An amount equal to the amount of earned income exceeding 275 percent of the federal poverty guideline plus the earned income disregards and deductions of the AFDC program under the state's AFDC plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, exceeds 275 percent of the federal poverty guideline will be deducted for pregnant women and infants less than one year of age.~~

~~(2) For applications processed within one calendar month prior to July 1, 2003, eligibility shall be determined by applying the income standards and methodologies in effect prior to July 1, 2003, for any months in the six-month budget period before July 1, 2003, and the income standards and methodologies in effect on the expiration date for any months in the six-month budget period on or after July 1, 2003. The income standards for each month shall be added together and compared to the applicant's total countable income for the six-month budget period to determine eligibility.~~

~~(c) Dependent care and child support paid under court order shall be deducted from the countable income of pregnant women.~~

~~(d) An infant born on or after January 1, 1991, to a woman who was eligible for and receiving medical assistance on the date of the child's birth shall continue to be eligible for medical assistance without redetermination until the child's first birthday, as long as the child remains in the woman's household.~~

[EFFECTIVE DATE.] The amendment in paragraph (b) is effective retroactively from October 1, 2003.

Sec. 21. 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. 22. Minnesota Statutes 2002, section 256B.0625, subdivision 3b, is amended to read:

Subd. 3b. [TELEMEDICINE CONSULTATIONS.] Medical assistance covers telemedicine

consultations. Telemedicine consultations must be made via two-way, interactive video or store-and-forward technology. Store-and-forward technology includes telemedicine consultations that do not occur in real time via synchronous transmissions, and that do not require a face-to-face encounter with the patient for all or any part of any such telemedicine consultation. The patient record must include a written opinion from the consulting physician providing the telemedicine consultation. A communication between two physicians that consists solely of a telephone conversation is not a telemedicine consultation, unless the communication is between a pediatrician and psychiatrist for the purpose of managing the medications of a child with mental health needs. Coverage is limited to three telemedicine consultations per recipient per calendar week. Telemedicine consultations shall be paid at the full allowable rate.

Sec. 23. 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.~~

Sec. 24. Minnesota Statutes 2003 Supplement, section 256B.0625, subdivision 13e, is amended to read:

Subd. 13e. [PAYMENT RATES.] (a) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee; the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee; or the usual and customary price charged to the public. The amount of payment basis must be reduced to reflect all discount amounts applied to the charge by any provider/insurer agreement or contract for submitted charges to medical assistance programs. The net submitted charge may not be greater than the patient liability for the service. The pharmacy dispensing fee shall be \$3.65, except that the dispensing fee for intravenous solutions which must be compounded by the pharmacist shall be \$8 per bag, \$14 per bag for cancer chemotherapy products, and \$30 per bag for total parenteral nutritional products dispensed in one liter quantities, or \$44 per bag for total parenteral nutritional products dispensed in quantities greater than one liter. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug shall be estimated by the commissioner, at average wholesale price minus 11.5 percent, except that where a drug has had its wholesale price reduced as a result of the actions of the National Association of Medicaid Fraud Control Units, the estimated actual acquisition cost shall be the reduced average wholesale price, without the 11.5 percent deduction. The actual acquisition cost of antihemophilic factor drugs shall be estimated at the average wholesale price minus 30 percent. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third-party payors in this state who have maximum allowable cost programs. Establishment of the amount of payment for drugs shall not be subject to the requirements of the Administrative Procedure Act.

(b) An additional dispensing fee of \$.30 may be added to the dispensing fee paid to pharmacists for legend drug prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug

container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Over-the-counter medications must be dispensed in the manufacturer's unopened package. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply.

(c) Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, or on the maximum allowable cost established by the commissioner.

(d) The basis for determining the amount of payment for drugs administered in an outpatient setting shall be the lower of the usual and customary cost submitted by the provider, the average wholesale price minus five percent, or the maximum allowable cost set by the federal government under United States Code, title 42, chapter 7, section 1396r-8(e), and Code of Federal Regulations, title 42, section 447.332, or by the commissioner under paragraphs (a) to (c).

Sec. 25. Minnesota Statutes 2002, section 256B.0625, is amended by adding a subdivision to read:

Subd. 46. [LIST OF HEALTH CARE SERVICES NOT ELIGIBLE FOR COVERAGE.] (a) The commissioner of human services, in consultation with the commissioner of health, shall biennially establish a list of diagnosis/treatment pairings that are not eligible for reimbursement under this chapter and chapters 256D and 256L, effective for services provided on or after July 1, 2005. The commissioner shall review the list in effect for the prior biennium and shall make any additions or deletions from the list as appropriate, taking into consideration the following:

- (1) scientific and medical information;
- (2) clinical assessment;
- (3) cost-effectiveness of treatment;
- (4) prevention of future costs; and
- (5) medical ineffectiveness.

(b) The commissioner, after receiving recommendations from professional medical associations, may designate a medical director and medical policy committee to advise the commissioner on clinical issues such as best practice guidelines, utilization control, and disease management and care coordination strategies for the medical assistance, general assistance medical care, and MinnesotaCare programs. If the commissioner designates a medical director, the medical director shall be a physician who works as an employee or contractor for the Department of Human Services. If the commissioner convenes a medical policy committee, the committee shall consist of the medical director and nine members, seven of whom shall be physicians licensed to practice in Minnesota, and two of whom shall be nonphysician health professionals licensed to practice in Minnesota. Except for the medical director, the medical policy committee members shall not be employees of the Department of Human Services, shall serve three-year terms, and may be reappointed once. The commissioner shall appoint the initial members of the committee for terms expiring as follows: three members for terms expiring June 30, 2005, three members for terms expiring June 30, 2006, and three members for terms expiring June 30, 2007.

The medical director and medical policy committee may assist the commissioner in reviewing and establishing the list. The commissioner shall solicit comments and recommendations from any interested persons and organizations and shall schedule at least one public hearing.

(c) The list must be established by January 15, 2006, for the list effective October 1, 2006, and by October 1 of the even-numbered years thereafter. The commissioner shall publish the list in the State Register by November 1 of the even-numbered years beginning November 1, 2008. The list shall be submitted to the legislature by January 15 of the odd-numbered years beginning January 15, 2007.

Sec. 26. [256B.075] [DISEASE MANAGEMENT PROGRAMS.]

Subdivision 1. [GENERAL.] The commissioner shall design and implement a disease management and care coordination initiative for the medical assistance, general assistance medical care, and MinnesotaCare programs. The initiative shall provide an integrated and systematic approach to manage the health care needs of recipients who are at risk of, or diagnosed with, specified conditions or diseases that require frequent medical attention. The initiative shall 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 and care coordination program for medical assistance and general assistance medical care recipients who are not enrolled in the prepaid medical assistance or general assistance medical care program and who are receiving services on a fee-for-service basis.

(b) The commissioner shall identify the recipients with special health care diagnosis through the use of data analysis software designed to identify persons most likely to need extended or costly health care in the immediate future. Based on this identification system, the commissioner shall establish a list of care coordinators and primary care providers who are qualified to act as a care manager to coordinate the care of the patient.

(c) The commissioner shall request the identified recipients to choose a care coordinator or primary care provider from the list established in paragraph (b). The care coordinator or primary care provider shall be responsible for:

(1) establishing a care team that must include a pharmacist and any health care provider necessary to treat the specific conditions of the identified recipient;

(2) performing an initial assessment and developing an individualized care plan with input from the patient;

(3) educating the patient in self-management and the importance of adhering to the care plan;

(4) providing problem follow-up and new assessments, as needed; and

(5) adhering to evidence-based best practices care strategies.

(d) The care coordinator or primary care provider may create incentives for a recipient to ensure cooperation and patient engagement in the care plan and management.

(e) The recipient shall be required to seek health care services related to a specific diagnosis identified in paragraph (b) from the care coordinator or primary care provider or from the providers on the recipient's care team.

(f) The commissioner shall set a cost-savings target of ten percent reduction in inpatient hospitalization and emergency room costs for fiscal year 2005. Based on the achievement of this goal, one-half the savings shall be used as a bonus to the participating primary care providers for the following fiscal year. The bonus shall be paid on a quarterly basis and shall be based on the percentage of patients treated by the provider who have been identified by the commissioner in accordance with this subdivision.

(g) The commissioner shall seek any federal waivers or state plan amendments necessary to implement this section and to obtain federal matching funds.

Subd. 3. [MANAGED CARE CONTRACTS.] (a) The commissioner shall require all managed care plans entering into contracts under section 256B.69 to develop and implement at least three disease management programs that will improve patient care and health outcomes for those enrollees who are at risk of or diagnosed with a chronic condition.

(b) The commissioner shall require the managed care plans to measure and report outcomes according to measurements approved by the commissioner. In determining outcome

measurements, the commissioner shall establish a baseline indicating the prevalence of each disease identified in paragraph (a) in the general population and within identified racial or ethnic groups. The managed care plan must report the number of enrollees who are at risk based on the baseline measurement; the number of enrollees who have been diagnosed with the disease; and the number of enrollees participating in the managed care plan's disease management program.

(c) The commissioner shall establish targets based on the number of enrollees who should be receiving disease management services as determined by the prevalence of the disease within the general population and the number of enrollees who are receiving disease management services. The targets must also include a specified reduction in inpatient hospitalization costs and in the progression of the chronic diseases for the enrollees identified as being at risk of or diagnosed with a chronic condition.

Subd. 4. [HEMOPHILIA.] The commissioner shall develop a disease management initiative for public 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).

Sec. 27. [256B.0918] [EMPLOYEE SCHOLARSHIP COSTS AND TRAINING IN ENGLISH AS A SECOND LANGUAGE.]

(a) For the fiscal year beginning July 1, 2004, the commissioner shall provide to each provider listed in paragraph (d) a scholarship reimbursement increase of two-tenths percent of the reimbursement rate for that provider to be used:

(1) for employee scholarships that satisfy the following requirements:

(i) scholarships are available to all employees who work an average of at least 20 hours per week for the provider, except administrators, department supervisors, and registered nurses; and

(ii) the course of study is offered by an institution of higher education and is expected to lead to career advancement with the provider or in long-term care, including home care or care of persons with disabilities, including medical care interpreter services and social work; and

(2) to provide job-related training in English as a second language.

(b) A provider receiving a rate adjustment under this subdivision with an annualized value of at least \$1,000 shall maintain documentation to be submitted to the commissioner on a schedule determined by the commissioner and on a form supplied by the commissioner of the scholarship rate increase received, including:

(1) the amount received from this reimbursement increase;

(2) the amount used for training in English as a second language;

(3) the number of persons receiving the training;

(4) the name of the person or entity providing the training; and

(5) for each scholarship recipient, the name of the recipient, the amount awarded, the institution of higher education attended, the nature of the educational program, the program completion date, and a determination of the amount spent as a percentage of the provider's reimbursement.

The commissioner shall report to the legislature annually, beginning January 15, 2006, with information on the use of these funds.

(c) All providers receiving a rate adjustment under this subdivision must make available to all employees the provider's plan for the use of this rate adjustment, including the method by which employees may apply for a scholarship under this provision. The provider may give each employee a copy of the plan or post it in an area of the provider's operation to which all employees have access.

(d) The rate increases described in this section shall be provided to home and community-based waived services for persons with mental retardation or related conditions under section 256B.501; home and community-based waived services for the elderly under section 256B.0915; waived services under community alternatives for disabled individuals under section 256B.49; community alternative care waived services under section 256B.49; traumatic brain injury waived services under section 256B.49; nursing services and home health services under section 256B.0625, subdivision 6a; personal care services and nursing supervision of personal care services under section 256B.0625, subdivision 19a; private-duty nursing services under section 256B.0625, subdivision 7; day training and habilitation services for adults with mental retardation or related conditions under sections 252.40 to 252.46; alternative care services under section 256B.0913; adult residential program grants under Minnesota Rules, parts 9535.2000 to 9535.3000; semi-independent living services (SILS) under section 252.275, including SILS funding under county social services grants formerly funded under chapter 256I; community support services for deaf and hard-of-hearing adults with mental illness who use or wish to use sign language as their primary means of communication; the group residential housing supplementary service rate under section 256I.05, subdivision 1a; chemical dependency residential and nonresidential service providers under section 254B.03; and intermediate care facilities for persons with mental retardation under section 256B.5012.

(e) These increases shall be included in the provider's reimbursement rate for the purpose of determining future rates for the provider.

Sec. 28. Minnesota Statutes 2003 Supplement, section 256B.431, subdivision 36, is amended to read:

Subd. 36. [EMPLOYEE SCHOLARSHIP COSTS AND TRAINING IN ENGLISH AS A SECOND LANGUAGE.] (a) For the period between July 1, 2001, and June 30, 2003, the commissioner shall provide to each nursing facility reimbursed under this section, section 256B.434, or any other section, a scholarship per diem of 25 cents to the total operating payment rate to be used:

(1) for employee scholarships that satisfy the following requirements:

(i) scholarships are available to all employees who work an average of at least 20 hours per week at the facility except the administrator, department supervisors, and registered nurses; and

(ii) the course of study is offered by an institution of higher education and is expected to lead to career advancement with the facility or in long-term care, including medical care interpreter services and social work; and

(2) to provide job-related training in English as a second language.

(b) A facility receiving a rate adjustment under this subdivision may submit to the commissioner on a schedule determined by the commissioner and on a form supplied by the commissioner a calculation of the scholarship per diem, including: the amount received from this rate adjustment; the amount used for training in English as a second language; the number of persons receiving the training; the name of the person or entity providing the training; and for each scholarship recipient, the name of the recipient, the amount awarded, the educational institution of higher education attended, the nature of the educational program, the program completion date, and a determination of the per diem amount of these costs based on actual resident days.

(c) On July 1, 2003, the commissioner shall remove the 25 cent scholarship per diem from the total operating payment rate of each facility.

(d) For rate years beginning after June 30, 2003, the commissioner shall provide to each facility the scholarship per diem determined in paragraph (b). In calculating the per diem under paragraph (b), the commissioner shall allow only costs related to tuition and direct educational expenses.

Sec. 29. Minnesota Statutes 2003 Supplement, section 256B.69, subdivision 4, is amended to read:

Subd. 4. [LIMITATION OF CHOICE.] (a) The commissioner shall develop criteria to determine when limitation of choice may be implemented in the experimental counties. The criteria shall ensure that all eligible individuals in the county have continuing access to the full range of medical assistance services as specified in subdivision 6.

(b) The commissioner shall exempt the following persons from participation in the project, in addition to those who do not meet the criteria for limitation of choice:

- (1) persons eligible for medical assistance according to section 256B.055, subdivision 1;
- (2) persons eligible for medical assistance due to blindness or disability as determined by the Social Security Administration or the state medical review team, unless:
 - (i) they are 65 years of age or older; or
 - (ii) they reside in Itasca County or they reside in a county in which the commissioner conducts a pilot project under a waiver granted pursuant to section 1115 of the Social Security Act;
- (3) recipients who currently have private coverage through a health maintenance organization;
- (4) recipients who are eligible for medical assistance by spending down excess income for medical expenses other than the nursing facility per diem expense;
- (5) recipients who receive benefits under the Refugee Assistance Program, established under United States Code, title 8, section 1522(e);
- (6) children who are both determined to be severely emotionally disturbed and receiving case management services according to section 256B.0625, subdivision 20;
- (7) adults who are both determined to be seriously and persistently mentally ill and received case management services according to section 256B.0625, subdivision 20;
- (8) persons eligible for medical assistance according to section 256B.057, subdivision 10; and
- (9) persons with access to cost-effective employer-sponsored private health insurance or persons enrolled in an individual health plan determined to be cost-effective according to section 256B.0625, subdivision 15.

Children under age 21 who are in foster placement may enroll in the project on an elective basis. Individuals excluded under clauses (1), (6), and (7) may choose to enroll on an elective basis. The commissioner may enroll recipients in the prepaid medical assistance program for seniors who are (1) age 65 and over, and (2) eligible for medical assistance by spending down excess income.

(c) The commissioner may allow persons with a one-month spenddown who are otherwise eligible to enroll to voluntarily enroll or remain enrolled, if they elect to prepay their monthly spenddown to the state.

(d) The commissioner may require those individuals to enroll in the prepaid medical assistance program who otherwise would have been excluded under paragraph (b), clauses (1), (3), and (8), and under Minnesota Rules, part 9500.1452, subpart 2, items H, K, and L.

(e) Before limitation of choice is implemented, eligible individuals shall be notified and after notification, shall be allowed to choose only among demonstration providers. The commissioner may assign an individual with private coverage through a health maintenance organization, to the same health maintenance organization for medical assistance coverage, if the health maintenance organization is under contract for medical assistance in the individual's county of residence. After initially choosing a provider, the recipient is allowed to change that choice only at specified times as allowed by the commissioner. If a demonstration provider ends participation in the project for any reason, a recipient enrolled with that provider must select a new provider but may change providers without cause once more within the first 60 days after enrollment with the second provider.

(f) An infant born to a woman who is eligible for and receiving medical assistance and who is enrolled in the prepaid medical assistance program shall be retroactively enrolled to the month of birth in the same managed care plan as the mother once the child is enrolled in medical assistance unless the child is determined to be excluded from enrollment in a prepaid plan under this section.

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

Sec. 30. Minnesota Statutes 2003 Supplement, section 256B.69, subdivision 5a, is amended to read:

Subd. 5a. [MANAGED CARE CONTRACTS.] (a) Managed care contracts under this section and sections 256L.12 and 256D.03, shall be entered into or renewed on a calendar year basis beginning January 1, 1996. Managed care contracts which were in effect on June 30, 1995, and set to renew on July 1, 1995, shall be renewed for the period July 1, 1995 through December 31, 1995 at the same terms that were in effect on June 30, 1995. The commissioner may issue separate contracts with requirements specific to services to medical assistance recipients age 65 and older.

(b) A prepaid health plan providing covered health services for eligible persons pursuant to chapters 256B, 256D, and 256L, is responsible for complying with the terms of its contract with the commissioner. Requirements applicable to managed care programs under chapters 256B, 256D, and 256L, established after the effective date of a contract with the commissioner take effect when the contract is next issued or renewed.

(c) Effective for services rendered on or after January 1, 2003, the commissioner shall withhold five percent of managed care plan payments under this section for the prepaid medical assistance and general assistance medical care programs pending completion of performance targets. Each performance target must be quantifiable, objective, measurable, and reasonably attainable, except in the case of a performance target based on a federal or state law or rule. Criteria for assessment of each performance target must be outlined in writing prior to the contract effective date. For contracts in effect beginning October 1, 2004, the commissioner shall include as a performance target the targets established under section 256B.075, subdivision 3, for reducing inpatient hospitalization costs for enrollees with chronic conditions and the targets established in terms of providing disease management to the enrollees. The withheld funds must be returned no sooner than July of the following year if performance targets in the contract are achieved. The commissioner may exclude special demonstration projects under subdivision 23. A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this paragraph that is reasonably expected to be returned.

Sec. 31. Minnesota Statutes 2003 Supplement, section 256B.76, is amended to read:

256B.76 [PHYSICIAN AND, DENTAL, AND OTHER PROVIDER REIMBURSEMENT.]

(a) Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for physician services as follows:

(1) payment for level one Centers for Medicare and Medicaid Services' common procedural coding system codes titled "office and other outpatient services," "preventive medicine new and established patient," "delivery, antepartum, and postpartum care," "critical care," cesarean delivery and pharmacologic management provided to psychiatric patients, and level three codes for enhanced services for prenatal high risk, shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992. If the rate on any procedure code within these categories is different than the rate that would have been paid under the methodology in section 256B.74, subdivision 2, then the larger rate shall be paid;

(2) payments for all other services shall be paid at the lower of (i) submitted charges, or (ii) 15.4 percent above the rate in effect on June 30, 1992;

(3) all physician rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases except that payment rates for home health agency services shall be the rates in effect on September 30, 1992;

(4) effective for services rendered on or after January 1, 2000, payment rates for physician and professional services shall be increased by three percent over the rates in effect on December 31, 1999, except for home health agency and family planning agency services; and

(5) the increases in clause (4) shall be implemented January 1, 2000, for managed care.

(b) Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for dental services as follows:

(1) dental services shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992;

(2) dental rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases;

(3) effective for services rendered on or after January 1, 2000, payment rates for dental services shall be increased by three percent over the rates in effect on December 31, 1999;

(4) the commissioner shall award grants to community clinics or other nonprofit community organizations, political subdivisions, professional associations, or other organizations that demonstrate the ability to provide dental services effectively to public program recipients. Grants may be used to fund the costs related to coordinating access for recipients, developing and implementing patient care criteria, upgrading or establishing new facilities, acquiring furnishings or equipment, recruiting new providers, or other development costs that will improve access to dental care in a region. In awarding grants, the commissioner shall give priority to applicants that plan to serve areas of the state in which the number of dental providers is not currently sufficient to meet the needs of recipients of public programs or uninsured individuals. The commissioner shall consider the following in awarding the grants:

(i) potential to successfully increase access to an underserved population;

(ii) the ability to raise matching funds;

(iii) the long-term viability of the project to improve access beyond the period of initial funding;

(iv) the efficiency in the use of the funding; and

(v) the experience of the proposers in providing services to the target population.

The commissioner shall monitor the grants and may terminate a grant if the grantee does not increase dental access for public program recipients. The commissioner shall consider grants for the following:

(~~i~~) (A) implementation of new programs or continued expansion of current access programs that have demonstrated success in providing dental services in underserved areas;

(~~ii~~) (B) a pilot program for utilizing hygienists outside of a traditional dental office to provide dental hygiene services; and

(~~iii~~) (C) a program that organizes a network of volunteer dentists, establishes a system to refer eligible individuals to volunteer dentists, and through that network provides donated dental care services to public program recipients or uninsured individuals;

(5) beginning October 1, 1999, the payment for tooth sealants and fluoride treatments shall be the lower of (i) submitted charge, or (ii) 80 percent of median 1997 charges;

(6) the increases listed in clauses (3) and (5) shall be implemented January 1, 2000, for managed care; and

(7) effective for services provided on or after January 1, 2002, payment for diagnostic examinations and dental x-rays provided to children under age 21 shall be the lower of (i) the submitted charge, or (ii) 85 percent of median 1999 charges.

(c) Effective for dental services rendered on or after January 1, 2002, the commissioner may, within the limits of available appropriation, increase reimbursements to dentists and dental clinics deemed by the commissioner to be critical access dental providers. Reimbursement to a critical access dental provider may be increased by not more than 50 percent above the reimbursement rate that would otherwise be paid to the provider. Payments to health plan companies shall be adjusted to reflect increased reimbursements to critical access dental providers as approved by the commissioner. In determining which dentists and dental clinics shall be deemed critical access dental providers, the commissioner shall review:

(1) the utilization rate in the service area in which the dentist or dental clinic operates for dental services to patients covered by medical assistance, general assistance medical care, or MinnesotaCare as their primary source of coverage;

(2) the level of services provided by the dentist or dental clinic to patients covered by medical assistance, general assistance medical care, or MinnesotaCare as their primary source of coverage; and

(3) whether the level of services provided by the dentist or dental clinic is critical to maintaining adequate levels of patient access within the service area.

In the absence of a critical access dental provider in a service area, the commissioner may designate a dentist or dental clinic as a critical access dental provider if the dentist or dental clinic is willing to provide care to patients covered by medical assistance, general assistance medical care, or MinnesotaCare at a level which significantly increases access to dental care in the service area.

(d) An entity that operates both a Medicare certified comprehensive outpatient rehabilitation facility and a facility which was certified prior to January 1, 1993, that is licensed under Minnesota Rules, parts 9570.2000 to 9570.3600, and for whom at least 33 percent of the clients receiving rehabilitation services in the most recent calendar year are medical assistance recipients, shall be reimbursed by the commissioner for rehabilitation services at rates that are 38 percent greater than the maximum reimbursement rate allowed under paragraph (a), clause (2), when those services are (1) provided within the comprehensive outpatient rehabilitation facility and (2) provided to residents of nursing facilities owned by the entity.

(e) Effective for services rendered on or after January 1, 2007, the commissioner shall make payments for physician and professional services based on the Medicare relative value units (RVUs). This change shall be budget neutral and the cost of implementing RVUs will be incorporated in the established conversion factor.

(f) An entity that operates a Medicare certified rehabilitation facility that was designated by the commissioner of health as an essential community provider as of January 1, 2000, and for whom at least 25 percent of the clients receiving rehabilitation services at the facility or in their homes in the most recent calendar year are medical assistance recipients, shall be reimbursed by the commissioner for rehabilitation services provided on or after July 1, 2004, at rates that are 50 percent greater than the maximum reimbursement rate that would otherwise be allowed for rehabilitation services provided by a Medicare certified rehabilitation facility. For purposes of this paragraph, "rehabilitation services" means physical therapy, occupational therapy, speech-language pathology, and audiology services. In order to qualify for the reimbursement rate authorized by this paragraph, a facility must annually certify, in the time and manner specified by the commissioner, that the medical assistance percentage of caseload requirement was satisfied in the most recent calendar year.

Sec. 32. 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 256I.01 to 256I.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 if known, 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's name and address. If the name and address are not available, the provider may submit provider identification and a temporary unique identifier for the applicant by the end of the next business day. The date of hospital admission shall be considered to be the application date for such requests. 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, 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.

Sec. 33. 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;
- (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;~~

~~(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. 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. There shall be no co-payment required of any recipient of benefits for any services provided under this subdivision.~~

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

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

~~(i) (g) 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)~~ (h) 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)~~ (i) 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)~~ (g).

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

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

(l) In addition to any other reductions under this subdivision and section 256.969, subdivision 3a, payments for inpatient services, excluding inpatient mental health services and services provided at American Indian health services facilities and facilities operated by a tribe or tribal organization, shall be reduced by 15 percent, effective July 1, 2004. This adjustment shall not apply to managed care payments. This adjustment is contingent on the implementation and continued operation of the hospital payments authorized under section 256.969, subdivision 9, paragraph (b), clauses (4), (5), and (6), and subdivision 23, paragraph (a), clauses (3), (4), and (5). If those payments are not implemented, the adjustment under this paragraph shall not be implemented. If those payments are discontinued after implementation, the adjustments under this paragraph shall be discontinued.

~~(n)~~ (m) 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.] Paragraph (d) is effective October 1, 2004. Paragraph (l) is effective July 1, 2004.

Sec. 34. Minnesota Statutes 2002, section 256L.01, subdivision 4, is amended to read:

Subd. 4. [GROSS INDIVIDUAL OR GROSS FAMILY INCOME.] (a) "Gross individual or gross family income" for nonfarm self-employed means income calculated using as the baseline the adjusted gross income reported on the applicant's federal income tax form for the previous year and adding back in reported depreciation, carryover loss, and net operating loss amounts that apply to the business in which the family is currently engaged.

(b) "Gross individual or gross family income" for farm self-employed means income calculated using as the baseline the adjusted gross income reported on the applicant's federal income tax form for the previous year and adding back in reported depreciation amounts that apply to the business in which the family is currently engaged.

(c) Applicants shall report the most recent financial situation of the family if it has changed from the period of time covered by the federal income tax form. The report may be in the form of percentage increase or decrease.

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

Sec. 35. 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 preventive services covered under section 256B.0625, subdivision 9, paragraph (b), orthodontic services, 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. Adult dental care for nonpreventive services, with the exception of orthodontic services, is covered for persons who qualify under section 256L.04, subdivisions 1, 2, and 7, with family gross income equal to or less than 175 percent of the federal poverty guidelines. 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 October 1, 2004.

Sec. 36. Minnesota Statutes 2002, section 256L.04, subdivision 7a, is amended to read:

Subd. 7a. **[INELIGIBILITY.]** Applicants whose income is greater than the limits established under this section may not enroll in the MinnesotaCare program. Applicants who are determined to be eligible for the medical assistance program are not eligible for the MinnesotaCare program.

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

Sec. 37. Minnesota Statutes 2002, section 256L.04, subdivision 8, is amended to read:

Subd. 8. **[APPLICANTS POTENTIALLY ELIGIBLE FOR MEDICAL ASSISTANCE.]** (a) Beginning July 1, 2005, families with children and single adults without children who are potentially eligible for medical assistance without a spenddown must enroll in the medical assistance program if the applicant is determined to be eligible for medical assistance.

(b) Individuals who receive supplemental security income or retirement, survivors, or disability benefits due to a disability, or other disability-based pension, who qualify under subdivision 7, but who are potentially eligible for medical assistance without a spenddown shall be allowed to enroll in MinnesotaCare for a period of 60 days, so long as the applicant meets all other conditions of eligibility. The commissioner shall identify and refer the applications of such individuals to their county social service agency. The county and the commissioner shall cooperate to ensure that the individuals obtain medical assistance coverage for any months for which they are eligible.

~~(b)~~ The enrollee must cooperate with the county social service agency in determining medical assistance eligibility within the 60-day enrollment period. Enrollees who do not cooperate with medical assistance within the 60-day enrollment period shall be disenrolled from the plan within one calendar month. Persons disenrolled for nonapplication for medical assistance may not reenroll until they have obtained a determination that they are not eligible for medical assistance eligibility determination. Persons disenrolled for noncooperation with medical assistance may not reenroll until they have cooperated with the county agency and have obtained a medical assistance eligibility determination that they are not eligible for medical assistance.

(c) ~~Beginning January 1, 2000, Counties that choose to become MinnesotaCare enrollment sites shall consider MinnesotaCare applications to also be applications for medical assistance. Beginning July 1, 2005, applicants who are potentially eligible for medical assistance, except for those described in paragraph (a), may choose to must enroll in either MinnesotaCare or medical assistance if it is determined that they are eligible.~~

(d) The commissioner shall redetermine provider payments made under MinnesotaCare to the appropriate medical assistance payments for those enrollees who subsequently become eligible for medical assistance.

Sec. 38. Minnesota Statutes 2003 Supplement, section 256L.05, subdivision 3a, is amended to read:

Subd. 3a. [RENEWAL OF ELIGIBILITY.] (a) Beginning January 1, 1999, an enrollee's eligibility must be renewed every 12 months. The 12-month period begins in the month after the month the application is approved.

(b) Beginning October 1, 2004, an enrollee's eligibility must be renewed every six months. The first six-month period of eligibility begins in the month after the month the application is approved. Each new period of eligibility must take into account any changes in circumstances that impact eligibility and premium amount. An enrollee must provide all the information needed to redetermine eligibility by the first day of the month that ends the eligibility period. The premium for the new period of eligibility must be received as provided in section 256L.06 in order for eligibility to continue.

(c) Beginning July 1, 2005, at an enrollee's eligibility renewal, the commissioner shall determine whether the enrollee is eligible for medical assistance. If the enrollee is eligible, then eligibility shall not be renewed.

Sec. 39. Minnesota Statutes 2003 Supplement, section 256L.12, subdivision 6, is amended to read:

Subd. 6. [CO-PAYMENTS AND BENEFIT LIMITS.] Enrollees are responsible for all co-payments in sections section 256L.03, subdivision 5, and ~~256L.035~~, and shall pay co-payments to the managed care plan or to its participating providers. The enrollee is also responsible for payment of inpatient hospital charges which exceed the MinnesotaCare benefit limit.

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

Sec. 40. [256L.20] [MINNESOTACARE OPTION FOR SMALL EMPLOYERS.]

Subdivision 1. [DEFINITIONS.] (a) For the purpose of this section, the following terms have the meanings given them.

(b) "Child" means an unmarried child under 21 years of age.

(c) "Dependent" means an eligible employee's spouse and children.

(d) "Eligible employer" means a business that employs at least two, but not more than 50, eligible employees, the majority of whom are employed in the state, and includes a municipality that has 50 or fewer employees.

(e) "Eligible employee" means an employee who works at least 20 hours per week for an eligible employer. Eligible employee does not include an employee who works on a temporary or substitute basis or who does not work more than 26 weeks annually. An "eligible employee without children" shall include the employee's spouse.

(f) "Maximum premium" has the meaning given under section 256L.15, subdivision 2, paragraph (b), clause (3).

(g) "Participating employer" means an eligible employer who meets the requirements described in subdivision 3 and applies to the commissioner to enroll its eligible employees and their dependents in the MinnesotaCare program.

(h) "Program" means the MinnesotaCare program.

Subd. 2. [OPTION.] Eligible employees and their dependents may enroll in MinnesotaCare if the eligible employer meets the requirements of subdivision 3. The effective date of coverage is according to section 256L.05, subdivision 3.

Subd. 3. [EMPLOYER REQUIREMENTS.] The commissioner shall establish procedures for an eligible employer to apply for coverage through the program. In order to participate, an eligible employer must meet the following requirements:

(1) agrees to contribute toward the cost of the premium for the employee and the employee's dependents according to subdivision 4;

(2) certifies that at least 75 percent of its eligible employees who do not have other creditable health coverage are enrolled in the program;

(3) offers coverage to all eligible employees and the dependents of eligible employees; and

(4) has not provided employer-subsidized health coverage as an employee benefit during the previous 12 months, as defined in section 256L.07, subdivision 2, paragraph (c).

Subd. 4. [PREMIUMS.] (a) The premium for MinnesotaCare coverage provided under this section is equal to the maximum premium regardless of the income of the eligible employee.

(b) For eligible employees without children with income equal to or less than 175 percent of the federal poverty guidelines and for eligible employees with children with income equal to or less than 275 percent of the federal poverty guidelines, the participating employer shall pay 50 percent of the maximum premium for the eligible employee and any dependents, if applicable.

(c) For eligible employees without children with income over 175 percent of the federal poverty guidelines and for eligible employees with children with income over 275 percent of the federal poverty guidelines, the participating employer shall pay the full cost of the maximum premium for the eligible employee and any dependents, if applicable. The participating employer may require the employee to pay a portion of the cost of the premium so long as the employer pays 50 percent of the cost. If the employer requires the employee to pay a portion of the premium, the employee shall pay the portion of the cost to the employer.

(d) The commissioner shall collect premium payments from participating employers for eligible employees and their dependents who are covered by the program as provided under this section. All premiums collected shall be deposited in the health care access fund.

Subd. 5. [COVERAGE.] The coverage offered to those enrolled in the program under this section must include all health services described under section 256L.03 and all co-payments and coinsurance requirements described under section 256L.03, subdivision 5, shall apply.

Subd. 6. [ENROLLMENT.] Upon payment of the premium, in accordance with this section and section 256L.06, eligible employees and their dependents shall be enrolled in MinnesotaCare. For purposes of enrollment under this section, income eligibility limits established under sections 256L.04 and 256L.07, subdivision 1, and asset limits established under section 256L.17 do not apply. The barriers established under section 256L.07, subdivision 2 or 3, do not apply to enrollees eligible under this section. The commissioner may require eligible employees to provide income verification to determine premiums.

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

Sec. 41. 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. 42. 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 general assistance medical care, the MinnesotaCare program, or the medical assistance, general assistance medical care, or the MinnesotaCare program governed by title XIX of the federal Social Security Act, United States Code, title 42, section 1396;

(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 a recipient's individualized education plan as defined in section 256B.0625 or Code of Federal Regulations, title 34, section 300.340(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.

Sec. 43. Laws 2003, First Special Session chapter 14, article 6, section 65, is amended to read:

Sec. 65. [FEDERAL GRANTS TO MAINTAIN INDEPENDENCE AND EMPLOYMENT.]

(a) The commissioner of human services shall seek federal funding to participate in grant activities authorized under Public Law 106-170, the Ticket to Work and Work Incentives Improvement Act of 1999. The purpose of the federal grant funds are to establish:

(1) a demonstration project to improve the availability of health care services and benefits to workers with potentially severe physical or mental impairments that are likely to lead to disability without access to Medicaid services; and

(2) a comprehensive initiative to remove employment barriers that includes linkages with non-Medicaid programs, including those administered by the Social Security Administration and the Department of Labor.

(b) The state's proposal for a demonstration project in paragraph (a), clause (1), shall focus on assisting workers with:

(1) a serious mental illness as defined by the federal Center for Mental Health Services;

(2) concurrent mental health and chemical dependency conditions; ~~and~~

(3) young adults up to the age of 24 who have a physical or mental impairment that is severe and will potentially lead to a determination of disability by the Social Security Administration or state medical review team; and

(4) adults without children who are eligible for MinnesotaCare and who suffer from one or more of the following chronic health conditions: diabetes, hypertension, coronary artery disease, asthma, thyroid disease, cancer, chronic arthritis, HIV, or multiple sclerosis.

(c) The commissioner is authorized to take the actions necessary to design and implement the demonstration project in paragraph (a), clause (1), that include:

(1) establishing work-related requirements for participation in the demonstration project;

(2) working with stakeholders to establish methods that identify the population that will be served in the demonstration project;

(3) seeking funding for activities to design, implement, and evaluate the demonstration project;

(4) taking necessary administrative actions to implement the demonstration project by July 1, 2004, or within 180 days of receiving formal notice from the Centers for Medicare and Medicaid Services that a grant has been awarded;

(5) establishing limits on income and resources;

(6) establishing a method to coordinate health care benefits and payments with other coverage that is available to the participants;

(7) establishing premiums based on guidelines that are consistent with those found in Minnesota Statutes, section 256B.057, subdivision 9, for employed persons with disabilities;

(8) notifying local agencies of potentially eligible individuals in accordance with Minnesota Statutes, section 256B.19, subdivision 2c; and

(9) limiting the caseload of qualifying individuals participating in the demonstration project.

(d) The state's proposal for the comprehensive employment initiative in paragraph (a), clause (2), shall focus on:

(1) infrastructure development that creates incentives for greater work effort and participation by people with disabilities or workers with severe physical or mental impairments;

(2) consumer access to information and benefit assistance that enables the person to maximize employment and career advancement potential;

(3) improved consumer access to essential assistance and support;

(4) enhanced linkages between state and federal agencies to decrease the barriers to employment experienced by persons with disabilities or workers with severe physical or mental impairments; and

(5) research efforts to provide useful information to guide future policy development on both the state and federal levels.

(e) Funds awarded by the federal government for the purposes of this section are appropriated to the commissioner of human services.

(f) The commissioner shall report to the chairs of the senate and house of representatives finance divisions having jurisdiction over health care issues on the federal approval of the waiver under this section and the projected savings in the November and February forecasts. Any savings projected for the individuals described in paragraph (a), clause (4), shall be deposited in the health care access fund.

The commissioner must consider using the savings to increase GAMC hospital rates to the July 1, 2003 2004, levels as a supplemental budget proposal in the 2004 2005 legislative session.

Sec. 44. Laws 2003, First Special Session chapter 14, article 12, section 99, is amended to read:

Sec. 99. [PHARMACEUTICAL CARE DEMONSTRATION PROJECT.]

(a) The commissioner shall seek federal approval for a demonstration project to provide culturally specific pharmaceutical care to ~~American Indian~~ medical assistance recipients who are age 55 and older. The pharmaceutical care offered in the demonstration project must be provided through Indian Health Services or Tribal 638 providers by a pharmacist who is certified by the University of Minnesota in pharmaceutical care and who is approved by the commissioner. In developing the demonstration project, the commissioner shall consult with organizations and health care providers experienced in developing and implementing culturally competent intervention strategies to manage the use of prescription drugs, over-the-counter drugs, other drug products, and native therapies by ~~American Indian~~ elders.

(b) For purposes of this section, "pharmaceutical care" means the provision of drug therapy and native therapy for the purpose of improving a patient's quality of life by: (1) curing a disease; (2) eliminating or reducing a patient's symptoms; (3) arresting or slowing a disease process; or (4) preventing a disease or a symptom. Pharmaceutical care involves the documented process through which a pharmacist cooperates with a patient and other professionals in designing, implementing, and monitoring a therapeutic plan that is expected to produce specific therapeutic outcomes, through the identification, resolution, and prevention of drug-related problems. Nothing in this project shall be construed to expand or modify the scope of practice of the pharmacist as defined in Minnesota Statutes, section 151.01, subdivision 27.

(c) Upon receipt of federal approval, the commissioner shall ~~report to the legislature for legislative approval for implementation of~~ implement the demonstration project and shall present recommendations to the legislature no later than 90 days after completion of the demonstration project on whether the project shall be continued or expanded.

Sec. 45. [FEDERAL 340B DRUG PRICING PROGRAM INFORMATION.]

The commissioner of human services shall examine the feasibility of providing discounted prescription drugs to targeted patient populations through the use of section 340B of the federal Public Health Services Act, United States Code, title 42, section 256b (1999). The commissioner of human services shall also consult with other state agencies and representatives of health care providers and facilities in the state to provide the following information:

(1) a description of all health care providers and facilities in the state potentially eligible for designation as a "covered entity" under section 340B, including, but not limited to, all hospitals eligible as disproportionate share hospitals; recipients of grants from the United States Public

Health Service; federally qualified health centers; state-operated AIDS drug assistance programs; Ryan White Care Act, title I, title II, and title III programs; family planning and sexually transmitted disease clinics; hemophilia treatment centers; public housing primary care clinics; and clinics for homeless people. The commissioner shall encourage those facilities that are or may be eligible to participate in the program and shall provide any necessary technical assistance to access the program; and

(2) a list of potential applications of section 340B and the potential benefits to public, private, and third-party payers, including, but not limited to:

(i) evaluating methods to allow community mental health patients to obtain medications through 340B providers;

(ii) maximizing the use of 340B providers within state-funded managed care plans;

(iii) including 340B providers in state bulk purchasing initiatives; and

(iv) utilizing sole source contracts with 340B providers to furnish high-cost chronic care drugs.

Sec. 46. [DISEASE MANAGEMENT PROGRAM ACCOUNTABILITY.]

Any savings generated from the disease management initiatives under Minnesota Statutes, section 256B.075, shall be retained by the commissioner of human services and used for provider bonuses in the fee-for-service medical assistance program as described in Minnesota Statutes, section 256B.075, and for increasing other provider rates within the fee-for-service program.

Sec. 47. [MINNESOTACARE OPTION FOR SMALL EMPLOYERS.]

The commissioner of human services, in consultation with the Minnesota Hospital Association, Minnesota Medical Association, Minnesota Chamber of Commerce, and Minnesota Business Partnership, shall evaluate the effect of the limited hospital benefit under the MinnesotaCare program for single adults without children as it applies to the MinnesotaCare enrollment option for small employers described under Minnesota Statutes, section 256L.20. In the evaluation, the commissioner shall determine whether this limitation discourages participation in the program by small employers, whether it has added to the amount of uncompensated care provided by hospitals, and the cost to the MinnesotaCare program if the hospital benefit limitation was eliminated for enrollees enrolled under Minnesota Statutes, section 256L.20. The commissioner shall submit the results of the evaluation to the legislature by January 15, 2006.

Sec. 48. [LIMITING COVERAGE OF HEALTH CARE SERVICES FOR MEDICAL ASSISTANCE, GENERAL ASSISTANCE MEDICAL CARE, AND MINNESOTACARE PROGRAMS.]

Subdivision 1. [GENERAL ASSISTANCE MEDICAL CARE AND MINNESOTACARE.] (a) Effective July 1, 2004, the diagnosis/treatment pairings described in subdivision 3 shall not be covered under the general assistance medical care program and under the MinnesotaCare program for persons eligible under Minnesota Statutes, section 256L.04, subdivision 7.

(b) This subdivision expires July 1, 2007, or when a list is established according to Minnesota Statutes, section 256B.0625, subdivision 46, whichever is earlier.

Subd. 2. [PRIOR AUTHORIZATION OF SERVICES FOR MEDICAL ASSISTANCE.] (a) Effective July 1, 2004, prior authorization shall be required for the diagnosis/treatment pairings described in subdivision 3 for reimbursement under Minnesota Statutes, chapter 256B, and under the MinnesotaCare program for persons eligible under Minnesota Statutes, section 256L.04, subdivision 1.

(b) This subdivision expires July 1, 2007, or when a list is established according to Minnesota Statutes, section 256B.0625, subdivision 46, whichever is earlier.

Subd. 3. [LIST OF DIAGNOSIS/TREATMENT PAIRINGS.] (a)(1) Diagnosis: TRIGEMINAL AND OTHER NERVE DISORDERS

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 350,352

(2) Diagnosis: DISRUPTIONS OF THE LIGAMENTS AND TENDONS OF THE ARMS AND LEGS, EXCLUDING THE KNEE, GRADE II AND III

Treatment: REPAIR

ICD-9: 726.5, 727.59, 727.62-727.65, 727.68-727.69, 728.83, 728.89, 840.0-840.3, 840.5-840.9, 841-843, 845.0

(3) Diagnosis: DISORDERS OF SHOULDER

Treatment: REPAIR/RECONSTRUCTION

ICD-9: 718.01, 718.11, 718.21, 718.31, 718.41, 718.51, 718.81, 726.0, 726.10-726.11, 726.19, 726.2, 727.61, 840.4, 840.7

(4) Diagnosis: INTERNAL DERANGEMENT OF KNEE AND LIGAMENTOUS DISRUPTIONS OF THE KNEE, GRADE II AND III

Treatment: REPAIR, MEDICAL THERAPY

ICD-9: 717.0-717.4, 717.6-717.8, 718.26, 718.36, 718.46, 718.56, 727.66, 836.0-836.2, 844

(5) Diagnosis: MALUNION AND NONUNION OF FRACTURE

Treatment: SURGICAL TREATMENT

ICD-9: 733.8

(6) Diagnosis: FOREIGN BODY IN UTERUS, VULVA AND VAGINA

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 939.1-939.2

(7) Diagnosis: UTERINE PROLAPSE; CYSTOCELE

Treatment: SURGICAL REPAIR

ICD-9: 618

(8) Diagnosis: OSTEOARTHRITIS AND ALLIED DISORDERS

Treatment: MEDICAL THERAPY, INJECTIONS

ICD-9: 713.5, 715, 716.0-716.1, 716.5-716.6

(9) Diagnosis: METABOLIC BONE DISEASE

Treatment: MEDICAL THERAPY

ICD-9: 731.0, 733.0

(10) Diagnosis: SYMPTOMATIC IMPACTED TEETH

Treatment: SURGERY

ICD-9: 520.6, 524.3-524.4

(11) Diagnosis: UNSPECIFIED DISEASE OF HARD TISSUES OF TEETH (AVULSION)

Treatment: INTERDENTAL WIRING

ICD-9: 525.9

(12) Diagnosis: ABSCESSES AND CYSTS OF BARTHOLIN'S GLAND AND VULVA

Treatment: INCISION AND DRAINAGE, MEDICAL THERAPY

ICD-9: 616.2-616.9

(13) Diagnosis: CERVICITIS, ENDOCERVICITIS, HEMATOMA OF VULVA, AND NONINFLAMMATORY DISORDERS OF THE VAGINA

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 616.0, 623.6, 623.8-623.9, 624.5

(14) Diagnosis: DENTAL CONDITIONS (e.g., TOOTH LOSS)

Treatment: SPACE MAINTENANCE AND PERIODONTAL MAINTENANCE

ICD-9: V72.2

(15) Diagnosis: URINARY INCONTINENCE

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 599.81, 625.6, 788.31-788.33

(16) Diagnosis: HYPOSPADIAS AND EPISPADIAS

Treatment: REPAIR

ICD-9: 752.6

(17) Diagnosis: RESIDUAL FOREIGN BODY IN SOFT TISSUE

Treatment: REMOVAL

ICD-9: 374.86, 729.6, 883.1-883.2

(18) Diagnosis: BRANCHIAL CLEFT CYST

Treatment: EXCISION, MEDICAL THERAPY

ICD-9: 744.41-744.46, 744.49, 759.2

(19) Diagnosis: EXFOLIATION OF TEETH DUE TO SYSTEMIC CAUSES; SPECIFIC DISORDERS OF THE TEETH AND SUPPORTING STRUCTURES

Treatment: EXCISION OF DENTOALVEOLAR STRUCTURE

ICD-9: 525.0, 525.8, 525.11

(20) Diagnosis: PTOSIS (ACQUIRED) WITH VISION IMPAIRMENT

Treatment: PTOSIS REPAIR

ICD-9: 374.2-374.3, 374.41, 374.43, 374.46

(21) Diagnosis: SIMPLE AND SOCIAL PHOBIAS

Treatment: MEDICAL/PSYCHOTHERAPY

ICD-9: 300.23, 300.29

(22) Diagnosis: RETAINED DENTAL ROOT

Treatment: EXCISION OF DENTOALVEOLAR STRUCTURE

ICD-9: 525.3

(23) Diagnosis: PERIPHERAL NERVE ENTRAPMENT

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 354.0, 354.2, 355.5, 723.3, 728.6

(24) Diagnosis: INCONTINENCE OF FECES

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 787.6

(25) Diagnosis: RECTAL PROLAPSE

Treatment: PARTIAL COLECTOMY

ICD-9: 569.1-569.2

(26) Diagnosis: BENIGN NEOPLASM OF KIDNEY AND OTHER URINARY ORGANS

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 223

(27) Diagnosis: URETHRAL FISTULA

Treatment: EXCISION, MEDICAL THERAPY

ICD-9: 599.1-599.2, 599.4

(28) Diagnosis: THROMBOSED AND COMPLICATED HEMORRHOIDS

Treatment: HEMORRHOIDECTOMY, INCISION

ICD-9: 455.1-455.2, 455.4-455.5, 455.7-455.8

(29) Diagnosis: VAGINITIS, TRICHOMONIASIS

Treatment: MEDICAL THERAPY

ICD-9: 112.1, 131, 616.1, 623.5

(30) Diagnosis: BALANOPOSTHITIS AND OTHER DISORDERS OF PENIS

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 607.1, 607.81-607.83, 607.89

(31) Diagnosis: CHRONIC ANAL FISSURE; ANAL FISTULA

Treatment: SPHINCTEROTOMY, FISSURECTOMY, FISTULECTOMY, MEDICAL THERAPY

ICD-9: 565.0-565.1

(32) Diagnosis: CHRONIC OTITIS MEDIA

Treatment: PE TUBES/ADENOIDECTOMY/TYMPANOPLASTY, MEDICAL THERAPY

ICD-9: 380.5, 381.1-381.8, 382.1-382.3, 382.9, 383.1-383.2, 383.30-383.31, 383.9, 384.2, 384.8-384.9

(33) Diagnosis: ACUTE CONJUNCTIVITIS

Treatment: MEDICAL THERAPY

ICD-9: 077, 372.00

(34) Diagnosis: CERUMEN IMPACTION, FOREIGN BODY IN EAR & NOSE

Treatment: REMOVAL OF FOREIGN BODY

ICD-9: 380.4, 931-932

(35) Diagnosis: VERTIGINOUS SYNDROMES AND OTHER DISORDERS OF VESTIBULAR SYSTEM

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 379.54, 386.1-386.2, 386.4-386.9, 438.6-438.7, 438.83-438.85

(36) Diagnosis: UNSPECIFIED URINARY OBSTRUCTION AND BENIGN PROSTATIC HYPERPLASIA WITHOUT OBSTRUCTION

Treatment: MEDICAL THERAPY

ICD-9: 599.6, 600

(37) Diagnosis: PHIMOSIS

Treatment: SURGICAL TREATMENT

ICD-9: 605

(38) Diagnosis: CONTACT DERMATITIS, ATOPIC DERMATITIS AND OTHER ECZEMA

Treatment: MEDICAL THERAPY

ICD-9: 691.8, 692.0-692.6, 692.70-692.74, 692.79, 692.8-692.9

(39) Diagnosis: PSORIASIS AND SIMILAR DISORDERS

Treatment: MEDICAL THERAPY

ICD-9: 696.1-696.2, 696.8

(40) Diagnosis: CYSTIC ACNE

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 705.83, 706.0-706.1

(41) Diagnosis: CLOSED FRACTURE OF GREAT TOE

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 826.0

(42) Diagnosis: SYMPTOMATIC URTICARIA

Treatment: MEDICAL THERAPY

ICD-9: 708.0-708.1, 708.5, 708.8, 995.7

(43) Diagnosis: PERIPHERAL NERVE DISORDERS

Treatment: SURGICAL TREATMENT

ICD-9: 337.2, 353, 354.1, 354.3-354.9, 355.0, 355.3, 355.4, 355.7-355.8, 723.2

(44) Diagnosis: DYSFUNCTION OF NASOLACRIMAL SYSTEM; LACRIMAL SYSTEM LACERATION

Treatment: MEDICAL AND SURGICAL TREATMENT; CLOSURE

ICD-9: 370.33, 375, 870.2

(45) Diagnosis: NASAL POLYPS, OTHER DISORDERS OF NASAL CAVITY AND SINUSES

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 471, 478.1, 993.1

(46) Diagnosis: SIALOLITHIASIS, MUCOCELE, DISTURBANCE OF SALIVARY SECRETION, OTHER AND UNSPECIFIED DISEASES OF SALIVARY GLANDS

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 527.5-527.9

(47) Diagnosis: DENTAL CONDITIONS (e.g., BROKEN APPLIANCES)

Treatment: PERIODONTICS AND COMPLEX PROSTHETICS

ICD-9: 522.6, 522.8, V72.2

(48) Diagnosis: IMPULSE DISORDERS

Treatment: MEDICAL/PSYCHOTHERAPY

ICD-9: 312.31-312.39

(49) Diagnosis: BENIGN NEOPLASM BONE AND ARTICULAR CARTILAGE, INCLUDING OSTEOID OSTEOMAS; BENIGN NEOPLASM OF CONNECTIVE AND OTHER SOFT TISSUE

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 213, 215, 526.0-526.1, 526.81, 719.2, 733.2

(50) Diagnosis: SEXUAL DYSFUNCTION

Treatment: MEDICAL AND SURGICAL TREATMENT, PSYCHOTHERAPY

ICD-9: 302.7, 607.84

(51) Diagnosis: STOMATITIS AND DISEASES OF LIPS

Treatment: INCISION AND DRAINAGE/MEDICAL THERAPY

ICD-9: 528.0, 528.5, 528.9, 529.0

(52) Diagnosis: BELL'S PALSY, EXPOSURE KERATOCONJUNCTIVITIS

Treatment: TARSORRHAPHY

ICD-9: 351.0-351.1, 351.8-351.9, 370.34, 374.44, 374.45, 374.89

(53) Diagnosis: HORDEOLUM AND OTHER DEEP INFLAMMATION OF EYELID; CHALAZION

Treatment: INCISION AND DRAINAGE/MEDICAL THERAPY

ICD-9: 373.11-373.12, 373.2, 374.50, 374.54, 374.56, 374.84

(54) Diagnosis: ECTROPION, TRICHIASIS OF EYELID, BENIGN NEOPLASM OF EYELID

Treatment: ECTROPION REPAIR

ICD-9: 216.1, 224, 372.63, 374.1, 374.85

(55) Diagnosis: CHONDROMALACIA

Treatment: MEDICAL THERAPY

ICD-9: 733.92

(56) Diagnosis: DYSMENORRHEA

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 625.3

(57) Diagnosis: SPASTIC DIPLEGIA

Treatment: RHIZOTOMY

ICD-9: 343.0

(58) Diagnosis: ATROPHY OF EDENTULOUS ALVEOLAR RIDGE

Treatment: VESTIBULOPLASTY, GRAFTS, IMPLANTS

ICD-9: 525.2

(59) Diagnosis: DEFORMITIES OF UPPER BODY AND ALL LIMBS

Treatment: REPAIR/REVISION/RECONSTRUCTION/RELOCATION/MEDICAL THERAPY

ICD-9: 718.02-718.05, 718.13-718.15, 718.42-718.46, 718.52-718.56, 718.65, 718.82-718.86, 728.79, 732.3, 732.6, 732.8-732.9, 733.90-733.91, 736.00-736.04, 736.07, 736.09, 736.1, 736.20, 736.29, 736.30, 736.39, 736.4, 736.6, 736.76, 736.79, 736.89, 736.9, 738.6, 738.8, 754.42-754.44, 754.61, 754.8, 755.50-755.53, 755.56-755.57, 755.59, 755.60, 755.63-755.64, 755.69, 755.8, 756.82-756.83, 756.89

(60) Diagnosis: DEFORMITIES OF FOOT

Treatment: FASCIOTOMY/INCISION/REPAIR/ARTHRODESIS

ICD-9: 718.07, 718.47, 718.57, 718.87, 727.1, 732.5, 735.0-735.2, 735.3-735.9, 736.70-736.72, 754.50, 754.59, 754.60, 754.69, 754.70, 754.79, 755.65-755.67

(61) Diagnosis: PERITONEAL ADHESION

Treatment: SURGICAL TREATMENT

ICD-9: 568.0, 568.82-568.89, 568.9

(62) Diagnosis: PELVIC PAIN SYNDROME, DYSPAREUNIA

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 300.81, 614.1, 614.6, 620.6, 625.0-625.2, 625.5, 625.8-625.9

(63) Diagnosis: TENSION HEADACHES

Treatment: MEDICAL THERAPY

ICD-9: 307.81, 784.0

(64) Diagnosis: CHRONIC BRONCHITIS

Treatment: MEDICAL THERAPY

ICD-9: 490, 491.0, 491.8-491.9

(65) Diagnosis: DISORDERS OF FUNCTION OF STOMACH AND OTHER FUNCTIONAL DIGESTIVE DISORDERS

Treatment: MEDICAL THERAPY

ICD-9: 536.0-536.3, 536.8-536.9, 537.1-537.2, 537.5-537.6, 537.89, 537.9, 564.0-564.7, 564.9

(66) Diagnosis: TMJ DISORDER

Treatment: TMJ SPLINTS

ICD-9: 524.6, 848.1

(67) Diagnosis: URETHRITIS, NONSEXUALLY TRANSMITTED

Treatment: MEDICAL THERAPY

ICD-9: 597.8, 599.3-599.5, 599.9

(68) Diagnosis: LESION OF PLANTAR NERVE; PLANTAR FASCIAL FIBROMATOSIS

Treatment: MEDICAL THERAPY, EXCISION

ICD-9: 355.6, 728.71

(69) Diagnosis: GRANULOMA OF MUSCLE, GRANULOMA OF SKIN AND SUBCUTANEOUS TISSUE

Treatment: REMOVAL OF GRANULOMA

ICD-9: 709.4, 728.82

(70) Diagnosis: DERMATOPHYTOSIS OF NAIL, GROIN, AND FOOT AND OTHER DERMATOMYCOSIS

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 110.0-110.6, 110.8-110.9, 111

(71) Diagnosis: INTERNAL DERANGEMENT OF JOINT OTHER THAN KNEE

Treatment: REPAIR, MEDICAL THERAPY

ICD-9: 718.09, 718.19, 718.29, 718.48, 718.59, 718.88-718.89, 719.81-719.85, 719.87-719.89

(72) Diagnosis: STENOSIS OF NASOLACRIMAL DUCT (ACQUIRED)

Treatment: DACRYOCYSTORHINOSTOMY

ICD-9: 375.02, 375.30, 375.32, 375.4, 375.56-375.57, 375.61, 771.6

(73) Diagnosis: PERIPHERAL NERVE DISORDERS

Treatment: SURGICAL TREATMENT

ICD-9: 337.2, 353, 354.1, 354.3-354.9, 355.0, 355.3, 355.4, 355.7-355.8, 723.2

(74) Diagnosis: CAVUS DEFORMITY OF FOOT; FLAT FOOT; POLYDACTYLY AND SYNDACTYLY OF TOES

Treatment: MEDICAL THERAPY, ORTHOTIC

ICD-9: 734, 736.73, 755.00, 755.02, 755.10, 755.13-755.14

(75) Diagnosis: PERIPHERAL ENTHESOPATHIES

Treatment: SURGICAL TREATMENT

ICD-9: 726.12, 726.3-726.9, 728.81

(76) Diagnosis: PERIPHERAL ENTHESOPATHIES

Treatment: MEDICAL THERAPY

ICD-9: 726.12, 726.3-726.4, 726.6-726.9, 728.81

(77) Diagnosis: DISORDERS OF SOFT TISSUE

Treatment: MEDICAL THERAPY

ICD-9: 729.0-729.2, 729.31-729.39, 729.4-729.9

(78) Diagnosis: ENOPHTHALMOS

Treatment: ORBITAL IMPLANT

ICD-9: 372.64, 376.5

(79) Diagnosis: MACROMASTIA

Treatment: SUBCUTANEOUS TOTAL MASTECTOMY, BREAST REDUCTION

ICD-9: 611.1

(80) Diagnosis: GALACTORRHEA, MASTODYNIA, ATROPHY, BENIGN NEOPLASMS AND UNSPECIFIED DISORDERS OF THE BREAST

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 217, 611.3, 611.4, 611.6, 611.71, 611.9, 757.6

(81) Diagnosis: ACUTE AND CHRONIC DISORDERS OF SPINE WITHOUT NEUROLOGIC IMPAIRMENT

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 721.0, 721.2-721.3, 721.7-721.8, 721.90, 722.0-722.6, 722.8-722.9, 723.1, 723.5-723.9, 724.1-724.2, 724.5-724.9, 739, 839.2, 847

(82) Diagnosis: CYSTS OF ORAL SOFT TISSUES

Treatment: INCISION AND DRAINAGE

ICD-9: 527.1, 528.4, 528.8

(83) Diagnosis: FEMALE INFERTILITY, MALE INFERTILITY

Treatment: ARTIFICIAL INSEMINATION, MEDICAL THERAPY

ICD-9: 606, 628.4-628.9, 629.9, V26.1-V26.2, V26.8-V26.9

(84) Diagnosis: INFERTILITY DUE TO ANNOVULATION

Treatment: MEDICAL THERAPY

ICD-9: 626.0-626.1, 628.0, 628.1

(85) Diagnosis: POSTCONCUSSION SYNDROME

Treatment: MEDICAL THERAPY

ICD-9: 310.2

(86) Diagnosis: SIMPLE AND UNSPECIFIED GOITER, NONTOXIC NODULAR GOITER

Treatment: MEDICAL THERAPY, THYROIDECTOMY

ICD-9: 240-241

(87) Diagnosis: CONDUCTIVE HEARING LOSS

Treatment: AUDIANT BONE CONDUCTORS

ICD-9: 389.0, 389.2

(88) Diagnosis: CANCER OF LIVER AND INTRAHEPATIC BILE DUCTS

Treatment: LIVER TRANSPLANT

ICD-9: 155.0-155.1, 996.82

(89) Diagnosis: HYPOTENSION

Treatment: MEDICAL THERAPY

ICD-9: 458

(90) Diagnosis: VIRAL HEPATITIS, EXCLUDING CHRONIC VIRAL HEPATITIS B AND VIRAL HEPATITIS C WITHOUT HEPATIC COMA

Treatment: MEDICAL THERAPY

ICD-9: 070.0-070.2, 070.30-070.31, 070.33, 070.4, 070.52-070.53, 070.59, 070.6-070.9

(91) Diagnosis: BENIGN NEOPLASMS OF SKIN AND OTHER SOFT TISSUES

Treatment: MEDICAL THERAPY

ICD-9: 210, 214, 216, 221, 222.1, 222.4, 228.00-228.01, 228.1, 229, 686.1, 686.9

(92) Diagnosis: REDUNDANT PREPUCE

Treatment: ELECTIVE CIRCUMCISION

ICD-9: 605, V50.2

(93) Diagnosis: BENIGN NEOPLASMS OF DIGESTIVE SYSTEM

Treatment: SURGICAL TREATMENT

ICD-9: 211.0-211.2, 211.5-211.6, 211.8-211.9

(94) Diagnosis: OTHER NONINFECTIOUS GASTROENTERITIS AND COLITIS

Treatment: MEDICAL THERAPY

ICD-9: 558

(95) Diagnosis: FACTITIOUS DISORDERS

Treatment: CONSULTATION

ICD-9: 300.10, 300.16, 300.19, 301.51

(96) Diagnosis: HYPOCHONDRIASIS; SOMATOFORM DISORDER, NOS AND UNDIFFERENTIATED

Treatment: CONSULTATION

ICD-9: 300.7, 300.9, 306

(97) Diagnosis: CONVERSION DISORDER, ADULT

Treatment: MEDICAL/PSYCHOTHERAPY

ICD-9: 300.11

(98) Diagnosis: SPINAL DEFORMITY, NOT CLINICALLY SIGNIFICANT

Treatment: ARTHRODESIS/REPAIR/RECONSTRUCTION, MEDICAL THERAPY

ICD-9: 721.5-721.6, 723.0, 724.0, 731.0, 737.0-737.3, 737.8-737.9, 738.4-738.5, 754.1-754.2, 756.10-756.12, 756.13-756.17, 756.19, 756.3

(99) Diagnosis: ASYMPTOMATIC URTICARIA

Treatment: MEDICAL THERAPY

ICD-9: 708.2-708.4, 708.9

(100) Diagnosis: CIRCUMSCRIBED SCLERODERMA; SENILE PURPURA

Treatment: MEDICAL THERAPY

ICD-9: 287.2, 287.8-287.9, 701.0

(101) Diagnosis: DERMATITIS DUE TO SUBSTANCES TAKEN INTERNALLY

Treatment: MEDICAL THERAPY

ICD-9: 693

(102) Diagnosis: ALLERGIC RHINITIS AND CONJUNCTIVITIS, CHRONIC RHINITIS

Treatment: MEDICAL THERAPY

ICD-9: 372.01-372.05, 372.14, 372.54, 372.56, 472, 477, 955.3, V07.1

(103) Diagnosis: PLEURISY

Treatment: MEDICAL THERAPY

ICD-9: 511.0, 511.9

(104) Diagnosis: CONJUNCTIVAL CYST

Treatment: EXCISION OF CONJUNCTIVAL CYST

ICD-9: 372.61-372.62, 372.71-372.72, 372.74-372.75

(105) Diagnosis: HEMATOMA OF AURICLE OR PINNA AND HEMATOMA OF EXTERNAL EAR

Treatment: DRAINAGE

ICD-9: 380.3, 380.8, 738.7

(106) Diagnosis: ACUTE NONSUPPURATIVE LABYRINTHITIS

Treatment: MEDICAL THERAPY

ICD-9: 386.30-386.32, 386.34-386.35

(107) Diagnosis: INFECTIOUS MONONUCLEOSIS

Treatment: MEDICAL THERAPY

ICD-9: 075

(108) Diagnosis: ASEPTIC MENINGITIS

Treatment: MEDICAL THERAPY

ICD-9: 047-049

(109) Diagnosis: CONGENITAL ANOMALIES OF FEMALE GENITAL ORGANS, EXCLUDING VAGINA

Treatment: SURGICAL TREATMENT

ICD-9: 752.0-752.3, 752.41

(110) Diagnosis: CONGENITAL DEFORMITIES OF KNEE

Treatment: ARTHROSCOPIC REPAIR

ICD-9: 755.64, 727.83

(111) Diagnosis: UNCOMPLICATED HERNIA IN ADULTS AGE 18 OR OVER

Treatment: REPAIR

ICD-9: 550.9, 553.0-553.2, 553.8-553.9

(112) Diagnosis: ACUTE ANAL FISSURE

Treatment: FISSURECTOMY, MEDICAL THERAPY

ICD-9: 565.0

(113) Diagnosis: CYST OF KIDNEY, ACQUIRED

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 593.2

(114) Diagnosis: PICA

Treatment: MEDICAL/PSYCHOTHERAPY

ICD-9: 307.52

(115) Diagnosis: DISORDERS OF SLEEP WITHOUT SLEEP APNEA

Treatment: MEDICAL THERAPY

ICD-9: 307.41-307.45, 307.47-307.49, 780.50, 780.52, 780.54-780.56, 780.59

(116) Diagnosis: CYST, HEMORRHAGE, AND INFARCTION OF THYROID

Treatment: SURGERY - EXCISION

ICD-9: 246.2, 246.3, 246.9

(117) Diagnosis: DEVIATED NASAL SEPTUM, ACQUIRED DEFORMITY OF NOSE, OTHER DISEASES OF UPPER RESPIRATORY TRACT

Treatment: EXCISION OF CYST/RHINECTOMY/PROSTHESIS

ICD-9: 470, 478.0, 738.0, 754.0

(118) Diagnosis: ERYTHEMA MULTIFORM

Treatment: MEDICAL THERAPY

ICD-9: 695.1

(119) Diagnosis: HERPES SIMPLEX WITHOUT COMPLICATIONS

Treatment: MEDICAL THERAPY

ICD-9: 054.2, 054.6, 054.73, 054.9

(120) Diagnosis: CONGENITAL ANOMALIES OF THE EAR WITHOUT IMPAIRMENT OF HEARING; UNILATERAL ANOMALIES OF THE EAR

Treatment: OTOPLASTY, REPAIR AND AMPUTATION

ICD-9: 744.00-744.04, 744.09, 744.1-744.3

(121) Diagnosis: BLEPHARITIS

Treatment: MEDICAL THERAPY

ICD-9: 373.0, 373.8-373.9, 374.87

(122) Diagnosis: HYPERTELORISM OF ORBIT

Treatment: ORBITOTOMY

ICD-9: 376.41

(123) Diagnosis: INFERTILITY DUE TO TUBAL DISEASE

Treatment: MICROSURGERY

ICD-9: 608.85, 622.5, 628.2-628.3, 629.9, V26.0

(124) Diagnosis: KERATODERMA, ACANTHOSIS NIGRICANS, STRIAE ATROPHICAE, AND OTHER HYPERTROPHIC OR ATROPHIC CONDITIONS OF SKIN

Treatment: MEDICAL THERAPY

ICD-9: 373.3, 690, 698, 701.1-701.3, 701.8, 701.9

(125) Diagnosis: LICHEN PLANUS

Treatment: MEDICAL THERAPY

ICD-9: 697

(126) Diagnosis: OBESITY

Treatment: NUTRITIONAL AND LIFE STYLE COUNSELING

ICD-9: 278.0

(127) Diagnosis: MORBID OBESITY

Treatment: GASTROPLASTY

ICD-9: 278.01

(128) Diagnosis: CHRONIC DISEASE OF TONSILS AND ADENOIDS

Treatment: TONSILLECTOMY AND ADENOIDECTOMY

ICD-9: 474.0, 474.1-474.2, 474.9

(129) Diagnosis: HYDROCELE

Treatment: MEDICAL THERAPY, EXCISION

ICD-9: 603, 608.84, 629.1, 778.6

(130) Diagnosis: KELOID SCAR; OTHER ABNORMAL GRANULATION TISSUE

Treatment: INTRALESIONAL INJECTIONS/DESTRUCTION/EXCISION, RADIATION THERAPY

ICD-9: 701.4-701.5

(131) Diagnosis: NONINFLAMMATORY DISORDERS OF CERVIX; HYPERTROPHY OF LABIA

Treatment: MEDICAL THERAPY

ICD-9: 622.4, 622.6-622.9, 623.4, 624.2-624.3, 624.6-624.9

(132) Diagnosis: SPRAINS OF JOINTS AND ADJACENT MUSCLES, GRADE I

Treatment: MEDICAL THERAPY

ICD-9: 355.1-355.3, 355.9, 717, 718.26, 718.36, 718.46, 718.56, 836.0-836.2, 840-843, 844.0-844.3, 844.8-844.9, 845.00-845.03, 845.1, 846, 848.3, 848.40-848.42, 848.49, 848.5, 848.8-848.9, 905.7

(133) Diagnosis: SYNOVITIS AND TENOSYNOVITIS

Treatment: MEDICAL THERAPY

ICD-9: 726.12, 727.00, 727.03-727.09

(134) Diagnosis: OTHER DISORDERS OF SYNOVIUM, TENDON AND BURSA, COSTOCHONDRITIS, AND CHONDRODYSTROPHY

Treatment: MEDICAL THERAPY

ICD-9: 719.5-719.6, 719.80, 719.86, 727.2-727.3, 727.50, 727.60, 727.82, 727.9, 733.5-733.7, 756.4

(135) Diagnosis: DISEASE OF NAILS, HAIR, AND HAIR FOLLICLES

Treatment: MEDICAL THERAPY

ICD-9: 703.8-703.9, 704.0, 704.1-704.9, 706.3, 706.9, 757.4-757.5, V50.0

(136) Diagnosis: CANDIDIASIS OF MOUTH, SKIN, AND NAILS

Treatment: MEDICAL THERAPY

ICD-9: 112.0, 112.3, 112.9

(137) Diagnosis: BENIGN LESIONS OF TONGUE

Treatment: EXCISION

ICD-9: 529.1-529.6, 529.8-529.9

(138) Diagnosis: MINOR BURNS

Treatment: MEDICAL THERAPY

ICD-9: 692.76, 941.0-941.2, 942.0-942.2, 943.0-943.2, 944.0-944.2, 945.0-945.2, 946.0-946.2, 949.0-949.1

(139) Diagnosis: MINOR HEAD INJURY: HEMATOMA/EDEMA WITH NO LOSS OF CONSCIOUSNESS

Treatment: MEDICAL THERAPY

ICD-9: 800.00-800.01, 801.00-801.01, 803.00-803.01, 850.0, 850.9, 851.00-851.01, 851.09, 851.20-851.21, 851.29, 851.40-851.41, 851.49, 851.60-851.61, 851.69, 851.80-851.81, 851.89

(140) Diagnosis: CONGENITAL DEFORMITY OF KNEE

Treatment: MEDICAL THERAPY

ICD-9: 755.64

(141) Diagnosis: PHLEBITIS AND THROMBOPHLEBITIS, SUPERFICIAL

Treatment: MEDICAL THERAPY

ICD-9: 451.0, 451.2, 451.82, 451.84, 451.89, 451.9

(142) Diagnosis: PROLAPSED URETHRAL MUCOSA

Treatment: SURGICAL TREATMENT

ICD-9: 599.3, 599.5

(143) Diagnosis: RUPTURE OF SYNOVIUM

Treatment: REMOVAL OF BAKER'S CYST

ICD-9: 727.51

(144) Diagnosis: PERSONALITY DISORDERS, EXCLUDING BORDERLINE, SCHIZOTYPAL AND ANTISOCIAL

Treatment: MEDICAL/PSYCHOTHERAPY

ICD-9: 301.0, 301.10-301.12, 301.20-301.21, 301.3-301.4, 301.50, 301.59, 301.6, 301.81-301.82, 301.84, 301.89, 301.9

(145) Diagnosis: GENDER IDENTIFICATION DISORDER, PARAPHILIAS AND OTHER PSYCHOSEXUAL DISORDERS

Treatment: MEDICAL/PSYCHOTHERAPY

ICD-9: 302.0-302.4, 302.50, 302.6, 302.85, 302.9

(146) Diagnosis: FINGERTIP AVULSION

Treatment: REPAIR WITHOUT PEDICLE GRAFT

ICD-9: 883.0

(147) Diagnosis: ANOMALIES OF RELATIONSHIP OF JAW TO CRANIAL BASE,

MAJOR ANOMALIES OF JAW SIZE, OTHER SPECIFIED AND UNSPECIFIED DENTOFACIAL ANOMALIESTreatment: OSTEOPLASTY, MAXILLA/MANDIBLEICD-9: 524.0-524.2, 524.5, 524.7-524.8, 524.9(148) Diagnosis: CERVICAL RIBTreatment: SURGICAL TREATMENTICD-9: 756.2(149) Diagnosis: GYNECOMASTIATreatment: MASTECTOMYICD-9: 611.1(150) Diagnosis: VIRAL, SELF-LIMITING ENCEPHALITIS, MYELITIS AND ENCEPHALOMYELITISTreatment: MEDICAL THERAPYICD-9: 056.0, 056.71, 323.8-323.9(151) Diagnosis: GALLSTONES WITHOUT CHOLECYSTITISTreatment: MEDICAL THERAPY, CHOLECYSTECTOMYICD-9: 574.2, 575.8(152) Diagnosis: BENIGN NEOPLASM OF NASAL CAVITIES, MIDDLE EAR AND ACCESSORY SINUSESTreatment: EXCISION, RECONSTRUCTIONICD-9: 212.0(153) Diagnosis: ACUTE TONSILLITIS OTHER THAN BETA-STREPTOCOCCALTreatment: MEDICAL THERAPYICD-9: 463(154) Diagnosis: EDEMA AND OTHER CONDITIONS INVOLVING THE INTEGUMENT OF THE FETUS AND NEWBORNTreatment: MEDICAL THERAPYICD-9: 778.5, 778.7-778.9(155) Diagnosis: ACUTE UPPER RESPIRATORY INFECTIONS AND COMMON COLDTreatment: MEDICAL THERAPYICD-9: 460, 465(156) Diagnosis: DIAPER RASHTreatment: MEDICAL THERAPYICD-9: 691.0(157) Diagnosis: DISORDERS OF SWEAT GLANDSTreatment: MEDICAL THERAPYICD-9: 705.0-705.1, 705.81-705.83, 705.89, 705.9, 780.8(158) Diagnosis: OTHER VIRAL INFECTIONS, EXCLUDING PNEUMONIA DUE TO RESPIRATORY SYNCYTIAL VIRUS IN PERSONS UNDER AGE 3

Treatment: MEDICAL THERAPY

ICD-9: 052, 055, 056.79, 056.8-056.9, 057, 072, 074, 078.0, 078.2, 078.4-078.8, 079.0-079.6, 079.88-079.89, 079.9, 480, 487

(159) Diagnosis: PHARYNGITIS AND LARYNGITIS AND OTHER DISEASES OF VOCAL CORDS

Treatment: MEDICAL THERAPY

ICD-9: 462, 464.00, 464.50, 476, 478.5

(160) Diagnosis: CORNS AND CALLUSES

Treatment: MEDICAL THERAPY

ICD-9: 700

(161) Diagnosis: VIRAL WARTS, EXCLUDING VENEREAL WARTS

Treatment: MEDICAL AND SURGICAL TREATMENT, CRYOSURGERY

ICD-9: 078.0, 078.10, 078.19

(162) Diagnosis: OLD LACERATION OF CERVIX AND VAGINA

Treatment: MEDICAL THERAPY

ICD-9: 621.5, 622.3, 624.4

(163) Diagnosis: TONGUE TIE AND OTHER ANOMALIES OF TONGUE

Treatment: FRENOTOMY, TONGUE TIE

ICD-9: 529.5, 750.0-750.1

(164) Diagnosis: OPEN WOUND OF INTERNAL STRUCTURES OF MOUTH WITHOUT COMPLICATION

Treatment: REPAIR SOFT TISSUES

ICD-9: 525.10, 525.12, 525.13, 525.19, 873.6

(165) Diagnosis: CENTRAL SEROUS RETINOPATHY

Treatment: LASER SURGERY

ICD-9: 362.40-362.41, 362.6-362.7

(166) Diagnosis: SEBORRHEIC KERATOSIS, DYSCHROMIA, AND VASCULAR DISORDERS, SCAR CONDITIONS, AND FIBROSIS OF SKIN

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 278.1, 702.1-702.8, 709.1-709.3, 709.8-709.9

(167) Diagnosis: UNCOMPLICATED HEMORRHOIDS

Treatment: HEMORRHOIDECTOMY, MEDICAL THERAPY

ICD-9: 455.0, 455.3, 455.6, 455.9

(168) Diagnosis: GANGLION

Treatment: EXCISION

ICD-9: 727.02, 727.4

(169) Diagnosis: CHRONIC CONJUNCTIVITIS, BLEPHAROCONJUNCTIVITIS

Treatment: MEDICAL THERAPY

ICD-9: 372.10-372.13, 372.2-372.3, 372.53, 372.73, 374.55

(170) Diagnosis: TOXIC ERYTHEMA, ACNE ROSACEA, DISCOID LUPUS

Treatment: MEDICAL THERAPY

ICD-9: 695.0, 695.2-695.9

(171) Diagnosis: PERIPHERAL NERVE DISORDERS

Treatment: MEDICAL THERAPY

ICD-9: 337.2, 353, 354.1, 354.3-354.9, 355.0, 355.3, 355.7-355.8, 357.5-357.9, 723.2

(172) Diagnosis: OTHER COMPLICATIONS OF A PROCEDURE

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 371.82, 457.0, 998.81, 998.9

(173) Diagnosis: RAYNAUD'S SYNDROME

Treatment: MEDICAL THERAPY

ICD-9: 443.0, 443.89, 443.9

(174) Diagnosis: TMJ DISORDERS

Treatment: TMJ SURGERY

ICD-9: 524.5, 524.6, 718.08, 718.18, 718.28, 718.38, 718.58

(175) Diagnosis: VARICOSE VEINS OF LOWER EXTREMITIES WITHOUT ULCER OR INFLAMMATION

Treatment: STRIPPING/SCLEROTHERAPY

ICD-9: 454.9, 459, 607.82

(176) Diagnosis: VULVAL VARICES

Treatment: VASCULAR SURGERY

ICD-9: 456.6

(177) Diagnosis: CHRONIC PANCREATITIS

Treatment: SURGICAL TREATMENT

ICD-9: 577.1

(178) Diagnosis: CHRONIC PROSTATITIS, OTHER DISORDERS OF PROSTATE

Treatment: MEDICAL THERAPY

ICD-9: 601.1, 601.3, 601.9, 602

(179) Diagnosis: MUSCULAR CALCIFICATION AND OSSIFICATION

Treatment: MEDICAL THERAPY

ICD-9: 728.1

(180) Diagnosis: CANCER OF VARIOUS SITES WHERE TREATMENT WILL NOT RESULT IN A FIVE PERCENT FIVE-YEAR SURVIVAL

Treatment: CURATIVE MEDICAL AND SURGICAL TREATMENT

ICD-9: 140-208

(181) Diagnosis: AGENESIS OF LUNG

Treatment: MEDICAL THERAPY

ICD-9: 748.5

(182) Diagnosis: DISEASE OF CAPILLARIES

Treatment: EXCISION

ICD-9: 448.1-448.9

(183) Diagnosis: BENIGN POLYPS OF VOCAL CORDS

Treatment: MEDICAL THERAPY, STRIPPING

ICD-9: 478.4

(184) Diagnosis: FRACTURES OF RIBS AND STERNUM, CLOSED

Treatment: MEDICAL THERAPY

ICD-9: 807.0, 807.2, 805.6, 839.41

(185) Diagnosis: CLOSED FRACTURE OF ONE OR MORE PHALANGES OF THE FOOT, NOT INCLUDING THE GREAT TOE

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 826.0

(186) Diagnosis: DISEASES OF THYMUS GLAND

Treatment: MEDICAL THERAPY

ICD-9: 254

(187) Diagnosis: DENTAL CONDITIONS WHERE TREATMENT RESULTS IN MARGINAL IMPROVEMENT

Treatment: ELECTIVE DENTAL SERVICES

ICD-9: 520.7, V72.2

(188) Diagnosis: ANTISOCIAL PERSONALITY DISORDER

Treatment: MEDICAL/PSYCHOTHERAPY

ICD-9: 301.7

(189) Diagnosis: SEBACEOUS CYST

Treatment: MEDICAL AND SURGICAL THERAPY

ICD-9: 685.1, 706.2, 744.47

(190) Diagnosis: CENTRAL RETINAL ARTERY OCCLUSION

Treatment: PARACENTESIS OF AQUEOUS

ICD-9: 362.31-362.33

(191) Diagnosis: ORAL APHTHAE

Treatment: MEDICAL THERAPY

ICD-9: 528.2

(192) Diagnosis: SUBLINGUAL, SCROTAL, AND PELVIC VARICES

Treatment: VENOUS INJECTION, VASCULAR SURGERY

ICD-9: 456.3-456.5

(193) Diagnosis: SUPERFICIAL WOUNDS WITHOUT INFECTION AND CONTUSIONS

Treatment: MEDICAL THERAPY

ICD-9: 910.0, 910.2, 910.4, 910.6, 910.8, 911.0, 911.2, 911.4, 91.6, 911.8, 912.0, 912.2, 912.4, 912.6, 912.8, 913.0, 913.2, 913.4, 913.6, 913.8, 914.0, 914.2, 914.4, 914.6, 914.8, 915.0, 915.2, 915.4, 915.6, 915.8, 916.0, 916.2, 916.4, 916.6, 916.8, 917.0, 917.2, 917.4, 917.6, 917.8, 919.0, 919.2, 919.4, 919.6, 919.8, 920-924, 959.0-959.8

(194) Diagnosis: UNSPECIFIED RETINAL VASCULAR OCCLUSION

Treatment: LASER SURGERY

ICD-9: 362.30

(195) Diagnosis: BENIGN NEOPLASM OF EXTERNAL FEMALE GENITAL ORGANS

Treatment: EXCISION

ICD-9: 221.1-221.9

(196) Diagnosis: BENIGN NEOPLASM OF MALE GENITAL ORGANS: TESTIS, PROSTATE, EPIDIDYMIS

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 222.0, 222.2, 222.3, 222.8, 222.9

(197) Diagnosis: XEROSIS

Treatment: MEDICAL THERAPY

ICD-9: 706.8

(198) Diagnosis: CONGENITAL CYSTIC LUNG - SEVERE

Treatment: LUNG RESECTION

ICD-9: 748.4

(199) Diagnosis: ICHTHYOSIS

Treatment: MEDICAL THERAPY

ICD-9: 757.1

(200) Diagnosis: LYMPHEDEMA

Treatment: MEDICAL THERAPY, OTHER OPERATION ON LYMPH CHANNEL

ICD-9: 457.1-457.9, 757.0

(201) Diagnosis: DERMATOLOGICAL CONDITIONS WITH NO EFFECTIVE TREATMENT OR NO TREATMENT NECESSARY

Treatment: MEDICAL AND SURGICAL TREATMENT

ICD-9: 696.3-696.5, 709.0, 757.2-757.3, 757.8-757.9

(202) Diagnosis: INFECTIOUS DISEASES WITH NO EFFECTIVE TREATMENTS OR NO TREATMENT NECESSARY

Treatment: EVALUATION

ICD-9: 071, 136.0, 136.9

(203) Diagnosis: RESPIRATORY CONDITIONS WITH NO EFFECTIVE TREATMENTS OR NO TREATMENT NECESSARY

Treatment: EVALUATION

ICD-9: 519.3, 519.9, 748.60, 748.69, 748.9

(204) Diagnosis: GENITOURINARY CONDITIONS WITH NO EFFECTIVE TREATMENTS OR NO TREATMENT NECESSARY

Treatment: EVALUATION

ICD-9: 593.0-593.1, 593.6, 607.9, 608.3, 608.9, 621.6, 621.8-621.9, 626.9, 629.8, 752.9

(205) Diagnosis: CARDIOVASCULAR CONDITIONS WITH NO EFFECTIVE TREATMENTS OR NO TREATMENT NECESSARY

Treatment: EVALUATION

ICD-9: 429.3, 429.81-429.82, 429.89, 429.9, 747.9

(206) Diagnosis: MUSCULOSKELETAL CONDITIONS WITH NO EFFECTIVE TREATMENTS OR NO TREATMENT NECESSARY

Treatment: EVALUATION

ICD-9: 716.9, 718.00, 718.10, 718.20, 718.40, 718.50, 718.60, 718.80, 718.9, 719.7, 719.9, 728.5, 728.84, 728.9, 731.2, 738.2-738.3, 738.9, 744.5-744.9, 748.1, 755.9, 756.9

(207) Diagnosis: INTRACRANIAL CONDITIONS WITH NO EFFECTIVE TREATMENTS OR NO TREATMENT NECESSARY

Treatment: EVALUATION

ICD-9: 348.2, 377.01, 377.02, 377.2, 377.3, 377.5, 377.7, 437.7-437.8

(208) Diagnosis: SENSORY ORGAN CONDITIONS WITH NO EFFECTIVE TREATMENTS OR NO TREATMENT NECESSARY

Treatment: EVALUATION

ICD-9: 360.30-360.31, 360.33, 362.37, 362.42-362.43, 362.8-362.9, 363.21, 364.5, 364.60, 364.9, 371.20, 371.22, 371.24, 371.3, 371.81, 371.89, 371.9, 372.40-372.42, 372.44-372.45, 372.50-372.52, 372.55, 372.8-372.9, 374.52-374.53, 374.81-374.83, 374.9, 376.82, 376.89, 376.9, 377.03, 377.1, 377.4, 377.6, 379.24, 379.29, 379.4-379.8, 380.9, 747.47

(209) Diagnosis: ENDOCRINE AND METABOLIC CONDITIONS WITH NO EFFECTIVE TREATMENTS OR NO TREATMENT NECESSARY

Treatment: EVALUATION

ICD-9: 251.1-251.2, 259.4, 259.8-259.9, 277.3, 759.1

(210) Diagnosis: GASTROINTESTINAL CONDITIONS WITH NO EFFECTIVE TREATMENTS OR NO TREATMENT NECESSARY

Treatment: EVALUATION

ICD-9: 527.0, 569.9, 573.9

(211) Diagnosis: MENTAL DISORDERS WITH NO EFFECTIVE TREATMENTS OR NO TREATMENT NECESSARY

Treatment: EVALUATION

ICD-9: 313.1, 313.3, 313.83

(212) Diagnosis: NEUROLOGIC CONDITIONS WITH NO EFFECTIVE TREATMENTS OR NO TREATMENT NECESSARY

Treatment: EVALUATION

ICD-9: 333.82, 333.84, 333.91, 333.93

(213) Diagnosis: DENTAL CONDITIONS (e.g., ORTHODONTICS)

Treatment: COSMETIC DENTAL SERVICES

ICD-9: 520.0-520.5, 520.8-520.9, 521.1-521.9, 522.3, V72.2

(214) Diagnosis: TUBAL DYSFUNCTION AND OTHER CAUSES OF INFERTILITY

Treatment: IN-VITRO FERTILIZATION, GIFT

ICD-9: 256

(215) Diagnosis: HEPATORENAL SYNDROME

Treatment: MEDICAL THERAPY

ICD-9: 572.4

(216) Diagnosis: SPASTIC DYSPHONIA

Treatment: MEDICAL THERAPY

ICD-9: 478.79

(217) Diagnosis: DISORDERS OF REFRACTION AND ACCOMMODATION

Treatment: RADIAL KERATOTOMY

ICD-9: 367, 368.1-368.9

(b) The commissioner of human services shall identify the related CPT codes that correspond with the diagnosis/treatment pairings described in this section. The identification of the related CPT codes is not subject to the requirements of Minnesota Statutes, chapter 14.

Subd. 4. [FEDERAL APPROVAL.] The commissioner of human services shall seek federal approval to eliminate medical assistance coverage for the diagnosis/treatment pairings described in subdivision 3.

Subd. 5. [NONEXPANSION OF COVERED SERVICES.] Nothing in this section shall be construed to expand medical assistance coverage to services that are not currently covered under the medical assistance program as of June 30, 2004.

Sec. 49. [REPEALER.]

(a) Minnesota Statutes 2003 Supplement, sections 256.954, subdivision 12; and 256.955, subdivision 4a, are repealed effective July 1, 2004.

(b) Minnesota Statutes 2003 Supplement, sections 256B.0631; and 256L.035, are repealed effective October 1, 2004.

ARTICLE 22

HEALTH - MISCELLANEOUS

Section 1. Minnesota Statutes 2002, section 13.3806, is amended by adding a subdivision to read:

Subd. 4a. [BIRTH DEFECTS INFORMATION SYSTEM.] Data collected for the birth defects information system are governed by section 144.2217.

[EFFECTIVE DATE.] This section is effective upon receipt of a federal grant to establish a birth defects information system.

Sec. 2. Minnesota Statutes 2002, section 62A.30, subdivision 2, is amended to read:

Subd. 2. [REQUIRED COVERAGE.] Every policy, plan, certificate, or contract referred to in subdivision 1 issued or renewed after August 1, 1988, that provides coverage to a Minnesota

resident must provide coverage for routine screening procedures for cancer, including mammograms, surveillance tests for ovarian cancer for women who are at risk for ovarian cancer as defined in subdivision 3, and pap smears, when ordered or provided by a physician in accordance with the standard practice of medicine.

Sec. 3. Minnesota Statutes 2002, section 62A.30, is amended by adding a subdivision to read:

Subd. 3. [OVARIAN CANCER SURVEILLANCE TESTS.] For purposes of subdivision 2:

(a) "At risk for ovarian cancer" means:

(1) having a family history:

(i) with one or more first or second degree relatives with ovarian cancer;

(ii) of clusters of women relatives with breast cancer; or

(iii) of nonpolyposis colorectal cancer; or

(2) testing positive for BRCA1 or BRCA2 mutations.

(b) "Surveillance tests for ovarian cancer" means annual screening using:

(1) CA-125 serum tumor marker testing;

(2) transvaginal ultrasound;

(3) pelvic examination; or

(4) other proven ovarian cancer screening tests currently being evaluated by the federal Food and Drug Administration or by the National Cancer Institute.

Sec. 4. [62J.231] [MEDICAL PROVIDER KICKBACKS.]

Subdivision 1. [PROHIBITIONS.] It is unlawful for any person to:

(1) knowingly and intentionally solicit or receive any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind:

(i) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any health-care-related item or service; or

(ii) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any health-care-related good, facility, service, or item;

(2) knowingly and intentionally offer or pay any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, to any person to induce the person:

(i) to refer an individual to a person for the furnishing or arranging for the furnishing of any health-care-related item or service; or

(ii) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any health-care-related good, facility, service, or item; or

(3) issue a receipt or invoice for medical goods or services containing a false or misleading statement or make any other misrepresentation or omission with the intent to conceal the existence of any kickback, bribe, or rebate.

Subd. 2. [EXCEPTIONS.] The following are not prohibited under subdivision 1, clause (1) or (2):

(1) exempt conduct set forth in safe harbor regulations in Code of Federal Regulations, title 42,

section 1001.952, according to United States Code, title 42, section 1320a-7b, paragraph (b), clause (3);

(2) rebates paid directly to a consumer in connection with the purchase of prescription drugs prescribed to that consumer, so long as the rebates otherwise comport with the requirements of state and federal law and the rebates:

(i) are not paid to consumers who are participating in any state or federal health care program; and

(ii) do not exceed the amount paid directly by the consumer for the drug; and

(3) prescription drug samples provided to a medical provider, which the medical provider gives free of charge to a patient, provided that the samples are distributed and tracked according to state and federal law and drug manufacturers account for the samples in their price reporting to the federal Medicare program and state Medicaid programs.

Subd. 3. [DEFINITION.] As used in this section, "person" means any individual, corporation, firm, partnership, incorporated and unincorporated association, or any other legal, professional, or commercial entity.

Subd. 4. [CRIMINAL PENALTY.] A person who violates subdivision 1 is guilty of a felony and may be fined not more than \$25,000 or imprisoned for not more than five years. A prosecution for violation of this section may be brought by the Office of the Attorney General or any county attorney's office.

Subd. 5. [CIVIL REMEDY; COMMISSIONER OF HEALTH.] The commissioner of health may investigate any alleged violation of subdivision 1. The commissioner's investigatory powers under this section include, but are not limited to, the authority to issue subpoenas to require the attendance and testimony of witnesses and the production of any documents or other information relevant to the investigation. The subpoenas may be served upon any person anywhere in the state by any person authorized to serve subpoenas or other processes in civil actions of the district courts. If a person does not comply with the subpoena, the commissioner may apply to the district court in any district and the court shall order the person to comply with the subpoena.

Subd. 6. [CIVIL REMEDY; ATTORNEY GENERAL.] The attorney general may investigate any alleged violation of subdivision 1 and, having reasonable cause to believe a violation is imminent, is occurring, or has occurred, the attorney general may institute a court action seeking appropriate relief. The investigatory authority of the attorney general under this section shall include, but not be limited to, the authority provided in section 8.31. In any civil action brought by the attorney general under this section, the court may award injunctive relief, damages, costs of investigation, reasonable attorney fees, and equitable relief, including, but not limited to, disgorgement. The attorney general may also sue for and recover for the state, from any person who is found to have violated this section, a civil penalty in an amount to be determined by the court, not in excess of \$25,000 for each illegal transaction.

Subd. 7. [AUDITS OF EXEMPT PROVIDERS.] The commissioner of health may audit the referral patterns of providers that qualify for exceptions under the federal Stark Law, United States Code, title 42, section 1395nn. The commissioner has access to provider records according to section 144.99, subdivision 2. The commissioner shall report to the legislature any audit results that reveal a pattern of referrals by a provider for the furnishing of health services to an entity with which the provider has a direct or indirect financial relationship.

Sec. 5. Minnesota Statutes 2003 Supplement, section 62Q.19, subdivision 2, is amended to read:

Subd. 2. [APPLICATION.] (a) Any provider may apply to the commissioner for designation as an essential community provider by submitting an application form developed by the commissioner. Except as provided in paragraphs (d) and (e), applications must be accepted within two years after the effective date of the rules adopted by the commissioner to implement this section.

(b) Each application submitted must be accompanied by an application fee in an amount determined by the commissioner. The fee shall be no more than what is needed to cover the administrative costs of processing the application.

(c) The name, address, contact person, and the date by which the commissioner's decision is expected to be made shall be classified as public data under section 13.41. All other information contained in the application form shall be classified as private data under section 13.41 until the application has been approved, approved as modified, or denied by the commissioner. Once the decision has been made, all information shall be classified as public data unless the applicant designates and the commissioner determines that the information contains trade secret information.

(d) The commissioner shall accept an application for designation as an essential community provider until June 30, ~~2001~~ 2004, from:

~~(1) one applicant that is a nonprofit community health care facility, services agency certified as a medical assistance provider effective April 1, 1998, that provides culturally competent health care to an underserved Southeast Asian immigrant and refugee population residing in the immediate neighborhood of the facility;~~

~~(2) one applicant that is a nonprofit home health care provider, certified as a Medicare and a medical assistance provider that provides culturally competent home health care services to a low-income culturally diverse population;~~

~~(3) up to five applicants that are nonprofit community mental health centers certified as medical assistance providers that provide mental health services to children with serious emotional disturbance and their families or to adults with serious and persistent mental illness; and~~

~~(4) one applicant that is a nonprofit provider certified as a medical assistance provider that provides mental health, child development, and family services to children with physical and mental health disorders and their families.~~

~~(e) The commissioner shall accept an application for designation as an essential community provider until June 30, 2003, from one applicant that is a nonprofit community clinic located in Hennepin County that provides health care to an underserved American Indian population and that is collaborating with other neighboring organizations on a community diabetes project and an immunization project mental health, behavioral health, chemical dependency, employment, and health wellness services to the underserved Spanish-speaking Latino families and individuals with locations in Minneapolis and St. Paul.~~

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

Sec. 6. Minnesota Statutes 2002, section 62R.03, subdivision 3, is amended to read:

Subd. 3. [HEALTH PROVIDER COOPERATIVES.] A health provider cooperative shall not be considered a mutual insurance company under chapter 60A, a health maintenance organization under chapter 62D, a nonprofit health services corporation under chapter 62C, or a community integrated service network under chapter 62N. A health provider network shall not be considered to violate any limitations on the corporate practice of medicine. Health care service contracts under section 62R.06 shall not be considered to violate section ~~62J.23~~ 62J.231.

Sec. 7. Minnesota Statutes 2003 Supplement, section 144.1501, subdivision 2, is amended to read:

Subd. 2. [CREATION OF ACCOUNT.] (a) A health professional education loan forgiveness program account is established.

(b) The commissioner of health shall use money from the account to establish a loan forgiveness program for medical residents agreeing to practice in designated rural areas or underserved urban communities, for midlevel practitioners agreeing to practice in designated rural areas, and for nurses who agree to practice in a Minnesota nursing home or intermediate care facility for persons with mental retardation or related conditions.

(c) Beginning July 1, 2004, the commissioner shall include nurses and health care technicians agreeing to teach for at least 20 hours in the nursing field or in their designated field in a postsecondary program, and shall also be eligible to participate in the loan forgiveness program. The commissioner, in consultation with the Health Care Education-Industry Partnership, shall determine the health care fields where the need is the greatest, including, but not limited to, respiratory therapy, clinical laboratory technology, radiologic technology, and surgical technology.

(d) Appropriations made to the account do not cancel and are available until expended, except that at the end of each biennium, any remaining balance in the account that is not committed by contract and not needed to fulfill existing commitments shall cancel to the fund.

Sec. 8. Minnesota Statutes 2003 Supplement, section 144.1501, subdivision 3, is amended to read:

Subd. 3. [ELIGIBILITY.] (a) To be eligible to participate in the loan forgiveness program, an individual must:

(1) be a medical resident or be enrolled in a midlevel practitioner, registered nurse, ~~or a~~ licensed practical nurse training program, or health care technician training program; and

(2) submit an application to the commissioner of health.

(b) An applicant selected to participate must sign a contract to agree to serve a minimum three-year full-time service obligation according to subdivision 2, which shall begin no later than March 31 following completion of required training.

Sec. 9. Minnesota Statutes 2003 Supplement, section 144.1501, subdivision 4, is amended to read:

Subd. 4. [LOAN FORGIVENESS.] The commissioner of health may select applicants each year for participation in the loan forgiveness program, within the limits of available funding. The commissioner shall distribute available funds for loan forgiveness proportionally among the eligible professions according to the vacancy rate for each profession in the required geographic area ~~or, facility type, or teaching area~~ specified in subdivision 2. The commissioner shall allocate funds for physician loan forgiveness so that 75 percent of the funds available are used for rural physician loan forgiveness and 25 percent of the funds available are used for underserved urban communities loan forgiveness. If the commissioner does not receive enough qualified applicants each year to use the entire allocation of funds for urban underserved communities, the remaining funds may be allocated for rural physician loan forgiveness. Funds specifically appropriated for loan forgiveness for nurses and health care technicians who agree to teach in their designated field shall be used according to subdivision 2, paragraph (c). Applicants are responsible for securing their own qualified educational loans. The commissioner shall select participants based on their suitability for practice serving the required geographic area ~~or facility type or teaching area~~ specified in subdivision 2, as indicated by experience or training. The commissioner shall give preference to applicants closest to completing their training. For each year that a participant meets the service obligation required under subdivision 3, up to a maximum of four years, the commissioner shall make annual disbursements directly to the participant equivalent to 15 percent of the average educational debt for indebted graduates in their profession in the year closest to the applicant's selection for which information is available, not to exceed the balance of the participant's qualifying educational loans. Before receiving loan repayment disbursements and as requested, the participant must complete and return to the commissioner an affidavit of practice form provided by the commissioner verifying that the participant is practicing as required under subdivisions 2 and 3. The participant must provide the commissioner with verification that the full amount of loan repayment disbursement received by the participant has been applied toward the designated loans. After each disbursement, verification must be received by the commissioner and approved before the next loan repayment disbursement is made. Participants who move their practice remain eligible for loan repayment as long as they practice as required under subdivision 2.

Sec. 10. Minnesota Statutes 2002, section 144.2215, is amended to read:

144.2215 [MINNESOTA BIRTH DEFECTS REGISTRY INFORMATION SYSTEM.]

Subdivision 1. [ESTABLISHMENT.] The commissioner of health shall develop a statewide birth defects registry system to provide for the collection, analysis, and dissemination of birth defects information establish and maintain an information system containing data on the cause, treatment, prevention, and cure of major birth defects and development disabilities. The commissioner shall consult with representatives and experts in epidemiology, medicine, insurance, health maintenance organizations, genetics, consumers, and voluntary organizations in developing the system and may phase in the implementation of the system.

Subd. 2. [DUTIES OF COMMISSIONER.] The commissioner of health shall design a system that allows the commissioner to:

(1) monitor incidence trends of birth defects to detect potential public health problems, predict risks, and assist in responding to birth defects clusters;

(2) more accurately target intervention, prevention, and services for communities, patients, and their families;

(3) inform health professionals and citizens of the prevalence of and risks for birth defects;

(4) conduct scientific investigation and surveys of the causes, mortality, methods of treatment, prevention, and cure for birth defects; and

(5) modify, as necessary, the birth defects information system through demonstration projects.

[EFFECTIVE DATE.] This section is effective upon receipt of a federal grant to establish a birth defects information system.

Sec. 11. [144.2216] [BIRTH DEFECTS RECORDS AND REPORTS REQUIRED.]

Subdivision 1. [HOSPITALS AND SIMILAR INSTITUTIONS.] A hospital, medical clinic, medical laboratory, or other institution for the hospitalization, clinical or laboratory diagnosis, or care of human beings shall provide the commissioner of health with access to information on each birth defect case in the manner and at the times that the commissioner designates.

Subd. 2. [OTHER DATA REPOSITORIES.] Other repositories of data on the diagnosis or care of infants may provide the commissioner with access to information on each case of birth defects in the manner and at the times that the commissioner designates.

Subd. 3. [REPORTING WITHOUT LIABILITY.] Furnishing information in good faith in compliance with this section does not subject the person, hospital, medical clinic, medical laboratory, data repository, or other institution furnishing the information to any action for damages or relief.

Subd. 4. [OPT OUT.] A parent or legal guardian must be informed by the commissioner at the time of the initial data collection that they may request removal at any time of personal identifying information concerning a child from the birth defects information system using a written form prescribed by the commissioner.

[EFFECTIVE DATE.] This section is effective upon receipt of a federal grant to establish a birth defects information system.

Sec. 12. [144.2217] [CLASSIFICATION OF BIRTH DEFECTS DATA.]

Data collected on individuals for the birth defects information system are private data on individuals and may only be used for the purposes in sections 144.2215 to 144.2218. Any disclosure other than one provided for in sections 144.2215 to 144.2218 is a misdemeanor.

[EFFECTIVE DATE.] This section is effective upon receipt of a federal grant to establish a birth defects information system.

Sec. 13. [144.2218] [TRANSFERS OF DATA TO OTHER GOVERNMENT AGENCIES.]

Data collected by the birth defects information system may be disseminated to a state or local government agency in Minnesota or another state solely for purposes consistent with sections 144.2215 to 144.2218, provided that the state or local government agency maintains the confidentiality of the data as provided under section 144.2217. Data collected by other states consistent with sections 144.2215 to 144.2218 may be received by the commissioner of health and maintained according to section 144.2217.

[EFFECTIVE DATE.] This section is effective upon receipt of a federal grant to establish a birth defects information system.

Sec. 14. 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. 15. 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. 16. 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. 17. 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:

(a) "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.

(b) "Joint commission" means the Joint Commission on Accreditation of Hospitals Health Care Organizations.

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

Sec. 18. 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. 19. 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. 20. 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. 21. 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. 22. [144.565] [DIAGNOSTIC IMAGING FACILITIES.]

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

(a) "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.

(b) "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.

(c) "Freestanding" means a diagnostic imaging facility that is not located within a:

(1) hospital;

(2) location licensed as a hospital; or

(3) 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.

(d) "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.

Subd. 2. [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. 3. [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 diagnostic imaging facility books, audits, and records.

Subd. 4. [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 2 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.

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

Sec. 23. 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. 24. [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 1.

(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 1.

(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 1.

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

Sec. 25. 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. 26. 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. 27. 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. 28. 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. 29. Minnesota Statutes 2002, section 144.9502, subdivision 3, is amended to read:

Subd. 3. **[REPORTS OF BLOOD LEAD ANALYSIS REQUIRED.]** (a) Every hospital, medical clinic, medical laboratory, other facility, or individual performing blood lead analysis shall report the results after the analysis of each specimen analyzed, for both capillary and venous specimens, and epidemiologic information required in this section to the commissioner of health, within the time frames set forth in clauses (1) and (2):

(1) within two working days by telephone, fax, or electronic transmission, with written or electronic confirmation within one month, for a venous blood lead level, determined by one venous blood sample or two capillary blood samples, equal to or greater than 15 ten micrograms of lead per deciliter of whole blood; or

(2) within one month in writing or by electronic transmission, for any single capillary result or for a venous blood lead level less than 15 ten micrograms of lead per deciliter of whole blood.

(b) If a blood lead analysis is performed outside of Minnesota and the facility performing the analysis does not report the blood lead analysis results and epidemiological information required in this section to the commissioner, the provider who collected the blood specimen must satisfy the reporting requirements of this section. For purposes of this section, "provider" has the meaning given in section 62D.02, subdivision 9.

(c) The commissioner shall coordinate with hospitals, medical clinics, medical laboratories, and other facilities performing blood lead analysis to develop a universal reporting form and mechanism.

Sec. 30. Minnesota Statutes 2002, section 144.9503, subdivision 7, is amended to read:

Subd. 7. **[LEAD-SAFE PRACTICES INFORMATION.]** (a) The commissioner shall develop and maintain in cooperation with the commissioner of administration provisions and procedures to define lead-safe practices information for residential remodeling, renovation, installation, and rehabilitation activities that are not lead hazard reduction, but may disrupt lead-based paint surfaces and guidance documents for the regulated industry.

(b) When an application is made to a local permitting authority for a permit allowing for residential remodeling, renovation, installation, or rehabilitation in a home built before 1978, the local permitting authority must distribute a fact sheet specifying the lead-safe practices developed under paragraph (a) and listing available training opportunities.

Sec. 31. Minnesota Statutes 2002, section 144.9504, subdivision 2, is amended to read:

Subd. 2. [LEAD RISK ASSESSMENT.] (a) An assessing agency shall conduct a lead risk assessment of a residence according to the ~~venous~~ blood lead level and time frame set forth in clauses (1) to (5) ~~(6)~~ for purposes of secondary prevention:

(1) within 48 hours of a child or pregnant female in the residence being identified to the agency as having a venous blood lead level equal to or greater than 70 micrograms of lead per deciliter of whole blood;

(2) within five working days of a child or pregnant female in the residence being identified to the agency as having a venous blood lead level equal to or greater than 45 micrograms of lead per deciliter of whole blood;

(3) within ten working days of a child in the residence being identified to the agency as having a venous blood lead level equal to or greater than 20 micrograms of lead per deciliter of whole blood;

(4) within ten working days of a child in the residence being identified to the agency as having a venous blood lead level that persists in the range of 15 to 19 micrograms of lead per deciliter of whole blood for 90 days after initial identification; ~~or~~

(5) within ten working days of a pregnant female in the residence being identified to the agency as having a venous blood lead level equal to or greater than ten micrograms of lead per deciliter of whole blood; or

(6) notwithstanding clause (3) and within the limits of available local, state, and federal appropriations allocated for lead reduction purposes, an assessing agency located within Hennepin, Ramsey, or St. Louis County must conduct a lead-risk assessment within ten working days of a child in the residence being identified to the agency as having a venous blood-lead level equal to or greater than ten micrograms of lead per deciliter of whole blood.

(b) Within the limits of available local, state, and federal appropriations, an assessing agency may also conduct a lead risk assessment for children with ~~any elevated~~ a blood lead level less than ten micrograms of lead per deciliter as determined by either one venous blood sample or two capillary blood samples taken within a 90-day period.

(c) In a building with two or more dwelling units, an assessing agency shall assess the individual unit in which the conditions of this section are met and shall inspect all common areas accessible to a child. If a child visits one or more other sites such as another residence, or a residential or commercial child care facility, playground, or school, the assessing agency shall also inspect the other sites. The assessing agency shall have one additional day added to the time frame set forth in this subdivision to complete the lead risk assessment for each additional site.

(d) Within the limits of appropriations, the assessing agency shall identify the known addresses for the previous 12 months of the child or pregnant female with venous blood lead levels of at least 20 micrograms per deciliter for the child or at least ten micrograms per deciliter for the pregnant female; notify the property owners, landlords, and tenants at those addresses that an elevated blood lead level was found in a person who resided at the property; and give them primary prevention information. Within the limits of appropriations, the assessing agency may perform a risk assessment and issue corrective orders in the properties, if it is likely that the previous address contributed to the child's or pregnant female's blood lead level. The assessing agency shall provide the notice required by this subdivision without identifying the child or pregnant female with the elevated blood lead level. The assessing agency is not required to obtain the consent of the child's parent or guardian or the consent of the pregnant female for purposes of this subdivision. This information shall be classified as private data on individuals as defined under section 13.02, subdivision 12.

(e) The assessing agency shall conduct the lead risk assessment according to rules adopted by the commissioner under section 144.9508. An assessing agency shall have lead risk assessments performed by lead risk assessors licensed by the commissioner according to rules adopted under

section 144.9508. If a property owner refuses to allow a lead risk assessment, the assessing agency shall begin legal proceedings to gain entry to the property and the time frame for conducting a lead risk assessment set forth in this subdivision no longer applies. A lead risk assessor or assessing agency may observe the performance of lead hazard reduction in progress and shall enforce the provisions of this section under section 144.9509. Deteriorated painted surfaces, bare soil, and dust must be tested with appropriate analytical equipment to determine the lead content, except that deteriorated painted surfaces or bare soil need not be tested if the property owner agrees to engage in lead hazard reduction on those surfaces. The lead content of drinking water must be measured if another probable source of lead exposure is not identified. Within a standard metropolitan statistical area, an assessing agency may order lead hazard reduction of bare soil without measuring the lead content of the bare soil if the property is in a census tract in which soil sampling has been performed according to rules established by the commissioner and at least 25 percent of the soil samples contain lead concentrations above the standard in section 144.9508.

(f) Each assessing agency shall establish an administrative appeal procedure which allows a property owner to contest the nature and conditions of any lead order issued by the assessing agency. Assessing agencies must consider appeals that propose lower cost methods that make the residence lead safe. The commissioner shall use the authority and appeal procedure granted under sections 144.989 to 144.993.

(g) Sections 144.9501 to 144.9509 neither authorize nor prohibit an assessing agency from charging a property owner for the cost of a lead risk assessment.

Sec. 32. Minnesota Statutes 2002, section 145C.01, subdivision 7, is amended to read:

Subd. 7. [HEALTH CARE FACILITY.] "Health care facility" means a hospital or other entity licensed under sections 144.50 to 144.58, a nursing home licensed to serve adults under section 144A.02, a home care provider licensed under sections 144A.43 to 144A.47, an adult foster care provider licensed under chapter 245A and Minnesota Rules, parts 9555.5105 to 9555.6265, or a hospice provider licensed under sections 144A.75 to 144A.755.

Sec. 33. 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. 34. [151.214] [PAYMENT DISCLOSURE.]

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

Subd. 2. [NO PROHIBITION ON DISCLOSURE.] No contracting agreement between a 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 the total reimbursement to the pharmacy, including the amount of the patient's co-payment and the amount paid to the pharmacy by the health plan company or its contracted pharmacy benefit manager.

Sec. 35. Minnesota Statutes 2002, section 151.47, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENTS.] All wholesale drug distributors are subject to the requirements in paragraphs (a) to ~~(f)~~ (g).

(a) No person or distribution outlet shall act as a wholesale drug distributor without first obtaining a license from the board and paying the required fee.

(b) No license shall be issued or renewed for a wholesale drug distributor to operate unless the applicant agrees to operate in a manner prescribed by federal and state law and according to the rules adopted by the board.

(c) The board may require a separate license for each facility directly or indirectly owned or operated by the same business entity within the state, or for a parent entity with divisions, subsidiaries, or affiliate companies within the state, when operations are conducted at more than one location and joint ownership and control exists among all the entities.

(d) As a condition for receiving and retaining a wholesale drug distributor license issued under sections 151.42 to 151.51, an applicant shall satisfy the board that it has complied with paragraph (g) and that it has and will continuously maintain:

(1) adequate storage conditions and facilities;

(2) minimum liability and other insurance as may be required under any applicable federal or state law;

(3) a viable security system that includes an after hours central alarm, or comparable entry detection capability; restricted access to the premises; comprehensive employment applicant screening; and safeguards against all forms of employee theft;

(4) a system of records describing all wholesale drug distributor activities set forth in section 151.44 for at least the most recent two-year period, which shall be reasonably accessible as defined by board regulations in any inspection authorized by the board;

(5) principals and persons, including officers, directors, primary shareholders, and key management executives, who must at all times demonstrate and maintain their capability of conducting business in conformity with sound financial practices as well as state and federal law;

(6) complete, updated information, to be provided to the board as a condition for obtaining and retaining a license, about each wholesale drug distributor to be licensed, including all pertinent corporate licensee information, if applicable, or other ownership, principal, key personnel, and facilities information found to be necessary by the board;

(7) written policies and procedures that assure reasonable wholesale drug distributor preparation for, protection against, and handling of any facility security or operation problems,

including, but not limited to, those caused by natural disaster or government emergency, inventory inaccuracies or product shipping and receiving, outdated product or other unauthorized product control, appropriate disposition of returned goods, and product recalls;

(8) sufficient inspection procedures for all incoming and outgoing product shipments; and

(9) operations in compliance with all federal requirements applicable to wholesale drug distribution.

(e) An agent or employee of any licensed wholesale drug distributor need not seek licensure under this section.

(f) A wholesale drug distributor shall file with the board an annual report, in a form and on the date prescribed by the board, identifying all payments, honoraria, reimbursement or other compensation authorized under section 151.461, clauses (3) to (5), paid to practitioners in Minnesota during the preceding calendar year. The report shall identify the nature and value of any payments totaling \$100 or more, to a particular practitioner during the year, and shall identify the practitioner. Reports filed under this provision are public data.

(g) Manufacturers shall, on a quarterly basis, report by National Drug Code the following pharmaceutical pricing criteria to the commissioner of human services for each of their drugs: average wholesale price; wholesale acquisition cost; average manufacturer price as defined in United States Code, title 42, chapter 7, subchapter XIX, section 1396r-8(k); and best price as defined in United States Code, title 42, chapter 7, subchapter XIX, section 1396r-8(c)(1)(C). The calculation of average wholesale price and wholesale acquisition cost shall be the net of all volume discounts, prompt payment discounts, chargebacks, short-dated product discounts, cash discounts, free goods, rebates, and all other price concessions or incentives provided to a purchaser that result in a reduction in the ultimate cost to the purchaser. When reporting average wholesale price, wholesale acquisition cost, average manufacturer price, and best price, manufacturers shall also include a detailed description of the methodology by which the prices were calculated. When a manufacturer reports average wholesale price, wholesale acquisition cost, average manufacturer price, or best price, the president or chief executive officer of the manufacturer shall certify to the Medicaid program, on a form provided by the commissioner of human services, that the reported prices are accurate. Any information reported under this paragraph shall be classified as nonpublic data under section 13.02, subdivision 9. Notwithstanding the classification of data in this paragraph and subdivision 2, the Minnesota Attorney General's Office or another law enforcement agency may access and obtain copies of the data required under this paragraph and use that data for law enforcement purposes.

Sec. 36. Minnesota Statutes 2002, section 151.47, is amended by adding a subdivision to read:

Subd. 3. [PENALTIES AND REMEDIES.] The attorney general may pursue the penalties and remedies available to the attorney general under section 8.31 against any manufacturer who violates subdivision 1, paragraph (g).

Sec. 37. [256.555] [PRESCRIPTION DRUG BULK PURCHASING PROGRAMS.]

Subdivision 1. [INTRASTATE PRESCRIPTION DRUG BULK PURCHASING PROGRAM.] The commissioner of human services is directed to establish and administer an intrastate prescription drug bulk purchasing program in order to try to save money for the state, its agencies, and local governments in regard to the cost of the prescription drugs they purchase. Under the program, the Department of Human Services will consolidate drug purchasing by the state prescription drug program, state hospitals and other health care facilities, state educational facilities, the State Health Plan, and other state and local government entities and programs that purchase significant quantities of prescription drugs and wish to participate in the intrastate bulk purchasing program. The Department of Administration will negotiate the prices of the prescription drugs purchased under this program unless the prices of some or all of the purchased drugs are negotiated by an agent of an interstate prescription drug bulk purchasing program described in subdivision 2.

Subd. 2. [INTERSTATE PRESCRIPTION DRUG BULK PURCHASING PROGRAM.] The commissioner of human services is directed to establish or join an existing interstate prescription drug bulk purchasing program with other interested states. The program will select an agent to negotiate prices for the states in the program. The department shall administer the state's participation in the program.

Subd. 3. [NEGOTIATION OF CANADIAN PRESCRIPTION DRUG PRICES.] The commissioner of human services shall request the Department of Administration to negotiate with state-approved Canadian pharmacies or wholesalers the prices to be charged to Minnesota residents who purchase their prescription drugs from Canada under the state's prescription drug importation program. The commissioner shall also determine whether it would save money for the state's intrastate prescription drug bulk purchasing program to purchase some or all of the prescription drugs from Canada and will make the purchases if it would result in significant savings. The commissioner shall also encourage the members of the state's interstate prescription drug bulk purchasing program to purchase some or all of the necessary prescription drugs in Canada if it would result in significant savings.

Subd. 4. [PUBLIC/PRIVATE INTRASTATE PRESCRIPTION DRUG BULK PURCHASING ALLIANCE.] The commissioner shall establish and administer a public/private intrastate prescription drug bulk purchasing alliance under which the state and interested private entities can consolidate their drug purchasing to save money. The participation of private entities in this alliance is voluntary. The Department of Administration will negotiate the prices of prescription drugs purchased through the alliance.

Subd. 5. [COMMISSIONER DISCRETION.] The commissioner of human services is not required to establish or administer any of the bulk purchasing programs in subdivisions 1 to 4 if the commissioner determines that the program would not result in significant savings to the state. The commissioner shall not include the state Medicaid program, MinnesotaCare program, or Department of Corrections in the bulk purchasing programs in subdivisions 1 to 4. These programs may later be included in any or all of the bulk purchasing programs in subdivisions 1 to 4 if the commissioner deems those bulk purchasing programs to be beneficial to the state and that the inclusion of the state Medicaid program, MinnesotaCare, and the Department of Corrections in a bulk purchasing program would result in savings to the state.

Subd. 6. [PHARMACY PARTICIPATION.] Any pharmaceuticals purchased by state or local government entities or Minnesota consumers under the bulk purchasing programs identified in subdivisions 1 to 4 shall be distributed through Minnesota pharmacies, unless the commissioner or the state or local government entities select an alternate distribution system.

Sec. 38. 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.

Sec. 39. Laws 2002, chapter 402, section 21, is amended to read:

Sec. 21. [SUNSET.]

Sections 1 to 19 expire August 1, ~~2004~~ 2005.

Sec. 40. Laws 2003, chapter 118, section 28, is amended to read:

Sec. 28. [REVISOR INSTRUCTION.]

(a) The revisor of statutes shall insert the "board of behavioral health and therapy" or "board" wherever "commissioner of health" or "commissioner" appears in Minnesota Statutes, chapter 148C, and Minnesota Rules, chapter 4747.

[EFFECTIVE DATE.] This paragraph is effective July 1, 2005.

(b) The revisor of statutes shall strike the terms "unlicensed mental health practitioner" and "the office of unlicensed mental health practitioner" from Minnesota Statutes and Minnesota Rules.

[EFFECTIVE DATE.] This paragraph is effective July 1, ~~2004~~ 2005.

Sec. 41. Laws 2003, chapter 118, section 29, is amended to read:

Sec. 29. [REPEALER.]

(a) Minnesota Statutes 2002, sections 148B.60; 148B.61; 148B.63; 148B.64; 148B.65; 148B.66; 148B.67; 148B.68; 148B.69; 148B.70; and 148B.71, are repealed.

[EFFECTIVE DATE.] This paragraph is effective July 1, ~~2004~~ 2005.

(b) Minnesota Statutes 2002, section 148C.01, subdivision 6, is repealed.

[EFFECTIVE DATE.] This paragraph is effective July 1, 2005.

Sec. 42. [HEALTH STUDY.]

(a) The commissioner of health must prepare a plan for the development and implementation of a statewide public health data management system in cooperation and consultation with representatives of local public health departments. The plan must provide state and local public health departments with a cost-effective, reliable means for collecting, utilizing, and disseminating public health data. The plan must include cost estimates for the planning and development of a statewide system. Nothing in this section requires the commissioner to collect additional health data.

(b) The plan must be completed and presented to the legislature by January 15, 2005. The plan must comply with Minnesota Statutes, sections 3.195 and 3.197.

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

Sec. 43. [LOWER BLOOD LEVEL RECOMMENDATION.]

The commissioner of health, in consultation with the Department of Employment and Economic Development, shall evaluate the success in using the lower blood level identified in Minnesota Statutes, section 144.9502, subdivision 3, paragraph (a), in terms of reducing the number of children endangered by lead paint by identifying and mitigating lead paint exposure, and shall review the likelihood of continued federal grants for the purpose of funding prevention and response activities. The commissioner shall make a recommendation to the legislature by January 15, 2006, on whether to permanently lower blood levels either on a statewide basis or in specific high risk targeted areas.

Sec. 44. [REBATE REVENUE RECAPTURE APPROPRIATION.]

Any money 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 is appropriated to the commissioner of human services to augment funding of the prescription drug program.

Sec. 45. [RULE AMENDMENT.]

The commissioner of human services shall amend Minnesota Rules, part 9555.5105, subpart 20, to expand the definition of "legal representative" to include a health care agent appointed by a principal in a health care power of attorney to make health care decisions as provided in Minnesota Statutes, chapter 145C. The commissioner shall adopt rule amendments required by this section using the authority of Minnesota Statutes, section 14.388, subdivision 1, clause (3).

Sec. 46. [TASK FORCE ON IMPROVING THE HEALTH STATUS OF THE STATE'S CHILDREN.]

(a) The commissioners of education, health, and human services shall convene a task force to study and make recommendations on the role of public schools in improving the health status of children. In order to assess the health status of children, the task force shall determine the number of children who are currently obese and set a goal, including measurable outcomes for the state in terms of reducing the rate of childhood obesity. The task force shall make recommendations on how to achieve this goal, including, but not limited to, increasing physical education activities within the public schools, exploring opportunities to promote physical education and healthy eating programs, improving the nutritional offerings through breakfast and lunch menus, and evaluating the availability and choice of nutritional products offered in public schools. The members of the task force shall include representatives of the Minnesota Medical Association; the Minnesota Nurses Association; the Local Public Health Association of Minnesota; the Minnesota Dietetic Association; Minnesota School Food Service Association; the Minnesota Association of Health, Physical Education, Recreation, and Dance; the Minnesota School Boards Association; the Minnesota School Administrators Association; the Minnesota Secondary Principals Association; the vending industry; and consumers. The terms and compensation of the members of the task force shall be according to Minnesota Statutes, section 15.059, subdivision 6.

(b) The commissioner must submit the recommendations of the task force to the legislature by January 15, 2005.

Sec. 47. [TRANSITION PLAN.]

The commissioner of health, in consultation with the executive directors of the health-related licensing boards, must develop a transition plan to transfer the authority for licensed alcohol and drug counselors from the commissioner of health to the Board of Behavioral Health and Therapy and for the regulation of individuals after July 1, 2005, who are not regulated by a health-related licensing board or the commissioner of health and who are providing mental health services for remuneration. The transition plan must include any necessary legislative language to transfer authority and corresponding funding to the board, identify critical licensing activities, and specify a schedule for transferring all duties and activities.

Sec. 48. [WEB SITE LINK TO PRESCRIPTION DRUG PRICES IN MINNESOTA.]

The commissioner of human services, in consultation with the Retailer's Association and the Pharmacy Association, shall provide on the Minnesota Rx Connect Web site information on prescription drugs that may be purchased in Minnesota at a price that is equivalent to or lower than the price listed for a Canadian pharmacy. The Web site must also provide information on local pharmacies where the prescription drug may be purchased at the price listed. This information may be provided by creating a Web site link to an existing Web site.

Sec. 49. [REPEALER.]

(a) Minnesota Statutes 2002, sections 13.717, subdivision 3; and 62J.23, subdivisions 1, 2, 3, and 4, are repealed.

(b) Minnesota Statutes 2003 Supplement, section 62J.23, subdivision 5, is repealed.

ARTICLE 23

ECONOMIC SUPPORTS

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 health services used by making monthly payments on a sliding scale based on income, 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~~ 575 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~~ 575 percent of federal poverty guidelines;

(3) if the adjusted gross income is greater than ~~375~~ 575 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 ten percent of adjusted gross income; 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~~ \$5,000 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 retroactively from July 1, 2003, taxable capital gains to the extent the funds have been used to purchase a home and funds from early withdrawn qualified retirement accounts under the Internal Revenue Code 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, except that a court-ordered child support payment actually paid on behalf of the child receiving services shall be deducted from the adjusted gross income contribution 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 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. 3. 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. 4. 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. 5. Minnesota Statutes 2003 Supplement, section 256J.21, subdivision 2, is amended to read:

Subd. 2. [INCOME EXCLUSIONS.] The following must be excluded in determining a family's available income:

(1) payments for basic care, difficulty of care, and clothing allowances received for providing family foster care to children or adults under Minnesota Rules, parts 9545.0010 to 9545.0260 and 9555.5050 to 9555.6265, and payments received and used for care and maintenance of a third-party beneficiary who is not a household member;

(2) reimbursements for employment training received through the Workforce Investment Act of 1998, United States Code, title 20, chapter 73, section 9201;

(3) reimbursement for out-of-pocket expenses incurred while performing volunteer services, jury duty, employment, or informal carpooling arrangements directly related to employment;

(4) all educational assistance, except the county agency must count graduate student teaching assistantships, fellowships, and other similar paid work as earned income and, after allowing deductions for any unmet and necessary educational expenses, shall count scholarships or grants awarded to graduate students that do not require teaching or research as unearned income;

(5) loans, regardless of purpose, from public or private lending institutions, governmental lending institutions, or governmental agencies;

(6) loans from private individuals, regardless of purpose, provided an applicant or participant documents that the lender expects repayment;

(7)(i) state income tax refunds; and

(ii) federal income tax refunds;

(8)(i) federal earned income credits;

(ii) Minnesota working family credits;

(iii) state homeowners and renters credits under chapter 290A; and

(iv) federal or state tax rebates;

(9) funds received for reimbursement, replacement, or rebate of personal or real property when these payments are made by public agencies, awarded by a court, solicited through public appeal, or made as a grant by a federal agency, state or local government, or disaster assistance organizations, subsequent to a presidential declaration of disaster;

(10) the portion of an insurance settlement that is used to pay medical, funeral, and burial expenses, or to repair or replace insured property;

(11) reimbursements for medical expenses that cannot be paid by medical assistance;

(12) payments by a vocational rehabilitation program administered by the state under chapter 268A, except those payments that are for current living expenses;

(13) in-kind income, including any payments directly made by a third party to a provider of goods and services;

(14) assistance payments to correct underpayments, but only for the month in which the payment is received;

(15) payments for short-term emergency needs under section 256J.626, subdivision 2;

(16) funeral and cemetery payments as provided by section 256.935;

(17) nonrecurring cash gifts of \$30 or less, not exceeding \$30 per participant in a calendar month;

(18) any form of energy assistance payment made through Public Law 97-35, Low-Income Home Energy Assistance Act of 1981, payments made directly to energy providers by other public and private agencies, and any form of credit or rebate payment issued by energy providers;

(19) Supplemental Security Income (SSI), including retroactive SSI payments and other income of an SSI recipient, ~~except as described in section 256J.37, subdivision 3b;~~

(20) Minnesota supplemental aid, including retroactive payments;

(21) proceeds from the sale of real or personal property;

(22) state adoption assistance payments under section 259.67, and up to an equal amount of county adoption assistance payments;

(23) state-funded family subsidy program payments made under section 252.32 to help families care for children with mental retardation or related conditions, consumer support grant funds under section 256.476, and resources and services for a disabled household member under one of the home and community-based waiver services programs under chapter 256B;

(24) interest payments and dividends from property that is not excluded from and that does not exceed the asset limit;

(25) rent rebates;

(26) income earned by a minor caregiver, minor child through age 6, or a minor child who is at least a half-time student in an approved elementary or secondary education program;

(27) income earned by a caregiver under age 20 who is at least a half-time student in an approved elementary or secondary education program;

(28) MFIP child care payments under section 119B.05;

(29) all other payments made through MFIP to support a caregiver's pursuit of greater economic stability;

(30) income a participant receives related to shared living expenses;

(31) reverse mortgages;

(32) benefits provided by the Child Nutrition Act of 1966, United States Code, title 42, chapter 13A, sections 1771 to 1790;

(33) benefits provided by the women, infants, and children (WIC) nutrition program, United States Code, title 42, chapter 13A, section 1786;

(34) benefits from the National School Lunch Act, United States Code, title 42, chapter 13, sections 1751 to 1769e;

(35) relocation assistance for displaced persons under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, United States Code, title 42, chapter 61,

subchapter II, section 4636, or the National Housing Act, United States Code, title 12, chapter 13, sections 1701 to 1750jj;

(36) benefits from the Trade Act of 1974, United States Code, title 19, chapter 12, part 2, sections 2271 to 2322;

(37) war reparations payments to Japanese Americans and Aleuts under United States Code, title 50, sections 1989 to 1989d;

(38) payments to veterans or their dependents as a result of legal settlements regarding Agent Orange or other chemical exposure under Public Law 101-239, section 10405, paragraph (a)(2)(E);

(39) income that is otherwise specifically excluded from MFIP consideration in federal law, state law, or federal regulation;

(40) security and utility deposit refunds;

(41) American Indian tribal land settlements excluded under Public Laws 98-123, 98-124, and 99-377 to the Mississippi Band Chippewa Indians of White Earth, Leech Lake, and Mille Lacs reservations and payments to members of the White Earth Band, under United States Code, title 25, chapter 9, section 331, and chapter 16, section 1407;

(42) all income of the minor parent's parents and stepparents when determining the grant for the minor parent in households that include a minor parent living with parents or stepparents on MFIP with other children;

(43) income of the minor parent's parents and stepparents equal to 200 percent of the federal poverty guideline for a family size not including the minor parent and the minor parent's child in households that include a minor parent living with parents or stepparents not on MFIP when determining the grant for the minor parent. The remainder of income is deemed as specified in section 256J.37, subdivision 1b;

(44) payments made to children eligible for relative custody assistance under section 257.85;

(45) vendor payments for goods and services made on behalf of a client unless the client has the option of receiving the payment in cash; and

(46) the principal portion of a contract for deed payment.

Sec. 6. Minnesota Statutes 2003 Supplement, section 256J.42, subdivision 5, is amended to read:

Subd. 5. [EXEMPTION FOR CERTAIN FAMILIES.] (a) Any cash assistance received by an assistance unit does not count toward the 60-month limit on assistance during a month in which the caregiver is age 60 or older, including months during which the caregiver was exempt under section 256J.56, paragraph (a), clause (1).

(b) From July 1, 1997, until the date MFIP is operative in the caregiver's county of financial responsibility, any cash assistance received by a caregiver who is complying with Minnesota Statutes 1996, section 256.73, subdivision 5a, and Minnesota Statutes 1998, section 256.736, if applicable, does not count toward the 60-month limit on assistance. Thereafter, any cash assistance received by a minor caregiver who is complying with the requirements of sections 256J.14 and 256J.54, if applicable, does not count towards the 60-month limit on assistance.

(c) Any diversionary assistance or emergency assistance received prior to July 1, 2003, does not count toward the 60-month limit.

(d) Any cash assistance received by an 18- or 19-year-old caregiver who is complying with an employment plan that includes an education option under section 256J.54 does not count toward the 60-month limit.

(e) Payments provided to meet short-term emergency needs under section 256J.626 and diversionary work program benefits provided under section 256J.95 do not count toward the 60-month time limit.

(f) Any monthly cash assistance received by an assistance unit while on MFIP that is repaid or reimbursed for reasons other than fraud does not count toward the 60-month limit.

Sec. 7. Minnesota Statutes 2003 Supplement, section 256J.46, subdivision 1, is amended to read:

Subdivision 1. [PARTICIPANTS NOT COMPLYING WITH PROGRAM REQUIREMENTS.] (a) A participant who fails without good cause under section 256J.57 to comply with the requirements of this chapter, and who is not subject to a sanction under subdivision 2, shall be subject to a sanction as provided in this subdivision. Prior to the imposition of a sanction, a county agency shall provide a notice of intent to sanction under section 256J.57, subdivision 2, and, when applicable, a notice of adverse action as provided in section 256J.31.

(b) A sanction under this subdivision becomes effective the month following the month in which a required notice is given. A sanction must not be imposed when a participant comes into compliance with the requirements for orientation under section 256J.45 prior to the effective date of the sanction. A sanction must not be imposed when a participant comes into compliance with the requirements for employment and training services under sections 256J.515 to 256J.57 ten days prior to the effective date of the sanction. For purposes of this subdivision, each month that a participant fails to comply with a requirement of this chapter shall be considered a separate occurrence of noncompliance. If both participants in a two-parent assistance unit are out of compliance at the same time, it is considered one occurrence of noncompliance.

(c) Sanctions for noncompliance shall be imposed as follows:

(1) For the first occurrence of noncompliance by a participant in an assistance unit, the assistance unit's grant shall be reduced by ten percent of the MFIP standard of need for an assistance unit of the same size with the residual grant paid to the participant. The reduction in the grant amount must be in effect for a minimum of one month and shall be removed in the month following the month that the participant returns to compliance.

(2) For a second, third, fourth, fifth, or sixth occurrence of noncompliance by a participant in an assistance unit, the assistance unit's shelter costs shall be vendor paid up to the amount of the cash portion of the MFIP grant for which the assistance unit is eligible. At county option, the assistance unit's utilities may also be vendor paid up to the amount of the cash portion of the MFIP grant remaining after vendor payment of the assistance unit's shelter costs. The residual amount of the grant after vendor payment, if any, must be reduced by an amount equal to 30 percent of the MFIP standard of need for an assistance unit of the same size before the residual grant is paid to the assistance unit. The reduction in the grant amount must be in effect for a minimum of one month and shall be removed in the month following the month that the participant in a one-parent assistance unit returns to compliance. In a two-parent assistance unit, the grant reduction must be in effect for a minimum of one month and shall be removed in the month following the month both participants return to compliance. The vendor payment of shelter costs and, if applicable, utilities shall be removed six months after the month in which the participant or participants return to compliance. If an assistance unit is sanctioned under this clause, the participant's case file must be reviewed to determine if the employment plan is still appropriate.

(d) For a seventh occurrence of noncompliance by a participant in an assistance unit, or when the participants in a two-parent assistance unit have a total of seven occurrences of noncompliance, the county agency shall close the MFIP assistance unit's financial assistance case, both the cash and food portions, and redetermine the family's eligibility for food support. The MFIP case must remain closed for a minimum of one full month. ~~Closure under this paragraph does not make a participant automatically ineligible for food support, if otherwise eligible.~~ Before the case is closed, the county agency must review the participant's case to determine if the employment plan is still appropriate and attempt to meet with the participant face-to-face. The participant may bring an advocate to the face-to-face meeting. If a face-to-face meeting is not

conducted, the county agency must send the participant a written notice that includes the information required under clause (1).

(1) During the face-to-face meeting, the county agency must:

(i) determine whether the continued noncompliance can be explained and mitigated by providing a needed preemployment activity, as defined in section 256J.49, subdivision 13, clause (9);

(ii) determine whether the participant qualifies for a good cause exception under section 256J.57, or if the sanction is for noncooperation with child support requirements, determine if the participant qualifies for a good cause exemption under section 256.741, subdivision 10;

(iii) determine whether the participant qualifies for an exemption under section 256J.56 or the work activities in the employment plan are appropriate based on the criteria in section 256J.521, subdivision 2 or 3;

(iv) determine whether the participant qualifies for the family violence waiver;

(v) inform the participant of the participant's sanction status and explain the consequences of continuing noncompliance;

(vi) identify other resources that may be available to the participant to meet the needs of the family; and

(vii) inform the participant of the right to appeal under section 256J.40.

(2) If the lack of an identified activity or service can explain the noncompliance, the county must work with the participant to provide the identified activity.

(3) The grant must be restored to the full amount for which the assistance unit is eligible retroactively to the first day of the month in which the participant was found to lack preemployment activities or to qualify for an exemption under section 256J.56, a family violence waiver, or for a good cause exemption under section 256.741, subdivision 10, or 256J.57.

(e) For the purpose of applying sanctions under this section, only occurrences of noncompliance that occur after July 1, 2003, shall be considered. If the participant is in 30 percent sanction in the month this section takes effect, that month counts as the first occurrence for purposes of applying the sanctions under this section, but the sanction shall remain at 30 percent for that month.

(f) An assistance unit whose case is closed under paragraph (d) or (g), may reapply for MFIP and shall be eligible if the participant complies with MFIP program requirements and demonstrates compliance for up to one month. No assistance shall be paid during this period.

(g) An assistance unit whose case has been closed for noncompliance, that reapplies under paragraph (f), is subject to sanction under paragraph (c), clause (2), for a first occurrence of noncompliance. Any subsequent occurrence of noncompliance shall result in case closure under paragraph (d).

Sec. 8. Minnesota Statutes 2002, section 256J.46, is amended by adding a subdivision to read:

Subd. 3. [SIX MONTHS OF COMPLIANCE.] A participant who has had one or more sanctions imposed under this section must remain in compliance with the provisions of this chapter for six months in order for a subsequent occurrence of noncompliance to be considered a first occurrence of noncompliance.

Sec. 9. Minnesota Statutes 2003 Supplement, section 256J.521, subdivision 1, is amended to read:

Subdivision 1. [ASSESSMENTS.] (a) For purposes of MFIP employment services, assessment is a continuing process of gathering information related to employability for the purpose of

identifying both participant's strengths and strategies for coping with issues that interfere with employment. The job counselor must use information from the assessment process to develop and update the employment plan under subdivision 2 or 3, as appropriate, and to determine whether the participant qualifies for a family violence waiver and an employment plan under subdivision 3.

(b) The scope of assessment must cover at least the following areas:

(1) basic information about the participant's ability to obtain and retain employment, including: a review of the participant's education level; interests, skills, and abilities; prior employment or work experience; transferable work skills; child care and transportation needs;

(2) identification of personal and family circumstances that impact the participant's ability to obtain and retain employment, including: any special needs of the children, the level of English proficiency, family violence issues, and any involvement with social services or the legal system;

(3) the results of a mental and chemical health screening tool designed by the commissioner and results of the brief screening tool for special learning needs. Screening tools for mental and chemical health and special learning needs must be approved by the commissioner and may only be administered by job counselors or county staff trained in using such screening tools. The commissioner shall work with county agencies to develop protocols for referrals and follow-up actions after screens are administered to participants, including guidance on how employment plans may be modified based upon outcomes of certain screens. Participants must be told of the purpose of the screens and how the information will be used to assist the participant in identifying and overcoming barriers to employment. Screening for mental and chemical health and special learning needs must be completed by participants who are unable to find suitable employment after six weeks of job search under subdivision 2, paragraph (b), and participants who are determined to have barriers to employment under subdivision 2, paragraph (d). Failure to complete the screens will result in sanction under section 256J.46; and

(4) a comprehensive review of participation and progress for participants who have received MFIP assistance and have not worked in unsubsidized employment during the past 12 months. The purpose of the review is to determine the need for additional services and supports, including placement in subsidized employment or unpaid work experience under section 256J.49, subdivision 13.

(c) Information gathered during a caregiver's participation in the diversionary work program under section 256J.95 must be incorporated into the assessment process.

(d) The job counselor may require the participant to complete a professional chemical use assessment to be performed according to the rules adopted under section 254A.03, subdivision 3, including provisions in the administrative rules which recognize the cultural background of the participant, or a professional psychological assessment as a component of the assessment process, when the job counselor has a reasonable belief, based on objective evidence, that a participant's ability to obtain and retain suitable employment is impaired by a medical condition. The job counselor may assist the participant with arranging services, including child care assistance and transportation, necessary to meet needs identified by the assessment. Data gathered as part of a professional assessment must be classified and disclosed according to the provisions in section 13.46.

Sec. 10. Minnesota Statutes 2003 Supplement, section 256J.521, subdivision 2, is amended to read:

Subd. 2. [EMPLOYMENT PLAN; CONTENTS.] (a) Based on the assessment under subdivision 1, the job counselor and the participant must develop an employment plan that includes participation in activities and hours that meet the requirements of section 256J.55, subdivision 1. The purpose of the employment plan is to identify for each participant the most direct path to unsubsidized employment and any subsequent steps that support long-term economic stability. The employment plan should be developed using the highest level of activity appropriate for the participant. Activities must be chosen from clauses (1) to (6), which are listed in order of preference. Notwithstanding this order of preference for activities, priority must be

given for activities related to a family violence waiver when developing the employment plan. The employment plan must also list the specific steps the participant will take to obtain employment, including steps necessary for the participant to progress from one level of activity to another, and a timetable for completion of each step. Levels of activity include:

- (1) unsubsidized employment;
- (2) job search;
- (3) subsidized employment or unpaid work experience;
- (4) unsubsidized employment and job readiness education or job skills training;
- (5) unsubsidized employment or unpaid work experience and activities related to a family violence waiver or preemployment needs; and
- (6) activities related to a family violence waiver or preemployment needs.

(b) Participants who are determined to possess sufficient skills such that the participant is likely to succeed in obtaining unsubsidized employment must job search at least 30 hours per week for up to six weeks and accept any offer of suitable employment. The remaining hours necessary to meet the requirements of section 256J.55, subdivision 1, may be met through participation in other work activities under section 256J.49, subdivision 13. The participant's employment plan must specify, at a minimum: (1) whether the job search is supervised or unsupervised; (2) support services that will be provided; and (3) how frequently the participant must report to the job counselor. Participants who are unable to find suitable employment after six weeks must meet with the job counselor to determine whether other activities in paragraph (a) should be incorporated into the employment plan. Job search activities which are continued after six weeks must be structured and supervised.

(c) Beginning July 1, 2004, activities and hourly requirements in the employment plan may be adjusted as necessary to accommodate the personal and family circumstances of participants identified under section 256J.561, subdivision 2, paragraph (d). Participants who no longer meet the provisions of section 256J.561, subdivision 2, paragraph (d), must meet with the job counselor within ten days of the determination to revise the employment plan.

(d) Participants who are determined to have barriers to obtaining or retaining employment that will not be overcome during six weeks of job search under paragraph (b) must work with the job counselor to develop an employment plan that addresses those barriers by incorporating appropriate activities from paragraph (a), clauses (1) to (6). The employment plan must include enough hours to meet the participation requirements in section 256J.55, subdivision 1, unless a compelling reason to require fewer hours is noted in the participant's file.

(e) The job counselor and the participant must sign the employment plan to indicate agreement on the contents. Failure to develop or comply with activities in the plan, or voluntarily quitting suitable employment without good cause, will result in the imposition of a sanction under section 256J.46.

(f) Employment plans must be reviewed at least every three months to determine whether activities and hourly requirements should be revised.

Sec. 11. Minnesota Statutes 2003 Supplement, section 256J.53, subdivision 2, is amended to read:

Subd. 2. [APPROVAL OF POSTSECONDARY EDUCATION OR TRAINING.] (a) In order for a postsecondary education or training program to be an approved activity in an employment plan, the participant must be working in unsubsidized employment or unpaid work experience at least 20 12 hours per week. A postsecondary education or training program must be an approved activity if the participant provides documentation that the hourly unsubsidized employment or unpaid work experience requirement will be met within 30 days of the start of the postsecondary education or training program.

(b) Participants seeking approval of a postsecondary education or training plan must provide documentation that:

- (1) the employment goal can only be met with the additional education or training;
- (2) there are suitable employment opportunities that require the specific education or training in the area in which the participant resides or is willing to reside;
- (3) the education or training will result in significantly higher wages for the participant than the participant could earn without the education or training;
- (4) the participant can meet the requirements for admission into the program; and
- (5) there is a reasonable expectation that the participant will complete the training program based on such factors as the participant's MFIP assessment, previous education, training, and work history; current motivation; and changes in previous circumstances.

(c) The hourly unsubsidized employment or unpaid work experience requirement may be reduced does not apply for intensive education or training programs lasting 12 24 weeks or less when full-time attendance is required and for participants enrolled in training programs intended to alleviate worker shortages in the health care and human services industries. In addition, the hourly requirement must be waived or modified as a reasonable accommodation for a participant with a disability or a participant caring for a person with a disability.

(d) Participants with an approved employment plan in place on July 1, 2003, which includes more than 12 months of postsecondary education or training shall be allowed to complete that plan provided that hourly requirements in section 256J.55, subdivision 1, and conditions specified in paragraph (b), and subdivisions 3 and 5 are met.

(e) Participants with an approved employment plan in place on July 1, 2003, which includes more than 12 months of postsecondary education or training, whose case is subsequently closed for three months or less for reasons other than noncompliance with program requirements and who return to MFIP, shall be allowed to complete that plan, provided that hourly requirements in section 256J.55, subdivision 1, and conditions specified in paragraph (b) and subdivisions 3 and 5 are met.

Sec. 12. Minnesota Statutes 2003 Supplement, section 256J.95, subdivision 3, is amended to read:

Subd. 3. [ELIGIBILITY FOR DIVERSIONARY WORK PROGRAM.] (a) Except for the categories of family units listed below, all family units who apply for cash benefits and who meet MFIP eligibility as required in sections 256J.11 to 256J.15 are eligible and must participate in the diversionary work program. Family units that are not eligible for the diversionary work program include:

- (1) child only cases;
- (2) a single-parent family unit that includes a child under 12 weeks of age. A parent is eligible for this exception once in a parent's lifetime and is not eligible if the parent has already used the previously allowed child under age one exemption from MFIP employment services;
- (3) a minor parent without a high school diploma or its equivalent;
- (4) a caregiver 18 or 19 years of age without a high school diploma or its equivalent who chooses to have an employment plan with an education option;
- (5) a caregiver age 60 or over;
- (6) family units with a parent who received DWP benefits within a 12-month period as defined in subdivision 1, paragraph (d); and
- (7) family units with a parent who received MFIP within the past 12 months.

(b) A two-parent family must participate in DWP unless both parents meet the criteria for an exception under paragraph (a), clauses (1) through (5), or the family unit includes a parent who meets the criteria in paragraph (a), clause (6) or (7).

(c) Newly arrived refugees and asylees as defined in Code of Federal Regulations, title 45, chapter IV, section 400.2, who (1) have been assigned to a local refugee resettlement agency and have a case manager, or (2) have completed the federal matching grant program under United States Code, title 8, chapter 12, section 1522, are exempt from participating in the diversionary work program and may enroll directly into the MFIP program. Refugees may be referred to the federal refugee employment programs.

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

Sec. 13. Minnesota Statutes 2003 Supplement, section 256J.95, subdivision 9, is amended to read:

Subd. 9. **[PROPERTY AND INCOME LIMITATIONS.]** The asset limits and exclusions in section 256J.20 apply to applicants and recipients of DWP. All payments, unless excluded in section 256J.21, must be counted as income to determine eligibility for the diversionary work program. The county shall treat income as outlined in section 256J.37, ~~except for subdivision 3a.~~ The initial income test and the disregards in section 256J.21, subdivision 3, shall be followed for determining eligibility for the diversionary work program.

Sec. 14. Laws 1997, chapter 245, article 2, section 11, as amended by Laws 2003, First Special Session chapter 14, article 10, section 7, is amended to read:

Sec. 11. **[FEDERAL FUNDS FOR VISITATION AND ACCESS.]**

The commissioner of human services ~~may shall~~ apply for and accept on behalf of the state any federal funding received under Public Law Number 104-193 for access and visitation programs, ~~and must administer the funds for the activities allowed under federal law.~~ The commissioner ~~may distribute the funds on a competitive basis and shall transfer these funds in three equal amounts to the FATHER Project of Goodwill/Easter Seals Minnesota, the Hennepin County African American Men Project, and the Minnesota Fathers & Families Network for use of the activities allowed under federal law.~~ These programs must monitor, evaluate, and report on the access and visitation programs in accordance with any applicable regulations.

Sec. 15. **[REPEALER.]**

Minnesota Statutes 2003 Supplement, section 256J.37, subdivisions 3a and 3b, are repealed effective July 1, 2004.

ARTICLE 24

LONG-TERM CARE

Section 1. Minnesota Statutes 2002, section 43A.318, subdivision 1, is amended to read:

Subdivision 1. **[DEFINITIONS.]** (a) **[SCOPE.]** For the purposes of this section, the terms defined have the ~~meaning~~ meanings given them.

(b) **[ADVISORY COMMITTEE; COMMITTEE.]** "Advisory committee" or "committee" means the committee created under subdivision 3.

(c) **[COMMITTEE MEMBER; MEMBER.]** "Committee member" or "member" means a person serving on the advisory committee created under subdivision 3.

(d) **[ELIGIBLE PERSON.]** "Eligible person" means:

(1) a person who is eligible for insurance and benefits under section 43A.24, or for insurance and benefits provided to employees of a political subdivision of this state;

(2) a person who at the time of separation from employment was eligible to purchase coverage

at personal expense under section 43A.27, subdivision 3, regardless of whether the person elected to purchase this coverage;

(3) a spouse of a person described in clause (1) or (2), regardless of the enrollment status in the program of the person described in clause (1) or (2); or

(4) a parent of a person described in clause (1), regardless of the enrollment status in the program of the person described in clause (1); or

(5) a parent of a person described in clause (3).

(e) [PROGRAM.] "Program" means the statewide public employees long-term care insurance program created under subdivision 2.

(f) [QUALIFIED VENDOR.] "Qualified vendor" means an entity licensed or authorized to underwrite, provide, or administer group long-term care insurance benefits in this state.

Sec. 2. Minnesota Statutes 2002, section 43A.318, subdivision 2, is amended to read:

Subd. 2. [PROGRAM CREATION; GENERAL PROVISIONS.] (a) The commissioner may administer a program to make long-term care coverage available to eligible persons. The commissioner may determine the program's funding arrangements, request bids from qualified vendors, and negotiate and enter into contracts with qualified vendors. The commissioner shall request new bids from qualified vendors whenever additional groups of persons are made eligible for coverage. Contracts are not subject to the requirements of section 16C.16 or 16C.19. Contracts must be for a uniform term of at least one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. The program may not be self-insured until the commissioner has completed an actuarial study of the program and reported the results of the study to the legislature and self-insurance has been specifically authorized by law.

(b) The program may provide coverage for home, community, and institutional long-term care and any other benefits as determined by the commissioner. Coverage is optional. The enrolled eligible person must pay the full cost of the coverage.

(c) The commissioner shall promote activities that attempt to raise awareness of the need for long-term care insurance among residents of the state and encourage the increased prevalence of long-term care coverage. These activities must include the sharing of knowledge gained in the development of the program.

(d) The commissioner may employ and contract with persons and other entities to perform the duties under this section and may determine their duties and compensation consistent with this chapter.

(e) The benefits provided under this section are not terms and conditions of employment as defined under section 179A.03, subdivision 19, and are not subject to collective bargaining.

(f) The commissioner shall establish underwriting criteria for entry of all eligible persons into the program. Eligible persons who would be immediately eligible for benefits may not enroll.

(g) Eligible persons who meet underwriting criteria may enroll in the program upon hiring and at other times established by the commissioner. In any written communication to eligible persons about participation in the program, the commissioner must provide the following disclosure in 14-point, boldface, capital letters: "NOTICE: YOU SHOULD SHOP AND OBTAIN INFORMATION ABOUT OTHER LONG-TERM CARE INSURANCE POLICIES SOLD BY INSURANCE COMPANIES THAT MAY PROVIDE MORE FAVORABLE COVERAGE AND RATES THAN THE STATEWIDE PUBLIC EMPLOYEES LONG-TERM CARE INSURANCE PROGRAM." The written communication from the commissioner must also include information provided by the commissioner of commerce regarding the long-term care insurance marketplace, including the names of other private insurers licensed to sell long-term care insurance in Minnesota.

(h) An eligible person enrolled in the program may continue to participate in the program even if an event, such as termination of employment, changes the person's employment status.

(i) Participating public employee pension plans and public employers may provide automatic pension or payroll deduction for payment of long-term care insurance premiums to qualified vendors contracted with under this section.

(j) Notwithstanding sections 13.43 and 13.63, the commissioner may require a public employer or a public pension fund whose members are eligible to participate in the program to provide the commissioner with names, home addresses, unique identifiers, and work locations of eligible persons who have expressed, in writing, orally, or by electronic means, an interest in being contacted about the program so that contractors can mail eligible, interested persons enrollment materials and ensure that only eligible, interested persons are able to enroll in the program. The commissioner shall take all necessary precautions to ensure the integrity of the data and to ensure that private and confidential data is not improperly released or disclosed. All data required to be submitted to the commissioner under this section shall be used solely for the purposes of the program, consistent with the provisions of the Data Practices Act, and the costs incurred in preparing and supplying the data shall be considered administrative costs of the program.

(k) The premium charged to program enrollees must include an administrative fee to cover all program expenses incurred in addition to the cost of coverage. All fees collected are appropriated to the commissioner for the purpose of administrating the program.

Sec. 3. Minnesota Statutes 2002, section 144.0724, subdivision 3, is amended to read:

Subd. 3. [RESIDENT REIMBURSEMENT CLASSIFICATIONS.] (a) Resident reimbursement classifications shall be based on the minimum data set, version 2.0 assessment instrument, or its successor version mandated by the Centers for Medicare and Medicaid Services that nursing facilities are required to complete for all residents. The commissioner of health shall establish resident classes according to the 34 group, resource utilization groups, version III or RUG-III model. Resident classes must be established based on the individual items on the minimum data set and must be completed according to the facility manual for case mix classification issued by the Minnesota Department of Health. The facility manual for case mix classification shall be drafted by the Minnesota Department of Health and presented to the chairs of health and human services legislative committees by December 31, 2001.

(b) Each resident must be classified based on the information from the minimum data set according to general domains in clauses (1) to (7):

(1) extensive services where a resident requires intravenous feeding or medications, suctioning, or tracheostomy care, or is on a ventilator or respirator;

(2) rehabilitation where a resident requires physical, occupational, or speech therapy;

(3) special care where a resident has cerebral palsy; quadriplegia; multiple sclerosis; pressure ulcers; ulcers; fever with vomiting, weight loss, pneumonia, or dehydration; surgical wounds with treatment; or tube feeding and aphasia; or is receiving radiation therapy;

(4) clinically complex status where a resident has tube feeding, burns, coma, septicemia, pneumonia, internal bleeding, chemotherapy, dialysis, oxygen, transfusions, foot infections or lesions with treatment, ~~heiplegia/hemiparesis~~ hemiplegia/hemiparesis, physician visits or order changes, or diabetes with injections and order changes;

(5) impaired cognition where a resident has poor cognitive performance;

(6) behavior problems where a resident exhibits wandering or socially inappropriate or disruptive behavior, has hallucinations or delusions, is physically or verbally abusive toward others, or resists care, unless the resident's other condition would place the resident in other categories; and

(7) reduced physical functioning where a resident has no special clinical conditions.

(c) Notwithstanding the requirements of paragraph (b), the following shall be used to calculate a case mix classification only if provided in the nursing facility:

- (1) IV medications;
- (2) oxygen therapy;
- (3) transfusions; and
- (4) ventilator/respirator.

(d) The commissioner of health shall establish resident classification according to a 34 group model based on the information on the minimum data set and within the general domains listed in paragraph (b), clauses (1) to (7). Detailed descriptions of each resource utilization group shall be defined in the facility manual for case mix classification issued by the Minnesota Department of Health. The 34 groups are described as follows:

- (1) SE3: requires four or five extensive services;
- (2) SE2: requires two or three extensive services;
- (3) SE1: requires one extensive service;
- (4) RAD: requires rehabilitation services and is dependent in activity of daily living (ADL) at a count of 17 or 18;
- (5) RAC: requires rehabilitation services and ADL count is 14 to 16;
- (6) RAB: requires rehabilitation services and ADL count is ten to 13;
- (7) RAA: requires rehabilitation services and ADL count is four to nine;
- (8) SSC: requires special care and ADL count is 17 or 18;
- (9) SSB: requires special care and ADL count is 15 or 16;
- (10) SSA: requires special care and ADL count is seven to 14;
- (11) CC2: clinically complex with depression and ADL count is 17 or 18;
- (12) CC1: clinically complex with no depression and ADL count is 17 or 18;
- (13) CB2: clinically complex with depression and ADL count is 12 to 16;
- (14) CB1: clinically complex with no depression and ADL count is 12 to 16;
- (15) CA2: clinically complex with depression and ADL count is four to 11;
- (16) CA1: clinically complex with no depression and ADL count is four to 11;
- (17) IB2: impaired cognition with nursing rehabilitation and ADL count is six to ten;
- (18) IB1: impaired cognition with no nursing rehabilitation and ADL count is six to ten;
- (19) IA2: impaired cognition with nursing rehabilitation and ADL count is four or five;
- (20) IA1: impaired cognition with no nursing rehabilitation and ADL count is four or five;
- (21) BB2: behavior problems with nursing rehabilitation and ADL count is six to ten;
- (22) BB1: behavior problems with no nursing rehabilitation and ADL count is six to ten;
- (23) BA2: behavior problems with nursing rehabilitation and ADL count is four to five;

- (24) BA1: behavior problems with no nursing rehabilitation and ADL count is four to five;
- (25) PE2: reduced physical functioning with nursing rehabilitation and ADL count is 16 to 18;
- (26) PE1: reduced physical functioning with no nursing rehabilitation and ADL count is 16 to 18;
- (27) PD2: reduced physical functioning with nursing rehabilitation and ADL count is 11 to 15;
- (28) PD1: reduced physical functioning with no nursing rehabilitation and ADL count is 11 to 15;
- (29) PC2: reduced physical functioning with nursing rehabilitation and ADL count is nine or ten;
- (30) PC1: reduced physical functioning with no nursing rehabilitation and ADL count is nine or ten;
- (31) PB2: reduced physical functioning with nursing rehabilitation and ADL count is six to eight;
- (32) PB1: reduced physical functioning with no nursing rehabilitation and ADL count is six to eight;
- (33) PA2: reduced physical functioning with nursing rehabilitation and ADL count is four or five; and
- (34) PA1: reduced physical functioning with no nursing rehabilitation and ADL count is four or five.

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

Sec. 4. Minnesota Statutes 2002, section 144.0724, subdivision 4, is amended to read:

Subd. 4. [RESIDENT ASSESSMENT SCHEDULE.] (a) A facility must conduct and electronically submit to the commissioner of health case mix assessments that conform with the assessment schedule defined by Code of Federal Regulations, title 42, section 483.20, and published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, in the Long Term Care Assessment Instrument User's Manual, version 2.0, ~~October 1995~~ December 2002, and subsequent clarifications made in the Long-Term Care Assessment Instrument Questions and Answers, ~~version 2.0, August 1996~~. The commissioner of health may substitute successor manuals or question and answer documents published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, to replace or supplement the current version of the manual or document.

(b) The assessments used to determine a case mix classification for reimbursement include the following:

- (1) a new admission assessment must be completed by day 14 following admission;
- (2) an annual assessment must be completed within 366 days of the last comprehensive assessment;
- (3) a significant change assessment must be completed within 14 days of the identification of a significant change; and
- (4) ~~the second quarterly assessment following either a new admission assessment, an annual assessment, or a significant change assessment assessments.~~ Each quarterly assessment must be completed within 92 days of the previous assessment.

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

Sec. 5. Minnesota Statutes 2002, section 198.261, is amended to read:

198.261 [CANTEEN AND, COFFEE SHOP, AND WOOD SHOP.]

Any profits derived from the operation of canteens and, coffee shops, and wood shops at the Minnesota veterans homes shall be used by the board only for the direct benefit of the residents of the homes.

Sec. 6. [256B.0571] [LONG-TERM CARE PARTNERSHIP.]

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

Subd. 2. [HOME CARE SERVICE.] "Home care service" means care described in section 144A.43.

Subd. 3. [LONG-TERM CARE INSURANCE.] "Long-term care insurance" means a policy described in section 62S.01.

Subd. 4. [MEDICAL ASSISTANCE.] "Medical assistance" means the program of medical assistance established under section 256B.01.

Subd. 5. [NURSING HOME.] "Nursing home" means a nursing home as described in section 144A.01.

Subd. 6. [PARTNERSHIP POLICY.] "Partnership policy" means a long-term care insurance policy that meets the requirements under subdivision 10.

Subd. 7. [PARTNERSHIP PROGRAM.] "Partnership program" means the Minnesota partnership for long-term care program established under this section.

Subd. 8. [PROGRAM ESTABLISHED.] (a) The commissioner, in cooperation with the commissioner of commerce, shall establish the Minnesota partnership for long-term care program to provide for the financing of long-term care through a combination of private insurance and medical assistance.

(b) An individual who meets the requirements in this paragraph is eligible to participate in the partnership program. The individual must:

(1) be a Minnesota resident;

(2) purchase a partnership policy that is delivered, issued for delivery, or renewed on or after the effective date of this section, and maintain the partnership policy in effect throughout the period of participation in the partnership program; and

(3) exhaust the minimum benefits under the partnership policy as described in this section. Benefits received under a long-term care insurance policy before the effective date of this section do not count toward the exhaustion of benefits required in this subdivision.

Subd. 9. [MEDICAL ASSISTANCE ELIGIBILITY.] (a) Upon application of an individual who meets the requirements described in subdivision 8, the commissioner shall determine the individual's eligibility for medical assistance according to paragraphs (b) and (c).

(b) After disregarding financial assets exempted under medical assistance eligibility requirements, the commissioner shall disregard an additional amount of financial assets equal to the dollar amount of coverage utilized under the partnership policy.

(c) The commissioner shall consider the individual's income according to medical assistance eligibility requirements.

Subd. 10. [APPROVED POLICIES.] (a) A partnership policy must meet all of the requirements in paragraphs (b) to (g).

(b) Minimum coverage shall be for a period of not less than two years and for a dollar amount equal to 24 months of nursing home care at the minimum daily benefit rate determined and adjusted under paragraph (c). The policy shall provide for home health care benefits to be substituted for nursing home care benefits on the basis of two home health care days for one nursing home care day.

(c) Minimum daily benefits shall be \$130 for nursing home care or \$65 for home care. These minimum daily benefit amounts shall be adjusted by the commissioner on October 1 of each year by a percentage equal to the inflation protection feature described in section 62S.23, subdivision 1, clause (1). Adjusted minimum daily benefit amounts shall be rounded to the nearest whole dollar.

(d) A third party designated by the insured shall be entitled to receive notice if the policy is about to lapse for nonpayment of premium, and an additional 30-day grace period for payment of premium shall be granted following notification to that person.

(e) The policy must cover all of the following services:

(1) nursing home stay;

(2) home care service;

(3) care management; and

(4) up to 14 days of nursing care in a hospital while the individual is waiting for long-term care placement.

(f) Payment for service under paragraph (e), clause (4), must not exceed the daily benefit amount for nursing home care.

(g) A partnership policy must offer the following options for an adjusted premium:

(1) an elimination period of not more than 100 days; and

(2) nonforfeiture benefits for applicants between the ages of 18 and 75.

Subd. 11. [LIMITATIONS ON ESTATE RECOVERY.] For an individual determined eligible for medical assistance under subdivision 9, the state shall not seek recovery under the provisions of section 256B.15 against the estate of the individual or individual's spouse for medical assistance benefits received by that individual.

[EFFECTIVE DATE.] (a) If any provision of this section is prohibited by federal law, no provision shall become effective until federal law is changed to permit its full implementation. The commissioner of human services shall notify the revisor of statutes when federal law is enacted or other federal approval is received and publish a notice in the State Register. The commissioner must include the notice in the first State Register published after the effective date of the federal changes.

(b) If federal law is changed to permit a waiver of any provisions prohibited by federal law, the commissioner of human services shall apply to the federal government for a waiver of those prohibitions or other federal authority, and that provision shall become effective upon receipt of a federal waiver or other federal approval, notification to the revisor of statutes, and publication of a notice in the State Register to that effect.

Sec. 7. Minnesota Statutes 2002, section 256B.0625, is amended by adding a subdivision to read:

Subd. 2a. [SKILLED NURSING FACILITY AND HOSPICE SERVICES FOR DUAL ELIGIBLES.] Medical assistance covers skilled nursing facility services for individuals eligible for both medical assistance and Medicare who have waived the Medicare skilled nursing facility room and board benefit and have enrolled in the Medicare hospice program. Medical assistance covers skilled nursing facility services regardless of whether an individual enrolled in the Medicare hospice program prior to, on, or after the date of the hospitalization that qualified the individual for Medicare skilled nursing facility services.

Sec. 8. Minnesota Statutes 2003 Supplement, section 256B.431, subdivision 32, is amended to read:

Subd. 32. [PAYMENT DURING FIRST 90 DAYS.] (a) For rate years beginning on or after July 1, 2001, the total payment rate for a facility reimbursed under this section, section 256B.434, or any other section for the first 90 paid days after admission shall be:

(1) for the first 30 paid days, the rate shall be 120 percent of the facility's medical assistance rate for each case mix class;

(2) for the next 60 paid days after the first 30 paid days, the rate shall be 110 percent of the facility's medical assistance rate for each case mix class;

(3) beginning with the 91st paid day after admission, the payment rate shall be the rate otherwise determined under this section, section 256B.434, or any other section; and

(4) payments under this paragraph apply to admissions occurring on or after July 1, 2001, and before July 1, 2003, and to resident days occurring before July 30, 2003.

(b) For rate years beginning on or after July 1, 2003, the total payment rate for a facility reimbursed under this section, section 256B.434, or any other section shall be:

(1) for the first 30 calendar days after admission, the rate shall be 120 percent of the facility's medical assistance rate for each RUG class;

(2) beginning with the 31st calendar day after admission, the payment rate shall be the rate otherwise determined under this section, section 256B.434, or any other section; and

(3) payments under this paragraph apply to admissions occurring on or after July 1, 2003.

(c) Effective January 1, 2004, the enhanced rates under this subdivision shall not be allowed if a resident has resided during the previous 30 calendar days in:

(1) the same nursing facility;

(2) a nursing facility owned or operated by a related party; or

(3) a nursing facility or part of a facility that closed.

(d) For rate periods beginning on or after October 1, 2004, the total payment rate for a facility reimbursed under this section, section 256B.434, or any other section shall be:

(1) for the first 39 calendar days after admission, the rate shall be 130 percent of the facility's medical assistance rate for each RUG class;

(2) beginning with the 40th calendar day after admission, the payment rate shall be the rate otherwise determined under this section, section 256B.434, or any other section; and

(3) payments under this paragraph apply to admissions occurring on or after October 1, 2004.

(e) Effective October 1, 2004, the enhanced rates under paragraph (d) shall not be allowed if a resident has resided during the previous 39 calendar days in:

(1) the same nursing facility;

(2) a nursing facility owned or operated by a related party; or

(3) a nursing facility or part of a facility that closed or was in the process of closing.

[EFFECTIVE DATE.] This section is effective October 1, 2004, or on the implementation date of the amendments to section 144.0724, subdivisions 3 and 4, and 256B.438, subdivision 4, whichever occurs later.

Sec. 9. Minnesota Statutes 2002, section 256B.431, is amended by adding a subdivision to read:

Subd. 40. [NURSING FACILITY RATE INCREASE JULY 1, 2004.] (a) For the rate year beginning on July 1, 2004, in addition to any other rate adjustments provided under this section or any other section, a nursing facility in Jackson County licensed for 48 nursing home beds on January 1, 2004, shall receive an increase of \$4.93 in its total payment rate for each case mix class. The increases provided under this subdivision shall be included in the facility's total payment rates for the purpose of determining future rates under this section or any other section.

(b) Following the determination under subdivision 39 of the payment rate for the rate year beginning July 1, 2004, for a facility in Ramsey County licensed for 180 beds, the facility's operating payment rate shall be increased by \$4.98.

Sec. 10. Minnesota Statutes 2002, section 256B.437, is amended by adding a subdivision to read:

Subd. 10. [BECKER COUNTY RATE ADJUSTMENT.] Notwithstanding the time period specified in subdivision 3, the commissioner may approve a planned closure rate adjustment for a 98-bed facility in Becker County that is sold after the effective date of this subdivision. The adjustment shall be calculated according to subdivision 6.

Sec. 11. Minnesota Statutes 2002, section 256B.438, subdivision 4, is amended to read:

Subd. 4. [RESIDENT ASSESSMENT SCHEDULE.] (a) Nursing facilities shall conduct and submit case mix assessments according to the schedule established by the commissioner of health under section 144.0724, subdivisions 4 and 5.

(b) The resident reimbursement classifications established under section 144.0724, subdivision 3, shall be effective the day of admission for new admission assessments. The effective date for significant change assessments shall be the assessment reference date. The effective date for annual and second quarterly assessments shall be the first day of the month following assessment reference date.

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

Sec. 12. Minnesota Statutes 2002, section 256B.5012, is amended by adding a subdivision to read:

Subd. 6. [FACILITY CONVERSION.] (a) For the rate year beginning July 1, 2004, a 51-bed facility located in Ramsey County and licensed as an intermediate care facility for persons with mental retardation and related conditions since 1977 shall receive an incremental increase in rates of \$15.73 per calendar day above the rate in effect on June 30, 2004.

(b) Effective the day following final enactment until the complete relocation of this facility, the occupancy requirements under section 256B.5012, and the hospital and therapeutic leave provisions under Minnesota Rules, part 9505.0415, subparts 1 to 7, shall not apply during the conversion of this 51-bed facility.

(c) The rate adjustments specified in paragraphs (a) and (b) shall be in effect for a period not to exceed 18 months. The rate adjustments shall not be transferred to other intermediate care facilities for persons with mental retardation and related conditions.

ARTICLE 25

CONTINUING CARE

Section 1. 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. 2. 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 those found in section 256B.057, subdivision 9, for employed persons with disabilities.

Sec. 3. 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. 4. Minnesota Statutes 2003 Supplement, section 256B.69, subdivision 6b, is amended to read:

Subd. 6b. [HOME AND COMMUNITY-BASED WAIVER SERVICES.] (a) For individuals enrolled in the Minnesota senior health options project authorized under subdivision 23, elderly

waiver services shall be covered according to the terms and conditions of the federal agreement governing that demonstration project.

(b) For individuals under age 65 enrolled in demonstrations authorized under subdivision 23, home and community-based waiver services shall be covered according to the terms and conditions of the federal agreement governing that demonstration project.

(c) The commissioner shall issue requests for proposals for collaborative service models between counties and managed care organizations to integrate the home and community-based elderly waiver services and additional nursing home services into the prepaid medical assistance program.

(d) Notwithstanding Minnesota Rules, part 9500.1457, subpart 1, item C, elderly waiver services shall be covered statewide no sooner than July 1, 2006, under the prepaid medical assistance program for all individuals who are eligible according to section 256B.0915. The commissioner may develop a schedule to phase in implementation of these waiver services, including collaborative service models under paragraph (c). The commissioner shall phase in implementation beginning with those counties participating under section 256B.692, and those counties where a viable collaborative service model has been developed. In consultation with counties and all managed care organizations that have expressed an interest in participating in collaborative service models, the commissioner shall evaluate the models. The commissioner shall consider the evaluations in selecting the most appropriate models for statewide implementation.

Sec. 5. 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. 6. Minnesota Statutes 2002, section 256K.25, subdivision 7, is amended to read:

Subd. 7. [SUNSET.] The pilot project under this section sunsets on June 30, ~~2006~~ 2007.

Sec. 7. [CONSUMER-DIRECTED COMMUNITY SUPPORT EVALUATION.]

The commissioner of human services, in consultation with interested stakeholders, including representatives of consumers, families, guardians, advocacy groups, counties, and providers, shall evaluate the new consumer-directed community support option under the home and community-based waiver programs, as required by the federal Center for Medicare and Medicaid Services. The 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 evaluation shall be provided to the house and senate committees with jurisdiction over human services policy and finance by February 15, 2005.

ARTICLE 26

ASSETS, LIENS, RECOVERIES, AND PROGRAM INTEGRITY

Section 1. 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. 2. 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. 3. Minnesota Statutes 2003 Supplement, section 256B.15, subdivision 1, is amended to read:

Subdivision 1. ~~[POLICY, APPLICABILITY, PURPOSE, AND CONSTRUCTION; DEFINITION.]~~ (a) ~~It is the policy of this state that individuals or couples, either or both of whom participate in the medical assistance program, use their own assets to pay their share of the total cost of their care during or after their enrollment in the program according to applicable federal law and the laws of this state. The following provisions apply:~~

~~(1) subdivisions 1c to 1k shall not apply to claims arising under this section which are presented under section 525.313;~~

~~(2) the provisions of subdivisions 1c to 1k expanding the interests included in an estate for purposes of recovery under this section give effect to the provisions of United States Code, title 42, section 1396p, governing recoveries, but do not give rise to any express or implied liens in favor of any other parties not named in these provisions;~~

~~(3) the continuation of a recipient's life estate or joint tenancy interest in real property after the recipient's death for the purpose of recovering medical assistance under this section modifies common law principles holding that these interests terminate on the death of the holder;~~

~~(4) all laws, rules, and regulations governing or involved with a recovery of medical assistance shall be liberally construed to accomplish their intended purposes;~~

~~(5) a deceased recipient's life estate and joint tenancy interests continued under this section~~

shall be owned by the remaindermen or surviving joint tenants as their interests may appear on the date of the recipient's death. They shall not be merged into the remainder interest or the interests of the surviving joint tenants by reason of ownership. They shall be subject to the provisions of this section. Any conveyance, transfer, sale, assignment, or encumbrance by a remainderman, a surviving joint tenant, or their heirs, successors, and assigns shall be deemed to include all of their interest in the deceased recipient's life estate or joint tenancy interest continued under this section; and

~~(6) the provisions of subdivisions 1c to 1k continuing a recipient's joint tenancy interests in real property after the recipient's death do not apply to a homestead owned of record, on the date the recipient dies, by the recipient and the recipient's spouse as joint tenants with a right of survivorship. Homestead means the real property occupied by the surviving joint tenant spouse as their sole residence on the date the recipient dies and classified and taxed to the recipient and surviving joint tenant spouse as homestead property for property tax purposes in the calendar year in which the recipient dies. For purposes of this exemption, real property the recipient and their surviving joint tenant spouse purchase solely with the proceeds from the sale of their prior homestead, own of record as joint tenants, and qualify as homestead property under section 273.124 in the calendar year in which the recipient dies and prior to the recipient's death shall be deemed to be real property classified and taxed to the recipient and their surviving joint tenant spouse as homestead property in the calendar year in which the recipient dies. The surviving spouse, or any person with personal knowledge of the facts, may provide an affidavit describing the homestead property affected by this clause and stating facts showing compliance with this clause. The affidavit shall be prima facie evidence of the facts it states.~~

~~(b) For purposes of this section, "medical assistance" includes the medical assistance program under this chapter and the general assistance medical care program under chapter 256D and but does not include the alternative care program for nonmedical assistance recipients under section 256B.0913.~~

[EFFECTIVE DATE.] The amendment to paragraph (a) is effective retroactively from August 1, 2003, and applies to the estates of decedants dying on or after that date. The amendments to paragraph (b) are effective retroactively from July 1, 2003, and apply to the estates of decedents on or after that date.

Sec. 4. Minnesota Statutes 2003 Supplement, section 256B.15, subdivision 1a, is amended to read:

Subd. 1a. [ESTATES SUBJECT TO CLAIMS.] If a person receives any medical assistance hereunder, on the person's death, if single, or on the death of the survivor of a married couple, either or both of whom received medical assistance, ~~or as otherwise provided for in this section,~~ the total amount paid for medical assistance rendered for the person and spouse shall be filed as a claim against the estate of the person or the estate of the surviving spouse in the court having jurisdiction to probate the estate or to issue a decree of descent according to sections 525.31 to 525.313.

A claim shall be filed if medical assistance was rendered for either or both persons under one of the following circumstances:

(a) the person was over 55 years of age, and received services under this chapter, excluding alternative care;

(b) the person resided in a medical institution for six months or longer, received services under this chapter, excluding alternative care, and, at the time of institutionalization or application for medical assistance, whichever is later, the person could not have reasonably been expected to be discharged and returned home, as certified in writing by the person's treating physician. For purposes of this section only, a "medical institution" means a skilled nursing facility, intermediate care facility, intermediate care facility for persons with mental retardation, nursing facility, or inpatient hospital; or

(c) the person received general assistance medical care services under chapter 256D.

The claim shall be considered an expense of the last illness of the decedent for the purpose of section 524.3-805. Any statute of limitations that purports to limit any county agency or the state agency, or both, to recover for medical assistance granted hereunder shall not apply to any claim made hereunder for reimbursement for any medical assistance granted hereunder. Notice of the claim shall be given to all heirs and devisees of the decedent whose identity can be ascertained with reasonable diligence. The notice must include procedures and instructions for making an application for a hardship waiver under subdivision 5; time frames for submitting an application and determination; and information regarding appeal rights and procedures. Counties are entitled to one-half of the nonfederal share of medical assistance collections from estates that are directly attributable to county effort. ~~Counties are entitled to ten percent of the collections for alternative care directly attributable to county effort.~~

[EFFECTIVE DATE.] The amendments in this section relating to the alternative care program are effective retroactively from July 1, 2003, and apply to the estates of decedents who die on or after that date. The remaining amendments in this section are effective retroactively from August 1, 2003, and apply to the estates of decedents who die on or after that date.

Sec. 5. Minnesota Statutes 2003 Supplement, section 256B.15, subdivision 2, is amended to read:

Subd. 2. **[LIMITATIONS ON CLAIMS.]** The claim shall include only the total amount of medical assistance rendered after age 55 or during a period of institutionalization described in subdivision 1a, clause (b), and the total amount of general assistance medical care rendered, and shall not include interest. Claims that have been allowed but not paid shall bear interest according to section 524.3-806, paragraph (d). A claim against the estate of a surviving spouse who did not receive medical assistance, for medical assistance rendered for the predeceased spouse, is limited to the value of the assets of the estate that were marital property or jointly owned property at any time during the marriage. ~~Claims for alternative care shall be net of all premiums paid under section 256B.0913, subdivision 12, on or after July 1, 2003, and shall be limited to services provided on or after July 1, 2003.~~

[EFFECTIVE DATE.] This section is effective retroactively from July 1, 2003, for decedents dying on or after that date.

Sec. 6. Minnesota Statutes 2003 Supplement, section 256B.15, subdivision 3, is amended to read:

Subd. 3. **[SURVIVING SPOUSE, MINOR, BLIND, OR DISABLED CHILDREN.]** If a decedent ~~is survived by a spouse, or who was single or who was the surviving spouse of a married couple and is survived by a child who is under age 21 or blind or permanently and totally disabled according to the supplemental security income program criteria, a no claim shall be filed against the estate according to this section.~~

[EFFECTIVE DATE.] This section is effective retroactively from August 1, 2003.

Sec. 7. Minnesota Statutes 2003 Supplement, section 256B.15, subdivision 4, is amended to read:

Subd. 4. **[OTHER SURVIVORS.]** If the decedent who was single or the surviving spouse of a married couple is survived by one of the following persons, a claim exists against the estate in an amount not to exceed the value of the nonhomestead property included in the estate ~~and the personal representative shall make, execute, and deliver to the county agency a lien against the homestead property in the estate for any unpaid balance of the claim to the claimant as provided under this section:~~

(a) (1) a sibling who resided in the decedent medical assistance recipient's home at least one year before the decedent's institutionalization and continuously since the date of institutionalization; or

(b) (2) a son or daughter or a grandchild who resided in the decedent medical assistance recipient's home for at least two years immediately before the parent's or grandparent's

institutionalization and continuously since the date of institutionalization, and who establishes by a preponderance of the evidence having provided care to the parent or grandparent who received medical assistance, that the care was provided before institutionalization, and that the care permitted the parent or grandparent to reside at home rather than in an institution.

[EFFECTIVE DATE.] This section is effective retroactively from August 1, 2003, and applies to decedents who die on or after that date.

Sec. 8. 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 256I.01 to 256I.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.

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

Sec. 9. Minnesota Statutes 2003 Supplement, section 514.981, subdivision 6, is amended to read:

Subd. 6. ~~[TIME LIMITS; CLAIM LIMITS; LIENS ON LIFE ESTATES AND JOINT TENANCIES.]~~ (a) A medical assistance lien is a lien on the real property it describes for a period of ten years from the date it attaches according to section 514.981, subdivision 2, paragraph (a), except as otherwise provided for in sections 514.980 to 514.985. The agency may renew a medical assistance lien for an additional ten years from the date it would otherwise expire by recording or filing a certificate of renewal before the lien expires. The certificate shall be recorded or filed in the office of the county recorder or registrar of titles for the county in which the lien is recorded or filed. The certificate must refer to the recording or filing data for the medical assistance lien it renews. The certificate need not be attested, certified, or acknowledged as a condition for recording or filing. The registrar of titles or the recorder shall file, record, index, and return the certificate of renewal in the same manner as provided for medical assistance liens in section 514.982, subdivision 2.

(b) A medical assistance lien is not enforceable against the real property of an estate to the extent there is a determination by a court of competent jurisdiction, or by an officer of the court designated for that purpose, that there are insufficient assets in the estate to satisfy the agency's medical assistance lien in whole or in part because of the homestead exemption under section 256B.15, subdivision 4, the rights of the surviving spouse or minor children under section 524.2-403, paragraphs (a) and (b), or claims with a priority under section 524.3-805, paragraph (a), clauses (1) to (4). For purposes of this section, the rights of the decedent's adult children to exempt property under section 524.2-403, paragraph (b), shall not be considered costs of administration under section 524.3-805, paragraph (a), clause (1).

~~(c) Notwithstanding any law or rule to the contrary, the provisions in clauses (1) to (7) apply if a life estate subject to a medical assistance lien ends according to its terms, or if a medical assistance recipient who owns a life estate or any interest in real property as a joint tenant that is subject to a medical assistance lien dies.~~

~~(1) The medical assistance recipient's life estate or joint tenancy interest in the real property shall not end upon the recipient's death but shall merge into the remainder interest or other interest in real property the medical assistance recipient owned in joint tenancy with others. The medical assistance lien shall attach to and run with the remainder or other interest in the real property to the extent of the medical assistance recipient's interest in the property at the time of the recipient's death as determined under this section.~~

~~(2) If the medical assistance recipient's interest was a life estate in real property, the lien shall be a lien against the portion of the remainder equal to the percentage factor for the life estate of a person the medical assistance recipient's age on the date the life estate ended according to its terms or the date of the medical assistance recipient's death as listed in the Life Estate Mortality Table in the health care program's manual.~~

~~(3) If the medical assistance recipient owned the interest in real property in joint tenancy with others, the lien shall be a lien against the portion of that interest equal to the fractional interest the medical assistance recipient would have owned in the jointly owned interest had the medical assistance recipient and the other owners held title to that interest as tenants in common on the date the medical assistance recipient died.~~

~~(4) The medical assistance lien shall remain a lien against the remainder or other jointly owned interest for the length of time and be renewable as provided in paragraph (a).~~

~~(5) Subdivision 5, paragraph (a), clause (4), paragraph (b), clauses (1) and (2); and subdivision 6, paragraph (b), do not apply to medical assistance liens which attach to interests in real property as provided under this subdivision.~~

~~(6) The continuation of a medical assistance recipient's life estate or joint tenancy interest in real property after the medical assistance recipient's death for the purpose of recovering medical assistance provided for in sections 514.980 to 514.985 modifies common law principles holding that these interests terminate on the death of the holder.~~

~~(7) Notwithstanding any law or rule to the contrary, no release, satisfaction, discharge, or affidavit under section 256B.15 shall extinguish or terminate the life estate or joint tenancy interest of a medical assistance recipient subject to a lien under sections 514.980 to 514.985 on the date the recipient dies.~~

~~(8) The provisions of clauses (1) to (7) do not apply to a homestead owned of record, on the date the recipient dies, by the recipient and the recipient's spouse as joint tenants with a right of survivorship. Homestead means the real property occupied by the surviving joint tenant spouse as their sole residence on the date the recipient dies and classified and taxed to the recipient and surviving joint tenant spouse as homestead property for property tax purposes in the calendar year in which the recipient dies. For purposes of this exemption, real property the recipient and their surviving joint tenant spouse purchase solely with the proceeds from the sale of their prior homestead, own of record as joint tenants, and qualify as homestead property under section 273.124 in the calendar year in which the recipient dies and prior to the recipient's death shall be deemed to be real property classified and taxed to the recipient and their surviving joint tenant spouse as homestead property in the calendar year in which the recipient dies. The surviving spouse, or any person with personal knowledge of the facts, may provide an affidavit describing the homestead property affected by this clause and stating facts showing compliance with this clause. The affidavit shall be prima facie evidence of the facts it states.~~

[EFFECTIVE DATE.] This section is effective retroactively from August 1, 2003, and applies to all medical assistance liens recorded or filed on or after that date.

Sec. 10. Minnesota Statutes 2003 Supplement, section 524.3-805, is amended to read:

524.3-805 [CLASSIFICATION OF CLAIMS.]

(a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

- (1) costs and expenses of administration;
- (2) reasonable funeral expenses;
- (3) debts and taxes with preference under federal law;

(4) reasonable and necessary medical, hospital, or nursing home expenses of the last illness of the decedent, including compensation of persons attending the decedent, ~~a claim filed under section 256B.15 for recovery of expenditures for alternative care for nonmedical assistance recipients under section 256B.0913, and including a claim filed pursuant to section 256B.15;~~

(5) reasonable and necessary medical, hospital, and nursing home expenses for the care of the decedent during the year immediately preceding death;

- (6) debts with preference under other laws of this state, and state taxes;
- (7) all other claims.

(b) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due, except that if claims for expenses of the last illness involve only claims filed under section 256B.15 for recovery of expenditures for alternative care for nonmedical assistance recipients under section 256B.0913, section 246.53 for costs of state hospital care and claims filed under section 256B.15, ~~claims filed to recover expenditures for alternative care for nonmedical assistance recipients under section 256B.0913 shall have preference over claims filed under both sections 246.53 and other claims filed under section 256B.15, and~~ Claims filed under section 246.53 have preference over

~~claims filed under section 256B.15 for recovery of amounts other than those for expenditures for alternative care for nonmedical assistance recipients under section 256B.0913.~~

[EFFECTIVE DATE.] This section is effective retroactively from July 1, 2003.

Sec. 11. [REPEALER.]

Minnesota Statutes 2003 Supplement, sections 256B.15, subdivisions 1c, 1d, 1e, 1f, 1g, 1h, 1i, 1j, and 1k; 514.991; 514.992; 514.993; 514.994; and 514.995, are repealed retroactively from July 1, 2003.

ARTICLE 27

MISCELLANEOUS

Section 1. Minnesota Statutes 2003 Supplement, section 246.15, is amended by adding a subdivision to read:

Subd. 3. [SAVINGS ACCOUNT.] The commissioner of human services shall create a savings account for each patient receiving treatment in a secure treatment facility as defined by section 253B.02, subdivision 18a. The source of money to be deposited in this account shall come from a portion of the patient's share of the cost of care. The money in this savings account shall be made available to the patient when the patient is ready to be transitioned into the community. The money in the account shall be used for expenses associated with obtaining housing and other personal needs necessary for the patient's smooth transition into the community. The savings account shall be called "forensic patient transition savings account."

Sec. 2. [246B.05] [MINNESOTA SEX OFFENDER PROGRAM; PRODUCTIVE DAY PROGRAM.]

Subdivision 1. [EMPLOYMENT OPTION.] The commissioner of human services, in consultation with the commissioner of corrections, shall develop an employment option for persons committed to a sexual psychopathic personality treatment center in order for patients to contribute to their cost of care. The employment may include work maintaining the center or work that is brought to the center by an outside source. The earnings generated must be deposited into the account created in subdivision 2 and divided between the participating patient and the center, in an effort to reduce state costs.

Subd. 2. [MINNESOTA SEX OFFENDER PROGRAM; PRODUCTIVE DAY PROGRAM ACCOUNT.] A productive day program account is created in the state treasury. Money collected by the commissioner of human services for the program under this section must be deposited in this account. Money in the account is appropriated to the commissioner for purposes of this section.

Subd. 3. [MONEY.] The commissioner has the authority to collect money resulting from the productive day program, and retain 50 percent to reimburse the state for the cost of administering the work program and for the purpose of reducing state costs associated with the Minnesota Sex Offender Program and return 50 percent of the earnings to the patient.

Sec. 3. Minnesota Statutes 2002, section 253B.02, is amended by adding a subdivision to read:

Subd. 24. [ADMINISTRATIVE RESTRICTION.] "Administrative restriction" means any measure utilized by the commissioner to maintain safety and security, protect possible evidence, and prevent the continuation of suspected criminal acts. Administrative restriction does not mean protective isolation as defined by Minnesota Rules, part 9515.3090, subpart 4. Administrative restriction may include increased monitoring, program limitations, loss of privileges, restricted access to and use of possessions, and separation of a patient from the normal living environment, as determined by the commissioner or the commissioner's designee. Administrative restriction applies only to patients in a secure treatment facility as defined in subdivision 18a who:

(1) are suspected of committing a crime or charged with a crime;

- (2) are the subject of a criminal investigation;
- (3) are awaiting sentencing following a conviction of a crime; or
- (4) are awaiting transfer to a correctional facility.

The commissioner shall establish policies and procedures according to section 246.014, paragraph (d), regarding the use of administrative restriction. The policies and procedures shall identify the implementation and termination of administrative restrictions. Use of administrative restriction and the reason associated with the use shall be documented in the patient's medical record.

Sec. 4. Minnesota Statutes 2002, section 253B.02, is amended by adding a subdivision to read:

Subd. 25. [SAFETY.] "Safety" means protection of persons or property from potential danger, risk, injury, harm, or damage.

Sec. 5. Minnesota Statutes 2002, section 253B.02, is amended by adding a subdivision to read:

Subd. 26. [SECURITY.] "Security" means the measures necessary to achieve the management and accountability of patients of the facility, staff, and visitors, as well as property of the facility.

Sec. 6. Minnesota Statutes 2002, section 253B.03, is amended by adding a subdivision to read:

Subd. 1a. [ADMINISTRATIVE RESTRICTION.] (a) A patient has the right to be free from unnecessary or excessive administrative restriction. Administrative restriction shall not be used for the convenience of staff, for retaliation for filing complaints, or as a substitute for program treatment. Administrative restriction may not involve any further deprivation of privileges than is necessary.

(b) Administrative restriction may include separate and secure housing.

(c) Patients under administrative restriction shall not be limited in access to their attorney.

(d) If a patient is placed on administrative restriction because the patient is suspected of committing a crime, the secure treatment facility must report the crime to the appropriate police agency within 24 hours of the beginning of administrative restriction. The patient must be released from administrative restriction if a police agency does not begin an investigation within 72 hours of the report.

(e) A patient placed on administrative restriction because the patient is a subject of a criminal investigation must be released from administrative restriction when the investigation is completed. If the patient is charged with a crime following the investigation, administrative restriction may continue until the charge is disposed of.

(f) The secure treatment facility must notify the patient's attorney of the patient's being placed on administrative restriction within 24 hours after the beginning of administrative restriction.

Sec. 7. Minnesota Statutes 2002, section 253B.185, is amended by adding a subdivision to read:

Subd. 7. [RIGHTS OF PATIENTS COMMITTED UNDER THIS SECTION.] (a) The commissioner or the commissioner's designee may limit the statutory rights described in paragraph (b) for patients committed to the Minnesota sex offender program under this section or with the commissioner's consent under section 246B.02. These statutory rights may be limited as necessary to maintain a therapeutic environment and the security of the facility, to prevent crime, or to protect the safety and well-being of patients, staff, and the public. Limitations of statutory rights may be applied facility-wide, or to parts of the facility, or to individual patients, and are in addition to any other limitations on rights permitted by sections 144.651 and 253B.03 or any other law.

(b) The head of a secure treatment facility may limit the statutory rights of patients and residents created by sections 144.651, subdivision 19 (personal privacy); 144.651, subdivision 21 (private communications); 144.651, subdivision 22 (retain and use of personal property); 144.651,

subdivision 25 (manage personal financial affairs); 144.651, subdivision 26 (meet with visitors and participate in groups); 253B.03, subdivision 2 (correspond with others); and 253B.03, subdivision 3 (receive visitors and make telephone calls). Other statutory rights enumerated by sections 144.651 and 253B.03 may be limited as provided in those sections.

(c) Notwithstanding any other law, a patient committed to a secure treatment facility under this section may not maintain a civil cause of action to enforce section 144.651 or 253B.03.

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

Sec. 8. 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. 9. [256.742] [MINNESOTA HEALTHY MARRIAGE AND RESPONSIBLE FATHERHOOD INITIATIVE.]

Subdivision 1. [ESTABLISHMENT.] The commissioner shall develop and implement a Minnesota Healthy Marriage and Responsible Fatherhood Initiative, as provided for in this section. The commissioner may administer the initiative with federal grants, state appropriations, and in-kind services received for this purpose.

Subd. 2. [PURPOSE.] The purpose of the Healthy Marriage and Responsible Fatherhood Initiative is to develop a community-based collaborative project that will test and evaluate a comprehensive strategy for promoting marriage and responsible fatherhood among unmarried urban parents who are expecting or have recently had a child. The initiative objectives are to:

- (1) encourage stable family formation among unmarried new parents in urban communities;
- (2) promote healthy marriages among unmarried new parents who want to be a couple and indicate that marriage is a goal for their relationship;
- (3) increase paternity establishment and enhance related child support performance indicators;
- (4) promote responsible fathering;
- (5) enhance the well-being of children; and
- (6) encourage and facilitate community support for marriage and family formation among unmarried parents.

Subd. 3. [IMPLEMENTATION.] The target population for the initiative is unmarried new parent couples whose babies are born in urban hospitals in Minneapolis and St. Paul. The initiative may be implemented through the University of Minnesota and community-based programs and organizations. The commissioner shall:

- (1) enter into contracts or manage a grant process for implementation of the initiative;
- (2) provide technical assistance; and

(3) develop and implement an evaluation component for the initiative.

Sec. 10. Minnesota Statutes 2002, section 260C.212, subdivision 5, is amended to read:

Subd. 5. [RELATIVE SEARCH; NATURE.] (a) In implementing the requirement that the responsible social services agency must consider placement with a relative under subdivision 2 as soon as possible after identifying the need for placement of the child in foster care, the responsible social services agency shall identify relatives of the child and notify them of the need for a foster care home for the child and of the possibility of the need for a permanent out-of-home placement of the child. The relative search required by this section shall be reasonable in scope and may last up to six months or until a fit and willing relative is identified. ~~Relatives should be notified that a decision not to be a placement resource at the beginning of the case may affect the relative being considered for placement of the child with that relative later.~~ The relatives must be notified that they must keep the responsible social services agency informed of their current address in order to receive notice that a permanent placement is being sought for the child. A relative who fails to provide a current address to the responsible social services agency forfeits the right to notice of the possibility of permanent placement. A decision by a relative not to be a placement resource at the beginning of the case shall not affect whether the relative is considered for placement of the child with that relative later.

(b) A responsible social services agency may disclose private or confidential data, as defined in section 13.02, to relatives of the child for the purpose of locating a suitable placement. The agency shall disclose only data that is necessary to facilitate possible placement with relatives. If the child's parent refuses to give the responsible social services agency information sufficient to identify relatives of the child, the agency shall determine whether the parent's refusal is in the child's best interests. If the agency determines the parent's refusal is not in the child's best interests, the agency shall file a petition under section 260C.141, and shall ask the juvenile court to order the parent to provide the necessary information. If a parent makes an explicit request that relatives or a specific relative not be contacted or considered for placement, the agency shall bring the parent's request to the attention of the court to determine whether the parent's request is consistent with the best interests of the child and the agency shall not contact relatives or a specific relative unless authorized to do so by the juvenile court.

(c) When the placing agency determines that a permanent placement hearing is necessary because there is a likelihood that the child will not return to a parent's care, the agency may send the notice provided in paragraph (d), may ask the court to modify the requirements of the agency under this paragraph, or may ask the court to completely relieve the agency of the requirements of this paragraph. The relative notification requirements of this paragraph do not apply when the child is placed with an appropriate relative or a foster home that has committed to being the permanent legal placement for the child and the agency approves of that foster home for permanent placement of the child. The actions ordered by the court under this section must be consistent with the best interests, safety, and welfare of the child.

(d) Unless required under the Indian Child Welfare Act or relieved of this duty by the court under paragraph (c), when the agency determines that it is necessary to prepare for the permanent placement determination hearing, or in anticipation of filing a termination of parental rights petition, the agency shall send notice to the relatives, any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan. The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the agency their interest in providing a permanent home. The notice must state that within 30 days of receipt of the notice an individual receiving the notice must indicate to the agency the individual's interest in providing a permanent home for the child or that the individual may lose the opportunity to be considered for a permanent placement.

Sec. 11. [517.001] [DEFINITION.]

As used in this chapter, "local registrar" has the meaning given in section 144.212, subdivision 10.

Sec. 12. Minnesota Statutes 2002, section 517.07, is amended to read:

517.07 [LICENSE.]

Before any persons are joined in marriage, a license shall be obtained from the ~~court administrator of the district court~~ local registrar of any county. The marriage need not take place in the county where the license is obtained.

Sec. 13. Minnesota Statutes 2003 Supplement, section 517.08, subdivision 1b, is amended to read:

Subd. 1b. [TERM OF LICENSE; FEE; PREMARITAL EDUCATION.] (a) The ~~court administrator~~ local registrar shall examine upon oath the party applying for a license relative to the legality of the contemplated marriage. If at the expiration of a five-day period, on being satisfied that there is no legal impediment to it, including the restriction contained in section 259.13, the ~~court administrator~~ local registrar shall issue the license, containing the full names of the parties before and after marriage, and county and state of residence, with the ~~district court~~ county seal attached, and make a record of the date of issuance. The license shall be valid for a period of six months. In case of emergency or extraordinary circumstances, a judge of the district court of the county in which the application is made, may authorize the license to be issued at any time before the expiration of the five days. Except as provided in paragraph (b), the ~~court administrator~~ local registrar shall collect from the applicant a fee of ~~\$80~~ \$85 for administering the oath, issuing, recording, and filing all papers required, and preparing and transmitting to the state registrar of vital statistics the reports of marriage required by this section. If the license should not be used within the period of six months due to illness or other extenuating circumstances, it may be surrendered to the ~~court administrator~~ local registrar for cancellation, and in that case a new license shall issue upon request of the parties of the original license without fee. A ~~court administrator~~ local registrar who knowingly issues or signs a marriage license in any manner other than as provided in this section shall pay to the parties aggrieved an amount not to exceed \$1,000.

(b) The marriage license fee for parties who have completed at least 12 hours of premarital education is \$20. In order to qualify for the reduced fee, the parties must submit a signed and dated statement from the person who provided the premarital education confirming that it was received. The premarital education must be provided by a licensed or ordained minister or the minister's designee, a person authorized to solemnize marriages under section 517.18, or a person authorized to practice marriage and family therapy under section 148B.33. The education must include the use of a premarital inventory and the teaching of communication and conflict management skills.

(c) The statement from the person who provided the premarital education under paragraph (b) must be in the following form:

"I, (name of educator), confirm that (names of both parties) received at least 12 hours of premarital education that included the use of a premarital inventory and the teaching of communication and conflict management skills. I am a licensed or ordained minister, a person authorized to solemnize marriages under Minnesota Statutes, section 517.18, or a person licensed to practice marriage and family therapy under Minnesota Statutes, section 148B.33."

The names of the parties in the educator's statement must be identical to the legal names of the parties as they appear in the marriage license application. Notwithstanding section 138.17, the educator's statement must be retained for seven years, after which time it may be destroyed.

(d) If section 259.13 applies to the request for a marriage license, the ~~court administrator~~ local registrar shall grant the marriage license without the requested name change. Alternatively, the ~~court administrator~~ local registrar may delay the granting of the marriage license until the party with the conviction:

(1) certifies under oath that 30 days have passed since service of the notice for a name change upon the prosecuting authority and, if applicable, the attorney general and no objection has been filed under section 259.13; or

(2) provides a certified copy of the court order granting it. The parties seeking the marriage

license shall have the right to choose to have the license granted without the name change or to delay its granting pending further action on the name change request.

Sec. 14. Minnesota Statutes 2003 Supplement, section 517.08, subdivision 1c, is amended to read:

Subd. 1c. [DISPOSITION OF LICENSE FEE.] (a) Of the marriage license fee collected pursuant to subdivision 1b, paragraph (a), \$15 must be retained by the county. ~~The court administrator~~ local registrar must pay ~~\$65~~ \$70 to the commissioner of finance to be deposited as follows:

(1) \$50 in the general fund;

(2) \$3 in the special revenue fund to be appropriated to the commissioner of education for parenting time centers under section 119A.37;

(3) \$2 in the special revenue fund to be appropriated to the commissioner of health for developing and implementing the MN ENABL program under section 145.9255; ~~and~~

(4) \$10 in the special revenue fund to be appropriated to the commissioner of economic security for the displaced homemaker program under section 268.96; and

(5) \$5 in the special revenue fund to be appropriated to the commissioner of human services for the Minnesota Healthy Marriage and Responsible Fatherhood Initiative under section 256.742.

(b) Of the \$20 fee under subdivision 1b, paragraph (b), \$15 must be retained by the county. ~~The state court administrator~~ local registrar must pay \$5 to the commissioner of finance to be distributed as provided in paragraph (a), clauses (2) and (3).

(c) The increase in the marriage license fee under paragraph (a) provided for in this act and disbursement of the increase in that fee to the special fund for the Minnesota Healthy Marriage and Responsible Fatherhood Initiative under paragraph (a), clause (5), is contingent upon the receipt of federal funding under United States Code, title 42, section 1315, for purposes of the initiative.

Sec. 15. Minnesota Statutes 2002, section 517.08, is amended by adding a subdivision to read:

Subd. 4. [REPORT.] The local registrar of each county shall annually report to the Department of Health the number of marriage licenses issued in the county for which the fee in subdivision 1b, paragraph (a), was paid and the number for which the fee in subdivision 1b, paragraph (b), was paid.

Sec. 16. Minnesota Statutes 2002, section 517.10, is amended to read:

517.10 [CERTIFICATE; WITNESSES.]

The person solemnizing a marriage shall prepare and sign three certificates thereof. Each certificate shall contain the full names before and after marriage and county and state of residences of the parties and the date and place of the marriage. Each certificate shall also contain the signatures of at least two of the witnesses present at the marriage who shall be at least 16 years of age. The person solemnizing the marriage shall give each of the parties one such certificate, and shall immediately make a record of such marriage, and file one such certificate with the ~~court administrator~~ local registrar of the district court of the county in which the license was issued within five days after the ceremony. ~~The court administrator~~ local registrar shall record such certificate in a book kept for that purpose.

Sec. 17. Minnesota Statutes 2002, section 517.13, is amended to read:

517.13 [PENALTY FOR FAILURE TO DELIVER AND FILE CERTIFICATE.]

Every person solemnizing a marriage who neglects to deliver to the ~~court administrator~~ local registrar a certificate within the time set forth in section 517.10 shall forfeit a sum not exceeding

\$100, and every ~~court administrator~~ local registrar who neglects to record a certificate shall forfeit a like sum.

Sec. 18. Minnesota Statutes 2002, section 517.18, subdivision 1, is amended to read:

Subdivision 1. All marriages solemnized among the people called Friends or Quakers, in the form heretofore practiced and in use in their meetings, shall be valid and not affected by any of the foregoing provisions. The clerk of the meeting in which such marriage is solemnized, within one month after any such marriage, shall deliver a certificate of the same to the ~~court administrator of the district court~~ local registrar of the county where the marriage took place, under penalty of not more than \$100. Such certificate shall be filed and recorded by the court administrator under a like penalty. If such marriage does not take place in such meeting, such certificate shall be signed by the parties and at least six witnesses present, and shall be filed and recorded as above provided under a like penalty.

ARTICLE 28

HEALTH AND HUMAN SERVICES FORECAST ADJUSTMENTS

Section 1. [HEALTH AND HUMAN SERVICES 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 14, article 13c, 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 years 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 year ending June 30, 2004, or June 30, 2005, respectively.

SUMMARY BY FUND

	2004	2005	BIENNIAL TOTAL
General	\$ (131,508,000)	\$ 24,116,000	(107,392,000)
Health Care Access	(15,525,000)	84,000	(15,441,000)
Federal TANF	8,623,000	6,000,000	14,623,000
TOTAL	\$ (138,410,000)	\$ 30,200,000	(108,210,000)

APPROPRIATIONS

Available for the Year
Ending June 30

2004

2005

Sec. 2. COMMISSIONER OF HUMAN SERVICES

Subdivision 1. Total
Appropriation \$ (136,802,000) \$ 25,285,000

Summary by Fund

General	(129,900,000)	19,201,000
Health Care Access	(15,525,000)	84,000
Federal TANF	8,623,000	6,000,000

Subd. 2. Revenue and Pass-Through

Summary by Fund

Federal TANF	788,000	3,960,000
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[UPDATE FOR FEDERAL CONTINGENCY APPROPRIATION.] The amount of federal TANF funds available for fiscal years 2006 and 2007 refinancing under Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 3, is reduced by \$6,000,000 each year. Notwithstanding section 4, this paragraph expires June 30, 2007.

Subd. 3. Basic Health Care Grants

Summary by Fund

General	(138,212,000)	(57,020,000)
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Health Care Access	(15,525,000)	84,000
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The amounts that may be spent from this appropriation for each purpose are as follows:

(a) MinnesotaCare Grants

Health Care Access (15,525,000)		84,000
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(b) MA Basic Health Care Grants - Families and Children

General	(109,177,000)	(92,616,000)
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(c) MA Basic Health Care Grants - Elderly and Disabled

General	(44,936,000)	2,253,000
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(d) General Assistance Medical Care Grants

General	15,901,000	33,343,000
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Subd. 4. Continuing Care Grants

Summary by Fund

General	14,262,000	76,434,000
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The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Mental Health Grants

General	-0-	11,861,000
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(b) Community Support Grants

General	-0-	2,931,000
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(c) MA Long-Term Care Waivers and Home Care Grants

General	3,950,000	29,524,000
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(d) Group Residential Housing Grants

General	(449,000)	583,000
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(e) Chemical Dependency
Entitlement Grants

General	8,361,000	9,697,000
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Subd. 5. Economic Support Grants

Summary by Fund

General	(5,950,000)	(213,000)
Federal TANF	7,835,000	2,040,000

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Minnesota Family
Investment Program

General	(6,104,000)	4,567,000
Federal TANF	7,835,000	(3,960,000)

(b) Work Grants

General	-0-	(6,000,000)
Federal TANF	-0-	6,000,000

(c) General Assistance
Grants

General	1,428,000	2,177,000
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(d) Minnesota Supplemental
Aid Grants

General	(1,274,000)	(957,000)
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Sec. 3. DEPARTMENT OF EDUCATION

Subdivision 1. Total Appropriation

General	(1,608,000)	(957,000)
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[MFIP/TY CHILD CARE.] The appropriation change in this section corresponds to the MFIP/TY child care program.

Sec. 4. [SUNSET OF UNCODIFIED LANGUAGE.]

All uncodified language contained in this article expires on June 30, 2005, unless a different expiration date is explicit.

Sec. 5. [EFFECTIVE DATE.]

Except as otherwise provided in this article, this article is effective the day following final enactment.

ARTICLE 29

HEALTH AND HUMAN SERVICES APPROPRIATIONS

Section 1. [HEALTH AND HUMAN SERVICES 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 14, or other law, 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 years

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 year ending June 30, 2004, or June 30, 2005, respectively.

SUMMARY BY FUND

	2004	2005	TOTAL
General			
Nonforecast	\$137,707,000	\$(126,668,000)	\$11,039,000
Health Care			
Access	41,994,000	(29,637,000)	12,357,000
Federal TANF	-0-	76,000	76,000

APPROPRIATIONS

Available for the Year	
Ending June 30	
2004	2005

Sec. 2. COMMISSIONER OF HUMAN SERVICES

Subdivision 1. Total Appropriation	\$	179,701,000	\$(155,325,000)
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Summary by Fund

General	137,707,000	(125,664,000)
Health Care		
Access	41,994,000	(29,737,000)
Federal TANF	-0-	76,000

[TANF MAINTENANCE OF EFFORT.] The commissioner of human services must ensure that the maintenance of effort amounts used in the MFIP forecast for November 2004 and February 2005 are not less than the following amounts with respect to fiscal years 2005, 2006, and 2007:

- (1) fiscal year 2005, \$194,541,000;
- (2) fiscal year 2006, \$194,598,000; and
- (3) fiscal year 2007, \$211,877,000.

Subd. 2. Agency Management

General	-0-	(28,932,000)
Federal TANF	-0-	(175,000)

Subd. 3. Revenue and Pass-through

Federal TANF	-0-	175,000
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Subd. 4. Children's Grants

[PRIVATIZED ADOPTION GRANTS.] 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.

Subd. 5. Basic Health Care Grants

General 133,400,000 (129,039,000)

Health Care Access 41,994,000 (30,467,000)

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) MinnesotaCare Grants

Health Care Access 41,994,000 (30,467,000)

[TRANSFER FROM HEALTH CARE ACCESS FUND.] Notwithstanding Minnesota Statutes, section 295.581, for fiscal year 2005, \$9,763,000 shall be transferred from the health care access fund to the general fund and is appropriated to the commissioner for health care program costs.

(b) MA Basic Health Care Grants - Families and Children

General 76,265,000 (74,770,000)

[NURSING CLINIC SERVICES FOR CHILDREN.] Effective the day following final enactment, medical assistance covers public health nursing clinic services described in Minnesota Statutes, section 256B.0625, subdivision 29, when provided by licensed home care agencies to children up to three months of age. This paragraph expires on December 31, 2004.

[MANAGEMENT OF SPECIAL TRANSPORTATION.] Notwithstanding Laws 2003, First Special Session chapter 14, article 12, section 93, the commissioner is prohibited from using a broker or coordinator to manage special transportation services under Minnesota Statutes, section 256B.0625, subdivision 17, for any purpose without express legislative approval. Notwithstanding section 5, this paragraph shall not expire. Any savings that result from this paragraph are appropriated to the commissioner to offset administrative reductions in this act.

[CRITICAL ACCESS PAYMENTS FOR DENTAL SERVICES.] Of the appropriation from the general fund in fiscal year 2005, \$500,000 is to the commissioner to increase the

critical access payment by an additional 20 percent for providers who provide significant graduate dental education, have educationally discounted fees, and do not limit, except as educationally necessary, access to public program recipients. This appropriation shall not become part of the base for the biennium beginning July 1, 2005.

[APPROPRIATION ACCOUNTABILITY.] The Board of Trustees of MnSCU shall submit by January 15, 2006, a report to the legislature describing how the state appropriation for the nursing and health care plan was allocated. The report shall indicate the increase in enrollment to both registered nursing programs and practical nursing programs; the increase in enrollment due to the implementation of on-line nursing education opportunities; and the new technologies developed as a result of this funding to support innovative clinical experiences and instruction. Notwithstanding section 5, this paragraph expires June 30, 2006.

[APPROPRIATION TRANSFER.] For the fiscal year beginning July 1, 2004, the amount transferred from the appropriation in Laws 2003, chapter 133, article 1, section 2, subdivision 2, to the commissioner of human services shall be allocated for the following purposes:

(1) \$693,000 for the nursing facility employee scholarship program established under Minnesota Statutes, section 256B.431, subdivision 36; and

(2) \$1,747,000 for the community-based providers employee scholarship program established under Minnesota Statutes, section 256B.0918.

[APPROPRIATION TRANSFER TO MNSCU.]

(a) \$2,850,000 of the appropriation for fiscal year 2005 from the general fund to the commissioner shall be transferred to the Board of Trustees of MnSCU for the nursing and health care education plan as follows:

(1) \$2,000,000 to expand the system's enrollment in registered nursing education programs;

(2) \$300,000 to support practical nursing programs in regions of high need; and

(3) \$550,000 to provide accessible learning opportunities to students through distance education and simulation experiences.

(c) MA Basic Health Care
Grants - Elderly and Disabled

General	29,103,000	(25,094,000)
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[CAPITATION PAYMENTS.] Capitation payments, under Minnesota Statutes, sections 256B.69, 256D.03, and 256L.12, and performance withhold payments, under Minnesota Statutes, section 256L.12, for the months of June 2004 and July 2004, shall be made prior to June 30, 2004. This paragraph is effective the day following final enactment.

(d) General Assistance
Medical Care Grants

General	28,028,000	(29,951,000)
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(e) Health Care Grants -
Other Assistance

General	-0-	2,067,000
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(f) Prescription Drug
Program

General	4,000	1,291,000
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[FEDERALLY QUALIFIED HEALTH CENTER AND RURAL HEALTH CLINIC GRANTS.] Of the general fund appropriation for fiscal year 2005, \$372,000 is to the commissioner to provide grants to federally qualified health centers and rural health clinics equal to the percentage of the provider tax imposed under Minnesota Statutes, sections 295.50 to 295.59, for the previous calendar year multiplied by the payments made to each health clinic in the previous calendar year for medical assistance and MinnesotaCare recipients who are eligible for federal matching funds. The grants shall be distributed by April 15 of each year beginning April 15, 2005. This appropriation shall become part of base level funding for the biennium beginning July 1, 2005.

Subd. 6. Health Care
Management

General	-0-	872,000
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Health Care
Access

	-0-	730,000
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Subd. 7. State-Operated
Services

General	4,262,000	5,520,000
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[APPROPRIATION LIMITATION.] No part of the appropriation in this article to the

commissioner for regional treatment centers shall be used for the Minnesota sex offender program.

[TEMPORARY CONFINEMENT COST OF CARE.] Effective retroactively from January 1, 2004, the cost of care shall be ten percent, as specified in Minnesota Statutes, section 246.54, subdivision 2, rather than 100 percent as specified in Minnesota Statutes, section 253B.045, subdivision 3, 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.

[SPECIAL REVENUE FUND TRANSFER.] Notwithstanding any law to the contrary, the commissioner shall transfer \$1,600,000 of uncommitted special revenue fund balances to the general fund upon final enactment. The actual transfers shall be identified within the standard information provided to the chairs of the house Health and Human Services Finance Committee and the senate Health, Human Services, and Corrections Budget Division in December 2004.

Subd. 8. Continuing Care
Grants

General	45,000	10,267,000
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The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Deaf and

Hard-of-Hearing Grants

General	-0-	2,000
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(b) Medical Assistance

Long-Term Care Waivers and
Home Care Grants

General	-0-	1,237,000
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(c) Medical Assistance

Long-Term Care Facilities
Grants

General	-0-	(2,737,000)
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(d) Alternative

Care Grants

General	45,000	11,546,000
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(e) Group Residential
Housing Grants

General	-0-	18,000
(f) Chemical Dependency Entitlement Grants		
General	-0-	100,000
(g) Mental Health Grants		
General	-0-	76,000
(h) Community Support Grants		
General	-0-	25,000
Subd. 9. Economic Support Grants		
General	-0-	15,348,000
Federal TANF	-0-	76,000

The amounts that may be spent from the appropriation for each purpose are as follows:

Assistance to
Families Grants

General	-0-	15,348,000
Federal TANF	-0-	76,000

[FOOD STAMPS EMPLOYMENT AND TRAINING FUNDS.] For fiscal years 2005, 2006, and 2007 only, federal Food Stamps Employment and Training funds received as reimbursement of MFIP consolidated fund grant expenditures must be deposited in the TANF fund. Consistent with the receipt of these federal funds, the commissioner may adjust the level of working family credit expenditures claimed as TANF maintenance of effort. Notwithstanding section 5, this paragraph expires June 30, 2007.

[HEALTHY MARRIAGE AND RESPONSIBLE FATHERHOOD INITIATIVE.] (a) Of the appropriation from the general fund for fiscal year 2005, \$100,000 is from the general fund to the commissioner for the Minnesota Healthy Marriage and Responsible Fatherhood Initiative under Minnesota Statutes, section 517.08, subdivision 1c, paragraph (a), clause (5). The first \$100,000 collected under Minnesota Statutes, section 517.08, subdivision 1c, paragraph (a), clause (5), must be deposited in the general fund.

(b) The implementation of paragraph (a) is contingent upon the receipt of federal funding under United States Code, title 42, section 1315, for purposes of the initiative.

Sec. 3. COMMISSIONER OF HEALTH

Subdivision 1. Total Appropriation	-0-	(904,000)
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Summary by Fund		
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General	-0-	(1,004,000)
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Health Care Access	-0-	100,000
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[HEALTH CARE ACCESS FUND REDUCTION.] Notwithstanding any contrary provision in this act or 2004 H.F. No. 956, the reduction in the appropriation from the health care access fund may be taken from grants and administration.

Subd. 2. Family and Provider
Compliance

[FETAL ALCOHOL SPECTRUM DISORDER APPROPRIATION TRANSFER.] On July 1 of each fiscal year, beginning July 1, 2004, a portion of the general fund appropriation to the commissioner for fetal alcohol spectrum disorder administration and grants shall be transferred to a statewide organization that focuses solely on prevention of and intervention with fetal alcohol spectrum disorder as follows:

- (1) on July 1, 2004, \$340,000;
- (2) on July 1, 2005, \$990,049; and
- (3) on July 1, 2006, and annually thereafter, \$1,190,000.

The money shall be used for prevention and intervention services and programs, including, but not limited to, community grants, professional education, public awareness, and diagnosis. The organization may retain \$60,000 of the transferred money for administrative costs. The organization shall report to the commissioner annually by January 15 on the services and programs funded by the appropriation. Notwithstanding section 5, this paragraph shall not expire.

[TRAUMA SYSTEM PLAN.] The commissioner shall designate up to seven hospitals successfully participating in pilot testing the statewide trauma system plan for their appropriate level of trauma care and as part of the Minnesota trauma care system. The designations are effective until June 30, 2005. The commissioner may only designate those hospitals agreeing to forego billing to medical assistance, MinnesotaCare, and general assistance medical care programs for trauma

activation costs during the pilot test. In the interests of efficiency, traumatic injury reporting by hospitals participating in this pilot shall be included as part of the traumatic brain and spinal cord injury reporting system under Minnesota Statutes, sections 144.663 to 144.665.

[APPROPRIATION TRANSFER.] For the fiscal year beginning July 1, 2004, the \$150,000 transferred from the appropriation in Laws 2003, chapter 133, article 1, section 2, subdivision 2, to the commissioner of health shall be deposited in the health professional education loan forgiveness account established under Minnesota Statutes, section 144.1501, subdivision 2, to be used in the loan forgiveness program for midlevel practitioners, nurses, and health care technicians who qualify for loan forgiveness by agreeing to teach for at least 20 hours per week in a postsecondary program in the nursing field or a designated health care field.

[ELECTRONIC MEDICAL RECORD LOAN FUND.] Of the appropriation from the general fund for the biennium beginning July 1, 2005, \$1,300,000 the first year and \$2,600,000 the second year is to the commissioner to be transferred to the electronic medical record system loan fund created in Minnesota Statutes, section 62J.83. Notwithstanding section 5, this paragraph shall not expire.

[OFFICE OF MENTAL HEALTH PRACTICE.] Of the appropriation for fiscal year 2005 from the state government special revenue fund, \$104,000 is to the commissioner for the Office of Mental Health Practice.

Sec. 4. EMERGENCY MEDICAL SERVICES REGULATORY BOARD

[TRANSFER FROM LONGEVITY AWARDS ACCOUNT.] During fiscal year 2005, \$1,500,000 shall be transferred to the general fund from the ambulance service personnel longevity award and incentive trust account established under Minnesota Statutes, section 144E.42, subdivision 2.

Sec. 5. [SUNSET OF UNCODIFIED LANGUAGE.]

All uncodified language contained in this article expires June 30, 2005, unless a different expiration date is explicit."

Delete the title and insert:

"A bill for an act relating to the financing of state government; appropriating money and reducing appropriations for education, environment, agriculture, economic development, state

government, criminal justice, and health and human services; canceling balances and appropriations and transferring balances to the general fund in order to avert a deficit; fixing and limiting fees; regulating the selection and qualifications for higher education governing boards; making technical changes in higher education grant programs; redistributing motor vehicle sales tax revenues; authorizing the sale of state and Metropolitan Council bonds; transferring programs; requiring studies and reports; increasing the statutory maximum sentences for sex offenses; providing for mandatory life sentences for repeat sex offenses; streamlining the patterned and predatory offender sentencing law; authorizing the use of polygraphic examinations for sex offenders under community supervision; making numerous changes to the predatory offender registration law and the community notification law; making various changes related to methamphetamine, including creating new crimes and modifying existing ones, imposing certain property restrictions, regulating certain activities, defining terms, addressing civil and criminal liability, creating a revolving loan cleanup fund, providing for treatment, requiring education, and requiring the disclosure of certain information; imposing a surcharge; preempting local ordinances; making conforming and technical statutory changes; making changes related to public defenders; exempting certain substances from the controlled substances laws; prohibiting the illicit recording of motion pictures; making various changes to the driving while impaired, prostitution, identity theft, fleeing a peace officer, trespass, falsely reporting a crime, bullet-resistant vest reimbursement, and interference with privacy laws; providing for mandatory restitution in certain cases; imposing criminal penalties; modifying human services and other programs; amending Minnesota Statutes 2002, sections 2.722, subdivision 1; 2.724, subdivision 3; 4.46; 11A.24, subdivision 6, by adding a subdivision; 13.3806, by adding a subdivision; 13.635, by adding a subdivision; 15.52, by adding a subdivision; 15.56, subdivision 3; 15A.081, subdivision 8; 16A.125, by adding a subdivision; 16B.49; 17B.03, subdivision 1; 17B.15, subdivision 1; 18B.05, subdivision 1; 18C.433; 27.10; 41B.049; 43A.318, subdivisions 1, 2; 45.0135, subdivision 6, by adding subdivisions; 60A.14, subdivision 1; 62A.30, subdivision 2, by adding a subdivision; 62A.65, subdivision 3; 62J.04, by adding a subdivision; 62J.041; 62J.301, subdivision 3; 62J.38; 62L.08, subdivision 8; 62R.03, subdivision 3; 82.197, subdivision 6; 82B.09, subdivision 1; 84.025, subdivision 10; 84.83, subdivisions 3, 4; 84A.51, subdivision 2; 89.035; 97A.061, subdivision 1; 97C.355, subdivision 7; 97C.605, subdivision 2; 103F.225, subdivision 5; 103F.505; 103F.515, subdivisions 1, 2, 4, 5; 103G.2242, subdivision 2; 115.03, subdivision 4a; 115.06, subdivision 4; 115.55, subdivision 9; 115A.12; 115B.49, subdivision 4a; 116.92, subdivisions 3, 4; 116D.02, subdivision 2; 116D.04, subdivision 5a, by adding a subdivision; 119A.46, subdivisions 2, 3, 8; 119B.011, by adding a subdivision; 119B.09, by adding subdivisions; 120A.05, by adding a subdivision; 123A.05, subdivision 2; 123B.12; 123B.75, by adding a subdivision; 124D.68, subdivision 9; 124D.69, subdivision 1; 126C.05, by adding a subdivision; 126C.15, subdivisions 2, 3, by adding a subdivision; 126C.21, subdivision 4; 126C.48, subdivision 8; 128D.11, subdivision 9; 129D.02, subdivision 3; 136A.121, by adding a subdivision; 136F.02, subdivision 1; 136G.11, by adding a subdivision; 137.0245, subdivision 3; 144.0724, subdivisions 3, 4; 144.2215; 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; 144.9502, subdivision 3; 144.9503, subdivision 7; 144.9504, subdivision 2; 144D.025; 145C.01, subdivision 7; 147.091, subdivision 1; 151.47, subdivision 1, by adding a subdivision; 152.135, subdivision 2; 168A.05, subdivision 3; 168A.40, subdivision 3; 169A.095; 169A.52, subdivision 7; 169A.60, subdivision 11; 176.136, subdivision 1a; 177.23, subdivision 7; 181.939; 182.653, subdivision 9; 198.261; 223.17, subdivision 3; 231.16; 232.22, subdivision 3; 236.02, subdivision 4; 239.011, by adding a subdivision; 239.101, subdivision 3; 243.166, as amended; 243.167; 243.55, subdivision 1; 244.05, subdivisions 4, 5, 6, 7; 244.052, subdivisions 3, 4, by adding a subdivision; 244.10, subdivision 2a; 253B.02, by adding subdivisions; 253B.03, by adding a subdivision; 253B.185, by adding a subdivision; 256.01, by adding a subdivision; 256.9365, subdivision 1; 256.955, subdivisions 2b, 4, 6; 256.969, subdivisions 9, 23; 256B.02, subdivision 7; 256B.03, subdivision 3; 256B.055, by adding a subdivision; 256B.056, subdivision 5; 256B.0625, subdivision 3b, by adding subdivisions; 256B.0916, subdivision 2; 256B.431, by adding a subdivision; 256B.437, by adding a subdivision; 256B.438, subdivision 4; 256B.5012, by adding a subdivision; 256D.051, subdivisions 1a, 3a, 6c; 256I.04, subdivision 2a; 256J.46, by adding a subdivision; 256K.25, subdivision 7; 256L.01, subdivision 4; 256L.04, subdivisions 7a, 8; 260C.212, subdivision 5; 299A.38, subdivisions 2, 2a, 3; 299A.45, subdivisions 1, 4; 299A.66, subdivision 2; 299A.75, subdivision 1; 299C.65, subdivisions 1, 2, by adding a subdivision;

326.975, subdivision 1; 349A.10, subdivision 6; 357.021, by adding a subdivision; 357.18, subdivision 3; 462A.05, by adding a subdivision; 469.018, by adding a subdivision; 469.050, subdivision 5; 484.77; 489.01, by adding a subdivision; 500.221, subdivisions 1, 1a, 5; 507.093; 517.07; 517.08, by adding a subdivision; 517.10; 517.13; 517.18, subdivision 1; 561.19, subdivisions 1, 2; 609.108, subdivisions 1, 3; 609.109, subdivision 7; 609.1095, subdivision 1; 609.117, subdivisions 1, 2; 609.321, subdivision 7, by adding a subdivision; 609.341, by adding subdivisions; 609.342, subdivisions 2, 3; 609.343, subdivisions 2, 3; 609.344, subdivisions 2, 3; 609.345, subdivisions 2, 3; 609.347; 609.3471; 609.348; 609.353; 609.487, by adding a subdivision; 609.505; 609.527, subdivision 4; 609.5315, subdivision 1, by adding subdivisions; 609.605, subdivisions 1, 4; 609.746, subdivision 1; 611.16; 626.84, subdivision 1; 631.045; Minnesota Statutes 2003 Supplement, sections 14.03, subdivision 3; 16A.152, subdivision 2; 18G.10, subdivisions 5, 7; 62J.04, subdivision 3; 62J.692, subdivision 3; 62Q.19, subdivision 2; 84.026; 84.029, subdivision 1; 84A.02; 84A.21; 84A.32, subdivision 1; 84A.55, subdivision 8; 85.04, subdivision 2; 97A.482; 115.551; 115A.072, subdivision 1; 115B.20, subdivision 2; 116J.8731, subdivision 5; 119A.46, subdivision 1; 119B.03, subdivision 4; 122A.41, subdivision 2; 123B.54; 124D.095, subdivision 8; 124D.11, subdivisions 1, 2; 124D.1158, subdivision 3; 124D.118, subdivision 4; 124D.52, subdivision 3; 125A.79, subdivision 1; 125B.21, subdivision 1; 126C.05, subdivision 15; 126C.10, subdivision 31; 126C.15, subdivision 1; 126C.63, subdivision 8; 127A.47, subdivisions 7, 8; 136A.121, subdivisions 9, 13; 136A.125, subdivision 2; 136G.11, subdivisions 1, 3; 136G.13, subdivision 1; 137.0245, subdivision 2; 144.1501, subdivisions 2, 3, 4; 144.7063, subdivision 3; 152.021, subdivisions 2a, 3; 171.20, subdivision 4; 192.501, subdivision 2; 197.78, subdivision 1; 216C.052, subdivision 3; 246.15, by adding a subdivision; 252.27, subdivision 2a; 256.954, subdivisions 4, 5, 6, 9, 10, 11; 256.955, subdivisions 2a, 3; 256.975, subdivision 9; 256B.055, subdivision 13; 256B.057, subdivision 1; 256B.0595, subdivision 2; 256B.06, subdivision 4; 256B.0625, subdivisions 9, 13e; 256B.15, subdivisions 1, 1a, 2, 3, 4; 256B.431, subdivisions 32, 36; 256B.69, subdivisions 4, 5a, 6b; 256B.76; 256D.03, subdivisions 3, 4; 256J.21, subdivision 2; 256J.42, subdivision 5; 256J.46, subdivision 1; 256J.521, subdivisions 1, 2; 256J.53, subdivision 2; 256J.95, subdivisions 3, 9; 256L.03, subdivision 1; 256L.05, subdivision 3a; 256L.12, subdivision 6; 270A.03, subdivision 5; 295.50, subdivision 9b; 295.53, subdivision 1; 297B.09, subdivision 1; 403.11, subdivisions 1, 3, 3a; 403.113, subdivision 1; 403.21, subdivision 3; 403.22, subdivisions 1, 2; 403.27, subdivisions 1, 3; 403.30, subdivisions 1, 3; 462A.03, subdivision 13; 471.975; 471.999; 473.845, subdivision 1; 507.24, subdivision 2; 508.12, subdivision 1; 508.82, subdivision 1; 508A.82, subdivision 1; 514.981, subdivision 6; 517.08, subdivisions 1b, 1c; 524.3-805; 609.527, subdivision 3; 611.17, subdivision 1; 611.25, subdivision 1; 611.272; Laws 1997, chapter 216, section 151; Laws 1997, chapter 245, article 2, section 11, as amended; Laws 2000, chapter 391, section 1, subdivision 2, as amended; Laws 2002, chapter 402, section 21; Laws 2003, chapter 118, section 28; Laws 2003, chapter 118, section 29; Laws 2003, chapter 128, article 1, section 10; Laws 2003, chapter 128, article 10, section 2, subdivision 5; Laws 2003, chapter 128, article 10, section 4, subdivision 3; Laws 2003, First Special Session chapter 1, article 1, section 23; Laws 2003, First Special Session chapter 9, article 1, section 53, subdivisions 2, 3, 5, 6, 11, 12; Laws 2003, First Special Session chapter 9, article 2, section 55, subdivisions 2, 3, 4, 5, 7, 9, 12, 15, 16; Laws 2003, First Special Session chapter 9, article 3, section 20, subdivisions 4, 5, 6, 7, 8, 9; Laws 2003, First Special Session chapter 9, article 4, section 29; Laws 2003, First Special Session chapter 9, article 4, section 31, subdivisions 2, 3; Laws 2003, First Special Session chapter 9, article 5, section 35, subdivisions 2, 3; Laws 2003, First Special Session chapter 9, article 6, section 4; Laws 2003, First Special Session chapter 9, article 7, section 11, subdivision 3; Laws 2003, First Special Session chapter 9, article 8, section 7, subdivisions 2, 5; Laws 2003, First Special Session chapter 9, article 9, section 9, subdivision 2; Laws 2003, First Special Session chapter 9, article 10, section 10, subdivision 2; Laws 2003, First Special Session chapter 9, article 10, section 11; Laws 2003, First Special Session chapter 9, article 10, section 12; Laws 2003, First Special Session chapter 14, article 6, section 65; Laws 2003, First Special Session chapter 14, article 12, section 99; proposing coding for new law in Minnesota Statutes, chapters 62J; 62Q; 84; 89; 103F; 115; 115A; 116J; 120B; 125B; 127A; 135A; 136A; 137; 138; 144; 151; 152; 169A; 171; 181; 197; 243; 246B; 256; 256B; 256L; 299C; 446A; 517; 609; repealing Minnesota Statutes 2002, sections 13.717, subdivision 3; 18B.065, subdivision 5; 18C.005, subdivisions 1a, 35a; 18C.201, subdivisions 6, 7; 18D.331, subdivision 5; 45.0135, subdivisions 1, 2; 62J.23, subdivisions 1, 2, 3, 4; 124D.97; 243.166, subdivisions 1, 8; 270.97; 299C.65, subdivisions 3, 4; 609.108, subdivision 2; Minnesota Statutes

2003 Supplement, sections 62J.23, subdivision 5; 136A.121, subdivision 7; 136G.11, subdivision 2; 239.101, subdivision 7; 256.954, subdivision 12; 256.955, subdivision 4a; 256B.0631; 256B.15, subdivisions 1c, 1d, 1e, 1f, 1g, 1h, 1i, 1j, 1k; 256J.37, subdivisions 3a, 3b; 256L.035; 299F.46, subdivision 3; 514.991; 514.992; 514.993; 514.994; 514.995; 611.18; Laws 1995, chapter 195, article 1, section 18, as amended; Laws 2003, chapter 128, article 10, section 15; Minnesota Rules, parts 4815.0100; 4815.0110; 4815.0120; 4815.0130; 4815.0140; 4815.0150; 4815.0160; 4830.8100; 4830.8110; 4830.8120; 4830.8130; 4830.8140; 4830.8150."

And when so amended the bill do pass. Amendments adopted. Report adopted.

SECOND READING OF SENATE BILLS

S.F. Nos. 1889 and 2263 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 730, 956 and 2028 were read the second time.

MOTIONS AND RESOLUTIONS - CONTINUED

Senators Pogemiller, Metzen and Solon introduced--

Senate Resolution No. 142: A Senate resolution congratulating the University of Minnesota women's hockey team on winning the 2004 NCAA women's hockey championship.

Referred to the Committee on Rules and Administration.

MEMBERS EXCUSED

Senator Anderson was excused from the Session of today. Senator Scheid was excused from the Session of today from 10:00 to 10:35 a.m. Senator Senjem was excused from the Session of today from 10:00 to 10:50 a.m.

ADJOURNMENT

Senator Rest moved that the Senate do now adjourn until 9:00 a.m., Wednesday, April 7, 2004. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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