

STATE OF MINNESOTA

EIGHTY-FOURTH SESSION — 2005

 FORTY-THIRD DAY

SAINT PAUL, MINNESOTA, WEDNESDAY, APRIL 20, 2005

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

Prayer was offered by Pastor Russ Kalenberg, Agape Christian Center, Brainerd, Minnesota.

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

The roll was called and the following members were present:

Abeler	Dill	Hilstrom	Latz	Ozment	Slawik
Abrams	Dittrich	Hilty	Lenczewski	Paulsen	Smith
Anderson, B.	Dorman	Holberg	Lesch	Paymar	Soderstrom
Anderson, I.	Dorn	Hoppe	Liebling	Pelowski	Solberg
Atkins	Eastlund	Hornstein	Lieder	Penas	Sykora
Beard	Eken	Hortman	Lillie	Peppin	Thao
Bernardy	Ellison	Hosch	Loeffler	Peterson, A.	Thissen
Blaine	Emmer	Howes	Magnus	Peterson, N.	Tingelstad
Bradley	Entenza	Huntley	Mahoney	Peterson, S.	Urdahl
Brod	Erhardt	Jaros	Mariani	Poppe	Vandever
Buesgens	Erickson	Johnson, J.	Marquart	Powell	Wagenius
Carlson	Finstad	Johnson, R.	McNamara	Rukavina	Walker
Charron	Fritz	Johnson, S.	Meslow	Ruth	Wardlow
Clark	Garofalo	Juhnke	Moe	Ruud	Welti
Cornish	Gazelka	Kahn	Mullery	Sailer	Westerberg
Cox	Goodwin	Kelliher	Murphy	Samuelson	Westrom
Cybart	Greiling	Klinzing	Nelson, M.	Scalze	Wilkin
Davids	Gunther	Knoblach	Nelson, P.	Seifert	Zellers
Davnie	Hackbarth	Koenen	Newman	Sertich	Spk. Sviggum
Dean	Hamilton	Kohls	Nornes	Severson	
DeLaForest	Hansen	Krinkie	Olson	Sieben	
Demmer	Hausman	Lanning	Opatz	Simon	
Dempsey	Heidgerken	Larson	Otremba	Simpson	

A quorum was present.

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

REPORTS OF CHIEF CLERK

S. F. No. 51 and H. F. No. 572, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Johnson, J., moved that the rules be so far suspended that S. F. No. 51 be substituted for H. F. No. 572 and that the House File be indefinitely postponed. The motion prevailed.

PETITIONS AND COMMUNICATIONS

The following communication was received:

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

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2005 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

<i>S. F. No.</i>	<i>H. F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Time and Date Approved 2005</i>	<i>Date Filed 2005</i>
1466		21	11:00 a.m. April 14	April 14
1254		22	10:55 a.m. April 14	April 14

Sincerely,

MARY KIFFMEYER
Secretary of State

REPORTS OF STANDING COMMITTEES

Smith from the Committee on Public Safety Policy and Finance to which was referred:

H. F. No. 1, A bill for an act relating to public safety; 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; instructing the revisor to recodify and renumber statutes; making various technical and conforming changes; amending Minnesota Statutes 2004, sections 13.851, by adding a subdivision; 13D.01, subdivision 2; 241.67, subdivision 3; 243.166, subdivision 1; 244.05, subdivisions 1, 3, 4, 5, 6, 7; 244.052, subdivision 3; 244.195, subdivision 1; 253B.185, subdivision 2, by adding a subdivision; 401.01, subdivision 2; 609.117, subdivisions 1, 2; 609.1351; 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; 631.045; proposing coding for new law in Minnesota Statutes, chapters 244; 609; repealing Minnesota Statutes 2004, sections 609.108; 609.109.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [PUBLIC SAFETY APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another named fund, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "2006" and "2007," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 2006, or June 30, 2007, respectively. The term "first year" means the fiscal year ending June 30, 2006, and the term "second year" means the fiscal year ending June 30, 2007.

	APPROPRIATIONS Available for the Year Ending June 30	
	2006	2007
Sec. 2. SUPREME COURT		
Subdivision 1. Total Appropriations	\$42,547,000	\$42,593,000
Subd. 2. Supreme Court Operations	29,898,000	29,898,000

[JUDICIAL SALARIES.] Effective July 1, 2005, and July 1, 2006, the salaries of judges of the Supreme Court, Court of Appeals, and district court are increased by the average of the percentage increase in total compensation for state employees provided in negotiated collective bargaining agreements or arbitration awards for fiscal years 2006 and 2007 approved by the Legislative Coordinating Commission before the 2006 regular legislative session. The commissioner of employee relations shall calculate the new salaries, which shall be based on all compensation increases, except insurance, and shall report them to the chief justice of the Supreme Court.

APPROPRIATIONS
Available for the Year
Ending June 30

	2006	2007
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[CONTINGENT ACCOUNT.] \$5,000 each year is for a contingent account for expenses necessary for the normal operation of the court for which no other reimbursement is provided.

Subd. 3. Civil Legal Services	12,649,000	12,695,000
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[LEGAL SERVICES TO LOW-INCOME CLIENTS IN FAMILY LAW MATTERS.] Of this appropriation, \$877,000 each year is to improve the access of low-income clients to legal representation in family law matters. This appropriation must be distributed under Minnesota Statutes, section 480.242, to the qualified legal services programs described in Minnesota Statutes, section 480.242, subdivision 2, paragraph (a). Any unencumbered balance remaining in the first year does not cancel and is available in the second year.

Sec. 3. COURT OF APPEALS	8,189,000	8,189,000
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Sec. 4. TRIAL COURTS	231,362,000	232,951,000
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Sec. 5. TAX COURT	726,000	726,000
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Sec. 6. UNIFORM LAWS COMMISSION	51,000	45,000
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[MEMBERSHIP DUES OWED.] \$12,000 the first year and \$6,000 the second year are for membership dues owed by the uniform laws commission. This is a onetime appropriation.

Sec. 7. BOARD ON JUDICIAL STANDARDS	277,000	277,000
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Of this amount, \$50,000 is a onetime appropriation.

Sec. 8. BOARD OF PUBLIC DEFENSE	59,857,000	63,112,000
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Sec. 9. PUBLIC SAFETY		
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Subdivision 1. Total Appropriation	124,020,000	114,506,000
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Summary by Fund

General	79,328,000	79,444,000
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Special Revenue	590,000	589,000
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State Government Special Revenue	43,662,000	34,062,000
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APPROPRIATIONS
Available for the Year
Ending June 30

	2006	2007
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Environmental	49,000	49,000
Trunk Highway	391,000	362,000

[APPROPRIATIONS FOR PROGRAMS.] The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Emergency Management	2,594,000	2,594,000
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Summary by Fund

General	2,545,000	2,545,000
Environmental	49,000	49,000

[NONPROFIT AND FAITH-BASED ORGANIZATIONS; ANTITERRORISM GRANTS.] Unless otherwise prohibited by statute, regulation, or other requirement, nonprofit and faith-based organizations may apply for and receive any funds or grants, whether federal or state, made available for antiterrorism efforts that are not distributed or encumbered for distribution to public safety entities within a year of receipt by the Department of Public Safety. These organizations must be considered under the same criteria applicable to any other eligible entity and must be given equal consideration.

Subd. 3. Criminal Apprehension	40,713,000	40,717,000
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Summary by Fund

General	39,905,000	39,910,000
Special Revenue	440,000	439,000
State Government Special Revenue	7,000	7,000
Trunk Highway	361,000	361,000

[COOPERATIVE INVESTIGATION OF CROSS-JURISDICTIONAL CRIMINAL ACTIVITY.] \$94,000 the first year and \$93,000 the second year are appropriated from the Bureau of Criminal Apprehension account in the special revenue fund for grants to local officials for the cooperative investigation of cross-jurisdictional criminal activity. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

APPROPRIATIONS
Available for the Year
Ending June 30

2006	2007
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[LABORATORY ACTIVITIES.] \$346,000 the first year and \$346,000 the second year are appropriated from the Bureau of Criminal Apprehension account in the special revenue fund for laboratory activities.

[DWI LAB ANALYSIS; TRUNK HIGHWAY FUND.] Notwithstanding Minnesota Statutes, section 161.20, subdivision 3, \$361,000 the first year and \$361,000 the second year are appropriated from the trunk highway fund for laboratory analysis related to driving-while-impaired cases.

[DWI POLICY REFORMS.] \$60,000 the first year and \$58,000 the second year are for costs associated with DWI policy reforms.

[AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM.] \$1,533,000 the first year and \$2,318,000 the second year are to replace the automated fingerprint identification system (AFIS).

[PREDATORY OFFENDER REGISTRATION SYSTEM.] \$1,146,000 the first year and \$564,000 the second year are to upgrade the predatory offender registration (POR) system and to increase the monitoring and tracking of registered offenders who become noncompliant with the law.

[CRIMINAL JUSTICE INFORMATION SYSTEMS (CJIS) AUDIT TRAIL.] \$374,000 the first year and \$203,000 the second year are for the Criminal Justice Information Systems (CJIS) audit trail.

[DNA ANALYSIS OF FELON OFFENDERS.] \$857,000 the first year and \$869,000 the second year are to fund the analyses of biological samples from felon offenders.

[LIVESCAN.] \$66,000 the first year and \$69,000 the second year are to fund the ongoing costs of Livescan.

[METHAMPHETAMINE.] \$1,000,000 the first year and \$1,000,000 the second year are to fund ten new special agent positions for methamphetamine drug enforcement activities.

\$40,000 the first year is a onetime appropriation for a methamphetamine awareness program.

Subd. 4. Fire Marshal	2,445,000	2,432,000
Subd. 5. Alcohol and Gambling Enforcement	1,772,000	1,772,000

APPROPRIATIONS
Available for the Year
Ending June 30

	2006	2007
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Summary by Fund

General	1,622,000	1,622,000
Special Revenue	150,000	150,000
Subd. 6. Office of Justice Programs	32,202,000	32,197,000

[GANG AND NARCOTICS STRIKE FORCES.] \$2,374,000 the first year and \$2,374,000 the second year are for grants to the combined operations of the Criminal Gang Strike Force and Narcotics Task Forces.

[CRIME VICTIM ASSISTANCE GRANTS INCREASE.] \$532,000 each year is to increase the amount of funding for crime victim assistance grants. This funding is to ensure that no one judicial district receives greater than a 12 percent overall reduction in state general funding to serve crime victims in fiscal years 2006 and 2007 versus the 2004 allocation.

[FINANCIAL CRIMES TASK FORCE.] \$300,000 each year is for the Financial Crimes Task Force.

[HUMAN TRAFFICKING; ASSESSMENT, POLICY DEVELOPMENT, AND IMPLEMENTATION.] \$50,000 the first year and \$50,000 the second year are to conduct a study and assessment of human trafficking and to implement initiatives to reduce trafficking and assist victims.

[YOUTH INTERVENTION PROGRAMS.] \$1,952,000 the first year and \$1,952,000 the second year is for youth intervention programs currently under Minnesota Statutes, section 116L.30, but to be transferred to Minnesota Statutes, section 299A.73. This money must be used to help existing programs serve unmet needs in their communities and to create new programs in underserved areas of the state. Of this appropriation, \$15,000 is appropriated to the commissioner of public safety for a onetime grant to Blue Earth County Riverbend Center for Entrepreneurial Facilitation. The base for this program in fiscal year 2008 and after is \$1,452,000.

[ADMINISTRATION COSTS.] Up to 2.5 percent of the grant funds appropriated in this subdivision may be used to administer the grant program.

	APPROPRIATIONS Available for the Year Ending June 30	
	2006	2007
Subd. 7. 911 Emergency Services/ARMER	43,655,000	34,055,000
<p>This appropriation is from the state government special revenue fund for 911 emergency telecommunications services.</p> <p>Of the receipts from the emergency telecommunications service fee under Minnesota Statutes, section 403.11, above 50 cents per month in fiscal year 2006, up to \$6,505,000 of the appropriation in the first year is for prior year obligations to telephone utility companies. The remainder of the receipts from the emergency telecommunications service fee under Minnesota Statutes, section 403.11, above 50 cents per month in the first year are for costs associated with the Shared Public Safety Radio System and are available until June 30, 2007.</p>		
Subd. 8. Administration	609,000	738,000
<p>[PUBLIC SAFETY OFFICERS' HEALTH INSURANCE.] \$609,000 the first year and \$738,000 the second year are for public safety officers' health insurance. The base for fiscal year 2008 is \$885,000 and for fiscal year 2009 is \$1,053,000.</p>		
Subd. 9. Driver and Vehicle Services	31,000	1,000
<p>[GASOLINE THEFT.] This appropriation is from the trunk highway fund for costs associated with suspending licenses of persons who misappropriate gasoline.</p>		
Sec. 10. PEACE OFFICER STANDARDS AND TRAINING BOARD (POST)	4,154,000	4,051,000
<p>This appropriation is from the peace officer training account in the special revenue fund. Any new receipts credited to that account in the first year in excess of \$4,154,000 must be transferred and credited to the general fund. Any new receipts credited to that account in the second year in excess of \$4,051,000 must be transferred and credited to the general fund.</p>		
<p>[PEACE OFFICER TRAINING REIMBURSEMENT.] \$2,909,000 the first year and \$2,909,000 the second year are for reimbursements to local governments for peace officer training costs.</p>		
Sec. 11. PRIVATE DETECTIVE BOARD	178,000	177,000
Sec. 12. HUMAN RIGHTS	3,490,000	3,490,000

APPROPRIATIONS
Available for the Year
Ending June 30
2006 2007

Sec. 13. DEPARTMENT OF CORRECTIONS

Subdivision 1. Total Appropriation 404,724,000 420,290,000

Summary by Fund

General Fund 403,834,000 419,400,000

Special Revenue 890,000 890,000

[APPROPRIATIONS FOR PROGRAMS.] The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Correctional Institutions 288,043,000 303,358,000

Summary by Fund

General Fund 287,463,000 302,778,000

Special Revenue 580,000 580,000

[CONTRACTS FOR BEDS AT RUSH CITY.] If the commissioner contracts with other states, local units of government, or the federal government to rent beds in the Rush City Correctional Facility, the commissioner shall charge a per diem under the contract, to the extent possible, that is equal to or greater than the per diem cost of housing Minnesota inmates in the facility.

Subd. 3. Community Services 101,123,000 101,374,000

Summary by Fund

General Fund 101,023,000 101,274,000

Special Revenue 100,000 100,100

[SEX OFFENDER TRACKING.] \$500,000 the first year is 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 the 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. 5. [SEX OFFENDERS; CIVIL COMMITMENT DETERMINATION; COMMISSIONER OF CORRECTIONS.] Data provided to the county attorney under section 244.05, subdivision 7, and to the Minnesota Sex Offender Review Board under section 244.05, subdivision 5, are governed by that section.

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

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

Subd. 4. [MINIMUM IMPRISONMENT, LIFE SENTENCE.] (a) An inmate serving a mandatory life sentence under section 609.106, 609.342, subdivision 2, paragraph (c), or 609.343, subdivision 2, paragraph (c), must not be given supervised release under this section.

(b) An inmate serving a mandatory life sentence under section 609.185, clause (1), (3), (5), or (6); or 609.109, subdivision ~~2~~ 3, must not be given supervised release under this section without having served a minimum term of 30 years.

(c) 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.

(d) 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 a minimum term of imprisonment of 20 years. If the sentencing court imposed a sentence with a term of imprisonment of more than 20 years, the inmate may not be given supervised release without having served that term.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2004, section 244.05, subdivision 5, is amended to read:

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

(b) The commissioner shall give supervised release to an inmate serving a mandatory life sentence under section 609.109, subdivision 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); or 609.3453, subdivision 2, paragraph (b), when directed to do so by the Sex Offender Review Board under section 244.0515.

(c) 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. The commissioner shall submit the report required by this paragraph to the Minnesota Sex Offender Review Board to assist the board in making release decisions under section 244.0515. The commissioner also shall give the board, on request, any and all information the commissioner gathered for use in compiling the report.

(d) 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.

(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, 2005, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2004, 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, 2005, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2004, section 609.108, subdivision 4, is amended to read:

Subd. 4. **[DANGER TO PUBLIC SAFETY.]** The ~~court~~ fact finder shall base its finding that the offender is a danger to public safety on any of the following factors:

(1) the crime involved an aggravating factor that would justify a durational departure from the presumptive sentence under the Sentencing Guidelines;

(2) the offender previously committed or attempted to commit a predatory crime or a violation of section 609.224 or 609.2242, including:

(i) an offense committed as a juvenile that would have been a predatory crime or a violation of section 609.224 or 609.2242 if committed by an adult; or

(ii) a violation or attempted violation of a similar law of any other state or the United States; or

(3) the offender planned or prepared for the crime prior to its commission.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2004, section 609.109, subdivision 3, is amended to read:

Subd. 3. **[MANDATORY LIFE SENTENCE.]** (a) The court shall sentence a person to imprisonment for life, notwithstanding the statutory maximum sentence under section 609.342, if:

(1) the person has been indicted by a grand jury under this subdivision;

(2) the person is convicted under section 609.342; and

(3) the court determines on the record at the time of sentencing that any of the following circumstances exists:

(i) the person has previously been sentenced under section 609.1095;

(ii) the person has one previous sex offense conviction for a violation of section 609.342, 609.343, or 609.344 that occurred before August 1, 1989, for which the person was sentenced to prison in an upward durational departure from the Sentencing Guidelines that resulted in a sentence at least twice as long as the presumptive sentence; or

(iii) the person has two previous sex offense convictions under section 609.342, 609.343, or 609.344.

(b) Notwithstanding ~~subdivision 2 and~~ section 609.342, subdivision 3, the court may not stay imposition of the sentence required by this subdivision.

(c) A person sentenced under this subdivision may only be granted supervised release as provided for in section 244.05, subdivision 5, paragraph (b).

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2004, 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~~ ten 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 sex offense conviction as defined in subdivision 5, ~~or the person shall be placed on conditional release for the remainder of the person's life.~~ If the person was sentenced under subdivision 6 to a mandatory departure, the person shall be placed on conditional release for ~~ten~~ 15 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 pay the cost of treatment of a person released under this subdivision. This section does not require the commissioner to accept or retain an offender in a treatment program.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2004, section 609.341, subdivision 14, is amended to read:

Subd. 14. [COERCION.] "Coercion" means the use by the actor of words or circumstances that cause the complainant reasonably to fear that the actor will inflict bodily harm upon, ~~or hold in confinement,~~ the complainant or another, ~~or force the use by the actor of confinement, or the use of superior size or strength,~~ against the complainant that causes the complainant to submit to sexual penetration or contact, ~~but against the complainant's will.~~ Proof of coercion does not require proof of a specific act or threat.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2004, 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 (first degree criminal sexual conduct), 609.343 (second degree criminal sexual conduct), 609.344 (third degree criminal sexual conduct), 609.345 (fourth degree criminal sexual conduct), 609.3451 (fifth degree criminal sexual conduct), 609.3453 (criminal sexual predatory conduct), 609.352 (solicitation of a child to engage in sexual conduct), 617.23 (indecent exposure), 617.246 (use of minors in sexual performance), 617.247 (possession of pornographic work involving minors), or any similar statute of the United States or any other state.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2004, section 609.341, is amended by adding a subdivision to read:

Subd. 23. [SUBSEQUENT SEX OFFENSE.] "Subsequent sex offense" means a violation of section 609.342 (first degree criminal sexual conduct), 609.343 (second degree criminal sexual conduct), 609.344 (third degree criminal sexual conduct), 609.345 (fourth degree criminal sexual conduct), or 609.3453 (criminal sexual predatory conduct) for which the offender is convicted after the offender has already been convicted or adjudicated delinquent for the following, involving a separate behavioral incident, regardless of when the behavioral incidents occurred:

(1) another felony-level sex offense;

(2) two non-felony-level sex offenses; or

(3) any felony-level predatory crime that the fact finder determines 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.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2004, 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 (first degree murder), 609.19 (second degree murder), 609.195 (third degree murder), 609.20 (first degree manslaughter), 609.205 (second degree manslaughter), 609.221 (first degree assault), 609.222 (second degree assault), 609.223 (third degree assault), 609.24 (simple robbery), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.255 (false imprisonment), 609.365 (incest), 609.498 (tampering with a witness), 609.561 (first degree arson), or 609.582, subdivision 1 (first degree burglary).

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2004, section 609.341, is amended by adding a subdivision to read:

Subd. 25. [TORTURE.] "Torture" means the intentional infliction of extreme mental anguish, or extreme psychological abuse, when committed in an especially depraved manner.

Sec. 13. Minnesota Statutes 2004, section 609.342, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] (a) Except as otherwise provided in ~~section 609.109~~ paragraph (b) or (c), or section 609.109, 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. ~~Except as provided in paragraph (b) or (c),~~ sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

(b) The court shall sentence a person to imprisonment for life if:

(1) the person was convicted under subdivision 1, paragraph (c), (d), (e), (f), or (h); or

(2) the person was convicted under subdivision 1 of a subsequent sex offense.

Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, and the court imposes this sentence, the court shall specify a minimum term of imprisonment of 20 years that must be served before the offender may be considered for supervised release.

(c) The court shall sentence a person to imprisonment for life without the possibility of release if the person is convicted of violating subdivision 1, paragraph (c), (d), (e), (f), or (h), and the fact finder determines beyond a reasonable doubt that any of the following circumstances exist:

(1) the offender tortured the complainant;

(2) the offender intentionally inflicted great bodily harm upon the complainant;

(3) the offender, without the complainant's consent, removed the complainant from one place to another and did not release the complainant in a safe place;

(4) the complainant was aged 13 or younger at the time of the offense;

(5) the complainant was aged 70 or older at the time of the offense;

(6) the offender was armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and used or threatened to use the weapon or article to cause the complainant to submit;

(7) the charged offense involved sexual penetration or sexual contact with more than one victim; or

(8) the offense involved more than one perpetrator engaging in sexual penetration or sexual contact with the complainant.

The fact finder may not consider a circumstance described in clauses (1) to (8) if it is an element of the underlying specified violation of subdivision 1.

(d) In addition to the sentence imposed under paragraph (a), (b), or (c), the person may also be sentenced to the payment of a fine of not more than \$40,000.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2004, section 609.342, subdivision 3, is amended to read:

Subd. 3. [STAY.] Except when imprisonment is required for a subsequent sex offense or under section 609.109, 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, 2005, and applies to crimes committed on or after that date.

Sec. 15. Minnesota Statutes 2004, section 609.343, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] (a) Except as otherwise provided in paragraph (b) or (c) or section 609.109, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~25~~ 50 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) The court shall sentence a person to imprisonment for life if:

(1) the person was convicted under subdivision 1, paragraph (c), (d), (e), (f), or (h); or

(2) the person was convicted under subdivision 1 of a subsequent sex offense.

Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, and the court imposes this sentence, the court shall specify a minimum term of imprisonment of 20 years that must be served before the offender may be considered for supervised release.

(c) The court shall sentence a person to imprisonment for life without the possibility of release if the person is convicted of violating subdivision 1, paragraph (c), (d), (e), (f), or (h), and the fact finder determines beyond a reasonable doubt that any of the following circumstances exist:

(1) the offender tortured the complainant;

(2) the offender intentionally inflicted great bodily harm upon the complainant;

(3) the offender, without the complainant's consent, removed the complainant from one place to another and did not release the complainant in a safe place;

(4) the complainant was aged 13 or younger at the time of the offense;

(5) the complainant was aged 70 or older at the time of the offense;

(6) the offender was armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and used or threatened to use the weapon or article to cause the complainant to submit;

(7) the charged offense involved sexual penetration or sexual contact with more than one victim; or

(8) the offense involved more than one perpetrator engaging in sexual penetration or sexual contact with the complainant.

The fact finder may not consider a circumstance described in clauses (1) to (8) if it is an element of the underlying specified violation of subdivision 1.

(d) In addition to the sentence imposed under paragraph (a), (b), or (c), the person may also be sentenced to the payment of a fine of not more than \$35,000.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 16. Minnesota Statutes 2004, section 609.343, subdivision 3, is amended to read:

Subd. 3. [STAY.] Except when imprisonment is required for a subsequent sex offense or under section 609.109, 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, 2005, and applies to crimes committed on or after that date.

Sec. 17. Minnesota Statutes 2004, 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 30 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 subsequent sex offense shall be sentenced to imprisonment for life. Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, and the court imposes this sentence, the court shall specify a minimum term of imprisonment of 20 years that must be served before the offender may be considered for supervised release.

(c) In addition to the sentence imposed under paragraph (a) or (b), the person may also be sentenced to the payment of a fine of not more than \$30,000.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 18. Minnesota Statutes 2004, section 609.344, subdivision 3, is amended to read:

Subd. 3. [STAY.] Except when imprisonment is required under subdivision 2, paragraph (b), or section 609.109, 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, 2005, and applies to crimes committed on or after that date.

Sec. 19. Minnesota Statutes 2004, 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 20 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 subsequent sex offense shall be sentenced to imprisonment for life. Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, and the court imposes this sentence, the court shall specify a minimum term of imprisonment of 20 years that must be served before the offender may be considered for supervised release.

(c) In addition to the sentence imposed under paragraph (a) or (b), the person may also be sentenced to the payment of a fine of not more than \$20,000.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 20. Minnesota Statutes 2004, section 609.345, subdivision 3, is amended to read:

Subd. 3. [STAY.] Except when imprisonment is required under subdivision 2, paragraph (b), or section 609.109, 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, 2005, and applies to crimes committed on or after that date.

Sec. 21. [609.3453] [CRIMINAL SEXUAL PREDATORY CONDUCT.]

Subdivision 1. [CRIME DEFINED.] A person is guilty of criminal sexual predatory conduct if the person commits a predatory crime 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 a minimum of 15 years or twice the statutory maximum for the underlying predatory crime, whichever is longer.

(b) A person convicted under subdivision 1 of a subsequent sex offense shall be sentenced to imprisonment for life. Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, and the court imposes this sentence, the court shall specify a minimum term of imprisonment of 20 years that must be served before the offender may be considered for supervised release.

(c) In addition to the sentence imposed under paragraph (a) or (b), the person may also be sentenced to the payment of a fine of not more than \$20,000.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 22. Minnesota Statutes 2004, section 609.748, subdivision 2, is amended to read:

Subd. 2. [RESTRAINING ORDER; JURISDICTION.] A person who is a victim of harassment may seek a restraining order from the district court in the manner provided in this section. The parent ~~or~~, guardian, or stepparent of a minor who is a victim of harassment may seek a restraining order from the district court on behalf of the minor.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 23. Minnesota Statutes 2004, section 609.748, subdivision 3a, is amended to read:

Subd. 3a. [FILING FEE; COST OF SERVICE.] The filing fees for a restraining order under this section are waived for the petitioner if the petition alleges acts that would constitute a violation of section 609.749, subdivision 2 or 3, or sections 609.342 to 609.3451. The court administrator and the sheriff of any county in this state shall perform their duties relating to service of process without charge to the petitioner. The court shall direct payment of the reasonable costs of service of process if served by a private process server when the sheriff is unavailable or if service is made by publication. The court may direct a respondent to pay to the court administrator the petitioner's filing fees and reasonable costs of service of process if the court determines that the respondent has the ability to pay the petitioner's fees and costs.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 24. Minnesota Statutes 2004, section 609.749, subdivision 2, is amended to read:

Subd. 2. [HARASSMENT AND STALKING CRIMES.] (a) A person who harasses another by committing any of the following acts is guilty of a gross misdemeanor:

(1) directly or indirectly manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;

(2) stalks, follows, monitors, or pursues another, whether in person or through technological or other means;

(3) returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;

(4) repeatedly makes telephone calls, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;

(5) makes or causes the telephone of another repeatedly or continuously to ring;

(6) repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, messages, packages, or other objects; or

(7) knowingly makes false allegations against a peace officer concerning the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties.

(b) The conduct described in paragraph (a), clauses (4) and (5), may be prosecuted at the place where any call is either made or received or, additionally in the case of wireless or electronic communication, where the actor or victim resides. The conduct described in paragraph (a), clause (2), may be prosecuted where the actor or victim resides. The conduct described in paragraph (a), clause (6), may be prosecuted where any letter, telegram, message, package, or other object is either sent or received or, additionally in the case of wireless or electronic communication, where the actor or victim resides.

(c) A peace officer may not make a warrantless, custodial arrest of any person for a violation of paragraph (a), clause (7).

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 25. Minnesota Statutes 2004, section 609.79, subdivision 2, is amended to read:

Subd. 2. [VENUE.] The offense may be prosecuted either at the place where the call is made or where it is received or, additionally in the case of wireless or electronic communication, where the sender or receiver resides.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 26. Minnesota Statutes 2004, section 609.795, is amended by adding a subdivision to read:

Subd. 3. [VENUE.] The offense may be prosecuted either at the place where the letter, telegram, or package is sent or received or, alternatively in the case of wireless electronic communication, where the sender or receiver resides.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 27. [SENTENCING GUIDELINES; CHANGES MANDATED.]

(a) The Sentencing Guidelines Commission shall modify the Sentencing Guidelines, including the guidelines grid, to reflect the changes made in this act.

(b) The commission shall make the sex offender-related modifications to the guidelines and grid proposed in the commission's January 2005 report to the legislature, including creating a separate sex offender grid, and changing the method used to calculate the weights assigned to sex offenses when calculating an offender's criminal history. However, the commission shall adapt the proposed modifications to reflect the restructuring of sex offense sentences under this article.

(c) Modifications made by the commission under this section take effect August 1, 2005.

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

Sec. 28. [REPEALER.]

Minnesota Statutes 2004, sections 609.108, subdivision 2, and 609.109, subdivisions 2, 4, and 6, are repealed.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

ARTICLE 3

SEX OFFENDER POLICY AND REVIEW BOARDS

Section 1. Minnesota Statutes 2004, section 13.851, is amended by adding a subdivision to read:

Subd. 9. [PREDATORY OFFENDERS; MINNESOTA SEX OFFENDER REVIEW BOARD.] Certain data classified under this chapter are made accessible to the Minnesota Sex Offender Review Board under section 244.0515.

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

Sec. 2. Minnesota Statutes 2004, section 13D.05, subdivision 2, is amended to read:

Subd. 2. [WHEN MEETING MUST BE CLOSED.] (a) Any portion of a meeting must be closed if expressly required by other law or if the following types of data are discussed:

(1) data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults;

(2) active investigative data as defined in section 13.82, subdivision 7, or internal affairs data relating to allegations of law enforcement personnel misconduct collected or created by a state agency, statewide system, or political subdivision; or

(3) educational data, health data, medical data, welfare data, or mental health data that are not public data under section 13.32, 13.3805, subdivision 1, 13.384, or 13.46, subdivision 2 or 7.

(b) A public body shall close one or more meetings for preliminary consideration of allegations or charges against an individual subject to its authority. If the members conclude that discipline of any nature may be warranted as a result of those specific charges or allegations, further meetings or hearings relating to those specific charges or allegations held after that conclusion is reached must be open. A meeting must also be open at the request of the individual who is the subject of the meeting.

(c) The Minnesota Sex Offender Review Board authorized by section 244.0515 must close a meeting to deliberate whether an inmate's petition meets the criteria for release established by the board. The board must identify the inmate whose petition will be deliberated. At its next open meeting, the board shall summarize its deliberations regarding the inmate's petition.

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

Sec. 3. [243.168] [SEX OFFENDER POLICY BOARD; ESTABLISHMENT; MEMBERSHIP; REPORTS.]

Subdivision 1. [ESTABLISHMENT.] A Sex Offender Policy Board is established to develop professional standards for treatment of sex offenders, including uniform supervision and treatment guidelines.

(a) The governor shall appoint a Sex Offender Policy Board to serve in an advisory capacity to the governor. The governor shall appoint to the board five professionals with relevant and complimentary experience in treatment, law enforcement, sex offender assessment, and sex offender management.

(b) Members of the board appointed by the governor serve at the pleasure of the governor and their terms end with the term of the governor. Members of the board serve without compensation but may be reimbursed for reasonable expenses as determined by the commissioner of corrections. Notwithstanding section 15.059, the board does not expire until repealed by law.

Subd. 2. [REPORTS TO LEGISLATURE.] The board must submit reports to the legislature on the professional standards for treatment of sex offenders, including uniform supervision and treatment guidelines.

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

Sec. 4. [244.0515] [MINNESOTA SEX OFFENDER REVIEW BOARD.]

Subdivision 1. [DEFINITIONS.] As used in this section, the following terms have the meanings given:

(1) "board" means the Minnesota Sex Offender Review Board; and

(2) "commissioner" means the commissioner of corrections.

Subd. 2. [RESPONSIBILITIES.] The board is responsible for making decisions regarding the release of inmates sentenced to life sentences 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).

Subd. 3. [EXEMPTION FROM CHAPTER 14.] (a) For the purposes of this section and except as provided in paragraph (b), the board and the commissioner are not subject to chapter 14.

(b) The board and the commissioner may adopt rules under section 14.389 to implement this section.

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

Sec. 5. [DIRECTION TO COMMISSIONER OF CORRECTIONS.]

(a) The commissioner of corrections shall establish criteria and procedures for the Minnesota Sex Offender Review Board established under Minnesota Statutes, section 244.0515. The commissioner shall develop recommendations for the composition, duties, procedures, and review criteria for release of sex offenders. The proposed procedures and review criteria shall be for use by the board in making release and revocation decisions on offenders sentenced under Minnesota Statutes, 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). In establishing criteria and procedures, the commissioner shall seek the input of the end-of-confinement review committee at each state correctional facility and at each state treatment facility where predatory offenders are confined. The commissioner also shall seek input from individuals knowledgeable in health and human services; public safety; Minnesota's sex offender treatment program; treatment of sex offenders; crime victim issues; criminal law; sentencing guidelines; law enforcement; and probation, supervised release, and conditional release.

(b) By December 15, 2005, the commissioner shall submit a written report to the legislature containing proposed composition, duties, procedures, and review criteria of the Minnesota Sex Offender Board. This report also must include a summary of the input gathered under paragraph (a).

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

Sec. 6. [SUPREME COURT TASK FORCE; STUDY REQUIRED.]

Subdivision 1. [ESTABLISHMENT.] The Minnesota Supreme Court is requested to establish a task force to study the use of the court system as an alternative to the administrative process of the special review board for reductions in custody and discharge from commitment of those persons committed as a sexually dangerous person or sexual psychopathic personality under Minnesota Statutes, section 253B.185.

Subd. 2. [MEMBERSHIP.] The task force shall consist of the following:

- (1) a representative from the Supreme Court;
- (2) a court administrator;
- (3) a district court judge;
- (4) a county attorney selected by the county attorney's association;
- (5) a representative from the attorney general's office;
- (6) the Ombudsman for Mental Health and Mental Retardation;
- (7) a law enforcement representative;
- (8) a county case manager;
- (9) a victim services representative;
- (10) a person experienced in treating sex offenders;
- (11) a defense attorney;
- (12) the commissioner of human services or designee;
- (13) the state-operated services forensic medical director or designee;
- (14) the commissioner of corrections or designee;
- (15) a representative from community corrections;
- (16) a member of the special review board; and
- (17) any other persons deemed necessary by the Minnesota Supreme Court.

Subd. 3. [RECOMMENDATIONS.] The task force shall be convened no later than August 1, 2005. The task force shall examine current law and practices relating to the reduction in custody and discharge of persons committed as a sexually dangerous person or sexual psychopathic personality. The task forces shall examine the laws of other jurisdictions and shall make recommendations regarding reduction in custody and discharge procedures and release criteria. The recommendations may suggest the establishment of a judicial process rather than the special review board to authorize a reduction in custody or discharge.

Subd. 4. [REPORT.] The task force shall report to the chairs of the house Public Safety Policy and Finance Committee and the senate Crime Prevention and Public Safety Committee with recommendations by December 15, 2005.

ARTICLE 4

PREDATORY OFFENDER REGISTRY

Section 1. Minnesota Statutes 2004, section 13.82, is amended by adding a subdivision to read:

Subd. 28. [DISCLOSURE OF SEX OFFENDER REGISTRANT STATUS.] Law enforcement agency disclosure to health facilities of the registrant status of a registered sex offender is governed by section 244.052.

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

Sec. 2. Minnesota Statutes 2004, section 144A.135, is amended to read:

144A.135 [TRANSFER AND DISCHARGE APPEALS.]

(a) The commissioner shall establish a mechanism for hearing appeals on transfers and discharges of residents by nursing homes or boarding care homes licensed by the commissioner. The commissioner may adopt permanent rules to implement this section.

(b) Until federal regulations are adopted under sections 1819(f)(3) and 1919(f)(3) of the Social Security Act that govern appeals of the discharges or transfers of residents from nursing homes and boarding care homes certified for participation in Medicare or medical assistance, the commissioner shall provide hearings under sections 14.57 to 14.62 and the rules adopted by the Office of Administrative Hearings governing contested cases. To appeal the discharge or transfer, or notification of an intended discharge or transfer, a resident or the resident's representative must request a hearing in writing no later than 30 days after receiving written notice, which conforms to state and federal law, of the intended discharge or transfer.

(c) Hearings under this section shall be held no later than 14 days after receipt of the request for hearing, unless impractical to do so or unless the parties agree otherwise. Hearings shall be held in the facility in which the resident resides, unless impractical to do so or unless the parties agree otherwise.

(d) A resident who timely appeals a notice of discharge or transfer, and who resides in a certified nursing home or boarding care home, may not be discharged or transferred by the nursing home or boarding care home until resolution of the appeal. The commissioner can order the facility to readmit the resident if the discharge or transfer was in violation of state or federal law. If the resident is required to be hospitalized for medical necessity before resolution of the appeal, the facility shall readmit the resident unless the resident's attending physician documents, in writing, why the resident's specific health care needs cannot be met in the facility.

(e) The commissioner and Office of Administrative Hearings shall conduct the hearings in compliance with the federal regulations described in paragraph (b), when adopted.

(f) Nothing in this section limits the right of a resident or the resident's representative to request or receive assistance from the Office of Ombudsman for Older Minnesotans or the Office of Health Facility Complaints with respect to an intended discharge or transfer.

(g) A person required to inform a health care facility of the person's status as a registered sex offender under section 243.166, subdivision 4b, who knowingly fails to do so shall be deemed to have endangered the safety of individuals in the facility under Code of Federal Regulations, chapter 42, section 483.12. Notwithstanding paragraph (d), any appeal of the notice and discharge shall not constitute a stay of the discharge.

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

Sec. 3. Minnesota Statutes 2004, section 243.166, is amended to read:

243.166 [REGISTRATION OF PREDATORY OFFENDERS.]

~~Subdivision 1. [REGISTRATION REQUIRED.] (a) A person shall register under this section if:~~

~~(1) the person was charged with or petitioned for a felony violation of or attempt to violate any of the following, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances:~~

~~(i) murder under section 609.185, clause (2); or~~

~~(ii) kidnapping under section 609.25; or~~

~~(iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; or 609.3451, subdivision 3; or~~

~~(iv) indecent exposure under section 617.23, subdivision 3; or~~

~~(2) the person was charged with or petitioned for falsely imprisoning a minor in violation of section 609.255, subdivision 2; soliciting a minor to engage in prostitution in violation of section 609.322 or 609.324; soliciting a minor to engage in sexual conduct in violation of section 609.352; using a minor in a sexual performance in violation of section 617.246; or possessing pornographic work involving a minor in violation of section 617.247, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances; or~~

~~(3) the person was convicted of a predatory crime as defined in section 609.108, and the offender was sentenced as a patterned sex offender or the court found on its own motion or that of the prosecutor that the crime was part of a predatory pattern of behavior that had criminal sexual conduct as its goal; or~~

~~(4) the person was convicted of or adjudicated delinquent for, including pursuant to a court martial, violating a law of the United States, including the Uniform Code of Military Justice, similar to the offenses described in clause (1), (2), or (3).~~

~~(b) A person also shall register under this section if:~~

~~(1) the person was convicted of or adjudicated delinquent in another state for an offense that would be a violation of a law described in paragraph (a) if committed in this state;~~

~~(2) the person enters the state to reside, or to work or attend school; and~~

~~(3) ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of or adjudicated delinquent for the offense that triggers registration, unless the person is subject to lifetime registration, in which case the person must register for life regardless of when the person was released from confinement, convicted, or adjudicated delinquent.~~

For purposes of this paragraph:

~~(i) "school" includes any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education, that the person is enrolled in on a full-time or part-time basis; and~~

~~(ii) "work" includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.~~

~~(c) A person also shall register under this section if the person was committed pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States, regardless of whether the person was convicted of any offense.~~

~~(d) A person also shall register under this section if:~~

~~(1) the person was charged with or petitioned for a felony violation or attempt to violate any of the offenses listed in paragraph (a), clause (1), or a similar law of another state or the United States, or the person was charged with or petitioned for a violation of any of the offenses listed in paragraph (a), clause (2), or a similar law of another state or the United States;~~

~~(2) the person was found not guilty by reason of mental illness or mental deficiency after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in states with a guilty but mentally ill verdict; and~~

~~(3) the person was committed pursuant to a court commitment order under section 253B.18 or a similar law of another state or the United States.~~

Subd. 1a. [DEFINITIONS.] (a) As used in this section, unless the context clearly indicates otherwise, the following terms have the meanings given them.

(b) "Bureau" means the Bureau of Criminal Apprehension.

(c) "Dwelling" means the building where the person lives under a formal or informal agreement to do so.

(d) "Incarceration" and "confinement" do not include electronic home monitoring.

(e) "Law enforcement authority" or "authority" means, with respect to a home rule charter or statutory city, the chief of police, and with respect to an unincorporated area, the county sheriff.

(f) "Motor vehicle" has the meaning given in section 169.01, subdivision 2.

(g) "Primary address" means the mailing address of the person's dwelling. If the mailing address is different from the actual location of the dwelling, primary address also includes the physical location of the dwelling described with as much specificity as possible.

(h) "School" includes any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education, that the person is enrolled in on a full-time or part-time basis.

(i) "Secondary address" means the mailing address of any place where the person regularly or occasionally stays overnight when not staying at the person's primary address. If the mailing address is different from the actual location of the place, secondary address also includes the physical location of the place described with as much specificity as possible.

(j) "Treatment facility" means a residential facility, as defined in section 244.052, subdivision 1, and residential chemical dependency treatment programs and halfway houses licensed under chapter 245A, including, but not limited to, those facilities directly or indirectly assisted by any department or agency of the United States.

(k) "Work" includes employment that is full time or part time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

Subd. 1b. [REGISTRATION REQUIRED.] (a) A person shall register under this section if:

(1) the person was charged with or petitioned for a felony violation of or attempt to violate, or aiding, abetting, or conspiracy to commit, any of the following, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances:

(i) murder under section 609.185, clause (2);

(ii) kidnapping under section 609.25;

(iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; or 609.3451, subdivision 3; or

(iv) indecent exposure under section 617.23, subdivision 3;

(2) the person was charged with or petitioned for a violation of, or attempt to violate, or aiding, abetting, or conspiracy to commit false imprisonment in violation of section 609.255, subdivision 2; soliciting a minor to engage in prostitution in violation of section 609.322 or 609.324; soliciting a minor to engage in sexual conduct in violation of section 609.352; using a minor in a sexual performance in violation of section 617.246; or possessing pornographic work involving a minor in violation of section 617.247, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances;

(3) the person was sentenced as a patterned sex offender under section 609.108; or

(4) the person was convicted of or adjudicated delinquent for, including pursuant to a court martial, violating a law of the United States, including the Uniform Code of Military Justice, similar to the offenses described in clause (1), (2), or (3).

(b) A person also shall register under this section if:

(1) the person was convicted of or adjudicated delinquent in another state for an offense that would be a violation of a law described in paragraph (a) if committed in this state;

(2) the person enters this state to reside, work, or attend school, or enters this state and remains for 14 days or longer; and

(3) ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of or adjudicated delinquent for the offense that triggers registration, unless the person is subject to lifetime registration, in which case the person shall register for life regardless of when the person was released from confinement, convicted, or adjudicated delinquent.

(c) A person also shall register under this section if the person was committed pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States, regardless of whether the person was convicted of any offense.

(d) A person also shall register under this section if:

(1) the person was charged with or petitioned for a felony violation or attempt to violate any of the offenses listed in paragraph (a), clause (1), or a similar law of another state or the United States, or the person was charged with or petitioned for a violation of any of the offenses listed in paragraph (a), clause (2), or a similar law of another state or the United States;

(2) the person was found not guilty by reason of mental illness or mental deficiency after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in states with a guilty but mentally ill verdict; and

(3) the person was committed pursuant to a court commitment order under section 253B.18 or a similar law of another state or the United States.

Subd. 2. [NOTICE.] When a person who is required to register under subdivision 4 1b, paragraph (a), is sentenced or becomes subject to a juvenile court disposition order, the court shall tell the person of the duty to register under this section and that, if the person fails to comply with the registration requirements, information about the offender may be made available to the public through electronic, computerized, or other accessible means. The court may not modify the person's duty to register in the pronounced sentence or disposition order. The court shall require the person to read and sign a form stating that the duty of the person to register under this section has been explained. The court shall forward the signed sex offender registration form, the complaint, and sentencing documents to the bureau of ~~Criminal Apprehension~~. If a person required to register under subdivision 4 1b, paragraph (a), was not notified by the court of the registration requirement at the time of sentencing or disposition, the assigned corrections agent shall notify the person of the requirements of this section. When a person who is required to register under subdivision 4 1b, paragraph (c) or (d), is released from commitment, the treatment facility shall notify the person of the requirements of this section. The treatment facility shall also obtain the registration information required under this section and forward it to the bureau of ~~Criminal Apprehension~~.

Subd. 3. [REGISTRATION PROCEDURE.] (a) Except as provided in subdivision 3a, a person required to register under this section shall register with the corrections agent as soon as the agent is assigned to the person. If the person does not have an assigned corrections agent or is unable to locate the assigned corrections agent, the person shall register with the law enforcement ~~agency~~ authority that has jurisdiction in the area of the person's ~~residence~~ primary address.

(b) Except as provided in subdivision 3a, at least five days before the person starts living at a new primary address, including living in another state, the person shall give written notice of the new primary ~~living~~ address to the assigned corrections agent or to the law enforcement authority with which the person currently is registered. If the person will be living in a new state and that state has a registration requirement, the person shall also give written notice of the new address to the designated registration agency in the new state. A person required to register under this section shall also give written notice to the assigned corrections agent or to the law enforcement authority that has jurisdiction in the area of the person's ~~residence~~ primary address that the person is no longer living or staying at an address, immediately after the person is no longer living or staying at that address. The corrections agent or law enforcement authority shall, within two business days after receipt of this information, forward it to the

bureau of ~~Criminal Apprehension~~. The bureau of ~~Criminal Apprehension~~ shall, if it has not already been done, notify the law enforcement authority having primary jurisdiction in the community where the person will live of the new address. If the person is leaving the state, the bureau of ~~Criminal Apprehension~~ shall notify the registration authority in the new state of the new address. ~~If the person's obligation to register arose under subdivision 1, paragraph (b),~~ The person's registration requirements under this section terminate ~~when~~ after the person begins living in the new state and the bureau has confirmed the address in the other state through the annual verification process on at least one occasion.

(c) A person required to register under subdivision ~~1~~ 1b, paragraph (b), because the person is working or attending school in Minnesota shall register with the law enforcement ~~agency~~ authority that has jurisdiction in the area where the person works or attends school. In addition to other information required by this section, the person shall provide the address of the school or of the location where the person is employed. A person ~~must~~ shall comply with this paragraph within five days of beginning employment or school. A person's obligation to register under this paragraph terminates when the person is no longer working or attending school in Minnesota.

(d) A person required to register under this section who works or attends school outside of Minnesota shall register as a predatory offender in the state where the person works or attends school. The person's corrections agent, or if the person does not have an assigned corrections agent, the law enforcement authority that has jurisdiction in the area of the person's ~~residence~~ primary address shall notify the person of this requirement.

Subd. 3a. [REGISTRATION PROCEDURE WHEN PERSON LACKS PRIMARY ADDRESS.] (a) If a person leaves a primary address and does not have a new primary address, the person shall register with the law enforcement authority that has jurisdiction in the area where the person is staying within 24 hours of the time the person no longer has a primary address.

(b) A person who lacks a primary address shall register with the law enforcement authority that has jurisdiction in the area where the person is staying within 24 hours after entering the jurisdiction. Each time a person who lacks a primary address moves to a new jurisdiction without acquiring a new primary address, the person shall register with the law enforcement authority that has jurisdiction in the area where the person is staying within 24 hours after entering the jurisdiction.

(c) Upon registering under this subdivision, the person shall provide the law enforcement authority with all of the information the individual is required to provide under subdivision 4a. However, instead of reporting the person's primary address, the person shall describe the location of where the person is staying with as much specificity as possible.

(d) Except as otherwise provided in paragraph (e), if a person continues to lack a primary address, the person shall report in person on a weekly basis to the law enforcement authority with jurisdiction in the area where the person is staying. This weekly report shall occur between the hours of 9:00 a.m. and 5:00 p.m. The person is not required to provide the registration information required under subdivision 4a each time the offender reports to an authority, but the person shall inform the authority of changes to any information provided under this subdivision or subdivision 4a and shall otherwise comply with this subdivision.

(e) If the law enforcement authority determines that it is impractical, due to the person's unique circumstances, to require a person lacking a primary address to report weekly and in person as required under paragraph (d), the authority may authorize the person to follow an alternative reporting procedure. The authority shall consult with the person's corrections agent, if the person has one, in establishing the specific criteria of this alternative procedure, subject to the following requirements:

(1) the authority shall document, in the person's registration record, the specific reasons why the weekly in-person reporting process is impractical for the person to follow;

(2) the authority shall explain how the alternative reporting procedure furthers the public safety objectives of this section;

(3) the authority shall require the person lacking a primary address to report in person at least monthly to the authority or the person's corrections agent and shall specify the location where the person shall report. If the authority determines it would be more practical and would further public safety for the person to report to another law enforcement authority with jurisdiction where the person is staying, it may, after consulting with the other law enforcement authority, include this requirement in the person's alternative reporting process;

(4) the authority shall require the person to comply with the weekly, in-person reporting process required under paragraph (d), if the person moves to a new area where this process would be practical;

(5) the authority shall require the person to report any changes to the registration information provided under subdivision 4a and to comply with the periodic registration requirements specified under paragraph (f); and

(6) the authority shall require the person to comply with the requirements of subdivision 3, paragraphs (b) and (c), if the person moves to a primary address.

(f) If a person continues to lack a primary address and continues to report to the same law enforcement authority, the person shall provide the authority with all of the information the individual is required to provide under this subdivision and subdivision 4a at least annually, unless the person is required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States. If the person is required to register under subdivision 1b, paragraph (c), the person shall provide the law enforcement authority with all of the information the individual is required to report under this subdivision and subdivision 4a at least once every three months.

(g) A law enforcement authority receiving information under this subdivision shall forward registration information and changes to that information to the bureau within two business days of receipt of the information.

(h) For purposes of this subdivision, a person who fails to report a primary address will be deemed to be a person who lacks a primary address, and the person shall comply with the requirements for a person who lacks a primary address.

Subd. 4. [CONTENTS OF REGISTRATION.] (a) The registration provided to the corrections agent or law enforcement authority, must consist of a statement in writing signed by the person, giving information required by the bureau ~~of Criminal Apprehension~~, a fingerprint card, and photograph of the person taken at the time of the person's release from incarceration or, if the person was not incarcerated, at the time the person initially registered under this section. The registration information also must include a written consent form signed by the person allowing a treatment facility or residential housing unit or shelter to release information to a law enforcement officer about the person's admission to, or residence in, a treatment facility or residential housing unit or shelter. Registration information on adults and juveniles may be maintained together notwithstanding section 260B.171, subdivision 3.

(b) For persons required to register under subdivision ~~4~~ 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States, in addition to other information required by this section, the registration provided to the corrections agent or law enforcement authority must include the person's offense history and documentation of treatment received during the person's commitment. This documentation ~~shall be~~ is limited to a statement of how far the person progressed in treatment during commitment.

(c) Within three days of receipt, the corrections agent or law enforcement authority shall forward the registration information to the bureau of ~~Criminal Apprehension~~. The bureau shall ascertain whether the person has registered with the law enforcement authority ~~where the person resides in the area of the person's primary address, if any, or if the person lacks a primary address, where the person is staying, as required by subdivision 3a.~~ If the person has not registered with the law enforcement authority, the bureau shall send one copy to that authority.

(d) The corrections agent or law enforcement authority may require that a person required to register under this section appear before the agent or authority to be photographed. The agent or authority shall forward the photograph to the bureau of ~~Criminal Apprehension~~.

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.

(e) During the period a person is required to register under this section, the following ~~shall~~ provisions apply:

(1) Except for persons registering under subdivision 3a, the bureau of ~~Criminal Apprehension~~ shall mail a verification form to the last reported address of the person's residence last reported primary address. This verification form shall must provide notice to the offender that, if the offender does not return the verification form as required, information about the offender may be made available to the public through electronic, computerized, or other accessible means. For persons who are registered under subdivision 3a, the bureau shall mail an annual verification form to the law enforcement authority where the offender most recently reported. The authority shall provide the verification form to the person at the next weekly meeting and ensure that the person completes and signs the form and returns it to the bureau.

(2) The person shall mail the signed verification form back to the bureau of ~~Criminal Apprehension~~ within ten days after receipt of the form, stating on the form the current and last address of the person's residence and the other information required under subdivision 4a.

(3) In addition to the requirements listed in this section, a person who is assigned to risk level II or III under section 244.052, and who is no longer under correctional supervision for a registration offense, or a failure to register offense, but who resides, works, or attends school in Minnesota, shall have an annual in-person contact with a law enforcement authority as provided in this section. If the person resides in Minnesota, the annual in-person contact shall be with the law enforcement authority that has jurisdiction over the person's primary address or, if the person has no address, the location where the person is staying. If the person does not reside in Minnesota but works or attends school in this state, the person shall have an annual in-person contact with the law enforcement authority or authorities with jurisdiction over the person's school or workplace. During the month of the person's birth date, the person shall report to the authority to verify the accuracy of the registration information and to be photographed. Within three days of this contact, the authority shall enter information as required by the bureau into the predatory offender registration database and submit an updated photograph of the person to the bureau's predatory offender registration unit.

(4) If the person fails to mail the completed and signed verification form to the bureau of ~~Criminal Apprehension~~ within ten days after receipt of the form, or if the person fails to report to the law enforcement authority during the month of the person's birth date, the person shall be ~~is~~ in violation of this section.

(5) For any person who fails to mail the completed and signed verification form to the bureau within ten days after receipt of the form and who has been determined to be a risk level III offender under section 244.052, the bureau shall immediately investigate and notify local law enforcement authorities to investigate the person's location and to ensure compliance with this section. The bureau also shall immediately give notice of the person's violation of this section to the law enforcement authority having jurisdiction over the person's last registered address or addresses.

For persons required to register under subdivision 4 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States, the bureau shall comply with clause (1) at least four times each year. For persons who, under section 244.052, are assigned to risk level III and who are no longer under correctional supervision for a registration offense or a failure to register offense, 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. 4b. [HEALTH CARE FACILITY; NOTICE OF STATUS.] (a) Upon admission to a health care facility, a person required to register under this section shall immediately disclose to:

(1) the health care facility employee processing the admission, the person's status as a registered sex offender under this section;

(2) the person's supervision agent, if the person is under supervision at the time of admission, that inpatient admission has occurred; and

(3) the law enforcement authority with whom the person registers, if the person is subject to registration under this section, that inpatient admission has occurred.

(b) "Health care facility" means a hospital or other entity licensed under sections 144.50 to 144.58, nursing facilities certified for participation in the federal Medicare or Medicaid programs and licensed as a nursing home under chapter 144A, a boarding care home under sections 144.50 to 144.56, or a group residential housing facility or an intermediate care facility for the mentally retarded licensed under chapter 245A.

(c) A person required to inform persons or entities under paragraph (a), clauses (1) to (3), of the person's status as a registered sex offender, who knowingly fails to provide this information to the persons or entities, 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. 4c. [HEALTH CARE FACILITY; LAW ENFORCEMENT NOTIFICATION DUTY.] A law enforcement authority or corrections agent shall notify the administrator of a health care facility, as defined in subdivision 4b, as soon as it comes to the attention of the authority or agent that a person required to register under this section has been admitted and is receiving health care at the facility.

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 or a similar statute of another state or the United States, shall be committed to the custody of the commissioner of corrections for not less than two years, nor more than five years.

(d) Prior to the time of sentencing, the prosecutor may file a motion to have the person sentenced without regard to the mandatory minimum sentence established by this subdivision. The motion shall must be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the person without regard to the mandatory minimum sentence if the court finds substantial and compelling reasons to do so. Sentencing a person in the manner described in this paragraph is a departure from the Sentencing Guidelines.

(e) A person convicted and sentenced as required by this subdivision is not eligible for probation, parole, discharge, work release, conditional release, or supervised release, until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

Subd. 6. [REGISTRATION PERIOD.] (a) Notwithstanding the provisions of section 609.165, subdivision 1, and except as provided in paragraphs (b), (c), and (d), a person required to register under this section shall continue to comply with this section until ten years have elapsed since the person initially registered in connection with the offense, or until the probation, supervised release, or conditional release period expires, whichever occurs later. For a person required to register under this section who is committed under section 253B.18 or 253B.185, the ten-year registration period does not include the period of commitment.

(b) If a person required to register under this section fails to ~~register following a change in residence~~ provide the person's primary address as required by subdivision 3, paragraph (b), fails to comply with the requirements of subdivision 3a, fails to provide information as required by subdivision 4a, or fails to return the verification form referenced in subdivision 4 within ten days, the commissioner of public safety may require the person to continue to register for an additional period of five years. This five-year period is added to the end of the offender's registration period.

(c) If a person required to register under this section is subsequently incarcerated following a conviction for a new offense or following a revocation of probation, supervised release, or conditional release for that any offense, ~~or a conviction for any new offense~~, the person shall continue to register until ten years have elapsed since the person was last released from incarceration or until the person's probation, supervised release, or conditional release period expires, whichever occurs later.

(d) A person shall continue to comply with this section for the life of that person:

(1) if the person is convicted of or adjudicated delinquent for any offense for which registration is required under subdivision ~~+~~ 1b, or any offense from another state or any federal offense similar to the offenses described in subdivision ~~+~~ 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 ~~+~~ 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 ~~+~~ 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States.

Subd. 7. [USE OF INFORMATION.] Except as otherwise provided in subdivision 7a or sections 244.052 and 299C.093, the information provided under this section is private data on individuals under section 13.02, subdivision 12. The information may be used only for law enforcement purposes.

Subd. 7a. [AVAILABILITY OF INFORMATION ON OFFENDERS WHO ARE OUT OF COMPLIANCE WITH REGISTRATION LAW.] (a) The bureau of ~~Criminal Apprehension~~ may make information available to the public about offenders who are 16 years of age or older and who are out of compliance with this section for 30 days

or longer for failure to provide the ~~address of the~~ offenders' primary or secondary ~~residences~~ addresses. This information may be made available to the public through electronic, computerized, or other accessible means. The amount and type of information made available ~~shall be~~ is limited to the information necessary for the public to assist law enforcement in locating the offender.

(b) An offender who comes into compliance with this section after the bureau ~~of Criminal Apprehension~~ discloses information about the offender to the public may send a written request to the bureau requesting the bureau to treat information about the offender as private data, consistent with subdivision 7. The bureau shall review the request and promptly take reasonable action to treat the data as private, if the offender has complied with the requirement that the offender provide ~~the addresses of~~ the offender's primary and secondary ~~residences~~ addresses, or promptly notify the offender that the information will continue to be treated as public information and the reasons for the bureau's decision.

(c) If an offender believes the information made public about the offender is inaccurate or incomplete, the offender may challenge the data under section 13.04, subdivision 4.

(d) The bureau ~~of Criminal Apprehension~~ is immune from any civil or criminal liability that might otherwise arise, based on the accuracy or completeness of any information made public under this subdivision, if the bureau acts in good faith.

~~Subd. 8. [LAW ENFORCEMENT AUTHORITY.] For purposes of this section, a law enforcement authority means, with respect to a home rule charter or statutory city, the chief of police, and with respect to an unincorporated area, the sheriff of the county.~~

Subd. 9. [OFFENDERS FROM OTHER STATES.] (a) When the state accepts an offender from another state under a reciprocal agreement under the interstate compact authorized by section 243.16, the interstate compact authorized by section 243.1605, or under any authorized interstate agreement, the acceptance is conditional on the offender agreeing to register under this section when the offender is living in Minnesota.

(b) The Bureau of Criminal Apprehension shall notify the commissioner of corrections:

(1) when the bureau receives notice from a local law enforcement authority that a person from another state who is subject to this section has registered with the authority, unless the bureau previously received information about the offender from the commissioner of corrections;

(2) when a registration authority, corrections agent, or law enforcement agency in another state notifies the bureau that a person from another state who is subject to this section is moving to Minnesota; and

(3) when the bureau learns that a person from another state is in Minnesota and allegedly in violation of subdivision 5 for failure to register.

(c) When a local law enforcement agency notifies the bureau of an out-of-state offender's registration, the agency shall provide the bureau with information on whether the person is subject to community notification in another state and the risk level the person was assigned, if any.

(d) The bureau must forward all information it receives regarding offenders covered under this subdivision from sources other than the commissioner of corrections to the commissioner.

(e) When the bureau receives information directly from a registration authority, corrections agent, or law enforcement agency in another state that a person who may be subject to this section is moving to Minnesota, the bureau must ask whether the person entering the state is subject to community notification in another state and the risk level the person has been assigned, if any.

(f) When the bureau learns that a person subject to this section intends to move into Minnesota from another state or has moved into Minnesota from another state, the bureau shall notify the law enforcement authority with jurisdiction in the area of the person's primary address and provide all information concerning the person that is available to the bureau.

(g) The commissioner of corrections must determine the parole, supervised release, or conditional release status of persons who are referred to the commissioner under this subdivision. If the commissioner determines that a person is subject to parole, supervised release, or conditional release in another state and is not registered in Minnesota under the applicable interstate compact, the commissioner shall inform the local law enforcement agency that the person is in violation of section 243.161. If the person is not subject to supervised release, the commissioner shall notify the bureau and the local law enforcement agency of the person's status.

Subd. 10. [VENUE; AGGREGATION.] (a) A violation of this section may be prosecuted in any jurisdiction where an offense takes place. However, the prosecutorial agency in the jurisdiction where the person last registered a primary address is initially responsible to review the case for prosecution.

(b) When a person commits two or more offenses in two or more counties, the accused may be prosecuted for all of the offenses in any county in which one of the offenses was committed.

Subd. 11. [CERTIFIED COPIES AS EVIDENCE.] Certified copies of predatory offender registration records are admissible as substantive evidence when necessary to prove the commission of a violation of this section.

[EFFECTIVE DATE.] The provisions of this section, except for subdivision 5a, are effective the day following final enactment, and apply to persons subject to predatory offender registration on or after that date, except for subdivision 9, which is effective July 1, 2005, and subdivision 4, paragraph (e), clause (3), is effective December 1, 2005. Subdivision 5a is effective August 1, 2005, and applies to crimes committed on or after that date. Subdivision 6, paragraph (c), is effective August 1, 2005, and applies to any offense, revocation of probation, supervised release, or conditional release that occurs on or after that date.

Sec. 4. Minnesota Statutes 2004, 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, 2005, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2004, section 244.05, subdivision 7, is amended to read:

Subd. 7. [SEX OFFENDERS; CIVIL COMMITMENT DETERMINATION.] (a) Before the commissioner releases from prison any inmate convicted under sections 609.342 to 609.345 or sentenced as a patterned offender under section 609.108, and determined by the commissioner to be in a high risk category, the commissioner shall make a preliminary determination whether, in the commissioner's opinion, a petition under section 253B.185 may be appropriate. The commissioner's opinion must be based on a recommendation of a Department of Corrections screening committee and a legal review and recommendation from a representative of the Office of the Attorney General knowledgeable in the legal requirements of the civil commitment process.

(b) In making this decision, the commissioner shall have access to the following data only for the purposes of the assessment and referral decision:

(1) private medical data under section 13.384 or 144.335, or welfare data under section 13.46 that relate to medical treatment of the offender;

(2) private and confidential court services data under section 13.84;

(3) private and confidential corrections data under section 13.85; and

(4) private criminal history data under section 13.87.

(c) If the commissioner determines that a petition may be appropriate, the commissioner shall forward this determination, along with a summary of the reasons for the determination, to the county attorney in the county where the inmate was convicted no later than 12 months before the inmate's release date. If the inmate is received for incarceration with fewer than 12 months remaining in the inmate's term of imprisonment, or if the commissioner receives additional information less than 12 months before release ~~which that~~ makes the inmate's case appropriate for referral, the commissioner shall forward the determination as soon as is practicable. Upon receiving the commissioner's preliminary determination, the county attorney shall proceed in the manner provided in section 253B.185. The commissioner shall release to the county attorney all requested documentation maintained by the department.

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

Sec. 6. Minnesota Statutes 2004, section 244.052, subdivision 3, is amended to read:

Subd. 3. [END-OF-CONFINEMENT REVIEW COMMITTEE.] (a) The commissioner of corrections shall establish and administer end-of-confinement review committees at each state correctional facility and at each state treatment facility where predatory offenders are confined. The committees shall assess on a case-by-case basis the public risk posed by predatory offenders who are about to be released from confinement.

(b) Each committee shall be a standing committee and shall consist of the following members appointed by the commissioner:

(1) the chief executive officer or head of the correctional or treatment facility where the offender is currently confined, or that person's designee;

(2) a law enforcement officer;

(3) a treatment professional who is trained in the assessment of sex offenders;

(4) a caseworker experienced in supervising sex offenders; and

(5) a victim's services professional.

Members of the committee, other than the facility's chief executive officer or head, shall be appointed by the commissioner to two-year terms. The chief executive officer or head of the facility or designee shall act as chair of the committee and shall use the facility's staff, as needed, to administer the committee, obtain necessary information from outside sources, and prepare risk assessment reports on offenders.

(c) The committee shall have access to the following data on a predatory offender only for the purposes of its assessment and to defend the committee's risk assessment determination upon administrative review under this section:

(1) private medical data under section 13.384 or 144.335, or welfare data under section 13.46 that relate to medical treatment of the offender;

(2) private and confidential court services data under section 13.84;

(3) private and confidential corrections data under section 13.85; and

(4) private criminal history data under section 13.87.

Data collected and maintained by the committee under this paragraph may not be disclosed outside the committee, except as provided under section 13.05, subdivision 3 or 4. The predatory offender has access to data on the offender collected and maintained by the committee, unless the data are confidential data received under this paragraph.

(d)(i) Except as otherwise provided in item (ii), at least 90 days before a predatory offender is to be released from confinement, the commissioner of corrections shall convene the appropriate end-of-confinement review committee for the purpose of assessing the risk presented by the offender and determining the risk level to which the offender shall be assigned under paragraph (e). The offender and the law enforcement agency that was responsible for the charge resulting in confinement shall be notified of the time and place of the committee's meeting. The offender has a right to be present and be heard at the meeting. The law enforcement agency may provide material in writing that is relevant to the offender's risk level to the chair of the committee. The committee shall use the risk factors described in paragraph (g) and the risk assessment scale developed under subdivision 2 to determine the offender's risk assessment score and risk level. Offenders scheduled for release from confinement shall be assessed by the committee established at the facility from which the offender is to be released.

(ii) If an offender is received for confinement in a facility with less than 90 days remaining in the offender's term of confinement, the offender's risk shall be assessed at the first regularly scheduled end of confinement review committee that convenes after the appropriate documentation for the risk assessment is assembled by the committee. The commissioner shall make reasonable efforts to ensure that offender's risk is assessed and a risk level is assigned or reassigned at least 30 days before the offender's release date.

(e) The committee shall assign to risk level I a predatory offender whose risk assessment score indicates a low risk of reoffense. The committee shall assign to risk level II an offender whose risk assessment score indicates a moderate risk of reoffense. The committee shall assign to risk level III an offender whose risk assessment score indicates a high risk of reoffense.

(f) Before the predatory offender is released from confinement, the committee shall prepare a risk assessment report which specifies the risk level to which the offender has been assigned and the reasons underlying the committee's risk assessment decision. The committee shall give the report to the offender and to the law enforcement agency at least 60 days before an offender is released from confinement. If the risk assessment is performed under the circumstances described in paragraph (d), item (ii), the report shall be given to the offender and the law enforcement agency as soon as it is available. The committee also shall inform the offender of the availability of review under subdivision 6.

(g) As used in this subdivision, "risk factors" includes, but is not limited to, the following factors:

(1) the seriousness of the offense should the offender reoffend. This factor includes consideration of the following:

(i) the degree of likely force or harm;

(ii) the degree of likely physical contact; and

(iii) the age of the likely victim;

(2) the offender's prior offense history. This factor includes consideration of the following:

(i) the relationship of prior victims to the offender;

(ii) the number of prior offenses or victims;

(iii) the duration of the offender's prior offense history;

(iv) the length of time since the offender's last prior offense while the offender was at risk to commit offenses; and

(v) the offender's prior history of other antisocial acts;

(3) the offender's characteristics. This factor includes consideration of the following:

(i) the offender's response to prior treatment efforts; and

(ii) the offender's history of substance abuse;

(4) the availability of community supports to the offender. This factor includes consideration of the following:

(i) the availability and likelihood that the offender will be involved in therapeutic treatment;

(ii) the availability of residential supports to the offender, such as a stable and supervised living arrangement in an appropriate location;

(iii) the offender's familial and social relationships, including the nature and length of these relationships and the level of support that the offender may receive from these persons; and

(iv) the offender's lack of education or employment stability;

(5) whether the offender has indicated or credible evidence in the record indicates that the offender will reoffend if released into the community; and

(6) whether the offender demonstrates a physical condition that minimizes the risk of reoffense, including but not limited to, advanced age or a debilitating illness or physical condition.

(h) Upon the request of the law enforcement agency or the offender's corrections agent, the commissioner may reconvene the end-of-confinement review committee for the purpose of reassessing the risk level to which an offender has been assigned under paragraph (e). In a request for a reassessment, the law enforcement agency which was responsible for the charge resulting in confinement or agent shall list the facts and circumstances arising after the initial assignment or facts and circumstances known to law enforcement or the agent but not considered by the committee under paragraph (e) which support the request for a reassessment. The request for reassessment by the law enforcement agency must occur within 30 days of receipt of the report indicating the offender's risk level assignment. The offender's corrections agent, in consultation with the chief law enforcement officer in the area where the offender resides or intends to reside, may request a review of a risk level at any time if substantial evidence exists that the offender's risk level should be reviewed by an end-of-confinement review committee. This evidence includes, but is not limited to, evidence of treatment failures or completions, evidence of exceptional crime-free community adjustment or lack of appropriate adjustment, evidence of substantial community need to know more about the offender or mitigating circumstances that would narrow the proposed scope of notification, or other practical situations articulated and based in evidence of the offender's behavior while under supervision. Upon review of the request, the end-of-confinement review committee may reassign an offender to a different risk level. If the offender is reassigned to a higher risk level, the offender has the right to seek review of the committee's determination under subdivision 6.

(i) An offender may request the end-of-confinement review committee to reassess the offender's assigned risk level after three years have elapsed since the committee's initial risk assessment and may renew the request once every two years following subsequent denials. In a request for reassessment, the offender shall list the facts and circumstances which demonstrate that the offender no longer poses the same degree of risk to the community. In order for a request for a risk level reduction to be granted, the offender must demonstrate full compliance with supervised release conditions, completion of required post-release treatment programming, and full compliance with all registration requirements as detailed in section 243.166. The offender must also not have been convicted of any felony, gross misdemeanor, or misdemeanor offenses subsequent to the assignment of the original risk level. The committee shall follow the process outlined in paragraphs (a) to (c) in the reassessment. An offender who is incarcerated may not request a reassessment under this paragraph.

(j) Offenders returned to prison as release violators shall not have a right to a subsequent risk reassessment by the end-of-confinement review committee unless substantial evidence indicates that the offender's risk to the public has increased.

~~(k) The commissioner shall establish an end-of-confinement review committee to assign a risk level to offenders who are released from a federal correctional facility in Minnesota or another state and who intend to reside in Minnesota, and to offenders accepted from another state under a reciprocal agreement for parole supervision under the interstate compact authorized by section 243.16. The committee shall make reasonable efforts to conform to the same timelines as applied to Minnesota cases. Offenders accepted from another state under a reciprocal agreement for probation supervision are not assigned a risk level, but are considered downward dispositional departures. The probation or court services officer and law enforcement officer shall manage such cases in accordance with section~~

~~244.10, subdivision 2a. The policies and procedures of the committee for federal offenders and interstate compact cases must be in accordance with all requirements as set forth in this section, unless restrictions caused by the nature of federal or interstate transfers prevents such conformance.~~

(4) If the committee assigns a predatory offender to risk level III, the committee shall determine whether residency restrictions shall be included in the conditions of the offender's release based on the offender's pattern of offending behavior.

[EFFECTIVE DATE.] This section is effective July 1, 2005, and applies to persons subject to community notification on or after that date.

Sec. 7. Minnesota Statutes 2004, section 244.052, is amended by adding a subdivision to read:

Subd. 3a. [OFFENDERS FROM OTHER STATES AND OFFENDERS RELEASED FROM FEDERAL FACILITIES.] (a) Except as provided in paragraph (b), the commissioner shall establish an end-of-confinement review committee to assign a risk level:

(1) to offenders who are released from a federal correctional facility in Minnesota or a federal correctional facility in another state and who intend to reside in Minnesota;

(2) to offenders who are accepted from another state under the interstate compact authorized by section 243.16 or 243.1605 or any other authorized interstate agreement; and

(3) to offenders who are referred to the committee by local law enforcement agencies under paragraph (f).

(b) This subdivision does not require the commissioner to convene an end-of-confinement review committee for a person coming into Minnesota who is subject to probation under another state's law. The probation or court services officer and law enforcement officer shall manage such cases in accordance with section 244.10, subdivision 2a.

(c) The committee shall make reasonable efforts to conform to the same timelines applied to offenders released from a Minnesota correctional facility and shall collect all relevant information and records on offenders assessed and assigned a risk level under this subdivision. However, for offenders who were assigned the most serious risk level by another state, the committee must act promptly to collect the information required under this paragraph.

The end-of-confinement review committee must proceed in accordance with all requirements set forth in this section and follow all policies and procedures applied to offenders released from a Minnesota correctional facility in reviewing information and assessing the risk level of offenders covered by this subdivision, unless restrictions caused by the nature of federal or interstate transfers prevent such conformance. All of the provisions of this section apply to offenders who are assessed and assigned a risk level under this subdivision.

(d) If a local law enforcement agency learns or suspects that a person who is subject to this section is living in Minnesota and a risk level has not been assigned to the person under this section, the law enforcement agency shall provide this information to the Bureau of Criminal Apprehension and the commissioner of corrections within three business days.

(e) If the commissioner receives reliable information from a local law enforcement agency or the bureau that a person subject to this section is living in Minnesota and a local law enforcement agency so requests, the commissioner must determine if the person was assigned a risk level under a law comparable to this section. If the commissioner determines that the law is comparable and public safety warrants, the commissioner, within three business days of receiving a request, shall notify the local law enforcement agency that it may, in consultation with the department, proceed with notification under subdivision 4 based on the person's out-of-state risk level.

However, if the commissioner concludes that the offender is from a state with a risk level assessment law that is not comparable to this section, the extent of the notification may not exceed that of a risk level II offender under subdivision 4, paragraph (b), unless the requirements of paragraph (f) have been met. If an assessment is requested from the end-of-confinement review committee under paragraph (f), the local law enforcement agency may continue to disclose information under subdivision 4 until the committee assigns the person a risk level. After the committee assigns a risk level to an offender pursuant to a request made under paragraph (f), the information disclosed by law enforcement shall be consistent with the risk level assigned by the end-of-confinement review committee. The commissioner of corrections, in consultation with legal advisers, shall determine whether the law of another state is comparable to this section.

(f) If the local law enforcement agency wants to make a broader disclosure than is authorized under paragraph (e), the law enforcement agency may request that an end-of-confinement review committee assign a risk level to the offender. The local law enforcement agency shall provide to the committee all information concerning the offender's criminal history, the risk the offender poses to the community, and other relevant information. The department shall attempt to obtain other information relevant to determining which risk level to assign the offender. The committee shall promptly assign a risk level to an offender referred to the committee under this paragraph.

[EFFECTIVE DATE.] This section is effective July 1, 2005, and applies to persons subject to community notification on or after that date.

Sec. 8. Minnesota Statutes 2004, section 244.052, subdivision 4, is amended to read:

Subd. 4. [LAW ENFORCEMENT AGENCY; DISCLOSURE OF INFORMATION TO PUBLIC.] (a) The law enforcement agency in the area where the predatory offender resides, expects to reside, is employed, or is regularly found, shall disclose to the public any information regarding the offender contained in the report forwarded to the agency under subdivision 3, paragraph (f), that is relevant and necessary to protect the public and to counteract the offender's dangerousness, consistent with the guidelines in paragraph (b). The extent of the information disclosed and the community to whom disclosure is made must relate to the level of danger posed by the offender, to the offender's pattern of offending behavior, and to the need of community members for information to enhance their individual and collective safety.

(b) The law enforcement agency shall employ the following guidelines in determining the scope of disclosure made under this subdivision:

(1) if the offender is assigned to risk level I, the agency may maintain information regarding the offender within the agency and may disclose it to other law enforcement agencies. Additionally, the agency may disclose the information to any victims of or witnesses to the offense committed by the offender. The agency shall disclose the information to victims of the offense committed by the offender who have requested disclosure and to adult members of the offender's immediate household;

(2) if the offender is assigned to risk level II, the agency also may disclose the information to agencies and groups that the offender is likely to encounter for the purpose of securing those institutions and protecting individuals in their care while they are on or near the premises of the institution. These agencies and groups include the staff members of public and private educational institutions, day care establishments, and establishments and organizations that primarily serve individuals likely to be victimized by the offender. The agency also may disclose the information to individuals the agency believes are likely to be victimized by the offender. The agency's belief shall be based on the offender's pattern of offending or victim preference as documented in the information provided by the department of corrections or human services;

(3) if the offender is assigned to risk level III, the agency shall disclose the information to the persons and entities described in clauses (1) and (2) and to other members of the community whom the offender is likely to encounter, unless the law enforcement agency determines that public safety would be compromised by the disclosure or that a more limited disclosure is necessary to protect the identity of the victim.

Notwithstanding the assignment of a predatory offender to risk level II or III, a law enforcement agency may not make the disclosures permitted or required by clause (2) or (3), if: the offender is placed or resides in a residential facility. However, if an offender is placed or resides in a residential facility, the offender and the head of the facility shall designate the offender's likely residence upon release from the facility and the head of the facility shall notify the commissioner of corrections or the commissioner of human services of the offender's likely residence at least 14 days before the offender's scheduled release date. The commissioner shall give this information to the law enforcement agency having jurisdiction over the offender's likely residence. The head of the residential facility also shall notify the commissioner of corrections or human services within 48 hours after finalizing the offender's approved relocation plan to a permanent residence. Within five days after receiving this notification, the appropriate commissioner shall give to the appropriate law enforcement agency all relevant information the commissioner has concerning the offender, including information on the risk factors in the offender's history and the risk level to which the offender was assigned. After receiving this information, the law enforcement agency shall make the disclosures permitted or required by clause (2) or (3), as appropriate.

(c) As used in paragraph (b), clauses (2) and (3), "likely to encounter" means that:

(1) the organizations or community members are in a location or in close proximity to a location where the offender lives or is employed, or which the offender visits or is likely to visit on a regular basis, other than the location of the offender's outpatient treatment program; and

(2) the types of interaction which ordinarily occur at that location and other circumstances indicate that contact with the offender is reasonably certain.

(d) A law enforcement agency or official who discloses information under this subdivision shall make a good faith effort to make the notification within 14 days of receipt of a confirmed address from the Department of Corrections indicating that the offender will be, or has been, released from confinement, or accepted for supervision, or has moved to a new address and will reside at the address indicated. If a change occurs in the release plan, this notification provision does not require an extension of the release date.

(e) A law enforcement agency or official who discloses information under this subdivision shall not disclose the identity or any identifying characteristics of the victims of or witnesses to the offender's offenses.

(f) A law enforcement agency shall continue to disclose information on an offender as required by this subdivision for as long as the offender is required to register under section 243.166. This requirement on a law enforcement agency to continue to disclose information also applies to an offender who lacks a primary address and is registering under section 243.166, subdivision 3a.

(g) A law enforcement agency that is disclosing information on an offender assigned to risk level III to the public under this subdivision shall inform the commissioner of corrections what information is being disclosed and forward this information to the commissioner within two days of the agency's determination. The commissioner shall post this information on the Internet as required in subdivision 4b.

(h) A city council may adopt a policy that addresses when information disclosed under this subdivision must be presented in languages in addition to English. The policy may address when information must be presented orally, in writing, or both in additional languages by the law enforcement agency disclosing the information. The policy may provide for different approaches based on the prevalence of non-English languages in different neighborhoods.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to persons subject to community notification on or after that date.

Sec. 9. Minnesota Statutes 2004, section 244.052, is amended by adding a subdivision to read:

Subd. 4c. [LAW ENFORCEMENT AGENCY; DISCLOSURE OF INFORMATION TO A HEALTH CARE FACILITY.] (a) The law enforcement agency in the area where a health care facility is located shall disclose the registrant status of any sex offender registered under section 243.166 to the health care facility if the registered offender is receiving inpatient care in that facility.

(b) "Health care facility" means a hospital or other entity licensed under sections 144.50 to 144.58, nursing facilities certified for participation in the federal Medicare or Medicaid programs and licensed as a nursing home under chapter 144A, a boarding care home under sections 144.50 to 144.56, or a group residential housing facility or an intermediate care facility for the mentally retarded licensed under chapter 245A.

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

Sec. 10. Minnesota Statutes 2004, section 626.556, subdivision 3, is amended to read:

Subd. 3. **[PERSONS MANDATED TO REPORT.]** (a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person is:

(1) a professional or professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, probation and correctional services, or law enforcement; or

(2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under section 595.02, subdivision 1, paragraph (c).

The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency, or agency responsible for assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing. The county sheriff and the head of every local welfare agency, agency responsible for assessing or investigating reports, and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph and paragraph (b) are carried out. Nothing in this subdivision shall be construed to require more than one report from any institution, facility, school, or agency.

(b) Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person knows, has reason to believe, or suspects a child is being or has been neglected or subjected to physical or sexual abuse. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency or agency responsible for assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing.

(c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B; or a nonlicensed personal care provider organization as defined in

sections 256B.04, subdivision 16; and 256B.0625, subdivision 19. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b. A board or other entity whose licensees perform work within a school facility, upon receiving a complaint of alleged maltreatment, shall provide information about the circumstances of the alleged maltreatment to the commissioner of education. Section 13.03, subdivision 4, applies to data received by the commissioner of education from a licensing entity.

(d) Any person mandated to report shall receive a summary of the disposition of any report made by that reporter, including whether the case has been opened for child protection or other services, or if a referral has been made to a community organization, unless release would be detrimental to the best interests of the child. Any person who is not mandated to report shall, upon request to the local welfare agency, receive a concise summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child.

(e) For purposes of this subdivision, "immediately" means as soon as possible but in no event longer than 24 hours.

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

Sec. 11. [REVISOR'S INSTRUCTION.]

The revisor of statutes shall change all references to Minnesota Statutes, section 243.166, subdivision 1, in Minnesota Statutes to section 243.166. In addition, the revisor shall make other technical changes necessitated by this article.

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

Sec. 12. [REPEALER.]

Minnesota Statutes 2004, section 243.166, subdivisions 1 and 8, are repealed.

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

ARTICLE 5

HUMAN SERVICES ACCESS TO PREDATORY OFFENDER REGISTRY

Section 1. Minnesota Statutes 2004, section 243.166, subdivision 7, is amended to read:

Subd. 7. [USE OF ~~INFORMATION~~ DATA.] Except as otherwise provided in subdivision 7a or sections 244.052 and 299C.093, the ~~information data~~ provided under this section is private data on individuals under section 13.02, subdivision 12. The ~~information data~~ may be used only for law enforcement and corrections purposes. State-operated services, as defined in section 246.014, are also authorized to have access to the data for the purposes described in section 246.13, subdivision 2, paragraph (c).

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

Sec. 2. Minnesota Statutes 2004, section 246.13, is amended to read:

246.13 ~~[RECORD~~ RECORDS OF PATIENTS AND RESIDENTS ~~IN~~ RECEIVING STATE-OPERATED SERVICES.]

Subdivision 1. [POWERS, DUTIES, AND AUTHORITY OF COMMISSIONER.] (a) The commissioner of human services' office shall have, accessible only by consent of the commissioner or on the order of a judge or court of record, a record showing the residence, sex, age, nativity, occupation, civil condition, and date of entrance or commitment of every person, in the state-operated services facilities as defined under section 246.014 under exclusive control of the commissioner; the date of discharge and whether such discharge was final; the condition of the person when the person left the state-operated services facility; the vulnerable adult abuse prevention associated with the person; and the date and cause of all deaths. The record shall state every transfer from one state-operated services facility to another, naming each state-operated services facility. This information shall be furnished to the commissioner of human services by each public agency, along with other obtainable facts as the commissioner may require. When a patient or resident in a state-operated services facility is discharged, transferred, or dies, the head of the state-operated services facility or designee shall inform the commissioner of human services of these events within ten days on forms furnished by the commissioner.

(b) The commissioner of human services shall cause to be devised, installed, and operated an adequate system of records and statistics which shall consist of all basic record forms, including patient personal records and medical record forms, and the manner of their use shall be precisely uniform throughout all state-operated services facilities.

Subd. 2. [DEFINITIONS; RISK ASSESSMENT AND MANAGEMENT.] (a) As used in this section:

(1) "appropriate and necessary medical and other records" includes patient medical records and other protected health information as defined by Code of Federal Regulations, title 45, section 164.501, relating to a patient in a state-operated services facility including, but not limited to, the patient's treatment plan and abuse prevention plan that is pertinent to the patient's ongoing care, treatment, or placement in a community-based treatment facility or a health care facility that is not operated by state-operated services, and includes information describing the level of risk posed by a patient when the patient enters such a facility;

(2) "community-based treatment" means the community support services listed in section 253B.02, subdivision 4b;

(3) "criminal history data" means those data maintained by the Departments of Corrections and Public Safety and by the supervisory authorities listed in section 13.84, subdivision 1, that relate to an individual's criminal history or propensity for violence; including data in the Corrections Offender Management System (COMS) and Statewide Supervision System (S3) maintained by the Department of Corrections; the Criminal Justice Information System (CJIS) and the Predatory Offender Registration (POR) system maintained by the Department of Public Safety; and the CriMNet system;

(4) "designated agency" means the agency defined in section 253B.02, subdivision 5;

(5) "law enforcement agency" means the law enforcement agency having primary jurisdiction over the location where the offender expects to reside upon release;

(6) "predatory offender" and "offender" mean a person who is required to register as a predatory offender under section 243.166; and

(7) "treatment facility" means a facility as defined in section 253B.02, subdivision 19.

(b) To promote public safety and for the purposes and subject to the requirements of paragraph (c), the commissioner or the commissioner's designee shall have access to, and may review and disclose, medical and criminal history data as provided by this section.

(c) The commissioner or the commissioner's designee shall disseminate data to designated treatment facility staff, special review board members, and end-of-confinement review committee members in accordance with Minnesota Rules, part 1205.0400, to:

(1) determine whether a patient is required under state law to register as a predatory offender according to section 244.166;

(2) facilitate and expedite the responsibilities of the special review board and end-of-confinement review committees by corrections institutions and state treatment facilities;

(3) prepare, amend, or revise the abuse prevention plans required under section 626.557, subdivision 14, and individual patient treatment plans required under section 253B.03, subdivision 7;

(4) facilitate changes of custody and transfers of individuals between the Department of Corrections and the Department of Human Services; and

(5) facilitate the exchange of data between the Department of Corrections, the Department of Human Services, and any of the supervisory authorities listed in section 13.84, regarding an individual under the authority of one or more of these entities.

(d) The commissioner may have access to the National Crime Information Center (NCIC) database, through the Department of Public Safety, in support of the law enforcement function described in paragraph (c).

Subd. 3. [COMMUNITY-BASED TREATMENT AND MEDICAL TREATMENT.] (a) When a patient under the care and supervision of state-operated services is released to a community-based treatment facility or facility that provides health care services, state-operated services may disclose all appropriate and necessary health and other information relating to the patient.

(b) The information that must be provided to the designated agency, community-based treatment facility, or facility that provides health care services includes, but is not limited to, the patient's abuse prevention plan required under section 626.557, subdivision 14, paragraph (b).

Subd. 4. [PREDATORY OFFENDER REGISTRATION NOTIFICATION.] (a) When a state-operated facility determines that a patient is required under section 243.166, subdivision 1, to register as a predatory offender or, under section 243.166, subdivision 4a, to provide notice of a change in status, the facility shall provide written notice to the patient of the requirement.

(b) If the patient refuses, is unable, or lacks capacity to comply with the requirement described in paragraph (a) within five days after receiving the notification of the duty to comply, state-operated services staff shall obtain and disclose the necessary data to complete the registration form or change of status notification for the patient. The treatment facility shall also forward the registration or change of status data that it completes to the Bureau of Criminal Apprehension and, as applicable, the patient's corrections agent and the law enforcement agency in the community in which the patient currently resides. If, after providing notification, the patient refuses to comply with the requirements described in paragraph (a), the treatment facility shall also notify the county attorney in the county in which the patient is currently residing of the refusal.

(c) The duties of state-operated services described in this subdivision do not relieve the patient of the ongoing individual duty to comply with the requirements of section 243.166.

Subd. 5. [LIMITATIONS ON USE OF BLOODBORNE PATHOGEN TEST RESULTS.] Sections 246.71, 246.711, 246.712, 246.713, 246.714, 246.715, 246.716, 246.717, 246.718, 246.719, 246.72, 246.721, and 246.722 apply to state-operated services facilities.

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

Sec. 3. Minnesota Statutes 2004, section 253B.18, subdivision 4a, is amended to read:

Subd. 4a. [RELEASE ON PASS; NOTIFICATION.] A patient who has been committed as a person who is mentally ill and dangerous and who is confined at a secure treatment facility or has been transferred out of a state-operated services facility according to section 253B.18, subdivision 6, shall not be released on a pass unless the pass is part of a pass plan that has been approved by the medical director of the secure treatment facility. The pass plan must have a specific therapeutic purpose consistent with the treatment plan, must be established for a specific period of time, and must have specific levels of liberty delineated. The county case manager must be invited to participate in the development of the pass plan. At least ten days prior to a determination on the plan, the medical director shall notify the designated agency, the committing court, the county attorney of the county of commitment, an interested person, the local law enforcement agency where the facility is located, the local law enforcement agency in the location where the pass is to occur, the petitioner, and the petitioner's counsel of the plan, the nature of the passes proposed, and their right to object to the plan. If any notified person objects prior to the proposed date of implementation, the person shall have an opportunity to appear, personally or in writing, before the medical director, within ten days of the objection, to present grounds for opposing the plan. The pass plan shall not be implemented until the objecting person has been furnished that opportunity. Nothing in this subdivision shall be construed to give a patient an affirmative right to a pass plan.

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

Sec. 4. Minnesota Statutes 2004, section 299C.093, is amended to read:

299C.093 [DATABASE OF REGISTERED PREDATORY OFFENDERS.]

The superintendent of the Bureau of Criminal Apprehension shall maintain a computerized data system relating to individuals required to register as predatory offenders under section 243.166. To the degree feasible, the system must include the ~~information data~~ data required to be provided under section 243.166, subdivisions 4 and 4a, and indicate the time period that the person is required to register. The superintendent shall maintain this ~~information data~~ data in a manner that ensures that it is readily available to law enforcement agencies. This ~~information data~~ data is private data on individuals under section 13.02, subdivision 12, but may be used for law enforcement and corrections purposes. State-operated services, as defined in section 246.014, are also authorized to have access to the data for the purposes described in section 246.13, subdivision 2, paragraph (c).

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

Sec. 5. Minnesota Statutes 2004, section 609.2231, subdivision 3, is amended to read:

Subd. 3. [CORRECTIONAL EMPLOYEES; PROBATION OFFICERS.] Whoever commits either of the following acts against an employee of a correctional facility as defined in section 241.021, subdivision 1, paragraph (f), or an employee or other individual who provides care or treatment at a treatment facility as defined in section 252.025, subdivision 7, or 253B.02, subdivision 18a, or against a probation officer or other qualified person

employed in supervising offenders while the employee, officer, or person is engaged in the performance of a duty imposed by law, policy, or rule is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both:

- (1) assaults the ~~employee person~~ and inflicts demonstrable bodily harm; or
- (2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the ~~employee person~~.

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

Sec. 6. Minnesota Statutes 2004, section 626.557, subdivision 14, is amended to read:

Subd. 14. [ABUSE PREVENTION PLANS.] (a) Each facility, except home health agencies and personal care attendant services providers, shall establish and enforce an ongoing written abuse prevention plan. The plan shall contain an assessment of the physical plant, its environment, and its population identifying factors which may encourage or permit abuse, and a statement of specific measures to be taken to minimize the risk of abuse. The plan shall comply with any rules governing the plan promulgated by the licensing agency.

(b) Each facility, including a home health care agency and personal care attendant services providers, shall develop an individual abuse prevention plan for each vulnerable adult residing there or receiving services from them. The plan shall contain an individualized assessment of both the person's susceptibility to abuse by other individuals, including other vulnerable adults, and the potential risks posed by the person to the other patients, to facility staff, and to others; and a statement of the specific measures to be taken to minimize the risk of abuse to that person and others. For the purposes of this clause, the term "abuse" includes self-abuse.

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

Sec. 7. [REPEALER.]

Minnesota Statutes 2004, section 246.017, subdivision 1, is repealed.

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

ARTICLE 6

HUMAN SERVICES BACKGROUND STUDIES

Section 1. Minnesota Statutes 2004, section 13.461, is amended by adding a subdivision to read:

Subd. 29. [DISQUALIFICATION FROM DIRECT CONTACT.] The classification of data about individuals disqualified from providing direct contact services is governed by section 245C.22, subdivision 7.

Sec. 2. Minnesota Statutes 2004, section 13.461, is amended by adding a subdivision to read:

Subd. 30. [SET-ASIDE DATA.] Disclosure of data relating to individuals who have obtained a set-aside of the disqualification is governed by section 245C.22, subdivision 7.

Sec. 3. Minnesota Statutes 2004, section 13.461, is amended by adding a subdivision to read:

Subd. 31. [VARIANCE DATA.] Disclosure of data relating to disqualified individuals as to whom a variance has been obtained by the individual's employer is governed by section 245C.30, subdivision 2.

Sec. 4. Minnesota Statutes 2004, section 245C.03, subdivision 1, is amended to read:

Subdivision 1. [LICENSED PROGRAMS.] (a) The commissioner shall conduct a background study on:

- (1) the person or persons applying for a license;
- (2) an individual age 13 and over living in the household where the licensed program will be provided;
- (3) current or prospective employees or contractors of the applicant who will have direct contact with persons served by the facility, agency, or program;
- (4) volunteers or student volunteers who will have direct contact with persons served by the program to provide program services if the contact is not under the continuous, direct supervision by an individual listed in clause (1) or (3);
- (5) an individual age ten to 12 living in the household where the licensed services will be provided when the commissioner has reasonable cause;
- (6) an individual who, without providing direct contact services at a licensed program, may have unsupervised access to children or vulnerable adults receiving services from a program licensed to provide:
 - (i) family child care for children;
 - (ii) foster care for children in the provider's own home; or
 - (iii) foster care or day care services for adults in the provider's own home; and
- (7) all managerial officials as defined under section 245A.02, subdivision 5a.

The commissioner must have reasonable cause to study an individual under this subdivision.

(b) For family child foster care settings, a short-term substitute caregiver providing direct contact services for a child for less than 72 hours of continuous care is not required to receive a background study under this chapter.

Sec. 5. Minnesota Statutes 2004, section 245C.13, subdivision 2, is amended to read:

Subd. 2. [DIRECT CONTACT PENDING COMPLETION OF BACKGROUND STUDY.] ~~Unless otherwise specified, the subject of a background study may have direct contact with persons served by a program after the background study form is mailed or submitted to the commissioner pending notification of the study results under section 245C.17. The subject of a background study may not perform any activity requiring a background study under paragraph (b) until the commissioner has issued one of the notices under paragraph (a).~~

(a) Notices from the commissioner required prior to activity under paragraph (b) include:

- (1) a notice of the study results under section 245C.17 stating that:
 - (i) the individual is not disqualified; or
 - (ii) more time is needed to complete the study but the individual is not required to be removed from direct contact or access to people receiving services prior to completion of the study as provided under section 245A.17, paragraph (c);

(2) a notice that a disqualification has been set aside under section 245C.23; or

(3) a notice that a variance has been granted related to the individual under section 245C.30.

(b) Activities prohibited prior to receipt of notice under paragraph (a) include:

(1) being issued a license;

(2) living in the household where the licensed program will be provided;

(3) providing direct contact services to persons served by a program unless the subject is under continuous direct supervision; or

(4) having access to persons receiving services if the background study was completed under section 144.057, subdivision 1, or 245C.03, subdivision 1, paragraph (a), clause (2), (5), or (6), unless the subject is under continuous direct supervision.

Sec. 6. Minnesota Statutes 2004, section 245C.15, subdivision 1, is amended to read:

Subdivision 1. [PERMANENT DISQUALIFICATION.] (a) An individual is disqualified under section 245C.14 if: (1) regardless of how much time has passed since the discharge of the sentence imposed, if any, for the offense; and (2) unless otherwise specified, regardless of the level of the ~~conviction~~ offense, the individual ~~is convicted of~~ has committed any of the following offenses: sections 152.021 (controlled substance crime in the first degree); 152.022 (controlled substance crime in the second degree); 152.023 (controlled substance crime in the third degree); 152.024 (controlled substance crime in the fourth degree); 152.0261 (importing controlled substances across state lines); 609.165 (certain convicted felons ineligible to possess firearms); 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.21 (criminal vehicular homicide and injury); 609.221 ~~or~~ (assault in the first degree); 609.222 (assault in the ~~first or~~ second degree); 609.223 (assault in the third degree); a felony offense under sections 609.2242 and 609.2243 (domestic assault), spousal abuse, child abuse or neglect, or a crime against children; 609.228 (great bodily harm caused by distribution of drugs); an offense punishable as a felony under 609.229 (crime committed for the benefit of a gang); 609.235 (use of drugs to injure or facilitate a crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in commission of a crime); 609.322 (solicitation, inducement, and promotion of prostitution); a felony offense under 609.324, subdivision 1 (other prohibited acts); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451 (criminal sexual conduct in the fifth degree); 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); an offense punishable as a felony offense under 609.377 (malicious punishment of a child); an offense punishable as a felony offense under 609.378 (neglect or endangerment of a child); 609.498 (tampering with a witness); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.582, subdivision 1 (burglary in the first degree); 609.66, subdivision 1e (drive-by shooting); 609.687 (adulteration); 609.749, subdivision 3, 4, or 5 (felony-level harassment; stalking); 609.855, subdivision 5 (shooting at or in a public transit vehicle or facility); 617.246 (use of minors in sexual performance prohibited); ~~or~~ 617.247 (possession of pictorial representations of minors); or an offense punishable as a felony under 624.713 (certain persons not to have pistols or semiautomatic military-style assault weapons).

(b) An individual also is disqualified under section 245C.14 regardless of how much time has passed since:

(1) the involuntary termination of the individual's parental rights under section 260C.301;

(2) an administrative determination under section 626.556 of sexual abuse of a minor or abuse of a minor resulting in death or serious injury as defined under section 245C.02, subdivision 18; or

(3) an administrative determination under section 626.557 of sexual abuse of a vulnerable adult or abuse of a vulnerable adult resulting in death or serious injury as defined under section 245C.02, subdivision 18.

(b) (c) An individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes, permanently disqualifies the individual under section 245C.14.

(c) (d) An individual's offense in any other state or country, where the elements of the offense are substantially similar to any of the offenses listed in paragraph (a), permanently disqualifies the individual under section 245C.14.

Sec. 7. Minnesota Statutes 2004, section 245C.15, subdivision 2, is amended to read:

Subd. 2. [15-YEAR DISQUALIFICATION.] (a) An individual is disqualified under section 245C.14 if: (1) less than 15 years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has ~~received~~ committed a ~~felony conviction for a~~ felony-level violation of any of the following offenses: sections 152.025 (controlled substance crime in the fifth degree); 260C.301 (grounds for termination of parental rights); ~~609.165 (felon ineligible to possess firearm)~~; ~~609.21 (criminal vehicular homicide and injury)~~; 609.215 (suicide); ~~609.223 or 609.2231 (assault in the third or fourth degree)~~; repeat offenses under 609.224 (assault in the fifth degree); 609.2325 (criminal abuse of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); ~~609.235 (use of drugs to injure or facilitate crime)~~; 609.24 (simple robbery); ~~609.255 (false imprisonment)~~; ~~609.2664 (manslaughter of an unborn child in the first degree)~~; ~~609.2665 (manslaughter of an unborn child in the second degree)~~; ~~609.267 (assault of an unborn child in the first degree)~~; ~~609.2671 (assault of an unborn child in the second degree)~~; ~~609.268 (injury or death of an unborn child in the commission of a crime)~~; 609.27 (coercion); 609.275 (attempt to coerce); ~~repeat offenses under 609.3451 (criminal sexual conduct in the fifth degree)~~; 609.498, subdivision 1 or 1b (aggravated first degree or first degree tampering with a witness); 609.52 (theft); 609.521 (possession of shoplifting gear); ~~609.562 (arson in the second degree)~~; 609.563 (arson in the third degree); 609.582, subdivision 2, 3, or 4 (burglary in the second, third, or fourth degree); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); ~~609.687 (adulteration)~~; 609.71 (riot); 609.713 (terroristic threats); repeat offenses under 617.23 (indecent exposure; penalties); repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); ~~chapter 152 (drugs; controlled substance)~~; or a felony-level conviction involving alcohol or drug use.

(b) An individual is disqualified under section 245C.14 if less than 15 years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) An individual is disqualified under section 245C.14 if less than 15 years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses listed in paragraph (a).

(d) If the individual studied is convicted of one of the felonies listed in paragraph (a), but the sentence is a gross misdemeanor or misdemeanor disposition, the individual is disqualified but the disqualification lookback period for the conviction is the period applicable to the gross misdemeanor or misdemeanor disposition.

Sec. 8. Minnesota Statutes 2004, section 245C.15, subdivision 3, is amended to read:

Subd. 3. [TEN-YEAR DISQUALIFICATION.] (a) An individual is disqualified under section 245C.14 if: (1) less than ten years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has ~~received~~ committed a gross ~~misdemeanor conviction for a~~ misdemeanor-level violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.2242 and 609.2243 (domestic assault); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.265 (abduction); 609.275 (attempt to coerce); 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); ~~609.3451 (criminal sexual conduct in the fifth degree);~~ misdemeanor or gross misdemeanor offenses under 609.377 (malicious punishment of a child); misdemeanor or gross misdemeanor offenses under 609.378 (neglect or endangerment of a child); 609.52 (theft); 609.582 (burglary); 609.631 (check forgery; offering a forged check); 609.66 (dangerous weapons); 609.71 (riot); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); repeat offenses under 609.746 (interference with privacy); 609.749, subdivision 2 (harassment; stalking); repeat offenses under 617.23 (indecent exposure); 617.241 (obscene materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful materials; dissemination and display to minors prohibited); or violation of an order for protection under section 518B.01, subdivision 14.

(b) An individual is disqualified under section 245C.14 if less than ten years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) An individual is disqualified under section 245C.14 if less than ten years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

(d) If the defendant is convicted of one of the gross misdemeanors listed in paragraph (a), but the sentence is a misdemeanor disposition, the individual is disqualified but the disqualification lookback period for the conviction is the period applicable to misdemeanors.

Sec. 9. Minnesota Statutes 2004, section 245C.15, subdivision 4, is amended to read:

Subd. 4. [SEVEN-YEAR DISQUALIFICATION.] (a) An individual is disqualified under section 245C.14 if: (1) less than seven years has passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has ~~received~~ committed a ~~misdemeanor conviction for a~~ misdemeanor-level violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 (domestic assault); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.2672 (assault of an unborn child in the third degree); 609.27 (coercion); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.52 (theft); 609.66 (dangerous weapons); 609.665 (spring guns); 609.746 (interference with privacy); 609.79 (obscene or harassing ~~phone~~ telephone calls); 609.795 (letter, telegram, or package; opening; harassment); 617.23 (indecent exposure; penalties); 617.293 (harmful materials; dissemination and display to minors prohibited); or violation of an order for protection under section 518B.01 (Domestic Abuse Act).

(b) An individual is disqualified under section 245C.14 if less than seven years has passed since a determination or disposition of the individual's:

(1) failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or

(2) except for disqualifications under subdivision 1, substantiated serious or recurring maltreatment of a minor under section 626.556, a vulnerable adult under section 626.557, or serious or recurring maltreatment in any other state, the elements of which are substantially similar to the elements of maltreatment under section 626.556 or 626.557 for which: (i) there is a preponderance of evidence that the maltreatment occurred, and (ii) the subject was responsible for the maltreatment.

(c) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual's attempt or conspiracy to commit any of the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in Minnesota Statutes.

(d) An individual is disqualified under section 245C.14 if less than seven years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraphs (a) and (b).

Sec. 10. Minnesota Statutes 2004, section 245C.17, subdivision 1, is amended to read:

Subdivision 1. [TIME FRAME FOR NOTICE OF STUDY RESULTS.] (a) Within 15 working days after the commissioner's receipt of the background study form, the commissioner shall notify the individual who is the subject of the study in writing or by electronic transmission of the results of the study or that more time is needed to complete the study.

(b) Within 15 working days after the commissioner's receipt of the background study form, the commissioner shall notify the applicant, license holder, or other entity as provided in this chapter in writing or by electronic transmission of the results of the study or that more time is needed to complete the study.

(c) When the commissioner has completed a prior background study on an individual that resulted in an order for immediate removal and more time is necessary to complete a subsequent study, the notice that more time is needed that is issued under paragraphs (a) and (b) shall include an order for immediate removal of the individual from any position allowing direct contact with or access to people receiving services pending completion of the background study.

Sec. 11. Minnesota Statutes 2004, section 245C.17, subdivision 2, is amended to read:

Subd. 2. [DISQUALIFICATION NOTICE SENT TO SUBJECT.] (a) If the information in the study indicates the individual is disqualified from direct contact with, or from access to, persons served by the program, the commissioner shall disclose to the individual studied:

(1) the information causing disqualification;

(2) instructions on how to request a reconsideration of the disqualification; ~~and~~

(3) an explanation of any restrictions on the commissioner's discretion to set aside the disqualification under section 245C.24, subdivision 2, when applicable to the individual;

(4) a statement indicating that if the individual's disqualification is set aside or the facility is granted a variance under section 245C.30, the individual's identity and the reason for the individual's disqualification will become public data; and

(5) the commissioner's determination of the individual's immediate risk of harm under section 245C.16.

(b) If the commissioner determines under section 245C.16 that an individual poses an imminent risk of harm to persons served by the program where the individual will have direct contact, the commissioner's notice must include an explanation of the basis of this determination.

(c) If the commissioner determines under section 245C.16 that an individual studied does not pose a risk of harm that requires ~~continuous, direct supervision, the commissioner shall only notify the individual of the disqualification~~ immediate removal, the individual shall be informed of the conditions under which the agency that initiated the background study may allow the individual to provide direct contact services as provided under subdivision 3.

Sec. 12. Minnesota Statutes 2004, section 245C.17, subdivision 3, is amended to read:

Subd. 3. [DISQUALIFICATION NOTICE SENT TO APPLICANT, LICENSE HOLDER, OR OTHER ENTITY.] (a) The commissioner shall notify an applicant, license holder, or other entity as provided in this chapter who is not the subject of the study:

(1) that the commissioner has found information that disqualifies the individual studied from direct contact with, or from access to, persons served by the program; and

(2) the commissioner's determination of the individual's risk of harm under section 245C.16.

(b) If the commissioner determines under section 245C.16 that an individual studied poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact, the commissioner shall order the license holder to immediately remove the individual studied from direct contact.

(c) If the commissioner determines under section 245C.16 that an individual studied poses a risk of harm that requires continuous, direct supervision, the commissioner shall order the applicant, license holder, or other entities as provided in this chapter to:

(1) immediately remove the individual studied from direct contact services; or

(2) before allowing the disqualified individual to provide direct contact services, the applicant, license holder, or other entity, as provided in this chapter, must:

(i) obtain from the disqualified individual a copy of the individual's notice of disqualification from the commissioner that explains the reason for disqualification;

(ii) ~~assure~~ ensure that the individual studied is under continuous, direct supervision when providing direct contact services during the period in which the individual may request a reconsideration of the disqualification under section 245C.21; and

(iii) ensure that the disqualified individual requests reconsideration within 30 days of receipt of the notice of disqualification.

(d) If the commissioner determines under section 245C.16 that an individual studied does not pose a risk of harm that requires continuous, direct supervision, the commissioner shall ~~send the license holder a notice that more time is needed to complete the individual's background study~~ order the applicant, license holder, or other entities as provided in this chapter to:

(1) immediately remove the individual studied from direct contact services; or

(2) before allowing the disqualified individual to provide direct contact services, the applicant, license holder, or other entity as provided in this chapter must:

(i) obtain from the disqualified individual a copy of the individual's notice of disqualification from the commissioner that explains the reason for disqualification; and

(ii) ensure that the disqualified individual requests reconsideration within 15 days of receipt of the notice of disqualification.

(e) The commissioner shall not notify the applicant, license holder, or other entity as provided in this chapter of the information contained in the subject's background study unless:

(1) the basis for the disqualification is failure to cooperate with the background study or substantiated maltreatment under section 626.556 or 626.557;

(2) the Data Practices Act under chapter 13 provides for release of the information; or

(3) the individual studied authorizes the release of the information.

Sec. 13. Minnesota Statutes 2004, section 245C.21, subdivision 3, is amended to read:

Subd. 3. [INFORMATION DISQUALIFIED INDIVIDUALS MUST PROVIDE WHEN REQUESTING RECONSIDERATION.] ~~The (a) When a disqualified individual requesting reconsideration~~ requests that the commissioner rescind the disqualification, the individual must submit information showing that:

(1) the information the commissioner relied upon in determining the underlying conduct that gave rise to the disqualification is incorrect;

(2) for disqualifications under section 245C.15, subdivision 1, based on maltreatment, the information the commissioner relied upon in determining that maltreatment resulted in death or serious injury as defined under section 245C.02, subdivision 18, is incorrect; or

(3) for disqualifications under section 245C.15, subdivision 4, based on maltreatment, the information the commissioner relied upon in determining that maltreatment was serious or recurring is incorrect; or,

~~(a)~~ (b) When a disqualified individual requests that the commissioner set aside a disqualification, the individual must submit information showing that:

(1) the subject of the study does not pose a risk of harm to any person served by the applicant, license holder, or other entities as provided in this chapter, by addressing the information required under section 245C.22, subdivision 4; and

(2) the disqualified individual has received a notice stating that if the disqualification is set aside, the individual's identity and the individual's disqualifying characteristics will become public data.

Sec. 14. Minnesota Statutes 2004, section 245C.21, subdivision 4, is amended to read:

Subd. 4. [NOTICE OF REQUEST FOR RECONSIDERATION.] Upon request, the commissioner may inform the applicant, license holder, or other entities as provided in this chapter who received a notice of the individual's disqualification under section 245C.17, ~~subdivision 3, or has the consent of the disqualified individual,~~ whether the disqualified individual has requested reconsideration.

Sec. 15. Minnesota Statutes 2004, section 245C.22, is amended by adding a subdivision to read:

Subd. 7. [CLASSIFICATION OF CERTAIN DATA AS PUBLIC OR PRIVATE.] (a) Notwithstanding section 13.46, upon setting aside a disqualification under this section, the identity of the disqualified individual who received the set aside and the individual's disqualifying characteristics are public data.

(b) Notwithstanding section 13.46, upon granting a variance to a license holder under section 245C.30, the identity of the disqualified individual who is the subject of the variance, the individual's disqualifying characteristics, and the terms of the variance are public data.

(c) The identity of a disqualified individual and the reason for disqualification remain private data when a disqualification is:

(1) not set aside and no variance is granted; and

(2) rescinded because the information relied upon to disqualify the individual is incorrect.

Sec. 16. Minnesota Statutes 2004, section 245C.23, subdivision 1, is amended to read:

Subdivision 1. [COMMISSIONER'S NOTICE OF DISQUALIFICATION THAT IS RESCINDED OR SET ASIDE.] ~~(a) Except as provided under paragraph (c),~~ If the commissioner rescinds or sets aside a disqualification, the commissioner shall notify the applicant or license holder in writing or by electronic transmission of the decision. In the notice from the commissioner that a disqualification has been rescinded, the commissioner must inform the license holder that the information relied upon to disqualify the individual was incorrect. In the notice from the commissioner that a disqualification has been set aside, the commissioner must inform the license holder ~~that information about the nature of the reason for the individual's~~ disqualification and which factors under section 245C.22, subdivision 4, were the basis of the decision to set aside the disqualification ~~are available to the license holder upon request without the consent of the background study subject.~~

~~(b) With the written consent of the background study subject, the commissioner may release to the license holder copies of all information related to the background study subject's disqualification and the commissioner's decision to set aside the disqualification as specified in the written consent.~~

~~(c) If the individual studied submits a timely request for reconsideration under section 245C.21 and the license holder was previously sent a notice under section 245C.17, subdivision 3, paragraph (d), and if the commissioner sets aside the disqualification for that license holder under section 245C.22, the commissioner shall send the license holder the same notification received by license holders in cases where the individual studied has no disqualifying characteristic.~~

Sec. 17. Minnesota Statutes 2004, section 245C.24, subdivision 2, is amended to read:

Subd. 2. [PERMANENT BAR TO SET ASIDE ~~OF~~ A DISQUALIFICATION.] (a) Except as provided in paragraph (b), the commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home, issued or in application status under chapter 245A, regardless of how much time has passed, if the provider was disqualified for a crime or conduct listed in section 245C.15, subdivision 1.

(b) Unless the disqualification under section 245C.15, subdivision 1, relates to criminal sexual conduct or a license to provide family child care, child foster care, adult day services, or adult foster care in the license holder's residence, the commissioner is not prohibited from setting aside a disqualification according to section 245C.22, for an individual who, in addition to criteria under section 245A.22, demonstrates to the commissioner that:

(1) the person was disqualified because of conduct prohibited by section 152.021, 152.022, 152.023, or 152.024;

(2) the individual has successfully completed chemical dependency treatment from a program licensed by the Department of Human Services or operated by the Department of Corrections;

(3) at least five years have passed since completion of the treatment program; and

(4) the individual has not engaged in any criminal or maltreatment behavior since completing treatment.

Sec. 18. Minnesota Statutes 2004, section 245C.24, subdivision 3, is amended to read:

Subd. 3. [TEN-YEAR BAR TO SET ASIDE DISQUALIFICATION.] (a) Except as provided in paragraph (d), the commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home under chapter 245A if: (1) less than ten years has passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has been ~~convicted of~~ disqualified for a violation of any of the following offenses: sections ~~609.165 (felon ineligible to possess firearm); criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury);~~ 609.215 (aiding suicide or aiding attempted suicide); felony violations under ~~609.223 or 609.2231 (assault in the third or fourth degree);~~ 609.713 (terroristic threats); ~~609.235 (use of drugs to injure or to facilitate crime);~~ 609.24 (simple robbery); 609.255 (false imprisonment); ~~609.562 (arson in the second degree);~~ 609.71 (riot); 609.498, subdivision 1 or 1b (aggravated first degree or first degree tampering with a witness); ~~burglary in the first or second degree under 609.582, subdivision 2 (burglary in the second degree);~~ 609.66, subdivision 1, 1a, 1b, 1c, 1d, 1f, 1g, or 1h (dangerous weapon); 609.665 (spring guns); 609.67 (machine guns and short-barreled shotguns); 609.749, subdivision 2 (gross misdemeanor harassment; stalking); ~~152.021 or 152.022 (controlled substance crime in the first or second degree); 152.023, subdivision 1, clause (3) or (4) or subdivision 2, clause (4) (controlled substance crime in the third degree); 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree);~~ 609.224, subdivision 2, paragraph (c) (fifth degree assault by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report); 609.265 (abduction); ~~609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree); 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree); 609.268 (injury or death of an unborn child in the commission of a crime);~~ 617.293 (disseminating or displaying harmful material to minors); a felony-level conviction involving alcohol or drug use, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts); a gross misdemeanor offense under 609.378 (neglect or endangerment of a child); a gross misdemeanor offense under 609.377 (malicious punishment of a child); or 609.72, subdivision 3 (disorderly conduct against a vulnerable adult).

(b) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a) as each of these offenses is defined in Minnesota Statutes.

(c) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

(d) Unless the disqualification under paragraph (a) relates to a license to provide family child care, child foster care, adult day services, or adult foster care in the license holder's residence, the commissioner is not prohibited from setting aside a disqualification for disqualification listed in paragraph (a) according to section 245C.22, for an individual who, in addition to criteria under section 245A.22, demonstrates to the commissioner that:

(1) the person was disqualified because of conduct prohibited by section 152.021, 152.022, 152.023, or 152.024;

(2) the individual has successfully completed chemical dependency treatment from a program licensed by the Department of Human Services or operated by the Department of Corrections;

(3) at least five years have passed since completion of the treatment program; and

(4) the individual has not engaged in any criminal or maltreatment behavior since completing treatment.

Sec. 19. Minnesota Statutes 2004, section 245C.24, subdivision 4, is amended to read:

Subd. 4. [SEVEN-YEAR BAR TO SET ASIDE DISQUALIFICATION.] (a) Except as provided in paragraph (b), the commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home under chapter 245A if within seven years preceding the study:

(1) the individual committed an act that constitutes was determined to be responsible for maltreatment of a child under section 626.556, subdivision 10e, and:

(i) the maltreatment is a disqualification under section 245C.15, subdivision 4; and

(ii) the maltreatment resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence; or

(2) the individual was determined to be responsible for maltreatment under section 626.557 to be the perpetrator of a substantiated incident of maltreatment of a vulnerable adult that, and:

(i) the maltreatment is a disqualification under section 245C.15, subdivision 4; and

(ii) the maltreatment resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence.

(b) Unless the disqualification under paragraph (a) relates to a license to provide family child care, child foster care, adult day services, or adult foster care in the license holder's residence, the commissioner is not prohibited from setting aside a disqualification for disqualification listed in paragraph (a) according to section 245C.22, for an individual who, in addition to criteria under section 245A.22, demonstrates to the commissioner that:

(1) the person was disqualified because of conduct prohibited by section 152.021, 152.022, 152.023, or 152.024;

(2) the individual has successfully completed chemical dependency treatment from a program licensed by the Department of Human Services or operated by the Department of Corrections;

(3) at least five years have passed since completion of the treatment program; and

(4) the individual has not engaged in any criminal or maltreatment behavior since completing treatment.

Sec. 20. Minnesota Statutes 2004, section 245C.24, is amended by adding a subdivision to read:

Subd. 6. [NOTIFICATION OF DISQUALIFICATIONS.] The commissioner shall expand notification of disqualifications to entities and inform the public about disqualifications as provided under this chapter and section 13.46.

Sec. 21. Minnesota Statutes 2004, section 245C.30, subdivision 1, is amended to read:

Subdivision 1. [LICENSE HOLDER VARIANCE.] (a) Except for any disqualification under section 245C.15, subdivision 1, when the commissioner has not set aside a background study subject's disqualification, and there are conditions under which the disqualified individual may provide direct contact services or have access to people receiving services that minimize the risk of harm to people receiving services, the commissioner may grant a time-limited variance to a license holder.

(b) The variance shall state the reason for the disqualification, the services that may be provided by the disqualified individual, and the conditions with which the license holder or applicant must comply for the variance to remain in effect.

(c) Except for programs licensed to provide family child care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home, the variance must be requested by the license holder.

Sec. 22. Minnesota Statutes 2004, section 245C.30, subdivision 2, is amended to read:

Subd. 2. [DISCLOSURE OF REASON FOR DISQUALIFICATION.] ~~(a)~~ The commissioner may not grant a variance for a disqualified individual unless the ~~applicant or license holder requests the variance and the~~ disqualified individual provides written consent for the commissioner to disclose to the applicant or license holder the reason for the disqualification; and the commissioner has documentation showing that the disqualified individual has been informed that if the variance is granted, the individual's identity, reason for disqualification, and terms of the variance will become public data.

~~(b) This subdivision does not apply to programs licensed to provide family child care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home.~~

Sec. 23. Minnesota Statutes 2004, section 626.557, subdivision 12b, is amended to read:

Subd. 12b. [DATA MANAGEMENT.] (a) [COUNTY DATA.] In performing any of the duties of this section as a lead agency, the county social service agency shall maintain appropriate records. Data collected by the county social service agency under this section are welfare data under section 13.46. Notwithstanding section 13.46, subdivision 1, paragraph (a), data under this paragraph that are inactive investigative data on an individual who is a vendor of services are private data on individuals, as defined in section 13.02. The identity of the reporter may only be disclosed as provided in paragraph (c).

Data maintained by the common entry point are confidential data on individuals or protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163, the common entry point shall destroy data three calendar years after date of receipt.

(b) [LEAD AGENCY DATA.] The commissioners of health and human services shall prepare an investigation memorandum for each report alleging maltreatment investigated under this section. During an investigation by the commissioner of health or the commissioner of human services, data collected under this section are confidential data on individuals or protected nonpublic data as defined in section 13.02. Upon completion of the investigation, the data are classified as provided in clauses (1) to (3) and paragraph (c).

(1) The investigation memorandum must contain the following data, which are public:

(i) the name of the facility investigated;

- (ii) a statement of the nature of the alleged maltreatment;
- (iii) pertinent information obtained from medical or other records reviewed;
- (iv) the identity of the investigator;
- (v) a summary of the investigation's findings;
- (vi) statement of whether the report was found to be substantiated, inconclusive, false, or that no determination will be made;
- (vii) a statement of any action taken by the facility;
- (viii) a statement of any action taken by the lead agency; and
- (ix) when a lead agency's determination has substantiated maltreatment, a statement of whether an individual, individuals, or a facility were responsible for the substantiated maltreatment, if known.

The investigation memorandum must be written in a manner which protects the identity of the reporter and of the vulnerable adult and may not contain the names or, to the extent possible, data on individuals or private data listed in clause (2).

- (2) Data on individuals collected and maintained in the investigation memorandum are private data, including:
 - (i) the name of the vulnerable adult;
 - (ii) the identity of the individual alleged to be the perpetrator;
 - (iii) the identity of the individual substantiated as the perpetrator; and
 - (iv) the identity of all individuals interviewed as part of the investigation.
- (3) Other data on individuals maintained as part of an investigation under this section are private data on individuals upon completion of the investigation.

(c) [IDENTITY OF REPORTER.] The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by a court that the report was false and there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure, except that where the identity of the reporter is relevant to a criminal prosecution, the district court shall do an in-camera review prior to determining whether to order disclosure of the identity of the reporter.

(d) [DESTRUCTION OF DATA.] Notwithstanding section 138.163, data maintained under this section by the commissioners of health and human services must be destroyed under the following schedule:

- (1) data from reports determined to be false, two years after the finding was made;
- (2) data from reports determined to be inconclusive, four years after the finding was made;
- (3) data from reports determined to be substantiated, ~~seven~~ at least ten years after the finding was made; and

(4) data from reports which were not investigated by a lead agency and for which there is no final disposition, two years from the date of the report.

(e) [SUMMARY OF REPORTS.] The commissioners of health and human services shall each annually report to the legislature and the governor on the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigation under this section, and the resolution of those investigations. The report shall identify:

- (1) whether and where backlogs of cases result in a failure to conform with statutory time frames;
- (2) where adequate coverage requires additional appropriations and staffing; and
- (3) any other trends that affect the safety of vulnerable adults.

(f) [RECORD RETENTION POLICY.] Each lead agency must have a record retention policy.

(g) [EXCHANGE OF INFORMATION.] Lead agencies, prosecuting authorities, and law enforcement agencies may exchange not public data, as defined in section 13.02, if the agency or authority requesting the data determines that the data are pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation under this section. Data collected under this section must be made available to prosecuting authorities and law enforcement officials, local county agencies, and licensing agencies investigating the alleged maltreatment under this section. The lead agency shall exchange not public data with the vulnerable adult maltreatment review panel established in section 256.021 if the data are pertinent and necessary for a review requested under that section. Upon completion of the review, not public data received by the review panel must be returned to the lead agency.

(h) [COMPLETION TIME.] Each lead agency shall keep records of the length of time it takes to complete its investigations.

(i) [NOTIFICATION OF OTHER AFFECTED PARTIES.] A lead agency may notify other affected parties and their authorized representative if the agency has reason to believe maltreatment has occurred and determines the information will safeguard the well-being of the affected parties or dispel widespread rumor or unrest in the affected facility.

(j) [FEDERAL REQUIREMENTS.] Under any notification provision of this section, where federal law specifically prohibits the disclosure of patient identifying information, a lead agency may not provide any notice unless the vulnerable adult has consented to disclosure in a manner which conforms to federal requirements.

ARTICLE 7

SEX OFFENDER MISCELLANEOUS, TECHNICAL, AND CONFORMING PROVISIONS

Section 1. Minnesota Statutes 2004, section 13.871, subdivision 5, is amended to read:

Subd. 5. [CRIME VICTIMS.] (a) [CRIME VICTIM NOTICE OF RELEASE.] Data on crime victims who request notice of an offender's release are classified under section 611A.06.

(b) [SEX OFFENDER HIV TESTS.] Results of HIV tests of sex offenders under section 611A.19, subdivision 2, are classified under that section.

(c) [BATTERED WOMEN.] Data on battered women maintained by grantees for emergency shelter and support services for battered women are governed by section 611A.32, subdivision 5.

(d) [VICTIMS OF DOMESTIC ABUSE.] Data on battered women and victims of domestic abuse maintained by grantees and recipients of per diem payments for emergency shelter for battered women and support services for battered women and victims of domestic abuse are governed by sections 611A.32, subdivision 5, and 611A.371, subdivision 3.

(e) [PERSONAL HISTORY; INTERNAL AUDITING.] Certain personal history and internal auditing data is classified by section 611A.46.

(f) [CRIME VICTIM CLAIMS FOR REPARATIONS.] Claims and supporting documents filed by crime victims seeking reparations are classified under section 611A.57, subdivision 6.

(g) [CRIME VICTIM OVERSIGHT ACT.] Data maintained by the commissioner of public safety under the Crime Victim Oversight Act are classified under section 611A.74, subdivision 2.

(h) [VICTIM IDENTITY DATA.] Data relating to the identity of the victims of certain criminal sexual conduct is governed by section 609.2471.

Sec. 2. Minnesota Statutes 2004, section 144.335, is amended by adding a subdivision to read:

Subd. 3d. [CRIMINAL HISTORY INFORMATION; CLASSIFICATION.] A provider that receives criminal history information about a patient from the Department of Corrections or the Department of Human Services must include that information in the patient's health record. The criminal history information may only be used and disclosed as provided in this section and applicable federal law.

Sec. 3. Minnesota Statutes 2004, section 241.67, subdivision 3, is amended to read:

Subd. 3. [PROGRAMS FOR ADULT OFFENDERS COMMITTED TO THE COMMISSIONER.] (a) The commissioner shall provide for a range of sex offender programs, including intensive sex offender programs, within the state adult correctional facility system. Participation in any program is subject to the rules and regulations of the Department of Corrections. Nothing in this section requires the commissioner to accept or retain an offender in a program if the offender is determined by prison professionals as unamenable to programming within the prison system or if the offender refuses or fails to comply with the program's requirements. Nothing in this section creates a right of an offender to treatment.

(b) The commissioner shall develop a plan to provide for residential and outpatient sex offender programming and aftercare when required for conditional release under section 609.108 or as a condition of supervised release. The plan may include co-payments from the offender, third-party payers, local agencies, or other funding sources as they are identified.

Sec. 4. Minnesota Statutes 2004, section 242.195, subdivision 1, is amended to read:

Subdivision 1. [SEX OFFENDER PROGRAMS.] (a) The commissioner of corrections shall develop a plan to provide for a range of sex offender programs, including intensive sex offender programs, for juveniles within state juvenile correctional facilities and through purchase of service from county and private residential and outpatient juvenile sex offender programs. The plan may include co-payments from the offenders, third-party payers, local agencies, and other funding sources as they are identified.

(b) The commissioner shall establish and operate a residential sex offender program at one of the state juvenile correctional facilities. The program must be structured to address both the therapeutic and disciplinary needs of juvenile sex offenders. The program must afford long-term residential treatment for a range of juveniles who have committed sex offenses and have failed other treatment programs or are not likely to benefit from an outpatient or a community-based residential treatment program.

Sec. 5. Minnesota Statutes 2004, section 243.166, subdivision 1, is amended to read:

Subdivision 1. [REGISTRATION REQUIRED.] (a) A person shall register under this section if:

(1) the person was charged with or petitioned for a felony violation of or attempt to violate any of the following, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances:

(i) murder under section 609.185, clause (2); or

(ii) kidnapping under section 609.25; or

(iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; ~~or~~ 609.3451, subdivision 3; or 609.3453; 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~~ 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, or to work or attend school; and

(3) ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of or adjudicated delinquent for the offense that triggers registration, unless the person is subject to lifetime registration, in which case the person must register for life regardless of when the person was released from confinement, convicted, or adjudicated delinquent.

For purposes of this paragraph:

(i) "school" includes any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education, that the person is enrolled in on a full-time or part-time basis; and

(ii) "work" includes employment that is full time or part time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(c) A person also shall register under this section if the person was committed pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States, regardless of whether the person was convicted of any offense.

(d) A person also shall register under this section if:

(1) the person was charged with or petitioned for a felony violation or attempt to violate any of the offenses listed in paragraph (a), clause (1), or a similar law of another state or the United States, or the person was charged with or petitioned for a violation of any of the offenses listed in paragraph (a), clause (2), or a similar law of another state or the United States;

(2) the person was found not guilty by reason of mental illness or mental deficiency after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in states with a guilty but mentally ill verdict; and

(3) the person was committed pursuant to a court commitment order under section 253B.18 or a similar law of another state or the United States.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2004, 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 shall order that all level III sex offenders be placed on intensive supervised release for the entire supervised release, conditional release, or parole term. As a condition of release, level III sex offenders must submit to polygraph tests at the commissioner's request. The scope of the polygraph tests is limited to an offender's conditions of release while on intensive supervised release. 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, 2005, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2004, 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, 2005, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2004, section 253B.18, subdivision 5, is amended to read:

Subd. 5. [PETITION; NOTICE OF HEARING; ATTENDANCE; ORDER.] (a) A petition for an order of transfer, discharge, provisional discharge, or revocation of provisional discharge shall be filed with the commissioner and may be filed by the patient or by the head of the treatment facility. A patient may not petition the special review board for six months following commitment under subdivision 3 or following the final disposition of any previous petition and subsequent appeal by the patient. The medical director may petition at any time.

(b) Fourteen days prior to the hearing, the committing court, the county attorney of the county of commitment, the designated agency, interested person, the petitioner, and the petitioner's counsel shall be given written notice by the commissioner of the time and place of the hearing before the special review board. Only those entitled to statutory notice of the hearing or those administratively required to attend may be present at the hearing. The patient may designate interested persons to receive notice by providing the names and addresses to the commissioner at least 21 days before the hearing. The board shall provide the commissioner with written findings of fact and recommendations within 21 days of the hearing. The commissioner shall issue an order no later than 14 days after receiving the recommendation of the special review board. A copy of the order shall be sent by certified mail to every person entitled to statutory notice of the hearing within five days after it is signed. No order by the commissioner shall be effective sooner than 30 days after the order is signed, unless the county attorney, the patient, and the commissioner agree that it may become effective sooner.

(c) The special review board shall hold a hearing on each petition prior to making its recommendation to the commissioner. The special review board proceedings are not contested cases as defined in chapter 14. Any person or agency receiving notice that submits documentary evidence to the special review board prior to the hearing shall also provide copies to the patient, the patient's counsel, the county attorney of the county of commitment, the case manager, and the commissioner.

(d) Prior to the final decision by the commissioner, the special review board may be reconvened to consider events or circumstances that occurred subsequent to the hearing.

(e) In making their recommendations and order, the special review board and commissioner must consider any statements received from victims under subdivision 5a.

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

Sec. 9. Minnesota Statutes 2004, section 253B.18, is amended by adding a subdivision to read:

Subd. 5a. [VICTIM NOTIFICATION OF PETITION AND RELEASE; RIGHT TO SUBMIT STATEMENT.]

(a) As used in this subdivision:

(1) "crime" has the meaning given to "violent crime" in section 609.1095, and includes criminal sexual conduct in the fifth degree and offenses within the definition of "crime against the person" in section 253B.02, subdivision 4a, and also includes offenses listed in section 253B.02, subdivision 7a, paragraph (b), regardless of whether they are sexually motivated;

(2) "victim" means a person who has incurred loss or harm as a result of a crime the behavior for which forms the basis for a commitment under this section or section 253B.185; and

(3) "convicted" and "conviction" have the meanings given in section 609.02, subdivision 5, and also include juvenile court adjudications; findings under Minnesota Rules of Criminal Procedure, Rule 20.02, that the elements of a crime have been proved; and findings in commitment cases under this section or section 253B.185 that an act or acts constituting a crime occurred.

(b) A county attorney who files a petition to commit a person under this section or section 253B.185 shall make a reasonable effort to provide prompt notice of filing the petition to any victim of a crime for which the person was convicted. In addition, the county attorney shall make a reasonable effort to promptly notify the victim of the resolution of the petition.

(c) Before provisionally discharging, discharging, granting pass-eligible status, approving a pass plan, or otherwise permanently or temporarily releasing a person committed under this section or section 253B.185 from a treatment facility, the head of the treatment facility shall make a reasonable effort to notify any victim of a crime for which the person was convicted that the person may be discharged or released and that the victim has a right to submit a written statement regarding decisions of the medical director, special review board, or commissioner with respect to the person. To the extent possible, the notice must be provided at least 14 days before any special review board hearing or before a determination on a pass plan.

(d) This subdivision applies only to victims who have requested notification by contacting, in writing, the county attorney in the county where the conviction for the crime occurred. A county attorney who receives a request for notification under this paragraph shall promptly forward the request to the commissioner of human services.

(e) The rights under this subdivision are in addition to rights available to a victim under chapter 611A. This provision does not give a victim all the rights of a "notified person" or a person "entitled to statutory notice" under subdivision 4a, 4b, or 5.

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

Sec. 10. Minnesota Statutes 2004, section 609.108, subdivision 6, is amended to read:

Subd. 6. [CONDITIONAL RELEASE.] At the time of sentencing under subdivision 1, the court shall provide that after the offender has completed the sentence imposed, less any good time earned by an offender whose crime was committed before August 1, 1993, the commissioner of corrections shall place the offender on conditional release for the remainder of the statutory maximum period, or for ten years, whichever is longer.

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. For all level III sex offenders, the commissioner shall require as a condition of release that offenders submit to polygraph tests at the request of the commissioner. The scope of the polygraph tests is limited to an offender's conditions of release while on conditional release. Before the offender is released, the commissioner shall notify the sentencing court, the prosecutor in the jurisdiction where the offender was sentenced, and the victim of the offender's crime, where available, of the terms of the offender's conditional release. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve all or a part of 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 granted 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.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2004, section 609.108, subdivision 7, is amended to read:

Subd. 7. [COMMISSIONER OF CORRECTIONS.] The commissioner shall develop a plan to pay the cost of treatment of a person released under subdivision 6. The plan may include co-payments from offenders, third-party payers, local agencies, or other funding sources as they are identified. This section does not require the commissioner to accept or retain an offender in a treatment program.

Sec. 12. Minnesota Statutes 2004, section 609.109, subdivision 5, is amended to read:

Subd. 5. [PREVIOUS SEX OFFENSE CONVICTIONS.] For the purposes of this section, a conviction is considered a previous sex offense conviction if the person was convicted of a sex offense before the commission of the present offense of conviction. A person has two previous sex offense convictions only if the person was convicted and sentenced for a sex offense committed after the person was earlier convicted and sentenced for a sex offense, both convictions preceded the commission of the present offense of conviction, and 15 years have not elapsed since the person was discharged from the sentence imposed for the second conviction. A "sex offense" is a violation of sections 609.342 to ~~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, 2005, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2004, 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, 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, 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 sex offense conviction as defined in subdivision 5, 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. For all level III sex offenders, the commissioner shall require as a condition of release that offenders submit to polygraph tests at the request of the commissioner. The scope of the polygraph tests is limited to an offender's conditions of release while on conditional release. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve the remaining portion of the conditional release term in prison. 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 co-payments from offenders, third-party payers, local agencies, and other funding sources as they 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, 2005, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2004, 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, 2005, and applies to crimes committed on or after that date.

Sec. 15. Minnesota Statutes 2004, 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, 2005, and applies to crimes committed on or after that date.

Sec. 16. Minnesota Statutes 2004, section 609.1351, is amended to read:

609.1351 [PETITION FOR CIVIL COMMITMENT.]

When a court sentences a person under section 609.108, 609.342, 609.343, 609.344, ~~or~~ 609.345, or 609.3453, the court shall make a preliminary determination whether in the court's opinion a petition under section 253B.185 may be appropriate and include the determination as part of the sentencing order. If the court determines that a petition may be appropriate, the court shall forward its preliminary determination along with supporting documentation to the county attorney.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 17. Minnesota Statutes 2004, 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, 2005, and applies to crimes committed on or after that date.

Sec. 18. Minnesota Statutes 2004, 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, 2005, and applies to crimes committed on or after that date.

Sec. 19. Minnesota Statutes 2004, 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, 2005, and applies to crimes committed on or after that date.

Sec. 20. Minnesota Statutes 2004, 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, 2005, and applies to crimes committed on or after that date.

Sec. 21. Minnesota Statutes 2004, section 609.485, subdivision 2, is amended to read:

Subd. 2. [ACTS PROHIBITED.] Whoever does any of the following may be sentenced as provided in subdivision 4:

(1) escapes while held pursuant to a lawful arrest, in lawful custody on a charge or conviction of a crime, or while held in lawful custody on an allegation or adjudication of a delinquent act;

(2) transfers to another, who is in lawful custody on a charge or conviction of a crime, or introduces into an institution in which the latter is confined, anything usable in making such escape, with intent that it shall be so used;

(3) having another in lawful custody on a charge or conviction of a crime, intentionally permits the other to escape;

(4) escapes while in a facility designated under section 253B.18, subdivision 1, pursuant to a court commitment order after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a. Notwithstanding section 609.17, no person may be charged with or convicted of an attempt to commit a violation of this clause; ~~or~~

(5) escapes while in a facility designated under section 253B.18, subdivision 1, pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10; or

(6) escapes while on pass status or provisional discharge according to section 253B.18.

For purposes of clause (1), "escapes while held in lawful custody" includes absconding from electronic monitoring or absconding after removing an electronic monitoring device from the person's body.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 22. Minnesota Statutes 2004, section 609.485, subdivision 4, is amended to read:

Subd. 4. [SENTENCE.] (a) Except as otherwise provided in subdivision 3a, whoever violates this section may be sentenced as follows:

(1) if the person who escapes is in lawful custody for a felony, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both;

(2) if the person who escapes is in lawful custody after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a, or pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, to imprisonment for not more than one year and one day or to payment of a fine of not more than \$3,000, or both; ~~or~~

(3) if the person who escapes is in lawful custody for a gross misdemeanor or misdemeanor, or if the person who escapes is in lawful custody on an allegation or adjudication of a delinquent act, to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both; or

(4) if the person who escapes is under civil commitment under sections 253B.18 and 253B.185, to imprisonment for not more than one year and one day or to payment of a fine of not more than \$3,000, or both.

(b) If the escape was a violation of subdivision 2, clause (1), (2), or (3), and was effected by violence or threat of violence against a person, the sentence may be increased to not more than twice those permitted in paragraph (a), clauses (1) and (3).

(c) Unless a concurrent term is specified by the court, a sentence under this section shall be consecutive to any sentence previously imposed or which may be imposed for any crime or offense for which the person was in custody when the person escaped.

(d) Notwithstanding paragraph (c), if a person who was committed to the commissioner of corrections under section 260B.198 escapes from the custody of the commissioner while 18 years of age, the person's sentence under this section shall commence on the person's 19th birthday or on the person's date of discharge by the commissioner of corrections, whichever occurs first. However, if the person described in this clause is convicted under this section after becoming 19 years old and after having been discharged by the commissioner, the person's sentence shall commence upon imposition by the sentencing court.

(e) Notwithstanding paragraph (c), if a person who is in lawful custody on an allegation or adjudication of a delinquent act while 18 years of age escapes from a local juvenile correctional facility, the person's sentence under this section begins on the person's 19th birthday or on the person's date of discharge from the jurisdiction of the juvenile court, whichever occurs first. However, if the person described in this paragraph is convicted after becoming 19 years old and after discharge from the jurisdiction of the juvenile court, the person's sentence begins upon imposition by the sentencing court.

(f) Notwithstanding paragraph (a), any person who escapes or absconds from electronic monitoring or removes an electric monitoring device from the person's body is guilty of a crime and shall be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than \$3,000, or both. A person in lawful custody for a violation of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.21, 609.221, 609.222, 609.223, 609.2231, 609.342, 609.343, 609.344, 609.345, or 609.3451 who escapes or absconds from electronic monitoring or removes an electronic monitoring device while under sentence may be sentenced to imprisonment for not more than five years or to a payment of a fine of not more than \$10,000, or both.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 23. Minnesota Statutes 2004, section 609.531, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purpose of sections 609.531 to 609.5318, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a dangerous weapon as defined under section 609.02, subdivision 6, that the actor used or had in possession in furtherance of a crime.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the Bureau of Criminal Apprehension, the Minnesota Division of Driver and Vehicle Services, the Minnesota State Patrol, a county sheriff's department, the Suburban Hennepin Regional Park District park rangers, the Department of Natural Resources Division of Enforcement, the University of Minnesota Police Department, or a city or airport police department.

(f) "Designated offense" includes:

(1) for weapons used: any violation of this chapter, chapter 152, or chapter 624;

(2) for driver's license or identification card transactions: any violation of section 171.22; and

(3) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.352; 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.66, subdivision 1e; 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; 609.893; 609.895; 617.246; 617.247; or a gross misdemeanor or felony violation of section 609.891 or 624.7181; or any violation of section 609.324.

(g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 24. Minnesota Statutes 2004, section 609.5312, is amended by adding a subdivision to read:

Subd. 1a. [COMPUTERS AND RELATED PROPERTY SUBJECT TO FORFEITURE.] (a) As used in this subdivision, "property" has the meaning given in section 609.87, subdivision 6.

(b) When a computer or a component part of a computer is used or intended for use to commit or facilitate the commission of a designated offense, the computer and all software, data, and other property contained in the computer are subject to forfeiture unless prohibited by the Privacy Protection Act, United States Code, title 42, sections 2000aa to 2000aa-12, or other state or federal law.

(c) Regardless of whether a forfeiture action is initiated following the lawful seizure of a computer and related property, if the appropriate agency returns hardware, software, data, or other property to the owner, the agency may charge the owner for the cost of separating contraband from the computer or other property returned, including

salary and contract costs. The agency may not charge these costs to an owner of a computer or related property who was not privy to the act or omission upon which the seizure was based, or who did not have knowledge of or consent to the act or omission, if the owner:

- (1) requests from the agency copies of specified legitimate data files and provides sufficient storage media; or
- (2) requests the return of a computer or other property less data storage devices on which contraband resides.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 25. Minnesota Statutes 2004, section 617.23, subdivision 2, is amended to read:

Subd. 2. [GROSS MISDEMEANOR.] A person who ~~commits any of the following acts is guilty of a gross misdemeanor:~~

- ~~(1) the person violates subdivision 1 in the presence of a minor under the age of 16; or~~
- ~~(2) the person violates subdivision 1 after having been previously convicted of violating subdivision 1, sections 609.342 to 609.3451, or a statute from another state in conformity with any of those sections, is guilty of a gross misdemeanor.~~

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 26. Minnesota Statutes 2004, section 617.23, subdivision 3, is amended to read:

Subd. 3. [FELONY.] A person 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, if:

~~(1) the person violates subdivision 2, clause (1), after having been previously convicted of or adjudicated delinquent for violating subdivision 2, clause (1); section 609.3451, subdivision 1, clause (2); or a statute from another state in conformity with subdivision 2, clause (1), or section 609.3451, subdivision 1, clause (2); or~~

~~(2) the person commits a violation of subdivision 1, clause (1), in the presence of another person while intentionally confining that person or otherwise intentionally restricting that person's freedom to move; or~~

(2) the person violates subdivision 1 in the presence of an unaccompanied minor under the age of 16.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 27. Minnesota Statutes 2004, 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, 2005, and applies to crimes committed on or after that date.

Sec. 28. [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 Minnesota Statutes, 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 8

PUBLIC SAFETY POLICY

Section 1. Minnesota Statutes 2004, section 13.87, subdivision 3, is amended to read:

Subd. 3. [INTERNET ACCESS.] (a) The Bureau of Criminal Apprehension shall establish and maintain an Internet Web site containing public criminal history data by July 1, 2004.

(b) Notwithstanding section 13.03, subdivision 3, paragraph (a), the bureau may charge a fee for Internet access to public criminal history data ~~provided through August 1, 2005. The fee may not exceed of \$5 per inquiry or the amount needed to recoup the actual cost of implementing and providing Internet access, whichever is less. Fees collected must be deposited in the general fund as a nondedicated receipt name searched. The superintendent of the Bureau of Criminal Apprehension shall collect the fee and the receipts shall be directed to the noncriminal background account in the special revenue fund.~~

(c) The Web site must include a notice to the subject of data of the right to contest the accuracy or completeness of data, as provided under section 13.04, subdivision 4, and provide a telephone number and address that the subject may contact for further information on this process.

(d) The Web site must include the effective date of data that is posted.

(e) The Web site must include a description of the types of criminal history data not available on the site, including arrest data, juvenile data, criminal history data from other states, federal data, data on convictions where 15 years have elapsed since discharge of the sentence, and other data that are not accessible to the public.

(f) A person who intends to access the Web site to obtain information regarding an applicant for employment, housing, or credit must disclose to the applicant the intention to do so. The Web site must include a notice that a person obtaining such access must notify the applicant when a background check using this Web site has been conducted.

(g) This subdivision does not create a civil cause of action on behalf of the data subject.

~~(h) This subdivision expires July 31, 2007.~~

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

Sec. 2. Minnesota Statutes 2004, section 116L.30, is amended to read:

116L.30 [GRANTS-IN-AID TO YOUTH INTERVENTION PROGRAMS.]

Subdivision 1. [GRANTS.] The commissioner may make grants to nonprofit agencies administering youth intervention programs in communities where the programs are or may be established.

"Youth intervention program" means a nonresidential community-based program providing advocacy, education, counseling, mentoring, and referral services to youth and their families experiencing personal, familial, school, legal, or chemical problems with the goal of resolving the present problems and preventing the occurrence of the problems in the future. The intent of the youth intervention program is to provide an ongoing stable funding source to community-based early intervention programs for youth. Program design may be different for the grantees depending on youth service needs of the communities being served.

Subd. 2. [APPLICATIONS.] Applications for a grant-in-aid shall be made by the administering agency to the commissioner.

The grant-in-aid is contingent upon the agency having obtained from the community in which the youth intervention program is established local matching money two times the amount of the grant that is sought. The matching requirement is intended to leverage the investment of state and community dollars in supporting the efforts of the grantees to provide early intervention services to youth and their families.

The commissioner shall provide the application form, procedures for making application form, criteria for review of the application, and kinds of contributions in addition to cash that qualify as local matching money. No grant to any agency may exceed \$50,000.

Subd. 3. [GRANT ALLOCATION FORMULA.] Up to one percent of the appropriations to the grants-in-aid to the youth intervention program may be used for a grant to the Minnesota Youth Intervention Programs Association for expenses in providing collaborative training and technical assistance to community-based grantees of the program.

Subd. 4. [ADMINISTRATIVE COSTS.] The commissioner may use up to two percent of the biennial appropriation for grants-in-aid to the youth intervention program to pay costs incurred by the department in administering the youth intervention program.

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

Sec. 3. Minnesota Statutes 2004, section 169.71, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITIONS GENERALLY; EXCEPTIONS.] ~~No~~ (a) A person shall not drive or operate any motor vehicle with:

(1) a windshield cracked or discolored to an extent to limit or obstruct proper vision, ~~or, except for law enforcement vehicles, with:~~

(2) any objects suspended between the driver and the windshield, other than sun visors and ~~rear vision~~ rearview mirrors; or ~~with~~

(3) any sign, poster, or other nontransparent material upon the front windshield, sidewings, or side or rear windows of ~~such the~~ vehicle, other than a certificate or other paper required to be so displayed by law; or authorized by the state director of the Division of Emergency Management; or the commissioner of public safety.

(b) Paragraph (a), clauses (2) and (3), do not apply to law enforcement vehicles.

(c) Paragraph (a), clause (2), does not apply to authorized emergency vehicles.

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

Sec. 4. Minnesota Statutes 2004, section 214.04, subdivision 1, is amended to read:

Subdivision 1. [SERVICES PROVIDED.] (a) The commissioner of administration with respect to the Board of Electricity; the commissioner of education with respect to the Board of Teaching; the commissioner of public safety with respect to the Board of Private Detective and Protective Agent Services; ~~and; the panel established pursuant to section 299A.465, subdivision 7;~~ the Board of Peace Officer Standards and Training; and the commissioner of revenue with respect to the Board of Assessors, shall provide suitable offices and other space, joint conference and hearing facilities, examination rooms, and the following administrative support services: purchasing service, accounting service, advisory personnel services, consulting services relating to evaluation procedures and techniques, data processing, duplicating, mailing services, automated printing of license renewals, and such other similar services of a housekeeping nature as are generally available to other agencies of state government. Investigative services shall be provided the boards by employees of the Office of Attorney General. The commissioner of health with respect to the health-related licensing boards shall provide mailing and office supply services and may provide other facilities and services listed in this subdivision at a central location upon request of the health-related licensing boards. The commissioner of commerce with respect to the remaining non-health-related licensing boards shall provide the above facilities and services at a central location for the remaining non-health-related licensing boards. The legal and investigative services for the boards shall be provided by employees of the attorney general assigned to the departments servicing the boards. Notwithstanding the foregoing, the attorney general shall not be precluded by this section from assigning other attorneys to service a board if necessary in order to insure competent and consistent legal representation. Persons providing legal and investigative services shall to the extent practicable provide the services on a regular basis to the same board or boards.

(b) The requirements in paragraph (a) with respect to the panel established in section 299A.465, subdivision 7, expire July 1, 2008.

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

Sec. 5. Minnesota Statutes 2004, section 259.11, is amended to read:

259.11 [ORDER; FILING COPIES.]

(a) Upon meeting the requirements of section 259.10, the court shall grant the application unless: (1) it finds that there is an intent to defraud or mislead; (2) section 259.13 prohibits granting the name change; or (3) in the case of the change of a minor child's name, the court finds that such name change is not in the best interests of the child. The court shall set forth in the order the name and age of the applicant's spouse and each child of the applicant, if any, and shall state a description of the lands, if any, in which the applicant and the spouse and children, if any, claim to have an interest. The court administrator shall file such order, and record the same in the judgment book. If lands be described therein, a certified copy of the order shall be filed for record, by the applicant, with the county

recorder of each county wherein any of the same are situated. Before doing so the court administrator shall present the same to the county auditor who shall enter the change of name in the auditor's official records and note upon the instrument, over an official signature, the words "change of name recorded." Any such order shall not be filed, nor any certified copy thereof be issued, until the applicant shall have paid to the county recorder and court administrator the fee required by law. No application shall be denied on the basis of the marital status of the applicant.

(b) When a person applies for a name change, the court shall determine whether the person has ~~been convicted of a felony~~ a criminal history in this or any other state. The court may conduct a search of national records through the Federal Bureau of Investigation by submitting a set of fingerprints and the appropriate fee to the Bureau of Criminal Apprehension. ~~If so it is determined that the person has a criminal history in this or any other state,~~ the court shall, within ten days after the name change application is granted, report the name change to the Bureau of Criminal Apprehension. The person whose name is changed shall also report the change to the Bureau of Criminal Apprehension within ten days. The court granting the name change application must explain this reporting duty in its order. Any person required to report the person's name change to the Bureau of Criminal Apprehension who fails to report the name change as required under this paragraph is guilty of a gross misdemeanor.

(c) Paragraph (b) does not apply to either:

(1) a request for a name change as part of an application for a marriage license under section 517.08; or

(2) a request for a name change in conjunction with a marriage dissolution under section 518.27.

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

Sec. 6. Minnesota Statutes 2004, section 299A.465, is amended by adding a subdivision to read:

Subd. 6. [DETERMINATION OF SCOPE AND DUTIES.] (a) Whenever a peace officer or firefighter has been approved to receive a duty-related disability pension, the officer or firefighter may apply to the panel established in subdivision 7 for a determination of whether or not the officer or firefighter meets the requirements in subdivision 1, paragraph (a), clause (2). In making this decision, the panel shall determine whether or not the officer's or firefighter's occupational duties or professional responsibilities put the officer or firefighter at risk for the type of illness or injury actually sustained. A final determination by the panel is binding on the applicant and the employer, subject to any right of judicial review. Applications must be made within 90 days of receipt of approval of a duty-related pension and must be acted upon by the panel within 90 days of receipt. Applications that are not acted upon within 90 days of receipt by the panel are approved. Applications and supporting documents are private data.

(b) This subdivision expires July 1, 2008.

[EFFECTIVE DATE.] This section is effective July 1, 2005, and applies to duty-related pension approvals made on or after that date.

Sec. 7. Minnesota Statutes 2004, section 299A.465, is amended by adding a subdivision to read:

Subd. 7. [COURSE AND SCOPE OF DUTIES PANEL.] (a) A panel is established for the purpose set forth in subdivision 6, composed of the following seven members:

(1) two members recommended by the Minnesota League of Cities or a successor;

(2) one member recommended by the Association of Minnesota Counties or a successor;

- (3) two members recommended by the Minnesota Police and Peace Officers Association or a successor;
- (4) one member recommended by the Minnesota Professional Firefighters Association or a successor; and
- (5) one nonorganizational member recommended by the six organizational members.

(b) Recommendations must be forwarded to the commissioner of public safety who shall appoint the recommended members after determining that they were properly recommended. Members shall serve for two years or until their successors have been seated. No member may serve more than three consecutive terms. Vacancies on the panel must be filled by recommendation by the organization whose representative's seat has been vacated. A vacancy of the nonorganizational seat must be filled by the recommendation of the panel. Vacancies may be declared by the panel in cases of resignation or when a member misses three or more consecutive meetings, or by a nominating organization when its nominee is no longer a member in good standing of the organization, an employee of the organization, or an employee of a member in good standing of the organization. A member appointed because of a vacancy shall serve until the expiration of the vacated term.

(c) Panel members shall be reimbursed for expenses related to their duties according to section 15.059, subdivision 3, paragraph (a), but shall not receive compensation or per diem payments. The panel's proceedings and determinations constitute a quasi-judicial process and its operation must comply with chapter 14. Membership on the panel does not constitute holding a public office and members of the panel are not required to take and file oaths of office or submit a public official's bond before serving on the panel. No member of the panel may be disqualified from holding any public office or employment by reason of being appointed to the panel. Members of the panel and staff or consultants working with the panel are covered by the immunity provision in section 214.34, subdivision 2. The panel shall elect a chair and adopt rules of order. The panel shall convene no later than July 1, 2005.

(d) This subdivision expires July 1, 2008.

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

Sec. 8. Minnesota Statutes 2004, section 299C.095, subdivision 1, is amended to read:

Subdivision 1. **[ACCESS TO DATA ON JUVENILES.]** (a) The bureau shall administer and maintain the computerized juvenile history record system based on sections 260B.171 and 260C.171 and other statutes requiring the reporting of data on juveniles. The data in the system are private data as defined in section 13.02, subdivision 12, but are accessible to criminal justice agencies as defined in section 13.02, subdivision 3a, to all trial courts and appellate courts, to a person who has access to the juvenile court records as provided in sections 260B.171 and 260C.171 or under court rule, to public defenders as provided in section 611.272, and to criminal justice agencies in other states in the conduct of their official duties.

(b) Except for access authorized under paragraph (a), the bureau shall only disseminate a juvenile adjudication history record in connection with a background check required by statute or rule and performed on a licensee, license applicant, or employment applicant or performed under section 299C.62 or 624.713. If the background check is performed under section 299C.62, juvenile adjudication history disseminated under this paragraph is limited to offenses that would constitute a background check crime as defined in section 299C.61, subdivision 2. A consent for release of information from an individual who is the subject of a juvenile adjudication history is not effective and the bureau shall not release a juvenile adjudication history record and shall not release information in a manner that reveals the existence of the record. Data maintained under section 243.166, released in conjunction with a background check, regardless of the age of the offender at the time of the offense, does not constitute releasing information in a manner that reveals the existence of a juvenile adjudication history.

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

Sec. 9. Minnesota Statutes 2004, section 299C.11, is amended to read:

299C.11 [IDENTIFICATION DATA FURNISHED TO BUREAU.]

(a) Each sheriff and chief of police shall furnish the bureau, upon such form as the superintendent shall prescribe, with such finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data as may be requested or required by the superintendent of the bureau, which must be taken under the provisions of section 299C.10. In addition, sheriffs and chiefs of police shall furnish this identification data to the bureau for individuals found to have been convicted of a felony, gross misdemeanor, or targeted misdemeanor, within the ten years immediately preceding their arrest. When the bureau learns that an individual who is the subject of a background check has used, or is using, identifying information, including, but not limited to, name and date of birth, other than those listed on the criminal history, the bureau may add the new identifying information to the criminal history when supported by fingerprints.

(b) No petition under chapter 609A is required if the person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding the determination of all pending criminal actions or proceedings in favor of the arrested person, and either of the following occurred:

- (1) all charges were dismissed prior to a determination of probable cause; or
- (2) the prosecuting authority declined to file any charges and a grand jury did not return an indictment.

Where these conditions are met, the bureau or agency shall, upon demand, return to the arrested person finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data, and all copies and duplicates of them.

(c) Except as otherwise provided in paragraph (b), upon the determination of all pending criminal actions or proceedings in favor of the arrested person, and the granting of the petition of the arrested person under chapter 609A, the bureau shall seal finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data, and all copies and duplicates of them if the arrested person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding such determination.

(d) DNA samples and DNA records of the arrested person shall not be returned, sealed, or destroyed as to a charge supported by probable cause.

(e) For purposes of this section:

(1) "determination of all pending criminal actions or proceedings in favor of the arrested person" does not include:

- (i) the sealing of a criminal record pursuant to section 152.18, subdivision 1, 242.31, or chapter 609A;
 - (ii) the arrested person's successful completion of a diversion program;
 - (iii) an order of discharge under section 609.165; or
 - (iv) a pardon granted under section 638.02; and
- (2) "targeted misdemeanor" has the meaning given in section 299C.10, subdivision 1.

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

Sec. 10. Minnesota Statutes 2004, section 326.3382, is amended by adding a subdivision to read:

Subd. 5. [SPECIAL PROTECTIVE AGENT CLASSIFICATION.] The board shall establish a special protective agent license classification that provides that a person described in section 326.338, subdivision 4, clause (4), who is otherwise qualified under this section need not meet the requirements of subdivision 2, paragraph (c).

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

Sec. 11. Minnesota Statutes 2004, section 518B.01, is amended by adding a subdivision to read:

Subd. 23. [PROHIBITION AGAINST EMPLOYER RETALIATION.] (a) An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment, because the employee took reasonable time off from work to obtain or attempt to obtain relief under this chapter. Except in cases of imminent danger to the health or safety of the employee or the employee's child, an employee who is absent from the workplace shall give reasonable advance notice to the employer. Upon request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace. All information related to the employee's leave pursuant to this section shall be kept confidential by the employer.

(b) An employer who violates paragraph (a) is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall order the employer to pay back wages and offer job reinstatement to any employee discharged from employment in violation of paragraph (a).

(c) In addition to any remedies otherwise provided by law, an employee injured by a violation of paragraph (a) may bring a civil action for recovery of damages, together with costs and disbursements, including reasonable attorney fees, and may receive such injunctive and other equitable relief, including reinstatement, as determined by the court. Total damages recoverable under this subdivision shall not exceed lost wages for six weeks.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2004, section 609.748, is amended by adding a subdivision to read:

Subd. 10. [PROHIBITION AGAINST EMPLOYER RETALIATION.] (a) An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment, because the employee took reasonable time off from work to obtain or attempt to obtain relief under this section. Except in cases of imminent danger to the health or safety of the employee or the employee's child, an employee who is absent from the workplace shall give reasonable advance notice to the employer. Upon request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace. All information related to the employee's leave pursuant to this section shall be kept confidential by the employer.

(b) An employer who violates paragraph (a) is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall order the employer to pay back wages and offer job reinstatement to any employee discharged from employment in violation of paragraph (a).

(c) In addition to any remedies otherwise provided by law, an employee injured by a violation of paragraph (a) may bring a civil action for recovery of damages, together with costs and disbursements, including reasonable attorney fees, and may receive such injunctive and other equitable relief, including reinstatement, as determined by the court. Total damages recoverable under this subdivision shall not exceed lost wages for six weeks.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2004, section 611A.01, is amended to read:

611A.01 [DEFINITIONS.]

For the purposes of sections 611A.01 to 611A.06:

(a) "crime" means conduct that is prohibited by local ordinance and results in bodily harm to an individual; or conduct that is included within the definition of "crime" in section 609.02, subdivision 1, or would be included within that definition but for the fact that (i) the person engaging in the conduct lacked capacity to commit the crime under the laws of this state, or (ii) the act was alleged or found to have been committed by a juvenile;

(b) "victim" means a natural person who incurs loss or harm as a result of a crime, including a good faith effort to prevent a crime, and for purposes of sections 611A.04 and 611A.045, also includes (i) a corporation that incurs loss or harm as a result of a crime, (ii) a government entity that incurs loss or harm as a result of a crime, and (iii) any other entity authorized to receive restitution under section 609.10 or 609.125. If the victim is a natural person and is deceased, "victim" means the deceased's surviving spouse or next of kin. The term "victim" includes the family members, guardian, or custodian of a minor, incompetent, incapacitated, or deceased person. In a case where the prosecutor finds that the number of family members makes it impracticable to accord all of the family members the rights described in sections 611A.02 to 611A.0395, the prosecutor shall establish a reasonable procedure to give effect to those rights. The procedure may not limit the number of victim impact statements submitted to the court under section 611A.038. The term "victim" does not include the person charged with or alleged to have committed the crime; and

(c) "juvenile" has the same meaning as given to the term "child" in section 260B.007, subdivision 3.

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

Sec. 14. Minnesota Statutes 2004, section 611A.036, is amended to read:

611A.036 [PROHIBITION AGAINST EMPLOYER RETALIATION.]

Subdivision 1. [VICTIM OR WITNESS.] An employer or employer's agent who threatens to discharge or discipline must allow a victim or witness, or who discharges, disciplines, or causes a victim or witness to be discharged from employment or disciplined because the victim or the witness who is subpoenaed and requested by the prosecutor to attend court for the purpose of giving testimony, is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall order the employer to offer job reinstatement to any victim or witness discharged from employment in violation of this section, and to pay the victim or witness back wages as appropriate reasonable time off from work to attend criminal proceedings related to the victim's case.

Subd. 2. [VICTIM'S SPOUSE OR NEXT OF KIN.] An employer must allow a victim of a heinous crime, as well as the victim's spouse or next of kin, reasonable time off from work to attend criminal proceedings related to the victim's case.

Subd. 3. [PROHIBITED ACTS.] An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment, because the employee took reasonable time off from work to attend a criminal proceeding pursuant to this section.

Subd. 4. [VERIFICATION; CONFIDENTIALITY.] An employee who is absent from the workplace shall give reasonable advance notice to the employer, unless an emergency prevents the employee from doing so. Upon request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace. All information related to the employee's leave pursuant to this section shall be kept confidential by the employer.

Subd. 5. [PENALTY.] An employer who violates this section is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall order the employer to offer job reinstatement to any employee discharged from employment in violation of this section, and to pay the employee back wages as appropriate.

Subd. 6. [CIVIL ACTION.] In addition to any remedies otherwise provided by law, an employee injured by a violation of this section may bring a civil action for recovery for damages, together with costs and disbursements, including reasonable attorney fees, and may receive such injunctive and other equitable relief, including reinstatement, as determined by the court. Total damages recoverable under this section shall not exceed lost wages for six weeks.

Subd. 7. [DEFINITION.] As used in this section, "heinous crime" means:

(1) a violation or attempted violation of section 609.185 or 609.19;

(2) a violation of section 609.195 or 609.221; or

(3) a violation of section 609.342, 609.343, or 609.344, if the offense was committed with force or violence or if the complainant was a minor at the time of the offense.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 15. Minnesota Statutes 2004, section 611A.19, is amended to read:

611A.19 [TESTING OF SEX OFFENDER FOR HUMAN IMMUNODEFICIENCY VIRUS.]

Subdivision 1. [TESTING ON REQUEST OF VICTIM.] (a) Upon the request or with the consent of the victim, the prosecutor shall make a motion in camera and the sentencing court shall issue an order requiring an adult convicted of or a juvenile adjudicated delinquent for violating section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or any other violent crime, as defined in section 609.1095, to submit to testing to determine the presence of human immunodeficiency virus (HIV) antibody if:

(1) the crime involved sexual penetration, however slight, as defined in section 609.341, subdivision 12; or

(2) evidence exists that the broken skin or mucous membrane of the victim was exposed to or had contact with the offender's semen or blood during the commission of the crime in a manner which has been demonstrated epidemiologically to transmit the human immunodeficiency virus (HIV).

(b) When the court orders an offender to submit to testing under paragraph (a), the court shall order that the test be performed by an appropriate health professional who is trained to provide the counseling described in section 144.7414, and that no reference to the test, the motion requesting the test, the test order, or the test results may appear in the criminal record or be maintained in any record of the court or court services, except in the medical record maintained by the Department of Corrections.

(c) The order shall include the name and contact information of the victim's choice of health care provider.

Subd. 2. [DISCLOSURE OF TEST RESULTS.] The date and results of a test performed under subdivision 1 are private data as defined in section 13.02, subdivision 12, when maintained by a person subject to chapter 13, or may be released only with the subject's consent, if maintained by a person not subject to chapter 13. The results are available, on request, to the victim or, if the victim is a minor, to the victim's parent or guardian and positive test

results shall be reported to the commissioner of health. Any test results shall be given to a victim or victim's parent or guardian shall be provided by a health professional who is trained to provide the counseling described in section 144.7414 by the Department of Correction's medical director to the victim's health care provider who shall give the results to the victim or victim's parent or guardian. Data regarding administration and results of the test are not accessible to any other person for any purpose and shall not be maintained in any record of the court or court services or any other record. After the test results are given to the victim or the victim's parent or guardian, data on the test must be removed from any medical data or health records maintained under section 13.384 or 144.335 and destroyed, except for those medical records maintained by the Department of Corrections.

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

Sec. 16. Minnesota Statutes 2004, section 611A.53, subdivision 1b, is amended to read:

Subd. 1b. [MINNESOTA RESIDENTS INJURED ELSEWHERE.] (a) A Minnesota resident who is the victim of a crime committed outside the geographical boundaries of this state but who otherwise meets the requirements of this section shall have the same rights under this chapter as if the crime had occurred within this state upon a showing that the state, territory, ~~or~~ United States possession, country, or political subdivision of a country in which the crime occurred does not have a crime victim reparations law covering the resident's injury or death.

(b) Notwithstanding paragraph (a), a Minnesota resident who is the victim of a crime involving international terrorism who otherwise meets the requirements of this section has the same rights under this chapter as if the crime had occurred within this state regardless of where the crime occurred or whether the jurisdiction has a crime victims reparations law.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to those seeking reparations on or after that date.

Sec. 17. [SPECIAL REVENUE SPENDING AUTHORIZATION FROM CRIMINAL JUSTICE SPECIAL PROJECTS ACCOUNT.]

Remaining balances in the special revenue fund from spending authorized by Laws 2001, First Special Session chapter 8, article 7, section 14, subdivision 1, for which spending authorization ended June 30, 2003, under Laws 2001, First Special Session, chapter 8, article 7, section 14, subdivision 3, are transferred to the general fund.

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

Sec. 18. [TRANSFER OF RESPONSIBILITIES.]

The responsibility of the Department of Employment and Economic Development for the youth intervention program is transferred to the Department of Public Safety.

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

Sec. 19. [REVISOR INSTRUCTION.]

The revisor of statutes shall renumber Minnesota Statutes, section 116L.30 as section 299A.73. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

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

ARTICLE 9

FIRE MARSHAL

Section 1. Minnesota Statutes 2004, section 84.362, is amended to read:

84.362 [REMOVAL OF STRUCTURES.]

Until after the sale of any parcel of tax-forfeited land, whether classified as agricultural or nonagricultural hereunder, the county auditor may, with the approval of the commissioner, provide:

(1) for the sale or demolition of any structure located ~~thereon, which on the land that~~ has been determined by the county board to be ~~within the purview of section 299F.10,~~ especially liable to fire or so situated as to endanger life or limb or other buildings or property in the vicinity because of age, dilapidated condition, defective chimney, defective electric wiring, any gas connection, heating apparatus, or other defect; and

(2) for the sale of salvage material, if any, therefrom.

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

Sec. 2. Minnesota Statutes 2004, section 282.04, subdivision 2, is amended to read:

Subd. 2. [RIGHTS BEFORE SALE; IMPROVEMENTS, INSURANCE, DEMOLITION.] (a) Before the sale of a parcel of forfeited land the county auditor may, with the approval of the county board of commissioners, provide for the repair and improvement of any building or structure located upon the parcel, and may provide for maintenance of tax-forfeited lands, if it is determined by the county board that such repairs, improvements, or maintenance are necessary for the operation, use, preservation, and safety of the building or structure.

(b) If so authorized by the county board, the county auditor may insure the building or structure against loss or damage resulting from fire or windstorm, may purchase workers' compensation insurance to insure the county against claims for injury to the persons employed in the building or structure by the county, and may insure the county, its officers and employees against claims for injuries to persons or property because of the management, use, or operation of the building or structure.

(c) The county auditor may, with the approval of the county board, provide:

(1) for the demolition of the building or structure, which has been determined by the county board to be ~~within the purview of section 299F.10,~~ especially liable to fire or so situated as to endanger life or limb or other buildings or property in the vicinity because of age, dilapidated condition, defective chimney, defective electric wiring, any gas connection, heating apparatus, or other defect; and

(2) for the sale of salvaged materials from the building or structure.

(d) The county auditor, with the approval of the county board, may provide for the sale of abandoned personal property. The sale may be made by the sheriff using the procedures for the sale of abandoned property in section 345.15 or by the county auditor using the procedures for the sale of abandoned property in section 504B.271. The net proceeds from any sale of the personal property, salvaged materials, timber or other products, or leases made under this law must be deposited in the forfeited tax sale fund and must be distributed in the same manner as if the parcel had been sold.

(e) The county auditor, with the approval of the county board, may provide for the demolition of any structure on tax-forfeited lands, if in the opinion of the county board, the county auditor, and the land commissioner, if there is one, the sale of the land with the structure on it, or the continued existence of the structure by reason of age, dilapidated condition or excessive size as compared with nearby structures, will result in a material lessening of net tax capacities of real estate in the vicinity of the tax-forfeited lands, or if the demolition of the structure or structures will aid in disposing of the tax-forfeited property.

(f) Before the sale of a parcel of forfeited land located in an urban area, the county auditor may with the approval of the county board provide for the grading of the land by filling or the removal of any surplus material from it. If the physical condition of forfeited lands is such that a reasonable grading of the lands is necessary for the protection and preservation of the property of any adjoining owner, the adjoining property owner or owners may apply to the county board to have the grading done. If, after considering the application, the county board believes that the grading will enhance the value of the forfeited lands commensurate with the cost involved, it may approve it, and the work must be performed under the supervision of the county or city engineer, as the case may be, and the expense paid from the forfeited tax sale fund.

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

Sec. 3. Minnesota Statutes 2004, section 299F.011, subdivision 7, is amended to read:

Subd. 7. [FEES.] ~~A fee of \$100 shall be charged by~~ The state fire marshal shall charge a fee of \$100 for each plan review involving:

- (1) flammable liquids ~~under Minnesota Rules, part 7510.3650;~~
- (2) motor vehicle fuel-dispensing stations ~~under Minnesota Rules, part 7510.3610;~~ or
- (3) liquefied petroleum gases ~~under Minnesota Rules, part 7510.3670.~~

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

Sec. 4. Minnesota Statutes 2004, section 299F.014, is amended to read:

299F.014 [RULES FOR CERTAIN PETROLEUM STORAGE TANKS; TANK VEHICLE PARKING.]

(a) Any rule of the commissioner of public safety that adopts provisions of the ~~Uniform State~~ Fire Code relating to aboveground tanks for petroleum storage that are not used for dispensing to the public is superseded by Minnesota Rules, chapter 7151, in regard to: secondary containment, substance transfer areas, tank and piping standards, overfill protection, corrosion protection, leak detection, labeling, monitoring, maintenance, record keeping, and decommissioning. If Minnesota Rules, chapter 7151, does not address an issue relating to aboveground tanks for petroleum storage that are not used for dispensing to the public, any applicable provision of the ~~Uniform State~~ Fire Code, ~~1997 Edition, shall apply~~ applies.

(b) A motorized tank vehicle used to transport petroleum products may be parked within 500 feet of a residence if the vehicle is parked at an aboveground tank facility used for dispensing petroleum into cargo tanks for sale at another location.

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

Sec. 5. Minnesota Statutes 2004, section 299F.05, is amended to read:

299F.05 [LAW ENFORCEMENT POWERS; INFORMATION SYSTEM.]

Subdivision 1. [INVESTIGATION, ARREST, AND PROSECUTION.] ~~The state fire marshal,~~ On determining that reasonable grounds exist to believe that a violation of sections 609.561 to 609.576 has occurred, or ~~reasonable grounds to believe~~ that some other crime has occurred in connection with a fire investigated pursuant to section 299F.04, ~~the state fire marshal~~ shall so inform the ~~superintendent of the Bureau of Criminal Apprehension.~~ ~~The superintendent~~ law enforcement authority having jurisdiction, who shall cooperate with the fire marshal and local fire officials in further investigating the reported incident in a manner ~~which~~ that may include supervising and directing the subsequent criminal investigation, and taking the testimony on oath of all persons supposed to be cognizant of any facts relating to the matter under investigation. ~~If the superintendent believes~~ On determining that there is evidence sufficient to charge any person with a violation of sections 609.561 to 609.576, or of any other crime in connection with an investigated fire, the ~~superintendent~~ authority having jurisdiction shall ~~arrest or cause~~ have the person ~~to be~~ arrested and charged with the offense and furnish to the proper prosecuting attorney all relevant evidence, together with the copy of all names of witnesses and all the information obtained by the ~~superintendent~~ authority or the state fire marshal, including a copy of all pertinent and material testimony taken in the case.

Subd. 2. [INFORMATION SYSTEM.] ~~The state fire marshal and the superintendent of the Bureau of Criminal Apprehension~~ shall maintain a record of arrests, charges filed, and final disposition of all fires reported and investigated under sections 299F.04 and 299F.05. For this purpose, the Department of Public Safety shall implement a single reporting system ~~shall be implemented by the Department of Public Safety~~ utilizing the systems operated by the fire marshal ~~and the bureau~~. The system shall must be operated in such a way as to minimize duplication and discrepancies in reported figures.

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

Sec. 6. Minnesota Statutes 2004, section 299F.051, subdivision 4, is amended to read:

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

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

Sec. 7. Minnesota Statutes 2004, section 299F.06, subdivision 1, is amended to read:

Subdivision 1. [SUMMON WITNESSES; PRODUCE DOCUMENTARY EVIDENCE.] (a) In order to establish if reasonable grounds exist to believe that a violation of sections 609.561 to 609.576, has occurred, or to determine compliance with the Uniform State Fire Code or corrective orders issued ~~thereunder~~ under that code, the state fire marshal and the staff designated by the state fire marshal shall ~~have the power,~~ in any county of the state

~~to, may~~ summon and compel the attendance of witnesses to testify before the state fire marshal, chief assistant fire marshal, or deputy state fire marshals; and may require the production of any book, paper, or document deemed pertinent. ~~The state fire marshal may also designate certain individuals from fire departments in cities of the first class and cities of the second class as having the powers set forth in this paragraph. These designated individuals may only exercise their powers in a manner prescribed by the state fire marshal. "Fire department" has the meaning given in section 299F.092, subdivision 6. "Cities of the first class" and "cities of the second class" have the meanings given in section 410.01.~~

(b) A summons issued under this subdivision ~~shall~~ must be served in the same manner and ~~have~~ has the same effect as ~~subpoenas a subpoena issued from a district courts court.~~ All witnesses ~~shall~~ must receive the same compensation as is paid to witnesses in district courts, which ~~shall~~ must be paid out of the fire marshal fund upon ~~vouchers a voucher certificate~~ signed by the state fire marshal, chief assistant fire marshal, or deputy fire marshal before whom any witnesses ~~shall~~ have attended and this officer shall, at the close of the investigation ~~wherein in which~~ the witness was subpoenaed, certify to the attendance and mileage of the witness, ~~which. This certificate shall~~ must be filed in the Office of the State Fire Marshal. All investigations held by or under the direction of the state fire marshal, or any subordinate, ~~may,~~ in the state fire marshal's discretion, be private and persons other than those required to be present by the provisions of this chapter may be excluded from the place where the investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

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

Sec. 8. Minnesota Statutes 2004, section 299F.19, subdivision 1, is amended to read:

Subdivision 1. [RULES.] The commissioner of public safety shall adopt rules for the safekeeping, storage, handling, use, or other disposition of ~~flammable liquids, flammable gases,~~ blasting agents, and explosives. Loads carried in or on vehicles transporting ~~such these~~ products upon public highways within this state ~~shall be~~ are governed by the uniform vehicle size and weights provisions in sections 169.80 to 169.88 and the transportation of hazardous materials provisions of section 221.033. ~~The rules for flammable liquids and flammable gases shall be distinguished from each other and from the rules covering other materials subject to regulation under this subdivision.~~

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

Sec. 9. Minnesota Statutes 2004, section 299F.19, subdivision 2, is amended to read:

Subd. 2. [BLASTING AGENT DEFINED; EXPLOSIVES CLASSIFIED.] ~~(a)~~ For the purposes of this section, and the rules adopted pursuant ~~thereto, the term~~ to this section:

(a) "Blasting agent" means any material or mixture, consisting of a fuel and oxidizer, intended for blasting, not otherwise classified as an explosive and in which none of the ingredients is classified as an explosive; ~~providing that,~~ the finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a number 8 test blasting cap when unconfined. ~~The term~~ "Blasting agent" does not include flammable liquids or flammable gases.

(b) ~~For the purposes of this section, and the rules adopted pursuant thereto,~~ "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, igniters, display fireworks, and class 1.3G fireworks (formerly classified as Class B special fireworks). "Explosive" includes any material determined to be within the scope of United States Code, title 18, chapter 40, and also includes any material classified as an explosive other than consumer fireworks, 1.4G (Class C, Common), by the hazardous materials regulations of the United States Department of Transportation (DOTn) in Code of Federal Regulations, title 49.

(c) Explosives are divided into ~~three classes~~ four categories and are defined as follows:

~~(1) class A explosives: possessing detonating or otherwise maximum hazard, such as dynamite, nitroglycerin, picric acid, lead azide, fulminate of mercury, blasting caps, and detonating primers;~~

~~(2) class B explosives: possessing flammable hazard, such as propellant explosives (including some smokeless powders), black powder, photographic flash powders, and some special fireworks;~~

~~(3) class C explosives: includes certain types of manufactured articles which contain class A, or class B explosives, or both, as components but in restricted quantities.~~

~~The term explosive or explosives means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion; that is, with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified by the United States Department of Transportation. The term explosives includes all material which is classified as class A, class B, and class C explosives by the United States Department of Transportation, and includes, but is not limited to dynamite, black powder, pellet powder, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonate fuse, instantaneous fuse, igniter cord, igniters, and some special fireworks. Commercial explosives are those explosives which are intended to be used in commercial or industrial operation. The term explosives does not include flammable liquids or flammable gases.~~

~~(1) High explosive: explosive material, such as dynamite, that can be caused to detonate by means of a number eight test blasting cap when unconfined.~~

~~(2) Low explosive: explosive material that will burn or deflagrate when ignited, characterized by a rate of reaction that is less than the speed of sound, including, but not limited to, black powder, safety fuse, igniters, igniter cord, fuse lighters, class 1.3G fireworks (formerly classified as Class B special fireworks), and class 1.3C propellants.~~

~~(3) Mass-detonating explosives: division 1.1, 1.2, and 1.5 explosives alone or in combination, or loaded into various types of ammunition or containers, most of which can be expected to explode virtually instantaneously when a small portion is subjected to fire, severe concussion, impact, the impulse of an initiating agent, or the effect of a considerable discharge of energy from without. Materials that react in this manner represent a mass explosion hazard. Such an explosive will normally cause severe structural damage to adjacent objects. Explosive propagation could occur immediately to other items of ammunition and explosives stored sufficiently close to and not adequately protected from the initially exploding pile with a time interval short enough so that two or more quantities must be considered as one for quantity-distance purposes.~~

~~(4) United Nations/United States Department of Transportation (UN/DOTn) Class 1 explosives: the hazard class of explosives that further defines and categorizes explosives under the current system applied by DOTn for all explosive materials into further divisions as follows, with the letter G identifying the material as a pyrotechnic substance or article containing a pyrotechnic substance and similar materials:~~

~~(i) Division 1.1 explosives have a mass explosion hazard. A mass explosion is one that affects almost the entire load instantaneously.~~

~~(ii) Division 1.2 explosives have a projection hazard but not a mass explosion hazard.~~

~~(iii) Division 1.3 explosives have a fire hazard and either a minor blast hazard or a minor projection hazard or both, but not a mass explosion hazard.~~

(iv) Division 1.4 explosives pose a minor explosion hazard. The explosive effects are largely confined to the package and no projection of fragments of appreciable size or range is to be expected. An external fire must not cause virtually instantaneous explosion of almost the entire contents of the package.

(v) Division 1.5 explosives are very insensitive and are comprised of substances that have a mass explosion hazard, but are so insensitive that there is very little probability of initiation or of transition from burning to detonation under normal conditions of transport.

(vi) Division 1.6 explosives are extremely insensitive and do not have a mass explosion hazard, comprised of articles that contain only extremely insensitive detonating substances and that demonstrate a negligible probability of accidental initiation or propagation.

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

Sec. 10. Minnesota Statutes 2004, section 299F.362, subdivision 3, is amended to read:

Subd. 3. [SMOKE DETECTOR FOR ANY DWELLING.] Every dwelling unit within a dwelling ~~shall~~ must be provided with a smoke detector meeting the requirements of ~~Underwriters Laboratories, Inc., or approved by the International Conference of Building Officials~~ the State Fire Code. The detector ~~shall~~ must be mounted in accordance with the rules regarding smoke detector location ~~promulgated~~ adopted under ~~the provisions of~~ subdivision 2. When actuated, the detector ~~shall~~ must provide an alarm in the dwelling unit.

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

Sec. 11. Minnesota Statutes 2004, section 299F.362, subdivision 4, is amended to read:

Subd. 4. [SMOKE DETECTOR FOR APARTMENT, LODGING HOUSE, OR HOTEL.] Every dwelling unit within an apartment house and every guest room in a lodging house or hotel used for sleeping purposes ~~shall~~ must be provided with a smoke detector conforming to the requirements of ~~Underwriters Laboratories, Inc., or approved by the International Conference of Building Officials~~ the State Fire Code. In dwelling units, detectors ~~shall~~ must be mounted in accordance with the rules regarding smoke detector location ~~promulgated~~ adopted under ~~the provisions of~~ subdivision 2. When actuated, the detector ~~shall~~ must provide an alarm in the dwelling unit or guest room.

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

Sec. 12. Minnesota Statutes 2004, section 299F.391, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section the following definitions shall apply:

(a) ~~"Lodging house" means any building or portion thereof containing not more than five guest rooms which are used or intended to be used for sleeping purposes by guests and where rent is paid in money, goods, labor or otherwise~~ "Dormitory" means all or a portion of a building containing one or more rooms for group sleeping or closely associated rooms used for sleeping.

(b) "Hospital" has the meaning given it in section 144.50.

(c) ~~"Hotel" means any building or portion thereof containing six or more guest rooms intended or designed to be used, or which are a hotel, motel, resort, boarding house, bed and breakfast, furnished apartment house, or other building that is kept, used, rented, hired out to be occupied, or which are occupied for advertised, or held out to the public as a place where sleeping purposes by or housekeeping accommodations are supplied for pay to guests, and which is required to be licensed pursuant to chapter 157 for transient occupancy.~~

(d) "Nursing home" has the meaning given it in section 144A.01.

~~(e) "School" means any public or private school or educational institution.~~

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

Sec. 13. Minnesota Statutes 2004, section 299F.46, subdivision 1, is amended to read:

Subdivision 1. ~~[HOTEL INSPECTION OF HOTELS AND OTHER LODGING FACILITIES.]~~ (a) ~~It shall be the duty of~~ The commissioner of public safety ~~to shall inspect, or cause to be have inspected,~~ at least once every three years, every hotel ~~in this state; and, other lodging facility with five or more guest rooms, dormitories, youth or family camps, and juvenile group home buildings.~~ For that purpose, the commissioner, ~~or the commissioner's deputies or designated alternates or agents, shall have the right to may enter or have access thereto lodging facility buildings at any reasonable hour; and, when, upon such inspection, it shall be found that the hotel so inspected does not conform to or is not being operated in accordance with the provisions of sections 157.011 and 157.15 to 157.22, in so far as the same relate to fire prevention or fire protection of hotels, or the rules promulgated thereunder, or is being.~~ These buildings must be maintained or operated in such manner as to violate the Minnesota accordance with the State Fire Code promulgated pursuant to section 299F.011 or any other law of this state relating to fire prevention and fire protection of hotels, the commissioner and the deputies or designated alternates or agents shall report such a situation to the hotel inspector who shall proceed as provided for in chapter 157.

(b) ~~The word~~ words "hotel"; and "dormitory," as used in this subdivision, ~~has section, have the meaning meanings~~ given in section 299F.391.

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

Sec. 14. Minnesota Statutes 2004, section 299F.46, subdivision 3, is amended to read:

Subd. 3. ~~[INSPECTION FEES; HOTELS AND DORMITORIES.]~~ (a) For each hotel or dormitory with 35 or more rooms and required to have a fire inspection according to subdivision 1, the commissioner of public safety may charge ~~each hotel a triennial inspection fee of \$435 and a per-room charge of \$5 for one to 18 units, \$6 for 19 to 35 units, \$7 for 36 to 100 units, \$7 for 35 to 99 units and \$8 for 100 or more units, or a per bed charge of 50 cents for beds in a group sleeping area. The fee includes one follow-up inspection. The commissioner shall charge each resort a triennial inspection fee of \$435 and a per room charge of \$5 for one to ten units, \$6 for 11 to 25 units, and \$7 for 26 or more units. These fees include one follow-up inspection.~~

The commissioner shall charge a fee of \$225 for each additional follow-up inspection for ~~hotels and resorts these buildings,~~ conducted in each three-year cycle that is necessary to bring the ~~hotel or resort~~ building into compliance with the State Fire Code.

(b) For each hotel or dormitory with fewer than 35 rooms and each resort classified as class 1c property under section 273.13 and required to have a fire inspection according to subdivision 1, the commissioner of public safety may charge a triennial inspection fee of \$217.50 and a per-room charge of \$3 for a hotel or dormitory, and a per-cabin charge of \$2.50, or a per-bed charge of 50 cents per bed in group sleeping areas. These fees include one follow-up inspection. The commissioner shall charge a fee of \$112.50 for each additional follow-up inspection for these buildings, conducted in each three-year cycle that is necessary to bring the building into compliance with the State Fire Code.

(c) Nothing in this subdivision prevents the designated local government agent, as defined in subdivision 2, from continuing to charge an established inspection fee or from establishing a new inspection fee.

~~(c) Hotels and motels with fewer than 35 rooms and resorts classified as 1c under section 273.13 are exempt from the fee requirements of this subdivision.~~

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

Sec. 15. Minnesota Statutes 2004, section 325F.04, is amended to read:

325F.04 [FLAME RESISTANT TENTS AND SLEEPING BAGS.]

(a) No person, firm or corporation may sell or offer for sale or manufacture for sale in this state any tent unless all fabrics or pliable materials in the tent are durably flame resistant. No person, firm or corporation may sell or offer for sale or manufacture for sale in this state any sleeping bag unless it meets the standards of the commissioner of public safety for flame resistancy. Tents and sleeping bags shall be conspicuously labeled as being durably flame resistant.

(b) Paragraph (a) does not apply to one and two-person backpacking tents.

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

Sec. 16. Minnesota Statutes 2004, section 624.22, subdivision 1, is amended to read:

Subdivision 1. [GENERAL REQUIREMENTS; PERMIT; INVESTIGATION; FEE.] (a) Sections 624.20 to 624.25 do not prohibit the supervised display of fireworks by a statutory or home rule charter city, fair association, amusement park, or other organization, except that:

(1) a fireworks display may be conducted only when supervised by an operator certified by the state fire marshal; and

(2) a fireworks display must either be given by a municipality or fair association within its own limits, or by any other organization, whether public or private, only after a permit for the display has first been secured.

(b) An application for a permit for an outdoor fireworks display must be made in writing to the municipal clerk at least 15 days in advance of the date of the display and must list the name of an operator who is certified by the state fire marshal and will supervise the display. The application must be promptly referred to the chief of the fire department, who shall make an investigation to determine whether the operator of the display is competent and is certified by the state fire marshal, and whether the display is of such a character and is to be so located, discharged, or fired that it will not be hazardous to property or endanger any person. The fire chief shall report the results of this investigation to the clerk. If the fire chief reports that the operator is certified, that in the chief's opinion the operator is competent, and that the fireworks display as planned will conform to the safety guidelines of the state fire marshal provided for in paragraph (f), the clerk shall issue a permit for the display when the applicant pays a permit fee.

(c) When the supervised outdoor fireworks display for which a permit is sought is to be held outside the limits of an incorporated municipality, the application must be made to the county auditor, and the auditor shall perform duties imposed by sections 624.20 to 624.25 upon the clerk of the municipality. When an application is made to the auditor, the county sheriff shall perform the duties imposed on the fire chief of the municipality by sections 624.20 to 624.25.

(d) An application for an indoor fireworks display permit must be made in writing to the state fire marshal by the operator of the facility in which the display is to occur at least 15 days in advance of the date of any performance, show, or event which will include the discharge of fireworks inside a building or structure. The application must list the name of an operator who is certified by the state fire marshal and will supervise the display. The state fire

marshal shall make an investigation to determine whether the operator of the display is competent and is properly certified and whether the display is of such a character and is to be so located, discharged, or fired that it will not be hazardous to property or endanger any person. If the state fire marshal determines that the operator is certified and competent, that the indoor fireworks display as planned will conform to the safety guidelines provided for in paragraph (f), and that adequate notice will be given to inform patrons of the indoor fireworks display, the state fire marshal shall issue a permit for the display when the applicant pays an indoor fireworks fee of \$150 and reimburses the fire marshal for costs of inspection. Receipts from the indoor fireworks fee and inspection reimbursements must be deposited in the general fund as a nondedicated receipt. The state fire marshal may issue a single permit for multiple indoor fireworks displays when all of the displays are to take place at the same venue as part of a series of performances by the same performer or group of performers. A copy of the application must be promptly conveyed to the chief of the local fire department, who shall make appropriate preparations to ensure public safety in the vicinity of the display. The operator of a facility where an indoor fireworks display occurs must provide notice in a prominent place as approved by the state fire marshal to inform patrons attending a performance when indoor fireworks will be part of that performance. The state fire marshal may grant a local fire chief the authority to issue permits for indoor fireworks displays. Before issuing a permit, a local fire chief must make the determinations required in this paragraph.

(e) After a permit has been granted under either paragraph (b) or (d), sales, possession, use and distribution of fireworks for a display are lawful for that purpose only. A permit is not transferable.

(f) The state fire marshal shall adopt and disseminate to political subdivisions rules establishing guidelines on fireworks display safety that are consistent with sections 624.20 to 624.25 and the most recent ~~edition~~ edition of the ~~Minnesota Uniform State Fire Code and the National Fire Protection Association Standards~~, to insure that fireworks displays are given safely. In the guidelines, the state fire marshal shall allow political subdivisions to exempt the use of relatively safe fireworks for theatrical special effects, ceremonial occasions, and other limited purposes, as determined by the state fire marshal.

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

Sec. 17. [INSTRUCTION TO REVISOR.]

The revisor of statutes shall change the terms "Minnesota Uniform Fire Code" and "Uniform Fire Code" to "State Fire Code" where found in Minnesota Statutes, sections 16B.61, subdivision 2; 126C.10, subdivision 14; 136F.61; 245A.151; 299F.011, subdivisions 1, 4, 4b, 4c, 5, and 6; 299F.013; 299F.015, subdivision 1; 299F.06, subdivision 1; 299F.092, subdivision 6; 299F.093, subdivision 1; 299F.362, subdivision 6; 299F.391, subdivisions 2 and 3; 299M.12; 414.0325, subdivision 5; and 462.3585.

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

Sec. 18. [REPEALER.]

Minnesota Statutes 2004, sections 69.011, subdivision 5; 299F.011, subdivision 4c; 299F.015; 299F.10; 299F.11; 299F.12; 299F.13; 299F.14; 299F.15; 299F.16; 299F.17; 299F.361; 299F.451; and 299F.452, are repealed.

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

ARTICLE 10

EMERGENCY COMMUNICATIONS

Section 1. Minnesota Statutes 2004, section 237.70, subdivision 7, is amended to read:

Subd. 7. [APPLICATION, NOTICE, FINANCIAL ADMINISTRATION, COMPLAINT INVESTIGATION.] The telephone assistance plan must be administered jointly by the commission, the Department of Commerce, and the local service providers in accordance with the following guidelines:

(a) The commission and the Department of Commerce shall develop an application form that must be completed by the subscriber for the purpose of certifying eligibility for telephone assistance plan credits to the local service provider. The application must contain the applicant's Social Security number. Applicants who refuse to provide a Social Security number will be denied telephone assistance plan credits. The application form must also include a statement that the applicant household is currently eligible for one of the programs that confers eligibility for the federal Lifeline Program. The application must be signed by the applicant, certifying, under penalty of perjury, that the information provided by the applicant is true.

(b) Each local service provider shall annually mail a notice of the availability of the telephone assistance plan to each residential subscriber in a regular billing and shall mail the application form to customers when requested.

The notice must state the following:

YOU MAY BE ELIGIBLE FOR ASSISTANCE IN PAYING YOUR TELEPHONE BILL IF YOU RECEIVE BENEFITS FROM CERTAIN LOW-INCOME ASSISTANCE PROGRAMS. FOR MORE INFORMATION OR AN APPLICATION FORM PLEASE CONTACT

(c) An application may be made by the subscriber, the subscriber's spouse, or a person authorized by the subscriber to act on the subscriber's behalf. On completing the application certifying that the statutory criteria for eligibility are satisfied, the applicant must return the application to the subscriber's local service provider. On receiving a completed application from an applicant, the subscriber's local service provider shall provide telephone assistance plan credits against monthly charges in the earliest possible month following receipt of the application. The applicant must receive telephone assistance plan credits until the earliest possible month following the service provider's receipt of information that the applicant is ineligible.

If the telephone assistance plan credit is not itemized on the subscriber's monthly charges bill for local telephone service, the local service provider must notify the subscriber of the approval for the telephone assistance plan credit.

(d) The commission shall serve as the coordinator of the telephone assistance plan and be reimbursed for its administrative expenses from the surcharge revenue pool. As the coordinator, the commission shall:

- (1) establish a uniform statewide surcharge in accordance with subdivision 6;
- (2) establish a uniform statewide level of telephone assistance plan credit that each local service provider shall extend to each eligible household in its service area;
- (3) require each local service provider to account to the commission on a periodic basis for surcharge revenues collected by the provider, expenses incurred by the provider, not to include expenses of collecting surcharges, and credits extended by the provider under the telephone assistance plan;
- (4) require each local service provider to remit surcharge revenues to the Department of ~~Administration~~ Public Safety for deposit in the fund; and
- (5) remit to each local service provider from the surcharge revenue pool the amount necessary to compensate the provider for expenses, not including expenses of collecting the surcharges, and telephone assistance plan credits. When it appears that the revenue generated by the maximum surcharge permitted under subdivision 6 will be inadequate to fund any particular established level of telephone assistance plan credits, the commission shall reduce

the credits to a level that can be adequately funded by the maximum surcharge. Similarly, the commission may increase the level of the telephone assistance plan credit that is available or reduce the surcharge to a level and for a period of time that will prevent an unreasonable overcollection of surcharge revenues.

(e) Each local service provider shall maintain adequate records of surcharge revenues, expenses, and credits related to the telephone assistance plan and shall, as part of its annual report or separately, provide the commission and the Department of Commerce with a financial report of its experience under the telephone assistance plan for the previous year. That report must also be adequate to satisfy the reporting requirements of the federal matching plan.

(f) The Department of Commerce shall investigate complaints against local service providers with regard to the telephone assistance plan and shall report the results of its investigation to the commission.

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

Sec. 2. Minnesota Statutes 2004, section 403.02, subdivision 7, is amended to read:

Subd. 7. [AUTOMATIC LOCATION IDENTIFICATION.] "Automatic location identification" means the process of electronically identifying and displaying ~~on a special viewing screen~~ the name of the subscriber and the location, where available, of the calling telephone number to a person answering a 911 emergency call.

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

Sec. 3. Minnesota Statutes 2004, section 403.02, subdivision 13, is amended to read:

Subd. 13. [ENHANCED 911 SERVICE.] "Enhanced 911 service" means the use of ~~selective routing,~~ automatic location identification, or local location identification as part of local 911 service provided by an enhanced 911 system consisting of a common 911 network and database and customer data and network components connecting to the common 911 network and database.

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

Sec. 4. Minnesota Statutes 2004, section 403.02, subdivision 17, is amended to read:

Subd. 17. [911 SERVICE.] "911 service" means a telecommunications service that automatically connects a person dialing the digits 911 to an established public safety answering point. 911 service includes:

(1) ~~equipment for connecting and outswitching 911 calls within a telephone central office, trunking facilities from the central office to a public safety answering point~~ customer data and network components connecting to the common 911 network and database;

(2) common 911 network and database equipment, as appropriate, for automatically selectively routing 911 calls ~~in situations where one telephone central office serves more than one~~ to the public safety answering point serving the caller's jurisdiction; and

(3) provision of automatic location identification if the public safety answering point has the capability of providing that service.

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

Sec. 5. Minnesota Statutes 2004, section 403.02, is amended by adding a subdivision to read:

Subd. 17a. [911 EMERGENCY TELECOMMUNICATIONS SERVICE PROVIDER.] "911 emergency telecommunications service provider" means a telecommunications service provider or other entity, determined by the commissioner to be capable of providing effective and efficient components of the 911 system, that provides all or portions of the network and database for automatically selectively routing 911 calls to the public safety answering point serving the caller's jurisdiction.

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

Sec. 6. Minnesota Statutes 2004, section 403.025, subdivision 3, is amended to read:

Subd. 3. [WIRE-LINE CONNECTED TELECOMMUNICATIONS SERVICE PROVIDER REQUIREMENTS.] Every owner and operator of a wire-line or wireless circuit switched or packet-based telecommunications system connected to the public switched telephone network shall design and maintain the system to dial the 911 number without charge to the caller.

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

Sec. 7. Minnesota Statutes 2004, section 403.025, subdivision 7, is amended to read:

Subd. 7. [CONTRACTUAL REQUIREMENTS.] (a) The state, together with the county or other governmental agencies operating public safety answering points, shall contract with the appropriate wire-line telecommunications service providers or other entities determined by the commissioner to be capable of providing effective and efficient components of the 911 system for the operation, maintenance, enhancement, and expansion of the 911 system.

(b) The state shall contract with the appropriate wireless telecommunications service providers for maintaining, enhancing, and expanding the 911 system.

(c) The contract language or subsequent amendments to the contract must include a description of the services to be furnished ~~by wireless and wire-line telecommunications service providers~~ to the county or other governmental agencies operating public safety answering points, ~~as well as compensation based on the effective tariff or price list approved by the Public Utilities Commission.~~ The contract language or subsequent amendments must include the terms of compensation based on the effective tariff or price list filed with the Public Utilities Commission or the prices agreed to by the parties.

(d) The contract language or subsequent amendments to contracts between the parties must contain a provision for resolving disputes.

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

Sec. 8. Minnesota Statutes 2004, section 403.05, subdivision 1, is amended to read:

Subdivision 1. [OPERATE AND MAINTAIN.] Each county or any other governmental agency shall operate and maintain its 911 system to meet the requirements of governmental agencies whose services are available through the 911 system and to permit future expansion or enhancement of the system. Each county or any other governmental agency ~~shall ensure that~~ has jurisdiction over a wire-line 911 emergency call also has primary jurisdiction over a 911 emergency call made with a wireless access device ~~is automatically connected to and answered by the appropriate public safety answering point.~~

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

Sec. 9. Minnesota Statutes 2004, section 403.05, subdivision 3, is amended to read:

Subd. 3. [AGREEMENTS FOR SERVICE.] Each county and any other governmental agency shall contract with the state and wire-line telecommunications service providers or other entities determined by the commissioner to be capable of providing effective and efficient components of the 911 system for the recurring and nonrecurring costs associated with operating and maintaining 911 emergency communications systems.

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

Sec. 10. Minnesota Statutes 2004, section 403.07, subdivision 3, is amended to read:

Subd. 3. [DATABASE.] In 911 systems that have been approved by the commissioner for a local location identification database, each wire-line telecommunications service provider shall provide current customer names, service addresses, and telephone numbers to each public safety answering point within the 911 system and shall update the information according to a schedule prescribed by the county 911 plan. Information provided under this subdivision must be provided in accordance with the transactional record disclosure requirements of the federal ~~Electronic Communications Privacy Act of 1986~~ 1932, United States Code, title ~~48~~ 47, section ~~2703~~ 222, subsection ~~(e)~~, paragraph ~~(1)~~, subparagraph ~~(B)(iv)~~ (g).

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

Sec. 11. Minnesota Statutes 2004, section 403.08, subdivision 10, is amended to read:

Subd. 10. [PLAN INTEGRATION.] Counties shall incorporate the statewide design when modifying county 911 plans to provide for integrating wireless 911 service into existing county 911 systems. The commissioner shall contract with the involved wireless service providers and 911 emergency telecommunications service providers to integrate cellular and other wireless services into existing 911 systems where feasible.

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

Sec. 12. Minnesota Statutes 2004, section 403.11, subdivision 1, is amended to read:

Subdivision 1. [EMERGENCY TELECOMMUNICATIONS SERVICE FEE; ACCOUNT.] (a) Each customer of a wireless or wire-line switched or packet-based telecommunications service provider connected to the public switched telephone network that furnishes service capable of originating a 911 emergency telephone call is assessed a fee based upon the number of wired or wireless telephone lines, or their equivalent, 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) Until June 30, 2006, 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. Effective July 1, 2006, the fee may not be less than eight cents nor more than 50 cents a month for each customer access line or other basic access service, including trunk equivalents as designated by the 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~~ submitted. 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~~ submitted 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~~ counted, 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.

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

Sec. 13. Minnesota Statutes 2004, 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 911 emergency telecommunications service providers and 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 July 1, 2005.

Sec. 14. Minnesota Statutes 2004, 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~~ one year 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.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to contracts entered into on or after that date.

Sec. 15. Minnesota Statutes 2004, section 403.113, subdivision 1, is amended to read:

Subdivision 1. [FEE.] (a) Each customer receiving service from a wireless or wire-line switched or packet-based telecommunications service provider connected to the public telephone network that furnishes service capable of originating a 911 emergency telephone call 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~~ submitted 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 cents per month to be distributed under subdivision 2. 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 July 1, 2005.

Sec. 16. Minnesota Statutes 2004, section 403.27, is amended by adding a subdivision to read:

Subd. 1a. [AUTHORIZATION; THIRD PHASE.] The commissioner of finance, if requested by a vote of at least two-thirds of all of the members of the Statewide Radio Board, may authorize the issuance of revenue bonds or other debt instrument for any of the following purposes to:

(1) provide funds for the elements of the third phase of the statewide public safety radio communication system that the board determines are of regional or statewide benefit and support mutual aid and emergency medical services communication including, but not limited to, costs of master controllers of the backbone;

(2) provide funds for the third phase of the public safety radio communication system; and

(3) refund bonds issued under this section.

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

Sec. 17. Minnesota Statutes 2004, 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, 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, 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 commissioner of finance may issue bonds or other debt instrument under subdivision ~~1~~ 1a in a principal amount of up to ~~\$27,000,000~~ \$45,000,000, plus the amount the ~~council~~ commissioner of finance 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.~~~~

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

Sec. 18. Minnesota Statutes 2004, section 403.27, subdivision 4, is amended to read:

Subd. 4. [SECURITY.] The bonds issued under subdivision 1 may be secured by a bond resolution or a trust indenture entered into by the council with a corporate trustee within or outside the state which shall define the fee pledged for the payment and security of the bonds and for payment of all necessary and reasonable debt service expenses until all the bonds referred to in subdivision 1 are fully paid or discharged in accordance with law. The pledge shall be a valid charge on the emergency telephone service fee provided in chapter 403. No mortgage or security interest in any tangible real or personal property shall be granted to the bondholders or the trustee, but they shall have a valid security interest in the revenues and bond proceeds received by the council and pledged to the payment of the bonds as against the claims of all persons in tort, contract, or otherwise, irrespective of whether the parties have notice and without possession or filing as provided in the Uniform Commercial Code, or any other law, subject however to the rights of the holders of any general obligation bonds issued under section 403.32. In the bond resolution or trust indenture, the council may make covenants as it determines to be reasonable for the protection of the bondholders.

Neither the council, nor any council member, officer, employee, or agent of the council, nor any person executing the bonds shall be liable personally on the bonds by reason of their issuance. The bonds are not payable from, and are not a charge upon, any funds other than the revenues and bond proceeds pledged to their payment. The council is not subject to any liability on the bonds and has no power to obligate itself to pay or to pay the bonds from funds other than the revenues and bond proceeds pledged. No holder of bonds has the right to compel any

exercise of the taxing power of the council, except any deficiency tax levy the council covenants to certify under section 403.31, or any other public body, to the payment of principal of or interest on the bonds. No holder of bonds has the right to enforce payment of principal or interest against any property of the council or other public body other than that expressly pledged for the payment of the bonds.

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

Sec. 19. Minnesota Statutes 2004, section 403.27, is amended by adding a subdivision to read:

Subd. 5. [SECURITY.] The bonds or other debt instrument issued under subdivision 1a may be secured by a bond resolution or a trust indenture entered into by the commissioner of finance with a corporate trustee within or outside the state which shall define the fee pledged for the payment and security of the bonds or other debt instrument and for payment of all necessary and reasonable debt service expenses until all the bonds or other debt instruments referred to in subdivision 1a are fully paid or discharged in accordance with law. The pledge shall be a valid charge on the emergency telephone service fee provided in this chapter. The bonds or other debt instrument shall have a valid security interest in the revenues and proceeds received by the commissioner of finance and pledged to the payment of the bonds or other debt instrument as against the claims of all persons in tort, contract, or otherwise, irrespective of whether the parties have notice and without possession or filing as provided in the Uniform Commercial Code, or any other law. In the bond resolution or trust indenture, the commissioner of finance may make covenants as may be reasonable for the protection of the bondholders or other creditor.

The bonds or other debt instrument are not payable from, and are not a charge upon, any funds other than the revenues and bond or other debt instrument proceeds pledged to their payment. The state of Minnesota is not subject to any liability on the bonds and the commissioner of finance has no power to obligate the state of Minnesota to pay or to pay the bonds or other debt instruments from funds other than the revenues and debt instrument proceeds pledged. No holder of bonds has the right to compel any exercise of the taxing power of the state of Minnesota, except any deficiency tax levy the commissioner is authorized to certify under section 403.31, or any other public body, to the payment of principal of or interest on the bonds or other debt instrument. No holder of bonds has the right to enforce payment of principal or interest against any property of the state of Minnesota or other public body other than that expressly pledged for the payment of the bonds or other debt instrument.

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

Sec. 20. Minnesota Statutes 2004, section 403.30, subdivision 1, is amended to read:

Subdivision 1. [STANDING 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, subdivision 1; and
- (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 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 cost authorized under subdivision 1a.~~

This appropriation shall be used to pay annual debt service costs and reserves for bonds issued pursuant to section 403.27, subdivision 1, prior to use of fee money to pay other costs eligible under this subdivision. In no event shall the appropriation for each fiscal year 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.~~

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

Sec. 21. Minnesota Statutes 2004, section 403.30, is amended by adding a subdivision to read:

Subd. 1a. [STANDING APPROPRIATION; COSTS COVERED.] (a) For each fiscal year beginning with the fiscal year commencing July 1, 2005, 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 or other debt instrument issued pursuant to section 403.27, subdivision 1a;

(2) repayment of the right-of-way acquisition loans;

(3) costs of design, construction, maintenance of, and improvements to those elements of the system backbone that support mutual aid communications and emergency medical services; and

(4) recurring charges for leased sites and equipment for those elements of the system backbone that support mutual aid and emergency medical communication services.

(b) The appropriation in paragraph (a) shall be used to pay annual debt service costs and reserves for bonds issued pursuant to section 403.27, subdivision 1a, prior to use of fee money to pay other costs eligible under this subdivision. In no event shall the appropriation for each fiscal year exceed an amount equal to nine 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 cellular and other nonwire access services in the fiscal year, plus any excess amounts made available to the commissioner under subdivision 1, clause (2).

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

Sec. 22. Minnesota Statutes 2004, 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 ~~4/12 of its total~~ from the approved appropriation for the statewide public safety communication system of funds provided for in section 403.30, subdivision 1, the amount necessary to meet debt service costs and reserves for bonds issued by the Metropolitan Council pursuant to section 403.27, subdivision 1.

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

Sec. 23. Minnesota Statutes 2004, section 403.30, is amended by adding a subdivision to read:

Subd. 3a. [APPROPRIATION TRANSFERS.] The commissioner shall transmit to the commissioner of finance from the approved appropriation of funds provided for in section 403.30, subdivision 1a, the amount necessary to meet debt service costs and reserves for bonds or other debt instrument issued by the commissioner of finance pursuant to section 403.27, subdivision 1a.

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

Sec. 24. Laws 2004, chapter 201, section 22, is amended to read:

Sec. 22. [TRANSFER OF RESPONSIBILITIES.]

On July 1, ~~2006~~ 2005, the responsibilities of the Metropolitan Radio Board under Minnesota Statutes, sections 403.21 to 403.34, that have not been assumed by the Metropolitan Radio Board as a regional radio board established under Minnesota Statutes, section 403.39, are transferred to the Statewide Radio Board under Minnesota Statutes, section 15.039. Contracts and obligations transferred to the Statewide Radio Board under this provision may be assigned to the commissioner of public safety or the commissioner of transportation to be administered consistent with Minnesota Statutes, section 403.36, and the statewide, shared public safety radio and communication plan provided for therein.

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

Sec. 25. [REPEALER.]

Minnesota Statutes 2004, sections 403.025, subdivision 4; and 403.30, subdivision 2, are repealed.

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

ARTICLE 11

LAW ENFORCEMENT POLICY

Section 1. Minnesota Statutes 2004, 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 the day following final enactment.

Sec. 2. Minnesota Statutes 2004, section 299A.38, subdivision 2a, is amended to read:

Subd. 2a. [ADJUSTMENT OF REIMBURSEMENT AMOUNT.] On October 1, ~~1997~~ 2006, 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 the day following final enactment.

Sec. 3. Minnesota Statutes 2004, 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.

(c) The requirement set forth in paragraph (b), clauses (1) and (2), shall not apply to any peace officer who purchases a vest constructed from a zylon-based material, provided that the peace officer provides proof of purchase or possession of the vest prior to July 1, 2005.

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

Sec. 4. [299A.641] [GANG AND DRUG OVERSIGHT COUNCIL.]

Subdivision 1. [OVERSIGHT COUNCIL ESTABLISHED.] The Gang and Drug Oversight Council is established to provide guidance related to the investigation and prosecution of gang and drug crime.

Subd. 2. [MEMBERSHIP.] The oversight council shall consist of the following individuals or their designees:

(1) the director of the office of special investigations, as the representative of the commissioner of corrections;

(2) the superintendent of the Bureau of Criminal Apprehension as the representative of the commissioner of public safety;

(3) the attorney general;

(4) eight chiefs of police, selected by the Minnesota Chiefs of Police Association, two of which must be selected from cities with populations greater than 200,000;

(5) eight sheriffs, selected by the Minnesota Sheriffs Association to represent each district, two of which must be selected from counties with populations greater than 500,000;

(6) the United States attorney for the district of Minnesota;

(7) two county attorneys, selected by the Minnesota County Attorneys Association;

(8) a command-level representative of a gang strike force;

(9) a representative from a drug task force, selected by the Minnesota State Association of Narcotics Investigators;

- (10) a representative from the United States Drug Enforcement Administration;
- (11) a representative from the United States Bureau of Alcohol, Tobacco, and Firearms;
- (12) a representative from the Federal Bureau of Investigation;
- (13) a tribal peace officer, selected by the Minnesota Tribal Law Enforcement Association; and
- (14) two additional members who may be selected by the oversight council.

The oversight council may adopt procedures to govern its conduct as necessary and may select a chair from among its members.

Subd. 3. [OVERSIGHT COUNCIL'S DUTIES.] The oversight council shall develop an overall strategy to ameliorate the harm caused to the public by gang and drug crime within the state of Minnesota. This strategy may include the development of protocols and procedures to investigate gang and drug crime and a structure for best addressing these issues in a multijurisdictional manner. Additionally, the oversight council shall:

- (1) identify and recommend a candidate or candidates for statewide coordinator to the commissioner of public safety;
- (2) establish multijurisdictional task forces and strike forces to combat gang and drug crime, to include a metro gang strike force;
- (3) assist the Department of Public Safety in developing an objective grant review application process that is free from conflicts of interest;
- (4) make funding recommendations to the commissioner of public safety on grants to support efforts to combat gang and drug crime;
- (5) assist in developing a process to collect and share information to improve the investigation and prosecution of drug offenses;
- (6) develop and approve an operational budget for the office of the statewide coordinator and the oversight council; and
- (7) adopt criteria and identifying characteristics for use in determining whether individuals are or may be members of gangs involved in criminal activity.

Subd. 4. [STATEWIDE COORDINATOR.] The current gang strike force commander shall serve as a transition coordinator until July 1, 2006, at which time the commissioner of public safety shall appoint a statewide coordinator as recommended by the oversight council. The coordinator serving in the unclassified service shall:

- (1) coordinate and monitor all multijurisdictional gang and drug enforcement activities;
- (2) facilitate local efforts and ensure statewide coordination with efforts to combat gang and drug crime;
- (3) facilitate training for personnel;

(4) monitor compliance with investigative protocols; and

(5) implement an outcome evaluation and data quality control process.

Subd. 5. [PARTICIPATING OFFICERS; EMPLOYMENT STATUS.] All participating law enforcement officers must be licensed peace officers as defined in section 626.84, subdivision 1, or qualified federal law enforcement officers as defined in section 626.8453. Participating officers remain employees of the same entity that employed them before joining any multijurisdictional entity established under this section. Participating officers are not employees of the state.

Subd. 6. [JURISDICTION AND POWERS.] Law enforcement officers participating in any multijurisdictional entity established under this section have statewide jurisdiction to conduct criminal investigations and have the same powers of arrest as those possessed by a sheriff.

Subd. 7. [GRANTS AUTHORIZED.] The commissioner of public safety, upon recommendation of the council, may make grants to state and local units of government to combat gang and drug crime.

Subd. 8. [OVERSIGHT COUNCIL IS PERMANENT.] Notwithstanding section 15.059, this section does not expire.

Subd. 9. [FUNDING.] Participating agencies may accept lawful grants or contributions from any federal source or legal business or entity.

Subd. 10. [ROLE OF THE ATTORNEY GENERAL.] The attorney general or a designee shall generally advise on any matters that the oversight council deems appropriate.

Subd. 11. [ATTORNEY GENERAL; COMMUNITY LIAISON.] (a) The attorney general or a designee shall serve as a liaison between the oversight council and the councils created in sections 3.922, 3.9223, 3.9225, and 3.9226. The attorney general or designee will be responsible for:

(1) informing the councils of the plans, activities, and decisions and hearing their reactions to those plans, activities, and decisions; and

(2) providing the oversight council with the councils' position on the oversight council's plan, activities, and decisions.

(b) In no event is the oversight council required to disclose the names of individuals identified by it to the councils referenced in this subdivision.

(c) Nothing in this subdivision changes the data classification of any data held by the oversight council.

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

Sec. 5. [299A.681] [MINNESOTA FINANCIAL CRIMES OVERSIGHT COUNCIL.]

Subdivision 1. [OVERSIGHT COUNCIL ESTABLISHED.] The Minnesota Financial Crimes Oversight Council is established to provide guidance related to the investigation and prosecution of identity theft and financial crime.

Subd. 2. [MEMBERSHIP.] The council shall consist of the following individuals or their designees:

(1) the commissioner of public safety;

(2) the attorney general;

(3) two chiefs of police, selected by the Minnesota Chiefs of Police Association from police departments which participate in the Minnesota Financial Crimes Task Force;

(4) two sheriffs, selected by the Minnesota Sheriffs Association from sheriff departments which participate in the Minnesota Financial Crimes Task Force;

(5) the United States attorney for the district of Minnesota;

(6) one county attorney, selected by the Minnesota County Attorneys Association;

(7) a representative from the United States Postal Inspector's Office;

(8) a representative from a not-for-profit retail merchants industry;

(9) a representative from a not-for-profit banking and credit union industry;

(10) a representative from a not-for-profit association representing senior citizens;

(11) the statewide commander described in subdivision 4;

(12) a representative from the Board of Public Defense; and

(13) two additional members who shall be selected by the council.

The council may adopt procedures to govern its conduct as necessary and shall select a chair from among its members.

Subd. 3. [DUTIES.] The council shall develop an overall strategy to ameliorate the harm caused to the public by identity theft and financial crime within the state of Minnesota. This strategy may include the development of protocols and procedures to investigate financial crimes and a structure for best addressing these issues in a multijurisdictional manner. Additionally, the council shall:

(1) establish a multijurisdictional statewide Minnesota Financial Crimes Task Force to investigate major financial crimes;

(2) choose a statewide commander who shall serve at the pleasure of the council;

(3) assist the Department of Public Safety in developing an objective grant application and review process that is free from conflicts of interest;

(4) make funding recommendations to the commissioner of public safety on grants to support efforts to combat identity theft and financial crime;

(5) assist in developing a process to collect and share information to improve the investigation and prosecution of identity theft and financial crime;

(6) develop and approve an operational budget for the office of the statewide commander and the council;

(7) establish fiscal procedures with the Department of Public Safety on funding disbursements and allocation procedures for approved council and task force operations and grants which are funded under assessment fees collected in subdivision 9; and

(8) enter into such contracts as necessary to establish and maintain a relationship with the retailers, financial institutions, and other businesses to deal effectively with identity theft and financial crime.

The task force described in clause (1) may consist of members from local law enforcement agencies, federal law enforcement agencies, state and federal prosecutor offices, the Board of Public Defense, and representatives from elderly victims, retail, and financial institutions as described in subdivision 2, clauses (8), (9), and (10).

Subd. 4. [STATEWIDE COMMANDER.] The current task force commander serving under section 299A.68 shall transition the current task force and remain in place as commander under the council until July 1, 2008, at which time the commissioner of public safety, upon the recommendation of the council, shall appoint a statewide commander as chosen by the council. The current commander shall be reappointed. The commander serving in the unclassified service shall:

(1) coordinate and monitor all multijurisdictional identity theft and financial crime enforcement activities;

(2) facilitate local efforts and ensure statewide coordination with efforts to combat identity theft and financial crime;

(3) facilitate training for personnel;

(4) monitor compliance with investigative protocols;

(5) implement an outcome evaluation and data quality control process;

(6) be responsible for selection and removal for cause of assigned task force investigators who are designated participants under a memorandum of understanding and/or who receive grant funding;

(7) provide supervision of task force investigators assigned;

(8) submit a task force operational budget to the council for approval; and

(9) submit quarterly task force activity reports to the council.

Subd. 5. [PARTICIPATING OFFICERS; EMPLOYMENT STATUS.] All law enforcement officers selected to participate in the Minnesota Financial Crimes Task Force must be licensed peace officers as defined in section 626.84, subdivision 1, or qualified federal law enforcement officers as defined in section 626.8453. Participating officers remain employees of the same entity that employed them before joining any multijurisdictional entity established under this section. Participating officers are not employees of the state.

Subd. 6. [JURISDICTION AND POWERS.] Law enforcement officers participating in any multijurisdictional entity established under this section have statewide jurisdiction to conduct criminal investigations and have the same powers of arrest as those possessed by a sheriff. The task force shall retain the assigned originating reporting number for case reporting purposes according to section 299A.68 and transferred to this section effective July 1, 2005.

Subd. 7. [GRANTS AUTHORIZED.] The commissioner of public safety, upon recommendation of the council, shall make grants to state and local units of government to combat identity theft and financial crime. The commander, as funding permits, may prepare a budget to establish four regional districts and funding grant allocations programs outside the counties of Hennepin, Ramsey, Anoka, Washington, and Dakota. The budget shall be reviewed and approved by the council and recommended to the commissioner of public safety to support these efforts. The council account shall be transferred on or before each fiscal accounting calendar quarter during each year on a recurring basis to its fiscal agent under subdivision 3, clause (7).

Subd. 8. [VICTIMS' ASSISTANCE PROGRAM.] (a) The council may establish a victims' assistance program to assist victims of economic crimes and provide prevention and awareness programs. The council may retain outside services of not-for-profit organizations to assist in the development of delivery systems to aid victims of financial crimes. Services to victims shall not include any financial assistance to victims, but are limited to helping victims obtain police assistance and giving direction to victims for protecting personal accounts and identities. Services include a victim 1-800 number, facsimile number, Web site, telephone service Monday through Friday, e-mail response, and interfaces to other helpful Web sites. Information about victims gathered by the victim task force assistance program shall be covered by the Data Privacy Act under chapter 13.

(b) The council may post or communicate through public service announcements in newspapers, radio, television, cable access, billboards, Internet, Web sites, and other normal advertising channels a financial reward of up to \$2,000 for tips leading to the apprehension and successful prosecution of individuals committing economic crimes. All rewards must meet the Minnesota Financial Crimes Oversight Council standards. The release of funds shall be made to an individual whose information leads to the apprehension and prosecution of offenders committing economic or financial crimes against citizens or businesses in the state of Minnesota. All rewards paid to an individual shall be reported to the Department of Revenue along with the individual's Social Security number.

Subd. 9. [COUNCIL AND TASK FORCE ARE PERMANENT.] Notwithstanding section 15.059, this section does not expire.

Subd. 10. [FUNDING.] The Minnesota Financial Crimes Oversight Council may accept lawful grants and in-kind contributions from any federal source or legal business or individual not funded by this section for general operation support, including personnel costs. These grants or in-kind contributions are not to be directed toward the case of a particular victim or business. The council fiscal agent shall handle all funds approved by the council including in-kind contributions.

Subd. 11. [FORFEITURE.] Property seized by the task force established by the council is subject to forfeiture pursuant to sections 609.531, 609.5312, 609.5313, and 609.5315 if ownership cannot be established. The council shall receive the proceeds from the sale of all property that it properly seizes and that is forfeited.

Subd. 12. [TRANSFER EQUIPMENT FROM CURRENT MINNESOTA FINANCIAL CRIMES TASK FORCE.] All current equipment shall be transferred from the Minnesota Financial Crimes Task Force established under section 299A.68 to the Minnesota Financial Crimes Oversight Council established under this section for use by the Minnesota Financial Crimes Task Force formed under this section, effective July 1, 2005.

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

Sec. 6. [299A.78] [STATEWIDE HUMAN TRAFFICKING ASSESSMENT.]

Subdivision 1. [DEFINITIONS.] For purposes of sections 299A.78 to 299A.795, the following definitions apply:

(a) "Commissioner" means the commissioner of the Department of Public Safety.

(b) "Nongovernmental organizations" means nonprofit, nongovernmental organizations that provide legal, social, or other community services.

(c) "Blackmail" means a threat to expose any fact or alleged fact tending to cause shame or to subject any person to hatred, contempt, or ridicule.

(d) "Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of the debtor's personal services or those of a person under the debtor's control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

(e) "Forced labor or services" means labor or services that are performed or provided by another person and are obtained or maintained through an actor's:

(1) threat, either implicit or explicit, scheme, plan, or pattern, or other action intended to cause a person to believe that, if the person did not perform or provide the labor or services, that person or another person would suffer bodily harm or physical restraint;

(2) physically restraining or threatening to physically restrain a person;

(3) abuse or threatened abuse of the legal process;

(4) knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person; or

(5) use of blackmail.

(f) "Labor trafficking" means the recruitment, transportation, transfer, harboring, enticement, provision, obtaining, or receipt of a person by any means, whether a United States citizen or foreign national, for the purpose of:

(1) debt bondage or forced labor or services;

(2) slavery or practices similar to slavery; or

(3) the removal of organs through the use of coercion or intimidation.

(g) "Labor trafficking victim" means a person subjected to the practices in paragraph (f).

(h) "Sex trafficking" means receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual.

(i) "Sex trafficking victim" means a person subjected to the practices in paragraph (h).

(j) "Trafficking" includes "labor trafficking" as defined in paragraph (f), and "sex trafficking" as defined in paragraph (h).

(k) "Trafficking victim" includes "labor trafficking victim" as defined in paragraph (g), and "sex trafficking victim" as defined in paragraph (i).

Subd. 2. [GENERAL DUTIES.] The commissioner of public safety shall:

(1) in cooperation with local authorities, collect, share, and compile trafficking data among government agencies to assess the nature and extent of trafficking in Minnesota;

(2) analyze collected data to develop a plan to address and prevent trafficking; and

(3) use its analyses to establish policies to enable state government to work with nongovernmental organizations to provide assistance to trafficking victims.

Subd. 3. [OUTSIDE SERVICES.] As provided for in section 15.061, the commissioner of public safety may contract with professional or technical services in connection with the duties to be performed under sections 299A.785 to 299A.795. The commissioner may also contract with other outside organizations to assist with the duties to be performed under sections 299A.785 to 299A.795.

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

Sec. 7. [299A.785] [TRAFFICKING STUDY.]

Subdivision 1. [INFORMATION TO BE COLLECTED.] The commissioner shall elicit the cooperation and assistance of government agencies and nongovernmental organizations as appropriate to assist in the collection of trafficking data. The commissioner shall direct the appropriate authorities in each agency and organization to make best efforts to collect information relevant to tracking progress on trafficking. The information to be collected may include, but is not limited to:

(1) the numbers of arrests, prosecutions, and successful convictions of traffickers and those committing trafficking related crimes, including, but not limited to, the following offenses: 609.27, coercion; 609.322, solicitation of prostitution; 609.324, other prostitution crimes; 609.33, disorderly house; 609.352, solicitation of a child; and 617.245 and 617.246, use of minors in sexual performance;

(2) statistics on the number of trafficking victims, including demographics, method of recruitment, and method of discovery;

(3) trafficking routes and patterns, states or country of origin, transit states or countries;

(4) method of transportation, motor vehicles, aircraft, watercraft, or by foot if any transportation took place; and

(5) social factors that contribute to and foster trafficking, especially trafficking of women and children.

Subd. 2. [REPORT AND ANNUAL PUBLICATION.] (a) By September 1, 2006, the commissioner of public safety shall report to the chairs of the senate and house of representatives committees and divisions having jurisdiction over criminal justice policy and funding a summary of its findings. This report shall include, to the extent possible, the information to be collected in subdivision 1 and any other information the commissioner finds relevant to the issue of trafficking in Minnesota.

(b) The commissioner shall gather, compile, and publish annually statistical data on the extent and nature of trafficking in Minnesota. This annual publication shall be available to the public and include, to the extent possible, the information to be collected in subdivision 1 and any other information the commissioner finds relevant to the issue of trafficking in Minnesota.

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

Sec. 8. [299A.79] [TRAFFICKING ANALYSIS AND INITIATIVES.]

Subdivision 1. [DATA ANALYSIS.] The commissioner shall analyze the data collected in section 299A.785 to develop and carry out a plan to address current trafficking and prevent future trafficking in Minnesota. The commissioner may evaluate various approaches used by other state and local governments to address trafficking. The plan shall include, but not be limited to, the following initiatives:

(1) training agencies, organizations, and officials involved in law enforcement, prosecution, and social services;

(2) increasing public awareness of trafficking; and

(3) establishing procedures to enable the state government to work with nongovernmental organizations to prevent trafficking.

Subd. 2. [TRAINING INITIATIVES.] (a) The commissioner shall provide and strengthen training for law enforcement, prosecutors, social services, and other relevant officials in addressing trafficking. The training shall include:

(1) methods used in identifying trafficking victims, including preliminary interview techniques and appropriate interrogation methods;

(2) methods for prosecuting traffickers;

(3) methods for protecting the rights of trafficking victims, taking into account the need to consider human rights and special needs of women and children trafficking victims; and

(4) methods for promoting the safety of trafficking victims.

(b) Once created and as updated, the commissioner shall provide training plans and materials associated with paragraph (a) to the Board of Peace Officer Standards and Training.

Subd. 3. [AWARENESS INITIATIVES.] (a) The commissioner shall, in cooperation with appropriate nongovernmental organizations, establish public awareness programs designed to educate persons at risk of trafficking and their families of the risks of victimization. The programs shall include, but not be limited to, information on the following subjects:

(1) the risks of becoming a trafficking victim, including:

(i) common recruitment techniques, such as use of debt bondage, blackmail, forced labor and services, prostitution, and other coercive tactics; and

(ii) the risks of assault, criminal sexual conduct, exposure to sexually transmitted diseases, and psychological harm;

(2) crime victims' rights in Minnesota; and

(3) methods for reporting recruitment activities involved in trafficking.

(b) The commissioner shall, in cooperation with appropriate agencies and nongovernmental organizations, disseminate public awareness materials to educate the public on the extent of trafficking and to discourage the demand that fosters and leads to trafficking, in particular trafficking of women and children. These materials may include information on:

(1) the impact of trafficking on victims;

(2) the aggregate impact of trafficking worldwide and domestically; and

(3) the criminal consequences of trafficking. The materials may be disseminated by way of the following media: pamphlets, brochures, posters, advertisements in mass media, or any other appropriate methods.

(c) Once created and as updated, the commissioner shall provide samples of the materials disseminated under paragraph (b) to the Department of Public Safety's office of justice program.

Subd. 4. [ANNUAL EVALUATION.] The commissioner shall evaluate its training and awareness initiatives annually to ensure their effectiveness.

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

Sec. 9. [299A.795] [TRAFFICKING VICTIM ASSISTANCE.]

(a) The commissioner shall establish policies to enable state government to work with nongovernmental organizations to provide assistance to trafficking victims.

(b) The commissioner may review the existing services and facilities to meet trafficking victims' needs and recommend a plan that would coordinate such services, including, but not limited to:

(1) medical and mental health services;

(2) housing;

(3) education and job training;

(4) English as a second language;

(5) interpreting services;

(6) legal and immigration services; and

(7) victim compensation.

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

Sec. 10. Minnesota Statutes 2004, section 299C.10, subdivision 1, is amended to read:

Subdivision 1. [REQUIRED FINGERPRINTING.] (a) Sheriffs, peace officers, and community corrections agencies operating secure juvenile detention facilities shall take or cause to be taken immediately finger and thumb prints, photographs, distinctive physical mark identification data, information on any known aliases or street names, and other identification data requested or required by the superintendent of the bureau, of the following:

(1) persons arrested for, appearing in court on a charge of, or convicted of a felony, gross misdemeanor, or targeted misdemeanor;

(2) juveniles arrested for, appearing in court on a charge of, adjudicated delinquent for, or alleged to have committed felonies or gross misdemeanors as distinguished from those committed by adult offenders;

(3) persons reasonably believed by the arresting officer to be fugitives from justice;

(4) persons in whose possession, when arrested, are found concealed firearms or other dangerous weapons, burglar tools or outfits, high-power explosives, or articles, machines, or appliances usable for an unlawful purpose and reasonably believed by the arresting officer to be intended for such purposes; ~~and~~

(5) juveniles referred by a law enforcement agency to a diversion program for a felony or gross misdemeanor offense; and

(6) persons currently involved in the criminal justice process, on probation, on parole, or in custody for the offenses in suspense whom the superintendent of the bureau identifies as being the subject of a court disposition record which cannot be linked to an arrest record, and whose fingerprints are necessary in order to maintain and ensure the accuracy of the bureau's criminal history files, to reduce the number of suspense files, or to comply with the mandates of section 299C.111, relating to the reduction of the number of suspense files. This duty to obtain fingerprints for the offenses in suspense at the request of the bureau shall include the requirement that fingerprints be taken in post-arrest interviews; while making court appearances; while in custody; or while on any form of probation, diversion, or supervised release.

(b) Unless the superintendent of the bureau requires a shorter period, within 24 hours the fingerprint records and other identification data specified under paragraph (a) must be forwarded to the bureau on such forms and in such manner as may be prescribed by the superintendent.

(c) Prosecutors, courts, and probation officers and their agents, employees, and subordinates, shall attempt to ensure that the required identification data is taken on a person described in paragraph (a). Law enforcement may take fingerprints of an individual who is presently on probation.

(d) For purposes of this section, a targeted misdemeanor is a misdemeanor violation of section 169A.20 (driving while impaired), 518B.01 (order for protection violation), 609.224 (fifth degree assault), 609.2242 (domestic assault), 609.746 (interference with privacy), 609.748 (harassment or restraining order violation), or 617.23 (indecent exposure).

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

Sec. 11. Minnesota Statutes 2004, section 299C.10, is amended by adding a subdivision to read:

Subd. 1a. [COURT DISPOSITION RECORD IN SUSPENSE; FINGERPRINTING.] The superintendent of the bureau shall inform a prosecuting authority that a person prosecuted by that authority is the subject of a court disposition record in suspense which requires fingerprinting under this section. Upon being notified by the superintendent or otherwise learning of the suspense status of a court disposition record, any prosecuting authority may bring a motion in district court to compel the taking of the person's fingerprints upon a showing to the court that the person is the subject of the court disposition record in suspense.

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

Sec. 12. Minnesota Statutes 2004, section 299C.14, is amended to read:

299C.14 [INFORMATION ON RELEASED PRISONER.]

It shall be the duty of the officials having charge of the penal institutions of the state or the release of prisoners therefrom to furnish to the bureau, as the superintendent may require, finger and thumb prints, photographs, distinctive physical mark identification data, other identification data, modus operandi reports, and criminal records of prisoners heretofore, now, or hereafter confined in such penal institutions, together with the period of their service and the time, terms, and conditions of their discharge. This duty to furnish information includes, but is not limited to, requests for fingerprints as the superintendent of the bureau deems necessary to maintain and ensure the accuracy of the bureau's criminal history files, to reduce the number of suspense files, or to comply with the mandates of section 299C.111 relating to the reduction of the number of suspense files where a disposition record is received that cannot be linked to an arrest record.

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

Sec. 13. Minnesota Statutes 2004, section 299C.145, subdivision 3, is amended to read:

Subd. 3. [AUTHORITY TO ENTER OR RETRIEVE DATA.] Only ~~law enforcement~~ criminal justice agencies, as defined in section 299C.46, subdivision 2, may submit data to and obtain data from the distinctive physical mark identification system.

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

Sec. 14. Minnesota Statutes 2004, 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 chief administrator of the Board of Public Defense, and the chair, the first vice chair, and two additional members of the Criminal and Juvenile Justice Information Task Force. The two additional members of the task force must be elected officials, and one must have been selected by the League of Minnesota Cities and the other by the Minnesota Association of Counties. 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~~ an executive director to manage the CriMNet projects and to be responsible for the day-to-day operations of CriMNet. The executive director shall serve at the pleasure of the policy group in 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.

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

Sec. 15. Minnesota Statutes 2004, 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)~~ the commissioner of administration or a designee;

~~(16)~~ (14) an individual two individuals recommended by the Minnesota League of Cities, one of whom works or resides in greater Minnesota and one of whom works or resides in the seven-county metropolitan area; and

~~(17)~~ (15) an individual two individuals recommended by the Minnesota Association of Counties, one of whom works or resides in greater Minnesota and one of whom works or resides in the seven-county metropolitan area;

(16) the director of the Sentencing Guidelines Commission;

(17) one member appointed by the commissioner of public safety;

(18) one member appointed by the commissioner of corrections;

(19) one member appointed by the commissioner of administration; and

(20) one member appointed by the chief justice of the Supreme Court.

In making these appointments, the appointing authority shall select members with expertise in integrated data systems or best practices. The task force member selected by the League of Minnesota Cities and the member selected by the Minnesota Association of Counties who are also members of the policy group may each select an alternate to serve on the task force in their absence.

~~(e)~~ The commissioner of public safety may appoint additional, nonvoting members to the task force as necessary from time to time.

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

Sec. 16. Minnesota Statutes 2004, section 299C.65, is amended by adding a subdivision to read:

Subd. 3a. [REPORT.] The policy group, with the assistance of the task force, 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 January 15 of each year. The report must provide the following:

(1) status and 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) summary of the activities of the policy group and task force.

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

Sec. 17. Minnesota Statutes 2004, section 299C.65, subdivision 5, is amended to read:

Subd. 5. [REVIEW OF FUNDING AND GRANT REQUESTS.] (a) The Criminal and Juvenile Justice Information Policy Group shall review the funding requests for criminal justice information systems from state, county, and municipal government agencies. The policy group shall review the requests for compatibility to statewide criminal justice information system standards. The review shall be forwarded to the chairs and ranking minority members of the house and senate committees and divisions with jurisdiction over criminal justice funding and policy.

~~(b) The policy group shall also review funding requests for criminal justice information systems grants to be made by the commissioner of public safety as provided in this section. Within the limits of available appropriations, the commissioner of public safety shall make grants for projects that have been approved by the policy group. CriMNet program office, in consultation with the Criminal and Juvenile Justice Information Task Force and with the approval of the policy group, shall create the requirements for any grant request and determine the integration priorities for the grant period. The CriMNet program office shall also review the requests submitted for compatibility to statewide criminal justice information systems standards.~~

~~(c) If a funding request is for development of a comprehensive criminal justice information integration plan, the policy group shall ensure that the request contains the components specified in subdivision 6. If a funding request is for implementation of a plan or other criminal justice information systems project, the policy group shall ensure that:~~

~~(1) the government agency has adopted a comprehensive plan that complies with subdivision 6;~~

~~(2) the request contains the components specified in subdivision 7; and~~

~~(3) the request demonstrates that it is consistent with the government agency's comprehensive plan. The task force shall review funding requests for criminal justice information systems grants and make recommendations to the policy group. The policy group shall review the recommendations of the task force and shall make a final recommendation for criminal justice information systems grants to be made by the commissioner of public safety. Within the limits of available state appropriations and federal grants, the commissioner of public safety shall make grants for projects that have been recommended by the policy group.~~

~~(d) The policy group may approve grants only if the applicant provides an appropriate share of matching funds as determined by the policy group to help pay up to one-half of the costs of the grant request. The matching requirement must be constant for all counties. The policy group shall adopt policies concerning the use of in-kind resources to satisfy the match requirement and the sources from which matching funds may be obtained. Local operational or technology staffing costs may be considered as meeting this match requirement. Each grant recipient shall certify to the policy group that it has not reduced funds from local, county, federal, or other sources which, in the absence of the grant, would have been made available to the grant recipient to improve or integrate criminal justice technology.~~

~~(e) All grant recipients shall submit to the CriMNet program office all requested documentation including grant status, financial reports, and a final report evaluating how the grant funds improved the agency's criminal justice integration priorities. The CriMNet program office shall establish the recipient's reporting dates at the time funds are awarded.~~

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

Sec. 18. Minnesota Statutes 2004, section 326.3384, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITION.] No license holder or employee of a license holder shall, in a manner that implies that the person is an employee or agent of a governmental agency, display on a badge, identification card, emblem, vehicle, uniform, stationery, or in advertising for private detective or protective agent services:

(1) the words "public safety," "police," "constable," "highway patrol," "state patrol," "sheriff," "trooper," or "law enforcement"; or

(2) the name of a municipality, county, state, or of the United States, or any governmental subdivision thereof.

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

Sec. 19. [629.406] [MAINTENANCE OF BOOKING RECORDINGS.]

When a law enforcement agency elects to produce an electronic recording of any portion of the arrest, booking, or testing process in connection with the arrest of a person, the agency must maintain the recording for a minimum of 30 days after the date the person was booked.

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

Sec. 20. [REPEALER.]

Minnesota Statutes 2004, sections 299A.64; 299A.65; 299A.66; 299A.68; and 299C.65, subdivisions 3, 4, 6, 7, 8, 8a, and 9, are repealed.

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

ARTICLE 12

DNA COLLECTION

Section 1. Minnesota Statutes 2004, section 13.6905, subdivision 17, is amended to read:

Subd. 17. [DNA EVIDENCE.] DNA identification data maintained by the Bureau of Criminal Apprehension are governed by ~~section~~ sections 299C.11 and 299C.155.

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

Sec. 2. Minnesota Statutes 2004, section 299C.03, is amended to read:

299C.03 [SUPERINTENDENT; RULES.]

The superintendent, with the approval of the commissioner of public safety, from time to time, shall make such rules and adopt such measures as the superintendent deems necessary, within the provisions and limitations of sections 299C.03 to 299C.08, 299C.10, 299C.105, 299C.11, 299C.17, 299C.18, and 299C.21, to secure the efficient operation of the bureau. The bureau shall cooperate with the respective sheriffs, constables, marshals, police, and other peace officers of the state in the detection of crime and the apprehension of criminals throughout the state, and shall have the power to conduct such investigations as the superintendent, with the approval of the commissioner of

public safety, may deem necessary to secure evidence which may be essential to the apprehension and conviction of alleged violators of the criminal laws of the state. The various members of the bureau shall have and may exercise throughout the state the same powers of arrest possessed by a sheriff, but they shall not be employed to render police service in connection with strikes and other industrial disputes.

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

Sec. 3. Minnesota Statutes 2004, section 299C.08, is amended to read:

299C.08 [OATH OF SUPERINTENDENT AND EMPLOYEES.]

The superintendent and each employee in the bureau whom the superintendent shall designate, before entering upon the performance of duties under sections 299C.03 to 299C.08, 299C.10, 299C.105, 299C.11, 299C.17, 299C.18, and 299C.21, shall take the usual oath.

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

Sec. 4. [299C.105] [DNA DATA REQUIRED.]

Subdivision 1. [REQUIRED COLLECTION OF BIOLOGICAL SPECIMEN FOR DNA TESTING.] (a) Sheriffs, peace officers, and community corrections agencies operating secure juvenile detention facilities shall take or cause to be taken immediately biological specimens for the purpose of DNA analysis as defined in section 299C.155, of the following:

(1) persons arrested for, appearing in court on a charge of, or convicted of or attempting to commit any of the following:

(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;

(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) persons sentenced as patterned sex offenders under section 609.108; or

(3) juveniles arrested for, appearing in court on a charge of, adjudicated delinquent for, or alleged to have committed or attempted to commit any of the following:

- (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;
- (viii) incest under section 609.365;
- (ix) burglary under section 609.582, subdivision 1; or
- (x) indecent exposure under section 617.23, subdivision 3.

(b) Unless the superintendent of the bureau requires a shorter period, within 72 hours the biological specimen required under paragraph (a) must be forwarded to the bureau in such a manner as may be prescribed by the superintendent.

(c) Prosecutors, courts, and probation officers shall attempt to ensure that the biological specimen is taken on a person described in paragraph (a).

Subd. 2. [LAW ENFORCEMENT TRAINING.] The persons who collect the biological specimens required under subdivision 1 must be trained to bureau-established standards in the proper method of collecting and transmitting biological specimens.

Subd. 3. [BUREAU DUTY.] The bureau must perform DNA analysis on biological specimens and enter the results of its analysis in the combined DNA index system within 30 days after specimens are received under this section.

[EFFECTIVE DATE.] This section is effective July 1, 2005, and applies to persons arrested on or after that date.

Sec. 5. [299C.106] [ADDITIONAL DNA DATA REQUIRED.]

Subdivision 1. [REQUIRED COLLECTION OF BIOLOGICAL SPECIMEN FOR DNA TESTING.] (a) As of July 1, 2010, sheriffs, peace officers, and community corrections agencies operating secure juvenile detention facilities shall take or cause to be taken immediately biological specimens for the purpose of DNA analysis as defined in section 299C.155, of persons arrested for, appearing in court on a charge of, or convicted of or attempting to commit any felony that is not described in section 299C.105, subdivision 1, paragraph (a), clause (1).

(b) Unless the superintendent of the bureau requires a shorter period, within 72 hours the biological specimen required under paragraph (a) must be forwarded to the bureau in such a manner as may be prescribed by the superintendent.

(c) Prosecutors, courts, and probation officers shall attempt to ensure that the biological specimen is taken on a person described in paragraph (a).

Subd. 2. [LAW ENFORCEMENT TRAINING.] The persons who collect the biological specimens required under subdivision 1 must be trained to bureau-established standards in the proper method of collecting and transmitting biological specimens.

Subd. 3. [BUREAU DUTY.] The bureau must perform DNA analysis on biological specimens and enter the results of its analysis in the combined DNA index system within 30 days after specimens are received under this section.

[EFFECTIVE DATE.] This section is effective July 1, 2010, and applies to persons arrested on or after that date.

Sec. 6. Minnesota Statutes 2004, section 299C.11, is amended to read:

299C.11 [IDENTIFICATION DATA FURNISHED TO BUREAU.]

Subdivision 1. [~~FINGERPRINTS IDENTIFICATION DATA OTHER THAN DNA.~~] (a) Each sheriff and chief of police shall furnish the bureau, upon such form as the superintendent shall prescribe, with such finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data as may be requested or required by the superintendent of the bureau, which must be taken under the provisions of section 299C.10. In addition, sheriffs and chiefs of police shall furnish this identification data to the bureau for individuals found to have been convicted of a felony, gross misdemeanor, or targeted misdemeanor, within the ten years immediately preceding their arrest.

(b) No petition under chapter 609A is required if the person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding the determination of all pending criminal actions or proceedings in favor of the arrested person, and either of the following occurred:

- (1) all charges were dismissed prior to a determination of probable cause; or
- (2) the prosecuting authority declined to file any charges and a grand jury did not return an indictment.

Where these conditions are met, the bureau or agency shall, upon demand, return to the arrested person finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data, and all copies and duplicates of them.

(c) Except as otherwise provided in paragraph (b), upon the determination of all pending criminal actions or proceedings in favor of the arrested person, and the granting of the petition of the arrested person under chapter 609A, the bureau shall seal finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data, and all copies and duplicates of them if the arrested person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding such determination.

~~(d) DNA samples and DNA records of the arrested person shall not be returned, sealed, or destroyed as to a charge supported by probable cause.~~

~~(e) For purposes of this section:~~

~~(1) "determination of all pending criminal actions or proceedings in favor of the arrested person" does not include:~~

~~(i) the sealing of a criminal record pursuant to section 152.18, subdivision 1, 242.31, or chapter 609A;~~

~~(ii) the arrested person's successful completion of a diversion program;~~

~~(iii) an order of discharge under section 609.165; or~~

~~(iv) a pardon granted under section 638.02; and~~

~~(2) "targeted misdemeanor" has the meaning given in section 299C.10, subdivision 1.~~

Subd. 2. [DNA SAMPLES AND RECORDS.] (a) Each sheriff and chief of police shall furnish the bureau, in such form as the superintendent shall prescribe, with the biological specimens required to be taken under section 299C.105.

(b) No petition under chapter 609A is required if the person has not been convicted of any felony, either within or without the state, within the period of ten years immediately preceding the determination of all pending criminal actions or proceedings in favor of the arrested person, and either of the following occurred:

(1) all charges were dismissed prior to a determination of probable cause; or

(2) the prosecuting authority declined to file any charges and a grand jury did not return an indictment. Where these conditions are met, the bureau or agency shall, upon demand, remove the person's information from the bureau's combined DNA index system and return to the arrested person the biological specimen, all related records, and all copies and duplicates of them.

(c) Except as otherwise provided in paragraph (b), upon the determination of all pending criminal actions or proceedings in favor of the arrested person, and the granting of the petition of the arrested person under chapter 609A, the bureau shall remove the person's information from the bureau's combined DNA index system and seal the biological specimen, all related records, and all copies and duplicates of them, if the arrested person has not been convicted of any felony, either within or without the state, within the period of ten years immediately preceding such determination. The remedies in section 13.08 apply to a violation of this subdivision.

Subd. 3. [DEFINITIONS.] As used in this section, the following terms have the definitions provided:

(1) "determination of all pending criminal actions or proceedings in favor of the arrested person" does not include:

(i) the sealing of a criminal record pursuant to sections 152.18, subdivision 1, and 242.31 or chapter 609A;

(ii) the arrested person's successful completion of a diversion program;

(iii) an order of discharge under section 609.165; or

(iv) a pardon granted under section 638.02; and

(2) "targeted misdemeanor" has the meaning given in section 299C.10, subdivision 1.

[EFFECTIVE DATE.] This section is effective July 1, 2005, and applies to offenders arrested on or after that date.

Sec. 7. Minnesota Statutes 2004, section 299C.155, is amended to read:

299C.155 [STANDARDIZED EVIDENCE COLLECTION; DNA ANALYSIS.]

Subdivision 1. [DEFINITION.] As used in this section, "DNA analysis" means the process through which deoxyribonucleic acid (DNA) in a human biological specimen is analyzed and compared with DNA from another human biological specimen for identification purposes.

Subd. 2. [UNIFORM EVIDENCE COLLECTION.] The bureau shall develop uniform procedures and protocols for collecting evidence in cases of alleged or suspected criminal sexual conduct, including procedures and protocols for the collection and preservation of human biological specimens for DNA analysis. Law enforcement agencies and medical personnel who conduct evidentiary exams shall use the uniform procedures and protocols in their investigation of criminal sexual conduct offenses. The uniform procedures and protocols developed under this subdivision are not subject to the rulemaking provisions of chapter 14.

Subd. 3. [DNA ANALYSIS AND DATA BANK.] The bureau shall adopt uniform procedures and protocols to maintain, preserve, and analyze human biological specimens for DNA. The bureau shall establish a centralized system to cross-reference data obtained from DNA analysis. Data contained on the bureau's centralized system is private data on individuals, as that term is defined in section 13.02. The bureau's centralized system may only be accessed by authorized law enforcement personnel and used solely for law enforcement identification purposes. The remedies in section 13.08 apply to a violation of this subdivision. The uniform procedures and protocols developed under this subdivision are not subject to the rulemaking provisions of chapter 14.

Subd. 4. [RECORD.] The bureau shall perform DNA analysis and make data obtained available to law enforcement officials in connection with criminal investigations in which human biological specimens have been recovered. Upon request, the bureau shall also make the data available to the prosecutor and the subject of the data in any subsequent criminal prosecution of the subject. The results of the bureau's DNA analysis and related records are private data on individuals, as that term is defined in section 13.02, and may only be used for law enforcement identification purposes. The remedies in section 13.08 apply to a violation of this subdivision.

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

Sec. 8. Minnesota Statutes 2004, section 299C.21, is amended to read:

299C.21 [PENALTY ON LOCAL OFFICER REFUSING INFORMATION.]

If any public official charged with the duty of furnishing to the bureau fingerprint records, biological specimens, reports, or other information required by sections 299C.06, 299C.10, 299C.105, 299C.11, 299C.17, shall neglect or refuse to comply with such requirement, the bureau, in writing, shall notify the state, county, or city officer charged with the issuance of a warrant for the payment of the salary of such official. Upon the receipt of the notice the state, county, or city official shall withhold the issuance of a warrant for the payment of the salary or other compensation accruing to such officer for the period of 30 days thereafter until notified by the bureau that such suspension has been released by the performance of the required duty.

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

Sec. 9. [590.10] [PRESERVATION OF EVIDENCE.]

Subdivision 1. [PRESERVATION.] Notwithstanding any other provision of law, all appropriate governmental entities shall retain any item of physical evidence which contains biological material that is used to secure a conviction in a criminal case for the period of time that any person remains incarcerated, on probation or parole, civilly committed, or subject to registration as a sex offender in connection with the case. The governmental entity need retain only the portion of such evidence as was used to obtain an accurate biological sample and used to obtain a conviction. This requirement shall apply with or without the filing of a petition for postconviction DNA analysis, as well as during the pendency of proceedings under section 590.01. If evidence is intentionally destroyed after the filing of a petition under section 590.01, the court may impose appropriate sanctions on the responsible party or parties.

Subd. 2. [DEFINITION.] For purposes of this section, "biological evidence" means:

(1) the contents of a sexual assault examination kit; or

(2) any item that contains blood, semen, hair, saliva, skin tissue, or other identifiable biological material, whether that material is catalogued separately, on a slide, swab, or in a test tube, or is present on other evidence, including, but not limited to, clothing, ligatures, bedding or other household material, drinking cups, cigarettes, and similar items.

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

Sec. 10. Minnesota Statutes 2004, section 609.117, is amended to read:

609.117 [DNA ANALYSIS OF CERTAIN OFFENDERS REQUIRED.]

Subdivision 1. [UPON SENTENCING.] If an offender has not already done so, 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, committing or attempting to commit a felony offense~~ 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;~~

(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) (2) 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;~~

~~(viii) incest under section 609.365;~~

~~(ix) burglary under section 609.582, subdivision 1; or~~

~~(x) indecent exposure under section 617.23, subdivision 3 petitioned for committing or attempting to commit a felony offense and is adjudicated delinquent for that offense or any offense arising out of the same set of circumstances.~~

The biological specimen or the results of the analysis shall be maintained by the Bureau of Criminal Apprehension as provided in section 299C.155.

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 was initially charged with violating one of the following sections or a similar law of another state or the United States and committing or attempting to commit a felony offense and was convicted of ~~another~~ 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;~~

(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 the person has a past felony conviction;~~ or

(3) (2) 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 committing or attempting to commit a felony offense or of any offense arising out of the same set of circumstances if the person was initially charged with committing or attempting to commit a felony offense.~~ The commissioner of corrections or local corrections authority shall forward the sample to the Bureau of Criminal Apprehension.

Subd. 3. [OFFENDERS FROM OTHER STATES.] When the state accepts an offender from another state under the interstate compact authorized by section 243.16, the acceptance is conditional on the offender providing a biological specimen for the purposes of DNA analysis as defined in section 299C.155, if the offender was ~~convicted of an offense described in subdivision 1 or a similar law of the United States or any other state initially charged with committing or attempting to commit a felony offense and was convicted of that offense or of any offense arising out of the same set of circumstances.~~ The specimen must be provided under supervision of staff from the Department of Corrections or a Community Corrections Act county within 15 business days after the offender reports to the supervising agent. The cost of obtaining the biological specimen is the responsibility of the agency providing supervision.

[EFFECTIVE DATE.] This section is effective July 1, 2005, and applies to offenders sentenced, released from incarceration, or accepted for supervision on or after that date.

Sec. 11. Minnesota Statutes 2004, section 609A.02, subdivision 3, is amended to read:

Subd. 3. [CERTAIN CRIMINAL PROCEEDINGS NOT RESULTING IN A CONVICTION.] A petition may be filed under section 609A.03 to seal all records relating to an arrest, indictment or information, trial, or verdict if the records are not subject to section 299C.11, subdivision 1, paragraph (b), and if all pending actions or proceedings were resolved in favor of the petitioner. For purposes of this chapter, a verdict of not guilty by reason of mental illness is not a resolution in favor of the petitioner.

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

Sec. 12. Minnesota Statutes 2004, section 609A.03, subdivision 7, is amended to read:

Subd. 7. [LIMITATIONS OF ORDER.] ~~(a) Upon issuance of an expungement order related to a charge supported by probable cause, the DNA samples and DNA records held by the Bureau of Criminal Apprehension shall not be sealed, returned to the subject of the record, or destroyed.~~

(b) Notwithstanding the issuance of an expungement order:

(1) an expunged record may be opened for purposes of a criminal investigation, prosecution, or sentencing, upon an ex parte court order; and

(2) an expunged record of a conviction may be opened for purposes of evaluating a prospective employee in a criminal justice agency without a court order.

Upon request by law enforcement, prosecution, or corrections authorities, an agency or jurisdiction subject to an expungement order shall inform the requester of the existence of a sealed record and of the right to obtain access to it as provided by this paragraph. For purposes of this section, a "criminal justice agency" means courts or a government agency that performs the administration of criminal justice under statutory authority.

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

Sec. 13. [REVISOR'S INSTRUCTION.]

In each section of Minnesota Statutes where section 299C.105 is cross-referenced, the revisor of statutes shall insert a cross-reference to section 299C.106.

[EFFECTIVE DATE.] This section is effective July 1, 2010.

Sec. 14. [REPEALER.]

Minnesota Statutes 2004, section 609.119, is repealed.

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

ARTICLE 13

CORRECTIONS

Section 1. [241.026] [CORRECTIONAL OFFICERS DISCIPLINE PROCEDURES.]

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

(b) "Correctional officer" and "officer" mean a person employed by the state, a state correctional facility, or a local correctional or detention facility in a security capacity.

(c) "Formal statement" means the questioning of an officer in the course of obtaining a recorded, stenographic, or signed statement to be used as evidence in a disciplinary proceeding against the officer.

Subd. 2. [APPLICABILITY.] The procedures and provisions of this section apply to state and local correctional authorities.

Subd. 3. [GOVERNING FORMAL STATEMENT PROCEDURES.] The formal statement of an officer must be taken according to subdivision 4.

Subd. 4. [PLACE OF FORMAL STATEMENT.] The formal statement must be taken at a facility of the employing or investigating agency or at a place agreed to by the investigating individual and the investigated officer.

Subd. 5. [ADMISSIONS.] Before an officer's formal statement is taken, the officer shall be advised in writing or on the record that admissions made in the course of the formal statement may be used as evidence of misconduct or as a basis for discipline.

Subd. 6. [DISCLOSURE OF FINANCIAL RECORDS.] No employer may require an officer to produce or disclose the officer's personal financial records except pursuant to a valid search warrant or subpoena.

Subd. 7. [RELEASE OF PHOTOGRAPHS.] No state or local correctional facility or governmental unit may publicly release photographs of an officer without the written permission of the officer, except that the facility or unit may display a photograph of an officer to a prospective witness as part of an agency or unit investigation.

Subd. 8. [DISCIPLINARY LETTER.] No disciplinary letter or reprimand may be included in an officer's personnel record unless the officer has been given a copy of the letter or reprimand.

Subd. 9. [RETIATORY ACTION PROHIBITED.] No officer may be discharged, disciplined, or threatened with discharge or discipline as retaliation for or solely by reason of the officer's exercise of the rights provided by this section.

Subd. 10. [RIGHTS NOT REDUCED.] The rights of officers provided by this section are in addition to and do not diminish the rights and privileges of officers that are provided under an applicable collective bargaining agreement or any other applicable law.

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

Sec. 2. [243.051] [COMMUNITY REINTEGRATION; PLACEMENT OF CERTAIN OFFENDERS WITH LESS THAN 180 DAYS TO SERVE.]

The commissioner of corrections, with the concurrence of the local corrections director, may place an offender who is committed to the custody and care of the commissioner and who has less than 180 days remaining in the offender's term of imprisonment at the county jail, regional jail, or local correctional facility in the jurisdiction where the offender plans to reside while on supervised release in order to prepare the offender for reintegration into the community. The commissioner must pay a county that incarcerates an offender under this section a per diem equal to the amount paid to counties by the commissioner to house offenders confined in state correctional facilities for whom the commissioner has insufficient beds.

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

Sec. 3. Minnesota Statutes 2004, section 243.1606, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The Advisory Council on Interstate Adult Offender Supervision consists of the following individuals or their designees:

- (1) the governor;
- (2) the chief justice of the Supreme Court;
- (3) two senators, one from the majority and the other from the minority party, selected by the Subcommittee on Committees of the senate Committee on Rules and Administration;
- (4) two representatives, one from the majority and the other from the minority party, selected by the house speaker;

- (5) the compact administrator, selected as provided in section 243.1607; ~~and~~
- (6) the executive director of the Center for Crime Victim Services; and
- (7) other members as appointed by the commissioner of corrections.

The council may elect a chair from among its members.

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

Sec. 4. Minnesota Statutes 2004, section 243.24, subdivision 2, is amended to read:

Subd. 2. [CHIEF EXECUTIVE OFFICER TO INCREASE FUND TO \$100.] If the fund standing to the credit of the prisoner on the prisoner's leaving the facility by discharge, supervised release, or on parole be less than \$100, the warden or chief executive officer is directed to pay out of the current expense fund of the facility sufficient funds to make the total of said earnings the sum of \$100. Offenders who have previously received the \$100 upon their initial release from incarceration will not receive the \$100 on any second or subsequent release from incarceration for that offense. Offenders who were sentenced as short-term offenders under section 609.105 shall not receive gate money.

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

Sec. 5. Minnesota Statutes 2004, section 244.18, subdivision 2, is amended to read:

Subd. 2. [LOCAL CORRECTIONAL FEES.] A local correctional agency may establish a schedule of local correctional fees to charge persons ~~convicted of a crime and~~ under the supervision and control of the local correctional agency to defray costs associated with correctional services. The local correctional fees on the schedule must be reasonably related to defendants' abilities to pay and the actual cost of correctional services.

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

Sec. 6. Minnesota Statutes 2004, section 609.531, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purpose of sections 609.531 to 609.5318, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a dangerous weapon as defined under section 609.02, subdivision 6, that the actor used or had in possession in furtherance of a crime.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the Bureau of Criminal Apprehension, the Minnesota Division of Driver and Vehicle Services, the Minnesota State Patrol, a county sheriff's department, the Suburban Hennepin Regional Park District park rangers, the Department of Natural Resources Division of Enforcement, the University of Minnesota Police Department, the Department of Corrections' Fugitive Apprehension Unit, or a city or airport police department.

(f) "Designated offense" includes:

(1) for weapons used: any violation of this chapter, chapter 152, or chapter 624;

(2) for driver's license or identification card transactions: any violation of section 171.22; and

(3) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.66, subdivision 1e; 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; 609.893; 609.895; 617.246; or a gross misdemeanor or felony violation of section 609.891 or 624.7181; or any violation of section 609.324.

(g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

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

Sec. 7. Minnesota Statutes 2004, section 609.5311, subdivision 2, is amended to read:

Subd. 2. [ASSOCIATED PROPERTY.] (a) All property, real and personal, that has been used, or is intended for use, or has in any way facilitated, in whole or in part, the manufacturing, compounding, processing, delivering, importing, cultivating, exporting, transporting, or exchanging of contraband or a controlled substance that has not been lawfully manufactured, distributed, dispensed, and acquired is subject to forfeiture under this section, except as provided in subdivision 3.

(b) The Department of Corrections' Fugitive Apprehension Unit shall not seize real property for the purposes of forfeiture under paragraph (a).

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

Sec. 8. Minnesota Statutes 2004, section 609.5311, subdivision 3, is amended to read:

Subd. 3. [LIMITATIONS ON FORFEITURE OF CERTAIN PROPERTY ASSOCIATED WITH CONTROLLED SUBSTANCES.] (a) A conveyance device is subject to forfeiture under this section only if the retail value of the controlled substance is \$25 or more and the conveyance device is associated with a felony-level controlled substance crime.

(b) Real property is subject to forfeiture under this section only if the retail value of the controlled substance or contraband is \$1,000 or more.

(c) Property used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner of the property is a consenting party to, or is privy to, the use or intended use of the property as described in subdivision 2.

(d) Property is subject to forfeiture under this section only if its owner was privy to the use or intended use described in subdivision 2, or the unlawful use or intended use of the property otherwise occurred with the owner's knowledge or consent.

(e) Forfeiture under this section of a conveyance device or real property encumbered by a bona fide security interest is subject to the interest of the secured party unless the secured party had knowledge of or consented to the act or omission upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

(f) Forfeiture under this section of real property is subject to the interests of a good faith purchaser for value unless the purchaser had knowledge of or consented to the act or omission upon which the forfeiture is based.

(g) Notwithstanding paragraphs (d), (e), and (f), property is not subject to forfeiture based solely on the owner's or secured party's knowledge of the unlawful use or intended use of the property if: (1) the owner or secured party took reasonable steps to terminate use of the property by the offender; or (2) the property is real property owned by the parent of the offender, unless the parent actively participated in, or knowingly acquiesced to, a violation of chapter 152, or the real property constitutes proceeds derived from or traceable to a use described in subdivision 2.

(h) The Department of Corrections' Fugitive Apprehension Unit shall not seize a conveyance device, to include motor vehicles or real property, for the purposes of forfeiture under paragraphs (a) to (g).

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

Sec. 9. Minnesota Statutes 2004, section 609.5312, subdivision 1, is amended to read:

Subdivision 1. [PROPERTY SUBJECT TO FORFEITURE.] (a) All personal property is subject to forfeiture if it was used or intended for use to commit or facilitate the commission of a designated offense. All money and other property, real and personal, that represent proceeds of a designated offense, and all contraband property, are subject to forfeiture, except as provided in this section.

(b) The Department of Corrections' Fugitive Apprehension Unit shall not seize real property for the purposes of forfeiture under paragraph (a).

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

Sec. 10. Minnesota Statutes 2004, section 609.5312, subdivision 3, is amended to read:

Subd. 3. [VEHICLE FORFEITURE FOR PROSTITUTION OFFENSES.] (a) A motor vehicle is subject to forfeiture under this subdivision if it was used to commit or facilitate, or used during the commission of, a violation of section 609.324 or a violation of a local ordinance substantially similar to section 609.324. A motor vehicle is subject to forfeiture under this subdivision only if the offense is established by proof of a criminal conviction for the offense. Except as otherwise provided in this subdivision, a forfeiture under this subdivision is governed by sections 609.531, 609.5312, and 609.5313.

(b) When a motor vehicle subject to forfeiture under this subdivision is seized in advance of a judicial forfeiture order, a hearing before a judge or referee must be held within 96 hours of the seizure. Notice of the hearing must be given to the registered owner within 48 hours of the seizure. The prosecuting authority shall certify to the court, at or in advance of the hearing, that it has filed or intends to file charges against the alleged violator for violating section 609.324 or a local ordinance substantially similar to section 609.324. After conducting the hearing, the court shall order that the motor vehicle be returned to the owner if:

(1) the prosecutor has failed to make the certification required by paragraph (b);

(2) the owner of the motor vehicle has demonstrated to the court's satisfaction that the owner has a defense to the forfeiture, including but not limited to the defenses contained in subdivision 2; or

(3) the court determines that seizure of the vehicle creates or would create an undue hardship for members of the owner's family.

(c) If the defendant is acquitted or prostitution charges against the defendant are dismissed, neither the owner nor the defendant is responsible for paying any costs associated with the seizure or storage of the vehicle.

(d) A vehicle leased or rented under section 168.27, subdivision 4, for a period of 180 days or less is not subject to forfeiture under this subdivision.

(e) For purposes of this subdivision, seizure occurs either:

(1) at the date at which personal service of process upon the registered owner is made; or

(2) at the date when the registered owner has been notified by certified mail at the address listed in the Minnesota Department of Public Safety computerized motor vehicle registration records.

(f) The Department of Corrections' Fugitive Apprehension Unit shall not participate in paragraphs (a) to (e).

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

Sec. 11. Minnesota Statutes 2004, section 609.5312, subdivision 4, is amended to read:

Subd. 4. [VEHICLE FORFEITURE FOR FLEEING A PEACE OFFICER.] (a) A motor vehicle is subject to forfeiture under this subdivision if it was used to commit a violation of section 609.487 and endanger life or property. A motor vehicle is subject to forfeiture under this subdivision only if the offense is established by proof of a criminal conviction for the offense. Except as otherwise provided in this subdivision, a forfeiture under this subdivision is governed by sections 609.531, 609.5312, 609.5313, and 609.5315, subdivision 6.

(b) When a motor vehicle subject to forfeiture under this subdivision is seized in advance of a judicial forfeiture order, a hearing before a judge or referee must be held within 96 hours of the seizure. Notice of the hearing must be given to the registered owner within 48 hours of the seizure. The prosecuting authority shall certify to the court, at or in advance of the hearing, that it has filed or intends to file charges against the alleged violator for violating section 609.487. After conducting the hearing, the court shall order that the motor vehicle be returned to the owner if:

(1) the prosecutor has failed to make the certification required by this paragraph;

(2) the owner of the motor vehicle has demonstrated to the court's satisfaction that the owner has a defense to the forfeiture, including but not limited to the defenses contained in subdivision 2; or

(3) the court determines that seizure of the vehicle creates or would create an undue hardship for members of the owner's family.

(c) If the defendant is acquitted or the charges against the defendant are dismissed, neither the owner nor the defendant is responsible for paying any costs associated with the seizure or storage of the vehicle.

(d) A vehicle leased or rented under section 168.27, subdivision 4, for a period of 180 days or less is not subject to forfeiture under this subdivision.

(e) A motor vehicle that is an off-road recreational vehicle as defined in section 169A.03, subdivision 16, or a motorboat as defined in section 169A.03, subdivision 13, is not subject to paragraph (b).

(f) For purposes of this subdivision, seizure occurs either:

(1) at the date at which personal service of process upon the registered owner is made; or

(2) at the date when the registered owner has been notified by certified mail at the address listed in the Minnesota Department of Public Safety computerized motor vehicle registration records.

(g) The Department of Corrections' Fugitive Apprehension Unit shall not seize a motor vehicle for the purposes of forfeiture under paragraphs (a) to (f).

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

Sec. 12. Minnesota Statutes 2004, section 609.5314, subdivision 1, is amended to read:

Subdivision 1. [PROPERTY SUBJECT TO ADMINISTRATIVE FORFEITURE; PRESUMPTION.] (a) The following are presumed to be subject to administrative forfeiture under this section:

(1) all money, precious metals, and precious stones found in proximity to:

(i) controlled substances;

(ii) forfeitable drug manufacturing or distributing equipment or devices; or

(iii) forfeitable records of manufacture or distribution of controlled substances;

(2) all conveyance devices containing controlled substances with a retail value of \$100 or more if possession or sale of the controlled substance would be a felony under chapter 152; and

(3) all firearms, ammunition, and firearm accessories found:

(i) in a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;

(ii) on or in proximity to a person from whom a felony amount of controlled substance is seized; or

(iii) on the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under chapter 152.

(4) The Department of Corrections' Fugitive Apprehension Unit shall not seize items listed in clauses (2) and (3) for the purposes of forfeiture.

(b) A claimant of the property bears the burden to rebut this presumption.

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

Sec. 13. Minnesota Statutes 2004, section 609.5317, subdivision 1, is amended to read:

Subdivision 1. [RENTAL PROPERTY.] (a) When contraband or a controlled substance manufactured, distributed, or acquired in violation of chapter 152 is seized on residential rental property incident to a lawful search or arrest, the county attorney shall give the notice required by this subdivision to (1) the landlord of the property or the fee owner identified in the records of the county assessor, and (2) the agent authorized by the owner to accept

service pursuant to section 504B.181. The notice is not required during an ongoing investigation. The notice shall state what has been seized and specify the applicable duties and penalties under this subdivision. The notice shall state that the landlord who chooses to assign the right to bring an eviction action retains all rights and duties, including removal of a tenant's personal property following issuance of the writ of restitution and delivery of the writ to the sheriff for execution. The notice shall also state that the landlord may contact the county attorney if threatened by the tenant. Notice shall be sent by certified letter, return receipt requested, within 30 days of the seizure. If receipt is not returned, notice shall be given in the manner provided by law for service of summons in a civil action.

(b) Within 15 days after notice of the first occurrence, the landlord shall bring, or assign to the county attorney of the county in which the real property is located, the right to bring an eviction action against the tenant. The assignment must be in writing on a form prepared by the county attorney. Should the landlord choose to assign the right to bring an eviction action, the assignment shall be limited to those rights and duties up to and including delivery of the writ of restitution to the sheriff for execution.

(c) Upon notice of a second occurrence on any residential rental property owned by the same landlord in the same county and involving the same tenant, and within one year after notice of the first occurrence, the property is subject to forfeiture under sections 609.531, 609.5311, 609.5313, and 609.5315, unless an eviction action has been commenced as provided in paragraph (b) or the right to bring an eviction action was assigned to the county attorney as provided in paragraph (b). If the right has been assigned and not previously exercised, or if the county attorney requests an assignment and the landlord makes an assignment, the county attorney may bring an eviction action rather than an action for forfeiture.

(d) The Department of Corrections' Fugitive Apprehension Unit shall not seize real property for the purposes of forfeiture as described in paragraphs (a) to (c).

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

Sec. 14. Minnesota Statutes 2004, section 609.5318, subdivision 1, is amended to read:

Subdivision 1. [MOTOR VEHICLES SUBJECT TO FORFEITURE.] (a) A motor vehicle is subject to forfeiture under this section if the prosecutor establishes by clear and convincing evidence that the vehicle was used in a violation of section 609.66, subdivision 1e. The prosecutor need not establish that any individual was convicted of the violation, but a conviction of the owner for a violation of section 609.66, subdivision 1e, creates a presumption that the vehicle was used in the violation.

(b) The Department of Corrections' Fugitive Apprehension Unit shall not seize a motor vehicle for the purposes of forfeiture under paragraph (a).

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

Sec. 15. Minnesota Statutes 2004, section 631.425, subdivision 4, is amended to read:

Subd. 4. [CONFINEMENT WHEN NOT EMPLOYED.] Unless the court otherwise directs, the sheriff or local correctional agency may electronically monitor or confine in jail each inmate ~~must be confined in jail~~ during the time the inmate is not employed, or, if the inmate is employed, between the times of employment. The sheriff may not electronically monitor an offender who is sentenced for domestic assault under section 609.2242, unless the court directs otherwise. The sheriff may assess the cost of electronic monitoring on the offender.

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

Sec. 16. Minnesota Statutes 2004, section 641.21, is amended to read:

641.21 [JAIL, ADVICE AS TO CONSTRUCTION.]

When any county board determines to purchase, lease or erect a new jail, or to repair an existing one at an expense of more than ~~\$5,000~~ \$15,000, it shall pass a resolution to that effect, and transmit a copy thereof to the commissioner of corrections, who, within 30 days thereafter, shall transmit to that county board the advice and suggestions in reference to the purchase, lease or construction thereof as the commissioner deems proper.

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

Sec. 17. [REPEALER.]

Minnesota Statutes 2004, section 243.162, is repealed.

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

ARTICLE 14

COURTS AND PUBLIC DEFENDER

Section 1. Minnesota Statutes 2004, section 2.722, subdivision 1, is amended to read:

Subdivision 1. [DESCRIPTION.] Effective July 1, 1959, the state is divided into ten judicial districts composed of the following named counties, respectively, in each of which districts judges shall be chosen as hereinafter specified:

1. Goodhue, Dakota, Carver, Le Sueur, McLeod, Scott, and Sibley; ~~33~~ 35 judges; and four permanent chambers shall be maintained in Red Wing, Hastings, Shakopee, and Glencoe and one other shall be maintained at the place designated by the chief judge of the district;
2. Ramsey; 26 judges;
3. Wabasha, Winona, Houston, Rice, Olmsted, Dodge, Steele, Waseca, Freeborn, Mower, and Fillmore; 23 judges; and permanent chambers shall be maintained in Faribault, Albert Lea, Austin, Rochester, and Winona;
4. Hennepin; 60 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~~ 28 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~~ 44 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 July 1, 2005.

Sec. 2. Minnesota Statutes 2004, section 357.021, subdivision 6, is amended to read:

Subd. 6. [SURCHARGES ON CRIMINAL AND TRAFFIC OFFENDERS.] (a) The court shall impose and the court administrator shall collect a ~~\$60~~ \$70 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle parking, for which there shall be a ~~\$3~~ \$4 surcharge. In the Second Judicial District, the court shall impose, and the court administrator shall collect, an additional \$1 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, ~~other than~~ including a violation of a law or ordinance relating to vehicle parking, if the Ramsey County Board of Commissioners authorizes the \$1 surcharge. The surcharge shall be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed.

(b) If the court fails to impose a surcharge as required by this subdivision, the court administrator shall show the imposition of the surcharge, collect the surcharge and correct the record.

(c) The court may not waive payment of the surcharge required under this subdivision. Upon a showing of indigency or undue hardship upon the convicted person or the convicted person's immediate family, the sentencing court may authorize payment of the surcharge in installments.

(d) The court administrator or other entity collecting a surcharge shall forward it to the commissioner of finance.

(e) If the convicted person is sentenced to imprisonment and has not paid the surcharge before the term of imprisonment begins, the chief executive officer of the correctional facility in which the convicted person is incarcerated shall collect the surcharge from any earnings the inmate accrues from work performed in the facility or while on conditional release. The chief executive officer shall forward the amount collected to the commissioner of finance.

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

Sec. 3. Minnesota Statutes 2004, section 357.021, subdivision 7, is amended to read:

Subd. 7. [DISBURSEMENT OF SURCHARGES BY COMMISSIONER OF FINANCE.] (a) Except as provided in paragraphs (b), (c), and (d), the commissioner of finance shall disburse surcharges received under subdivision 6 and section 97A.065, subdivision 2, as follows:

(1) one percent shall be credited to the game and fish fund to provide peace officer training for employees of the Department of Natural Resources who are licensed under sections 626.84 to 626.863, and who possess peace officer authority for the purpose of enforcing game and fish laws;

(2) 39 percent shall be credited to the peace officers training account in the special revenue fund; and

(3) 60 percent shall be credited to the general fund.

(b) The commissioner of finance shall credit \$3 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, to the general fund.

(c) In addition to any amounts credited under paragraph (a), the commissioner of finance shall credit ~~\$32~~ \$42 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, and the \$3 parking surcharge, to the general fund.

(d) If the Ramsey County Board of Commissioners authorizes imposition of the additional \$1 surcharge provided for in subdivision 6, paragraph (a), the court administrator in the Second Judicial District shall ~~withhold \$1 from each surcharge collected under subdivision 6. The court administrator must use the withheld funds solely to fund the petty misdemeanor diversion program administered by the Ramsey County Violations Bureau. The court administrator must transfer any unencumbered portion of the funds received under this subdivision to the commissioner of finance for distribution according to paragraphs (a) to (c)~~ transmit the surcharge to the commissioner of finance. The \$1 special surcharge is deposited in a Ramsey County surcharge account in the special revenue fund and amounts in the account are appropriated to the trial courts for the administration of the petty misdemeanor diversion program operated by the Second Judicial District Ramsey County Violations Bureau.

[EFFECTIVE DATE.] The change to paragraph (c) is effective July 1, 2005. The changes to paragraph (d) are effective either the day after the governing body of Ramsey County authorizes imposition of the surcharge, or July 1, 2005, whichever is the later date, and applies to convictions on or after that date.

Sec. 4. Minnesota Statutes 2004, section 357.18, subdivision 3, is amended to read:

Subd. 3. [SURCHARGE.] In addition to the fees imposed in subdivision 1, a ~~\$4.50~~ \$8.50 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 of each surcharge shall be retained by the county to cover its administrative costs and ~~\$4~~ \$8 shall be paid to the state treasury and credited to the general fund.

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

Sec. 5. Minnesota Statutes 2004, 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 ~~\$4.50~~ \$8.50 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 of this surcharge to be retained by the county to cover its administrative costs, 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, 2005.

Sec. 6. Minnesota Statutes 2004, 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 ~~\$4.50~~ \$8.50 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 of this surcharge to be retained by the county to cover its administrative costs, 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, 2005.

Sec. 7. [545A.01] [APPEAL OF PRETRIAL ORDERS; ATTORNEY FEES; DEFENDANT; NOT GOVERNMENT RESPONSIBILITY.]

(a) Notwithstanding Rule 28.04, subdivision 2, clause (6), of the Rules of Criminal Procedure, the government unit is not required to pay the attorney fees and costs incurred by the defendant on the unit's appeal of the following:

(1) in any case, from a pretrial order of the trial court;

(2) in felony cases, from any sentence imposed or stayed by the trial court;

(3) in any case, from an order granting postconviction relief;

(4) in any case, from a judgment of acquittal by the trial court entered after the jury returns a verdict of guilty under Rule 26.03, subdivision 17, clause (2) or (3), of the Rules of Criminal Procedure; and

(5) in any case, from an order of the trial court vacating judgment and dismissing the case made after the jury returns a verdict of guilty under Rule 26.04, subdivision 2, of the Rules of Criminal Procedure.

(b) Paragraph (a) does not apply if the defendant is represented by the public defender in this matter.

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

Sec. 8. Minnesota Statutes 2004, section 590.01, subdivision 1, is amended to read:

Subdivision 1. [PETITION.] Except at a time when direct appellate relief is available, a person convicted of a crime, who claims that:

(1) the conviction obtained or the sentence or other disposition made violated the person's rights under the Constitution or laws of the United States or of the state; or

(2) scientific evidence not available at trial, obtained pursuant to a motion granted under subdivision 1a, establishes the petitioner's actual innocence;

may commence a proceeding to secure relief by filing a petition in the district court in the county in which the conviction was had to vacate and set aside the judgment and to discharge the petitioner or to resentence the petitioner or grant a new trial or correct the sentence or make other disposition as may be appropriate. A petition for postconviction relief after a direct appeal has been completed may not be based on grounds that could have been raised on direct appeal of the conviction or sentence. Nothing contained herein shall prevent the Supreme Court or the Court of Appeals, upon application by a party, from granting a stay of a case on appeal for the purpose of allowing an appellant to apply to the district court for an evidentiary hearing under the provisions of this chapter. The proceeding shall conform with sections 590.01 to 590.06.

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

Sec. 9. Minnesota Statutes 2004, section 590.01, is amended by adding a subdivision to read:

Subd. 4. [TIME LIMIT.] (a) No petition for postconviction relief may be filed more than two years after the later of:

(1) the entry of judgment of conviction or sentence if no direct appeal is filed; or

(2) an appellate court's disposition of petitioner's direct appeal.

(b) Notwithstanding paragraph (a), a court may hear a petition for postconviction relief if:

(1) the petitioner establishes that a physical disability or mental disease precluded a timely assertion of the claim;

(2) the petitioner alleges the existence of newly discovered evidence, including scientific evidence, that could not have been ascertained by the exercise of due diligence by the petitioner or petitioner's attorney within the two-year time period for filing a postconviction petition, and the evidence is not cumulative to evidence presented at trial, is not for impeachment purposes, and establishes by a clear and convincing standard that the petitioner is innocent of the offense or offenses for which the petitioner was convicted;

(3) the petitioner asserts a new interpretation of federal or state constitutional or statutory law by either the United States Supreme Court or a Minnesota appellate court and the petitioner establishes that this interpretation is retroactively applicable to the petitioner's case;

(4) the petition is brought pursuant to subdivision 3; or

(5) the petitioner establishes to the satisfaction of the court that the petition is not frivolous and is in the interests of justice.

(c) Any petition invoking an exception provided in paragraph (b) must be filed within two years of the date the claim arises.

[EFFECTIVE DATE.] This section is effective August 1, 2005. Any person whose conviction became final before August 1, 2005, shall have two years after the effective date of this act to file a petition for postconviction relief.

Sec. 10. Minnesota Statutes 2004, section 611.14, is amended to read:

611.14 [RIGHT TO REPRESENTATION BY PUBLIC DEFENDER.]

The following persons who are financially unable to obtain counsel are entitled to be represented by a public defender:

(1) a person charged with a felony, gross misdemeanor, or misdemeanor including a person charged under sections 629.01 to 629.29;

(2) a person appealing from a conviction of a felony or gross misdemeanor, or a person convicted of a felony or gross misdemeanor, who is pursuing a postconviction proceeding and who has not already had a direct appeal of the conviction, but if the person pled guilty and received a presumptive sentence or a downward departure in sentence, and the state public defender reviewed the person's case and determined that there was no basis for an appeal of the conviction or of the sentence, then the state public defender may decline to represent the person in a postconviction remedy case;

(3) a person who is entitled to be represented by counsel under section 609.14, subdivision 2; or

(4) a minor ten years of age or older who is entitled to be represented by counsel under section 260B.163, subdivision 4, or 260C.163, subdivision 3.

The Board of Public Defense must not provide or pay for public defender services to persons other than those entitled to representation under this section.

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

Sec. 11. Minnesota Statutes 2004, 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, 2005, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2004, 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, 2005, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2004, section 611.272, is amended to read:

611.272 [ACCESS TO GOVERNMENT DATA.]

The district public defender, the state public defender, or an attorney working for a public defense corporation under section 611.216 has access to the criminal justice data communications network described in section 299C.46, as provided in this section. Access to data under this section is limited to data ~~regarding the public defender's own client~~ as necessary to prepare criminal cases in which the public defender has been appointed, including as follows:

(1) access to data about witnesses in a criminal case shall be limited to records of criminal convictions; and

(2) access to data regarding the public defender's own client which includes, but is not limited to, criminal history data under section 13.87; juvenile offender data under section 299C.095; warrant information data under section 299C.115; incarceration data under section 299C.14; conditional release data under section 299C.147; and diversion program data under section 299C.46, subdivision 5.

The public defender has access to data under this section, whether accessed via CriMNet or other methods. The public defender does not have access to law enforcement active investigative data under section 13.82, subdivision 7; data protected under section 13.82, subdivision 17; ~~or~~ confidential arrest warrant indices data under section 13.82, subdivision 19; or data systems maintained by a prosecuting attorney. The public defender has access to the data at no charge, except for the monthly network access charge under section 299C.46, subdivision 3, paragraph (b), and a reasonable installation charge for a terminal. Notwithstanding section 13.87, subdivision 3; 299C.46, subdivision 3, paragraph (b); 299C.48, or any other law to the contrary, there shall be no charge to public defenders for Internet access to the criminal justice data communications network.

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

Sec. 14. [611.273] [SURPLUS PROPERTY.]

Notwithstanding the provisions of Minnesota Statutes, sections 15.054 and 16C.23, the Board of Public Defense, in its sole discretion, may provide surplus computers to its part-time employees for their use.

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

Sec. 15. Minnesota Statutes 2004, section 626.04, is amended to read:

626.04 [PROPERTY; SEIZURE, KEEPING, AND DISPOSAL.]

(a) When any officer seizes, with or without warrant, any property or thing, it shall be safely kept by direction of the court as long as necessary for the purpose of being produced as evidence on any trial. If the owner of the property makes a written request to the seizing officer's agency for return of the property, and the property has not been returned within 48 hours of the request, excluding Saturday, Sunday, or legal holidays, the person whose property has been seized may file a petition for the return of the property in the district court in the district in which the property was seized. The court administrator shall provide a form for use as a petition under this section. A filing fee, equal to the civil motion filing fee shall be required for filing the petition. The district court shall send a copy of the petition to the agency acting as custodian of the property with at least ten days notice of a hearing date. A hearing on the petition shall be held within 30 days of filing unless good cause is shown for an extension of time. The determination of the petition must be without jury trial and by a simple and informal procedure. At the hearing, the court may receive relevant evidence on any issue of fact necessary to the decision on the petition without regard

to whether the evidence would be admissible under the Minnesota Rules of Evidence. The court shall allow if requested, or on its own motion may require, the custodian or the custodian's designee to summarize the status and progress of an ongoing investigation that led to the seizure. Any such summary shall be done ex parte and only the custodian, the custodian's designee, and their attorneys may be present with the court and court staff. The court shall seal the ex parte record. After a hearing, the court shall not order the return if it finds that:

(1) the property is being held in good faith as potential evidence in any matter, charged or uncharged;

(2) the property may be subject to forfeiture proceedings;

(3) the property is contraband or may contain contraband; or

(4) the property is subject to other lawful retention.

(b) The court shall make findings on each of these issues as part of its order. If the property is ordered returned, the petitioner shall not be liable for any storage costs incurred from the date the petition was filed. If the petition is denied, the court may award reasonable costs and attorney fees. After the trial for which the property was being held as potential evidence, and the expiration date for all associated appeals, the property or thing shall, unless otherwise subject to lawful detention, be returned to its owner or any other person entitled to possess it. Any property or thing seized may be destroyed or otherwise disposed of under the direction of the court. Any money found in gambling devices when seized shall be paid into the county treasury. If the gambling devices are seized by a police officer of a municipality, the money shall be paid into the treasury of the municipality.

Sec. 16. [COLLATERAL SANCTIONS CROSS-REFERENCES; CREATION OF A NEW TABLE.]

Subdivision 1. [DEFINITIONS.] For purposes of this section:

(1) "automatically" means either by operation of law or by the mandated action of a designated official or agency; and

(2) "collateral sanction" means a legal penalty, disability, or disadvantage, however denominated, that is imposed on a person automatically when that person is convicted of or found to have committed a crime, even if the sanction is not included in the sentence. Collateral sanction does not include:

(i) a direct consequence of the crime such as a criminal fine, restitution, or incarceration; or

(ii) a requirement imposed by the sentencing court or other designated official or agency that the convicted person provide a biological specimen for DNA analysis, provide fingerprints, or submit to any form of assessment or testing.

Subd. 2. [REVISOR INSTRUCTION.] The revisor of statutes shall publish a table in Minnesota Statutes that contains cross-references to Minnesota laws imposing collateral sanctions. The revisor shall create a structure that categorizes these laws in a useful way to users and provides them with quick access to the cross-referenced laws. The revisor may consider, but is not limited to, using the following categories in the new table:

(1) collateral sanctions relating to employment and occupational licensing;

(2) collateral sanctions relating to driving and motor vehicles;

(3) collateral sanctions relating to public safety;

(4) collateral sanctions relating to eligibility for services and benefits;

(5) collateral sanctions relating to property rights;

(6) collateral sanctions relating to civil rights and remedies; and

(7) collateral sanctions relating to recreational activities.

Subd. 3. [CAUTIONARY LANGUAGE.] The revisor shall include appropriate cautionary language with the table that notifies users of the following types of issues:

(1) that the list of collateral sanctions laws is intended to be comprehensive but is not necessarily complete;

(2) that the inclusion or exclusion of a collateral sanction is not intended to have any substantive legal effect;

(3) that the cross-references used are intended solely to indicate the contents of the cross-referenced section or subdivision and are not part of the cross-referenced statute;

(4) that the cross-references are not substantive and may not be used to construe or limit the meaning of any statutory language; and

(5) that users must consult the language of each cross-referenced law to fully understand the scope and effect of the collateral sanction it imposes.

Subd. 4. [CONSULTATION WITH LEGISLATORS AND LEGISLATIVE STAFF.] The revisor shall consult with legislative staff and the chairs of the senate and house committees having jurisdiction over criminal justice matters to identify laws that impose collateral sanctions and develop the appropriate categories and cross-references to use in the new table.

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

Sec. 17. [RAMSEY COUNTY COURT COMMISSIONER.]

The chief justice of the Supreme Court may assign a retired court commissioner to act in Ramsey County as a commissioner of the district court. The commissioner may perform duties assigned by the chief judge of the judicial district with the powers provided by Minnesota Statutes, section 489.02. This section expires December 31, 2025.

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

Sec. 18. [REPEALER.]

Minnesota Statutes 2004, sections 611.18 and 624.04 are repealed.

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

ARTICLE 15

CHILD PROTECTION

Section 1. Minnesota Statutes 2004, section 259.24, subdivision 1, is amended to read:

Subdivision 1. [EXCEPTIONS.] No child shall be adopted without the consent of the child's parents and the child's guardian, if there be one, except in the following instances:

(a) Consent shall not be required of a parent not entitled to notice of the proceedings.

(b) Consent shall not be required of a parent who has abandoned the child, or of a parent who has lost custody of the child through a divorce decree or a decree of dissolution, and upon whom notice has been served as required by section 259.49.

(c) Consent shall not be required of a parent whose parental rights to the child have been terminated by a juvenile court or who has lost custody of a child through a final commitment of the juvenile court or through a decree in a prior adoption proceeding.

(d) If there be no parent or guardian qualified to consent to the adoption, the consent ~~may~~ shall be given by the commissioner. After the court accepts a parent's consent to the adoption under section 260C.201, subdivision 11, consent by the commissioner or commissioner's delegate is also necessary. Agreement to the identified prospective adoptive parent by the responsible social services agency under section 260C.201, subdivision 11, does not constitute the required consent.

(e) The commissioner or agency having authority to place a child for adoption pursuant to section 259.25, subdivision 1, shall have the exclusive right to consent to the adoption of such child. The commissioner or agency shall make every effort to place siblings together for adoption. Notwithstanding any rule to the contrary, the commissioner may delegate the right to consent to the adoption or separation of siblings, if it is in the child's best interest, to a local social services agency.

Sec. 2. Minnesota Statutes 2004, section 259.24, subdivision 2a, is amended to read:

Subd. 2a. [TIME OF CONSENT; NOTICE OF INTENT TO CONSENT TO ADOPTION.] (a) Not sooner than 72 hours after the birth of a child and not later than 60 days after the child's placement in a prospective adoptive home, a person whose consent is required under this section shall execute a consent.

(b) Unless all birth parents from whom consent is required under this section are involved in making the adoptive placement and intend to consent to the adoption, a birth parent who intends to execute a consent to an adoption must give notice to the child's other birth parent of the intent to consent to the adoption prior to or within 72 hours following the placement of the child, if the other birth parent's consent to the adoption is required under subdivision 1. The birth parent who receives notice shall have 60 days after the placement of the child to either consent or refuse to consent to the adoption. If the birth parent who receives notice fails to take either of these actions, that parent shall be deemed to have irrevocably consented to the child's adoption. The notice provisions of chapter 260C and the rules of juvenile protection procedure shall apply to both parents when the consent to adopt is executed under section 260C.201, subdivision 11.

(c) When notice is required under this subdivision, it shall be provided to the other birth parent according to the Rules of Civil Procedure for service of a summons and complaint.

Sec. 3. Minnesota Statutes 2004, section 259.24, subdivision 5, is amended to read:

Subd. 5. [EXECUTION.] All consents to an adoption shall be in writing, executed before two competent witnesses, and acknowledged by the consenting party. In addition, all consents to an adoption, except those by the commissioner, the commissioner's agent, a licensed child-placing agency, an adult adoptee, or the child's parent in a petition for adoption by a stepparent, shall be executed before a representative of the commissioner, the commissioner's agent, or a licensed child-placing agency. All consents by a parent:

(1) shall contain notice to the parent of the substance of subdivision 6a, providing for the right to withdraw consent unless the parent will not have the right to withdraw consent because consent was executed under section 260C.201, subdivision 11, following proper notice that consent given under that provision is irrevocable upon acceptance by the court as provided in subdivision 6a; and

(2) shall contain the following written notice in all capital letters at least one-eighth inch high:

"This agency will submit your consent to adoption to the court. The consent itself does not terminate your parental rights. Parental rights to a child may be terminated only by an adoption decree or by a court order terminating parental rights. Unless the child is adopted or your parental rights are terminated, you may be asked to support the child."

Consents shall be filed in the adoption proceedings at any time before the matter is heard provided, however, that a consent executed and acknowledged outside of this state, either in accordance with the law of this state or in accordance with the law of the place where executed, is valid.

Sec. 4. Minnesota Statutes 2004, section 259.24, subdivision 6a, is amended to read:

Subd. 6a. [WITHDRAWAL OF CONSENT.] Except for consents executed under section 260C.201, subdivision 11, a parent's consent to adoption may be withdrawn for any reason within ten working days after the consent is executed and acknowledged. Written notification of withdrawal of consent must be received by the agency to which the child was surrendered no later than the tenth working day after the consent is executed and acknowledged. On the day following the tenth working day after execution and acknowledgment, the consent shall become irrevocable, except upon order of a court of competent jurisdiction after written findings that consent was obtained by fraud. A consent to adopt executed under section 260C.201, subdivision 11, is irrevocable upon proper notice to both parents of the effect of a consent to adopt and acceptance by the court, except upon order of the same court after written findings that the consent was obtained by fraud. In proceedings to determine the existence of fraud, the adoptive parents and the child shall be made parties. The proceedings shall be conducted to preserve the confidentiality of the adoption process. There shall be no presumption in the proceedings favoring the birth parents over the adoptive parents.

Sec. 5. Minnesota Statutes 2004, section 260C.201, subdivision 11, is amended to read:

Subd. 11. [REVIEW OF COURT-ORDERED PLACEMENTS; PERMANENT PLACEMENT DETERMINATION.] (a) This subdivision and subdivision 11a do not apply in cases where the child is in placement due solely to the child's developmental disability or emotional disturbance, where legal custody has not been transferred to the responsible social services agency, and where the court finds compelling reasons under section 260C.007, subdivision 8, to continue the child in foster care past the time periods specified in this subdivision. Foster care placements of children due solely to their disability are governed by section 260C.141, subdivision 2b. In all other cases where the child is in foster care or in the care of a noncustodial parent under subdivision 1, the court shall conduct a hearing to determine the permanent status of a child not later than 12 months after the child is placed in foster care or in the care of a noncustodial parent.

For purposes of this subdivision, the date of the child's placement in foster care is the earlier of the first court-ordered placement or 60 days after the date on which the child has been voluntarily placed in foster care by the child's parent or guardian. For purposes of this subdivision, time spent by a child under the protective supervision of the responsible social services agency in the home of a noncustodial parent pursuant to an order under subdivision 1 counts towards the requirement of a permanency hearing under this subdivision or subdivision 11a.

For purposes of this subdivision, 12 months is calculated as follows:

(1) during the pendency of a petition alleging that a child is in need of protection or services, all time periods when a child is placed in foster care or in the home of a noncustodial parent are cumulated;

(2) if a child has been placed in foster care within the previous five years under one or more previous petitions, the lengths of all prior time periods when the child was placed in foster care within the previous five years are cumulated. If a child under this clause has been in foster care for 12 months or more, the court, if it is in the best interests of the child and for compelling reasons, may extend the total time the child may continue out of the home under the current petition up to an additional six months before making a permanency determination.

(b) Unless the responsible social services agency recommends return of the child to the custodial parent or parents, not later than 30 days prior to this hearing, the responsible social services agency shall file pleadings in juvenile court to establish the basis for the juvenile court to order permanent placement of the child according to paragraph (d). Notice of the hearing and copies of the pleadings must be provided pursuant to section 260C.152. If a termination of parental rights petition is filed before the date required for the permanency planning determination and there is a trial under section 260C.163 scheduled on that petition within 90 days of the filing of the petition, no hearing need be conducted under this subdivision.

(c) At the conclusion of the hearing, the court shall order the child returned to the care of the parent or guardian from whom the child was removed or order a permanent placement in the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated. Transfer of permanent legal and physical custody, termination of parental rights, or guardianship and legal custody to the commissioner through a consent to adopt are preferred permanency options for a child who cannot return home.

(d) If the child is not returned to the home, the court must order one of the following dispositions:

(1) permanent legal and physical custody to a relative in the best interests of the child according to the following conditions:

(i) an order for transfer of permanent legal and physical custody to a relative shall only be made after the court has reviewed the suitability of the prospective legal and physical custodian;

(ii) in transferring permanent legal and physical custody to a relative, the juvenile court shall follow the standards applicable under this chapter and chapter 260, and the procedures set out in the juvenile court rules;

(iii) an order establishing permanent legal and physical custody under this subdivision must be filed with the family court;

(iv) a transfer of legal and physical custody includes responsibility for the protection, education, care, and control of the child and decision making on behalf of the child;

(v) the social services agency may bring a petition or motion naming a fit and willing relative as a proposed permanent legal and physical custodian. The commissioner of human services shall annually prepare for counties information that must be given to proposed custodians about their legal rights and obligations as custodians together with information on financial and medical benefits for which the child is eligible; and

(vi) the juvenile court may maintain jurisdiction over the responsible social services agency, the parents or guardian of the child, the child, and the permanent legal and physical custodian for purposes of ensuring appropriate services are delivered to the child and permanent legal custodian or for the purpose of ensuring conditions ordered by the court related to the care and custody of the child are met;

(2) termination of parental rights according to the following conditions:

(i) unless the social services agency has already filed a petition for termination of parental rights under section 260C.307, the court may order such a petition filed and all the requirements of sections 260C.301 to 260C.328 remain applicable; and

(ii) an adoption completed subsequent to a determination under this subdivision may include an agreement for communication or contact under section 259.58;

(3) long-term foster care according to the following conditions:

(i) the court may order a child into long-term foster care only if it finds compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests; and

(ii) further, the court may only order long-term foster care for the child under this section if it finds the following:

(A) the child has reached age 12 and reasonable efforts by the responsible social services agency have failed to locate an adoptive family for the child; or

(B) the child is a sibling of a child described in subitem (A) and the siblings have a significant positive relationship and are ordered into the same long-term foster care home;

(4) foster care for a specified period of time according to the following conditions:

(i) foster care for a specified period of time may be ordered only if:

(A) the sole basis for an adjudication that the child is in need of protection or services is the child's behavior;

(B) the court finds that foster care for a specified period of time is in the best interests of the child; and

(C) the court finds compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests;

(ii) the order does not specify that the child continue in foster care for any period exceeding one year; or

(5) guardianship and legal custody to the commissioner of human services under the following procedures and conditions:

(i) there is an identified prospective adoptive home that has agreed to adopt the child and agreed to by the responsible social services agency having legal custody of the child pursuant to court order under this section and the court accepts the parent's voluntary consent to adopt under section 259.24;

(ii) if the court accepts a consent to adopt in lieu of ordering one of the other enumerated permanency dispositions, the court must review the matter at least every 90 days. The review will address the reasonable efforts of the agency to achieve a finalized adoption;

(iii) a consent to adopt under this clause vests all legal authority regarding the child, including guardianship and legal custody of the child, with the commissioner of human services as if the child were a state ward after termination of parental rights;

(iv) the court must forward a copy of the consent to adopt, together with a certified copy of the order transferring guardianship and legal custody to the commissioner, to the commissioner; ~~and~~

(v) if an adoption is not finalized by the identified prospective adoptive parent within 12 months of the execution of the consent to adopt under this clause, the commissioner of human services or the commissioner's delegate shall pursue adoptive placement in another home unless the commissioner certifies that the failure to finalize is not due to either an action or a failure to act by the prospective adoptive parent; and

(vi) notwithstanding item (v), the commissioner of human services or the commissioner's designee must pursue adoptive placement in another home as soon as the commissioner or commissioner's designee determines that finalization of the adoption with the identified prospective adoptive parent is not possible, that the identified prospective adoptive parent is not willing to adopt the child, that the identified prospective adoptive parent is not cooperative in completing the steps necessary to finalize the adoption, or upon the commissioner's determination to withhold consent to the adoption.

(e) In ordering a permanent placement of a child, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact.

(f) Once a permanent placement determination has been made and permanent placement has been established, further court reviews are necessary if:

(1) the placement is long-term foster care or foster care for a specified period of time;

(2) the court orders further hearings because it has retained jurisdiction of a transfer of permanent legal and physical custody matter;

(3) an adoption has not yet been finalized; or

(4) there is a disruption of the permanent or long-term placement.

(g) Court reviews of an order for long-term foster care, whether under this section or section 260C.317, subdivision 3, paragraph (d), or foster care for a specified period of time must be conducted at least yearly and must review the child's out-of-home placement plan and the reasonable efforts of the agency to:

(1) identify a specific long-term foster home for the child or a specific foster home for the time the child is specified to be out of the care of the parent, if one has not already been identified;

(2) support continued placement of the child in the identified home, if one has been identified;

(3) ensure appropriate services are provided to the child during the period of long-term foster care or foster care for a specified period of time;

(4) plan for the child's independence upon the child's leaving long-term foster care living as required under section 260C.212, subdivision 1; and

(5) where placement is for a specified period of time, a plan for the safe return of the child to the care of the parent.

(h) An order under this subdivision must include the following detailed findings:

- (1) how the child's best interests are served by the order;
 - (2) the nature and extent of the responsible social service agency's reasonable efforts, or, in the case of an Indian child, active efforts to reunify the child with the parent or parents;
 - (3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement; and
 - (4) whether the conditions which led to the out-of-home placement have been corrected so that the child can return home.
- (i) An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social services agency is a party to the proceeding and must receive notice. A parent may only seek modification of an order for long-term foster care upon motion and a showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the child's permanent placement and the return to the parent's care would be in the best interest of the child.
- (j) The court shall issue an order required under this section within 15 days of the close of the proceedings. The court may extend issuing the order an additional 15 days when necessary in the interests of justice and the best interests of the child.

Sec. 6. [260C.209] [BACKGROUND CHECKS.]

Subdivision 1. [SUBJECTS.] The responsible social services agency must conduct a background check under this section of the following:

- (1) a noncustodial parent or nonadjudicated parent who is being assessed for purposes of providing day-to-day care of a child temporarily or permanently under section 260C.212, subdivision 4, and any member of the parent's household who is over the age of 13 when there is a reasonable cause to believe that the parent or household member over age 13 has a criminal history or a history of maltreatment of a child or vulnerable adult which would endanger the child's health, safety, or welfare;
- (2) an individual whose suitability for relative placement under section 260C.212, subdivision 5, is being determined, and any member of the relative's household who is over the age of 13 when: (i) the relative must be licensed for foster care; or (ii) the agency must conduct a background study under section 259.53, subdivision 2; or (iii) the agency has reasonable cause to believe the relative or household member over the age of 13 has a criminal history which would not make transfer of permanent legal and physical custody to the relative under section 260C.201, subdivision 11, in the child's best interest; and
- (3) a parent, following an out-of-home placement, when the responsible social service agency has reasonable cause to believe that the parent has been convicted of a crime directly related to the parent's capacity to maintain the child's health, safety, or welfare; or the parent is the subject of an open investigation of, or has been the subject of a substantiated allegation of, child or vulnerable-adult maltreatment within the past ten years.

"Reasonable cause" means that the agency has received information or a report from the subject or a third person that creates an articulable suspicion that the individual has a history that may pose a risk to the health, safety, or welfare of the child. The information or report must be specific to the potential subject of the background check and shall not be based on the race, religion, ethnic background, age, class, or lifestyle of the potential subject.

Subd. 2. [GENERAL PROCEDURES.] (a) When conducting a background check under subdivision 1, the agency may require the individual being assessed to provide sufficient information to ensure an accurate assessment under this section, including:

- (1) the individual's first, middle, and last name and all other names by which the individual has been known;
- (2) home address, zip code, city, county, and state of residence for the past ten years;
- (3) sex;
- (4) date of birth; and
- (5) driver's license number or state identification number.

(b) When notified by the responsible social services agency that it is conducting an assessment under this section, the Bureau of Criminal Apprehension, commissioners of health and human services, law enforcement, and county agencies must provide the responsible social services agency or county attorney with the following information on the individual being assessed: criminal history data, reports about the maltreatment of adults substantiated under section 626.557, and reports of maltreatment of minors substantiated under section 626.556.

Subd. 3. [MULTISTATE INFORMATION.] (a) For any assessment completed under this section, if the responsible social services agency has reasonable cause to believe that the individual is a multistate offender, the individual must provide the responsible social services agency or the county attorney with a set of classifiable fingerprints obtained from an authorized law enforcement agency. The responsible social services agency or county attorney may obtain criminal history data from the National Criminal Records Repository by submitting the fingerprints to the Bureau of Criminal Apprehension.

(b) For purposes of this subdivision, the responsible social services agency has reasonable cause when, but not limited to:

- (1) information from the Bureau of Criminal Apprehension indicates that the individual is a multistate offender;
- (2) information from the Bureau of Criminal Apprehension indicates that multistate offender status is undetermined;
- (3) the social services agency has received a report from the individual or a third party indicating that the individual has a criminal history in a jurisdiction other than Minnesota; or
- (4) the individual is or has been a resident of a state other than Minnesota at any time during the prior ten years.

Subd. 4. [NOTICE UPON RECEIPT.] The responsible social services agency must provide the subject of the background study with the results of the study under this section within 15 business days of receipt or at least 15 days prior to the hearing at which the results will be presented, whichever comes first. The subject may provide written information to the agency that the results are incorrect and may provide additional or clarifying information to the agency and to the court through a party to the proceeding. This provision does not apply to any background study conducted under chapters 245A and 245C.

Sec. 7. Minnesota Statutes 2004, section 260C.212, subdivision 4, is amended to read:

Subd. 4. [RESPONSIBLE SOCIAL SERVICE AGENCY'S DUTIES FOR CHILDREN IN PLACEMENT.] (a) When a child is in placement, the responsible social services agency shall make diligent efforts to identify, locate, and, where appropriate, offer services to both parents of the child.

(1) ~~If The responsible social services agency shall assess whether~~ a noncustodial or nonadjudicated parent is willing and capable of providing for the day-to-day care of the child temporarily or permanently. An assessment under this clause may include, but is not limited to, obtaining information under section 260C.209. If after assessment, the responsible social services agency determines that a noncustodial or nonadjudicated parent is willing and capable of providing day-to-day care of the child, the responsible social services agency may seek authority from the custodial parent or the court to have that parent assume day-to-day care of the child. If a parent is not an adjudicated parent, the responsible social services agency shall require the nonadjudicated parent to cooperate with paternity establishment procedures as part of the case plan.

(2) If, after assessment, the responsible social services agency determines that the child cannot be in the day-to-day care of either parent, the agency shall:

(i) prepare an out-of-home placement plan addressing the conditions that each parent must meet before the child can be in that parent's day-to-day care; and

(ii) provide a parent who is the subject of a background study under section 260C.209 15 days' notice that it intends to use the study to recommend against putting the child with that parent, as well as the notice provided in section 260C.209, subdivision 4, and the court shall afford the parent an opportunity to be heard concerning the study.

The results of a background study of a noncustodial parent shall not be used by the agency to determine that the parent is incapable of providing day-to-day care of the child unless the agency reasonably believes that placement of the child into the home of that parent would endanger the child's health, safety, or welfare.

(3) If, after the provision of services following an out-of-home placement plan under this section, the child cannot return to the care of the parent from whom the child was removed or who had legal custody at the time the child was placed in foster care, the agency may petition on behalf of a noncustodial parent to establish legal custody with that parent under section 260C.201, subdivision 11. If paternity has not already been established, it may be established in the same proceeding in the manner provided for under chapter 257.

(4) The responsible social services agency may be relieved of the requirement to locate and offer services to both parents by the juvenile court upon a finding of good cause after the filing of a petition under section 260C.141.

(b) The responsible social services agency shall give notice to the parent or parents or guardian of each child in a residential facility, other than a child in placement due solely to that child's developmental disability or emotional disturbance, of the following information:

(1) that residential care of the child may result in termination of parental rights or an order permanently placing the child out of the custody of the parent, but only after notice and a hearing as required under chapter 260C and the juvenile court rules;

(2) time limits on the length of placement and of reunification services, including the date on which the child is expected to be returned to and safely maintained in the home of the parent or parents or placed for adoption or otherwise permanently removed from the care of the parent by court order;

- (3) the nature of the services available to the parent;
 - (4) the consequences to the parent and the child if the parent fails or is unable to use services to correct the circumstances that led to the child's placement;
 - (5) the first consideration for placement with relatives;
 - (6) the benefit to the child in getting the child out of residential care as soon as possible, preferably by returning the child home, but if that is not possible, through a permanent legal placement of the child away from the parent;
 - (7) when safe for the child, the benefits to the child and the parent of maintaining visitation with the child as soon as possible in the course of the case and, in any event, according to the visitation plan under this section; and
 - (8) the financial responsibilities and obligations, if any, of the parent or parents for the support of the child during the period the child is in the residential facility.
- (c) The responsible social services agency shall inform a parent considering voluntary placement of a child who is not developmentally disabled or emotionally disturbed of the following information:
- (1) the parent and the child each has a right to separate legal counsel before signing a voluntary placement agreement, but not to counsel appointed at public expense;
 - (2) the parent is not required to agree to the voluntary placement, and a parent who enters a voluntary placement agreement may at any time request that the agency return the child. If the parent so requests, the child must be returned within 24 hours of the receipt of the request;
 - (3) evidence gathered during the time the child is voluntarily placed may be used at a later time as the basis for a petition alleging that the child is in need of protection or services or as the basis for a petition seeking termination of parental rights or other permanent placement of the child away from the parent;
 - (4) if the responsible social services agency files a petition alleging that the child is in need of protection or services or a petition seeking the termination of parental rights or other permanent placement of the child away from the parent, the parent would have the right to appointment of separate legal counsel and the child would have a right to the appointment of counsel and a guardian ad litem as provided by law, and that counsel will be appointed at public expense if they are unable to afford counsel; and
 - (5) the timelines and procedures for review of voluntary placements under subdivision 3, and the effect the time spent in voluntary placement on the scheduling of a permanent placement determination hearing under section 260C.201, subdivision 11.
- (d) When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12 months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had an examination within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent years. If the agency determines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child has an examination within 30 days of coming into the agency's care and once a year in subsequent years.

ARTICLE 16

CRIMINAL SENTENCING POLICY

Section 1. Minnesota Statutes 2004, section 244.09, subdivision 5, is amended to read:

Subd. 5. [PROMULGATION OF SENTENCING GUIDELINES.] The commission shall promulgate Sentencing Guidelines for the district court. The guidelines shall be based on reasonable offense and offender characteristics. The guidelines promulgated by the commission shall be advisory to the district court and shall establish:

(1) The circumstances under which imprisonment of an offender is proper; and

(2) A presumptive, ~~fixed sentence~~ sentencing range for offenders ~~for whom imprisonment is proper~~, based on each appropriate combination of reasonable offense and offender characteristics. ~~The guidelines may provide for an increase or decrease of up to 15 percent in the presumptive, fixed sentence.~~

The Sentencing Guidelines promulgated by the commission may also establish appropriate sanctions for offenders for whom imprisonment is not proper. Any guidelines promulgated by the commission establishing sanctions for offenders for whom imprisonment is not proper shall make specific reference to noninstitutional sanctions, including but not limited to the following: payment of fines, day fines, restitution, community work orders, work release programs in local facilities, community based residential and nonresidential programs, incarceration in a local correctional facility, and probation and the conditions thereof.

Although the Sentencing Guidelines are advisory to the district court, the court shall follow the procedures of the guidelines when it pronounces sentence in a proceeding to which the guidelines apply by operation of statute. Sentencing pursuant to the Sentencing Guidelines is not a right that accrues to a person convicted of a felony; it is a procedure based on state public policy to maintain uniformity, proportionality, rationality, and predictability in sentencing.

In establishing and modifying the Sentencing Guidelines, the primary consideration of the commission shall be public safety. The commission shall also consider current sentencing and release practices; correctional resources, including but not limited to the capacities of local and state correctional facilities; and the long-term negative impact of the crime on the community.

The provisions of sections 14.001 to 14.69 do not apply to the promulgation of the Sentencing Guidelines, and the Sentencing Guidelines, including severity levels and criminal history scores, are not subject to review by the legislative commission to review administrative rules. However, the commission shall adopt rules pursuant to sections 14.001 to 14.69 which establish procedures for the promulgation of the Sentencing Guidelines, including procedures for the promulgation of severity levels and criminal history scores, and these rules shall be subject to review by the legislative coordinating commission.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2004, section 244.10, subdivision 2, is amended to read:

Subd. 2. [DEVIATION FROM GUIDELINES; IMPOSITION OF SENTENCE.] Whether or not a sentencing hearing is requested pursuant to subdivision 1, the district court shall make written findings of fact as to the reasons for departure from the Sentencing Guidelines in each case in which the court imposes or stays a sentence that deviates from the Sentencing Guidelines applicable to the case. Unless otherwise allowed by law, the court shall not

impose a sentence duration in excess of that provided by the Sentencing Guidelines presumptive sentencing range for the offense unless the finder of fact has found that a severe aggravating factor exists. If the existence of a severe aggravating factor has been proven, the court shall impose a sentence in excess of the presumptive range provided by the Sentencing Guidelines.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2004, section 244.10, is amended by adding a subdivision to read:

Subd. 4. [AGGRAVATED DEPARTURES.] In bringing a motion for an aggravated sentence, the state is not limited to factors specified in the Sentencing Guidelines provided the state provides reasonable notice to the defendant and the district court prior to sentencing of the factors on which the state intends to rely.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2004, section 244.10, is amended by adding a subdivision to read:

Subd. 5. [PROCEDURES IN CASES WHERE STATE INTENDS TO SEEK AN AGGRAVATED DURATIONAL DEPARTURE.] (a) When the prosecutor provides reasonable notice under subdivision 4, the district court shall allow the state to prove beyond a reasonable doubt to a jury of 12 members the factors in support of the state's request for an aggravated departure from the Sentencing Guidelines as provided in paragraph (b) or (c).

(b) The district court shall allow a unitary trial and final argument to a jury regarding both evidence in support of the elements of the offense and evidence in support of aggravating factors when the evidence in support of the aggravating factors:

(1) would be admissible as part of the trial on the elements of the offense; or

(2) would not result in unfair prejudice to the defendant.

The existence of each aggravating factor shall be determined by use of a special verdict form.

Upon the request of the prosecutor, the court shall allow bifurcated argument and jury deliberations.

(c) The district court shall bifurcate the proceedings to allow for the production of evidence, argument, and deliberations on the existence of factors in support of an aggravated departure after the return of a guilty verdict when the evidence in support of an aggravated departure:

(1) includes evidence that is otherwise inadmissible at a trial on the elements of the offense; and

(2) would result in unfair prejudice to the defendant.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2004, section 244.10, is amended by adding a subdivision to read:

Subd. 6. [DEFENDANTS TO PRESENT EVIDENCE AND ARGUMENT.] In either a unitary or bifurcated trial under subdivision 5, a defendant shall be allowed to present evidence and argument to the jury or fact finder regarding whether facts exist that would justify an aggravated departure. A defendant is not allowed to present

evidence or argument to the jury or fact finder regarding facts in support of a mitigated departure during the trial, but may present evidence and argument in support of a mitigated departure to the judge as fact finder during a sentencing hearing.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2004, section 244.10, is amended by adding a subdivision to read:

Subd. 7. [WAIVER OF JURY DETERMINATION.] The defendant may waive the right to a jury determination of whether facts exist that would justify an aggravated sentence. Upon receipt of a waiver of a jury trial on this issue, the district court shall determine beyond a reasonable doubt whether the factors in support of the state's motion for aggravated departure exist.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2004, section 244.10, is amended by adding a subdivision to read:

Subd. 8. [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 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 241.021 or 245A.02, subdivision 14, 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, 2005, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2004, section 244.10, is amended by adding a subdivision to read:

Subd. 9. [COMPUTATION OF CRIMINAL HISTORY SCORE.] If the defendant contests the existence of or factual basis for a prior conviction in the calculation of the defendant's criminal history score, proof of it is established by competent and reliable evidence, including a certified court record of the conviction.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2004, 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~~ the high end of the presumptive range 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;~~

~~(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, 2005, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2004, section 609.109, subdivision 4, is amended to read:

Subd. 4. [MANDATORY 30-YEAR SENTENCE.] (a) The court shall commit a person to the commissioner of corrections for not less than 30 years, notwithstanding the statutory maximum sentence under section 609.343, if:

(1) the person is convicted under section 609.342, subdivision 1, clause (c), (d), (e), or (f); or 609.343, subdivision 1, clause (c), (d), (e), or (f); and

(2) the court determines on the record at the time of sentencing that:

~~(i) the crime involved an aggravating factor that would provide grounds for an upward departure under the Sentencing Guidelines other than the aggravating factor applicable to repeat criminal sexual conduct convictions; and~~

~~(ii) the person has a previous sex offense conviction under section 609.342, 609.343, or 609.344.~~

(b) Notwithstanding subdivision 2 and sections 609.342, subdivision 3; and 609.343, subdivision 3, the court may not stay imposition or execution of the sentence required by this subdivision.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2004, section 609.109, subdivision 6, is amended to read:

Subd. 6. [MINIMUM DEPARTURE FOR SEX OFFENDERS.] The court shall sentence a person to at least ~~twice~~ the high end of the presumptive sentence sentencing range recommended by the Sentencing Guidelines if:

(1) the person is convicted under section 609.342, subdivision 1, clause (c), (d), (e), or (f); 609.343, subdivision 1, clause (c), (d), (e), or (f); or 609.344, subdivision 1, clause (c) or (d); and

(2) the ~~court fact finder~~ determines on the record at the time of sentencing that the crime involved an aggravating factor that would provide grounds for an upward departure under the Sentencing Guidelines.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2004, section 609.1095, subdivision 2, is amended to read:

Subd. 2. [INCREASED SENTENCES FOR DANGEROUS OFFENDER WHO COMMITS A THIRD VIOLENT CRIME.] Whenever a person is convicted of a violent crime that is a felony, and the judge is imposing an executed sentence based on a Sentencing Guidelines presumptive imprisonment sentence, the judge may impose an aggravated durational departure from the presumptive imprisonment sentence up to the statutory maximum sentence if the offender was at least 18 years old at the time the felony was committed, and:

~~(1) the court determines on the record at the time of sentencing that the offender has two or more prior convictions for violent crimes; and~~

~~(2) the court finds that the offender is a danger to public safety and specifies on the record the basis for the finding, which may include:~~

~~(i) the offender's past criminal behavior, such as the offender's high frequency rate of criminal activity or juvenile adjudications, or long involvement in criminal activity including juvenile adjudications; or~~

~~(ii) the fact that the present offense of conviction involved an aggravating factor that would justify a durational departure under the Sentencing Guidelines.~~

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2004, section 609.1095, subdivision 4, is amended to read:

Subd. 4. [INCREASED SENTENCE FOR OFFENDER WHO COMMITS A SIXTH FELONY.] Whenever a person is convicted of a felony, and the judge is imposing an executed sentence based on a Sentencing Guidelines presumptive imprisonment sentence, the judge may impose an aggravated durational departure from the presumptive sentence up to the statutory maximum sentence if the judge finds and specifies on the record that the offender has five or more prior felony convictions ~~and that the present offense is a felony that was committed as part of a pattern of criminal conduct.~~

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 14. [INSTRUCTION TO SENTENCING GUIDELINES COMMISSION.]

Subdivision 1. [FORMER PRESUMPTIVE, FIXED SENTENCE MAINTAINED AS REFERENCE POINT.] (a) Except as provided in paragraph (b), the Minnesota Sentencing Guidelines Commission shall retain in each cell of the Sentencing Guidelines grid, as a reference point only, the presumptive, fixed sentence in place at the time of enactment of this legislation.

(b) The commission shall make changes to the presumptive sentences for offenses consistent with 2005 legislation and/or timely modifications proposed by the commission, provided the legislature has not acted to prevent those modifications from going forward.

Subd. 2. [PRESUMPTIVE SENTENCING RANGE.] In each cell of the Sentencing Guidelines grid, the guidelines shall include a presumptive sentencing range. This range shall extend from 15 percent below the presumptive, fixed sentence in place at the time of the enactment of this legislation, to 100 percent above the presumptive, fixed sentence in place at the time of the enactment of this legislation.

Subd. 3. [ADDITIONAL MODIFICATIONS TO SENTENCING GUIDELINES.] The Minnesota Sentencing Guidelines Commission shall amend the Sentencing Guidelines and comments to provide that a court may depart upward from the presumptive sentencing range when severe aggravating circumstances justify a departure.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 15. [REVISOR INSTRUCTION.]

Subdivision 1. [HEADNOTE CHANGE.] The revisor of statutes shall change the headnote of Minnesota Statutes, section 609.108, to read "MANDATORY INCREASED SENTENCES FOR CERTAIN PREDATORY SEX OFFENDERS; NO PRIOR CONVICTION REQUIRED."

Subd. 2. [REPEALER; REFERENCE TO RENUMBERING.] The revisor of statutes is instructed to include a reference next to the repealer of Minnesota Statutes, section 244.10, subdivisions 2a and 3, to inform the reader that the subdivisions have been renumbered and to include the new subdivision numbers.

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

Sec. 16. [REPEALER.]

Minnesota Statutes 2004, sections 244.10, subdivisions 2a and 3; and 609.108, subdivisions 4 and 5, are repealed.

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

ARTICLE 17

GENERAL CRIMINAL PROVISIONS

Section 1. Minnesota Statutes 2004, section 152.02, subdivision 4, is amended to read:

Subd. 4. [SCHEDULE III.] The following items are listed in Schedule III:

(1) Any material, compound, mixture, or preparation which contains any quantity of Amphetamine, its salts, optical isomers, and salts of its optical isomers; Phenmetrazine and its salts; Methamphetamine, its salts, isomers, and salts of isomers; Methylphenidate; and which is required by federal law to be labeled with the symbol prescribed by 21 Code of Federal Regulations Section 1302.03 and in effect on February 1, 1976 designating that the drug is listed as a Schedule III controlled substance under federal law.

(2) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(a) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(b) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository.

(c) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules: Chlorhexadol; Glutethimide; Lysergic acid; Lysergic acid amide; Methyprylon; Sulfondiethylmethane; Sulfonethylmethane; Sulfonmethane.

(d) Gamma hydroxybutyrate, any salt, compound, derivative, or preparation of gamma hydroxybutyrate, including any isomers, esters, and ethers and salts of isomers, esters, and ethers of gamma hydroxybutyrate whenever the existence of such isomers, esters, and salts is possible within the specific chemical designation.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(a) Benzphetamine

(b) Chlorphentermine

(c) Clortermine

(d) Mazindol

(e) Phendimetrazine.

(4) Nalorphine.

(5) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(a) Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(b) Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(c) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(d) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(e) Not more than 1.80 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(g) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(h) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Anabolic steroids, which, for purposes of this subdivision, means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone, and includes: androstanediol; androstanedione; androstenediol; androstenedione; bolasterone; boldenone; calusterone; chlorotestosterone; chorionic gonadotropin; clostebol; dehydrochloromethyltestosterone; (triangle)1-dihydrotestosterone; 4-dihydrotestosterone; drostanolone; ethylestrenol; fluoxymesterone; formebolone; furazabol; human growth hormones; 13b-ethyl-17a-hydroxygon-4-en-3-one; 4-hydroxytestosterone; 4-hydroxy-19-nortestosterone; mestanolone; mesterolone; methandienone; methandranone; methandriol; methandrostenolone; methenolone; 17a-methyl-3b, 17b-dihydroxy-5a-androstane; 17a-methyl-3a, 17b-dihydroxy-5a-androstane; 17a-methyl-3b, 17b-dihydroxyandrost-4-ene; 17a-methyl-4-hydroxyandrolone; methyldienolone; methyltrienolone; methyltestosterone; mibolerone; 17a-methyl-(triangle)1-dihydrotestosterone; nandrolone; nandrolone phenpropionate; norandrostenediol; norandrostenedione; norbolethone; norclostebol; norethandrolone; normethandrolone; oxandrolone; oxymesterone; oxymetholone; stanolone; stanozolol; stenbolone; testolactone; testosterone; testosterone propionate; tetrahydrogestrinone; trenbolone; and any salt, ester, or ether of a drug or substance described in this paragraph. Anabolic steroids are not included if they are: (i) expressly intended for administration through implants to cattle or other nonhuman species; and (ii) approved by the United States Food and Drug Administration for that use.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2004, section 152.02, subdivision 5, is amended to read:

Subd. 5. [SCHEDULE IV.] ~~(a)~~ The following items are listed in Schedule IV: ~~Anabolic substances;~~ Barbitol; Butorphanol; Carisoprodol; Chloral betaine; Chloral hydrate; Chlordiazepoxide; Clonazepam; Clorazepate; Diazepam; Diethylpropion; Ethchlorvynol; Ethinamate; Fenfluramine; Flurazepam; Mebutamate; Methohexital; Meprobamate except when in combination with the following drugs in the following or lower concentrations: conjugated estrogens, 0.4 mg; tridihexethyl chloride, 25 mg; pentaerythritol tetranitrate, 20 mg; Methylphenobarbital; Oxazepam; Paraldehyde; Pemoline; Petrichloral; Phenobarbital; and Phentermine.

~~(b) For purposes of this subdivision, "anabolic substances" means the naturally occurring androgens or derivatives of androstane (androsterone and testosterone); testosterone and its esters, including, but not limited to, testosterone propionate, and its derivatives, including, but not limited to, methyltestosterone and growth hormones, except that anabolic substances are not included if they are: (1) expressly intended for administration through implants to cattle or other nonhuman species; and (2) approved by the United States Food and Drug Administration for that use.~~

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 3. [171.175] [SUSPENSION; THEFT OF GASOLINE OFFENSE.]

Subdivision 1. [THEFT OF GASOLINE.] The commissioner of public safety shall suspend for 30 days the license of any person convicted or juvenile adjudicated delinquent for theft of gasoline under section 609.52, subdivision 2, clause (1).

Subd. 2. [DEFINITION.] For the purposes of this section, "gasoline" has the meaning given it in section 296A.01, subdivision 23.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2004, section 343.31, is amended to read:

343.31 [ANIMAL FIGHTS ~~PROHIBITED~~ AND POSSESSION OF FIGHTING ANIMALS.]

Subdivision 1. [PENALTY FOR ANIMAL FIGHTING; ATTENDING ANIMAL FIGHT.] Any A person who:

(1) promotes ~~or~~₂ engages in, or is employed ~~at~~₁ in the activity of cockfighting, dogfighting, or violent pitting of one domestic animal against another of the same or a different kind; ~~or~~

(2) receives money for the admission of ~~any~~₁ a person to ~~any~~₁ a place used, or about to be used, for that activity; ~~or~~

(3) willfully permits ~~any~~₁ a person to enter or use for that activity premises of which the permitter is the owner, agent, or occupant; or

(4) uses, trains₂ or possesses a dog or other animal for the purpose of participating in, engaging in₁ or promoting that activity

is guilty of a felony. ~~Any~~₁ A person who purchases a ticket of admission or otherwise gains admission to that activity is guilty of a misdemeanor.

Subd. 2. [PRESUMPTION OF TRAINING A FIGHTING DOG.] There is a rebuttable presumption that a dog has been trained or is being trained to fight if:

(1) the dog exhibits fresh wounds, scarring, or other indications that the dog has been or will be used for fighting; or

(2) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare dogs to be fought.

This presumption may be rebutted by a preponderance of the evidence.

Subd. 3. [PRESUMPTION OF TRAINING FIGHTING BIRDS.] There is a rebuttable presumption that a bird has been trained or is being trained to fight if:

(1) the bird exhibits fresh wounds, scarring, or other indications that the bird has been or will be used for fighting; or

(2) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare birds to be fought.

This presumption may be rebutted by a preponderance of the evidence.

Subd. 4. [PEACE OFFICER DUTIES.] Animals described in subdivisions 2 and 3 are dangerous weapons and constitute an immediate danger to the safety of humans. A peace officer or animal control authority may remove, shelter, and care for an animal found in the circumstances described in subdivision 2 or 3. If necessary, a peace officer or animal control authority may deliver the animal to another person to be sheltered and cared for. In all cases, the peace officer or animal control authority must immediately notify the owner, if known, as provided in subdivision 5. The peace officer, animal control authority, or other person assuming care of the animal shall have a lien on it for the actual cost of care and keeping of the animal. If the owner or custodian is unknown and cannot by reasonable effort be ascertained, or does not, within ten days after notice, redeem the animal by paying the expenses authorized by this subdivision, the animal may be disposed of as provided in subdivision 5.

Subd. 5. [DISPOSITION.] (a) An animal taken into custody under subdivision 4 may be humanely disposed of at the discretion of the jurisdiction having custody of the animal ten days after the animal is taken into custody, if the procedures in paragraph (c) are followed.

(b) The owner of an animal taken into custody under subdivision 4 may prevent disposition of the animal by posting security in an amount sufficient to provide for the actual costs of care and keeping of the animal. The security must be posted within ten days of the seizure inclusive of the date of the seizure. If, however, a hearing is scheduled within ten days of the seizure, the security amount must be posted prior to the hearing.

(c)(1) The authority taking custody of an animal under subdivision 4 must give notice of this section by delivering or mailing it to the owner of the animal, posting a copy of it at the place where the animal is taken into custody, or delivering it to a person residing on the property and telephoning, if possible. The notice must include:

(i) a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, and telephone number of a contact person who knows where the animal is kept;

(ii) a statement that the owner of the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure and impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal; and

(iii) a statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the owner of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing.

(2) The owner may request a hearing within ten days of the date of the seizure. If requested, a hearing must be held within five business days of the request to determine the validity of the impoundment. The municipality taking custody of the animal or the municipality from which the animal was seized may either (i) authorize a licensed veterinarian with no financial interest in the matter or professional association with either party, or (ii) use the services of a hearing officer to conduct the hearing. An owner may appeal the hearing officer's decision to the district court within five days of the notice of the decision.

(3) The judge or hearing officer may authorize the return of the animal if the judge or hearing officer finds that (i) the animal is physically fit; (ii) the person claiming an interest in the animal can and will provide the care required by law for the animal; and (iii) the animal has not been used for violent pitting or fighting.

(4) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the municipality and the person claiming an interest in the animal before the return of the animal to the person.

Subd. 6. [PHOTOGRAPHS.] (a) Photographs of animals seized during an investigation are competent evidence if the photographs are admissible into evidence under all the rules of law governing the admissibility of photographs into evidence. A satisfactorily identified photographic record is as admissible in evidence as the animal itself.

(b) A photograph must be accompanied by a written description of the animals seized, the name of the owner of the animals seized, the date of the photograph, and the name, address, organization, and signature of the photographer.

Subd. 7. [VETERINARY INVESTIGATIVE REPORT.] (a) A report completed by a Minnesota licensed veterinarian following an examination of an animal seized during an investigation is competent evidence. A satisfactorily identified veterinary investigative report is as admissible in evidence as the animal itself.

(b) The veterinary investigative report may contain a written description of the animal seized, the medical evaluation of the physical findings, the prognosis for recovery, and the date of the examination and must contain the name, address, veterinary clinic, and signature of the veterinarian performing the examination.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2004, section 609.02, subdivision 16, is amended to read:

Subd. 16. [QUALIFIED DOMESTIC VIOLENCE-RELATED OFFENSE.] "Qualified domestic violence-related offense" includes the following offenses: sections 518B.01, subdivision 14 (violation of domestic abuse order for protection); 609.221 (first-degree assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.2231 (fourth-degree assault); 609.224 (fifth-degree assault); 609.2242 (domestic assault); 609.2247 (domestic assault by strangulation); 609.342 (first-degree criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct); 609.377 (malicious punishment of a child); 609.713 (terroristic threats); 609.748, subdivision 6 (violation of harassment restraining order); and 609.749 (harassment/stalking); and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2004, section 609.185, is amended to read:

609.185 [MURDER IN THE FIRST DEGREE.]

(a) Whoever does any of the following is guilty of murder in the first degree and shall be sentenced to imprisonment for life:

(1) causes the death of a human being with premeditation and with intent to effect the death of the person or of another;

(2) causes the death of a human being while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence, either upon or affecting the person or another;

(3) causes the death of a human being with intent to effect the death of the person or another, while committing or attempting to commit burglary, aggravated robbery, kidnapping, arson in the first or second degree, a drive-by shooting, tampering with a witness in the first degree, escape from custody, or any felony violation of chapter 152 involving the unlawful sale of a controlled substance;

(4) causes the death of a peace officer or a guard employed at a Minnesota state or local correctional facility, with intent to effect the death of that person or another, while the peace officer or guard is engaged in the performance of official duties;

(5) causes the death of a minor while committing child abuse, when the perpetrator has engaged in a past pattern of child abuse upon ~~the~~ a child and the death occurs under circumstances manifesting an extreme indifference to human life;

(6) causes the death of a human being while committing domestic abuse, when the perpetrator has engaged in a past pattern of domestic abuse upon the victim or upon another family or household member and the death occurs under circumstances manifesting an extreme indifference to human life; or

(7) causes the death of a human being while committing, conspiring to commit, or attempting to commit a felony crime to further terrorism and the death occurs under circumstances manifesting an extreme indifference to human life.

(b) For purposes of paragraph (a), clause (5), "child abuse" means an act committed against a minor victim that constitutes a violation of the following laws of this state or any similar laws of the United States or any other state: section 609.221; 609.222; 609.223; 609.224; 609.2242; 609.342; 609.343; 609.344; 609.345; 609.377; 609.378; or 609.713.

(c) For purposes of paragraph (a), clause (6), "domestic abuse" means an act that:

(1) constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.342, 609.343, 609.344, 609.345, 609.713, or any similar laws of the United States or any other state; and

(2) is committed against the victim who is a family or household member as defined in section 518B.01, subdivision 2, paragraph (b).

(d) For purposes of paragraph (a), clause (7), "further terrorism" has the meaning given in section 609.714, subdivision 1.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2004, section 609.2231, subdivision 3, is amended to read:

Subd. 3. **[CORRECTIONAL EMPLOYEES; PROBATION OFFICERS; AND SECURE TREATMENT FACILITY PERSONNEL.]** (a) As used in this subdivision:

(1) "correctional facility" has the meaning given in section 241.021, subdivision 1, paragraph (f); and

(2) "secure treatment facility" has the meaning given in section 253B.02, subdivision 18a.

(b) Whoever commits either of the following acts against an employee of a correctional facility ~~as defined in section 241.021, subdivision 1, paragraph (f), or~~ against a probation officer or other qualified person employed in supervising offenders, or against an employee or other individual who provides care or treatment at a secure treatment facility, while the ~~employee, officer, or~~ person is engaged in the performance of a duty imposed by law, policy, or rule is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both:

(1) assaults the ~~employee person~~ and inflicts demonstrable bodily harm; or

(2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the ~~employee person~~.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2004, section 609.2242, subdivision 3, is amended to read:

Subd. 3. [DOMESTIC ASSAULTS; FIREARMS.] (a) When a person is convicted of a violation of this section or section 609.221, 609.222, 609.223, ~~or~~ 609.224, or 609.2247, the court shall determine and make written findings on the record as to whether:

(1) the assault was committed against a family or household member, as defined in section 518B.01, subdivision 2;

(2) the defendant owns or possesses a firearm; and

(3) the firearm was used in any way during the commission of the assault.

(b) If the court determines that the assault was of a family or household member, and that the offender owns or possesses a firearm and used it in any way during the commission of the assault, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

(c) When a person is convicted of assaulting a family or household member and is determined by the court to have used a firearm in any way during commission of the assault, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(d) Except as otherwise provided in paragraph (c), when a person is convicted of a violation of this section or section 609.224 and the court determines that the victim was a family or household member, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(e) Except as otherwise provided in paragraph (c), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1992, of domestic assault under this section or assault in the fifth degree under section 609.224 and the assault victim was a family or household member as defined in section 518B.01,

subdivision 2, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section or section 609.224. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 9. [609.2247] [DOMESTIC ASSAULT BY STRANGULATION.]

Subdivision 1. [DEFINITIONS.] (a) As used in this section, the following terms have the meanings given.

(b) "Family or household members" has the meaning given in section 518B.01, subdivision 2.

(c) "Strangulation" means intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person.

Subd. 2. [CRIME.] Unless a greater penalty is provided elsewhere, whoever assaults a family or household member by strangulation is guilty of a gross misdemeanor.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2004, section 609.229, subdivision 3, is amended to read:

Subd. 3. [PENALTY.] (a) If the crime committed in violation of subdivision 2 or 5 is a felony, the statutory maximum for the crime is five years longer than the statutory maximum for the underlying crime.

(b) If the crime committed in violation of subdivision 2 or 5 is a misdemeanor, the person is guilty of a gross misdemeanor.

(c) If the crime committed in violation of subdivision 2 or 5 is a gross misdemeanor, the person is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$15,000, or both.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2004, section 609.229, is amended by adding a subdivision to read:

Subd. 5. [GANG MEMBER; CRIME AGAINST A CHILD.] (a) For purposes of this subdivision, "child" means an individual under 18 years of age.

(b) A person who is a member of a gang who commits a crime against a child is guilty of a crime and may be sentenced as provided in subdivision 3.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2004, section 609.233, subdivision 1, is amended to read:

Subdivision 1. [CRIME.] A caregiver or operator who intentionally neglects a vulnerable adult or knowingly permits conditions to exist that result in the abuse or neglect of a vulnerable adult is guilty of a ~~gross misdemeanor~~ criminal neglect and may be sentenced as provided in subdivision 3. For purposes of this section, "abuse" has the meaning given in section 626.5572, subdivision 2, and "neglect" means a failure to provide a vulnerable adult with necessary food, clothing, shelter, health care, or supervision.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2004, section 609.233, is amended by adding a subdivision to read:

Subd. 3. [PENALTIES.] (a) A person who violates subdivision 1 may be sentenced as follows:

(1) if neglect results in the death of a vulnerable adult, imprisonment for not more than ten years or payment of a fine of not more than \$20,000, or both;

(2) if neglect results in substantial bodily harm or the risk of death, imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both; or

(3) in other cases, imprisonment for not more than one year or payment of a fine of not more than \$3,000, or both.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2004, section 609.321, subdivision 12, is amended to read:

Subd. 12. [PUBLIC PLACE.] A "public place" means a public street or sidewalk, a pedestrian skyway system as defined in section 469.125, subdivision 4, a hotel, motel, or other place of public accommodation, ~~or~~ a place licensed to sell intoxicating liquor, wine, nonintoxicating malt beverages, or food, or a motor vehicle located on a public street, alley, or parking lot ordinarily used by or available to the public though not used as a matter of right and a driveway connecting such a parking lot with a street or highway.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 15. Minnesota Statutes 2004, section 609.378, subdivision 1, is amended to read:

Subdivision 1. [PERSONS GUILTY OF NEGLECT OR ENDANGERMENT.] (a) [NEGLECT.] (1) A parent, legal guardian, or caretaker who willfully deprives a child of necessary food, clothing, shelter, health care, or supervision appropriate to the child's age, when the parent, guardian, or caretaker is reasonably able to make the necessary provisions and the deprivation harms or is likely to substantially harm the child's physical, mental, or emotional health is guilty of neglect of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both. If the deprivation results in substantial harm to the child's physical, mental, or emotional health, the person 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. If a parent, guardian, or caretaker responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, this treatment or care is "health care," for purposes of this clause.

(2) A parent, legal guardian, or caretaker who knowingly permits the continuing physical or sexual abuse of a child is guilty of neglect of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(3) A parent, legal guardian, or caretaker who is responsible for a child who is eight years of age or younger shall not leave that child in a motor vehicle where the child is not supervised by a person who is at least 14 years of age, if:

(i) the conditions present a risk to the child's health or safety; or

(ii) the engine of the motor vehicle is running or the keys to the motor vehicle are anywhere in the passenger compartment of the vehicle.

A person who violates this paragraph is guilty of neglect of a child 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.

(b) [ENDANGERMENT.] A parent, legal guardian, or caretaker who endangers the child's person or health by:

(1) intentionally or recklessly causing or permitting a child to be placed in a situation likely to substantially harm the child's physical, mental, or emotional health or cause the child's death; or

(2) knowingly causing or permitting the child to be present where any person is selling, manufacturing, possessing immediate precursors or chemical substances with intent to manufacture, or possessing a controlled substance, as defined in section 152.01, subdivision 4, in violation of section 152.021, 152.022, 152.023, or 152.024; is guilty of child endangerment and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

If the endangerment results in substantial harm to the child's physical, mental, or emotional health, the person 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.

This paragraph does not prevent a parent, legal guardian, or caretaker from causing or permitting a child to engage in activities that are appropriate to the child's age, stage of development, and experience, or from selecting health care as defined in subdivision 1, paragraph (a).

(c) [ENDANGERMENT BY FIREARM ACCESS.] A person who intentionally or recklessly causes a child under 14 years of age to be placed in a situation likely to substantially harm the child's physical health or cause the child's death as a result of the child's access to a loaded firearm is guilty of child endangerment and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

If the endangerment results in substantial harm to the child's physical health, the person 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.

[EFFECTIVE DATE.] This section is effective July 1, 2005, and applies to crimes committed on or after that date.

Sec. 16. Minnesota Statutes 2004, 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, 2005, and applies to crimes committed on or after that date.

Sec. 17. Minnesota Statutes 2004, section 609.50, subdivision 1, is amended to read:

Subdivision 1. [CRIME.] Whoever intentionally does any of the following may be sentenced as provided in subdivision 2:

(1) obstructs, hinders, or prevents the lawful execution of any legal process, civil or criminal, or apprehension of another on a charge or conviction of a criminal offense;

(2) obstructs, resists, or interferes with a peace officer while the officer is engaged in the performance of official duties;

(3) interferes with or obstructs the prevention or extinguishing of a fire, or disobeys the lawful order of a firefighter present at the fire; ~~or~~

(4) interferes with or obstructs a member of an ambulance service personnel crew, as defined in section 144E.001, subdivision 3a, who is providing, or attempting to provide, emergency care; or

(5) by force or threat of force endeavors to obstruct any employee of the Department of Revenue while the employee is lawfully engaged in the performance of official duties for the purpose of deterring or interfering with the performance of those duties.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 18. Minnesota Statutes 2004, section 609.505, is amended to read:

609.505 [FALSELY REPORTING CRIME.]

Subdivision 1. [FALSE REPORTING.] Whoever informs a law enforcement officer that a crime has been committed or otherwise provides information to an on-duty peace officer regarding the conduct of others, knowing that it is false and intending that the officer shall act in reliance upon it, is guilty of a misdemeanor. A person who is convicted a second or subsequent time under this section is guilty of a gross misdemeanor.

Subd. 2. [REPORTING POLICE MISCONDUCT.] (a) Whoever informs, or causes information to be communicated to, a public officer, as defined in section 609.415, subdivision 1, or an employee thereof, whose responsibilities include investigating or reporting police misconduct, that a peace officer, as defined in section 626.84, subdivision 1, paragraph (c), has committed an act of police misconduct, knowing that the information is false, is guilty of a crime and may be sentenced as follows:

(1) up to the maximum provided for a misdemeanor if the false information does not allege a criminal act; or

(2) up to the maximum provided for a gross misdemeanor if the false information alleges a criminal act.

(b) The court shall order any person convicted of a violation of this subdivision to make full restitution of all reasonable expenses incurred in the investigation of the false allegation unless the court makes a specific written finding that restitution would be inappropriate under the circumstances. A restitution award may not exceed \$3,000.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 19. Minnesota Statutes 2004, section 609.52, subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING THEFT.] Whoever does any of the following commits theft and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property; or

(2) with or without having a legal interest in movable property, intentionally and without consent, takes the property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) obtains for the actor or another the possession, custody, or title to property of or performance of services by a third person by intentionally deceiving the third person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(i) the issuance of a check, draft, or order for the payment of money, except a forged check as defined in section 609.631, or the delivery of property knowing that the actor is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(ii) a promise made with intent not to perform. Failure to perform is not evidence of intent not to perform unless corroborated by other substantial evidence; or

(iii) the preparation or filing of a claim for reimbursement, a rate application, or a cost report used to establish a rate or claim for payment for medical care provided to a recipient of medical assistance under chapter 256B, which intentionally and falsely states the costs of or actual services provided by a vendor of medical care; or

(iv) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 which intentionally and falsely states the costs of or actual treatment or supplies provided; or

(v) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 for treatment or supplies that the provider knew were medically unnecessary, inappropriate, or excessive; or

(4) by swindling, whether by artifice, trick, device, or any other means, obtains property or services from another person; or

(5) intentionally commits any of the acts listed in this subdivision but with intent to exercise temporary control only and:

(i) the control exercised manifests an indifference to the rights of the owner or the restoration of the property to the owner; or

(ii) the actor pledges or otherwise attempts to subject the property to an adverse claim; or

(iii) the actor intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to the finder's own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to the owner; or

(7) intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner; or

(8) intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to the actor's own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to the actor's own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to the defendant from a source other than the owner of the trade secret; or

(9) leases or rents personal property under a written instrument and who:

(i) with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property or any part thereof; or

(ii) sells, conveys, or encumbers the property or any part thereof without the written consent of the lessor, without informing the person to whom the lessee sells, conveys, or encumbers that the same is subject to such lease or rental contract with intent to deprive the lessor of possession thereof; or

(iii) does not return the property to the lessor at the end of the lease or rental term, plus agreed upon extensions, with intent to wrongfully deprive the lessor of possession of the property; or

(iv) returns the property to the lessor at the end of the lease or rental term, plus agreed upon extensions, but does not pay the lease or rental charges agreed upon in the written instrument, with intent to wrongfully deprive the lessor of the agreed upon charges.

For the purposes of items (iii) and (iv), the value of the property must be at least \$100.

Evidence that a lessee used a false, fictitious, or not current name, address, or place of employment in obtaining the property or fails or refuses to return the property or pay the rental contract charges to lessor within five days after written demand for the return has been served personally in the manner provided for service of process of a civil action or sent by certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to the person at the address for the person set forth in the lease or rental agreement, or, in the absence of the address, to the person's last known place of residence; or

(10) alters, removes, or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes, or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal, or obliteration; or

(11) with the intent to prevent the identification of property involved, so as to deprive the rightful owner of possession thereof, alters or removes any permanent serial number, permanent distinguishing number or manufacturer's identification number on personal property or possesses, sells or buys any personal property knowing or having reason to know that the permanent serial number, permanent distinguishing number or manufacturer's identification number has been removed or altered; or

(12) intentionally deprives another of a lawful charge for cable television service by:

(i) making or using or attempting to make or use an unauthorized external connection outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or other connection; or by

(ii) attaching any unauthorized device to any cable, wire, microwave, or other component of a licensed cable communications system as defined in chapter 238. Nothing herein shall be construed to prohibit the electronic video rerecording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law 94-553, section 107; or

(13) except as provided in paragraphs (12) and (14), obtains the services of another with the intention of receiving those services without making the agreed or reasonably expected payment of money or other consideration; or

(14) intentionally deprives another of a lawful charge for telecommunications service by:

(i) making, using, or attempting to make or use an unauthorized connection whether physical, electrical, by wire, microwave, radio, or other means to a component of a local telecommunication system as provided in chapter 237; or

(ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other component of a local telecommunication system as provided in chapter 237.

The existence of an unauthorized connection is prima facie evidence that the occupier of the premises:

(i) made or was aware of the connection; and

(ii) was aware that the connection was unauthorized; or

(15) with intent to defraud, diverts corporate property other than in accordance with general business purposes or for purposes other than those specified in the corporation's articles of incorporation; or

(16) with intent to defraud, authorizes or causes a corporation to make a distribution in violation of section 302A.551, or any other state law in conformity with it; or

(17) takes or drives a motor vehicle without the consent of the owner or an authorized agent of the owner, knowing or having reason to know that the owner or an authorized agent of the owner did not give consent.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 20. Minnesota Statutes 2004, section 609.527, subdivision 1, is amended to read:

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

(b) "Direct victim" means any person or entity described in section 611A.01, paragraph (b), whose identity has been transferred, used, or possessed in violation of this section.

(c) "False pretense" means any false, fictitious, misleading, or fraudulent information or pretense or pretext depicting or including or deceptively similar to the name, logo, Web site address, e-mail address, postal address, telephone number, or any other identifying information of a for-profit or not-for-profit business or organization or of a government agency, to which the user has no legitimate claim of right.

(d) "Identity" means any name, number, or data transmission that may be used, alone or in conjunction with any other information, to identify a specific individual or entity, including any of the following:

(1) a name, Social Security number, date of birth, official government-issued driver's license or identification number, government passport number, or employer or taxpayer identification number;

(2) unique electronic identification number, address, account number, or routing code; or

(3) telecommunication identification information or access device.

~~(d)~~ (e) "Indirect victim" means any person or entity described in section 611A.01, paragraph (b), other than a direct victim.

~~(e)~~ (f) "Loss" means value obtained, as defined in section 609.52, subdivision 1, clause (3), and expenses incurred by a direct or indirect victim as a result of a violation of this section.

~~(f)~~ (g) "Unlawful activity" means:

(1) any felony violation of the laws of this state or any felony violation of a similar law of another state or the United States; and

(2) any nonfelony violation of the laws of this state involving theft, theft by swindle, forgery, fraud, or giving false information to a public official, or any nonfelony violation of a similar law of another state or the United States.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 21. Minnesota Statutes 2004, 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, 2005, and applies to crimes committed on or after that date.

Sec. 22. Minnesota Statutes 2004, 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 subdivision 2 to pay restitution of not less than \$1,000 to each direct victim of the offense.

(c) Upon the written request of a direct victim or the prosecutor setting forth with specificity the facts and circumstances of the offense in a proposed order, 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, 2005, and applies to crimes committed on or after that date.

Sec. 23. Minnesota Statutes 2004, section 609.527, is amended by adding a subdivision to read:

Subd. 5a. **[CRIME OF ELECTRONIC USE OF FALSE PRETENSE TO OBTAIN IDENTITY.]** (a) A person who, with intent to obtain the identity of another, uses a false pretense in an e-mail to another person or in a Web page, electronic communication, advertisement, or any other communication on the Internet, is guilty of a crime.

(b) Whoever commits such offense 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.

(c) In a prosecution under this subdivision, it is not a defense that:

(1) the person committing the offense did not obtain the identity of another;

(2) the person committing the offense did not use the identity; or

(3) the offense did not result in financial loss or any other loss to any person.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 24. Minnesota Statutes 2004, section 609.527, subdivision 6, is amended to read:

Subd. 6. **[VENUE.]** Notwithstanding anything to the contrary in section 627.01, an offense committed under subdivision 2 or 5a may be prosecuted in:

(1) the county where the offense occurred; ~~or~~

(2) the county of residence or place of business of the direct victim or indirect victim; or

(3) in the case of a violation of subdivision 5a, the county of residence of the person whose identity was obtained or sought.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 25. Minnesota Statutes 2004, 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:

(A) 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; and

(B) in clause (10), means the placement of signs that:

(I) state "no trespassing" or similar terms;

(II) display letters at least two inches high;

(III) state that Minnesota law prohibits trespassing on the property; and

(IV) are posted in a conspicuous place and at intervals of 500 feet or less.

(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; or
- (10) enters the locked or posted aggregate mining 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, 2005, and applies to crimes committed on or after that date.

Sec. 26. Minnesota Statutes 2004, 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 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.

(c) 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) 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) 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, 2005, and applies to crimes committed on or after that date.

Sec. 27. Minnesota Statutes 2004, section 609.763, subdivision 3, is amended to read:

Subd. 3. [AGGREGATION; JURISDICTION.] In a prosecution under this section, the dollar amounts ~~obtained~~ involved in violation of subdivision 1 within any 12-month period may be aggregated and the defendant charged accordingly. When two or more offenses are committed by the same person in two or more counties, the defendant may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this subdivision.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 28. [609.849] [RAILROAD THAT OBSTRUCTS TREATMENT OF AN INJURED WORKER.]

(a) It shall be unlawful for a railroad or person employed by a railroad to:

(1) deny, delay, or interfere with medical treatment or first aid treatment to an employee of a railroad who has been injured during employment; or

(2) discipline or threaten to discipline an employee of a railroad who has been injured during employment for requesting medical treatment or first aid treatment.

(b) A railroad or a person who violates paragraph (a), clause (1) or (2), shall be fined not more than \$10,000 for each violation.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 29. [609.896] [CRIMINAL USE OF REAL PROPERTY.]

Subdivision 1. [DEFINITIONS.] 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, 2005, and applies to crimes committed on or after that date.

Sec. 30. [CRIMINAL PROPERTY OFFENSE MONETARY THRESHOLD COMMITTEE.]

Subdivision 1. [ESTABLISHMENT; DUTIES.] A Criminal Property Offense Monetary Threshold Committee is established to study and propose adjusting threshold dollar amounts of property crimes. The committee shall identify the property crimes in addition to theft, as defined in Minnesota Statutes, section 609.52, that contain threshold dollar amounts that require revision. In determining how much property crime threshold dollar amounts should be revised, the committee shall take into consideration the Consumer Price Index for urban, suburban, and rural consumers in Minnesota, and any other historical and economic factors relevant to a rational and proportionate adjustment of thresholds.

Subd. 2. [RESOURCES.] The committee may use legislative staff to provide legal counsel, research, and secretarial and clerical assistance. The Sentencing Guidelines Commission, Department of Corrections, and state court administrator shall provide technical assistance to the committee on request.

Subd. 3. [MEMBERSHIP.] The committee consists of:

(1) three senators, no more than two of whom are from the same political party, appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration and three members of the house of representatives, no more than two of whom are from the same political party, appointed by the speaker;

(2) representatives from each of the following groups appointed by the chairs of the senate Committee on Crime Prevention and Public Safety and the house Public Safety and Finance Committee:

(i) crime victim advocates;

(ii) county attorneys;

(iii) city attorneys;

(iv) professors of law with expertise in criminal justice;

(v) district court judges;

(vi) criminal defense attorneys;

(vii) probation officers; and

(viii) public members who are victims of crime; and

(3) the state court administrator who shall chair the group.

Subd. 4. [RECOMMENDATIONS.] The committee shall present the legislature with dollar threshold adjustment recommendations in the form of a bill that amends the property crime statutes it has identified as in need of revision no later than January 15, 2006. The bill shall be presented to the chair of the senate Crime Prevention and Public Safety Committee and house Public Safety and Finance Committee.

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

ARTICLE 18

DWI AND TRAFFIC SAFETY POLICY

Section 1. Minnesota Statutes 2004, section 169.06, is amended by adding a subdivision to read:

Subd. 5b. [POSSESSION OF OVERRIDE DEVICE.] (a) For purposes of this subdivision, "traffic signal-override device" means a device located in a motor vehicle that permits activation of a traffic signal-override system described in subdivision 5a.

(b) No person may operate a motor vehicle that contains a traffic signal-override device, other than:

(1) an authorized emergency vehicle described in section 169.01, subdivision 5, clause (1), (2), or (3);

(2) a vehicle, including a rail vehicle, engaged in providing bus rapid transit service or light rail transit service;

(3) a signal maintenance vehicle of a road authority; or

(4) a vehicle authorized to contain such a device by order of the commissioner of public safety.

(c) No person may possess a traffic signal-override device, other than:

(1) a person authorized to operate a vehicle described in paragraph (b), clauses (1) and (2), but only for use in that vehicle;

(2) a person authorized by a road authority to perform signal maintenance, while engaged in such maintenance; or

(3) a person authorized by order of the commissioner of public safety to possess a traffic signal-override device, but only to the extent authorized in the order.

(d) A violation of this subdivision is a misdemeanor.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2004, section 169.685, subdivision 5, is amended to read:

Subd. 5. [VIOLATION; PETTY MISDEMEANOR.] (a) Every motor vehicle operator, when transporting a child under the age of ~~four~~ five from January 1, 2006, to December 31, 2006, six from January 1, 2007, to December 31, 2007, and seven on and after January 1, 2008, on the streets and highways of this state in a motor vehicle equipped with factory-installed seat belts, shall equip and install for use in the motor vehicle, according to the manufacturer's instructions, a child passenger restraint system meeting federal motor vehicle safety standards.

(b) No motor vehicle operator who is operating a motor vehicle on the streets and highways of this state may transport a child under the age of ~~four~~ five from January 1, 2006, to December 31, 2006, six from January 1, 2007, to December 31, 2007, and seven on and after January 1, 2008, in a seat of a motor vehicle equipped with a factory-installed seat belt, unless the child is properly fastened in the child passenger restraint system. The driver of a vehicle additionally shall restrain children under the age of seven as follows:

(1) a child less than one year of age weighing less than 20 pounds must be properly restrained in a rear-facing child restraint system;

(2) a child under the age of seven must sit in the back seat unless the vehicle has no forward-facing back seat, all seating positions in the back are being used by children under the age of seven, or the child restraint cannot properly be installed in the back seat; and

(3) a child under the age of seven may wear a lap-only seat belt in the rear seat if there are no shoulder belts in the back seat or if all the shoulder belts in the back seat are being used by children under the age of 16.

(c) An operator of a pickup truck or sports utility vehicle who transports a child under the age of seven on the streets and highways of this state at a speed greater than 15 miles per hour shall transport the child within the vehicle's passenger compartment.

(d) Any motor vehicle operator who violates this subdivision is guilty of a petty misdemeanor and may be sentenced to pay a fine of not more than \$50. The fine for the first violation and any surcharge thereon may be waived or the amount reduced if the motor vehicle operator produces evidence that within 14 days after the date of the violation a child passenger restraint system meeting federal motor vehicle safety standards was purchased or obtained for the exclusive use of the operator.

(c) The fines collected for violations of this subdivision must be deposited in the state treasury and credited to a special account to be known as the Minnesota child passenger restraint and education account.

[EFFECTIVE DATE.] This section is effective January 1, 2006.

Sec. 3. Minnesota Statutes 2004, section 169A.275, subdivision 1, is amended to read:

Subdivision 1. [SECOND OFFENSE.] (a) The court shall sentence a person who is convicted of a violation of section 169A.20 (driving while impaired) within ten years of a qualified prior impaired driving incident to either:

(1) a minimum of 30 days of incarceration, at least 48 hours of which must be served ~~consecutively~~ in a local correctional facility; or

(2) eight hours of community work service for each day less than 30 days that the person is ordered to serve in a local correctional facility.

Notwithstanding section 609.135 (stay of imposition or execution of sentence), the penalties in this paragraph must be executed, unless the court departs from the mandatory minimum sentence under paragraph (b) or (c).

(b) Prior to sentencing, the prosecutor may file a motion to have a defendant described in paragraph (a) sentenced without regard to the mandatory minimum sentence established by that paragraph. The motion must be accompanied by a statement on the record of the reasons for it. When presented with the prosecutor's motion and if it finds that substantial mitigating factors exist, the court shall sentence the defendant without regard to the mandatory minimum sentence established by paragraph (a).

(c) The court may, on its own motion, sentence a defendant described in paragraph (a) without regard to the mandatory minimum sentence established by that paragraph if it finds that substantial mitigating factors exist and if its sentencing departure is accompanied by a statement on the record of the reasons for it. The court also may sentence the defendant without regard to the mandatory minimum sentence established by paragraph (a) if the defendant is sentenced to probation and ordered to participate in a program established under section 169A.74 (pilot programs of intensive probation for repeat DWI offenders).

(d) When any portion of the sentence required by paragraph (a) is not executed, the court should impose a sentence that is proportional to the extent of the offender's prior criminal and moving traffic violation record. Any sentence required under paragraph (a) must include a mandatory sentence that is not subject to suspension or a stay of imposition or execution, and that includes incarceration for not less than 48 ~~consecutive~~ hours or at least 80 hours of community work service.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2004, section 169A.52, subdivision 4, is amended to read:

Subd. 4. [TEST FAILURE; LICENSE REVOCATION.] (a) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 (driving while impaired) and that the person submitted to a test and the test results

indicate an alcohol concentration of 0.08 or more or the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, then the commissioner shall revoke the person's license or permit to drive, or nonresident operating privilege:

- (1) for a period of 90 days;
- (2) if the person is under the age of 21 years, for a period of six months;
- (3) for a person with a qualified prior impaired driving incident within the past ten years, for a period of 180 days; or
- (4) if the test results indicate an alcohol concentration of 0.20 or more, for twice the applicable period in clauses (1) to (3).

(b) On certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with any presence of alcohol and that the person submitted to a test and the test results indicated an alcohol concentration of 0.04 or more, the commissioner shall disqualify the person from operating a commercial motor vehicle under section 171.165 (commercial driver's license disqualification).

(c) If the test is of a person's blood or urine by a laboratory operated by the Bureau of Criminal Apprehension, or authorized by the bureau to conduct the analysis of a blood or urine sample, the laboratory may directly certify to the commissioner the test results, and the peace officer shall certify to the commissioner that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 and that the person submitted to a test. Upon receipt of both certifications, the commissioner shall undertake the license actions described in paragraphs (a) and (b).

[EFFECTIVE DATE.] This section is effective August 1, 2006, and applies to blood and urine test samples analyzed on or after that date.

Sec. 5. Minnesota Statutes 2004, section 169A.60, subdivision 10, is amended to read:

Subd. 10. [PETITION FOR JUDICIAL REVIEW.] (a) Within 30 days following receipt of a notice and order of impoundment under this section, a person may petition the court for review. The petition must include proof of service of a copy of the petition on the commissioner. The petition must include the petitioner's date of birth, driver's license number, and date of the plate impoundment violation, as well as the name of the violator and the law enforcement agency that issued the plate impoundment order. The petition must state with specificity the grounds upon which the petitioner seeks rescission of the order for impoundment. The petition may be combined with any petition filed under section 169A.53 (administrative and judicial review of license revocation).

(b) Except as otherwise provided in this section, the judicial review and hearing are governed by section 169A.53 and must take place at the same time as any judicial review of the person's license revocation under section 169A.53. The filing of the petition does not stay the impoundment order. The reviewing court may order a stay of the balance of the impoundment period if the hearing has not been conducted within 60 days after filing of the petition upon terms the court deems proper. The court shall order either that the impoundment be rescinded or sustained, and forward the order to the commissioner. The court shall file its order within 14 days following the hearing.

(c) In addition to the issues described in section 169A.53, subdivision 3 (judicial review of license revocation), the scope of a hearing under this subdivision is limited to:

~~(1) whether the violator owns, is the registered owner of, possesses, or has access to the vehicle used in the plate impoundment violation;~~

~~(2) whether a member of the violator's household has a valid driver's license, the violator or registered owner has a limited license issued under section 171.30, the registered owner is not the violator, and the registered owner has a valid or limited driver's license, or a member of the registered owner's household has a valid driver's license; and~~

~~(3) if the impoundment is based on a plate impoundment violation described in subdivision 1, paragraph ~~(e)~~ (d), clause (3) or (4), whether the peace officer had probable cause to believe the violator committed the plate impoundment violation and whether the evidence demonstrates that the plate impoundment violation occurred; and~~

(2) for all other cases, whether the peace officer had probable cause to believe the violator committed the plate impoundment violation.

(d) In a hearing under this subdivision, the following records are admissible in evidence:

(1) certified copies of the violator's driving record; and

(2) certified copies of vehicle registration records bearing the violator's name.

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

Sec. 6. Minnesota Statutes 2004, 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 either the order dismissing the charges; or the judgment of acquittal.

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

Sec. 7. Minnesota Statutes 2004, section 169A.63, subdivision 8, is amended to read:

Subd. 8. ~~[ADMINISTRATIVE FORFEITURE PROCEDURE.]~~ (a) A motor vehicle used to commit a designated offense or used in conduct resulting in a designated license revocation is subject to administrative forfeiture under this subdivision.

(b) When a motor vehicle is seized under subdivision 2, or within a reasonable time after seizure, the appropriate agency shall serve the driver or operator of the vehicle with a notice of the seizure and intent to forfeit the vehicle. Additionally, when a motor vehicle is seized under subdivision 2, or within a reasonable time after that, all persons known to have an ownership, possessory, or security interest in the vehicle must be notified of the seizure and the intent to forfeit the vehicle. For those vehicles required to be registered under chapter 168, the notification to a person known to have a security interest in the vehicle is required only if the vehicle is registered under chapter 168 and the interest is listed on the vehicle's title. Notice mailed by certified mail to the address shown in Department of

Public Safety records is sufficient notice to the registered owner of the vehicle. For motor vehicles not required to be registered under chapter 168, notice mailed by certified mail to the address shown in the applicable filing or registration for the vehicle is sufficient notice to a person known to have an ownership, possessory, or security interest in the vehicle. Otherwise, notice may be given in the manner provided by law for service of a summons in a civil action.

(c) The notice must be in writing and contain:

(1) a description of the vehicle seized;

(2) the date of seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English, Hmong, and Spanish. Substantially the following language must appear conspicuously: "IF YOU DO NOT DEMAND JUDICIAL REVIEW EXACTLY AS PRESCRIBED IN MINNESOTA STATUTES, SECTION 169A.63, SUBDIVISION 8, YOU LOSE THE RIGHT TO A JUDICIAL DETERMINATION OF THIS FORFEITURE AND YOU LOSE ANY RIGHT YOU MAY HAVE TO THE ABOVE-DESCRIBED PROPERTY. YOU MAY NOT HAVE TO PAY THE FILING FEE FOR THE DEMAND IF DETERMINED YOU ARE UNABLE TO AFFORD THE FEE. IF THE PROPERTY IS WORTH \$7,500 OR LESS, YOU MAY FILE YOUR CLAIM IN CONCILIATION COURT. YOU DO NOT HAVE TO PAY THE CONCILIATION COURT FILING FEE IF THE PROPERTY IS WORTH LESS THAN \$500."

(d) Within 30 days following service of a notice of seizure and forfeiture under this subdivision, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture, and the appropriate agency that initiated the forfeiture, including the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is \$7,500 or less, the claimant may file an action in conciliation court for recovery of the seized vehicle. A copy of the conciliation court statement of claim must be served personally or by mail on the prosecuting authority having jurisdiction over the forfeiture, as well as on the appropriate agency that initiated the forfeiture, within 30 days following service of the notice of seizure and forfeiture under this subdivision. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee.

No responsive pleading is required of the prosecuting authority and no court fees may be charged for the prosecuting authority's appearance in the matter. The prosecuting authority may appear for the appropriate agency. Pleadings, filings, and methods of service are governed by the Rules of Civil Procedure.

(e) The complaint must be captioned in the name of the claimant as plaintiff and the seized vehicle as defendant, and must state with specificity the grounds on which the claimant alleges the vehicle was improperly seized, the claimant's interest in the vehicle seized, and any affirmative defenses the claimant may have. Notwithstanding any law to the contrary, an action for the return of a vehicle seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(f) If the claimant makes a timely demand for a judicial determination under this subdivision, the forfeiture proceedings must be conducted as provided under subdivision 9.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to forfeiture actions initiated on or after that date.

Sec. 8. Minnesota Statutes 2004, section 169A.70, subdivision 3, is amended to read:

Subd. 3. [ASSESSMENT REPORT.] (a) The assessment report must be on a form prescribed by the commissioner and shall contain an evaluation of the convicted defendant concerning the defendant's prior traffic and criminal record, characteristics and history of alcohol and chemical use problems, and amenability to rehabilitation through the alcohol safety program. The report is classified as private data on individuals as defined in section 13.02, subdivision 12.

(b) The assessment report must include:

(1) a diagnosis of the nature of the offender's chemical and alcohol involvement;

(2) an assessment of the severity level of the involvement;

(3) a recommended level of care for the offender in accordance with the criteria contained in rules adopted by the commissioner of human services under section 254A.03, subdivision 3 (chemical dependency treatment rules);

(4) an assessment of the offender's placement needs;

~~(5)~~ (5) recommendations for other appropriate remedial action or care, including aftercare services in section 254B.01, subdivision 3, that may consist of educational programs, one-on-one counseling, a program or type of treatment that addresses mental health concerns, or a combination of them; ~~or~~ and

~~(6)~~ (6) a specific explanation why no level of care or action was recommended, if applicable.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to chemical use assessments made on or after that date.

Sec. 9. Minnesota Statutes 2004, section 169A.70, is amended by adding a subdivision to read:

Subd. 6. [METHOD OF ASSESSMENT.] (a) As used in this subdivision, "collateral contact" means an oral or written communication initiated by an assessor for the purpose of gathering information from an individual or agency, other than the offender, to verify or supplement information provided by the offender during an assessment under this section. The term includes contacts with family members and criminal justice agencies.

(b) An assessment conducted under this section must include at least one personal interview with the offender designed to make a determination about the extent of the offender's past and present chemical and alcohol use or abuse. It must also include collateral contacts and a review of relevant records or reports regarding the offender including, but not limited to, police reports, arrest reports, driving records, chemical testing records, and test refusal records. If the offender has a probation officer, the officer must be the subject of a collateral contact under this subdivision. If an assessor is unable to make collateral contacts, the assessor shall specify why collateral contacts were not made.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to chemical use assessments made on or after that date.

Sec. 10. Minnesota Statutes 2004, section 169A.70, is amended by adding a subdivision to read:

Subd. 7. [PRECONVICTION ASSESSMENT.] (a) The court may not accept a chemical use assessment conducted before conviction as a substitute for the assessment required by this section unless the court ensures that the preconviction assessment meets the standards described in this section.

(b) If the commissioner of public safety is making a decision regarding reinstating a person's driver's license based on a chemical use assessment, the commissioner shall ensure that the assessment meets the standards described in this section.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to chemical use assessments made on or after that date.

Sec. 11. Minnesota Statutes 2004, 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 subdivisions 2 and 3~~; 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 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) Reinstatement fees collected under paragraph (a) for suspensions under sections 171.16, subdivision 3, and 171.18, subdivision 1, clause (10), shall be deposited in the special revenue fund and are appropriated to the Peace Officer Standards and Training Board for peace officer training reimbursement to local units of government.

(e) A suspension may be rescinded without fee for good cause.

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

Sec. 12. Minnesota Statutes 2004, section 171.26, is amended to read:

171.26 [MONEY CREDITED TO FUNDS.]

All money received under this chapter must be paid into the state treasury and credited to the trunk highway fund, except as provided in sections 171.06, subdivision 2a; 171.07, subdivision 11, paragraph (g); 171.12, subdivision 8; 171.20, subdivision 4, paragraph (d); and 171.29, subdivision 2, paragraph (b).

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

Sec. 13. [REPEALER.]

Laws 2004, chapter 283, section 14, is repealed.

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

ARTICLE 19

OPTION B FROM HOUSE RESOLUTION 8

Section 1. [PUBLIC SAFETY APPROPRIATIONS.]

These amounts are in addition to the appropriations in Article 1 and are only effective if the house of representatives passes H.F. 1664. The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another named fund, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "2006" and "2007," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 2006, or June 30, 2007, respectively. The term "first year" means the fiscal year ending June 30, 2006, and the term "second year" means the fiscal year ending June 30, 2007.

	APPROPRIATIONS Available for the Year Ending June 30	
	2006	2007
Sec. 2. CORRECTIONS	\$2,000,000	\$2,000,000
[METHAMPHETAMINE TREATMENT GRANTS.] \$750,000 each year is for methamphetamine treatment grants to counties.		
[METHAMPHETAMINE LAW ENFORCEMENT AND SUPERVISION GRANTS.] \$750,000 each year is for methamphetamine enforcement and supervision aid grants to counties.		
[SHORT-TERM OFFENDERS.] \$500,000 each year is appropriated to the commissioner of corrections for costs associated with the housing and care of short-term offenders. The commissioner may use up to 20 percent of the total amount of the appropriation for inpatient medical care for short-term offenders with less than six months to serve as affected by Minnesota Statutes, section 609.105, as amended by Laws 2003, First Special Session chapter 2, article 5, sections 7 to 9. The commissioner shall establish and implement policy governing the admission, housing, medical care, and release of this population. All funds remaining at the end of the fiscal year not expended for inpatient medical care shall be added to and distributed with the housing funds. These funds shall be distributed proportionately based on the total number of days short-term offenders are placed locally, not to exceed \$70 per day. Short-term offenders may be housed in a state correctional facility at the discretion of the commissioner. The Department of Corrections is exempt from the state contracting process for the purposes of Minnesota Statutes, section 609.105, as amended by Laws 2003, First Special Session chapter 2, article 5, sections 7 to 9.		
Sec. 3. PUBLIC SAFETY	400,000	100,000
[HOMELESS OUTREACH GRANTS.] \$300,000 in fiscal year 2006 is for a onetime appropriation to the commissioner of public safety to issue grants to organizations that provide homeless outreach and a bridge to stable housing and services to homeless Minnesotans.		

APPROPRIATIONS
Available for the Year
Ending June 30
2006 2007

[YOUTH INTERVENTION GRANTS.] \$100,000 each year is for youth intervention programs currently under Minnesota Statutes, section 116L.30 but to be transferred to section 299A.73. This money must be used to help existing programs serve unmet needs in their communities, and to create new programs in underserved areas of the state."

Delete the title and insert:

"A bill for an act relating to public safety; appropriating money for the courts, Public Safety, and Corrections Departments, the Peace Officer Standards and Training Board, the Private Detective Board, Human Rights Department, and the Sentencing Guidelines Commission; making a standing appropriation for bond service for the 911 system; appropriating money for methamphetamine grants, homeless outreach grants, and youth intervention grants; requiring life without release sentences for certain egregious first degree criminal sexual conduct offenses; requiring indeterminate life sentences for certain sex offenses; increasing statutory maximum sentences for sex offenses; establishing the Minnesota Sex Offender Review Board and providing its responsibilities, including release decisions, access to data, expedited rulemaking, and the applicability to it of contested case proceedings and the Open Meeting Law; directing the Sentencing Guidelines Commission to modify the sentencing guidelines; providing criminal penalties; modifying predatory offender registration and community notification requirements; expanding Department of Human Services access to the predatory offender registry; modifying the human services criminal background check law; establishing an ongoing Sex Offender Policy Board to develop uniform supervision and professional standards; requesting the Supreme Court to study use of the court system as an alternative to the administrative process for discharge of persons committed as sexually dangerous persons or sexual psychopathic personalities; making miscellaneous technical and conforming amendments to the sex offender law; requiring level III sex offenders to submit to polygraphs as a condition of release; providing that computers are subject to forfeiture if used to commit designated offenses; amending fire marshal safety law; defining explosives for purposes of rules regulating storage and use of explosives; transferring the youth intervention program to the Department of Public Safety; amending the Emergency Communications Law by assessing fees and authorizing issuance of bonds for the third phase of the statewide public safety radio communication system; requiring a statewide human trafficking assessment and study; establishing a gang and drug oversight council and a financial crimes oversight council; requiring correctional facilities to provide the Bureau of Criminal Apprehension with certain fingerprint information; requiring law enforcement agencies to take biological specimens for DNA analysis for persons arrested for designated crimes in 2005 and further crimes in 2010; establishing correctional officers discipline procedures; increasing surcharges on criminal and traffic offenders; limiting public defender representation; authorizing public defender access to certain criminal justice data; requiring the revisor of statutes to publish a table containing cross-references to Minnesota Laws imposing collateral sanctions; requiring background checks for certain child care and placement situations; requiring the finder of fact to find a severe aggravating factor before imposing a sentence in excess of that provided by the Sentencing Guidelines; providing procedures where state intends to seek an aggravated durational departure; defining new crimes, amending crimes and imposing criminal penalties; prohibiting persons from operating motor vehicles containing traffic signal-override devices; requiring restraint of children under the age of seven; amending Minnesota Statutes 2004, sections 2.722, subdivision 1; 13.461, by adding subdivisions; 13.6905, subdivision 17; 13.82, by adding a subdivision; 13.851, subdivision 5, by adding a subdivision; 13.87, subdivision 3; 13.871, subdivision 5; 13D.05, subdivision 2; 84.362; 116L.30; 144.335, by adding a subdivision; 144A.135; 152.02, subdivisions 4, 5; 169.06, by adding a subdivision; 169.685, subdivision 5; 169.71, subdivision 1; 169A.275, subdivision 1; 169A.52, subdivision 4; 169A.60, subdivisions 10, 11; 169A.63, subdivision 8; 169A.70, subdivision 3, by adding subdivisions; 171.20, subdivision 4; 171.26; 214.04, subdivision 1; 237.70, subdivision 7; 241.67, subdivision 3; 242.195, subdivision 1; 243.1606, subdivision 1; 243.166; 243.167; 243.24, subdivision 2; 244.05, subdivisions 4, 5, 6, 7; 244.052, subdivisions 3, 4, by adding subdivisions; 244.09, subdivision 5; 244.10, subdivision 2, by adding subdivisions; 244.18, subdivision 2; 245C.03, subdivision 1;

245C.13, subdivision 2; 245C.15, subdivisions 1, 2, 3, 4; 245C.17, subdivisions 1, 2, 3; 245C.21, subdivisions 3, 4; 245C.22, by adding a subdivision; 245C.23, subdivision 1; 245C.24, subdivisions 2, 3, 4, by adding a subdivision; 245C.30, subdivisions 1, 2; 246.13; 253B.18, subdivisions 4a, 5, by adding a subdivision; 259.11; 259.24, subdivisions 1, 2a, 5, 6a; 260C.201, subdivision 11; 260C.212, subdivision 4; 282.04, subdivision 2; 299A.38, subdivisions 2, 2a, 3; 299A.465, by adding subdivisions; 299C.03; 299C.08; 299C.093; 299C.095, subdivision 1; 299C.10, subdivision 1, by adding a subdivision; 299C.11; 299C.14; 299C.145, subdivision 3; 299C.155; 299C.21; 299C.65, subdivisions 1, 2, 5, by adding a subdivision; 299F.011, subdivision 7; 299F.014; 299F.05; 299F.051, subdivision 4; 299F.06, subdivision 1; 299F.19, subdivisions 1, 2; 299F.362, subdivisions 3, 4; 299F.391, subdivision 1; 299F.46, subdivisions 1, 3; 325F.04; 326.3382, by adding a subdivision; 326.3384, subdivision 1; 343.31; 357.021, subdivisions 6, 7; 357.18, subdivision 3; 403.02, subdivisions 7, 13, 17, by adding a subdivision; 403.025, subdivisions 3, 7; 403.05, subdivisions 1, 3; 403.07, subdivision 3; 403.08, subdivision 10; 403.11, subdivisions 1, 3, 3a; 403.113, subdivision 1; 403.27, subdivisions 3, 4, by adding subdivisions; 403.30, subdivisions 1, 3, by adding subdivisions; 508.82, subdivision 1; 508A.82, subdivision 1; 518B.01, by adding a subdivision; 590.01, subdivision 1, by adding a subdivision; 609.02, subdivision 16; 609.108, subdivisions 1, 3, 4, 6, 7; 609.109, subdivisions 3, 4, 5, 6, 7; 609.1095, subdivisions 2, 4; 609.117; 609.1351; 609.185; 609.2231, subdivision 3; 609.2242, subdivision 3; 609.229, subdivision 3, by adding a subdivision; 609.233, subdivision 1, by adding a subdivision; 609.321, subdivision 12; 609.341, subdivision 14, 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; 609.378, subdivision 1; 609.485, subdivisions 2, 4; 609.487, by adding a subdivision; 609.50, subdivision 1; 609.505; 609.52, subdivision 2; 609.527, subdivisions 1, 3, 4, 6, by adding a subdivision; 609.531, subdivision 1; 609.5311, subdivisions 2, 3; 609.5312, subdivisions 1, 3, 4, by adding a subdivision; 609.5314, subdivision 1; 609.5317, subdivision 1; 609.5318, subdivision 1; 609.605, subdivisions 1, 4; 609.748, subdivisions 2, 3a, by adding a subdivision; 609.749, subdivision 2; 609.763, subdivision 3; 609.79, subdivision 2; 609.795, by adding a subdivision; 609A.02, subdivision 3; 609A.03, subdivision 7; 611.14; 611.16; 611.25, subdivision 1; 611.272; 611A.01; 611A.036; 611A.19; 611A.53, subdivision 1b; 617.23, subdivisions 2, 3; 624.22, subdivision 1; 626.04; 626.556, subdivision 3; 626.557, subdivisions 12b, 14; 631.045; 631.425, subdivision 4; 641.21; Laws 2004, chapter 201, section 22; proposing coding for new law in Minnesota Statutes, chapters 171; 241; 243; 244; 260C; 299A; 299C; 590; 609; 611; 629; proposing coding for new law as Minnesota Statutes, chapter 545A; repealing Minnesota Statutes 2004, sections 69.011, subdivision 5; 243.162; 243.166, subdivisions 1, 8; 244.10, subdivisions 2a, 3; 246.017, subdivision 1; 299A.64; 299A.65; 299A.66; 299A.68; 299C.65, subdivisions 3, 4, 6, 7, 8, 8a, 9; 299F.011, subdivision 4c; 299F.015; 299F.10; 299F.11; 299F.12; 299F.13; 299F.14; 299F.15; 299F.16; 299F.17; 299F.361; 299F.451; 299F.452; 403.025, subdivision 4; 403.30, subdivision 2; 609.108, subdivisions 2, 4, 5; 609.109, subdivisions 2, 4, 6; 609.119; 611.18; 624.04; Laws 2004, chapter 283, section 14."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Knoblach from the Committee on Ways and Means to which was referred:

H. F. No. 400, A bill for an act relating to unemployment insurance; making an eligibility exception permanent for certain school food service workers; amending Minnesota Statutes 2004, section 268.085, subdivision 8.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Pursuant to Joint Rule 2.03, H. F. No. 400 was re-referred to the Committee on Rules and Legislative Administration.

Knoblach from the Committee on Ways and Means to which was referred:

H. F. No. 814, A bill for an act relating to public lands; modifying acquisition, use, and designation provisions for scientific and natural areas; authorizing public and private sales and conveyances of certain state lands; allowing Itasca County to acquire land for a public access with money from the Itasca County environmental trust fund; deleting land from Mississippi River Recreational Land Use Districts; amending Minnesota Statutes 2004, sections 84.033, by adding a subdivision; 97A.093; repealing Minnesota Statutes 2004, section 84.033, subdivision 2.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Pursuant to Joint Rule 2.03, H. F. No. 814 was re-referred to the Committee on Rules and Legislative Administration.

Seifert from the Committee on State Government Finance to which was referred:

H. F. No. 874, A bill for an act relating to elections; setting standards for and providing for the acquisition of voting systems; appropriating money from the Help America Vote Act account; amending Minnesota Statutes 2004, section 206.80; proposing coding for new law in Minnesota Statutes, chapter 206.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 201.022, is amended by adding a subdivision to read:

Subd. 3. [CONSULTATION WITH LOCAL OFFICIALS.] Representatives of local election officials must be consulted in the development of the statewide voter registration system.

Sec. 2. [206.585] [STATE VOTING SYSTEMS CONTRACTS.]

The secretary of state shall establish a working group including representatives of county auditors, municipal clerks, and members of the disabilities community to assist in developing a request for proposals and subsequent state voting systems contracts. Each contract should, if practical, include provisions for maintenance of the equipment purchased. Counties and municipalities may purchase voting systems and obtain related election services from the state contracts. The voting systems contracts must address precinct-based optical scan voting equipment, ballot marking equipment for persons with disabilities and other voters, and assistive voting machines that combine voting methods used for persons with disabilities with precinct-based optical scan voting machines.

Sec. 3. [206.65] [SYSTEMS REQUIRED IN POLLING PLACES; CO-LOCATION OF PRECINCTS.]

In federal and state elections held after December 31, 2005, and in county, municipal, and school district elections held after December 31, 2007, each polling place must be equipped with an electronic voting system equipped for individuals with disabilities. Precincts that share a polling place with other precincts pursuant to section 204B.14, subdivision 4, may share voting equipment. Notwithstanding section 204B.14, upon written request to and approval by the secretary of state, the responsible municipal clerks may co-locate noncontiguous precincts located in one or more counties into one convenient polling place. To the extent that an election includes offices for more than one jurisdiction, operating costs are to be allocated among those jurisdictions.

For the purposes of this section, "operating costs" include actual county and municipal costs for hardware maintenance, election day technical support, software licensing, system programming, voting system testing, training of county and municipal staff in the use of the assistive voting systems, transportation of the assistive voting systems to and from the polling places, and storage of the assistive voting systems between elections.

Sec. 4. Minnesota Statutes 2004, section 206.80, is amended to read:

206.80 [ELECTRONIC VOTING SYSTEMS.]

(a) An electronic voting system may not be employed unless it:

(1) permits every voter to vote in secret;

(2) permits every voter to vote for all candidates and questions for whom or upon which the voter is legally entitled to vote;

(3) provides for write-in voting when authorized;

(4) ~~rejects by means of the automatic tabulating equipment automatically,~~ except as provided in section 206.84 with respect to write-in votes, all votes for an office or question when the number of votes cast on it exceeds the number which the voter is entitled to cast;

(5) permits a voter at a primary election to select secretly the party for which the voter wishes to vote; ~~and~~

(6) ~~rejects, by means of the automatic tabulating equipment automatically,~~ all votes cast in a primary election by a voter when the voter votes for candidates of more than one party; and

(7) provides every voter an opportunity to electronically verify votes and to change votes or correct any error before the voter's ballot is cast and counted, produces either a permanent paper record or a paper ballot that is then cast by the voter that is preserved as an official record available for use in any recount.

(b) An electronic voting system purchased on or after the effective date of this section may not be employed unless it accepts and tabulates, in the precinct or at a counting center, a marked optical scan ballot or creates a marked optical scan ballot that can be tabulated in the precinct or at a counting center by an optical scan machine certified for use in this state, or is a machine that securely transmits a vote electronically to an optical scan machine in the precinct while creating a paper record of each vote.

Sec. 5. [APPROPRIATIONS.]

Subdivision 1. [ASSISTIVE VOTING EQUIPMENT; OPERATING COSTS.] (a) \$25,000,000 is appropriated from the Help America Vote Act account to the secretary of state for grants to counties to purchase electronic voting systems equipped for individuals with disabilities that meet the requirements of section 301(a) of the Help America Vote Act (Public Law 107-252) and Minnesota Statutes, sections 206.57, subdivision 5, and 206.80, and have been certified by the secretary of state under Minnesota Statutes, section 206.57. The secretary of state shall make a grant to each county in the amount of \$6,100 times the number of precincts in the county as certified by the county, which must not be more than the number of precincts used by the county in the state general election of 2004; plus \$6,100 to purchase an electronic voting system to be used by the county auditor for absentee and mail balloting, until the \$25,000,000 is exhausted. These funds may be used either for the purchase of ballot marking equipment for persons with disabilities and other voters, or assistive voting machines that combine voting methods used for persons with disabilities with precinct-based optical scan voting machines. Any unused funds must be set aside in a segregated account for future purchases of voting equipment complying with the Help America Vote Act and Minnesota law.

(b)(i) For the purposes of this paragraph, "operating costs" include actual county and municipal costs for hardware maintenance, election day technical support, software licensing, system programming, voting system testing, training of county or municipal staff in the use of the assistive voting system, transportation of the assistive voting systems to and from the polling places, and storage of the assistive voting systems between elections.

(ii) \$2,500,000 is appropriated from the Help America Vote Act account to the secretary of state for grants to counties to defray the operating costs of the assistive voting equipment. Each county may submit a request for no more than \$600 per polling place per year until the appropriation is exhausted.

Subd. 2. [OPTIC SCAN EQUIPMENT.] \$6,000,000 is appropriated from the Help America Vote Act account to the secretary of state for grants to counties to purchase optical scan voting equipment. Counties are eligible for these funds to the extent that they decide to purchase ballot marking machines and as a result do not have sufficient federal funds remaining to also purchase a compatible precinct-based optical scan machine or central count machine. These grants must be allocated to counties at a rate of \$3,000 per eligible precinct until the appropriation is exhausted with priority in the payment of grants to be given to counties currently using hand and central count voting systems and counties using precinct-count optical scan voting system incompatible with assistive voting systems or ballot marking machines.

Subd. 3. [SECRETARY OF STATE ELECTION ADMINISTRATION.] \$5,000,000 is appropriated from the Help America Vote Act account to the secretary of state for further development of the statewide voter registration system and for training of local election officials, education of the public, and other election administration improvements permitted by the Help America Vote Act.

Sec. 6. [LOCAL EQUIPMENT PLANS.]

(a) The county auditor shall convene a working group of all city and town election officials in each county to create a local equipment plan. The working group must continue to meet until the plan is completed, which must be no later than September 15, 2005, or 45 days after state certification of assistive voting systems, whichever is later. The plan must:

(1) contain procedures to implement voting systems as defined in Minnesota Statutes, section 206.80, in each polling location;

(2) define who is responsible for any capital or operating costs related to election equipment not covered by federal money from the Help America Vote Act account; and

(3) outline how the federal money from the Help America Vote Act account will be spent.

(b) A county plan must provide funding to purchase either precinct-based optical scan voting equipment or assistive voting machines that combine voting methods used for persons with disabilities with precinct-based optical scan voting machines for any precinct whose city or town requests it, if the requesting city or town agrees with the county on who will be responsible for operating and replacement costs related to the use of the precinct-based equipment.

(c) The plan must be submitted to the secretary of state for review and comment. The county board of commissioners must adopt the local equipment plan after a public hearing. Money from the Help America Vote Act account may not be expended until the plan is adopted. The county auditor shall file the adopted local equipment plan with the secretary of state.

(d) To receive a grant under this act, the county must apply to the secretary of state on forms prescribed by the secretary of state and must set forth how the grant money will be spent pursuant to the plan. A county may submit more than one grant application as long as the appropriation remains available and the total amount granted to the county does not exceed the county's allocation.

Sec. 7. [REPORT.]

Each county receiving a grant under this act must report to the secretary of state by March 15, 2006, the amount spent for the purchase of each kind of electronic voting system and for operating costs of the systems purchased. The secretary of state shall compile this information and report it to the legislature by April 15, 2006.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to elections; providing for approval and purpose of certain voting equipment; appropriating money; amending Minnesota Statutes 2004, sections 201.022, by adding a subdivision; 206.80; proposing coding for new law in Minnesota Statutes, chapter 206."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Pursuant to Joint Rule 2.03, H. F. No. 874 was re-referred to the Committee on Rules and Legislative Administration.

Knoblach from the Committee on Ways and Means to which was referred:

H. F. No. 898, A bill for an act relating to unemployment insurance; conforming various provisions to federal requirements; making technical and housekeeping changes; modifying appeal procedures; amending Minnesota Statutes 2004, sections 268.03, subdivision 1; 268.035, subdivisions 9, 13, 14, 20, 21, 26; 268.042, subdivision 1; 268.043; 268.044, subdivisions 1, 2, 3; 268.045, subdivision 1; 268.051, subdivisions 1, 4, 6, 7, by adding a subdivision; 268.052, subdivision 2; 268.053, subdivision 1; 268.057, subdivision 7; 268.065, subdivision 2; 268.069, subdivision 1; 268.07, subdivision 3b; 268.085, subdivisions 1, 2, 3, 5, 12; 268.086, subdivisions 2, 3; 268.095, subdivisions 1, 4, 7, 8, 10, 11; 268.101, subdivisions 1, 2, 3a; 268.103, subdivision 2; 268.105; 268.145, subdivision 1; 268.18, subdivisions 1, 2, 2b; 268.182, subdivision 2; 268.184, subdivisions 1, 2, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 2004, sections 268.045, subdivisions 2, 3, 4; 268.086, subdivision 4; Laws 1997, chapter 66, section 64, subdivision 1; Minnesota Rules, parts 3310.2926; 3310.5000; 3315.0910, subpart 9; 3315.1020; 3315.1301; 3315.1315, subparts 1, 2, 3; 3315.1650; 3315.2210; 3315.3210; 3315.3220.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Pursuant to Joint Rule 2.03, H. F. No. 898 was re-referred to the Committee on Rules and Legislative Administration.

Knoblach from the Committee on Ways and Means to which was referred:

H. F. No. 952, A bill for an act relating to health; providing for grants related to positive abortion alternatives; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 145.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Pursuant to Joint Rule 2.03, H. F. No. 952 was re-referred to the Committee on Rules and Legislative Administration.

Nornes from the Committee on Higher Education Finance to which was referred:

H. F. No. 1385, A bill for an act relating to higher education; appropriating money for educational and related purposes to the Higher Education Services Office, Board of Trustees of the Minnesota State Colleges and Universities, Board of Regents of the University of Minnesota, and the Mayo Medical Foundation, with certain conditions; modifying various grant and financial aid eligibility provisions; requiring eligible institutions to provide certain data; providing definitions; directing the Board of Trustees to designate centers of excellence; amending the Minnesota college savings plan; authorizing transfer of certain bonding authority; amending provisions related to private career schools; establishing fees; providing for merger with the Higher Education Facilities Authority; making technical, clarifying, and conforming changes; amending Minnesota Statutes 2004, sections 13.46, subdivision 2; 136A.01, subdivision 2; 136A.031, subdivisions 2, 3, 4; 136A.121, subdivisions 2, 6, 9, by adding a subdivision; 136A.125, subdivisions 2, 4; 136A.1701, by adding subdivisions; 136G.03, subdivisions 3, 21a, 22, 32; 136G.05, subdivision 8; 136G.09, subdivisions 11, 12; 136G.11, subdivisions 1, 3, 13, by adding a subdivision; 136G.13, subdivisions 1, 5; 136G.14; 141.21, by adding a subdivision; 141.25, subdivisions 3, 5, 7, 8, 9, 12; 141.251; 141.26, subdivision 5; 141.271, subdivisions 4, 7, 10, by adding subdivisions; 141.28, subdivision 1, by adding a subdivision; 141.29, subdivision 3; 141.30; 141.35; 299A.45, subdivisions 1, 4; proposing coding for new law in Minnesota Statutes, chapters 136A; 136F; 141; repealing Minnesota Statutes 2004, sections 136A.011; 136A.031, subdivision 1; 136A.25; 136A.26; 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.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [HIGHER EDUCATION APPROPRIATIONS.]

The sums in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or other named fund, to the agencies and for the purposes specified in this article. The listing of an amount under the figure "2006" or "2007" in this article indicates that the amount is appropriated to be available for the fiscal year ending June 30, 2006, or June 30, 2007, respectively. "The first year" is fiscal year 2006. "The second year" is fiscal year 2007. "The biennium" is fiscal years 2006 and 2007.

SUMMARY BY FUND

	2006	2007	TOTAL
General	\$1,363,389,000	\$1,387,079,000	\$2,750,468,000
Health Care Access	2,157,000	2,157,000	4,314,000

SUMMARY BY AGENCY - ALL FUNDS

	2006	2007	TOTAL
Higher Education Services Office	167,662,000	179,952,000	347,614,000
Board of Trustees of the Minnesota State Colleges and Universities	597,769,000	599,894,000	1,197,663,000
Board of Regents of the University of Minnesota	598,724,000	607,999,000	1,206,723,000
Mayo Medical Foundation	1,391,000	1,391,000	2,782,000

APPROPRIATIONS

Available for the Year
Ending June 30

2006	2007
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Sec. 2. HIGHER EDUCATION SERVICES OFFICE

Subdivision 1. Total Appropriation

\$167,662,000	\$179,952,000
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The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. State Grants

132,775,000	148,375,000
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If the appropriation in this subdivision for either year is insufficient, the appropriation for the other year is available for it. For the biennium, the tuition and fee maximum shall be \$9,477 in the first year and \$9,998 in the second year for students enrolled in four-year programs and \$4,316 in the first year and \$4,597 in the second year for students enrolled in two-year programs.

This appropriation sets the living and miscellaneous expense allowance at \$5,205 in each year.

This appropriation contains money to provide educational benefits to dependent children under age 23 and the spouses of public safety officers killed in the line of duty under Minnesota Statutes 2004, section 299A.45.

	APPROPRIATIONS Available for the Year Ending June 30	
	2006	2007
Subd. 3. Interstate Tuition Reciprocity	1,000,000	1,000,000
Subd. 4. State Work Study	12,444,000	12,444,000
Subd. 5. Child Care Grants	4,743,000	4,743,000
Subd. 6. Minitex	4,381,000	4,381,000
Subd. 7. MnLINK Gateway	400,000	400,000
Subd. 8. Learning Network of Minnesota	4,329,000	4,329,000
Subd. 9. Minnesota College Savings Plan	1,120,000	1,120,000
Subd. 10. Other Small Programs	664,000	664,000

This appropriation includes funding for Postsecondary Service Learning, Student and Parent Information, Get Ready Outreach, and Intervention for College Access.

Of this appropriation, \$100,000 each year is for grants to increase campus-community collaboration and service learning statewide. For each \$1 in state funding, grant recipients must contribute \$2 in campus or community-based support.

Subd. 11. Agency Administration	2,606,000	2,496,000
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\$100,000 in the first year and \$300,000 in the second year is for the Higher Education Services Office to develop and implement a process to measure and report on the effectiveness of postsecondary institutions in the state. The funding base for this initiative in fiscal years 2008 and 2009 is \$300,000 per year.

\$310,000 in the first year is for the Higher Education Services Office to upgrade computer program application software related to state grant awards. This appropriation does not cancel but is available until expended. This is a onetime appropriation and is not added to the agency's base.

APPROPRIATIONS
 Available for the Year
 Ending June 30
 2006 2007

Subd. 12. Balances Forward

A balance in the first year under this section does not cancel, but is available for the second year.

Subd. 13. Transfers

The Higher Education Services Office may transfer unencumbered balances from the appropriations in this section to the state grant appropriation, the interstate tuition reciprocity appropriation, the child care appropriation, and the state work study appropriation.

Subd. 14. Reporting

The Higher Education Services Office shall collect data monthly from institutions disbursing state financial aid. The data collected must include, but is not limited to, expenditures by type to date and unexpended balances. The Higher Education Services Office must evaluate and report quarterly state financial aid expenditures and unexpended balances to the chairs of the Higher Education Finances Committees of the senate and house of representatives and the commissioner of finance. By November 1 and February 15, the Higher Education Services Office must provide updated state grant spending projections taking into account the most current and projected enrollment and tuition and fee information, economic conditions, and other relevant factors. Before submitting state grant spending projections, the Higher Education Services Office must meet and consult with representatives of public and private postsecondary education, the Department of Finance, Governor's Office, legislative staff, and financial aid administrators.

Subd. 15. Rochester University

3,200,000

\$200,000 is for implementation and planning activities for a university in Rochester under article 4, section 1. This is a onetime appropriation.

APPROPRIATIONS
Available for the Year
Ending June 30

2006	2007
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\$3,000,000 is a onetime appropriation for deposit into the Rochester University development account under article 4, section 2 for the implementation and development purposes of article 4, section 3. The Higher Education Services Office must approve the use of the money in the development account.

This appropriation is available until June 30, 2009, except that any portion used for an endowment under article 4, section 1, does not cancel but is available until spent.

Sec. 3. BOARD OF TRUSTEES OF THE MINNESOTA STATE COLLEGES AND UNIVERSITIES

Subdivision 1. Total Appropriation

	597,769,000	599,894,000
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The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

The legislature estimates that instructional expenditures will be \$808,777,000 in the first year and \$811,653,000 in the second year. The legislature estimates that noninstructional expenditures will be \$58,581,000 in the first year and \$58,790,000 in the second year.

Subd. 2. General Appropriation

	585,669,000	583,094,000
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\$2,500,000 the first year and \$2,500,000 the second year are to develop additional courses for the Minnesota online program.

\$4,800,000 the first year and \$5,200,000 the second year are for the board to increase its capacity for training nurses.

\$1,500,000 each year is for the board to address the management education needs of farm and small business owners.

Subd. 3. Centers of Excellence

	7,500,000	7,500,000
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This appropriation requires the board to spend \$2,000,000 from the central reserves of the Minnesota State Colleges and Universities in the biennium ending June 30, 2007, on administrative expenses of the office of the chancellor related to the implementation of the centers of excellence under this subdivision.

The board must develop a process to designate centers of excellence. The center designations may be made for the fields of manufacturing technology, science and engineering, health care,

APPROPRIATIONS
Available for the Year
Ending June 30

2006	2007
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information technology, business, and teacher education. A center of excellence must include no more than one state university working with up to two community and technical colleges.

The board must select programs for centers of excellence based on a demonstration of: (1) a comprehensive academic plan with a continuum of academic offerings and credentials in the program area; (2) a development plan with a goal of achieving continuous improvement leading to national recognition; (3) financial and programmatic commitments from employers who will benefit from the development of a center; and (4) an institutional commitment of support and assurance that designated funding will not supplant current budgets. A center of excellence may create an advisory committee representing local, statewide, and national leaders in the field.

By January 15 of each odd-numbered year, each designated center must report to the Board of Trustees. The Board of Trustees must then report on the centers of excellence to the governor and the chairs of the committees in the legislature with responsibility for higher education finance on program outcomes, including the use of any funds made available by a legislative appropriation for incentive payments to faculty or staff.

Subd. 4. Competitive Salaries	4,600,000	9,300,000
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For the board to make incentive payments to faculty or staff for initiatives that promote excellence in student learning. To the extent practicable, the board must make payments under this paragraph available first to faculty or staff associated with a designated center of excellence.

Sec. 4. BOARD OF REGENTS OF THE UNIVERSITY OF MINNESOTA

Subdivision 1. Total Appropriation	598,724,000	607,999,000
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The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. Operations and Maintenance	518,200,000	542,475,000
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The legislature estimates that instructional expenditures will be \$456,371,000 in the first year and \$463,467,000 in the second year. The legislature estimates that noninstructional expenditures will be \$292,318,000 in the first year and \$296,863,000 in the second year.

APPROPRIATIONS
Available for the Year
Ending June 30

2006	2007
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\$17,775,000 the second year is for academic initiatives that are part of the board's biosciences for a healthy society initiative.

\$5,000,000 the first year and \$10,000,000 the second year is to award faculty compensation increases differentially.

\$20,000,000 the first year and \$15,000,000 the second year is for research support. The funding base for this initiative in fiscal years 2008 and 2009 is \$15,000,000 per year.

\$6,500,000 the first year and \$13,000,000 the second year is for initiatives to attract and retain students.

\$15,000,000 the first year is for the collaborative research partnership for biotechnology and medical genomics of the university and the Mayo Foundation. This is a onetime appropriation that is to be evenly divided between the two partnering organizations. This appropriation must be matched dollar for dollar by nonstate funds. The state funds must be made available after certification to the director of the Higher Education Services Office of the nonstate match. The Board of Regents must submit an annual report on the expenditure of these funds to the governor and to the chairs of the senate Higher Education Budget Division and the house Higher Education Finance Committee by June 30 of each fiscal year. This appropriation is available until June 30, 2007.

Subd. 2a. Base Funding

The university's base for fiscal years 2008 and 2009 shall be increased by \$6,250,000 each year.

Subd. 3. Health Care Access Fund

2,157,000	2,157,000
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This appropriation is from the health care access fund and is for primary care education initiatives.

Subd. 4. Special Appropriation

63,367,000	63,367,000
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(a) Agriculture and Extension Service

50,625,000	50,625,000
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For the Agricultural Experiment Station, Minnesota Extension Service.

APPROPRIATIONS Available for the Year Ending June 30		
2006	2007	
Subd. 2. Medical School	514,000	514,000

The state of Minnesota must pay a capitation each year for each student who is a resident of Minnesota. The appropriation may be transferred between years of the biennium to accommodate enrollment fluctuations.

It is intended that during the biennium the Mayo Foundation use the capitation money to increase the number of doctors practicing in rural areas in need of doctors.

Subd. 3. Family Practice and Graduate Residency Program	531,000	531,000
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The state of Minnesota must pay a capitation of up to 27 residents each year.

Subd. 4. St. Cloud Hospital-Mayo Family Practice Residency Program

346,000	346,000
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This appropriation is to the Mayo Foundation to support 12 resident physicians each year in the St. Cloud Hospital-Mayo family practice residency program. The program must prepare doctors to practice primary care medicine in the rural areas of the state. It is intended that this program will improve health care in rural communities, provide affordable access to appropriate medical care, and manage the treatment of patients in a more cost-effective manner.

ARTICLE 2

RELATED PROVISIONS

Section 1. Minnesota Statutes 2004, 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 to an 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) 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. Disclosures by the commissioner of human services for the purposes described in this clause are governed by section 270B.14, subdivision 1. 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 the Minnesota education credit under section 290.0674;

(9) between the Department of Human Services, the Department of Education, and the Department of Employment and Economic 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~~ sections 136A.121, subdivision 2, clause (5), and 136A.125, subdivision 2, clause (8);

(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 Employment and Economic Development, 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. 2. Minnesota Statutes 2004, section 135A.031, subdivision 3, is amended to read:

Subd. 3. ~~[DETERMINATION OF INSTRUCTIONAL SERVICES BASE.]~~ The instructional services base for each public postsecondary system is the sum of: (1) the state share; and (2) the legislatively estimated tuition for the second year of the most recent biennium; and (3) ~~adjustments for inflation, enrollment changes as calculated in subdivision 4, and~~ performance as calculated in subdivision 5.

Sec. 3. Minnesota Statutes 2004, section 135A.031, subdivision 4, is amended to read:

Subd. 4. ~~[ADJUSTMENT FOR ENROLLMENTS FOR BUDGETING.]~~ ~~(a) Each public postsecondary system's instructional services base shall be adjusted for estimated changes in enrollments. For each two percent change in estimated full-year equivalent enrollment, an adjustment shall be made to 65 percent of the instructional services base. The remaining 35 percent of the instructional services base is not subject to the adjustment in this subdivision.~~

~~(b)~~ For all purposes where student enrollment is used for budgeting purposes, student enrollment shall be measured in full-year equivalents and shall include only enrollments in courses that award credit or otherwise satisfy any of the requirements of an academic or vocational program.

~~(c) The enrollment adjustment shall be made for each year of the subsequent biennium. The base enrollment year is the 1995 fiscal year enrollment. The base enrollment shall be updated for each two percent change in estimated full-year equivalent enrollment. If the actual enrollment differs from the estimated enrollment, an adjustment shall be made in the next biennium.~~

Sec. 4. Minnesota Statutes 2004, section 135A.052, subdivision 1, is amended to read:

Subdivision 1. [STATEMENT OF MISSIONS.] The legislature recognizes each type of public postsecondary institution to have a distinctive mission within the overall provision of public higher education in the state and a responsibility to cooperate with each other. These missions are as follows:

(1) the technical colleges shall offer vocational training and education to prepare students for skilled occupations that do not require a baccalaureate degree;

(2) the community colleges shall offer lower division instruction in academic programs, occupational programs in which all credits earned will be accepted for transfer to a baccalaureate degree in the same field of study, and remedial studies, for students transferring to baccalaureate institutions and for those seeking associate degrees;

(3) consolidated community technical colleges shall offer the same types of instruction, programs, certificates, diplomas, and degrees as the technical colleges and community colleges offer;

(4) the state universities shall offer undergraduate and graduate instruction through the master's degree, including specialist certificates, in the liberal arts and sciences and professional education, and may offer applied doctoral degrees in professional fields including education, psychology, physical therapy, audiology, and nursing; and

(5) the University of Minnesota shall offer undergraduate, graduate, and professional instruction through the doctoral degree, and shall be the primary state supported academic agency for research and extension services.

It is part of the mission of each system that within the system's resources the system's governing board and chancellor or president shall endeavor to:

(a) prevent the waste or unnecessary spending of public money;

(b) use innovative fiscal and human resource practices to manage the state's resources and operate the system as efficiently as possible;

(c) coordinate the system's activities wherever appropriate with the activities of the other system and governmental agencies;

(d) use technology where appropriate to increase system productivity, improve customer service, increase public access to information about the system, and increase public participation in the business of the system;

(e) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A; and

(f) recommend to the legislature appropriate changes in law necessary to carry out the mission of the system.

Sec. 5. Minnesota Statutes 2004, section 135A.30, subdivision 3, is amended to read:

Subd. 3. [SELECTION OF RECIPIENTS.] The governing board of an eligible institution shall determine, in consultation with its campuses, application dates and procedures, criteria to be considered, and methods of selecting students to receive scholarships. A campus, with the approval of its governing board, may award a scholarship in any of the specified fields field of study (1) in which the campus offers a program that is of the quality and rigor to meet the needs of the talented student, and (2) that is pertinent to the mission of the campus.

Sec. 6. Minnesota Statutes 2004, section 135A.30, subdivision 4, is amended to read:

Subd. 4. [AMOUNT OF SCHOLARSHIP.] The amount of the scholarship ~~must~~ may be (1) at public institutions, up to the cost of tuition and fees for full-time attendance for one academic year, or (2) at private institutions, an amount equal to the lesser of the actual tuition and fees charged by the institution or the tuition and fees in comparable public institutions. Scholarships awarded under this section must not be considered in determining a student's financial need as provided in section 136A.101, subdivision 5.

Sec. 7. Minnesota Statutes 2004, section 135A.30, subdivision 5, is amended to read:

Subd. 5. [RENEWALS.] The scholarship ~~shall~~ may be renewed yearly, for up to three additional academic years, if the student:

(1) maintains full-time enrollment with a grade point average of at least 3.0 on a four point scale;

(2) pursues studies and continues to demonstrate outstanding ability, achievement, and potential in the field for which the award was made; and

(3) is achieving satisfactory progress toward a degree.

Sec. 8. Minnesota Statutes 2004, section 135A.52, subdivision 1, is amended to read:

Subdivision 1. [FEES AND TUITION.] Except for an administration fee established by the governing board at a level to recover costs, to be collected only when a course is taken for credit, a senior citizen who is a legal resident of Minnesota is entitled without payment of tuition or activity fees to attend courses offered for credit, audit any courses offered for credit, or enroll in any noncredit ~~adult vocational education~~ courses in any state supported institution of higher education in Minnesota when space is available after all tuition-paying students have been accommodated. A senior citizen enrolled under this section must pay any materials, personal property, or service charges for the course. In addition, a senior citizen who is enrolled in a course for credit must pay an administrative

fee in an amount established by the governing board of the institution to recover the course costs. There shall be no administrative fee charges to a senior citizen auditing a course. For the purposes of this section and section 135A.51, the term "noncredit ~~adult vocational education~~ courses" shall not include those ~~adult vocational education~~ courses designed and offered specifically and exclusively for senior citizens.

The provisions of this section and section 135A.51 do not apply to noncredit courses designed and offered by the University of Minnesota, and the Minnesota State Colleges and Universities specifically and exclusively for senior citizens. Senior citizens enrolled under the provisions of this section and section 135A.51 shall not be included by such institutions in their computation of full-time equivalent students when requesting staff or appropriations. ~~The enrollee shall pay laboratory or material fees.~~

Sec. 9. Minnesota Statutes 2004, section 135A.52, subdivision 2, is amended to read:

Subd. 2. [TERM; INCOME OF SENIOR CITIZENS.] (a) Except under paragraph (b), there shall be no limit to the number of terms, quarters or semesters a senior citizen may attend courses, nor income limitation imposed in determining eligibility.

(b) A senior citizen enrolled in a closed enrollment contract training or professional continuing education program is not eligible for benefits under subdivision 1.

Sec. 10. Minnesota Statutes 2004, section 136A.01, subdivision 2, is amended to read:

Subd. 2. [RESPONSIBILITIES.] The Higher Education Services Office is responsible for:

(1) necessary state level administration of financial aid programs, including accounting, auditing, and disbursing state and federal financial aid funds, and reporting on financial aid programs to the governor and the legislature;

(2) approval, registration, licensing, and financial aid eligibility of private collegiate and career schools, under sections 136A.61 to 136A.71 and chapter 141;

~~(3) administering the Telecommunications Council under Laws 1993, First Special Session chapter 2, article 5, section 2, the Learning Network of Minnesota, and the Statewide Library Task Force;~~

(4) negotiating and administering reciprocity agreements;

(5) publishing and distributing financial aid information and materials, and other information and materials under section 136A.87, to students and parents;

(6) collecting and maintaining student enrollment and financial aid data and reporting data on students and postsecondary institutions to measure progress in student learning and the effective use of public resources;

(7) administering the federal programs that affect students and institutions on a statewide basis; and

(8) prescribing policies, procedures, and rules under chapter 14 necessary to administer the programs under its supervision.

Sec. 11. Minnesota Statutes 2004, section 136A.031, subdivision 2, is amended to read:

Subd. 2. [HIGHER EDUCATION ADVISORY COUNCIL.] A Higher Education Advisory Council (HEAC) is established. The HEAC is composed of the president of the University of Minnesota or designee; the chancellor of the Minnesota State Colleges and Universities or designee; the commissioner of education; the president of the

Private College Council; a representative from the Minnesota Association of Private Postsecondary Schools; and a member appointed by the governor. The HEAC shall ~~(1) bring to the attention of the Higher Education Services Council Office any matters that the HEAC deems necessary, and (2) review and comment upon matters before the council. The council shall refer all proposals to the HEAC before submitting recommendations to the governor and the legislature. The council shall provide time for a report from the HEAC at each meeting of the council.~~

Sec. 12. Minnesota Statutes 2004, section 136A.031, subdivision 3, is amended to read:

Subd. 3. [STUDENT ADVISORY COUNCIL.] A Student Advisory Council (SAC) to the Higher Education Services ~~Council Office~~ is established. The members of SAC shall include: the chair of the University of Minnesota student senate; the state chair of the Minnesota State University Student Association; the president of the Minnesota State College Student Association and an officer of the Minnesota State College Student Association, one in a community college course of study and one in a technical college course of study; the president of the Minnesota Association of Private College Students; and a student who is enrolled in a private vocational school, to be appointed by the Minnesota ~~Association of Private Postsecondary Schools~~ Career College Association. A member may be represented by a student designee who attends an institution from the same system that the absent member represents. The SAC shall select one of its members to serve as chair.

~~The Higher Education Services Council shall inform the SAC of all matters related to student issues under consideration and shall refer all proposals to the SAC before taking action or sending the proposals to the governor or legislature. The SAC shall report to the Higher Education Services Council Office quarterly and at other times that the SAC considers desirable. The SAC shall determine its meeting times, but it shall also meet with the council office within 30 days after the director's request for a meeting.~~

The SAC shall:

- (1) bring to the attention of the Higher Education Services ~~Council Office~~ any matter that the SAC believes needs the attention of the ~~council office~~; and
- (2) make recommendations to the Higher Education Services ~~Council Office~~ as it finds appropriate;
- (3) ~~appoint student members to the Higher Education Services Council advisory groups as provided in subdivision 4; and~~
- (4) ~~provide any reasonable assistance to the council.~~

Sec. 13. Minnesota Statutes 2004, section 136A.031, subdivision 4, is amended to read:

Subd. 4. [STUDENT REPRESENTATION.] If requested by the SAC, the director must place at least one student from an affected educational system on any task force created ~~under subdivision 1. The student member or members shall be appointed by the SAC.~~

Sec. 14. Minnesota Statutes 2004, section 136A.08, is amended by adding a subdivision to read:

Subd. 7. [REPORTING.] The Higher Education Services Office must annually, before the last day in January, submit a report to the committees in the house of representatives and the senate with responsibility for higher education on:

- (1) participation in the tuition reciprocity program by Minnesota students, and students from other states attending Minnesota postsecondary institutions;

(2) reciprocity and resident tuition rates at each institution; and

(3) interstate payments and obligations for each state participating in the tuition reciprocity program in the prior year.

Sec. 15. Minnesota Statutes 2004, section 136A.08, is amended by adding a subdivision to read:

Subd. 8. [DATA SHARING.] (a) The Higher Education Services Office must consider developing data collection procedures and agreements to monitor the extent to which students who attend Minnesota postsecondary institutions under reciprocity agreements are employed in Minnesota after graduation. These procedures must include matching Social Security numbers of reciprocity students for purposes of tracking the migration and employment of students who receive associate, baccalaureate, or graduate degrees through a tuition reciprocity program. State agencies must share wage and earnings data under section 268.19 for the purpose of evaluating the tuition reciprocity program.

(b) The reciprocity application must request the use of student Social Security numbers for the purposes of this subdivision. Reciprocity students must be informed that Social Security numbers will be used only to evaluate the reciprocity program by sharing information with Minnesota agencies and departments responsible for the administration of covered wage data and revenue collections. Social Security numbers will not be used for any other purpose or reported to any other government entity.

(c) The office must include summary data on the migration and earnings of reciprocity graduates in the reciprocity report to the legislature. This report must include summary statistics on number of graduates by institution, degree granted and year of graduation, total number of reciprocity students employed in the state, and total earnings of graduates.

Sec. 16. Minnesota Statutes 2004, section 136A.121, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY FOR GRANTS.] An applicant is eligible to be considered for a grant, regardless of the applicant's sex, creed, race, color, national origin, or ancestry, under sections 136A.095 to 136A.131 if the office finds that the applicant:

(1) is a resident of the state of Minnesota;

(2) is a graduate of a secondary school or its equivalent, or is 17 years of age or over, and has met all requirements for admission as a student to an eligible college or technical college of choice as defined in sections 136A.095 to 136A.131;

(3) has met the financial need criteria established in Minnesota Rules;

(4) is not in default, as defined by the office, of any federal or state student educational loan; and

(5) is not more than 30 days in arrears ~~for any in court-ordered child support payments owed to a~~ that is collected or enforced by the public agency authority responsible for child support enforcement or, if the applicant is more than 30 days in arrears in court-ordered child support that is collected or enforced by the public authority responsible for child support enforcement, but is complying with a written payment agreement under section 518.553 or order for arrearages. ~~An agreement must provide for 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.~~

~~The director and the commissioner of human services shall develop procedures to implement clause (5).~~

Sec. 17. Minnesota Statutes 2004, section 136A.121, subdivision 5, is amended to read:

Subd. 5. [GRANT STIPENDS.] The grant stipend shall be based on a sharing of responsibility for covering the recognized cost of attendance by the applicant, the applicant's family, and the government. The amount of a financial stipend must not exceed a grant applicant's recognized cost of attendance, as defined in subdivision 6, after deducting the following:

- (1) the assigned student responsibility of at least ~~46~~ 45 percent of the cost of attending the institution of the applicant's choosing;
- (2) the assigned family responsibility as defined in section 136A.101; and
- (3) the amount of a federal Pell grant award for which the grant applicant is eligible.

The minimum financial stipend is \$100 per academic year.

Sec. 18. Minnesota Statutes 2004, section 136A.121, subdivision 6, is amended to read:

Subd. 6. [COST OF ATTENDANCE.] (a) The recognized cost of attendance consists of allowances specified in law for living and miscellaneous expenses, and an allowance for tuition and fees equal to the lesser of the average tuition and fees charged by the institution, or the tuition and fee maximums established in law.

(b) For a student registering for less than full time, the office shall prorate the cost of attendance to the actual number of credits for which the student is enrolled.

The recognized cost of attendance for a student who is confined to a Minnesota correctional institution shall consist of the tuition and fee component in paragraph (a), with no allowance for living and miscellaneous expenses.

For the purpose of this subdivision, "fees" include only those fees that are mandatory and charged to full-time resident students attending the institution. Fees do not include charges for tools, equipment, computers, or other similar materials where the student retains ownership. Fees include charges for these materials if the institution retains ownership. Fees do not include optional or punitive fees.

Sec. 19. Minnesota Statutes 2004, 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~~ nine 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 or the equivalent 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. 20. Minnesota Statutes 2004, section 136A.121, is amended by adding a subdivision to read:

Subd. 18. [DATA.] An eligible institution must provide to the office student enrollment, financial aid, financial, and other data as determined by the director, to enable the office to carry out its responsibilities under chapter 136A.

Sec. 21. Minnesota Statutes 2004, section 136A.125, subdivision 2, is amended to read:

Subd. 2. [ELIGIBLE STUDENTS.] (a) 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~~ nine 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 in court-ordered child support that is collected or enforced by the public authority responsible for child support enforcement or, if the applicant is more than 30 days in arrears in court-ordered child support that is collected or enforced by the public authority responsible for child support enforcement, but is complying with a written payment agreement under section 518.553 or order for arrearages.

(b) A student who withdraws from enrollment for active military service is entitled to an additional semester or the equivalent of grant eligibility.

Sec. 22. Minnesota Statutes 2004, section 136A.1701, is amended by adding a subdivision to read:

Subd. 11. [DATA.] An eligible institution must provide to the office student enrollment, financial aid, financial, and other data as determined by the director, to enable the office to carry out its responsibilities under chapter 136A.

Sec. 23. Minnesota Statutes 2004, section 136A.1701, is amended by adding a subdivision to read:

Subd. 12. [ELIGIBLE STUDENT.] "Eligible student" means a student who is a Minnesota resident who is enrolled or accepted for enrollment at an eligible institution in Minnesota or in another state or province. Non-Minnesota residents are eligible students if they are enrolled or accepted for enrollment in a minimum of one course of at least 30 days in length during the academic year that requires physical attendance at an eligible institution located in Minnesota. Non-Minnesota resident students enrolled exclusively during the academic year in correspondence courses or courses offered over the Internet are not eligible students. Non-Minnesota resident students not physically attending classes in Minnesota due to enrollment in a study abroad program for 12 months or less are eligible students. Non-Minnesota residents enrolled in study abroad programs exceeding 12 months are not eligible students. For purposes of this section, an "eligible student" must also meet the eligibility requirements of section 136A.15, subdivision 8.

Sec. 24. [136A.1703] [INCOME-CONTINGENT LOANS.]

The office shall administer an income-contingent loan repayment program to assist graduates of Minnesota schools in medicine, dentistry, pharmacy, chiropractic medicine, public health, and veterinary medicine, and Minnesota residents graduating from optometry and osteopathy programs. Applicant data collected by the office for this program may be disclosed to a consumer credit reporting agency under the same conditions as those that apply to the supplemental loan program under section 136A.162. No new applicants may be accepted after June 30, 1995.

Sec. 25. [136A.1785] [LOAN CAPITAL FUND.]

The office may deposit and hold assets derived from the operation of its student loan programs authorized by this chapter in a fund known as the loan capital fund. Assets in the loan capital fund are available to the office solely for carrying out the purposes and terms of sections 136A.15 to 136A.1703, including, but not limited to, making student loans authorized by this chapter, paying administrative expenses associated with the operation of its student loan programs, repurchasing defaulted student loans, and paying expenses in connection with the issuance of revenue bonds authorized under this chapter. Assets in the loan capital fund may be invested as provided in sections 11A.24 and 136A.16, subdivision 8. All interest and earnings from the investment of the loan capital fund inure to the benefit of the fund and are deposited into the fund.

Sec. 26. Minnesota Statutes 2004, section 136F.04, subdivision 4, is amended to read:

Subd. 4. [RECOMMENDATIONS.] Each student association shall recommend at least two and not more than four candidates for its student member. By ~~January 2~~ April 15 of the year in which its members' term expires, each student association shall submit its recommendations to the governor. The governor is not bound by these recommendations.

Sec. 27. Minnesota Statutes 2004, section 136F.32, subdivision 2, is amended to read:

Subd. 2. [TECHNICAL AND CONSOLIDATED TECHNICAL COLLEGES.] (a) A technical college or consolidated technical community college shall offer students the option of pursuing diplomas ~~and~~ or certificates in each technical education program, unless the board determines that a degree is the only acceptable credential for career entry in a specific field. All vocational and technical credits earned for a diploma or certificate shall be applicable toward any available degree in the same program.

(b) Certificates and diplomas are credentials that demonstrate competence in a vocational or technical area and, therefore, may include a general education component only as part of an articulation agreement or to meet occupational requirements as established by the trade or profession, or by the program advisory committee. Students shall be provided with applied training in general studies as necessary for competence in the program area. Students who have earned a certificate or diploma may earn a degree in the same field if they complete the general education and other degree requirements.

Sec. 28. Minnesota Statutes 2004, section 136G.03, subdivision 3, is amended to read:

Subd. 3. [ACCOUNT OWNER.] "Account owner" means a person who enters into a participation agreement and is entitled to ~~select or change~~ conduct transactions on the account, including selecting and changing the beneficiary of an account ~~or to receive and receiving~~ distributions from the account ~~for other than payment of qualified higher education expenses.~~

Sec. 29. Minnesota Statutes 2004, section 136G.03, subdivision 21a, is amended to read:

Subd. 21a. [MINOR TRUST ACCOUNT.] "Minor trust account" means a Uniform Gift to Minors Act account, or a Uniform Transfers to Minors Act account, ~~or a trust instrument naming a minor person as beneficiary,~~ created and operating under the laws of Minnesota or another state.

Sec. 30. Minnesota Statutes 2004, section 136G.03, subdivision 22, is amended to read:

Subd. 22. [NONQUALIFIED DISTRIBUTION.] "Nonqualified distribution" means a distribution made from an account other than (1) a qualified distribution; or (2) a distribution due to the death or disability of, or scholarship to, or attendance at a United States military academy by, a beneficiary.

Sec. 31. Minnesota Statutes 2004, section 136G.03, subdivision 32, is amended to read:

Subd. 32. [SCHOLARSHIP.] "Scholarship" means a scholarship, or educational assistance allowance, ~~or payment under section 529(b)(3)(C) of the Internal Revenue Code.~~

Sec. 32. Minnesota Statutes 2004, section 136G.05, subdivision 8, is amended to read:

Subd. 8. [ADMINISTRATION.] The director shall administer the program, including accepting and processing applications, maintaining account records, making payments, making matching grants under section 136G.11, and undertaking any other necessary tasks to administer the program. The office may contract with one or more third parties to carry out some or all of these administrative duties, including ~~promotion~~ providing incentives and marketing of the program. The office and the board may jointly contract with third-party providers, if the office and board determine that it is desirable to contract with the same entity or entities for administration and investment management.

Sec. 33. Minnesota Statutes 2004, section 136G.09, subdivision 11, is amended to read:

Subd. 11. [EFFECT OF PLAN CHANGES ON PARTICIPATION AGREEMENT.] Amendments to sections 136G.01 to 136G.13 automatically amend the participation agreement. Any amendments to the operating procedures and policies of the plan shall automatically amend the participation agreement ~~30 days~~ after adoption by the office or the board.

Sec. 34. Minnesota Statutes 2004, section 136G.09, subdivision 12, is amended to read:

Subd. 12. [SPECIAL ACCOUNT TO HOLD PLAN ASSETS IN TRUST.] All assets of the plan, including contributions to accounts and matching grant accounts and earnings, are held in trust for the exclusive benefit of account owners and beneficiaries. Assets must be held in a separate account in the state treasury to be known as the Minnesota college savings plan account or in accounts with the third party provider selected pursuant to section 136G.05, subdivision 8. Plan assets are not subject to claims by creditors of the state, are not part of the general fund, and are not subject to appropriation by the state. Payments from the Minnesota college savings plan account shall be made under sections 136G.01 to 136G.13.

Sec. 35. Minnesota Statutes 2004, 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. 36. Minnesota Statutes 2004, section 136G.11, subdivision 2, is amended to read:

Subd. 2. [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. 37. Minnesota Statutes 2004, 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. 38. Minnesota Statutes 2004, section 136G.11, subdivision 13, is amended to read:

Subd. 13. [FORFEITURE OF MATCHING GRANTS.] (a) Matching grants are forfeited if:

(1) the account owner transfers the total account balance of an account to another account or to another qualified tuition program;

(2) the beneficiary receives a full tuition scholarship or ~~admission to~~ is attending a United States service academy;

(3) the beneficiary dies or becomes disabled;

(4) the account owner changes the beneficiary of the account; or

(5) the account owner closes the account with a nonqualified withdrawal.

(b) Matching grants must be proportionally forfeited if:

(1) the account owner transfers a portion of an account to another account or to another qualified tuition program;

(2) the beneficiary receives a scholarship covering a portion of qualified higher education expenses; or

(3) the account owner makes a partial nonqualified withdrawal.

(c) If the account owner makes a misrepresentation in a participation agreement or an application for a matching grant that results in a matching grant, the matching grant associated with the misrepresentation is forfeited. The office and the board must instruct the plan administrator as to the amount to be forfeited from the matching grant account. The office and the board must withdraw the matching grant or the proportion of the matching grant that is related to the misrepresentation.

Sec. 39. Minnesota Statutes 2004, 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) directly to the account owner or beneficiary if the account owner or beneficiary has already paid qualified higher education expenses.

(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. 40. Minnesota Statutes 2004, section 136G.13, subdivision 5, is amended to read:

Subd. 5. [DISTRIBUTIONS DUE TO DEATH OR DISABILITY OF, OR SCHOLARSHIP TO, OR ATTENDANCE AT A UNITED STATES MILITARY ACADEMY BY, A BENEFICIARY.] An account owner may request a distribution due to the death or disability of, or scholarship to, or attendance at a United States military academy by, a beneficiary from an account by submitting a completed request to the plan. Prior to distribution, the account owner shall certify the reason for the distribution and provide written confirmation from a third party that the beneficiary has died, become disabled, or received a scholarship for attendance at an eligible educational institution, or is attending a United States military academy. The plan must not consider a request to make a distribution until a third-party written confirmation is received by the plan. For purposes of this subdivision, a third-party written confirmation consists of the following:

(1) for death of the beneficiary, a certified copy of the beneficiary's death record;

(2) for disability of the beneficiary, a certification by a physician who is a doctor of medicine or osteopathy stating that the doctor is legally authorized to practice in a state of the United States and that the beneficiary is unable to attend any eligible educational institution because of an injury or illness that is expected to continue indefinitely or result in death. Certification must be on a form approved by the plan; ~~or~~

(3) for a scholarship award to the beneficiary, a letter from the grantor of the scholarship or from the eligible educational institution receiving or administering the scholarship, that identifies the beneficiary by name and Social Security number or taxpayer identification number as the recipient of the scholarship and states the amount of the scholarship, the period of time or number of credits or units to which it applies, the date of the scholarship, and, if applicable, the eligible educational institution to which the scholarship is to be applied; or

(4) for attendance by the beneficiary at a United States military academy, a letter from the military academy indicating the beneficiary's enrollment and attendance.

Sec. 41. Minnesota Statutes 2004, section 136G.14, is amended to read:

136G.14 [MINOR TRUST ACCOUNTS.]

(a) This section applies to a plan account in which funds of a minor trust account are invested.

(b) The account owner may not be changed to any person other than a successor custodian or the beneficiary unless a court order directing the change of ownership is provided to the plan administrator. The custodian must sign all forms and requests submitted to the plan administrator in the custodian's representative capacity. The custodian must notify the plan administrator in writing when the beneficiary becomes legally entitled to be the account owner. An account owner under this section may not select a contingent account owner.

(c) The beneficiary of an account under this section may not be changed. If the beneficiary dies, assets in a plan account become the property of the beneficiary's estate. Funds in an account must not be transferred or rolled over to another account owner or to an account for another beneficiary. A nonqualified distribution from an account, or a distribution due to the disability or scholarship award to the beneficiary, or made on account of the beneficiary's attendance at a United States military academy, must be used for the benefit of the beneficiary.

Sec. 42. Minnesota Statutes 2004, section 137.0245, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] A Regent Candidate Advisory Council is established to assist ~~the legislature~~ in determining criteria for, and identifying and recruiting qualified candidates for membership on the Board of Regents and making recommendations to the governor.

Sec. 43. Minnesota Statutes 2004, section 137.0245, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] (a) The Regent Candidate Advisory Council shall consist of 24 members, appointed as provided in this subdivision.

(b) ~~Twelve~~ Ten members shall be appointed by the Subcommittee on Committees of the Committee on Rules and Administration of the senate. ~~Twelve~~ Ten members shall be appointed by the speaker of the house of representatives. Each of these appointing ~~authority~~ authorities must 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~~ one-fourth of the members appointed by each of these appointing ~~authority~~ authorities may be current or former legislators. No more than ~~two-thirds~~ three-fourths of the members appointed by each of these appointing ~~authority~~ authorities may belong to the same political party; ~~however, political activity or affiliation is not required for the appointment of any member.~~

(c) Two members shall be appointed by the University of Minnesota Alumni Association. Two members shall be appointed by the University of Minnesota Foundation.

(d) Geographical representation must be taken into consideration when making appointments. Political activity or affiliation is not required for appointment of any member of the advisory council. 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. 44. Minnesota Statutes 2004, section 137.0245, subdivision 4, is amended to read:

Subd. 4. [RECOMMENDATIONS.] The advisory council shall recommend at least two and not more than four candidates. By ~~March 15~~ February 1 of each odd-numbered year, the advisory council shall submit its recommendations to the ~~president of the senate and the speaker of the house of representatives. The legislature shall not be bound by these recommendations~~ governor who must nominate a slate of candidates and present it to the legislature under section 137.0247.

Sec. 45. [137.0247] [LEGISLATIVE ELECTION OF REGENTS.]

Subdivision 1. [GOVERNOR NOMINATION.] Within 30 days of receiving the recommendations of the Regent Candidate Advisory Council, the governor must submit a slate of regent candidates to the legislature that names one candidate for each vacancy. The governor may name candidates from the recommendations of the advisory council, or may select a candidate without regard to the recommendations but according to sections 137.023 and 137.024. In selecting candidates, the governor must consider the needs of the board of regents and the balance of the board membership with respect to gender, racial, and ethnic composition.

Subd. 2. [ELECTION BY THE LEGISLATURE.] In each odd-numbered year, the legislature must elect regents as required under the Minnesota Constitution, article XII, section 3, from a slate of candidates submitted by the governor under this section. If the legislature fails to fill one or more of the open positions, the governor has 15 days from the date of the joint convention to submit a new slate of candidates for the open regent positions. The legislature must meet in joint convention to act on the second slate of candidates. The nomination and election process under this section continues until regents have been elected for all positions scheduled for the current election cycle.

Sec. 46. Minnesota Statutes 2004, section 192.502, subdivision 1, is amended to read:

Subdivision 1. [POSTSECONDARY STUDENTS.] (a) ~~A member of the Minnesota National Guard or any other military reserve component who is a~~ As used in this subdivision, the terms "qualified person" and "qualified student" have the same meaning and include:

(1) any student at a postsecondary education educational institution and who is called or ordered to state into active military service in the Minnesota National Guard, as defined in section 190.05, subdivision 5, or who is called or ordered to federal active military service; and

(2) a veteran, as defined in section 197.447, who has a service connected disability as certified by the United States Department of Veterans Affairs, who is a student at a postsecondary educational institution, and whose medical condition or medical treatment requirements reasonably prevent the person's attendance at or progress in part or all of the person's higher educational training or studies at any given time.

(b) A qualified person or qualified student has the following rights:

(1) with regard to courses in which the person is enrolled, the person may:

(i) withdraw from one or more courses for which tuition and fees have been paid that are attributable to the courses. The tuition and fees must be credited to the person's account at the postsecondary institution. Any refunds are subject to the requirements of the state or federal financial aid programs of origination. In such a case, the student must not receive credit for the courses and must not receive a failing grade, an incomplete, or other negative annotation on the student's record, and the student's grade point average must not be altered or affected in any manner because of action under this item;

(ii) be given a grade of incomplete and be allowed to complete the course upon release from active ~~duty~~ service, upon completion of medical treatment, or upon sufficient medical recovery under the postsecondary institution's standard practice for completion of incompletes; or

(iii) continue and complete the course for full credit. Class sessions the student misses due to performance of ~~state or federal~~ active military service or due to the person's medical treatment or medical condition must be counted as excused absences and must not be used in any way to adversely impact the student's grade or standing in the class. Any student who selects this option is not, however, automatically excused from completing assignments due during the period the student is performing ~~state or federal~~ active military service or receiving medical treatment or recovering from a medical condition. A letter grade or a grade of pass must ~~only~~ be awarded only if, in the opinion of the faculty member teaching the course, the student has completed sufficient work and has demonstrated sufficient progress toward meeting course requirements to justify the grade;

(2) to receive a refund of amounts paid for room, board, and fees attributable to the time period during which the student was serving in ~~state or federal~~ active military service or receiving medical treatment or dealing with the person's medical condition and did not use the facilities or services for which the amounts were paid. Any refund of room, board, and fees is subject to the requirements of the state or federal financial aid programs of origination; and

(3) if the student chooses to withdraw, the student has the right to be readmitted and reenrolled as a student at the postsecondary education institution, without penalty or redetermination of admission eligibility, within ~~one year~~ two years following release from the state or federal active military service or following completion of medical treatment or sufficient recovery from the person's medical condition.

~~(b)~~ (c) The protections in this section may be invoked as follows:

(1) the qualified person or qualified student, or an appropriate officer from the military organization in which the person will be serving, or an appropriate medical authority or the person's authorized caregiver or family member, must give advance verbal or written notice that the person is being ~~called or~~ ordered to qualifying active military service or will be undertaking medical treatment or a period of recovery for a medical condition;

(2) advance notice is not required if the giving of notice is precluded by military or medical necessity or, under all the relevant circumstances, the giving of notice is impossible or unreasonable; and

(3) upon written request from the postsecondary institution, the person must provide written verification of the order to active service or of the existence of the medical condition or medical treatment.

~~(e)~~ (d) This section provides minimum protections for qualified students. Nothing in this section prevents postsecondary institutions from providing additional options or protections to students who are ~~called or~~ ordered to ~~state or federal~~ active military service or are undertaking medical treatment or a period of recovery from a medical condition.

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

Sec. 47. Minnesota Statutes 2004, 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. A student who withdraws from enrollment for active military service is entitled to an additional semester or the equivalent of grant eligibility. 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.

Sec. 48. Minnesota Statutes 2004, 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 or the equivalent of grant eligibility. 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. 49. [RECIPROCITY NEGOTIATIONS.]

Subdivision 1. [SOUTH DAKOTA.] The Higher Education Services Office must examine the feasibility of reinstating interstate payments in the Minnesota-South Dakota reciprocity program while maintaining the tuition reciprocity agreement. The office must examine the advantages and disadvantages of computing interstate payments under the reciprocity agreement and the impact of interstate payments on participating students, institutions, and the general fund of the two states. The office must report on the feasibility and impacts of reciprocity payments to the committees of the legislature with responsibility for higher education by January 10, 2006.

Subd. 2. [WISCONSIN.] The Higher Education Services Office must, as soon as possible, commence negotiations with the state of Wisconsin on the tuition reciprocity agreement. The negotiations must 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 the disparity.

This section does not mandate the inclusion of any particular term in a tuition reciprocity agreement.

Sec. 50. [APPLICATION OF ELIGIBILITY.]

The additional semester or the equivalent of grant eligibility under sections 19, 21, 47, and 48 applies to any student who withdrew from enrollment in a postsecondary institution after December 31, 2002, because the student was ordered to active military service as defined in Minnesota Statutes, section 190.05, subdivision 5b or 5c.

Sec. 51. [ADVISORY TASK FORCE ON PUBLIC POSTSECONDARY FUNDING.]

The Higher Education Services Office shall convene an advisory task force to study the current postsecondary funding policy under Minnesota Statutes, sections 135A.01 to 135A.034. The task force must include the chief financial officers of the University of Minnesota and the Minnesota State Colleges and Universities and the commissioner of finance, or their designees. The task force may include other members as selected by the Higher Education Services Office. The task force must study and make specific recommendations on alternatives to the methods currently used by the postsecondary systems to implement the provisions of Minnesota Statutes, section 135A.031, subdivision 4. The task force must submit its recommendations to the legislature and the governor by January 15, 2006. The task force expires on June 30, 2007.

Sec. 52. [TRANSITIONAL APPOINTMENTS TO THE REGENT CANDIDATE ADVISORY COUNCIL.]

Notwithstanding Minnesota Statutes, section 137.0245, subdivision 2, for appointments made in 2006 and 2008, appointing authorities under section 43 shall make transitional appointments to the regent candidate advisory council for terms of varying lengths so that by 2010, and each even year thereafter, the house of representatives and the

senate shall appoint a total of seven members, including one student and the University of Minnesota Alumni Association or the University of Minnesota Foundation shall alternately appoint one member, but every third appointment cycle, each will appoint a member. Beginning with appointments in 2010, one-third of the members are appointed to six-year terms under Minnesota Statutes, section 137.0245, subdivision 2.

Sec. 53. [ALTERNATIVE FORMAT INSTRUCTIONAL MATERIAL NETWORK.]

The Higher Education Services Office must convene a group with representatives from the Minnesota State Colleges and Universities, the University of Minnesota, and all sectors of private postsecondary education to develop a network containing postsecondary instructional material in an electronic format. The material on the network must be made available to Minnesota postsecondary institutions and to postsecondary students with disabilities that require a reading accommodation. The group must establish standards for the instructional material that is housed on the network. Instructional material must be in a format that is compatible with assistive technology used by students who require a reading accommodation. Instructional material includes, but is not limited to, printed materials published or produced primarily for use by students in postsecondary educational courses. It also includes instructional materials that are produced by postsecondary institutions for use in conjunction with a course of study. The Higher Education Services Office must report to the committees in the house of representatives and senate with responsibility for higher education by January 15, 2006, on progress in developing the network and with recommendations on methods to meet the needs of students for instructional materials in alternative formats.

Sec. 54. [REVISOR INSTRUCTION.]

The revisor of statutes shall change the terms "HESO" and "Higher Education Services Office" to "Minnesota Office of Higher Education" wherever in Minnesota Statutes and Minnesota Rules the terms appear.

Sec. 55. [REPEALER.]

(a) Minnesota Statutes 2004, sections 136A.011, and 136A.031, subdivision 1, 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 3

PRIVATE CAREER SCHOOLS

Section 1. Minnesota Statutes 2004, section 141.21, is amended by adding a subdivision to read:

Subd. 6a. [MULTIPLE LOCATION.] "Multiple location" means any site where classes or administrative services are provided to students and which has a street address that is different than the street address found on the school's private career school license.

Sec. 2. Minnesota Statutes 2004, section 141.25, subdivision 3, is amended to read:

Subd. 3. [APPLICATION.] Application for a license shall be on forms prepared and furnished by the office, and shall include the following and other information as the office may require:

(1) the title or name of the school, ownership and controlling officers, members, managing employees, and director;

- (2) the specific programs which will be offered and the specific purposes of the instruction;
- (3) the place or places where the instruction will be given;
- (4) a listing of the equipment available for instruction in each program;
- (5) the maximum enrollment to be accommodated with equipment available in each specified program;
- (6) the qualifications of instructors and supervisors in each specified program;
- (7) a current balance sheet, income statement, and adequate supporting documentation, prepared and certified by an independent public accountant or CPA;
- (8) copies of all media advertising and promotional literature and brochures or electronic display currently used or reasonably expected to be used by the school;
- (9) copies of all Minnesota enrollment agreement forms and contract forms and all enrollment agreement forms and contract forms used in Minnesota; and
- (10) gross income earned in the preceding year from student tuition, fees, and other required institutional charges, unless the school files with the office a surety bond equal to at least ~~\$50,000~~ \$250,000 as described in subdivision 5.

Sec. 3. Minnesota Statutes 2004, section 141.25, subdivision 5, is amended to read:

Subd. 5. [BOND.] (a) No license shall be issued to any school which maintains, conducts, solicits for, or advertises within the state of Minnesota any program, unless the applicant files with the office a continuous corporate surety bond written by a company authorized to do business in Minnesota conditioned upon the faithful performance of all contracts and agreements with students made by the applicant.

(b) The amount of the surety bond shall be ten percent of the preceding year's gross income from student tuition, fees, and other required institutional charges, but in no event less than \$10,000 nor greater than ~~\$50,000~~ \$250,000, except that a school may deposit a greater amount at its own discretion. A school in each annual application for licensure must compute the amount of the surety bond and verify that the amount of the surety bond complies with this subdivision, unless the school maintains a surety bond equal to at least ~~\$50,000~~ \$250,000. A school that operates at two or more locations may combine gross income from student tuition, fees, and other required institutional charges for all locations for the purpose of determining the annual surety bond requirement. The gross tuition and fees used to determine the amount of the surety bond required for a school having a license for the sole purpose of recruiting students in Minnesota shall be only that paid to the school by the students recruited from Minnesota.

(c) The bond shall run to the state of Minnesota and to any person who may have a cause of action against the applicant arising at any time after the bond is filed and before it is canceled for breach of any contract or agreement made by the applicant with any student. The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the principal sum deposited by the school under paragraph (b). The surety of any bond may cancel it upon giving 60 days' notice in writing to the office and shall be relieved of liability for any breach of condition occurring after the effective date of cancellation.

(d) In lieu of bond, the applicant may deposit with the commissioner of finance a sum equal to the amount of the required surety bond in cash, or securities as may be legally purchased by savings banks or for trust funds in an aggregate market value equal to the amount of the required surety bond.

(e) Failure of a school to post and maintain the required surety bond or deposit under paragraph (d) may result in denial, suspension, or revocation of the school's license.

Sec. 4. Minnesota Statutes 2004, section 141.25, subdivision 8, is amended to read:

Subd. 8. [FEES AND TERMS OF LICENSE.] An application for an initial license under sections 141.21 to 141.35 shall be accompanied by a nonrefundable application fee ~~established by the office~~ as provided in section 141.255 that is sufficient to recover, but not exceed, ~~its~~ the administrative costs of the office.

All licenses shall expire one year from the date issued by the office, except as provided in section 141.251.

Sec. 5. Minnesota Statutes 2004, section 141.25, subdivision 9, is amended to read:

Subd. 9. [CATALOG, BROCHURE, OR ELECTRONIC DISPLAY.] Before a license is issued to a school, the school shall furnish to the office a catalog, brochure, or electronic display including:

- (1) identifying data, such as volume number and date of publication;
- (2) name and address of the school and its governing body and officials;
- (3) a calendar of the school showing legal holidays, beginning and ending dates of each course quarter, term, or semester, and other important dates;
- (4) the school policy and regulations on enrollment including dates and specific entrance requirements for each program;
- (5) the school policy and regulations about leave, absences, class cuts, make-up work, tardiness, and interruptions for unsatisfactory attendance;
- (6) the school policy and regulations about standards of progress for the student including the grading system of the school, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress, a description of any probationary period allowed by the school, and conditions of reenrance for those dismissed for unsatisfactory progress;
- (7) the school policy and regulations about student conduct and conditions for dismissal for unsatisfactory conduct;
- (8) a detailed schedule of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges;
- (9) the school policy and regulations, including an explanation of section 141.271, about refunding tuition, fees, and other charges if the student does not enter the program, withdraws from the program, or the program is discontinued;
- (10) a description of the available facilities and equipment;
- (11) a course outline syllabus for each course offered showing course objectives, subjects or units in the course, type of work or skill to be learned, and approximate time, hours, or credits to be spent on each subject or unit;
- (12) the school policy and regulations about granting credit for previous education and preparation;

(13) a procedure for investigating and resolving student complaints; and

(14) the name and address of the Minnesota Higher Education Services Office.

A school that is exclusively a distance education school is exempt from clauses (3) and (5).

Sec. 6. Minnesota Statutes 2004, section 141.25, subdivision 12, is amended to read:

Subd. 12. [PERMANENT RECORDS.] A school licensed under this chapter and located in Minnesota shall maintain a permanent record for each student for 50 years from the last date of the student's attendance. A school licensed under this chapter and offering distance instruction to a student located in Minnesota shall maintain a permanent record for each Minnesota student for 50 years from the last date of the student's attendance. Records include school transcripts, documents, and files containing student data about academic credits earned, courses completed, grades awarded, degrees awarded, and periods of attendance. To preserve permanent records, a school shall submit a plan that meets the following requirements:

(1) at least one copy of the records must be held in a secure, fireproof depository;

(2) an appropriate official must be designated to provide a student with copies of records or a transcript upon request;

(3) an alternative method, approved by the office, of complying with clauses (1) and (2) must be established if the school ceases to exist; and

(4) a continuous surety bond must be filed with the office in an amount not to exceed \$20,000 if the school has no binding agreement for preserving student records or a trust must be arranged if the school ceases to exist.

Sec. 7. Minnesota Statutes 2004, section 141.251, is amended to read:

141.251 [LICENSE RENEWAL.]

Subdivision 1. [APPLICATION.] Application for renewal of a license must be made at least ~~30~~ 60 days before expiration of the current license on a form provided by the office. A renewal application shall be accompanied by a nonrefundable fee ~~established by the office as provided in section 141.255~~ that is sufficient to recover, but does not exceed, ~~its~~ the administrative costs of the office.

Subd. 2. [CONDITIONS.] The office shall adopt rules establishing the conditions for renewal of a license. The conditions shall permit two levels of renewal based on the record of the school. A school that has demonstrated the quality of its program and operation through longevity and performance in the state may renew its license based on a relaxed standard of scrutiny. A school that has been in operation in Minnesota for a limited period of time or that has not performed adequately on performance indicators shall renew its license based on a strict standard of scrutiny. The office shall specify minimum longevity standards and performance indicators that must be met before a school may be permitted to operate under the relaxed standard of scrutiny. The performance indicators used in this determination shall include, but not be limited to: degree granting status, regional or national accreditation, loan default rates, placement rate of graduates, student withdrawal rates, audit results, student complaints, and school status with the United States Department of Education. Schools that meet the requirements established in rule shall be required to submit a full relicensure report once every four years, and in the interim years will be exempt from the requirements of section 141.25, subdivision 3, clauses (4), (5), and (8), and Minnesota Rules, parts 4880.1700, subpart 6; and 4880.2100, subpart 4.

Sec. 8. [141.255] [FEES.]

Subdivision 1. [INITIAL LICENSURE FEE.] The office processing fee for an initial licensure application is:

(1) \$1,500 for a school that will offer no more than one program during its first year of operation;

(2) \$2,000 for a school that will offer two or more nondegree level programs during its first year of operation;
and

(3) \$2,500 for a school that will offer two or more degree level programs during its first year of operation.

Subd. 2. [RENEWAL LICENSURE FEE; LATE FEE.] (a) The office processing fee for a renewal licensure application is:

(1) for a category A school, as determined by the office, the fee is \$865 if the school offers one program or \$1,150 if the school offers two or more programs; and

(2) for a category B or C school, as determined by the office, the fee is \$430 if the school offers one program or \$575 if the school offers two or more programs.

(b) If a license renewal application is not received by the office by the close of business at least 60 days before the expiration of the current license, a late fee of \$100 per business day shall be assessed.

Subd. 3. [DEGREE LEVEL ADDITION FEE.] The office processing fee for adding a degree level to an existing program is \$2,000 per program.

Subd. 4. [PROGRAM ADDITION FEE.] The office processing fee for adding a program that represents a significant departure in the objectives, content, or method of delivery of programs that are currently offered by the school is \$500 per program.

Subd. 5. [VISIT OR CONSULTING FEE.] If the office determines that a fact-finding visit or outside consultant is necessary to review or evaluate any new or revised program, the office shall be reimbursed for the expenses incurred related to the review as follows:

(1) \$300 for the team base fee or for a paper review conducted by a consultant if the office determines that a fact-finding visit is not required;

(2) \$300 for each day or part thereof on site per team member; and

(3) the actual cost of customary meals, lodging, and related travel expenses incurred by team members.

Subd. 6. [MODIFICATION FEE.] The fee for modification of any existing program is \$100 and is due if there is:

(1) an increase or decrease of 25 percent or more, from the original date of program approval, in clock hours, credit hours, or calendar length of an existing program;

(2) a change in academic measurement from clock hours to credit hours or vice versa; or

(3) an addition or alteration of courses that represent a 25 percent change or more in the objectives, content, or methods of delivery.

Subd. 7. [SOLICITOR PERMIT FEE.] The solicitor permit fee is \$350 and must be paid annually.

Subd. 8. [MULTIPLE LOCATION FEE.] Schools wishing to operate at multiple locations must pay:

(1) \$250 per location, for two to five locations; and

(2) \$50 per location, for six or more locations.

Subd. 9. [STUDENT TRANSCRIPT FEE.] The fee for a student transcript requested from a closed school whose records are held by the office is \$10, with a maximum of five transcripts per request.

Subd. 10. [PUBLIC OFFICE DOCUMENTS; COPIES.] The office shall establish rates for copies of any public office document.

Sec. 9. Minnesota Statutes 2004, section 141.26, subdivision 5, is amended to read:

~~Subd. 5. [FEE.] The initial and renewal application for each permit shall be accompanied by a nonrefundable fee as established by the office under section 141.255.~~

Sec. 10. Minnesota Statutes 2004, section 141.271, is amended by adding a subdivision to read:

Subd. 1b. [SHORT-TERM PROGRAMS.] Licensed schools conducting programs not exceeding 40 hours in length shall not be required to make a full refund once the programs have commenced and shall be allowed to prorate any refund based on the actual length of the program as stated in the school catalog or advertisements and the number of hours attended by the student.

Sec. 11. Minnesota Statutes 2004, section 141.271, subdivision 4, is amended to read:

Subd. 4. [RESIDENT SCHOOLS.] When a student has been accepted by a school offering a resident program and gives written notice of cancellation, or the school has actual notice of a student's nonattendance after the start of the period of instruction for which the student has been charged, but before completion of 75 percent of the period of instruction, the amount charged for tuition, fees, and all other charges shall be prorated based on number of days in the term as a portion of the total charges for tuition, fees, and all other charges. An additional 25 percent of the total cost of the period of instruction may be added, but shall not exceed \$100. After completion of 75 percent of the period of instruction for which the student has been charged, no refunds are required.

Sec. 12. Minnesota Statutes 2004, section 141.271, subdivision 7, is amended to read:

Subd. 7. [EQUIPMENT AND SUPPLIES.] The fair market retail price, if separately stated in the catalog and contract or enrollment agreement, of equipment or supplies furnished to the student, which the student fails to return in condition suitable for resale, and which may reasonably be resold, within ten business days following cancellation may be retained by the school and may be deducted from the total cost for tuition, fees and all other charges when computing refunds.

An overstatement of the fair market retail price of any equipment or supplies furnished the student shall be considered inconsistent with this provision.

Sec. 13. Minnesota Statutes 2004, section 141.271, subdivision 10, is amended to read:

Subd. 10. [CANCELLATION OCCURRENCE.] Written notice of cancellation shall take place on the date the letter of cancellation is postmarked or, in the cases where the notice is hand carried, it shall occur on the date the notice is delivered to the school. If a student has not attended classes for a period of 21 consecutive days, the student is considered to have withdrawn from school for all purposes as of the student's last documented date of attendance.

Sec. 14. Minnesota Statutes 2004, section 141.271, is amended by adding a subdivision to read:

Subd. 14. [CLOSED SCHOOL.] In the event a school closes for any reason during a term and interrupts and terminates classes during that term, all tuition for the term shall be refunded to the students or the appropriate state or federal agency or private lender that had provided any funding for the term and any outstanding obligation of the student for the term is canceled.

Sec. 15. Minnesota Statutes 2004, section 141.28, subdivision 1, is amended to read:

Subdivision 1. [NOT TO ADVERTISE STATE APPROVAL.] Schools, agents of schools, and solicitors may not advertise or represent in writing or orally that such school is approved or accredited by the state of Minnesota, except that any school, agent, or solicitor may advertise that the school and solicitor have been duly licensed by the state: using the following language:

"(Name of school) is licensed as a private career school with the Minnesota Higher Education Services Office. Licensure is not an endorsement of the institution. Credits earned at the institution may not transfer to all other institutions. The educational programs may not meet the needs of every student or employer."

Sec. 16. Minnesota Statutes 2004, section 141.28, is amended by adding a subdivision to read:

Subd. 6. [FINANCIAL AID PAYMENTS.] (a) All schools must collect, assess, and distribute funds received from loans or other financial aid as provided in this subdivision.

(b) Student loans or other financial aid funds received from federal, state, or local governments or administered in accordance with federal student financial assistance programs under title IV of the Higher Education Act of 1965, as amended, United States Code, title 20, chapter 28, must be collected and applied as provided by applicable federal, state, or local law or regulation.

(c) Student loans or other financial aid assistance received from a bank, finance or credit card company, or other private lender must be collected or disbursed as provided in paragraphs (d) and (e).

(d) Loans or other financial aid payments for amounts greater than \$3,000 must be disbursed:

(1) in two equal disbursements, if the term length is more than four months. The loan or payment amounts may be disbursed no earlier than the first day the student attends class with the remainder to be disbursed halfway through the class or term; or

(2) in three equal disbursements, if the term length is more than six months. The loan or payment amounts may be disbursed no earlier than the first day the student attends class, one-third of the way through the class or term, and two-thirds of the way through the class or term.

(e) Loans or other financial aid payments for amounts less than \$3,000 may be disbursed as a single disbursement on the first day a student attends class, regardless of term length.

(f) No school may enter into a contract or agreement with, or receive any money from, a bank, finance or credit card company, or other private lender, unless the private lender follows the requirements for disbursements provided in paragraphs (d) and (e).

Sec. 17. Minnesota Statutes 2004, section 141.29, subdivision 3, is amended to read:

Subd. 3. [POWERS AND DUTIES.] The office shall have (in addition to the powers and duties now vested therein by law) the following powers and duties:

(a) To negotiate and enter into interstate reciprocity agreements with similar agencies in other states, if in the judgment of the office such agreements are or will be helpful in effectuating the purposes of Laws 1973, Chapter 714;

(b) To grant conditional school license for periods of less than one year if in the judgment of the office correctable deficiencies exist at the time of application and when refusal to issue school license would adversely affect currently enrolled students;

(c) The office may upon its own motion, and shall upon the verified complaint in writing of any person setting forth fact which, if proved, would constitute grounds for refusal or revocation under Laws 1973, Chapter 714, investigate the actions of any applicant or any person or persons holding or claiming to hold a license or permit. However, before proceeding to a hearing on the question of whether a license or permit shall be refused, revoked or suspended for any cause enumerated in subdivision 1, the office ~~may~~ shall grant a reasonable time to the holder of or applicant for a license or permit to correct the situation. If within such time the situation is corrected and the school is in compliance with the provisions of this chapter, no further action leading to refusal, revocation, or suspension shall be taken.

Sec. 18. Minnesota Statutes 2004, section 141.30, is amended to read:

141.30 [INSPECTION.]

(a) The office or a delegate may inspect the instructional books and records, classrooms, dormitories, tools, equipment and classes of any school or applicant for license at any reasonable time. The office may require the submission of a certified public audit, or if there is no such audit available the office or a delegate may inspect the financial books and records of the school. In no event shall such financial information be used by the office to regulate or set the tuition or fees charged by the school.

(b) Data obtained from an inspection of the financial records of a school or submitted to the office as part of a license application or renewal are nonpublic data as defined in section 13.02, subdivision 9. Data obtained from inspections may be disclosed to other members of the office, to law enforcement officials, or in connection with a legal or administrative proceeding commenced to enforce a requirement of law.

Sec. 19. Minnesota Statutes 2004, section 141.35, is amended to read:

141.35 [EXEMPTIONS.]

Sections 141.21 to 141.35 shall not apply to the following:

- (1) public postsecondary institutions;
- (2) private postsecondary institutions registered under sections 136A.61 to 136A.71 that are nonprofit, or that are for profit and registered under sections 136A.61 to 136A.71 as of December 31, 1998, or are approved to offer exclusively baccalaureate or postbaccalaureate programs;
- (3) schools of nursing accredited by the state Board of Nursing or an equivalent public board of another state or foreign country;

- (4) private schools complying with the requirements of section 120A.22, subdivision 4;
- (5) courses taught to students in a valid apprenticeship program taught by or required by a trade union;
- (6) schools exclusively engaged in training physically or mentally handicapped persons for the state of Minnesota;
- (7) schools licensed by boards authorized under Minnesota law to issue licenses;
- (8) schools and educational programs, or training programs, contracted for by persons, firms, corporations, government agencies, or associations, for the training of their own employees, for which no fee is charged the employee;
- (9) schools engaged exclusively in the teaching of purely avocational, recreational, or remedial subjects as determined by the office;
- (10) driver training schools and instructors as defined in section 171.33, subdivisions 1 and 2;
- (11) classes, courses, or programs conducted by a bona fide trade, professional, or fraternal organization, solely for that organization's membership;
- (12) programs in the fine arts provided by organizations exempt from taxation under section 290.05 and registered with the attorney general under chapter 309. For the purposes of this clause, "fine arts" means activities resulting in artistic creation or artistic performance of works of the imagination which are engaged in for the primary purpose of creative expression rather than commercial sale or employment. In making this determination the office may seek the advice and recommendation of the Minnesota Board of the Arts;
- (13) classes, courses, or programs intended to fulfill the continuing education requirements for licensure or certification in a profession, that have been approved by a legislatively or judicially established board or agency responsible for regulating the practice of the profession, and that are offered ~~primarily~~ exclusively to an individual practicing the profession;
- (14) classes, courses, or programs intended to prepare students to sit for undergraduate, graduate, postgraduate, or occupational licensing and occupational entrance examinations;
- (15) classes, courses, or programs providing 16 or fewer clock hours of instruction that are not part of the curriculum for an occupation or entry level employment;
- (16) classes, courses, or programs providing instruction in personal development, modeling, or acting;
- (17) training or instructional programs, in which one instructor teaches an individual student, that are not part of the curriculum for an occupation or are not intended to prepare a person for entry level employment; and
- (18) schools with no physical presence in Minnesota, as determined by the office, engaged exclusively in offering distance instruction that are located in and regulated by other states or jurisdictions.

Sec. 20. [REGULATION OF PRIVATE AND OUT-OF-STATE POSTSECONDARY INSTITUTIONS.]

The Higher Education Services Office must convene a working group to develop recommendations to revise the regulation, under Minnesota Statutes, sections 136A.61 to 136A.71, and chapter 141, of private and out-of-state postsecondary institutions that offer instruction in Minnesota or to Minnesota residents who are not required to leave

the state. Members of the working group are appointed by the director of the Higher Education Services Office and must include one or more representatives of the Minnesota Private College Council, the Minnesota Career College Association, and other interested institutions that are registered or licensed under state law.

In developing recommendations, the working group must consider the office's mission to protect both consumers of postsecondary education and the state's interests. The recommendations must address the provision of degrees, certificates, diplomas, and training offered by for-profit and nonprofit institutions in Minnesota and outside of Minnesota, in classrooms or online and regulatory issues under federal law. The recommendations may include other relevant issues as determined by the working group.

The office must provide preliminary recommendations to the committees of the legislature with jurisdiction over higher education policy by November 15, 2005, and must provide final recommendations by January 15, 2006.

ARTICLE 4

ROCHESTER UNIVERSITY DEVELOPMENT

Section 1. [ROCHESTER UNIVERSITY DEVELOPMENT COMMITTEE.]

Subdivision 1. [ESTABLISHMENT.] The Rochester University Development Committee is established to research and make recommendations to the governor and legislature on the creation of a mission-driven postsecondary educational institution in the Rochester area that meets the educational needs of the region and the state and that capitalizes on the unique opportunities for educational partnerships presented in the Rochester area.

Subd. 2. [MEMBERSHIP.] (a) The committee is composed of 11 members, to be appointed by the governor as follows:

(1) a trustee of the Minnesota State Colleges and Universities, or the trustee's designee;

(2) a regent of the University of Minnesota, or the regent's designee;

(3) six persons from the Rochester area representing business, health and medical sciences, and technology;

(4) the commissioner of finance, or the commissioner's designee;

(5) one person who by training or experience has special expertise in postsecondary finance and planning; and

(6) one person who by training or experience has special expertise in postsecondary academic planning and programming.

(b) Before the first meeting of the committee, the governor shall select one person from the committee who shall serve as chair.

Subd. 3. [COMPENSATION AND REMOVAL.] Appointments to the committee are not subject to Minnesota Statutes, section 15.0597. Members of the committee are not entitled to reimbursement under Minnesota Statutes, section 15.059, subdivision 6. Members may be removed and vacancies filled pursuant to Minnesota Statutes, section 15.059, subdivision 4. The director of the Higher Education Services Office may provide administrative support to the committee.

Subd. 4. [DUTIES.] (a) The committee shall develop a proposal for establishment and implementation of the university. The committee's report must include recommendations on:

- (1) the mission and focus of the university;
- (2) the nature of undergraduate and graduate programs to be offered by the university;
- (3) site and facility needs of the university;
- (4) funding sources and opportunities for the university;
- (5) operational needs of the university;
- (6) alliances or other types of cooperative arrangements with public and private institutions;
- (7) governance structure of the university; and

(8) mechanisms to ensure that the university's programs are aligned with the unique needs and opportunities of the Rochester area, and that programs take advantage of opportunities presented by regional business and industry.

(b) If the committee recommends any programmatic changes that result in institutional realignments, the committee must consult with the representatives of affected employees and address the continuation of collective bargaining and contractual rights and benefits including accumulated sick leave, vacation time, seniority, time to tenure, separation or retirement benefits, and pension plan coverage.

(c) The committee may also research and provide recommendations on sites for the university facilities and programs. The committee shall recommend any changes to Minnesota law required to implement recommendations of the committee.

Subd. 5. [ENDOWMENT.] The committee may establish an endowment for the betterment and operation of the university. The endowment shall be under the fiscal control of the Higher Education Services Office and all money and earnings of the endowment shall be held in the Rochester university development account. The endowment may be used to leverage private funds. The committee may recommend: (1) whether the principal of the endowment fund should be maintained inviolate; (2) under what conditions, if any, the principal may be used to make expenditures for the university; and (3) the treatment of any nonstate contributions to the endowment.

Subd. 6. [REPORT.] The committee must issue a report with recommendations to the governor and the legislature by January 15, 2006. Data collected, created, or maintained by the committee in preparing this report is protected nonpublic data under Minnesota Statutes, section 13.02, subdivision 13.

Subd. 7. [SUNSET.] The committee expires on December 31, 2007.

Sec. 2. [ROCHESTER UNIVERSITY DEVELOPMENT ACCOUNT.]

A Rochester University development account is created in the state treasury in the special revenue fund. Money in this account is appropriated to the Higher Education Services Office for allocation to the committee established in section 1 and for the development activities outlined in section 3. The office shall serve as fiscal agent for the committee established in section 1.

Sec. 3. [ROCHESTER UNIVERSITY DEVELOPMENT AND IMPLEMENTATION.]

With the approval of the Higher Education Services Office, money in the Rochester university development account may be used to:

- (1) provide additional planning and development funds, if needed;
- (2) provide initial funding for academic program development;
- (3) provide funding related to academic facilities, if needed; or
- (4) establish an endowment for the institution under section 1, subdivision 5.

Sec. 4. [EFFECTIVE DATE.]

This article is effective the day following final enactment.

ARTICLE 5

SUPPLEMENTAL APPROPRIATIONS

Section 1. [HIGHER EDUCATION SUPPLEMENTAL APPROPRIATIONS.]

The appropriations in this article are available after House File No. 1664 is passed by the house of representatives and are added to the appropriations in article 1.

The sums in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or other named fund, to the agencies and for the purposes specified in this article. The listing of an amount under the figure "2006" or "2007" in this article indicates that the amount is appropriated to be available for the fiscal year ending June 30, 2006, or June 30, 2007, respectively. "The first year" is fiscal year 2006. "The second year" is fiscal year 2007. "The biennium" is fiscal years 2006 and 2007.

Sec. 2. BOARD OF TRUSTEES OF THE MINNESOTA STATE COLLEGES AND UNIVERSITIES

Subdivision 1. Total Appropriation	12,725,000
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The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

The legislature estimates that instructional expenditures will be \$825,994,000 in the first year and \$811,653,000 in the second year. The legislature estimates that noninstructional expenditures will be \$59,828,000 in the first year and \$58,790,000 in the second year.

Subd. 2. General Appropriation	12,725,000
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Sec. 3. BOARD OF REGENTS OF THE UNIVERSITY OF MINNESOTA

Subdivision 1. Total Appropriation	9,500,000	3,225,000
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The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. Operations and Maintenance	9,500,000	3,225,000
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The legislature estimates that instructional expenditures will be \$461,344,000 in the first year and \$468,229,000 in the second year. The legislature estimates that noninstructional expenditures will be \$295,503,000 in the first year and \$299,913,000 in the second year.

An additional \$3,225,000 the second year is for academic initiatives that are part of the board's biosciences for a healthy society initiative.

Subd. 3. Base Funding

Notwithstanding article 1, section 4, subdivision 2a, base funding for the university shall be increased by \$3,000,000 each year."

Delete the title and insert:

"A bill for an act relating to higher education; allocating money for educational and related purposes with certain conditions; modifying various loan, grant, and financial aid provisions; requiring institutions to provide certain data; permitting disclosure of certain data to determine eligibility; amending various reciprocity provisions; providing definitions; directing the Board of Trustees to designate centers of excellence; amending the Minnesota college savings plan; authorizing transfer of certain bonding authority; amending provisions related to private career schools; establishing fees; providing for merger with the Higher Education Facilities Authority; establishing the Rochester University Development Committee; appropriating money; amending Minnesota Statutes 2004, sections 13A.46, subdivision 2; 135A.031, subdivisions 3, 4; 135A.052, subdivision 1; 135A.30, subdivisions 3, 4, 5; 135A.52, subdivisions 1, 2; 136A.01, subdivision 2; 136A.031, subdivisions 2, 3, 4; 136A.08, by adding subdivisions; 136A.121, subdivisions 2, 5, 6, 9, by adding a subdivision; 136A.125, subdivision 2; 136A.1701, by adding subdivisions; 136F.04, subdivision 4; 136F.32, subdivision 2; 136G.03, subdivisions 3, 21a, 22, 32; 136G.05, subdivision 8; 136G.09, subdivisions 11, 12; 136G.11, subdivisions 1, 2, 3, 13; 136G.13, subdivisions 1, 5; 136G.14; 137.0245, subdivisions 1, 2, 4; 141.21, by adding a subdivision; 141.25, subdivisions 3, 5, 8, 9, 12; 141.251; 141.26, subdivision 5; 141.271, subdivisions 4, 7, 10, by adding subdivisions; 141.28, subdivision 1, by adding a subdivision; 141.29, subdivision 3; 141.30; 141.35; 192.502, subdivision 1; 299A.45, subdivisions 1, 4; proposing coding for new law in Minnesota Statutes, chapters 136A; 137; 141; repealing Minnesota Statutes 2004, sections 136A.011; 136A.031, subdivision 1; 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."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Seifert from the Committee on State Government Finance to which was referred:

H. F. No. 1481, A bill for an act relating to state government; appropriating money for the general legislative and administrative expenses of state government; modifying provisions related to state and local government operations; amending Minnesota Statutes 2004, sections 11A.04; 11A.07, subdivisions 4, 5; 15B.17, subdivision 1; 16A.1286, subdivisions 2, 3; 16A.152, subdivision 2; 16A.1522, subdivision 1; repealing Minnesota Statutes 2004, sections 16A.1522, subdivision 4; 16A.30.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

STATE GOVERNMENT APPROPRIATIONS

Section 1. [STATE GOVERNMENT APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another fund named, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "2006" and "2007," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 2006, or June 30, 2007, respectively.

	APPROPRIATIONS	
	Available for the Year	
	Ending June 30	
	2006	2007
Sec. 2. LEGISLATURE		
Subdivision 1. Total Appropriation	\$55,340,000	\$55,341,000
Summary by Fund		
General	55,212,000	55,213,000
Health Care Access	128,000	128,000

The limitations on use of funds specified in Minnesota Statutes, section 16A.281, does not apply to any entity in the legislative branch during the biennium ending June 30, 2007.

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Senate	17,644,000	17,645,000
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During the biennium ending June 30, 2007, the senate may not reimburse a member for monthly housing expenses for more than six months in a calendar year.

APPROPRIATIONS
Available for the Year
Ending June 30

	2006	2007
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Subd. 3. House of Representatives

	25,343,000	25,343,000
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Subd. 4. Legislative Coordinating Commission

	12,353,000	12,353,000
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Summary by Fund

General	12,225,000	12,225,000
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Health Care Access	128,000	128,000
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\$360,000 the first year and \$360,000 the second year are for public information television, Internet, Intranet, and other transmission of legislative activities.

The Legislative Coordinating Commission, in consultation with the house of representatives and senate, shall recommend the allocation of funds within this subdivision.

On July 1, 2005, the commissioner of finance shall transfer \$1,764,000 of unspent fees from the special revenue fund dedicated for the Electronic Real Estate Recording Task Force to the general fund.

On July 1, 2005, the commissioner of finance shall transfer \$3,329,000 of the senate accumulated carryforward account balance to the general fund.

Sec. 3. GOVERNOR AND LIEUTENANT GOVERNOR	3,497,000	3,496,000
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This appropriation is to fund the offices of the governor and lieutenant governor.

\$19,000 the first year and \$19,000 the second year are for necessary expenses in the normal performance of the governor's and lieutenant governor's duties for which no other reimbursement is provided.

Sec. 4. STATE AUDITOR	9,266,000	9,303,000
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\$1,010,000 the first year and \$1,047,000 the second year are to restore audit practice division staffing levels that were reduced in the previous biennium.

		APPROPRIATIONS Available for the Year Ending June 30	
		2006	2007
Sec. 5. ATTORNEY GENERAL		24,677,000	24,718,000
Summary by Fund			
General	22,270,000	22,295,000	
State Government Special Revenue	1,778,000	1,794,000	
Environmental	145,000	145,000	
Remediation	484,000	484,000	
Sec. 6. SECRETARY OF STATE		5,867,000	6,038,000
Sec. 7. CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD		694,000	694,000
Sec. 8. INVESTMENT BOARD		217,000	217,000
Sec. 9. ADMINISTRATIVE HEARINGS		7,714,000	7,620,000
Summary by Fund			
General	262,000	262,000	
Workers' Compensation	7,452,000	7,358,000	
<p>Fee rates charged during fiscal years 2006 and 2007 by the Administrative Law Division of the Office of Administrative Hearings shall be those approved by the commissioner of finance pursuant to Minnesota Statutes, section 16A.126.</p>			
Sec. 10. ADMINISTRATION			
Subdivision 1. Total Appropriation		28,394,000	21,442,000
<p>The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.</p>			
Subd. 2. Technology Services			
	1,803,000	1,803,000	
Subd. 3. State Facilities Services			
	17,598,000	10,946,000	

APPROPRIATIONS
Available for the Year
Ending June 30

2006	2007
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\$6,652,000 the first year is for onetime funding of agency relocation expenses. The Department of Human Services will obtain federal reimbursement for associated relocation expenses. This amount, estimated to be \$1,870,000, will be deposited in the general fund.

\$7,888,000 the first year and \$7,888,000 the second year are for office space costs of the legislature and veterans organizations, for ceremonial space, and for statutorily free space.

\$2,000,000 of the balance in the state building code account in the state government special revenue fund is canceled to the general fund.

\$2,500,000 the first year and \$2,500,000 the second year of the balance in the facilities repair and replacement account in the special revenue fund is canceled to the general fund.

Subd. 4. State and Community Services

2,665,000	2,465,000
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\$458,000 the first year and \$258,000 the second year are for the Land Management Information Center.

Subd. 5. Administrative Management Services

4,662,000	4,562,000
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\$100,000 the first year is for a onetime grant to Assistive Technology of Minnesota to administer a microloan program to support purchase of equipment and devices for people with disabilities and their families and employers, and to develop the Access to Telework program.

Subd. 6. Public Broadcasting

1,666,000	1,666,000
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\$951,000 the first year and \$951,000 the second year are for matching grants for public television.

\$393,000 the first year and \$393,000 the second year are for public television equipment grants.

APPROPRIATIONS
Available for the Year
Ending June 30

	2006	2007
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Equipment or matching grant allocations shall be made after considering the recommendations of the Minnesota Public Television Association.

\$17,000 the first year and \$17,000 the second year are for grants to the Twin Cities regional cable channel.

\$305,000 the first year and \$305,000 the second year are for community service grants to public educational radio stations. The grants must be allocated after considering the recommendations of the Association of Minnesota Public Educational Radio Stations under Minnesota Statutes, section 129D.14.

Sec. 11. CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD	262,000	262,000
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Sec. 12. FINANCE

Subdivision 1. Total Appropriation	14,808,000	14,808,000
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The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. State Financial Management

	8,447,000	8,447,000
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Subd. 3. Information and Management Services

	6,361,000	6,361,000
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Sec. 13. EMPLOYEE RELATIONS	5,667,000	5,556,000
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Sec. 14. REVENUE

Subdivision 1. Total Appropriation	99,911,000	102,635,000
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Summary by Fund

General	95,869,000	98,593,000
Health Care Access	1,654,000	1,654,000
Highway User Tax Distribution	2,097,000	2,097,000
Environmental	291,000	291,000

APPROPRIATIONS
Available for the Year
Ending June 30

2006	2007
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\$1,500,000 each year is for reenlistment bonuses under Minnesota Statutes, section 192.501, subdivision 1b.

If appropriations for either year of the biennium are insufficient, the appropriation from the other year is available. The appropriations for enlistment incentives are available until expended.

Sec. 16. VETERANS AFFAIRS

4,382,000

4,282,000

\$250,000 the first year and \$250,000 the second year are for outreach to underserved veterans including, but not limited to, veterans of color, female veterans, veterans of limited financial means, and the dependents and survivors of those veterans. This is a onetime appropriation and must not be added to the base. The commissioner must report to the legislature by January 15, 2007, on the results of the initiative, including additional federal benefits obtained as a result of the initiative.

\$100,000 the first year is for grants to provide services to veterans for vocational rehabilitation, developmental disabilities, or chemical dependency.

Sec. 17. VETERANS OF FOREIGN WARS

85,000

85,000

For carrying out the provisions of Laws 1945, chapter 455.

Sec. 18. MILITARY ORDER OF THE PURPLE HEART

25,000

25,000

Sec. 19. DISABLED AMERICAN VETERANS

53,000

53,000

For carrying out the provisions of Laws 1941, chapter 425.

Sec. 20. GAMBLING CONTROL

2,800,000

2,800,000

This appropriation is from the special revenue fund and is made from the lawful gambling regulation account.

Sec. 21. RACING COMMISSION

674,000

835,000

(a) This appropriation is from the special revenue fund and is made from the racing and card playing regulation account.

APPROPRIATIONS
Available for the Year
Ending June 30

2006	2007
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(b) \$253,000 for the fiscal year ending June 30, 2006, and \$414,000 for the fiscal year ending June 30, 2007, are from the racing and card playing regulation account in the special revenue fund. The Racing Commission must file monthly expenditure reports with the commissioner of finance for money spent from the appropriation in this paragraph.

(c) The racing commission may not hire new employees or enter into new contracts with money subject to paragraph (b) before resolution of the petition for judicial review filed by the Columbus Concerned Citizens Group.

Sec. 22. STATE LOTTERY

Notwithstanding Minnesota Statutes, section 349A.10, the operating budget must not exceed \$26,700,000 in fiscal year 2006 and \$27,350,000 in fiscal year 2007 and thereafter.

On July 1, 2005, the director of the State Lottery shall transfer unclaimed prize funds in the amount of \$2,187,000 accumulated prior to July 1, 2003, to the state treasury. The prize funds, that had not otherwise been transferred, will be credited \$1,312,000, or 60 percent, to the general fund and \$875,000, or 40 percent, to the environment and natural resources trust fund.

Sec. 23. TORT CLAIMS

161,000

161,000

To be spent by the commissioner of finance.

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Sec. 24. MINNESOTA STATE RETIREMENT SYSTEM

1,176,000

1,205,000

The amounts estimated to be needed for each program are as follows:

(a) Legislators

783,000

802,000

Under Minnesota Statutes, sections 3A.03, subdivision 2; 3A.04, subdivisions 3 and 4; and 3A.115.

APPROPRIATIONS
Available for the Year
Ending June 30

	2006	2007
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(b) Constitutional Officers

	393,000	403,000
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Under Minnesota Statutes, sections 352C.031, subdivision 5; 352C.04, subdivision 3; and 352C.09, subdivision 2.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

Sec. 25. MINNEAPOLIS EMPLOYEES RETIREMENT FUND	8,065,000	8,065,000
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The amounts estimated to be needed under Minnesota Statutes, section 422A.101, subdivision 3.

Sec. 26. MINNEAPOLIS TEACHERS RETIREMENT FUND	15,800,000	15,800,000
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The amounts estimated to be needed are as follows:

(a) Special direct state aid to first class city teachers retirement funds

	13,300,000	13,300,000
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Authorized under Minnesota Statutes, section 354A.12, subdivisions 3a and 3c.

(b) Special direct state matching aid to Minneapolis Teachers Retirement Fund

	2,500,000	2,500,000
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Authorized under Minnesota Statutes, section 354A.12, subdivision 3b.

Sec. 27. ST. PAUL TEACHERS RETIREMENT FUND	2,967,000	2,967,000
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The amounts estimated to be needed for special direct state aid to first class city teachers retirement funds authorized under Minnesota Statutes, section 354A.12, subdivisions 3a and 3c.

Sec. 28. COUNCIL ON BLACK MINNESOTANS	275,000	275,000
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Sec. 29. COUNCIL ON CHICANO/LATINO AFFAIRS	268,000	268,000
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Sec. 30. COUNCIL ON ASIAN-PACIFIC MINNESOTANS	237,000	237,000
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APPROPRIATIONS
Available for the Year
Ending June 30
2006 2007

forward into the following fiscal year. The racing commission may not hire new employees or enter into new contracts with money in this section before resolution of the petition for judicial review filed by the Columbus Concerned Citizens Group.

This section is effective the day following final enactment.

ARTICLE 2

STATE GOVERNMENT OPERATIONS

Section 1. Minnesota Statutes 2004, section 3.011, is amended to read:

3.011 [SESSIONS.]

The legislature shall meet at the seat of government on the first Tuesday after the first Monday in January of each odd-numbered year. When the first Monday in January falls on January 1, it shall meet on the first Wednesday after the first Monday. The legislature may not meet in regular session in an even-numbered year before April 1. It shall also meet when called by the governor to meet in special session.

Sec. 2. Minnesota Statutes 2004, section 3.012, is amended to read:

3.012 [LEGISLATIVE DAY.]

A legislative day is a day when either house of the legislature is called to order or when a standing committee of either house of the legislature meets. A legislative day begins at seven o'clock a.m. and continues until seven o'clock a.m. of the following calendar day.

Sec. 3. [3.194] [REVENUE FROM PUBLICATIONS; MEDIA PRODUCTIONS.]

(a) The house of representatives and the senate must:

(1) solicit paid advertising in weekly news magazines published by legislative staff; and

(2) accept donations and solicit sponsorships for media productions that provide the public access to legislative proceedings.

(b) The house of representatives and the senate may accept donations for weekly news magazines published by legislative staff.

(c) The house of representatives and the senate may solicit advertising in legislative directories published by legislative staff.

(d) Revenue received by the house of representatives and senate under this section is appropriated to the house of representatives or the senate, as applicable.

Sec. 4. [3.1941] [PUBLIC INFORMATION.]

The house of representatives and the senate must publish a combined schedule of house and senate committee meetings and floor sessions. The combined schedule must be based on the electronic database-driven schedule system developed by the house of representatives.

Any nonpartisan, weekly news magazine providing information to the public about the legislature, the legislative process, or legislative proceedings must be a joint printed publication of the house of representatives and the senate. Editorial control under this section is the responsibility of the house of representatives.

Sec. 5. [3.306] [MEETING TIMES.]

The house of representatives and the senate must adopt rules that set one time as the regular hour of convening daily sessions in both houses.

Sec. 6. [3.3061] [JOINT STANDING COMMITTEES.]

The house of representatives and the senate are encouraged to adopt rules that: (1) establish a system of joint standing committees to consider and report on legislation and conduct other legislative business, except that each house may establish separately a committee on rules and administration and a committee on ethics; or (2) provide that house and senate committees with similar jurisdiction will meet at the same time, to facilitate joint meetings.

Sec. 7. [3.3062] [WIRELESS INTERNET.]

If nonstate funds are available, the Legislative Coordinating Commission must establish wireless Internet service in the Capitol building and the State Office Building, and must make this service available to the public. The commission may establish any necessary security features related to use of this service.

Sec. 8. Minnesota Statutes 2004, section 3.922, subdivision 5, is amended to read:

Subd. 5. [OFFICERS; PERSONNEL; AUTHORITY.] The council shall annually elect a chair and other officers as it may deem necessary. The chair may appoint subcommittees necessary to fulfill the duties of the council. ~~It~~ The governor must appoint an executive director of the council. The council shall also employ and prescribe the duties of employees and agents as it deems necessary. The compensation of the executive director of the board is as provided by section 43A.18. All employees are in the unclassified service. The chair is an ex officio member of the State Board of Human Rights. Appropriations and other funds of the council are subject to chapter 16C. The council may contract in its own name. Contracts must be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and spend in its own name, grants and gifts of money consistent with the powers and duties specified in this section. The council shall maintain its primary office in Bemidji. It shall also maintain personnel and office space in St. Paul.

Sec. 9. Minnesota Statutes 2004, section 3.9223, subdivision 5, is amended to read:

Subd. 5. [POWERS.] The council may contract in its own name. Contracts must be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and expend in its own name grants and gifts of money consistent with the power and duties specified in this section.

~~The council~~ The governor shall appoint an executive director who is experienced in administrative activities and familiar with the problems and needs of Chicano/Latino people. The council may delegate to the executive director powers and duties under this section that do not require council approval. The executive director and council staff

serve in the unclassified service. The executive director may be removed at any time by ~~a majority vote of the entire council~~ the governor. The executive director shall recommend to the council the appropriate staffing necessary to carry out its duties. The commissioner of administration shall provide the council with necessary administrative services.

Sec. 10. Minnesota Statutes 2004, section 3.9225, subdivision 5, is amended to read:

Subd. 5. [POWERS.] The council may contract in its own name, but no money shall be accepted or received as a loan nor indebtedness incurred except as otherwise provided by law. Contracts shall be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and expend in its own name grants and gifts of money consistent with the power and duties specified in subdivisions 1 to 7.

The ~~council~~ governor shall appoint an executive director who is experienced in administrative activities and familiar with the problems and needs of Black people. The council may delegate to the executive director powers and duties under subdivisions 1 to 7 which do not require council approval. The executive director serves in the unclassified service and may be removed at any time by the ~~council~~ governor. The executive director shall recommend to the council, and the council may appoint the appropriate staff necessary to carry out its duties. Staff members serve in the unclassified service. The commissioner of administration shall provide the council with necessary administrative services.

Sec. 11. Minnesota Statutes 2004, section 3.9226, subdivision 5, is amended to read:

Subd. 5. [POWERS.] (a) The council may contract in its own name but may not accept or receive a loan or incur indebtedness except as otherwise provided by law. Contracts must be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and expend in its own name grants and gifts of money consistent with the powers and duties specified in this section.

(b) The ~~council~~ governor shall appoint an executive director who is experienced in administrative activities and familiar with the problems and needs of Asian-Pacific people. The council may delegate to the executive director powers and duties under this section that do not require council approval. The executive director serves in the unclassified service and may be removed at any time by the ~~council~~ governor. The executive director shall appoint the appropriate staff necessary to carry out the duties of the council. All staff members serve in the unclassified service. The commissioner of administration shall provide the council with necessary administrative services.

Sec. 12. [4.48] [FAITH-BASED INITIATIVES.]

The governor must designate an employee in the governor's office to coordinate faith-based initiatives.

Sec. 13. [5.31] [STATEWIDE VOTER REGISTRATION SYSTEM.]

The secretary of state may sell intellectual property rights associated with the statewide voter registration system to other states or to units of local government in other states.

Sec. 14. [6.80] [RULE AND LAW WAIVER REQUESTS.]

Subdivision 1. [GENERALLY.] (a) Except as provided in paragraph (b), a local government unit may request the state auditor to grant a waiver from one or more administrative rules or a temporary, limited exemption from enforcement of state procedural laws governing delivery of services by the local government unit. Two or more local government units may submit a joint application for a waiver or exemption under this section if they propose to cooperate in providing a service or program that is subject to the rule or law. Before submitting an application to the

state auditor, the governing body of the local government unit must approve, in concept, the proposed waiver or exemption at a meeting required to be public under chapter 13D. A local government unit or two or more units acting jointly may apply for a waiver or exemption on behalf of a nonprofit organization providing services to clients whose costs are paid by the unit or units. A waiver or exemption granted to a nonprofit organization under this section applies to services provided to all the organization's clients.

(b) A school district that is granted a variance from rules of the commissioner of education under section 122A.163, need not apply for a waiver of those rules under this section. A school district may not seek a waiver of rules under this section if the commissioner of education has authority to grant a variance to the rules under section 122A.163. This paragraph does not preclude a school district from being included in a cooperative effort with another local government unit under this section.

(c) Before petitioning the State Auditor's Office for an exemption from an administrative rule, the petitioner must have requested and been denied such an exemption from the appropriate agency pursuant to sections 14.055 and 14.056.

Subd. 2. [APPLICATION.] A local government unit requesting a waiver of a rule or exemption from enforcement of a law under this section shall present a written application to the state auditor. The application must include:

(1) the name and address of the entity for whom a waiver of a rule or exemption from enforcement of a law is being requested;

(2) identification of the service or program at issue;

(3) identification of the administrative rule or the law imposing a procedural requirement with respect to which the waiver or exemption is sought;

(4) a description of the improved service outcome sought, including an explanation of the effect of the waiver or exemption in accomplishing that outcome, and why that outcome cannot be accomplished under established rules or laws;

(5) information on the State Auditor's Office treatment on similar cases;

(6) the name, address, and telephone number of any person, business, or other government unit the petitioner knows would be adversely affected by the grant of the petition; and

(7) a signed statement as to the accuracy of the facts presented.

A copy of the application must be provided by the requesting local government unit to the exclusive representative certified under section 179A.12 to represent employees who provide the service or program affected by the requested waiver or exemption.

Subd. 3. [REVIEW PROCESS.] (a) Upon receipt of an application from a local government unit, the state auditor shall review the application. The state auditor shall dismiss an application if the application proposes a waiver of rules or exemption from enforcement of laws that would result in due process violations, violations of federal law or the state or federal constitution, or the loss of services to people who are entitled to them.

(b) The state auditor shall determine whether a law from which an exemption for enforcement is sought is a procedural law, specifying how a local government unit is to achieve an outcome, rather than a substantive law prescribing the outcome or otherwise establishing policy. In making its determination, the state auditor shall consider whether the law specifies such requirements as:

- (1) who must deliver a service;
- (2) where the service must be delivered;
- (3) to whom and in what form reports regarding the service must be made; and
- (4) how long or how often the service must be made available to a given recipient.

(c) If the application is submitted by a local government unit in the metropolitan area or the unit requests a waiver of a rule or temporary, limited exemptions from enforcement of a procedural law over which the Metropolitan Council or a metropolitan agency has jurisdiction, the state auditor shall also transmit a copy of the application to the council for review and comment. The council shall report its comments to the board within 60 days of the date the application was transmitted to the council. The council may point out any resources or technical assistance it may be able to provide a local government unit submitting a request under this section.

(d) Within 15 days after receipt of the application, the state auditor shall transmit a copy of it to the commissioner of each agency having jurisdiction over a rule or law from which a waiver or exemption is sought. The agency may mail a notice that it has received an application for a waiver or exemption to all persons who have registered with the agency under section 14.14, subdivision 1a, identifying the rule or law from which a waiver or exemption is requested. If no agency has jurisdiction over the rule or law, the state auditor shall transmit a copy of the application to the attorney general. The agency shall inform the state auditor of its agreement with or objection to and grounds for objection to the waiver or exemption request within 60 days of the date when the application was transmitted to it. An agency's failure to do so is considered agreement to the waiver or exemption. The state auditor shall decide whether to grant a waiver or exemption at the end of the 60-day response period. Interested persons may submit written comments to the state auditor on the waiver or exemption request up to the end of the 60-day response period.

(e) If the exclusive representative of the affected employees of the requesting local government unit objects to the waiver or exemption request, it may inform the state auditor of the objection to and the grounds for the objection to the waiver or exemption request within 60 days of the receipt of the application.

Subd. 4. [HEARING.] If a state agency has objected to a waiver or exemption request, the State Auditor's Office shall set a date for a hearing on the applications. The hearing must be conducted informally at a time and place determined by all parties. Persons representing the local government unit shall present their case for the waiver or exemption, and persons representing the agency shall explain the agency's objection to it. The state auditor may request additional information from either party. The state auditor may also request, either before or at the hearing, information or comments from representatives of business, labor, local governments, state agencies, consultants, and members of the public. If necessary, the hearing may be continued for a later date. The state auditor may modify the terms of the waiver or exemption request in arriving at the agreement required under subdivision 5.

Subd. 5. [CONDITIONS OF AGREEMENTS.] (a) In determining whether to grant a petition for a waiver of a rule or exemption from enforcement of a law, the state auditor should consider the following factors:

- (1) whether there is a true and unique impediment under current law to accomplishing the goal of the local government unit;

(2) granting the waiver of a rule or exemption from enforcement of law will only change procedural requirements of a local government unit;

(3) the purpose of any rule or law that is waived is still being met in another manner;

(4) granting the proposed waiver of a rule or exemption from enforcement of a law would result in a more efficient means of providing government services; and

(5) granting the proposed waiver will not have a significant negative impact on other state government, local government units, businesses, or citizens.

(b) If the state auditor grants a request for a waiver or exemption, the state auditor and the local government unit shall enter into an agreement providing for the delivery of the service or program that is the subject of the application. The agreement must specify desired outcomes, the reasons why the desired outcomes cannot be met under current laws or rules, and the means of measurement by which the state auditor will determine whether the outcomes specified in the agreement have been met. The agreement must specify the duration of the waiver or exemption. The duration of a waiver from an administrative rule may be for no less than two years and no more than four years, subject to renewal if both parties agree. An exemption from enforcement of a law terminates ten days after adjournment of the regular legislative session held during the calendar year following the year when the exemption is granted, unless the legislature has acted to extend or make permanent the exemption.

(c) The state auditor must report any grants of waivers or exemptions to the legislature, including the chairs of the governmental operations and appropriate policy committees in the house of representatives and senate and the governor within 30 days.

(d) The state auditor may reconsider or renegotiate the agreement if the rule or law affected by the waiver or exemption is amended or repealed during the term of the original agreement. A waiver of a rule under this section has the effect of a variance granted by an agency under section 14.055. A local unit of government that is granted an exemption from enforcement of a procedural requirement in state law under this section is exempt from that law for the duration of the exemption. The state auditor may require periodic reports from the local government unit or conduct investigations of the service or program.

Subd. 6. [ENFORCEMENT.] If the state auditor finds that the local government unit is failing to comply with the terms of the agreement under subdivision 5, the state auditor may rescind the agreement. Upon the rescission, the local unit of government becomes subject to the rules and laws covered by the agreement.

Subd. 7. [ACCESS TO DATA.] If a local government unit, through a cooperative program under this section, gains access to data collected, created, received, or maintained by another local government that is classified as not public, the unit gaining access is governed by the same restrictions on access to and use of the data as the unit that collected, created, received, or maintained the data.

Sec. 15. [8.065] [PRIVATE ATTORNEY RETENTION SUNSHINE ACT.]

Subdivision 1. [CITATION.] This section may be known as the Private Attorney Retention Sunshine Act.

Subd. 2. [COVERED CONTRACTS.] For the purposes of subdivisions 3 and 4, a contract in excess of \$1,000,000 is one in which the fee paid to an attorney or group of attorneys, either in the form of a flat, hourly, or contingent fee, and their expenses, exceeds or can be reasonably expected to exceed \$1,000,000.

Subd. 3. [OVERSIGHT.] The attorney general must not enter into a contract for legal services exceeding \$1,000,000 without the opportunity for at least one hearing in the legislature on the terms of the legal contract as provided by subdivision 4.

Subd. 4. [IMPLEMENTATION.] (a) If the attorney general proposes to enter a contract for legal services in excess of \$1,000,000, the attorney general must file a copy of the proposed contract with the chief clerk of the house of representatives. The speaker of the house of representatives must refer the contract to the appropriate committee.

(b) Within 30 days after referral, the committee may hold a public hearing on the proposed contract and must issue a report to the attorney general. The report must include any changes to the proposed contract voted upon by the committee. The attorney general must review the report and adopt a final contract in compliance with it and file with the chief clerk its final contract.

(c) If the proposed contract does not contain the changes recommended by the committee, the attorney general must send a letter to the chief clerk accompanying the final contract stating the reasons why the proposed changes were not adopted. The chief clerk must forward the letter and final regulations to the appropriate committee. Not earlier than 45 days after the filing of the letter and final contract with the committee, the attorney general may enter into the final contract.

(d) If the committee recommends no changes to the proposed contract within 60 days after the original or any revised proposal is filed with the chief clerk, the attorney general may enter the contract.

(e) If the legislature is not in session and the attorney general wishes to execute a contract for legal services, the governor, with the consent of the speaker of the house of representatives and the president of the senate, may establish a five-member interim committee consisting of five state legislators, one each to be appointed by the governor, the speaker of the house of representatives, the president of the senate, the minority leader in the senate, and the minority leader in the house of representatives, to execute the oversight duties of this subdivision.

Subd. 5. [CONTINGENT FEES.] (a) At the conclusion of any legal proceeding for which the attorney general retained outside counsel on a contingent fee basis, the state shall receive from counsel a statement of the hours worked on the case, expenses incurred, the aggregate fee amount, and a breakdown as to the hourly rate, based on the fee recovered divided by the number of hours worked, less expenses.

(b) The state must not incur fees in excess of \$1,000 per hour for legal services. If a disclosure submitted under paragraph (a) indicates an hourly rate in excess of \$1,000 per hour, the fee amount must be reduced to an amount equivalent to \$1,000 per hour.

Sec. 16. Minnesota Statutes 2004, section 11A.04, is amended to read:

11A.04 [DUTIES AND POWERS.]

The state board shall:

(1) Act as trustees for each fund for which it invests or manages money in accordance with the standard of care set forth in section 11A.09 if state assets are involved and in accordance with chapter 356A if pension assets are involved.

(2) Formulate policies and procedures deemed necessary and appropriate to carry out its functions. Procedures adopted by the board must allow fund beneficiaries and members of the public to become informed of proposed board actions. Procedures and policies of the board are not subject to the Administrative Procedure Act.

- (3) Employ an executive director as provided in section 11A.07.
- (4) Employ investment advisors and consultants as it deems necessary.
- (5) Prescribe policies concerning personal investments of all employees of the board to prevent conflicts of interest.
- (6) Maintain a record of its proceedings.
- (7) As it deems necessary, establish advisory committees subject to section 15.059 to assist the board in carrying out its duties.
- (8) Not permit state funds to be used for the underwriting or direct purchase of municipal securities from the issuer or the issuer's agent.
- (9) Direct the commissioner of finance to sell property other than money that has escheated to the state when the board determines that sale of the property is in the best interest of the state. Escheated property must be sold to the highest bidder in the manner and upon terms and conditions prescribed by the board.
- (10) Undertake any other activities necessary to implement the duties and powers set forth in this section.
- (11) Establish a formula or formulas to measure management performance and return on investment. Public pension funds in the state shall utilize the formula or formulas developed by the state board.
- (12) Except as otherwise provided in article XI, section 8, of the Constitution of the state of Minnesota, employ, at its discretion, qualified private firms to invest and manage the assets of funds over which the state board has investment management responsibility. There is annually appropriated to the state board, from the assets of the funds for which the state board utilizes a private investment manager, sums sufficient to pay the costs of employing private firms. Each year, by January 15, the board shall report to the governor and legislature on the cost and the investment performance of each investment manager employed by the board.
- (13) Adopt an investment policy statement that includes investment objectives, asset allocation, and the investment management structure for the retirement fund assets under its control. The statement may be revised at the discretion of the state board. The state board shall seek the advice of the council regarding its investment policy statement. Adoption of the statement is not subject to chapter 14.

There is annually appropriated to the state board, from the assets of the funds for which the state board provides investment services, sums sufficient to pay the costs of all necessary expenses for the administration of the board. These sums will be deposited in the State Board of Investment operating account, which must be established by the commissioner of finance.

Sec. 17. Minnesota Statutes 2004, section 11A.07, subdivision 4, is amended to read:

Subd. 4. [DUTIES AND POWERS.] The director, at the direction of the state board, shall:

- (1) plan, direct, coordinate, and execute administrative and investment functions in conformity with the policies and directives of the state board and the requirements of this chapter and of chapter 356A;
- (2) 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;

~~(3)~~ employ professional and clerical staff as is necessary ~~within the complement limits established by the legislature.~~ Employees whose primary responsibility is to invest or manage money or employees who hold positions designated as unclassified under section 43A.08, subdivision 1a, are in the unclassified service of the state. Other employees are in the classified service;

~~(3)~~ (4) report to the state board on all operations under the director's control and supervision;

~~(4)~~ (5) maintain accurate and complete records of securities transactions and official activities;

~~(5)~~ (6) establish a policy relating to the purchase and sale of securities on the basis of competitive offerings or bids. The policy is subject to board approval;

~~(6)~~ (7) cause securities acquired to be kept in the custody of the commissioner of finance or other depositories consistent with chapter 356A, as the state board deems appropriate;

~~(7)~~ (8) prepare and file with the director of the Legislative Reference Library, by December 31 of each year, a report summarizing the activities of the state board, the council, and the director during the preceding fiscal year. The report must be prepared so as to provide the legislature and the people of the state with a clear, comprehensive summary of the portfolio composition, the transactions, the total annual rate of return, and the yield to the state treasury and to each of the funds whose assets are invested by the state board, and the recipients of business placed or commissions allocated among the various commercial banks, investment bankers, and brokerage organizations. The report must contain financial statements for funds managed by the board prepared in accordance with generally accepted accounting principles;

~~(8)~~ (9) require state officials from any department or agency to produce and provide access to any financial documents the state board deems necessary in the conduct of its investment activities;

~~(9)~~ (10) receive and expend legislative appropriations; and

~~(10)~~ (11) undertake any other activities necessary to implement the duties and powers set forth in this subdivision consistent with chapter 356A.

Sec. 18. Minnesota Statutes 2004, section 11A.07, subdivision 5, is amended to read:

Subd. 5. [APPORTIONMENT OF EXPENSES.] ~~The executive director shall apportion the actual expenses incurred by the board on an accrual basis among the several funds whose assets are invested by the board based on the weighted average assets under management during each quarter. The charge to each fund must be calculated, billed, and paid on a quarterly basis in accordance with procedures for interdepartmental payments established by the commissioner of finance. The amounts necessary to pay these charges are appropriated from the investment earnings of each fund. Receipts must be credited to the general fund as nondedicated receipts. The annual expenses incurred by the state board will be apportioned among the state general fund, the retirement funds administered by the Minnesota State Retirement System, Public Employees Retirement Association, and Teachers Retirement Association, and all other funds as follows:~~

(1) on a biennial basis, the state board, in accordance with biennial budget procedures established by the commissioner of finance, may request a direct appropriation that represents the portion of the state board's expenses necessary to provide investment services to the state general fund. This appropriation must be deposited in the State Board of Investment operating account;

(2) the executive director shall apportion the actual expenses incurred by the state board, less the charge to the state general fund, among the funds whose assets are invested by the state board, with the exception of the state general fund, based on the weighted average assets under management during the fiscal year. The amounts necessary to pay these charges are apportioned from the investment earnings of each fund. Receipts must be credited to the State Board of Investment operating account;

(3) the actual expenses apportioned and charged to the funds, with the exception of the state general fund and the retirement funds administered by the Minnesota State Retirement System, Public Employees Retirement Association, and Teachers Retirement Association, must be calculated, billed, and paid on a quarterly basis in accordance with procedures for interdepartmental payments established by the commissioner of finance; and

(4) the annual estimated expenses to be incurred by the state board that will be payable by the retirement funds administered by the Minnesota State Retirement System, Public Employees Retirement Association, and Teachers Retirement Association must be deposited in the State Board of Investment operating account on the first business day of each fiscal year. A reconciliation of the actual expenses compared to the estimated costs must occur at the end of each fiscal year with any surplus or deficit being credited or debited to each of the respective funds. The state board must present a statement of accrued actual expenses to each fund at the end of each quarter during each fiscal year.

Sec. 19. Minnesota Statutes 2004, 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) 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) All financial, business, or proprietary data collected, created, received, or maintained by the state board in connection with investments authorized by paragraph (a), clause (1), (2), or (4), are nonpublic data under section 13.02, subdivision 9. As used in this paragraph, "financial, business, or proprietary data" means data; as determined by the responsible authority for the state board, that is of a financial, business, or proprietary nature; and the release of which could cause competitive harm to the state board, the legal entity in which the state board has invested or has considered an investment, the managing entity of an investment, or a portfolio company in which the legal entity holds an interest. As used in this section, "business data" is data described in section 13.591, subdivision 1. Regardless of whether they could be considered financial, business, or proprietary data, the following data received, prepared, used, or retained by the state board in connection with investments authorized by paragraph (a), clause (1), (2), or (4), are public at all times:

(1) the name and industry group classification 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 for the investment, including expenditures and receipts used in the calculation of the investment's internal rate of return; and

(6) the age of the investment in years.

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

Sec. 20. Minnesota Statutes 2004, 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 investments are classified under section 11A.24, subdivision 6.

Sec. 21. [14.046] [LIMIT ON ADMINISTRATIVE PENALTY ORDERS.]

Notwithstanding section 116.072, 144.991, 221.036, or any other law to the contrary, an agency may not assess a monetary penalty of more than \$100 by an administrative penalty order process.

Sec. 22. [14.127] [LEGISLATIVE APPROVAL REQUIRED.]

Subdivision 1. [COST THRESHOLDS.] An agency must determine if the cost of complying with a proposed rule in the first year after the rule takes effect will exceed \$15,000 for: (1) any one business that has less than 50 full-time employees; or (2) any one statutory or home rule charter city that has less than ten full-time employees. For purposes of this section, "business" means a business entity organized for profit or as a nonprofit, and includes an individual, partnership, corporation, joint venture, association, or cooperative.

Subd. 2. [AGENCY DETERMINATION.] An agency must make the determination required by subdivision 1 before the close of the hearing record, or before the agency submits the record to the administrative law judge if there is no hearing. The administrative law judge must review and approve or disapprove the agency determination under this section.

Subd. 3. [LEGISLATIVE APPROVAL REQUIRED.] If the agency determines that the cost exceeds the threshold in subdivision 1, or if the administrative law judge disapproves the agency's determination that the cost does not exceed the threshold in subdivision 1, any business that has less than 50 full-time employees or any statutory or home rule charter city that has less than ten full-time employees may file a written statement with the agency claiming a temporary exemption from the rules. Upon filing of such a statement with the agency, the rules do not apply to that business or that city until the rules are approved by a law enacted after the agency determination or administrative law judge disapproval.

Subd. 4. [EXCEPTIONS.] (a) Subdivision 3 does not apply if the administrative law judge approves an agency's determination that the legislature has appropriated money to sufficiently fund the expected cost of the rule upon the business or city proposed to be regulated by the rule.

(b) Subdivision 3 does not apply if the administrative law judge approves an agency's determination that the rule has been proposed pursuant to a specific federal statutory or regulatory mandate.

(c) This section does not apply if the rule is adopted under section 14.388 or under another law specifying that the rulemaking procedures of this chapter do not apply.

(d) This section does not apply to a rule adopted by the Public Utilities Commission.

(e) Subdivision 3 does not apply if the governor waives application of subdivision 3. The governor may issue a waiver at any time, either before or after the rule would take effect, but for the requirement of legislative approval. As soon as possible after issuing a waiver under this paragraph, the governor must send notice of the waiver to the speaker of the house of representatives and the president of the senate and must publish notice of this determination in the State Register.

Subd. 5. [SEVERABILITY.] If an administrative law judge determines that part of a proposed rule exceeds the threshold specified in subdivision 1, but that a severable portion of a proposed rule does not exceed the threshold in subdivision 1, the administrative law judge may provide that the severable portion of the rule that does not exceed the threshold may take effect without legislative approval.

[EFFECTIVE DATE.] This section is effective July 1, 2005. This section applies to any rule for which the hearing record has not closed before July 1, 2005, or, if there is no public hearing, for which the agency has not submitted the record to the administrative law judge before that date.

Sec. 23. Minnesota Statutes 2004, section 14.19, is amended to read:

14.19 [DEADLINE TO COMPLETE RULEMAKING.]

Within 180 days after issuance of the administrative law judge's report or that of the chief administrative law judge, the agency shall submit its notice of adoption, amendment, or repeal to the State Register for publication. If the agency has not submitted its notice to the State Register within 180 days, the rule is automatically withdrawn. The agency may not adopt the withdrawn rules without again following the procedures of sections 14.05 to 14.28, with the exception of section 14.101, if the noncompliance is approved by the chief administrative law judge. The

agency shall report to the Legislative Coordinating Commission, other appropriate committees of the legislature, and the governor its failure to adopt rules and the reasons for that failure. The 180-day time limit of this section does not include:

(1) any days used for review by the chief administrative law judge or the commission if the review is required by law; ~~or~~

(2) days during which the rule cannot be adopted, because of votes by legislative committees under section 14.126; or

(3) days during which the rule cannot be adopted because approval of the legislature is required under section 14.127.

Sec. 24. Minnesota Statutes 2004, section 15.054, is amended to read:

15.054 [PUBLIC EMPLOYEES NOT TO PURCHASE MERCHANDISE FROM GOVERNMENTAL AGENCIES; EXCEPTIONS; PENALTY.]

No officer or employee of the state or any of its political subdivisions shall sell or procure for sale or possess or control for sale to any other officer or employee of the state or subdivision, as appropriate, any property or materials owned by the state or subdivision except pursuant to conditions provided in this section. Property or materials owned by the state or a subdivision and not needed for public purposes, may be sold to an employee of the state or subdivision after reasonable public notice at a public auction or by sealed response, if the employee is not directly involved in the auction or process pertaining to the administration and collection of sealed responses. Requirements for reasonable public notice may be prescribed by other law or ordinance so long as at least one week's published notice is specified. An employee of the state or a political subdivision may purchase no more than one motor vehicle from the state ~~in any 12-month period~~ at any one auction. A person violating the provisions of this section is guilty of a misdemeanor. This section shall not apply to the sale of property or materials acquired or produced by the state or subdivision for sale to the general public in the ordinary course of business. Nothing in this section shall prohibit an employee of the state or a political subdivision from selling or possessing for sale public property if the sale or possession for sale is in the ordinary course of business or normal course of the employee's duties.

Sec. 25. [15.445] [NOTIFICATION OF CERTAIN CHANGES TO PROFESSIONAL LICENSURE LAWS AND RULES.]

An executive agency under section 16A.011, subdivision 12, that issues a professional license must notify all current license holders of any changes made to laws or rules administered by the agency under which a fine or other sanction may be imposed on a noncompliant license holder. The agency must notify all current license holders of the law or rule changes by mail at their last known addresses on or before the effective date of the changes.

Sec. 26. [15B.055] [PARKING SPACES.]

To provide the public with greater access to legislative proceedings, all parking spaces on Aurora Avenue in front of the Capitol building must be reserved for the public.

Sec. 27. Minnesota Statutes 2004, section 15B.17, subdivision 1, is amended to read:

Subdivision 1. [PUBLIC BODIES WITH PROPOSALS.] (a) Before a state agency or other public body develops, to submit to the legislature and the governor, a budget proposal or plans for capital improvements within the Capitol Area, it must consult with the board.

(b) The public body must provide enough money for the board's review and planning if the board decides its review and planning services are necessary. Money received by the board under this subdivision and under section 15B.13, paragraph (e), is appropriated to the board and does not cancel.

Sec. 28. Minnesota Statutes 2004, section 16A.103, is amended by adding a subdivision to read:

Subd. 4. [REPORT ON EXPENDITURE INCREASES.] By January 10 of an odd-numbered year, the commissioner of finance must report on those programs or components of programs for which expenditures for the next biennium according to the forecast issued the previous November are projected to increase more than 15 percent over the expenditures for that program in the current biennium. The report must include an analysis of the factors that are causing the increases in expenditures.

Sec. 29. Minnesota Statutes 2004, section 16A.1286, subdivision 2, is amended to read:

Subd. 2. [BILLING PROCEDURES.] The commissioner may bill up to \$7,520,000 in each fiscal year for statewide systems services provided to state agencies, judicial branch agencies, the University of Minnesota, the Minnesota State Colleges and Universities, and other entities. Billing must be based only on usage of services relating to statewide systems ~~provided by the Intertechnologies Division~~. Each agency shall transfer from agency operating appropriations to the statewide systems account the amount billed by the commissioner. Billing policies and procedures related to statewide systems services must be developed by the commissioner in consultation with the commissioners of employee relations and administration, the University of Minnesota, and the Minnesota State Colleges and Universities.

Sec. 30. Minnesota Statutes 2004, section 16A.1286, subdivision 3, is amended to read:

Subd. 3. [APPROPRIATION.] Money transferred into the account is appropriated to the commissioner to pay for statewide systems services ~~during the biennium in which it is appropriated.~~

Sec. 31. Minnesota Statutes 2004, 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;

(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 rounded to the nearest tenth of a percent without exceeding the amount available and with any remaining funds deposited in the budget reserve; and

(4) the amount necessary to restore all or a portion of the net aid reductions under section 127A.441 and to reduce the property tax revenue recognition shift under section 123B.75, subdivision 5, paragraph (c), and Laws 2003, First Special Session chapter 9, article 5, section 34, as amended by Laws 2003, First Special Session chapter 23, section 20, by the same amount.

(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 takes effect.

(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.

Sec. 32. Minnesota Statutes 2004, section 16A.1522, subdivision 1, is amended to read:

Subdivision 1. [FORECAST.] If, on the basis of a forecast of general fund revenues and expenditures in November of an even-numbered year or February of an odd-numbered year, the commissioner projects a positive unrestricted budgetary general fund balance at the close of the biennium that exceeds one-half of one percent of total general fund biennial revenues, the commissioner shall designate the entire balance as available for rebate to the taxpayers of this state. ~~In forecasting, projecting, or designating the unrestricted budgetary general fund balance or general fund biennial revenue under this section, the commissioner shall not include any balance or revenue attributable to settlement payments received after July 1, 1998, and before July 1, 2001, as defined in Section IIB of the settlement document, filed May 18, 1998, in State v. Philip Morris, Inc., No. C1 94 8565 (Minnesota District Court, Second Judicial District).~~

Sec. 33. [16A.156] [LIMIT ON ADMINISTRATIVE COSTS.]

As a condition of receiving a grant from an appropriation of state funds, the person or entity receiving the grant must agree that no more than ten percent of the grant funds will be spent for administrative purposes. This limit does not apply if the commissioner of finance determines, after consulting with the chairs of appropriate legislative budget committees, that this limit is impracticable because the legislative intent in appropriating money for the grant is that more than ten percent of the grant is administrative in nature.

Sec. 34. Minnesota Statutes 2004, section 16A.281, is amended to read:

16A.281 [APPROPRIATIONS TO LEGISLATURE.]

Except as provided in this section, section 16A.28 applies to appropriations made to the legislature, the senate, the house of representatives, or its committees or commissions. An appropriation made to the legislature, the senate, the house of representatives, or a legislative commission or committee other than a standing committee, if not spent during the first year, may be spent during the second year of a biennium. An unexpended balance not carried forward and remaining unexpended and unencumbered at the end of a biennium lapses and shall be returned to the fund from which appropriated. Balances may be carried forward into the next biennium and credited to special accounts to be used only as follows: (1) for nonrecurring expenditures on investments that enhance efficiency or improve effectiveness; (2) to pay expenses associated with ~~special~~ sessions, interim activities, public hearings, or other public outreach efforts and related activities; and (3) to pay severance costs of involuntary terminations. The approval of the commissioner of finance under section 16A.28, subdivision 2, does not apply to the legislature. An appropriation made to the legislature, the senate, the house of representatives, or a standing committee for all or part of a biennium may be spent in either year of the biennium.

Sec. 35. [16A.696] [UNIVERSITY OF MINNESOTA AWARD OF CAPITAL IMPROVEMENT CONTRACTS.]

Notwithstanding any law to the contrary, any appropriation for capital improvement projects for the University of Minnesota is contingent on the University agreeing that contracts for the projects will be awarded under the procedures in sections 16C.25 to 16C.28, except that the Board of Regents must perform responsibilities assigned to the commissioner of administration.

Sec. 36. [16B.296] [TRANSFER OF REAL PROPERTY.]

Unless otherwise provided by the commissioner, an agency may not sell or otherwise transfer state-owned real property for less than the appraised value, or if the property has not been appraised, for less than the fair market value, as determined by the commissioner. For purposes of this section, "agency" includes the Minnesota State Colleges and Universities.

Sec. 37. Minnesota Statutes 2004, section 16B.52, subdivision 1, is amended to read:

Subdivision 1. [PERMISSIBLE PUBLICATIONS; PICTURES.] (a) No elected, administrative, or executive state officer, may have printed, nor may the commissioner authorize the printing of, at government expense, official reports and other publications intended for general public circulation except those authorized by law or included in the intent of the appropriation out of which the cost will be defrayed.

(b) A publication printed at government expense by an elected or appointed executive officer must contain only material that provides information about the duties and jurisdiction of the officer or the officer's organization, or facilitates public access to services offered by the officer or organization. All material in the publication must be directly related to the legal functions, duties, and jurisdiction of the public official or organization.

(c) Executive officers shall, before presenting their annual reports and other publications to the commissioner, examine them and exclude from them pictures of elected and administrative officials, and any other pictorial device calculated to or tending to attribute the publication to an individual instead of the department of state government from which it emanates. All other engravings, maps, drawings and illustrations must be excluded from the reports and publications, except those the executive officers certify when they present the reports for printing to be necessary and to relate entirely to the transaction of the state's business, or to be reasonably required to present for clear understanding the substance of the report.

Sec. 38. [16C.061] [USED GOODS.]

When acquiring goods, the commissioner or the agency making the acquisition must consider purchasing used goods if used goods may result in the best value for the purchasing entity.

Sec. 39. [16C.064] [COST-BENEFIT ANALYSIS.]

(a) The commissioner or an agency official to whom the commissioner has delegated duties under section 16C.03, subdivision 16, may not approve a contract or purchase of goods or services in an amount greater than \$5,000,000 unless a cost-benefit analysis has been completed and shows a positive benefit to the public. The Management Analysis Division must perform or direct the performance of the analysis. A cost-benefit analysis must be performed for a project if an aggregation of contracts or purchases for a project exceeds \$5,000,000.

(b) All cost-benefit analysis documents under this section, including preliminary drafts and notes, are public data.

(c) If a cost-benefit analysis does not show a positive benefit to the public, the governor may approve a contract or purchase of goods or services if a cost-effectiveness study had been done that shows the proposed project is the most effective way to provide a necessary public good.

(d) This section applies to contracts for goods or services that are expected to have a useful life of more than three years. This section does not apply for purchase of goods or services for response to a natural disaster if an emergency has been declared by the governor.

Sec. 40. Minnesota Statutes 2004, section 16C.10, subdivision 7, is amended to read:

Subd. 7. [REVERSE AUCTION.] (a) For the purpose of this subdivision, "reverse auction" means a purchasing process in which vendors compete to provide goods ~~or engineering design~~ or computer services at the lowest selling price in an open and interactive environment.

(b) The provisions of sections 13.591, subdivision 3, and 16C.06, subdivision 2, do not apply when the commissioner determines that a reverse auction is the appropriate purchasing process.

Sec. 41. [16C.143] [ENERGY FORWARD PRICING MECHANISMS.]

Subdivision 1. [DEFINITIONS.] The following definitions apply in this section:

(1) "energy" means natural gas, heating oil, propane, and any other energy source except electricity used in state facilities; and

(2) "forward pricing mechanism" means a contract or financial instrument that obligates a state agency to buy or sell a specified quantity of energy at a future date at a set price.

Subd. 2. [AUTHORITY.] Notwithstanding any other law to the contrary, the commissioner may use forward pricing mechanisms for budget risk reduction.

Subd. 3. [CONDITIONS.] Forward pricing mechanism transactions must be made only under the following conditions:

(1) the quantity of energy affected by the forward pricing mechanism must not exceed 90 percent of the estimated energy use for the state agency for the same period, which shall not exceed 24 months; and

(2) a separate account must be established for each state agency using a forward pricing mechanism.

Subd. 4. [WRITTEN POLICIES AND PROCEDURES.] Before exercising the authority under this section, the commissioner must develop written policies and procedures governing the use of forward pricing mechanisms.

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

Sec. 42. Minnesota Statutes 2004, section 16C.144, is amended to read:

16C.144 [GUARANTEED ENERGY SAVINGS ~~CONTRACTS PROGRAM.~~]

Subdivision 1. [DEFINITIONS.] The following definitions apply to this section.

(a) "Utility" means electricity, natural gas, or other energy resource, water, and wastewater.

(b) "Utility cost savings" means the difference between ~~the utility costs under the precontract conditions and the utility costs after the changes have been made under the contract. Such savings shall be calculated in comparison to an established baseline of utility costs~~ installation of the utility cost-savings measures pursuant to the guaranteed energy savings agreement and the baseline utility costs after baseline adjustments have been made.

(c) ~~"Established baseline" means the precontract utilities, operations, and maintenance costs.~~

(~~d~~) "Baseline" means the preagreement utilities, operations, and maintenance costs.

(d) "Utility cost-savings measure" means a measure that produces utility cost savings and/or operation and maintenance cost savings.

(e) "Operation and maintenance cost savings" means a measurable ~~decrease in difference between operation and maintenance costs after the installation of the utility cost-savings measures pursuant to the guaranteed energy savings agreement and the baseline~~ operation and maintenance costs ~~that is a direct result of the implementation of one or more utility cost savings measures but does~~ after inflation adjustments have been made. Operation and maintenance costs savings shall not include savings from in-house staff labor. ~~Such savings shall be calculated in comparison to an established baseline of operation and maintenance costs.~~

(f) "Guaranteed energy savings contract agreement" means ~~a contract an agreement for the evaluation, recommendation, and~~ installation of one or more utility cost-savings measures that includes the qualified provider's guarantee as required under subdivision 2. ~~The contract must provide that all payments are to be made over time but not to exceed ten years from the date of final installation, and the savings are guaranteed to the extent necessary to make payments for the utility cost-savings measures.~~

(g) "Baseline adjustments" means adjusting the ~~established utility cost savings~~ baselines ~~in paragraphs (b) and~~ (4) annually for changes in the following variables:

- (1) utility rates;
- (2) number of days in the utility billing cycle;
- (3) square footage of the facility;
- (4) operational schedule of the facility;
- (5) facility temperature set points;
- (6) weather; and
- (7) amount of equipment or lighting utilized in the facility.

(h) "Inflation adjustment" means adjusting the operation and maintenance cost-savings baseline annually for inflation.

(i) "Lease purchase ~~contract agreement~~" means ~~a contract an agreement~~ obligating the state to make regular lease payments to satisfy the lease costs of the utility cost-savings measures until the final payment, after which time the utility cost-savings measures become the sole property of the state of Minnesota.

(j) "Qualified provider" means a person or business experienced in the design, implementation, and installation of utility cost-savings measures.

(k) "Engineering report" means a report prepared by a professional engineer licensed by the state of Minnesota summarizing estimates of all costs of installations, modifications, or remodeling, including costs of design, engineering, installation, maintenance, repairs, and estimates of the amounts by which utility and operation and maintenance costs will be reduced.

(~~k~~) (l) "Capital cost avoidance" means money expended by a state agency to pay for utility cost-savings measures with a guaranteed savings ~~contract agreement~~ so long as the measures that are being implemented to achieve the utility, operation, and maintenance cost savings are a significant portion of an overall project as determined by the commissioner.

(~~h~~) (m) "Guaranteed energy savings ~~contracting program~~ guidelines" means policies, procedures, and requirements of guaranteed savings ~~contracts agreements~~ established by the Department of Administration ~~upon enacting this legislation.~~

Subd. 2. [GUARANTEED ENERGY SAVINGS CONTRACT AGREEMENT.] The commissioner may enter into a guaranteed energy savings ~~contract agreement~~ with a qualified provider if:

(1) the qualified provider is selected through a competitive process in accordance with the guaranteed energy savings ~~contracting program~~ guidelines within the Department of Administration;

(2) the qualified provider agrees to submit an engineering report prior to the execution of the guaranteed energy savings ~~contract agreement~~. The cost of the engineering report may be considered as part of the implementation costs if the commissioner enters into a guaranteed energy savings agreement with the provider;

(3) the term of the guaranteed energy savings agreement shall not exceed 15 years from the date of final installation;

(4) the commissioner finds that the amount it would spend on the utility cost-savings measures recommended in the engineering report will not exceed the amount to be saved in utility operation and maintenance costs over ~~ten~~ 15 years from the date of implementation of utility cost-savings measures;

(~~4~~) (5) the qualified provider provides a written guarantee that the annual utility, operation, and maintenance cost savings during the term of the guaranteed energy savings agreement will meet or exceed the ~~costs of the guaranteed savings contract~~ annual payments due under a lease purchase agreement. The qualified provider shall reimburse the state for any shortfall of guaranteed utility, operation, and maintenance cost savings; and

(~~5~~) (6) the qualified provider gives a sufficient bond in accordance with section 574.26 to the commissioner for the faithful implementation and installation of the utility cost-savings measures.

Subd. 3. [LEASE PURCHASE ~~CONTRACT AGREEMENT.~~] The commissioner may enter into a lease purchase agreement with any party for the implementation of utility cost-savings measures in accordance with ~~an engineering report~~ the guaranteed energy savings agreement. The implementation costs of the utility cost-savings measures recommended in the engineering report shall not exceed the amount to be saved in utility and operation and maintenance costs over the term of the lease purchase agreement. The term of the lease purchase agreement shall not exceed ~~ten~~ 15 years from the date of final installation. The lease is assignable in accordance with terms approved by the commissioner of finance.

Subd. 4. [USE OF CAPITAL COST AVOIDANCE.] The affected state agency may contribute funds for capital cost avoidance for guaranteed energy savings ~~contracts agreements~~. Use of capital cost avoidance is subject to the guaranteed energy savings ~~contracting program~~ guidelines within the Department of Administration.

Subd. 5. [REPORT.] By January 15 of 2005 and 2007, the commissioner of administration shall submit to the commissioner of finance and the chairs of the senate and house of representatives capital investment committees a list of projects in the agency that have been funded using guaranteed energy savings, as outlined in this section, during the preceding biennium. For each guaranteed energy savings ~~contract agreement~~ entered into, the commissioner of administration shall contract with an independent third party to evaluate the cost-effectiveness of

each utility cost-savings measure implemented to ensure that such measures were the least-cost measures available. For the purposes of this section, "independent third party" means an entity not affiliated with the qualified provider, that is not involved in creating or providing conservation project services to that provider, and that has expertise (or access to expertise) in energy savings practices.

~~Subd. 6. [CONTRACT LIMITS.] Contracts may not be entered into after June 30, 2007.~~

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

Sec. 43. Minnesota Statutes 2004, section 16C.16, subdivision 1, is amended to read:

Subdivision 1. [SMALL BUSINESS PROCUREMENTS.] (a) The commissioner shall for each fiscal year ensure that small businesses receive at least 25 percent of the value of anticipated total state procurement of goods and services, including printing and construction. The commissioner shall divide the procurements so designated into contract award units of economically feasible production runs in order to facilitate offers or bids from small businesses.

(b) The commissioner must avoid awarding a master contract on an exclusive basis if awarding the contract on that basis excludes small businesses. When feasible, when entering into a master contract, the commissioner must attempt to negotiate contract terms that allow agencies the option of purchasing from small businesses, particularly small businesses that are geographically proximate to the entity making the purchase.

(c) In making the annual designation of such procurements the commissioner shall attempt (1) to vary the included procurements so that a variety of goods and services produced by different small businesses are obtained each year, and (2) to designate small business procurements in a manner that will encourage proportional distribution of such awards among the geographical regions of the state. To promote the geographical distribution of awards, the commissioner may designate a portion of the small business procurement for award to bidders from a specified congressional district or other geographical region specified by the commissioner. The failure of the commissioner to designate particular procurements shall not be deemed to prohibit or discourage small businesses from seeking the procurement award through the normal process.

Sec. 44. Minnesota Statutes 2004, section 16C.16, is amended by adding a subdivision to read:

Subd. 7a. [VEHICLE PURCHASES.] For purposes of state purchasing, the commissioner may award a bid preference to motor vehicles manufactured in Minnesota. The amount of the preference must be the same as the amount of the preference awarded to businesses located in an economically disadvantaged area.

Sec. 45. Minnesota Statutes 2004, section 16C.23, is amended by adding a subdivision to read:

Subd. 6a. [COMPUTERS FOR SCHOOLS.] The commissioner may transfer state surplus computers to Minnesota Computers for Schools for refurbishing and distribution to any school, school system, college, or university in Minnesota.

Sec. 46. [16C.231] [SURPLUS PROPERTY.]

Notwithstanding any law to the contrary, the commissioner may sell a surplus gun used by a state trooper to the trooper who used the gun in the course of employment. The sale price must be the fair market value of the gun, as determined by the commissioner.

Sec. 47. Minnesota Statutes 2004, section 240A.02, subdivision 3, is amended to read:

Subd. 3. [STAFF.] The ~~commission~~ governor shall appoint an executive director, who serves at the pleasure of the governor. The executive director may hire other employees authorized by the commission. The executive director is in the unclassified service under section 43A.08.

Sec. 48. [298.215] [IRON RANGE RESOURCES AND REHABILITATION; EARLY SEPARATION INCENTIVE PROGRAM AUTHORIZATION.]

(a) Notwithstanding any law to the contrary, the commissioner of iron range resources and rehabilitation, in consultation with the commissioner of employee relations, may offer a targeted early separation incentive program for employees of the commissioner who have attained the age of 60 years and have at least five years of allowable service credit under chapter 352, or who have received credit for at least 30 years of allowable service under the provisions of chapter 352.

(b) The early separation incentive program may include one or more of the following:

(1) employer-paid postseparation health, medical, and dental insurance until age 65; and

(2) cash incentives that may, but are not required to be, used to purchase additional years of service credit through the Minnesota State Retirement System, to the extent that the purchases are otherwise authorized by law.

(c) The commissioner of iron range resources and rehabilitation shall establish eligibility requirements for employees to receive an incentive.

(d) The commissioner of iron range resources and rehabilitation, consistent with the established program provisions under paragraph (b), and with the eligibility requirements under paragraph (c), may designate specific programs or employees as eligible to be offered the incentive program.

(e) Acceptance of the offered incentive must be voluntary on the part of the employee and must be in writing. The incentive may only be offered at the sole discretion of the commissioner of iron range resources and rehabilitation.

(f) The cost of the incentive is payable solely by funds made available to the commissioner of iron range resources and rehabilitation by law, but only on prior approval of the expenditures by a majority of the Iron Range Resources and Rehabilitation Board.

(g) This section and section 298.216 are repealed June 30, 2006.

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

Sec. 49. [298.216] [APPLICATION OF OTHER LAWS.]

Unilateral implementation of section 298.215 by the commissioner of iron range resources and rehabilitation is not an unfair labor practice under chapter 179A.

Sec. 50. Minnesota Statutes 2004, section 471.345, is amended by adding a subdivision to read:

Subd. 19. [USED SUPPLIES, MATERIALS, AND EQUIPMENT.] When acquiring supplies, materials, or equipment, a municipality must consider purchasing used goods if used goods may result in the best value for the municipality.

Sec. 51. [471.661] [OUT-OF-STATE TRAVEL.]

No elected official of a statutory or home rule charter city, county, town, school district, regional agency, or other political subdivision of the state may incur more than \$1,000 in publicly paid costs for a trip outside of Minnesota unless the costs are approved by a roll-call vote at a public meeting of the governing board held before the trip.

Sec. 52. [471.701] [SALARY DATA.]

A city or county with a population of more than 15,000 must annually notify its residents of the names and salaries of its three highest-paid employees. This notice may be provided on the homepage of the primary Web site maintained by the political subdivision for a period of not less than 90 consecutive days, in a publication of the political subdivision that is distributed to all residents in the political subdivision, or as part of the annual notice of proposed property taxes prepared under section 275.065.

Sec. 53. [BUILDING LEASE.]

Notwithstanding any provision of Minnesota Statutes, section 16B.24, or other law or rule to the contrary, the commissioner of administration may, without approval of the State Executive Council, enter into a lease of up to ten years with a private tenant for use of the state-owned building at 168 Aurora Avenue in the city of St. Paul as a child care and after-school activity facility. If leased to a faith-based organization, the program may not promote any particular faith and must operate in a nondiscriminatory manner.

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

Sec. 54. [SALE OF STATE LAND.]

Subdivision 1. [STATE LAND SALES.] The commissioner of administration shall coordinate with the head of each department or agency having control of state-owned land to identify and sell at least \$6,440,000 of state-owned land. Sales should be completed according to law and as provided in this section as soon as practicable but no later than June 30, 2007. Notwithstanding Minnesota Statutes, sections 16B.281 and 16B.282, 94.09 and 94.10, or any other law to the contrary, the commissioner may offer land for public sale by only providing notice of lands or an offer of sale of lands to state departments or agencies, the University of Minnesota, cities, counties, towns, school districts, or other public entities.

Subd. 2. [ANTICIPATED SAVINGS.] Notwithstanding Minnesota Statutes, section 94.16, subdivision 3, or other law to the contrary, the amount of the proceeds from the sale of land under this section that exceeds the actual expenses of selling the land must be deposited in the general fund, except as otherwise provided by the commissioner of finance. Notwithstanding Minnesota Statutes, section 94.11 or 16B.283, the commissioner of finance may establish the timing of payments for land purchased under this section. If the total of all money deposited into the general fund from the proceeds of the sale of land under this section is anticipated to be less than \$6,440,000, the governor must allocate the amount of the difference as reductions to general fund operating expenditures for other executive agencies for the biennium ending June 30, 2007.

Subd. 3. [SALE OF STATE LANDS REVOLVING LOAN FUND.] \$290,000 is appropriated from the general fund in fiscal year 2006 to the commissioner of administration for purposes of paying the actual expenses of selling state-owned lands to achieve the anticipated savings required in this section. From the gross proceeds of land sales under this section, the commissioner of administration must cancel the amount of the appropriation in this subdivision to the general fund by June 30, 2007.

Sec. 55. [STUDY OF STATE VEHICLES.]

The commissioner of administration must issue a request for proposal seeking a private entity to conduct an independent study of all light vehicles owned by executive branch agencies, including constitutional offices but not the Minnesota State Colleges and Universities. The study must include:

(1) an inventory of state-owned vehicles, detailing the type and model of each vehicle, the primary location of each vehicle, and the primary agency to which each vehicle is assigned;

(2) the cost to the state of purchasing, maintaining, and operating various types of state-owned vehicles; and

(3) an evaluation of the desirability of centralizing the responsibility for state fleet management in an office of fleet management within the Department of Administration.

The contractor must report the results of the study to the legislature by January 15, 2006.

Sec. 56. [REQUEST FOR PROPOSAL; VEHICLES.]

If the commissioner determines it would be in the best interests of the state, the commissioner of administration must issue a request for proposal, seeking a private entity to assume responsibility for maintenance and management of all vehicles owned by executive branch agencies. For purposes of this section, "executive branch agencies" includes constitutional offices, but not the Minnesota State Colleges and Universities. The commissioner may expand the scope of the request for proposal to include private ownership of some or all of the state vehicles covered by this section.

Sec. 57. [REQUEST FOR PROPOSAL; FORD BUILDING.]

The commissioner of administration must issue a request for proposal, seeking a private entity to lease the Ford Building at 117 University Avenue in St. Paul. Notwithstanding any law to the contrary, the lease may be for a term of up to 20 years. The lease documents must provide that the tenant may not tear down the building and may not alter the historic features of the facade of the building.

Sec. 58. [REQUEST FOR PROPOSAL; REAL ESTATE.]

By October 1, 2005, the commissioner of administration must issue a request for proposal, seeking a private entity to assume, at no cost to the state, some or all of the commissioner's responsibilities for providing real estate management services to state agencies, including leasing state-owned space under custodial control of the Department of Administration to state agencies, arranging for leases of non-state-owned space on behalf of state agencies, relocation of state agencies, and sale and rental of state-owned property to others. Notwithstanding any law to the contrary, the commissioner may enter into a contract with a private entity to provide these services, beginning no later than July 1, 2006.

Sec. 59. [TRAINING SERVICES.]

During the biennium ending June 30, 2007, state executive agencies must consider using services provided by the Government Training Services before contracting with other outside vendors for similar services.

Sec. 60. [ASSESSMENT OF PUBLIC ACCESS TO INTERNET-BASED GOVERNMENT INFORMATION.]

The commissioner of administration, in partnership with an institution or institutions of higher education located in Minnesota, shall assess public access to Internet-based governmental information and applications and the availability of Internet access for citizens to perform other Internet-based activities such as applying for jobs or citizenship, college entrance scholarships, and other activities that promote self-sufficiency and civic participation. The commissioner shall report the results to the legislature by August 1, 2006.

Sec. 61. [STUDY OF WATER AND SEWER BILLING.]

The League of Minnesota Cities is requested to convene a working group to study issues relating to collection of delinquent water and sewer bills from owners, lessees, and occupants of rental property. The working group should include representatives of cities, owners of rental property, municipal utilities, and tenants. The working group is requested to report its findings and recommendations to the legislature by January 15, 2006.

Sec. 62. [PORTRAITS.]

The Capitol Area Architectural and Planning Board, in consultation with the Minnesota Historical Society, must request the Smithsonian Institution to extend the period during which the portraits of Julie Finch Gilbert and Cass Gilbert are displayed in the Capitol building. In negotiating an extension of the loan period, the board must request that the portraits remain on display in the Capitol when they are not being publicly displayed elsewhere, but must recognize that it is desirable for the portraits to be displayed in other buildings designed by Cass Gilbert, in conjunction with centennial celebrations for those buildings.

Sec. 63. [COYA KNUTSON MEMORIALS.]

The commissioner of administration shall establish memorials in the Capitol building and in the city of Oklee honoring Coya Knutson, who:

(1) served two terms in the Minnesota House of Representatives, representing Red Lake, Pennington, and Clearwater Counties;

(2) was elected to the United States House of Representatives in 1954, becoming the first woman elected from Minnesota to the United States Congress;

(3) was reelected to Congress in 1956; and

(4) died on October 10, 1996.

With respect to the memorial in the Capitol building, the commissioner, with the assistance and approval of the Capitol Area Architectural and Planning Board, shall select an appropriate site, establish design criteria, choose a design, and supervise construction. With respect to the memorial in Oklee, the commissioner shall request the governing body of the city of Oklee to designate an appropriate site and, in consultation with the governing body, establish design criteria, choose a design, and supervise construction.

Sec. 64. [REPEALER.]

Minnesota Statutes 2004, sections 3.9222; 16A.151, subdivision 5; 16A.30; and 240A.08, are repealed.

ARTICLE 3

PUBLIC EMPLOYMENT

Section 1. Minnesota Statutes 2004, section 43A.23, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] The commissioner is authorized to request bids ~~from carriers or to negotiate with carriers~~ and to enter into contracts with ~~carriers parties~~ which in the judgment of the commissioner are best qualified to ~~underwrite and provide~~ service to the benefit plans. Contracts entered into ~~with carriers~~ are not subject to the requirements of sections 16C.16 to 16C.19. The commissioner may negotiate premium rates and coverage

~~provisions with all carriers licensed under chapters 62A, 62C, and 62D. The commissioner may also negotiate reasonable restrictions to be applied to all carriers under chapters 62A, 62C, and 62D. Contracts to underwrite the benefit plans must be bid or negotiated separately from contracts to service the benefit plans, which may be awarded only on the basis of competitive bids. The commissioner shall consider the cost of the plans, conversion options relating to the contracts, service capabilities, character, financial position, and reputation of the carriers, and any other factors which the commissioner deems appropriate. Each benefit contract 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 commissioner shall, to the extent feasible, make hospital and medical benefits available from at least one carrier licensed to do business pursuant to each of chapters 62A, 62C, and 62D. The commissioner need not provide health maintenance organization services to an employee who resides in an area which is not served by a licensed health maintenance organization. The commissioner may refuse to allow a health maintenance organization to continue as a carrier. The commissioner may elect not to offer all three types of carriers if there are no bids or no acceptable bids by that type of carrier or if the offering of additional carriers would result in substantial additional administrative costs. A carrier licensed under chapter 62A is exempt from the taxes imposed by chapter 297I on premiums paid to it by the state.~~

All self-insured hospital and medical service products must comply with coverage mandates, data reporting, and consumer protection requirements applicable to the licensed carrier administering the product, had the product been insured, including chapters 62J, 62M, and 62Q. Any self-insured products that limit coverage to a network of providers or provide different levels of coverage between network and nonnetwork providers shall comply with section 62D.123 and geographic access standards for health maintenance organizations adopted by the commissioner of health in rule under chapter 62D.

Sec. 2. [43A.346] [POSTRETIREMENT OPTION.]

Subdivision 1. [DEFINITION.] For purposes of this section, "employee" means a person currently occupying a civil service position in the executive branch of state government, the Minnesota State Retirement System, or the Office of the Legislative Auditor, or a person employed by the Metropolitan Council.

Subd. 2. [ELIGIBILITY.] This section applies to a state or Metropolitan Council employee who:

(1) for at least the five years immediately preceding separation under clause (2), has been regularly scheduled to work 1,044 or more hours per year in a position covered by a pension plan administered by the Minnesota State Retirement System or the Public Employees Retirement Association;

(2) terminates state or Metropolitan Council employment;

(3) at the time of termination under clause (2), meets the age and service requirements necessary to receive an unreduced retirement annuity from the plan and satisfies requirements for the commencement of the retirement annuity or, for an employee under the unclassified employees retirement plan, meets the age and service requirements necessary to receive an unreduced retirement annuity from the plan and satisfies requirements for the commencement of the retirement annuity or elects a lump-sum payment; and

(4) agrees to accept a postretirement option position with the same or a different appointing authority, working a reduced schedule that is both (i) a reduction of at least 25 percent from the employee's number of regularly scheduled work hours; and (ii) 1,044 hours or less in state or Metropolitan Council service.

Subd. 3. [UNCLASSIFIED SERVICE.] Notwithstanding any law to the contrary, state postretirement option positions shall be in the unclassified service but shall not be covered by the Minnesota State Retirement System unclassified employees plan.

Subd. 4. [ANNUITY REDUCTION NOT APPLICABLE.] Notwithstanding any law to the contrary, when an eligible state employee in a postretirement option position under this section commences receipt of the annuity, the provisions of section 352.115, subdivision 10, or 353.37 governing annuities of reemployed annuitants, shall not apply for the duration of employment in the position.

Subd. 5. [APPOINTING AUTHORITY DISCRETION.] The appointing authority has sole discretion to determine if and the extent to which a postretirement option position under this section is available to a state employee. Any offer of such a position must be made in writing to the employee by the appointing authority on a form prescribed by the Department of Employee Relations and the Minnesota State Retirement System or the Public Employees Retirement Association. The appointing authority may not require a person to waive any rights under a collective bargaining agreement or unrepresented employee compensation plan as a condition of participation.

Subd. 6. [DURATION.] Postretirement option employment shall be for an initial period not to exceed one year. During that period, the appointing authority may not modify the conditions specified in the written offer without the employee's agreement, except as required by law or by the collective bargaining agreement or compensation plan applicable to the employee. At the end of the initial period, the appointing authority has sole discretion to determine if the offer of a postretirement option position will be renewed, renewed with modifications, or terminated. Postretirement option employment may be renewed for periods of up to one year, not to exceed a total duration of five years. No person shall be employed in one or a combination of postretirement option positions under this section for a total of more than five years.

Subd. 7. [COPY TO FUND.] The appointing authority shall provide the Minnesota State Retirement System or the Public Employees Retirement Association with a copy of the offer, the employee's acceptance of the terms, and any subsequent renewal agreement.

Subd. 8. [NO SERVICE CREDIT.] Notwithstanding any law to the contrary, a person may not earn service credit in the Minnesota State Retirement System or the Public Employees Retirement Association for employment covered under this section, and employer contributions and payroll deductions for the retirement fund must not be made based on earnings of a person working under this section. No change shall be made to a monthly annuity or retirement allowance based on employment under this section.

Subd. 9. [INSURANCE CONTRIBUTION.] Notwithstanding any law to the contrary, the appointing authority must make an employer insurance contribution for a person who is employed in a postretirement option position under this section and who is not receiving any other state-paid or Metropolitan Council-paid employer insurance contribution. The amount of the contribution must be equal to the percent time worked in the postretirement option position (hours scheduled to be worked annually divided by 2,088) times 1.5 times the full employer contribution for employee-only health and dental coverage. The appointing authority must contribute that amount to a health reimbursement arrangement.

Subd. 10. [SUBSEQUENT EMPLOYMENT.] If a person has been in a postretirement option position and accepts any other position in state or Metropolitan Council-paid service, in the subsequent state or Metropolitan Council-paid employment the person may not earn service credit in the Minnesota State Retirement System or Public Employees Retirement Association, no employer contributions or payroll deductions for the retirement fund shall be made, and the provisions of section 352.115, subdivision 10, or section 353.37, shall apply.

Sec. 3. [VOLUNTARY UNPAID LEAVE OF ABSENCE.]

(a) Appointing authorities in state government may allow each employee to take unpaid leaves of absence for up to 1,040 hours between July 1, 2005, and June 30, 2007. Each appointing authority approving such a leave shall allow the employee to continue accruing vacation and sick leave, be eligible for paid holidays and insurance benefits, accrue seniority, and, if payments are made under paragraph (b), accrue service credit and credited salary in

the state retirement plans as if the employee had actually been employed during the time of leave. An employee covered by the unclassified plan may voluntarily make the employee contributions to the unclassified plan during the leave of absence. If the employee makes these contributions, the appointing authority must make the employer contribution. If the leave of absence is for one full pay period or longer, any holiday pay shall be included in the first payroll warrant after return from the leave of absence. The appointing authority shall attempt to grant requests for the unpaid leaves of absence consistent with the need to continue efficient operation of the agency. However, each appointing authority shall retain discretion to grant or refuse to grant requests for leaves of absence and to schedule and cancel leaves, subject to the applicable provisions of collective bargaining agreements and compensation plans.

(b) To receive eligible service credit and credited salary in a defined benefit plan, the member shall pay an amount equal to the applicable employee contribution rates. If an employee pays the employee contribution for the period of the leave under this section, the appointing authority must pay the employer contribution. The appointing authority may, at its discretion, pay the employee contributions. Contributions must be made in a time and manner prescribed by the executive director of the applicable pension plan.

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

Sec. 4. [LABOR AGREEMENTS AND COMPENSATION PLANS.]

Subdivision 1. [AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES.] The arbitration award and labor agreement between the state of Minnesota and the American Federation of State, County, and Municipal Employees, unit 8, approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on June 14, 2004, is ratified.

Subd. 2. [MINNESOTA LAW ENFORCEMENT ASSOCIATION; ARBITRATION AWARD.] The arbitration award between the state of Minnesota and the Minnesota Law Enforcement Association, approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on June 14, 2004, is ratified.

Subd. 3. [HIGHER EDUCATION SERVICES OFFICE; COMPENSATION PLAN.] The compensation plan for unrepresented employees of the Higher Education Services Office, approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on June 14, 2004, is ratified.

Subd. 4. [MINNESOTA LAW ENFORCEMENT ASSOCIATION; BARGAINING AGREEMENT.] The collective bargaining agreement between the state of Minnesota and the Minnesota Law Enforcement Association submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on September 29, 2004, and implemented after 30 days on October 30, 2004, is ratified.

Subd. 5. [INTER FACULTY ORGANIZATION.] The collective bargaining agreement between the state of Minnesota and the Inter Faculty Organization, submitted to the Legislative Coordinating Commission Subcommittee on Employee Relations on September 29, 2004, and implemented after 30 days on October 29, 2004, is ratified.

Subd. 6. [MINNESOTA NURSES ASSOCIATION.] The arbitration award and the collective bargaining agreement between the state of Minnesota and the Minnesota Nurses Association, approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on December 20, 2004, is ratified.

Subd. 7. [TEACHERS RETIREMENT ASSOCIATION.] The proposal to increase the salary of the executive director of the Teachers Retirement Association, as modified and approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on December 20, 2004, is ratified.

Subd. 8. [MINNESOTA STATE RETIREMENT SYSTEM.] The proposal to increase the salary of the executive director of the Minnesota State Retirement System, as modified and approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on December 20, 2004, is ratified.

Subd. 9. [PUBLIC EMPLOYEES RETIREMENT ASSOCIATION.] The proposal to increase the salary of the executive director of the Public Employees Retirement Association, as modified and approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on December 20, 2004, is ratified.

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

ARTICLE 4

STATE MANDATES

Section 1. [471B.01] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. [LOCAL GOVERNMENT.] "Local government" means a county, town, school district, or statutory or home rule charter city.

Subd. 3. [LOCAL GOVERNMENT OF THE SAME KIND.] "Local government of the same kind" means any category of the following: all cities, all counties, all school districts, or all towns.

Subd. 4. [SAME CLASS.] "Same class" means all cities of the same class.

Subd. 5. [SCHOOL DISTRICT.] "School district" means a common, independent, or special school district and excludes charter schools.

Subd. 6. [STATE MANDATE.] "State mandate" means a state law or rule specifically directed at or related to local government structure, operation, services, programs, or financing that:

(1) imposes a cost on a local government, whether or not the state appropriates money for the local government to cover the total costs of the mandate, or specifically authorizes the local government to impose a tax or fee to cover the costs;

(2) decreases revenue available to a local government without a commensurate decrease in services and programs required by the law or rule;

(3) makes a local government, or its officers or employees, civilly or criminally liable for failure to follow or enforce the law or rule;

(4) restricts the ability of a local government to establish services, programs, policies, plans, or goals, or restricts its ability to raise revenue or finance its services, programs, policies, plans, or goals; or

(5) implements or interprets federal law and, by its implementation or interpretation, increases or decreases program, service, or funding levels.

Sec. 2. [471B.02] [REFORM OR OPT OUT RESOLUTION AND PROCEDURES.]

Subdivision 1. [LOCAL PROCEDURE.] (a) A local government may, by written resolution of the governing body after public notice and hearing, propose that a state mandate imposed on all local governments of the same kind or class, except a state mandate under section 471B.03, should not apply to it. A local government also may include in a resolution recommendations for reforming a mandate. A local government must adopt a separate resolution for each mandate under section 471B.03, that it proposes should not apply to it. The resolution must:

(1) specifically cite the state law or rule that imposes the mandate on the local government;

(2) identify any costs of complying with the mandate and the total amount of federal and state funds available for complying with the mandate;

(3) state the reasons the local government needs to opt out of the state mandate and may recommend mandate reforms to achieve greater efficiencies; and

(4) indicate how the local government will otherwise meet the objectives of the mandate or why the objectives do not apply to the local government.

(b) Before voting on the resolution, the governing body must give adequate public notice of the proposed resolution, including information on whether state or federal funding for the local government might be adversely affected. The governing body must hold at least one public hearing on the proposed resolution and afford the public opportunity for comment. The governing body must encourage public participation in the hearing in order to determine the extent of public support for the proposed resolution.

(c) The proponent of the proposed resolution at least must identify at the hearing:

(1) the costs of complying with the mandate that exceed the state and federal funds allocated to the district for purposes of the mandate and recommend reforms for achieving greater efficiencies;

(2) any potential loss of state or federal revenue that might result from opting out of the state mandate;

(3) other policy issues or effects that might result;

(4) the purposes for which the mandate was imposed;

(5) any persons or categories of person who will be adversely affected if the mandate is not complied with; and

(6) the costs and benefits of the mandate compared to the costs and benefits of inaction.

(d) A local government that adopts a resolution must file the resolution with the state auditor. At the time of filing, the local government must pay the state auditor a fee to cover actual costs the state auditor incurs in performing the duties under this section. The amount of the fee is as follows:

(1) for each resolution filed by a local government with a population over 100,000, \$500;

(2) for each resolution filed by a local government with a population over 20,000 and not more than 100,000, \$350;

(3) for each resolution filed by a local government with a population over 10,000 and not more than 20,000, \$200; and

(4) for each resolution filed by a local government with a population of not more than 10,000, \$50.

All fees collected under this section are appropriated to the state auditor for the purposes of this section. On July 1, 2005, and each July 1 thereafter, using the powers granted under chapter 6, the auditor must determine the actual costs of performing the duties under this section and adjust the amount of the fee to reflect the auditor's actual costs.

Subd. 2. [STATE PROCEDURE.] The state auditor must:

(1) list on the state auditor's Web site all state mandates cited in a resolution filed with the state auditor, identifying for each mandate the local governments that adopted and filed a resolution to opt out of a mandate, and whether the threshold under subdivision 3 for opting out is met;

(2) keep a running total of the number and percent of local governments of the same kind and, if applicable, same class, that have filed a resolution to opt out; and

(3) notify the legislature when the threshold under subdivision 3 for opting out is met.

Subd. 3. [THRESHOLD AND CERTIFICATION FOR OPTING OUT; LEGISLATIVE OVERSIGHT.] (a) The state auditor must notify the house of representatives and senate when the auditor certifies that the minimum number of local governments of the same kind, and, if applicable, same class, file resolutions under the requirements of this chapter. The minimum number is set in paragraph (c). The legislature must consider at least seven certified opt out or reform proposals from each government of the same kind or class listed in paragraph (c) submitted as a notice from the auditor delivered to the legislature before the regular session convenes in any year. The resolutions shall not have any effect for implementation unless approved by law under this subdivision.

(b) The house of representatives and senate must adopt rules ensuring that bills to specifically address at least seven mandates for which the minimum number of resolutions have been filed are given a priority status and presented to the house and senate for consideration and action by that body in a timely manner during the regular session that year.

(c) The minimum number of local governments of the same kind or class are:

(1) six counties;

(2) 25 home rule charter cities;

(3) 50 statutory cities;

(4) two cities of the first class;

(5) 14 cities of the second class;

(6) 11 cities of the third class;

(7) 50 cities of the fourth class;

(8) 75 towns; and

(9) 24 school districts.

Subd. 4. [OPT OUT OR REFORM IMPLEMENTATION AND LATER OPTING OUT OR REFORMS.] After initial opt-out resolutions are approved by the legislature and take effect, other local governments of the same kind and, if applicable, same class, may file resolutions to opt out of the same mandate. The later-filed resolutions must be consistent with the law enacted in response to the initial opt-out resolutions and later-filed resolutions are only effective to the extent authorized by that law. Each of these takes effect 30 days after the auditor accepts the filing.

ARTICLE 5

MINNEAPOLIS TEACHER PENSIONS

Section 1. Minnesota Statutes 2004, section 354A.08, is amended to read:

354A.08 [AUTHORIZED INVESTMENTS.]

(a) A teachers retirement fund association may receive, hold, and dispose of real estate or personal property acquired by it, whether the acquisition was by purchase, or any other lawful means, as provided in this chapter or in the association's articles of incorporation. In addition to other authorized real estate investments, an association may also invest funds in Minnesota situs nonfarm real estate ownership interests or loans secured by mortgages or deeds of trust.

(b) All or a portion of the assets of a first class city teacher retirement fund association may be invested by the State Board of Investment under section 11A.14.

Sec. 2. Minnesota Statutes 2004, section 354A.12, subdivision 3a, is amended to read:

Subd. 3a. [SPECIAL DIRECT STATE AID TO FIRST CLASS CITY TEACHERS RETIREMENT FUND ASSOCIATIONS.] (a) ~~In fiscal year 1998, the state shall pay \$4,827,000 to the St. Paul Teachers Retirement Fund Association, \$17,954,000 to the Minneapolis Teachers Retirement Fund Association, and \$486,000 to the Duluth Teachers Retirement Fund Association.~~ In each subsequent fiscal year, these payments the state shall pay to the first class city teachers retirement fund associations must be \$2,827,000 \$2,967,000 for the St. Paul, \$12,954,000 Teachers Retirement Fund Association and \$13,300,000 for the Minneapolis, and \$486,000 for Duluth Teachers Retirement Fund Association.

(b) The direct state aids under this subdivision are payable October 1 annually. The commissioner of finance shall pay the direct state aid. The amount required under this subdivision is appropriated annually from the general fund to the commissioner of finance.

(c) The direct state aid for the Minneapolis Teachers Retirement Fund Association is governed by section 354A.121.

Sec. 3. Minnesota Statutes 2004, section 354A.12, subdivision 3b, is amended to read:

Subd. 3b. [SPECIAL DIRECT STATE MATCHING AID TO THE MINNEAPOLIS TEACHERS RETIREMENT FUND ASSOCIATION.] (a) Special School District No. 1 may make an additional employer contribution to the Minneapolis Teachers Retirement Fund Association. The city of Minneapolis may make a contribution to the Minneapolis Teachers Retirement Fund Association. This contribution may be made by a levy of the board of estimate and taxation of the city of Minneapolis and the levy, if made, is classified as that of a special taxing district for purposes of sections 275.065 and 276.04, and for all other property tax purposes.

(b) For every \$1,000 contributed in equal proportion by Special School District No. 1 and by the city of Minneapolis to the Minneapolis Teachers Retirement Fund Association under paragraph (a), the state shall pay to the Minneapolis Teachers Retirement Fund Association \$1,000, but not to exceed \$2,500,000 in total in fiscal year 1994. The superintendent of Special School District No. 1, the mayor of the city of Minneapolis, and the executive director of the Minneapolis Teachers Retirement Fund Association shall jointly certify to the commissioner of finance the total amount that has been contributed by Special School District No. 1 and by the city of Minneapolis to the Minneapolis Teachers Retirement Fund Association. Any certification to the commissioner of education must be made quarterly. If the total certifications for a fiscal year exceed the maximum annual direct state matching aid amount in any quarter, the amount of direct state matching aid payable to the Minneapolis Teachers Retirement Fund Association must be limited to the balance of the maximum annual direct state matching aid amount available. The amount required under this paragraph, subject to the maximum direct state matching aid amount, is appropriated annually to the commissioner of finance. The state matching aid is governed by section 354A.121.

(c) The commissioner of finance may prescribe the form of the certifications required under paragraph (b).

Sec. 4. [354A.121] [INVESTMENT PROCEDURES FOR STATE AID TO MINNEAPOLIS TEACHERS RETIREMENT PLAN.]

(a) Notwithstanding any provision of law to the contrary, special direct state aid to the Minneapolis Teachers Retirement Fund Association under section 354A.12, subdivision 3a or 3b, and amortization or supplementary amortization state aid reallocated to the Minneapolis Teachers Retirement Fund Association, must be transferred and invested as provided in this section.

(b) State aid for the Minneapolis Teachers Retirement Fund Association referenced in paragraph (a) must be transferred to the executive director of the State Board of Investment for investment in the Minnesota supplemental investment fund. The Minneapolis Teachers Retirement Fund Association state aid amounts and any investment return obtained on those amounts must be invested in the income share account unless the executive director of the State Board of Investment, after appropriate consultation with the board of trustees of the Minneapolis Teachers Retirement Fund Association, determines that the amount should be invested in a different account. The executive director of the State Board of Investment, after appropriate consultation with the board, may transfer amounts between accounts in the Minnesota supplemental investment fund.

(c) If the assets of the Minneapolis teachers retirement fund other than the assets to the credit of the Minneapolis teachers retirement fund in the Minnesota supplemental investment fund are insufficient to pay retirement annuities and benefits that are due and payable or the reasonable and necessary administrative expenses of the retirement plan that are due and payable, the executive director of the State Board of Investment shall transfer the required amount to meet that insufficiency to the chief administrative officer of the Minneapolis Teachers Retirement Fund Association.

(d) For purposes of annual actuarial valuations and annual financial reports, the shares in the Minnesota supplemental investment fund owned by the Minneapolis teachers retirement fund must be considered an asset of the Minneapolis teachers retirement fund.

Sec. 5. [354A.281] [MINNEAPOLIS TEACHERS RETIREMENT FUND ASSOCIATION; POSTRETIREMENT ADJUSTMENTS.]

On January 1, 2006, and every January 1 thereafter, eligible annuitants and benefit recipients of the Minneapolis Teachers Retirement Fund Association are entitled to a percentage postretirement adjustment equal to the percentage adjustment payable under section 11A.18. Eligibility for a postretirement adjustment must be governed by section 11A.18, subdivision 9, paragraphs (c), clause (2), and (e).

Sec. 6. [REPEALER.]

(a) Minnesota Statutes, section 354A.28, is repealed.

(b) Article 30, sections 30.3, 30.4, and 30.5, of the restated articles of incorporation of the Minneapolis Teachers Retirement Fund Association are repealed.

Sec. 7. [EFFECTIVE DATE.]

Sections 1 to 6 are effective July 1, 2005.

ARTICLE 6

MILITARY

Section 1. Minnesota Statutes 2004, section 43A.183, is amended to read:

43A.183 [PAYMENT OF SALARY DIFFERENTIAL FOR RESERVE FORCES WHO REPORTED FOR ACTIVE SERVICE.]

(a) Each agency head shall pay to each eligible member of the National Guard or other reserve component of the United States 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 state employee, including any adjustments the member would have received if not on leave of absence person's salary differential for each month or portion of month that the person is ordered to serve in active military service. The person's salary differential is calculated as the difference between:

(1) the person's monthly total gross earnings as an active state employee, excluding any overtime pay received but including all other earnings, averaged over the last three full months of the person's active state employment prior to reporting to active military service, and including any additional salary or earnings adjustments that the person would have received at anytime during the person's military leave had the person been serving as an active state employee during that time; and

(2) the person's monthly base pay in active military service.

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 state employee for whom the amount in clause (1) is greater than the amount in clause (2). Payments must be made at the intervals at which the member received pay as a state employee, except that any back pay due under this section may be paid as 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. An eligible member of the National Guard or other reserve component of the United States Armed Forces may apply for the pay differential benefits authorized under this section prior to, during, or following the person's active military service on or after May 29, 2003.

(b) An eligible member of the reserve components of the United States Armed Forces of the United States is a reservist or National Guard member who was an employee of the state of Minnesota at the time the member reported took military leave under section 192.261 to report for active military service.

(c) For ~~the~~ purposes of this section, an employee of the state is an employee of the executive, judicial, or legislative branch of state government or an employee of the Minnesota State Retirement System, the Public Employee Retirement Association, or the Teachers Retirement Association.

(d) For purposes of this section, the term "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; and

(4) service performed as part of the active guard/reserve program pursuant to United States Code, title 32, section 502(f), or other applicable authority.

(e) The agency head 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 reports for active military service.~~ If the employee had elected dependent coverage for health or dental coverage as of the time that the employee reported for active service, the agency head must offer the employee the option to continue the dependent coverage at the employee's own expense. The agency head 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. An employee who has opted to continue a permitted benefit may cancel that continuation at anytime during the person's military leave by written notification from the employee, or from the employee's designated attorney-in-fact under a power of attorney, to the agency head or the commissioner of employee relations.

(f) The agency head must periodically inform in writing all agency personnel who are or may be members of the reserve component of the United States Armed Forces of the benefits provided under this section and of the procedures relevant to securing those benefits, including, but not limited to, any procedures regarding the continuation and discontinuation of any optional deductions. It will suffice to meet this requirement if the agency head posts the information on the agency Web site in a highly recognizable manner that can be easily found and understood by the employees to whom it might apply.

Upon being ordered to active duty, the employee must notify the agency head of that order in a timely manner and must provide to the agency head the name of and contact information for the employee's designated attorney-in-fact under a power of attorney. Prior to the commencement of the employee's military leave, the agency head must ensure the agency's receipt of that information and immediately convey that information to the commissioners of finance and employee relations, including any subsequent change in that designation by the employee. When communicating with the employee during the person's military leave, the agency head and the commissioners of finance and employee relations must immediately provide a copy of the communication to the employee's designated attorney-in-fact. Those officials must also honor requests for information or other appropriate directives from that designee on behalf of the employee during the employee's military leave.

(g) The commissioners of employee relations and finance shall adopt procedures required to implement this section. The procedures are exempt from chapter 14.

~~(g)~~ (h) This section does not apply to a judge, legislator, or constitutional officer of the executive branch.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to state employees serving in active military service on or after May 29, 2003.

Sec. 2. Minnesota Statutes 2004, section 190.16, is amended by adding a subdivision to read:

Subd. 6a. [RENTAL OF CAMP RIPLEY FACILITIES.] The adjutant general or the adjutant general's designee may rent buildings or other facilities at Camp Ripley to persons under terms and conditions specified by the adjutant general or designee. Subject to any prohibitions or restrictions in any agreement between the United States and the state of Minnesota, proceeds of rentals under this subdivision must be applied as follows:

(1) payment of increased utilities, maintenance, or other costs directly attributable to the rental;

(2) other operating and maintenance or repair costs for the building or facility being rented; and

(3) maintenance and improvement of buildings or other facilities at Camp Ripley.

Rentals under this subdivision must be made under terms and conditions that do not conflict with the use of Camp Ripley for military purposes.

Sec. 3. Minnesota Statutes 2004, section 192.19, is amended to read:

192.19 [RETIRED MEMBERS MAY BE ORDERED TO ACTIVE DUTY.]

The commander-in-chief or the adjutant general may assign officers, warrant officers, and enlisted personnel on the retired list, with their consent, to temporary active service in recruiting, upon courts-martial, courts of inquiry and boards, to staff duty not involving service with troops, or in charge of a military reservation left temporarily without officers. Such personnel while so assigned shall receive the full pay and allowances of their grades at time of retirement, except that the commander-in-chief or the adjutant general may authorize pay and allowances in a higher grade when it is considered appropriate based on special skills or experience of the person being assigned to temporary active service.

Sec. 4. Minnesota Statutes 2004, section 192.261, subdivision 1, is amended to read:

Subdivision 1. [LEAVE OF ABSENCE WITHOUT PAY.] Subject to the conditions hereinafter prescribed, any officer or employee of the state or of any political subdivision, municipal corporation, or other public agency of the state who engages in active service in time of war or other emergency declared by proper authority in any of the military or naval forces of the state or of the United States for which leave is not otherwise allowed by law shall be entitled to leave of absence from the officer's or employee's public office or employment without pay during such service, with right of reinstatement as hereinafter provided. Such leave of absence without pay, whether heretofore or hereafter, shall not extend beyond four years plus such additional time in each case as such an officer or employee may be required to serve pursuant to law. This shall not be construed to preclude the allowance of leave with pay for such service to any person entitled thereto under section 43A.183, 192.26, or 471.975. Nothing in this section contained shall affect any of the provisions or application of section 352.27 nor of section 192.26 to 192.264, or any laws amendatory thereof, insofar as such sections pertain to the state employees retirement association or its members.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to state employees serving in active military service on or after May 29, 2003.

Sec. 5. Minnesota Statutes 2004, section 192.261, subdivision 2, is amended to read:

Subd. 2. [REINSTATEMENT.] Except as otherwise hereinafter provided, upon the completion of such service such officer or employee shall be reinstated in the public position, which was held at the time of entry into such service, or a public position of like seniority, status, and pay if such is available at the same salary which the officer

or employee would have received if the leave had not been taken, upon the following conditions: (1) that the position has not been abolished or that the term thereof, if limited, has not expired; (2) that the officer or employee is not physically or mentally disabled from performing the duties of such position; (3) that the officer or employee makes written application for reinstatement to the appointing authority within 90 days after termination of such service, or 90 days after discharge from hospitalization or medical treatment which immediately follows the termination of, and results from, such service; provided such application shall be made within one year and 90 days after termination of such service notwithstanding such hospitalization or medical treatment; (4) that the officer or employee submits an honorable discharge or other form of release by proper authority indicating that the officer's or employee's military or naval service was satisfactory. Upon such reinstatement the officer or employee shall have the same rights with respect to accrued and future seniority status, efficiency rating, vacation, sick leave, and other benefits as if that officer or employee had been actually employed during the time of such leave. The officer or employee reinstated under this section is entitled to vacation and sick leave with pay as provided in any applicable civil service rules, collective bargaining agreement, or compensation plan, and accumulates vacation and sick leave from the time the person enters active military service until the date of reinstatement without regard to any otherwise applicable limits on civil service rules limiting the number of days which may be accumulated. No officer or employee so reinstated shall be removed or discharged within one year thereafter except for cause, after notice and hearing; but this shall not operate to extend a term of service limited by law.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to any public officer or public employee serving in active military service on or after September 11, 2001.

Sec. 6. Minnesota Statutes 2004, 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,~~ (c) Notwithstanding paragraph (b), clause (1), for a person who:

(1) has satisfactorily completed the person's service contract in the Minnesota National Guard or the portion of it involving selective reserve status, for which any part of that service was spent serving honorably in federal active service or federally funded state active service since September 11, 2001, the person's eligibility is extended for a period of two years, plus an amount of time equal to the duration of that person's active service, subject to the credit hours limit in paragraph (h); or

(2) has served honorably in the Minnesota National Guard and has been separated or discharged from that organization due to a service-connected injury, disease, or disability, the eligibility period is extended for eight years beyond the date of separation, subject to the credit hours limit in paragraph (h).

(d) Notwithstanding paragraph (b), clause (1), a member or former member of the Minnesota National Guard who is eligible for tuition and textbook reimbursement grant benefits under this section and has eligibility remaining under the credit hours limit in paragraph (h), and who has a service-connected disability rating of 30 percent or more

as certified by the United States Department of Veterans Affairs, may transfer the person's remaining eligibility to the person's spouse for use in place of the member or former member, subject to the credit hours limit in paragraph (h) for the member and spouse combined, and subject to any time limits applicable to the member or former member. Notwithstanding any such transfer of grant benefits by the member or former member to the person's spouse, the person may revoke that transfer at anytime; however, any such revocation does not restore the credit hours of eligibility already used by the spouse.

(e) 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, with each eligible person independently subject to the credit hours limit in paragraph (h).

(f) The adjutant general may, within the limitations of ~~this paragraph~~ paragraphs (b) to (e) and other applicable laws, determine additional eligibility criteria for the grant, and must specify the criteria in department regulations and publish changes as necessary.

~~(g)~~ (g) 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) 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) 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 (h)~~ Paragraphs (b) to (f) 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.

~~(i)~~ (i) 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.

~~(j)~~ (j) 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. However, this authority does not apply to a person whose separation from the Minnesota National Guard is due to a medical condition or financial hardship.

(k) For purposes of this section, the terms "active service," "state active service," "federally funded state active service," and "federal active service" have the meanings given in section 190.05, subdivisions 5 to 5c, respectively, except that for purposes of paragraph (c), clause (1), these terms exclude 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;

(3) service performed in accordance with section 190.08, subdivision 3; and

(4) service performed as part of the active guard/reserve program pursuant to United States Code, title 32, section 502(f), or other applicable authority.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to persons who have served in the Minnesota National Guard at anytime since September 11, 2001, and if the person has died in the line of service, to the person's surviving spouse and dependents as well.

Sec. 7. Minnesota Statutes 2004, section 193.29, subdivision 3, is amended to read:

Subd. 3. [JOINT BOARDS.] In all cases in which more than one company or other unit of the military forces shall occupy the same armory, the armory board shall consist of ~~officers~~ military personnel assigned to the units or organizations quartered therein. The adjutant general shall designate by order from time to time the representatives of each unit quartered therein to comprise the armory board for each armory. In the discretion of the adjutant general, the membership of the board may be comprised of officers, warrant officers, and enlisted personnel and may be changed from time to time so as to give the several organizations quartered therein proper representation on the board.

Sec. 8. Minnesota Statutes 2004, section 193.30, is amended to read:

193.30 [~~COMMANDING OFFICERS~~ MANAGEMENT OF ARMORY BOARD.]

The senior ~~officer member~~ on each armory board shall be the chair, and the junior ~~officer member~~ thereof shall be the recorder. A record of the proceedings of the board shall be kept, and all motions offered, whether seconded or not, shall be put to a vote and the result recorded. In the case of a tie vote the adjutant general, upon the request of any member, shall decide. The governor may make and alter rules for the government of armory boards, officers, and other persons having charge of armories, arsenals, or other military property of the state.

Sec. 9. Minnesota Statutes 2004, section 193.31, is amended to read:

193.31 [~~SENIOR OFFICER TO CONTROL OF~~ DRILL HALL.]

The senior ~~officer member~~ of any company or other organization assembling at an armory for drill or instruction shall have control of the drill hall or other portion of the premises used therefor during such occupancy, subject to the rules prescribed for its use and the orders of that ~~officer's member's~~ superior. Any person who intrudes contrary to orders, or who interrupts, molests, or insults any troops so assembled, or who refuses to leave the premises when properly requested so to do, shall be guilty of a misdemeanor. Nothing in this section shall prevent reasonable inspection of the premises by the proper municipal officer, or by the lessor thereof in accordance with the terms of the lease.

Sec. 10. Minnesota Statutes 2004, section 471.975, is amended to read:

471.975 [MAY PAY DIFFERENTIAL OF RESERVE ON ACTIVE DUTY.]

(a) Except as provided in paragraph (b), a statutory or home rule charter city, county, town, 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 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.

(d) ~~Notwithstanding other obligations under law and~~ Except as provided in paragraph (e) and elsewhere in Minnesota Statutes, 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.

(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.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to any public officer or public employee serving in active military service on or after September 11, 2001.

ARTICLE 7

VETERANS

Section 1. [196.28] [HEPATITIS C EDUCATIONAL MATERIALS.]

The commissioner of veterans affairs may develop and make available to physicians, other health care providers, veterans, and other persons at high risk for hepatitis C (HCV) educational materials, in written and electronic forms, on the diagnosis, treatment, and prevention of HCV. The educational materials may include recommendations of the federal Centers for Disease Control and Prevention and any other person or entity having knowledge on HCV, including the American Liver Foundation. The materials shall be written in terms understandable by members of the general public.

Sec. 2. Minnesota Statutes 2004, section 197.608, subdivision 5, is amended to read:

Subd. 5. [QUALIFYING USES.] The commissioner shall consult with the Minnesota Association of County Veterans Service Officers in developing a list of qualifying uses for grants awarded under this program. The commissioner is authorized to use any unexpended funding for this program to provide training and education for county veterans service officers.

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

Sec. 3. [197.80] [LIMITATION ON CONDEMNATION.]

No county in the metropolitan area may acquire by eminent domain property owned or leased and operated by a nonprofit organization and primarily used to provide recreational opportunities to disabled veterans and their families.

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

Sec. 4. Minnesota Statutes 2004, section 394.25, is amended by adding a subdivision to read:

Subd. 3d. [NONPROFIT RECREATIONAL PROPERTY FOR USE BY DISABLED VETERANS.] Property located in a county in the metropolitan area with a population of less than 500,000, and owned or leased and operated by a nonprofit organization, and primarily used to provide recreational opportunities for disabled veterans and their families is a legal conforming use for purposes of zoning controls. Improvements to such property shall be allowed under the terms of a planned unit development permit.

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

Sec. 5. Minnesota Statutes 2004, section 462.357, is amended by adding a subdivision to read:

Subd. 1g. [NONPROFIT RECREATIONAL PROPERTY FOR USE BY DISABLED VETERANS.] Property located in a county in the metropolitan area with a population of less than 500,000, and owned or leased and operated by a nonprofit organization, and primarily used to provide recreational opportunities for disabled veterans and their families is a legal conforming use for purposes of zoning controls. Improvements to such property shall be allowed under the terms of a planned unit development permit.

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

Sec. 6. Minnesota Statutes 2004, section 473.147, is amended by adding a subdivision to read:

Subd. 1a. [DISABLED VETERANS REST CAMP EXCLUDED FROM REGIONAL RECREATIONAL OPEN SPACE SYSTEM.] Property occupied by the Disabled Veterans Rest Camp on Big Marine Lake in Washington County is excluded from the regional recreational open space system.

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

Sec. 7. Laws 2000, chapter 461, article 4, section 4, as amended by Laws 2003, First Special Session chapter 12, article 6, section 3, and Laws 2004, chapter 267, article 17, section 7, 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, 2006.~~

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

Sec. 8. ~~[RESTRICTIONS LIMITED.]~~

No county may take any action to encumber or restrict ingress or egress below levels permissible on January 1, 2005, to property located in a county in the metropolitan area with a population of less than 500,000, and owned or leased and operated by a nonprofit organization, and primarily used to provide recreational opportunities to disabled veterans and their families.

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

Sec. 9. ~~[DISABLED VETERANS CAMP REQUIREMENTS.]~~

The Disabled Veterans Rest Camp on Big Marine Lake in Washington County ("The Camp") must develop and promote camp features and amenities for veterans who are disabled or have limited physical capabilities. The camp shall modify its operating policies and procedures to include provisions for the regular rotation of the use of campsites, cabins, and parking spots for travel trailers, limiting the time that any one veteran can use the cabin and campsites especially when there is a waiting list of veterans with service-connected disabilities.

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

Sec. 10. ~~[PLAQUE HONORING VETERANS OF THE PERSIAN GULF WAR.]~~

A memorial plaque may be placed in the court of honor on the capitol grounds to recognize the valiant service to our nation by the thousands of brave men and women who served honorably as members of the United States Armed Forces during the Persian Gulf War. The plaque must be furnished by a person or organization other than the Department of Veterans Affairs and must be approved by the commissioner of veterans affairs and the Capitol Area Architectural and Planning Board.

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

Sec. 11. [REPEALER.]

Minnesota Statutes 2004, sections 43A.11, subdivision 2; and 197.455, subdivision 3, are repealed.

ARTICLE 8

ELECTIONS AND CAMPAIGN FINANCE

Section 1. Minnesota Statutes 2004, section 3.02, is amended to read:

3.02 [EVIDENCE OF MEMBERSHIP.]

For all purposes of organization of either house of the legislature, a certificate of election to it, duly executed by the secretary of state, is prima facie evidence of the right to membership of the person named in it. The secretary of state shall issue the certificate of election in duplicate and shall file and retain one copy for the official records of the state and present one copy to each legislator.

Sec. 2. Minnesota Statutes 2004, section 10A.01, subdivision 5, is amended to read:

Subd. 5. [ASSOCIATED BUSINESS.] "Associated business" means an association, corporation, partnership, limited liability company, limited liability partnership, or other organized legal entity from which the individual receives compensation in excess of \$50, except for actual and reasonable expenses, in any month as a director, officer, owner, member, partner, employer or employee, or whose securities the individual holds worth \$2,500 or more at fair market value.

Sec. 3. Minnesota Statutes 2004, section 10A.01, subdivision 21, is amended to read:

Subd. 21. [LOBBYIST.] (a) "Lobbyist" means an individual:

(1) engaged for pay or other consideration of more than \$3,000 from all sources in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials; or

(2) who spends more than \$250, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

(b) "Lobbyist" does not include:

(1) a public official;

(2) an employee of the state, including an employee of any of the public higher education systems;

(3) an elected local official;

(4) a nonelected local official or an employee of a political subdivision acting in an official capacity, unless the nonelected official or employee of a political subdivision spends more than ~~50~~ ten hours in any month attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit other than the political subdivision employing the official or employee, by communicating or urging others to communicate

with public or local officials, including time spent monitoring legislative or administrative action, or the official action of a metropolitan governmental unit, and related research, analysis, and compilation and dissemination of information relating to legislative or administrative policy in this state, or to the policies of metropolitan governmental units, but not including travel time related to these actions;

(5) a party or the party's representative appearing in a proceeding before a state board, commission, or agency of the executive branch unless the board, commission, or agency is taking administrative action;

(6) an individual while engaged in selling goods or services to be paid for by public funds;

(7) a news medium or its employees or agents while engaged in the publishing or broadcasting of news items, editorial comments, or paid advertisements which directly or indirectly urge official action;

(8) a paid expert witness whose testimony is requested by the body before which the witness is appearing, but only to the extent of preparing or delivering testimony; or

(9) a party or the party's representative appearing to present a claim to the legislature and communicating to legislators only by the filing of a claim form and supporting documents and by appearing at public hearings on the claim.

(c) An individual who volunteers personal time to work without pay or other consideration on a lobbying campaign, and who does not spend more than the limit in paragraph (a), clause (2), need not register as a lobbyist.

(d) An individual who provides administrative support to a lobbyist and whose salary and administrative expenses attributable to lobbying activities are reported as lobbying expenses by the lobbyist, but who does not communicate or urge others to communicate with public or local officials, need not register as a lobbyist.

Sec. 4. Minnesota Statutes 2004, section 10A.01, subdivision 23, is amended to read:

Subd. 23. [MAJOR POLITICAL PARTY.] "Major political party" means:

(1) a major political party as defined in section 200.02, subdivision 7; or

(2) a political party that maintains a party organization in the state, political subdivision, or precinct in question and that has presented at least 45 candidates for election to the office of state representative, 23 candidates for election to the office of state senator, four candidates for the office of representative in Congress, and one candidate for each of the following offices: governor and lieutenant governor, attorney general, secretary of state, and state auditor at the last preceding state general election for those offices. A political party that presents the required candidates at a state general election described in this clause becomes a major political party as of January 1 following that election and retains its major party status notwithstanding that the party fails to present the required candidates at the following state general election. A major political party that fails to present the required candidates at the following state general election loses major party status as of December 31 following the most recent state general election.

Sec. 5. Minnesota Statutes 2004, section 10A.01, subdivision 26, is amended to read:

Subd. 26. [NONCAMPAIGN DISBURSEMENT.] "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, or a donation in kind received, by a principal campaign committee for any of the following purposes:

(1) payment for accounting and legal services;

- (2) return of a contribution to the source;
- (3) repayment of a loan made to the principal campaign committee by that committee;
- (4) return of a public subsidy;
- (5) payment for food, beverages, entertainment, and facility rental for a fund-raising event;
- (6) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, including the costs of preparing and distributing a suggestion or idea solicitation to constituents, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and half the cost of services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die;
- (7) payment for food and beverages provided to campaign volunteers while they are engaged in campaign activities;
- (8) payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities;
- (9) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses;
- (10) costs of child care for the candidate's children when campaigning;
- (11) fees paid to attend a campaign school;
- (12) costs of a postelection party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first;
- (13) interest on loans paid by a principal campaign committee on outstanding loans;
- (14) filing fees;
- (15) post-general election thank-you notes or advertisements in the news media;
- (16) the cost of campaign material purchased to replace defective campaign material, if the defective material is destroyed without being used;
- (17) contributions to a party unit; ~~and~~
- (18) other purchases or payments specified in board rules or advisory opinions as being for any purpose other than to influence the nomination or election of a candidate or to promote or defeat a ballot question; and
- (19) payments for attending a state or national convention and payments for funeral gifts or memorials.

The board must determine whether an activity involves a noncampaign disbursement within the meaning of this subdivision.

A noncampaign disbursement is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

[EFFECTIVE DATE.] This section is effective retroactive to February 28, 1978.

Sec. 6. Minnesota Statutes 2004, section 10A.025, is amended by adding a subdivision to read:

Subd. 1a. [ELECTRONIC FILING.] A report or statement required to be filed under this chapter may be filed electronically. The board shall adopt rules to regulate electronic filing and to ensure that the electronic filing process is secure.

Sec. 7. Minnesota Statutes 2004, section 10A.071, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] (a) The prohibitions in this section do not apply if the gift is:

(1) a contribution as defined in section 10A.01, subdivision 11;

(2) services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents;

(3) services of insignificant monetary value;

(4) a plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause;

(5) a trinket or memento of insignificant value;

(6) informational material of unexceptional value; ~~or~~

(7) food or a beverage given at a reception, meal, or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program; or

(8) food or a beverage of a nominal value given at a reception to which all relevant members of the legislature have been invited.

(b) The prohibitions in this section do not apply if the gift is given:

(1) because of the recipient's membership in a group, a majority of whose members are not officials, and an equivalent gift is given to the other members of the group; or

(2) by a lobbyist or principal who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family.

Sec. 8. Minnesota Statutes 2004, section 10A.08, is amended to read:

10A.08 [REPRESENTATION DISCLOSURE.]

A public official who represents a client for a fee before an individual, board, commission, or agency that has rulemaking authority in a hearing conducted under chapter 14, must disclose the official's participation in the action to the board within 14 days after the appearance. The board must send a notice by certified mail to any public official who fails to disclose the participation within 14 days after the appearance. If the public official fails to disclose the participation within ten business days after the notice was sent, the board may impose a late filing fee of \$5 per day, not to exceed \$100, starting on the 11th day after the notice was sent. The board must send an additional notice by certified mail to a public official who fails to disclose the participation within 14 days after the first notice was sent by the board that the public official may be subject to a civil penalty for failure to disclose the participation. A public official who fails to disclose the participation within seven days after the second notice was sent by the board is subject to a civil penalty imposed by the board of up to \$1,000.

Sec. 9. Minnesota Statutes 2004, section 10A.20, subdivision 2, is amended to read:

Subd. 2. [TIME FOR FILING.] (a) The reports must be filed with the board on or before January 31 of each year and additional reports must be filed as required and in accordance with paragraphs (b) and (c).

(b) In each year in which the name of the candidate is on the ballot, the report of the principal campaign committee must be filed 15 days before a primary and ten days before a general election, seven days before a special primary and a special election, and ten days after a special election cycle, except as otherwise provided by subdivision 3b.

(c) In each general election year, a political committee, political fund, or party unit must file reports 15 days before a primary and ten days before a general election.

Sec. 10. Minnesota Statutes 2004, section 10A.20, is amended by adding a subdivision to read:

Subd. 3b. [REPORT BY CANDIDATE WITHOUT PRIMARY OPPOSITION.] Notwithstanding the provisions of subdivision 3, if a candidate does not have an opponent at a primary or special primary, the candidate's principal campaign committee must file, 15 days before a primary and seven days before a special primary, a report containing only the following:

(1) the amount of liquid assets on hand at the beginning of the reporting period;

(2) the sum of contributions to the principal campaign committee during the reporting period;

(3) the sum of all expenditures made by or on behalf of the principal campaign committee during the reporting period; and

(4) the information required by subdivision 3, paragraph (b).

Sec. 11. Minnesota Statutes 2004, section 10A.20, subdivision 5, is amended to read:

Subd. 5. [PREELECTION REPORTS.] In a statewide election any loan, contribution, or contributions from any one source totaling \$2,000 or more, or in any judicial district or legislative election totaling more than \$400, received between the last day covered in the last report before an election and the election must be reported to the board in one of the following ways:

(1) in person within 48 hours after its receipt;

(2) by telegram or mailgram within 48 hours after its receipt; ~~or~~

(3) by certified mail sent within 48 hours after its receipt; or

(4) by electronic means sent within 48 hours after its receipt.

These loans and contributions must also be reported in the next required report.

The 48-hour notice requirement does not apply with respect to a primary in which the statewide or legislative candidate is unopposed.

Sec. 12. Minnesota Statutes 2004, section 10A.27, subdivision 1, is amended to read:

Subdivision 1. [CONTRIBUTION LIMITS.] (a) Except as provided in subdivision 2, a candidate must not permit the candidate's principal campaign committee to accept aggregate contributions made or delivered by any individual, political committee, or political fund in excess of the following:

(1) to candidates for governor and lieutenant governor running together, \$2,000 in an election year for the office sought and \$500 in other years;

(2) to a candidate for attorney general, \$1,000 in an election year for the office sought and \$200 in other years;

(3) to a candidate for the office of secretary of state or state auditor, \$500 in an election year for the office sought and \$100 in other years;

(4) to a candidate for state senator, \$500 in an election year for the office sought and \$100 in other years; and

(5) to a candidate for state representative, \$500 in an election year for the office sought and \$100 in the other year.

(b) The following deliveries are not subject to the bundling limitation in this subdivision:

(1) delivery of contributions collected by a member of the candidate's principal campaign committee, such as a block worker or a volunteer who hosts a fund-raising event, to the committee's treasurer; and

(2) a delivery made by an individual on behalf of the individual's spouse.

(c) A lobbyist, political committee, political party unit, or political fund must not make a contribution a candidate is prohibited from accepting.

Sec. 13. Minnesota Statutes 2004, section 10A.28, subdivision 2, is amended to read:

Subd. 2. [EXCEEDING CONTRIBUTION LIMITS.] ~~A political committee, political fund, or principal campaign committee that makes a contribution, or a candidate who permits the candidate's principal campaign committee to accept contributions, in excess of the limits imposed by section 10A.27 is subject to a civil penalty of up to four times the amount by which the contribution exceeded the limits. The following are subject to a civil penalty of up to four times the amount by which a contribution exceeds the applicable limits:~~

(1) a lobbyist, political committee, or political fund that makes a contribution in excess of the limits imposed by section 10A.27, subdivisions 1 and 8;

(2) a principal campaign committee that makes a contribution in excess of the limits imposed by section 10A.27, subdivision 2;

(3) a political party unit that makes a contribution in excess of the limits imposed by section 10A.27, subdivisions 2 and 8; or

(4) a candidate who permits the candidate's principal campaign committee to accept contributions in excess of the limits imposed by section 10A.27.

Sec. 14. Minnesota Statutes 2004, section 10A.31, subdivision 1, is amended to read:

Subdivision 1. [DESIGNATION.] An individual resident of this state who files an income tax return or a renter and homeowner property tax refund return with the commissioner of revenue may designate on their original return that ~~\$5 be paid from the general fund of the state~~ \$1 to \$25, or \$1 to \$50 if the return is filed jointly, be added to the tax or deducted from the refund that would otherwise be payable by or to the individual and paid into the state elections campaign fund. ~~If a husband and wife file a joint return, each spouse may designate that \$5 be paid. No individual is allowed to designate \$5 more than once in any year.~~ The taxpayer may designate that the amount be paid into the account of a political party or into the general account. Designations made under this section are not eligible for refund under section 290.06, subdivision 23.

[EFFECTIVE DATE.] This section is effective beginning with designations made on income tax returns filed for tax years beginning after December 31, 2004, and property tax refund returns based on property taxes payable in 2006 or rent constituting property taxes paid in 2005.

Sec. 15. Minnesota Statutes 2004, section 10A.31, subdivision 3, is amended to read:

Subd. 3. [FORM.] The commissioner of revenue must provide on ~~the first page of~~ the income tax form and the renter and homeowner property tax refund return a space for the individual to indicate a wish to pay ~~\$5 (\$10 \$1 to \$25, or \$1 to \$50 if filing a joint return) from the general fund of the state,~~ to finance election campaigns. The form must also contain language prepared by the commissioner that permits the individual to direct the ~~state to pay the \$5 (or \$10 if filing a joint return)~~ designation to: (1) one of the major political parties; (2) any minor political party that qualifies under subdivision 3a; or (3) all qualifying candidates as provided by subdivision 7. ~~The renter and homeowner property tax refund return must include instructions that the individual filing the return may designate \$5 on the return only if the individual has not designated \$5 on the income tax return.~~

[EFFECTIVE DATE.] This section is effective beginning with designations made on income tax returns filed for tax years beginning after December 31, 2004, and property tax refund returns based on property taxes payable in 2006 or rent constituting property taxes paid in 2005.

Sec. 16. Minnesota Statutes 2004, section 10A.31, subdivision 4, is amended to read:

Subd. 4. [APPROPRIATION.] ~~(a)~~ The amounts designated by individuals for the state elections campaign fund, less three percent, ~~are appropriated from the general fund,~~ must be transferred and credited to the appropriate account in the state elections campaign fund, and are annually appropriated for distribution as set forth in subdivisions 5, 5a, 6, and 7. The remaining three percent must be kept in the ~~general~~ state elections campaign fund for administrative costs.

~~(b) In addition to the amounts in paragraph (a), \$1,500,000 for each general election is appropriated from the general fund for transfer to the general account of the state elections campaign fund.~~

Of this appropriation, \$65,000 each fiscal year must be set aside to pay assessments made by the Office of Administrative Hearings under section 211B.37. Amounts remaining after all assessments have been paid must be canceled to the general account.

[EFFECTIVE DATE.] The changes to paragraph (a) are effective beginning with designations made on income tax returns filed for tax years beginning after December 31, 2004, and property tax refund returns based on property taxes payable in 2006 or rent constituting property taxes paid in 2005. The changes to paragraph (b) are effective for appropriations for general elections occurring after December 31, 2004.

Sec. 17. Minnesota Statutes 2004, section 10A.31, subdivision 5, is amended to read:

Subd. 5. [ALLOCATION.] (a) [GENERAL ACCOUNT.] In each calendar year the money in the general account must be allocated to candidates as follows:

(1) 21 percent for the offices of governor and lieutenant governor together;

(2) 4.2 percent for the office of attorney general;

(3) 2.4 percent each for the offices of secretary of state and state auditor;

(4) in each calendar year during the period in which state senators serve a four-year term, 23-1/3 percent for the office of state senator, and 46-2/3 percent for the office of state representative; and

(5) in each calendar year during the period in which state senators serve a two-year term, 35 percent each for the offices of state senator and state representative.

(b) [PARTY ACCOUNT.] In each calendar year the money in each party account must be allocated as follows:

(1) 14 percent for the offices of governor and lieutenant governor together;

(2) 2.8 percent for the office of attorney general;

(3) 1.6 percent each for the offices of secretary of state and state auditor;

(4) in each calendar year during the period in which state senators serve a four-year term, ~~23-1/3~~ 28-1/3 percent for the office of state senator, and ~~46-2/3~~ 51-2/3 percent for the office of state representative; and

(5) in each calendar year during the period in which state senators serve a two-year term, ~~35~~ 40 percent each for the offices of state senator and state representative; ~~and~~

~~(6) ten percent for the state committee of a political party.~~

~~Money allocated to each state committee under clause (6) must be deposited in a separate account and must be spent for only those items enumerated in section 10A.275. Money allocated to a state committee under clause (6) must be paid to the committee by the board as it is received in the account on a monthly basis, with payment on the 15th day of the calendar month following the month in which the returns were processed by the Department of Revenue, provided that these distributions would be equal to 90 percent of the amount of money indicated in the Department of Revenue's weekly unedited reports of income tax returns and property tax refund returns processed in the month, as notified by the Department of Revenue to the board. The amounts paid to each state committee are subject to biennial adjustment and settlement at the time of each certification required of the commissioner of revenue under subdivisions 7 and 10. If the total amount of payments received by a state committee for the period reflected on a certification by the Department of Revenue is different from the amount that should have been received during the period according to the certification, each subsequent monthly payment must be increased or decreased to the fullest extent possible until the amount of the overpayment is recovered or the underpayment is distributed.~~

Sec. 18. Minnesota Statutes 2004, section 10A.31, subdivision 6a, is amended to read:

Subd. 6a. [PARTY ACCOUNT MONEY NOT DISTRIBUTED.] Money from a party account not distributed to candidates for state senator or representative in any election year must be returned to the general fund of the state, except that the subsidy from the party account an unopposed candidate would otherwise have been eligible to receive must be paid to the state committee of the candidate's political party to be deposited in a special account ~~under subdivision 5, paragraph (b), clause (6)~~, and used for only those items permitted under section 10A.275. Money from a party account not distributed to candidates for other offices in an election year must be returned to the party account for reallocation to candidates as provided in subdivision 5, paragraph (b), in the following year.

Sec. 19. Minnesota Statutes 2004, section 200.02, subdivision 7, is amended to read:

Subd. 7. [MAJOR POLITICAL PARTY.] (a) "Major political party" means a political party that maintains a party organization in the state, political division or precinct in question and that has presented at least one candidate for election to the office of:

(1) governor and lieutenant governor, secretary of state, state auditor, or attorney general at the last preceding state general election for those offices; or

(2) presidential elector or U.S. senator at the last preceding state general election for presidential electors; and

whose candidate received votes in each county in that election and received votes from not less than five percent of the total number of individuals who voted in that election.

(b) "Major political party" also means a political party that maintains a party organization in the state, political subdivision, or precinct in question and whose members present to the secretary of state at any time before the close of filing for the state partisan primary ballot a petition for a place on the state partisan primary ballot, which petition contains signatures of a number of the party members equal to at least five percent of the total number of individuals who voted in the preceding state general election.

(c) A political party whose candidate receives a sufficient number of votes at a state general election described in paragraph (a) becomes a major political party as of January 1 following that election and retains its major party status ~~notwithstanding that for at least two state general elections even if~~ the party fails to present a candidate who receives the number and percentage of votes required under paragraph (a) ~~at the following subsequent state general election elections.~~

(d) A major political party whose candidates fail to receive the number and percentage of votes required under paragraph (a) ~~at either each of two consecutive state general election elections~~ described by paragraph (a) loses major party status as of December 31 following the ~~most recent~~ later of the two consecutive state general election elections.

Sec. 20. Minnesota Statutes 2004, section 200.02, subdivision 23, is amended to read:

Subd. 23. [MINOR POLITICAL PARTY.] (a) "Minor political party" means a political party that is not a major political party as defined by subdivision 7 and that has adopted a state constitution, designated a state party chair, held a state convention in the last two years, filed with the secretary of state no later than December 31 following the most recent state general election a certification that the party has met the foregoing requirements, and met the requirements of paragraph (b) or (e), as applicable.

(b) To be considered a minor party in all elections statewide, the political party must have presented at least one candidate for election to the office of:

(1) governor and lieutenant governor, secretary of state, state auditor, or attorney general, at the last preceding state general election for those offices; or

(2) presidential elector or U.S. senator at the preceding state general election for presidential electors; and

who received votes in each county that in the aggregate equal at least one percent of the total number of individuals who voted in the election, or its members must have presented to the secretary of state at any time before the close of filing for the state partisan primary ballot a nominating petition in a form prescribed by the secretary of state containing the signatures of party members in a number equal to at least one percent of the total number of individuals who voted in the preceding state general election.

(c) A political party whose candidate receives a sufficient number of votes at a state general election described in paragraph (b) becomes a minor political party as of January 1 following that election and retains its minor party status ~~notwithstanding that~~ for at least two state general elections even if the party fails to present a candidate who receives the number and percentage of votes required under paragraph (b) ~~at the following subsequent state general election elections.~~

(d) A minor political party whose candidates fail to receive the number and percentage of votes required under paragraph (b) ~~at either each of two consecutive state general election elections~~ described by paragraph (b) loses minor party status as of December 31 following the ~~most recent~~ later of the two consecutive state general election elections.

(e) To be considered a minor party in an election in a legislative district, the political party must have presented at least one candidate for a legislative office in that district who received votes from at least ten percent of the total number of individuals who voted for that office, or its members must have presented to the secretary of state a nominating petition in a form prescribed by the secretary of state containing the signatures of party members in a number equal to at least ten percent of the total number of individuals who voted in the preceding state general election for that legislative office.

Sec. 21. Minnesota Statutes 2004, section 200.02, is amended by adding a subdivision to read:

Subd. 24. [METROPOLITAN AREA.] "Metropolitan area" means the counties of Ramsey, Hennepin, Anoka, Washington, Dakota, Scott, Carver, Wright, Sherburne, Isanti, and Chisago.

Sec. 22. Minnesota Statutes 2004, section 201.022, is amended by adding a subdivision to read:

Subd. 3. [CONSULTATION WITH LOCAL OFFICIALS.] Representatives of local election officials shall be consulted in the development of the statewide voter registration system.

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

Sec. 23. Minnesota Statutes 2004, section 201.061, subdivision 3, is amended to read:

Subd. 3. [ELECTION DAY REGISTRATION.] An individual who is eligible to vote may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence, by completing a registration application, making an oath in the form prescribed by the secretary of state and providing proof of residence. An individual may prove residence for purposes of registering by:

- (1) presenting a driver's license or Minnesota identification card issued pursuant to section 171.07;
- (2) presenting any document approved by the secretary of state as proper identification;
- (3) presenting one of the following:

(i) a current valid student identification card from a postsecondary educational institution in Minnesota, if a list of students from that institution has been prepared under section 135A.17 and certified to the county auditor in the manner provided in rules of the secretary of state; or

(ii) a current student fee statement that contains the student's valid address in the precinct together with a picture identification card; or

(4) having a voter who is registered to vote in the precinct sign an oath in the presence of the election judge vouching that the voter personally knows that the individual is a resident of the precinct. A voter who has been vouched for on election day may not sign a proof of residence oath vouching for any other individual on that election day. A voter who is registered to vote in the precinct may sign up to 15 proof-of-residence oaths on any election day. The oath required by this subdivision and Minnesota Rules, part 8200.9939, must be attached to the voter registration application and the information on the oath must be recorded on the records of both the voter registering on election day and the voter who is vouching for the person's residence, and entered into the statewide voter registration system by the county auditor when the voter registration application is entered into that system.

For tribal band members ~~living on an Indian reservation~~, an individual may prove residence for purposes of registering by presenting an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the name, ~~street~~ address, signature, and picture of the individual. ~~The county auditor of each county having territory within the reservation shall maintain a record of the number of election day registrations accepted under this section.~~

A county, school district, or municipality may require that an election judge responsible for election day registration initial each completed registration application.

Sec. 24. Minnesota Statutes 2004, section 201.071, subdivision 1, is amended to read:

Subdivision 1. [FORM.] A voter registration application must be of suitable size and weight for mailing and contain spaces for the following required information: voter's first name, middle name, and last name; voter's previous name, if any; voter's current address; voter's previous address, if any; voter's date of birth; voter's municipality and county of residence; voter's telephone number, if provided by the voter; date of registration; current and valid Minnesota driver's license number or Minnesota state identification number, or if the voter has no current and valid Minnesota driver's license or Minnesota state identification, the last four digits of the voter's Social Security number; and voter's signature. The registration application may include the voter's e-mail address, if provided by the voter, and the voter's interest in serving as an election judge, if indicated by the voter. The application must also contain the following certification of voter eligibility:

"I certify that I:

- (1) will be at least 18 years old on election day;
- (2) am a citizen of the United States;
- (3) will have resided in Minnesota for 20 days immediately preceding election day;

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

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

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

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

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

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

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

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

And the instruction:

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

The form of the voter registration application and the certification of voter eligibility must be as provided in this subdivision and approved by the secretary of state. Voter registration forms authorized by the National Voter Registration Act ~~may~~ must also be accepted as valid. The federal postcard application form must also be accepted as valid if it is not deficient and the voter is eligible to register in Minnesota.

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

Sec. 25. Minnesota Statutes 2004, section 201.091, subdivision 5, is amended to read:

Subd. 5. [COPY OF LIST TO REGISTERED VOTER.] The county auditors and the secretary of state shall provide copies of the public information lists in electronic or other media to any voter registered in Minnesota within ten days of receiving a written or electronic request accompanied by payment of the cost of reproduction. The county auditors and the secretary of state shall make a copy of the list available for public inspection without cost. An individual who inspects or acquires a copy of a public information list may not use any information contained in it for purposes unrelated to elections, political activities, or law enforcement.

Sec. 26. Minnesota Statutes 2004, section 203B.01, subdivision 3, is amended to read:

Subd. 3. [MILITARY.] "Military" means the Army, Navy, Air Force, Marine Corps, Coast Guard or Merchant Marine of the United States, and all other uniformed services as defined in United States Code, title 42, section 1973ff-6.

Sec. 27. Minnesota Statutes 2004, section 203B.02, subdivision 1, is amended to read:

Subdivision 1. [~~UNABLE TO GO TO ABSENCE FROM POLLING PLACE.~~] (a) Any eligible voter who reasonably expects to be ~~unable to go to~~ absent from the polling place on election day in the precinct where the individual maintains residence ~~because of absence from the precinct, illness, disability, religious discipline, observance of a religious holiday, or service as an election judge in another precinct~~ may vote by absentee ballot in person at any location where absentee ballots may be cast pursuant to sections 203B.081 and 203B.085, during the

18 days preceding any election. This subdivision does not apply to a special election to fill a vacancy in office pursuant to sections 204D.17 to 204D.27 not held concurrently with a state primary or general election as provided in sections 203B.04 to 203B.15.

(b) Any eligible voter who reasonably expects to be unable to go to the polling place on election day in the precinct where the individual maintains residence because of absence from the precinct, illness, disability, religious discipline, observance of a religious holiday, or service as an election judge in another precinct may vote by absentee ballot as provided in sections 203B.04 to 203B.15.

Sec. 28. Minnesota Statutes 2004, section 203B.04, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION PROCEDURES.] Except as otherwise allowed by subdivision 2, an application for absentee ballots for any election may be submitted at any time not less than one day before the day of that election. The county auditor shall prepare absentee ballot application forms in the format provided ~~in the rules of~~ by the secretary of state, notwithstanding rules on absentee ballot forms, and shall furnish them to any person on request. By January 1 of each even-numbered year, the secretary of state shall make the forms to be used available to auditors through electronic means. An application submitted pursuant to this subdivision shall be in writing and shall be submitted to:

(a) the county auditor of the county where the applicant maintains residence; or

(b) the municipal clerk of the municipality, or school district if applicable, where the applicant maintains residence.

An application shall be approved if it is timely received, signed and dated by the applicant, contains the applicant's name and residence and mailing addresses, and states that the applicant is eligible to vote by absentee ballot for one of the reasons specified in section 203B.02. The application may contain a request for the voter's date of birth, which must not be made available for public inspection. An application may be submitted to the county auditor or municipal clerk by an electronic facsimile device. An application mailed or returned in person to the county auditor or municipal clerk on behalf of a voter by a person other than the voter must be deposited in the mail or returned in person to the county auditor or municipal clerk within ten days after it has been dated by the voter and no later than six days before the election. The absentee ballot applications or a list of persons applying for an absentee ballot may not be made available for public inspection until the close of voting on election day.

An application under this subdivision may contain an application under subdivision 5 to automatically receive an absentee ballot application.

Sec. 29. Minnesota Statutes 2004, section 203B.04, subdivision 4, is amended to read:

Subd. 4. [REGISTRATION AT TIME OF APPLICATION.] An eligible voter who is not registered to vote but who is otherwise eligible to vote by absentee ballot may register by including a completed voter registration card with the absentee ballot. The individual shall present proof of residence as required by section 201.061, subdivision 3, to the individual who witnesses the marking of the absentee ballots. A military voter, as defined in section 203B.01, may register in this manner if voting pursuant to sections 203B.04 to 203B.15, or may register pursuant to sections 203B.16 to 203B.27.

Sec. 30. Minnesota Statutes 2004, section 203B.04, is amended by adding a subdivision to read:

Subd. 6. [ONGOING ABSENTEE STATUS; TERMINATION.] (a) An eligible voter may apply to a county auditor or municipal clerk for status as an ongoing absentee voter who reasonably expects to meet the requirements of section 203B.02, subdivision 1. Each applicant must automatically be provided with an absentee ballot application for each ensuing election other than an election by mail conducted under section 204B.45, and must have the status of ongoing absentee voter indicated on the voter's registration record.

(b) Ongoing absentee voter status ends on:

(1) the voter's written request;

(2) the voter's death;

(3) return of an ongoing absentee ballot as undeliverable;

(4) a change in the voter's status so that the voter is not eligible to vote under section 201.15 or 201.155; or

(5) placement of the voter's registration on inactive status under section 201.171.

Sec. 31. Minnesota Statutes 2004, section 203B.07, subdivision 2, is amended to read:

Subd. 2. [DESIGN OF ENVELOPES.] The return envelope shall be of sufficient size to conveniently enclose and contain the ballot envelope and a voter registration card folded along its perforations. The return envelope shall be designed to open on the left-hand end and, notwithstanding any rule to the contrary, the design must provide an additional flap that when sealed, conceals the signature, identification, and other information. Election officials may open the flap at any time after receiving the returned ballot to inspect the returned certificate for completeness or to ascertain other information. A certificate of eligibility to vote by absentee ballot shall be printed on the ~~right hand~~ ~~three fourths of the~~ back of the envelope. The certificate shall contain a statement to be signed and sworn by the voter indicating that the voter meets all of the requirements established by law for voting by absentee ballot. The certificate shall also contain a statement signed by a person who is registered to vote in Minnesota or by a notary public or other individual authorized to administer oaths stating that:

(a) the ballots were displayed to that individual unmarked;

(b) the voter marked the ballots in that individual's presence without showing how they were marked, or, if the voter was physically unable to mark them, that the voter directed another individual to mark them; and

(c) if the voter was not previously registered, the voter has provided proof of residence as required by section 201.061, subdivision 3.

The county auditor or municipal clerk shall affix first class postage to the return envelopes.

Sec. 32. Minnesota Statutes 2004, section 203B.11, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] Each full-time municipal clerk or school district clerk who has authority under section 203B.05 to administer absentee voting laws shall designate election judges to deliver absentee ballots in accordance with this section. The county auditor ~~may~~ must also designate election judges to perform the duties in this section. A ballot may be delivered only to an eligible voter who is a temporary or permanent resident or patient in a health care facility or hospital located in the municipality in which the voter maintains residence. The ballots shall be delivered by two election judges, each of whom is affiliated with a different major political party. When the election judges deliver or return ballots as provided in this section, they shall travel together in the same vehicle. Both election judges shall be present when an applicant completes the certificate of eligibility and marks the absentee ballots, and may assist an applicant as provided in section 204C.15. The election judges shall deposit the return envelopes containing the marked absentee ballots in a sealed container and return them to the clerk on the same day that they are delivered and marked.

Sec. 33. Minnesota Statutes 2004, section 203B.12, subdivision 2, is amended to read:

Subd. 2. [EXAMINATION OF RETURN ENVELOPES.] Two or more election judges shall examine each return envelope and shall mark it accepted or rejected in the manner provided in this subdivision. If a ballot has been prepared under section 204B.12, subdivision 2a, or 204B.41, the election judges shall not begin removing ballot envelopes from the return envelopes until 8:00 p.m. on election day, either in the polling place or at an absentee ballot board established under section 203B.13.

The election judges shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the election judges or a majority of them are satisfied that:

(1) the voter's name and address on the return envelope are the same as the information provided on the absentee ballot application;

(2) the voter's signature on the return envelope is the genuine signature of the individual who made the application for ballots and the certificate has been completed as prescribed in the directions for casting an absentee ballot, except that if a person other than the voter applied for the absentee ballot under applicable Minnesota Rules, the signature is not required to match;

(3) the voter is registered and eligible to vote in the precinct or has included a properly completed voter registration application in the return envelope; and

(4) the voter has not already voted at that election, either in person or by absentee ballot.

There is no other reason for rejecting an absentee ballot. In particular, failure to place the envelope within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

The return envelope from accepted ballots must be preserved and returned to the county auditor.

If all or a majority of the election judges examining return envelopes find that an absent voter has failed to meet one of the requirements prescribed in clauses (1) to (4), they shall mark the return envelope "Rejected," initial or sign it below the word "Rejected," and return it to the county auditor.

Sec. 34. Minnesota Statutes 2004, section 203B.20, is amended to read:

203B.20 [CHALLENGES.]

Except as provided in this section, the eligibility or residence of a voter whose application for absentee ballots is recorded under section 203B.19 may be challenged in the manner set forth by section 201.195. The county auditor or municipal clerk shall not be required to serve a copy of the petition and notice of hearing on the challenged voter, unless the absentee ballot application was submitted on behalf of a voter by an individual authorized under section 203B.17, subdivision 1, paragraph (a), in which case the county auditor must attempt to notify the individual who submitted the application of the challenge. The county auditor may contact other registered voters to request information that may resolve any discrepancies appearing in the application. All reasonable doubt shall be resolved in favor of the validity of the application. If the voter's challenge is affirmed, the county auditor shall provide the challenged voter with a copy of the petition and the decision and shall inform the voter of the right to appeal as provided in section 201.195.

Sec. 35. Minnesota Statutes 2004, section 203B.21, subdivision 1, is amended to read:

Subdivision 1. [FORM.] Absentee ballots under sections 203B.16 to 203B.27 shall conform to the requirements of the Minnesota Election Law, except that modifications in the size or form of ballots or envelopes may be made if necessary to satisfy the requirements of the United States postal service, and the design must provide an additional flap that when sealed, conceals the signature, identification, and other information. The flap must be perforated to permit election officials to inspect the returned certificate for completeness or to ascertain other information at any time after receiving the returned ballot without opening the return envelope.

Sec. 36. Minnesota Statutes 2004, section 203B.21, subdivision 3, is amended to read:

Subd. 3. [BACK OF RETURN ENVELOPE.] On the back of the return envelope an affidavit form shall appear with space for:

- (a) The voter's address of present or former residence in Minnesota;
- (b) A statement indicating the category described in section 203B.16 to which the voter belongs;
- (c) A statement that the voter has not cast and will not cast another absentee ballot in the same election or elections;
- (d) A statement that the voter personally marked the ballots without showing them to anyone, or if physically unable to mark them, that the voter directed another individual to mark them; and
- (e) The voter's military identification card number, passport number, or, if the voter does not have a valid passport or identification card, the signature and certification of an individual authorized to administer oaths under federal law or the law of the place where the oath was administered or a commissioned or noncommissioned ~~officer~~ personnel of the military not below the rank of sergeant or its equivalent.

The affidavit shall also contain a signed and dated oath in the form required by section 705 of the Help America Vote Act, Public Law 107-252, which must read:

"I swear or affirm, under penalty of perjury, that:

I am a member of the uniformed services or merchant marine on active duty or an eligible spouse or dependent of such a member; a United States citizen temporarily residing outside the United States; or other United States citizen residing outside the United States; and I am a United States citizen, at least 18 years of age (or will be by the date of the election), and I am eligible to vote in the requested jurisdiction; I have not been convicted of a felony, or other disqualifying offense, or been adjudicated mentally incompetent, or, if so, my voting rights have been reinstated; and I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States except the jurisdiction cited in this voting form. In voting, I have marked and sealed my ballot in private and have not allowed any person to observe the marking of the ballot, except for those authorized to assist voters under state or federal law. I have not been influenced.

My signature and date below indicate when I completed this document.

The information on this form is true, accurate, and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for a conviction for perjury."

Sec. 37. Minnesota Statutes 2004, section 203B.24, subdivision 1, is amended to read:

Subdivision 1. [CHECK OF VOTER ELIGIBILITY; PROPER EXECUTION OF AFFIDAVIT.] Upon receipt of an absentee ballot returned as provided in sections 203B.16 to 203B.27, the election judges shall compare the voter's name with the names appearing on their copy of the application records to insure that the ballot is from a voter eligible to cast an absentee ballot under sections 203B.16 to 203B.27. ~~Any discrepancy or disqualifying fact shall be noted on the envelope by the election judges.~~ The election judges shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the election judges are satisfied that:

(1) the voter's name on the return envelope appears in substantially the same form as on the application records provided to the election judges by the county auditor;

(2) the voter has signed the federal oath prescribed pursuant to section 705(b)(2) of the Help America Vote Act, Public Law 107-252;

(3) the voter has set forth the voter's military identification number or passport number or, if those numbers do not appear, a person authorized to administer oaths under federal law or the law of the place where the oath was administered or a witness who is military personnel with a rank at or above the rank of sergeant or its equivalent has signed the ballot; and

(4) the voter has not already voted at that election, either in person or by absentee ballot.

An absentee ballot case pursuant to sections 203B.16 to 203B.27 may only be rejected for the lack of one of clauses (1) to (4). In particular, failure to place the envelope within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

Election judges must note the reason for rejection on the back of the envelope in the space provided for that purpose.

Failure to return unused ballots shall not invalidate a marked ballot, but a ballot shall not be counted if the affidavit on the return envelope is not properly executed. In all other respects the provisions of the Minnesota Election Law governing deposit and counting of ballots shall apply.

Sec. 38. Minnesota Statutes 2004, section 204B.10, subdivision 6, is amended to read:

Subd. 6. [INELIGIBLE VOTER.] Upon receipt of a certified copy of a final judgment or order of a court of competent jurisdiction that a person who has filed an affidavit of candidacy or who has been nominated by petition:

(1) has been convicted of treason or a felony and the person's civil rights have not been restored;

(2) is under guardianship of the person; or

(3) has been found by a court of law to be legally incompetent;

the filing officer shall notify the person by certified mail at the address shown on the affidavit or petition, and, for offices other than president of the United States, vice-president of the United States, United States senator, and United States representative in Congress, shall not certify the person's name to be placed on the ballot. The actions of a filing officer under this subdivision are subject to judicial review under section 204B.44.

Sec. 39. Minnesota Statutes 2004, section 204B.14, subdivision 2, is amended to read:

Subd. 2. [SEPARATE PRECINCTS; COMBINED POLLING PLACE.] (a) The following shall constitute at least one election precinct:

(1) each city ward; and

(2) each town and each statutory city.

(b) A single, accessible, combined polling place may be established no later than June 1 of any year:

(1) for any city of the third or fourth class, any town, or any city having territory in more than one county, in which all the voters of the city or town shall cast their ballots;

(2) for two contiguous precincts in the same municipality that have a combined total of fewer than 500 registered voters; or

(3) for up to four contiguous municipalities located entirely outside the metropolitan area, as defined by section ~~473.121, subdivision 2~~ 200.02, subdivision 24, that are contained in the same county.

A copy of the ordinance or resolution establishing a combined polling place must be filed with the county auditor within 30 days after approval by the governing body. A polling place combined under clause (3) must be approved by the governing body of each participating municipality. A municipality withdrawing from participation in a combined polling place must do so by filing a resolution of withdrawal with the county auditor no later than May 1 of any year.

The secretary of state shall provide a separate polling place roster for each precinct served by the combined polling place. A single set of election judges may be appointed to serve at a combined polling place. The number of election judges required must be based on the total number of persons voting at the last similar election in all precincts to be voting at the combined polling place. Separate ballot boxes must be provided for the ballots from each precinct. The results of the election must be reported separately for each precinct served by the combined polling place, except in a polling place established under clause (2) where one of the precincts has fewer than ten registered voters, in which case the results of that precinct must be reported in the manner specified by the secretary of state.

Sec. 40. Minnesota Statutes 2004, section 204B.16, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY; LOCATION.] (a) The governing body of each municipality and of each county with precincts in unorganized territory shall designate by ordinance or resolution a polling place for each election precinct. Polling places must be designated and ballots must be distributed so that no one is required to go to more than one polling place to vote in a school district and municipal election held on the same day. The polling place for a precinct in a city or in a school district located in whole or in part in the metropolitan area defined by section ~~473.121~~ 200.02, subdivision 24, shall be located within the boundaries of the precinct or within 3,000 feet of one of those boundaries unless a single polling place is designated for a city pursuant to section 204B.14, subdivision 2, or a school district pursuant to section 205A.11. The polling place for a precinct in unorganized territory may be located outside the precinct at a place which is convenient to the voters of the precinct. If no suitable place is available within a town or within a school district located outside the metropolitan area defined by section ~~473.121~~ 200.02, subdivision 24, then the polling place for a town or school district may be located outside the town or school district within five miles of one of the boundaries of the town or school district.

(b) Each polling place serving precincts in which, in aggregate, there were more than 100 voters in the most recent similar election, must be to the extent the governing body determines it is practicable, at least 750 square feet, with an additional 60 square feet for each 150 voters in excess of 400 that voted in the most recent similar election.

Sec. 41. Minnesota Statutes 2004, section 204B.16, subdivision 5, is amended to read:

Subd. 5. [ACCESS BY ELDERLY AND ~~HANDICAPPED PERSONS WITH DISABILITIES.~~] Each polling place shall be accessible to and usable by elderly individuals and ~~physically handicapped~~ individuals with disabilities. A polling place is deemed to be accessible and usable if it complies with the standards in paragraphs (a) to (f).

(a) At least one set of doors must have a minimum width of ~~34~~ 32 inches if the doors must be used to enter or leave the polling place.

(b) Any curb adjacent to the main entrance to a polling place must have curb cuts or temporary ramps. Where the main entrance is not the accessible entrance, any curb adjacent to the accessible entrance must also have curb cuts or temporary ramps.

(c) Where the main entrance is not the accessible entrance, a sign shall be posted at the main entrance giving directions to the accessible entrance.

(d) At least one set of stairs must have a temporary handrail and ramp if stairs must be used to enter or leave the polling place.

(e) No barrier in the polling place may impede the path of ~~the physically handicapped~~ persons with disabilities to the voting booth.

(f) At least one ~~handicapped~~ parking space for persons with disabilities, which may be temporarily so designated by the municipality for the day of the election, must be available near the accessible entrance.

The doorway, handrails, ramps, and handicapped parking provided pursuant to this subdivision must conform to the standards specified in the State Building Code for accessibility by ~~handicapped~~ persons with disabilities.

A governing body shall designate as polling places only those places which meet the standards prescribed in this subdivision unless no available place within a precinct is accessible or can be made accessible.

Sec. 42. Minnesota Statutes 2004, section 204B.18, subdivision 1, is amended to read:

Subdivision 1. [BOOTHS; VOTING STATIONS.] Each polling place must contain ~~a number of at least two voting booths in proportion to the number of individuals eligible to vote in the precinct or self-contained voting stations plus one additional voting booth or self-contained voting station for each 150 voters in excess of 200 registered in the precinct.~~ Each booth or station must be at least six feet high, three feet deep and two feet wide with a shelf at least two feet long and one foot wide placed at a convenient height for writing. The booth or station shall ~~be provided with a door or curtains~~ permit the voter to vote privately and independently. Each ~~accessible~~ polling place must have at least one accessible voting booth or other accessible voting station and beginning with federal and state elections held after December 31, 2005, and county, municipal, and school district elections held after December 31, 2007, one voting system that conforms to section 301(a)(3)(B) of the Help America Vote Act, Public Law 107-252. All booths or stations must be constructed so that a voter is free from observation while marking ballots. ~~In all other polling places every effort must be made to provide at least one accessible voting booth or other accessible voting station.~~ During the hours of voting, the booths or stations must have instructions, a pencil, and other supplies needed to mark the ballots. ~~If needed,~~ A chair must be provided for elderly ~~and handicapped~~ voters

and voters with disabilities to use while voting or waiting to vote. Stable flat writing surfaces must also be made available to voters who are completing election-related forms. All ballot boxes, voting booths, voting stations, and election judges must be in open public view in the polling place.

Sec. 43. Minnesota Statutes 2004, section 204B.22, subdivision 3, is amended to read:

Subd. 3. ~~[MINIMUM NUMBER REQUIRED IN CERTAIN PRECINCTS OF ELECTION JUDGES.]~~ At each ~~state primary or state general~~ election in precincts ~~using an electronic voting system with marking devices and in~~ which more than 400 votes were cast at the last similar election, the minimum number of election judges is three plus one judge to demonstrate the use of the voting machine or device, and the number of additional election judges to be appointed is one for every 200 votes cast in that precinct in the most recent similar general election.

Sec. 44. Minnesota Statutes 2004, section 204B.27, subdivision 1, is amended to read:

Subdivision 1. [BLANK FORMS.] At least ~~25~~ 14 days before every state election the secretary of state shall transmit to each county auditor ~~a sufficient number of blank county abstract forms and other~~ examples of any blank forms to be used as the secretary of state deems necessary for the conduct of the election. County abstract forms may be provided to auditors electronically via the Minnesota State Election Reporting System maintained by the secretary of state, and must be available at least one week prior to the election.

Sec. 45. Minnesota Statutes 2004, section 204B.27, subdivision 3, is amended to read:

Subd. 3. [INSTRUCTION POSTERS.] At least 25 days before every state election, the secretary of state shall prepare and furnish to the county auditor of each county ~~in which paper ballots are used,~~ voter instruction posters printed in large type upon cards or heavy paper. The instruction posters must contain the information needed to enable the voters to cast their ~~paper~~ ballots quickly and correctly and indicate the types of assistance available for elderly and handicapped voters. Two instruction posters shall be furnished for each precinct ~~in which paper ballots are used.~~ The secretary of state shall also provide posters informing voters of eligibility requirements to vote and of identification and proofs accepted for election day registration. Posters furnished by the secretary of state must also include all information required to be posted by the Help America Vote Act, including: instructions on how to vote, including how to cast a vote; instructions for mail-in registrants and first-time voters; general information on voting rights under applicable federal and state laws, and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and general information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.

Sec. 46. Minnesota Statutes 2004, section 204B.33, is amended to read:

204B.33 [NOTICE OF FILING.]

(a) Between June 1 and July 1 in each even numbered year, the secretary of state shall notify each county auditor of the offices to be voted for in that county at the next state general election for which candidates file with the secretary of state. The notice shall include the time and place of filing for those offices and for judicial offices shall list the name of the incumbent, if any, currently holding the seat to be voted for. Within ten days after notification by the secretary of state, each county auditor shall notify each municipal clerk in the county of all the offices to be voted for in the county at that election and the time and place for filing for those offices. The county auditors and municipal clerks shall promptly post a copy of that notice in their offices.

(b) At least two weeks before the first day to file an affidavit of candidacy, the county auditor shall publish a notice stating the first and last dates on which affidavits of candidacy may be filed in the county auditor's office and the closing time for filing on the last day for filing. The county auditor shall post a similar notice at least ten days before the first day to file affidavits of candidacy.

Sec. 47. Minnesota Statutes 2004, section 204C.05, subdivision 1a, is amended to read:

Subd. 1a. [ELECTIONS; ORGANIZED TOWN.] The governing body of a town with less than 500 inhabitants according to the most recent federal decennial census, which is located outside the metropolitan area as defined in section ~~473.124~~ 200.02, subdivision ~~2~~ 24, may fix a later time for voting to begin at state primary, special, or general elections, if approved by a vote of the town electors at the annual town meeting. The question of shorter voting hours must be included in the notice of the annual town meeting before the question may be submitted to the electors at the meeting. The later time may not be later than 10:00 a.m. for special, primary, or general elections. The town clerk shall either post or publish notice of the changed hours and notify the county auditor of the change 30 days before the election.

Sec. 48. Minnesota Statutes 2004, section 204C.08, subdivision 1, is amended to read:

Subdivision 1. [DISPLAY OF FLAG; "VOTE HERE" SIGN.] (a) Upon their arrival at the polling place on the day of election, the election judges shall cause the national flag to be displayed on a suitable staff at the entrance to the polling place. The flag shall be displayed continuously during the hours of voting and the election judges shall attest to that fact by signing the flag certification statement on the precinct summary statement. The election judges shall receive no compensation for any time during which they intentionally fail to display the flag as required by this subdivision.

(b) The election judges shall, immediately after displaying the flag pursuant to paragraph (a), post the following:

(1) a "Vote Here" sign conspicuously near the flag, which must be of a size not less than two feet high by four feet wide, with letters printed in red in a font size of no less than 576-point type, against a white background; and

(2) within the building, if the polling place has more than one room, signs indicating by arrows the direction in which to proceed in order to reach the room containing the polling place.

Sec. 49. Minnesota Statutes 2004, section 204C.24, subdivision 1, is amended to read:

Subdivision 1. [INFORMATION REQUIREMENTS.] Precinct summary statements shall be submitted by the election judges in every precinct. For ~~state~~ all elections, the election judges shall complete three or more copies of the summary statements, and each copy shall contain the following information for each kind of ballot:

(a) the number of votes each candidate received or the number of yes and no votes on each question, the number of undervotes or partially blank ballots, and the number of overvotes or partially defective ballots with respect to each office or question;

(b) the number of totally blank ballots, the number of totally defective ballots, the number of spoiled ballots, and the number of unused ballots;

(c) the number of individuals who voted at the election in the precinct;

(d) the number of voters registering on election day in that precinct; and

(e) the signatures of the election judges who counted the ballots certifying that all of the ballots cast were properly piled, checked, and counted; and that the numbers entered by the election judges on the summary statements correctly show the number of votes cast for each candidate and for and against each question.

At least two copies of the summary statement must be prepared for elections not held on the same day as the state elections.

Sec. 50. Minnesota Statutes 2004, section 204C.28, subdivision 1, is amended to read:

Subdivision 1. [COUNTY AUDITOR.] Every county auditor shall remain at the auditor's office to receive delivery of the returns, to permit public inspection of the summary statements, and to tabulate the votes until all have been tabulated and the results made known, or until 24 hours have elapsed since the end of the hours for voting, whichever occurs first. Every county auditor shall keep a book in which, in the presence of the municipal clerk or the election judges who deliver the returns, the auditor shall make a record of all materials delivered, the time of delivery, and the names of the municipal clerk or election judges who made delivery. The county auditor shall file the book and all envelopes containing ballots in a safe and secure place with envelope seals unbroken. Access to the book and ballots shall be strictly controlled. Accountability and a record of access shall be maintained by the county auditor during the period for contesting elections or, if a contest is filed, until the contest has been finally determined. Thereafter, the book shall be retained in the auditor's office for the same period as the ballots as provided in section 204B.40.

The county auditor shall file all envelopes containing ballots in a safe place with seals unbroken. If the envelopes were previously opened by proper authority for examination or recount, the county auditor shall have the envelopes sealed again and signed by the individuals who made the inspection or recount. The envelopes may be opened by the county canvassing board if necessary to procure election returns that the election judges inadvertently may have sealed in the envelopes with the ballots. In that case, the envelopes shall be sealed again and signed in the same manner as otherwise provided in this subdivision.

Sec. 51. Minnesota Statutes 2004, section 204C.50, subdivision 1, is amended to read:

Subdivision 1. [SELECTION FOR REVIEW; NOTICE.] (a) Postelection review under this section must be conducted only on the election for president, senator or representative in Congress, constitutional offices, and legislative offices.

(b) The Office of the Secretary of State shall, within three days after each state general election beginning in 2006, randomly select 80 precincts for postelection review as defined in this section. The precincts must be selected so that an equal number of precincts are selected in each congressional district of the state. Of the precincts in each congressional district, at least five must have had more than 500 votes cast, and at least two must have had fewer than 500 votes cast. The secretary of state must promptly provide notices of which precincts are chosen to the election administration officials who are responsible for the conduct of elections in those precincts.

~~(b)~~ (c) One week before the state general election beginning in 2006, the secretary of state must post on the office Web site the date, time, and location at which precincts will be randomly chosen for review under this section. The chair of each major political party may appoint a designee to observe the random selection process.

Sec. 52. Minnesota Statutes 2004, section 204D.03, subdivision 1, is amended to read:

Subdivision 1. [STATE PRIMARY.] (a) The state primary shall be held on the first Tuesday after the second Monday in September in each even-numbered year to select the nominees of the major political parties for partisan offices and the nominees for nonpartisan offices to be filled at the state general election, other than presidential electors.

(b) If in any municipality or county there are no partisan or nonpartisan offices for which nominees must be selected at the state primary, no state primary shall be held in the municipality or county. However, no later than 15 days after the close of filings, the municipal clerk or county auditor in such a municipality or county must post a notice in the office, and send a copy of the notice to the secretary of state, stating that no primary will be held in the municipality or county because there are no partisan or nonpartisan offices for which nominees must be selected in the municipality or county.

Sec. 53. Minnesota Statutes 2004, section 204D.14, subdivision 3, is amended to read:

Subd. 3. [UNCONTESTED JUDICIAL OFFICES.] Judicial offices for a specific court for which there is only one candidate filed must appear after all other judicial offices for that same court on the canary ballot.

Sec. 54. Minnesota Statutes 2004, section 204D.27, subdivision 5, is amended to read:

Subd. 5. [CANVASS; SPECIAL PRIMARY; STATE CANVASSING BOARD.] Not later than four days after the returns of the county canvassing boards are certified to the secretary of state, the State Canvassing Board shall complete its canvass of the special primary. The secretary of state shall then promptly certify to the county auditors the names of the nominated individuals, prepare notices of nomination, and notify each nominee of the nomination.

Sec. 55. [205.135] [ELECTION REPORTING SYSTEM; CANDIDATE FILING.]

Subdivision 1. [EVEN-NUMBERED YEAR.] For regularly scheduled municipal elections held in an even-numbered year, the municipal clerk must provide the offices and questions to be voted on in the municipality and the list of candidates for each office to the county auditor for entry into the election reporting system provided by the secretary of state no later than 46 days prior to the election. The county auditor must delegate, at the request of the municipality, the duty to enter the information into the system to the municipal clerk.

Subd. 2. [ODD-NUMBERED YEAR.] For regularly scheduled municipal elections held in an odd-numbered year, the municipal clerk or county auditor must enter the offices and questions to be voted on in the municipality and the list of candidates for each office into the election reporting system no later than 46 days prior to the election.

Sec. 56. Minnesota Statutes 2004, section 205.175, subdivision 2, is amended to read:

Subd. 2. [METROPOLITAN AREA MUNICIPALITIES.] The governing body of a municipality which is located within a metropolitan county ~~as defined by section 473.124~~ included in the definition of metropolitan area in section 200.02, subdivision 24, may designate the time during which the polling places will remain open for voting at the next succeeding and all subsequent municipal elections, provided that the polling places shall open no later than 10:00 a.m. and shall close no earlier than 8:00 p.m. The resolution shall remain in force until it is revoked by the municipal governing body.

Sec. 57. [205.187] [ELECTION REPORTING SYSTEM; PRECINCT VOTES.]

Subdivision 1. [EVEN-NUMBERED YEAR.] For regularly scheduled municipal elections held in an even-numbered year, the county auditor must enter the votes in each precinct for the questions and offices voted on in the municipal election into the election reporting system provided by the secretary of state.

Subd. 2. [ODD-NUMBERED YEAR.] For regularly scheduled municipal elections held in an odd-numbered year, the municipal clerk or county auditor must enter the votes in each precinct for the offices and questions voted on in the municipality into the election reporting system provided by the secretary of state.

Sec. 58. [205A.075] [ELECTION REPORTING SYSTEM; CANDIDATE FILING.]

Subdivision 1. [EVEN-NUMBERED YEAR.] For regularly scheduled school district elections held in an even-numbered year, the school district clerk must provide the offices and questions to be voted on in the school district and the list of candidates for each office to the county auditor for entry into the election reporting system provided by the secretary of state no later than days prior to the election.

Subd. 2. [ODD-NUMBERED YEAR.] For regularly scheduled school district elections held in an odd-numbered year, the school district clerk or county auditor must enter the offices and questions to be voted on in the school district and the list of candidates for each office into the election reporting system provided by the secretary of state no later than days prior to the election.

Sec. 59. [205A.076] [ELECTION REPORTING SYSTEM; PRECINCT VOTES.]

Subdivision 1. [EVEN-NUMBERED YEAR.] For regularly scheduled school district elections held in an even-numbered year, the county auditor must enter the votes in each precinct for the questions and offices voted on in the school district election into the election reporting system provided by the secretary of state.

Subd. 2. [ODD-NUMBERED YEAR.] For regularly scheduled school district elections held in an odd-numbered year, the school district clerk or county auditor must enter the votes in each precinct for the offices and questions voted on in the school district into the election reporting system provided by the secretary of state.

Sec. 60. Minnesota Statutes 2004, section 205A.09, subdivision 1, is amended to read:

Subdivision 1. [METROPOLITAN AREA SCHOOL DISTRICTS.] At a school district election in a school district located in whole or in part within a metropolitan county ~~as defined by section 473.121~~ included in the definition of metropolitan area in section 200.02, subdivision 24, the school board, by resolution adopted before giving notice of the election, may designate the time during which the polling places will remain open for voting at the next succeeding and all later school district elections. The polling places must open no later than 10:00 a.m. and close no earlier than 8:00 p.m. The resolution shall remain in force until it is revoked by the school board.

Sec. 61. Minnesota Statutes 2004, section 206.56, subdivision 2, is amended to read:

Subd. 2. [AUTOMATIC TABULATING EQUIPMENT.] "Automatic tabulating equipment" includes ~~apparatus machines, resident firmware, and programmable memory units~~ necessary to optically scan, automatically examine, and count votes designated on ballot cards, ~~and data processing machines which can be used for counting ballots and tabulating results.~~

Sec. 62. Minnesota Statutes 2004, section 206.56, subdivision 3, is amended to read:

Subd. 3. [BALLOT.] "Ballot" includes ~~ballot cards and~~ paper ballots, ballot cards, and the paper ballot marked by an electronic marking device.

Sec. 63. Minnesota Statutes 2004, section 206.56, subdivision 7, is amended to read:

Subd. 7. [COUNTING CENTER.] "Counting center" means a place selected by the governing body of a municipality where ~~an~~ a central count electronic voting system is used for the automatic processing and counting of ballots.

Sec. 64. Minnesota Statutes 2004, section 206.56, subdivision 8, is amended to read:

Subd. 8. [ELECTRONIC VOTING SYSTEM.] "Electronic voting system" means a system in which the voter records votes by means of marking a ballot, ~~which is designed~~ so that votes may be counted by automatic tabulating equipment at a counting center or in the precinct or polling place where the ballot is cast.

An electronic voting system includes automatic tabulating equipment; nonelectronic ballot markers; electronic ballot markers, including electronic ballot display, audio ballot reader, and devices by which the voter will register the voter's voting intent; software used to program automatic tabulators and layout ballots; computer programs used to accumulate precinct results; ballots; secrecy folders; system documentation; and system testing results.

Sec. 65. Minnesota Statutes 2004, section 206.56, subdivision 9, is amended to read:

Subd. 9. [MANUAL MARKING DEVICE.] "Manual marking device" means any approved device for directly marking a ballot by hand with ink, pencil, or other substance which will enable the ballot to be tabulated by means of automatic tabulating equipment.

Sec. 66. Minnesota Statutes 2004, section 206.56, is amended by adding a subdivision to read:

Subd. 9a. [ELECTRONIC BALLOT MARKER.] "Electronic ballot marker" means equipment that is part of an electronic voting system that marks a nonelectronic ballot with votes selected by a voter using an electronic ballot display or audio ballot reader.

Sec. 67. Minnesota Statutes 2004, section 206.56, is amended by adding a subdivision to read:

Subd. 9b. [ASSISTIVE VOTING TECHNOLOGY.] "Assistive voting technology" means touch-activated screen, buttons, keypad, sip-and-puff input device, keyboard, earphones, or any other device used with an electronic ballot marker that assists voters to use an audio or electronic ballot display in order to select votes.

Sec. 68. Minnesota Statutes 2004, section 206.56, is amended by adding a subdivision to read:

Subd. 9c. [ELECTRONIC BALLOT DISPLAY.] "Electronic ballot display" means a graphic representation of a ballot on a computer monitor or screen on which a voter may make vote choices for candidates and questions for the purpose of marking a nonelectronic ballot.

Sec. 69. Minnesota Statutes 2004, section 206.56, is amended by adding a subdivision to read:

Subd. 9d. [AUDIO BALLOT READER.] "Audio ballot reader" means an audio representation of a ballot that can be used with other assistive voting technology to permit a voter to mark votes on a nonelectronic ballot using an electronic ballot marker.

Sec. 70. Minnesota Statutes 2004, section 206.57, subdivision 1, is amended to read:

Subdivision 1. [EXAMINATION AND REPORT BY SECRETARY OF STATE; APPROVAL.] A vendor of an electronic voting system may apply to the secretary of state to examine the system and to report as to its compliance with the requirements of law and as to its accuracy, durability, efficiency, and capacity to register the will of voters. The secretary of state or a designee shall examine the system submitted and file a report on it in the Office of the Secretary of State. Examination is not required of every individual machine or counting device, but only of each type of electronic voting system before its adoption, use, or purchase and before its continued use after significant changes have been made in an approved system. The examination must include the ballot programming; electronic ballot marking, including all assistive technologies intended to be used with the system; vote counting; and vote accumulation functions of each voting system.

If the report of the secretary of state or the secretary's designee concludes that the kind of system examined complies with the requirements of sections 206.55 to 206.90 and can be used safely, the system shall be deemed approved by the secretary of state, and may be adopted and purchased for use at elections in this state. A voting system not approved by the secretary of state may not be used at an election in this state. The secretary of state may adopt permanent rules consistent with sections 206.55 to 206.90 relating to the examination and use of electronic voting systems.

Sec. 71. Minnesota Statutes 2004, section 206.57, subdivision 5, is amended to read:

Subd. 5. [VOTING SYSTEM FOR DISABLED VOTERS.] In federal and state elections held after December 31, 2005, and in county, municipal, and school district elections held after December 31, 2007, the voting method used in each polling place must include a voting system that is accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters.

Sec. 72. Minnesota Statutes 2004, section 206.57, is amended by adding a subdivision to read:

Subd. 7. [ELECTION ASSISTANCE COMMISSION STANDARDS.] If, prior to January 1, 2006, the federal Election Assistance Commission has not established standards for an electronic ballot marker or other voting system component that is required to enable a voting system to meet the requirements of subdivision 5, the secretary of state may certify the voting system on an experimental basis pending the completion of federal standards, notwithstanding subdivision 6. Within two years after the Election Assistance Commission issues standards for a voting system component used in a voting system authorized under this subdivision, the secretary of state must review or reexamine the voting system to determine whether the system conforms to federal standards.

Sec. 73. Minnesota Statutes 2004, section 206.58, subdivision 1, is amended to read:

Subdivision 1. [MUNICIPALITIES.] (a) The governing body of a municipality, at a regular meeting or at a special meeting called for the purpose, ~~may~~ must provide for the use of ~~an~~ at least one electronic voting system that conforms to the requirements of section 301(a)(3)(B) of the Help America Vote Act, Public Law 107-252, in one or more precincts each polling place and at all elections ~~in the precincts~~, subject to approval by the county auditor. This paragraph applies to federal and state elections held after December 31, 2005, and to county, municipal, and school district elections held after December 31, 2007.

(b) The governing body shall disseminate information to the public about the use of a new voting system at least 60 days prior to the election and shall provide for instruction of voters with a demonstration voting system in a public place for the six weeks immediately prior to the first election at which the new voting system will be used.

(c) No system may be adopted or used unless it has been approved by the secretary of state pursuant to section 206.57.

Sec. 74. [206.585] [STATE VOTING SYSTEMS CONTRACTS.]

The secretary of state shall establish a working group including representatives of county auditors, municipal clerks, and members of the disabilities community to assist in developing a request for proposals and subsequent state voting systems contracts. Each contract should, if practical, include provisions for maintenance of the equipment purchased. Counties and municipalities may purchase voting systems and obtain related election services from the state contracts. The voting systems contracts shall address precinct-based optical scan voting equipment, ballot marking equipment for persons with disabilities and other voters, and assistive voting machines that combine voting methods used for persons with disabilities with precinct-based optical scan voting machines.

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

Sec. 75. Minnesota Statutes 2004, section 206.61, subdivision 4, is amended to read:

Subd. 4. [ORDER OF CANDIDATES.] On the "State Partisan Primary Ballot" prepared for primary elections, and on the white ballot prepared for the general election, the order of the names of nominees or names of candidates for election shall be the same as required for paper ballots. More than one column or row may be used for the same office or party. Electronic ballot display and audio ballot readers must conform to the candidate order on the optical scan ballot used in the precinct.

Sec. 76. Minnesota Statutes 2004, section 206.61, subdivision 5, is amended to read:

Subd. 5. [ALTERNATION.] The provisions of the election laws requiring the alternation of names of candidates must be observed as far as practicable by changing the order of the names on an electronic voting system in the various precincts so that each name appears on the machines or marking devices used in a municipality substantially an equal number of times in the first, last, and in each intermediate place in the list or group in which they belong. However, the arrangement of candidates' names must be the same on all voting systems used in the same precinct. If the number of names to be alternated exceeds the number of precincts, the election official responsible for providing the ballots, in accordance with subdivision 1, shall determine by lot the alternation of names.

If an electronic ballot marker is used with a paper ballot that is not an optical scan ballot card, the manner of alternation of candidate names on the paper ballot must be as prescribed for optical scan ballots in this subdivision.

Sec. 77. Minnesota Statutes 2004, section 206.64, subdivision 1, is amended to read:

Subdivision 1. [GENERAL PROVISIONS FOR ELECTRONIC SYSTEM VOTING.] Each electronic voting system booth must be placed and protected so that it is accessible to only one voter at a time and is in full view of all the election judges and challengers at the polling place. The election judges shall admit one individual at a time to each booth after determining that the individual is eligible to vote. Voting by electronic voting system must be secret, except for voters who ~~need~~ request assistance. A voter may remain inside the voting booth for ~~three minutes~~ the time reasonably required for the voter to complete the ballot. A voter who refuses to leave the voting booth after a reasonable amount of time, but not less than three minutes, must be removed by the election judges.

Sec. 78. [206.65] [SYSTEMS REQUIRED IN POLLING PLACES; CO-LOCATION OF PRECINCTS.]

In federal and state elections held after December 31, 2005, and in county, municipal, and school district elections held after December 31, 2007, each polling place must be equipped with an electronic voting system equipped for individuals with disabilities. Precincts that share a polling place with other precincts pursuant to section 204B.14, subdivision 4, may share voting equipment. Notwithstanding section 204B.14, upon written request to and approval by the secretary of state, the responsible municipal clerks may co-locate noncontiguous precincts located in one or more counties into one convenient polling place. To the extent that an election includes offices for more than one jurisdiction, operating costs are to be allocated among those jurisdictions.

For the purposes of this section, "operating costs" include actual county and municipal costs for hardware maintenance, election day technical support, software licensing, system programming, voting system testing, training of county and municipal staff in the use of the assistive voting systems, transportation of the assistive voting systems to and from the polling places, and storage of the assistive voting systems between elections.

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

Sec. 79. Minnesota Statutes 2004, section 206.80, is amended to read:

206.80 [ELECTRONIC VOTING SYSTEMS.]

(a) An electronic voting system may not be employed unless it:

(1) permits every voter to vote in secret;

(2) permits every voter to vote for all candidates and questions for whom or upon which the voter is legally entitled to vote;

(3) provides for write-in voting when authorized;

(4) rejects ~~by means of the automatic tabulating equipment~~ automatically, except as provided in section 206.84 with respect to write-in votes, all votes for an office or question when the number of votes cast on it exceeds the number which the voter is entitled to cast;

(5) permits a voter at a primary election to select secretly the party for which the voter wishes to vote; ~~and~~

(6) rejects, ~~by means of the automatic tabulating equipment,~~ automatically all votes cast in a primary election by a voter when the voter votes for candidates of more than one party-; and

(7) provides every voter an opportunity to electronically verify votes and to change votes or correct any error before the voter's ballot is cast and counted, produces either a permanent paper record or a paper ballot that is then cast by the voter that is preserved as an official record available for use in any recount.

(b) An electronic voting system purchased on or after the effective date of this section may not be employed unless it accepts and tabulates, in the precinct or at a counting center, a marked optical scan ballot or creates a marked optical scan ballot that can be tabulated in the precinct or at a counting center by an optical scan machine certified for use in this state, or is a machine that securely transmits a vote electronically to an optical scan machine in the precinct while creating a paper record of each vote.

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

Sec. 80. Minnesota Statutes 2004, section 206.81, is amended to read:

206.81 [ELECTRONIC VOTING SYSTEMS; EXPERIMENTAL USE.]

(a) The secretary of state may ~~approve~~ certify an electronic voting system for experimental use at an election prior to its approval for general use.

~~(b) The secretary of state must approve one or more direct recording electronic voting systems for experimental use at an election before their approval for general use and may impose restrictions on their use. At least one voting system approved under this paragraph must permit sighted persons to vote and at least one system must permit a blind or visually impaired voter to cast a ballot independently and privately.~~

~~(c)~~ Experimental use must be observed by the secretary of state or the secretary's designee and the results observed must be considered at any subsequent proceedings for approval for general use.

~~(d)~~ (c) The secretary of state may adopt rules consistent with sections 206.55 to 206.90 relating to experimental use. The extent of experimental use must be determined by the secretary of state.

Sec. 81. Minnesota Statutes 2004, section 206.82, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM.] A program or programs for use in an election conducted by means of an electronic voting system or using an electronic ballot marker shall be prepared at the direction of the county auditor or municipal clerk who is responsible for the conduct of the election and shall be independently verified by a competent person designated by that official. The term "competent person" as used in this section means a person who can demonstrate knowledge as a computer programmer and who is other than and wholly independent of any person operating or employed by the counting center or the corporation or other preparer of the program. A test deck prepared by a competent person shall be used for independent verification of the program; it shall test the maximum digits used in totaling the returns and shall be usable by insertion during the tabulation process as well as

prior to tabulation. A test deck must also be prepared using the electronic ballot marker program and must also be used to verify that all valid votes counted by the vote tabulator may be selected using the electronic ballot marker. The secretary of state shall adopt rules further specifying test procedures.

Sec. 82. Minnesota Statutes 2004, section 206.82, subdivision 2, is amended to read:

Subd. 2. [PLAN.] The municipal clerk in a municipality where an electronic voting system is used and the county auditor of a county in which an electronic voting system is used in more than one municipality and the county auditor of a county in which a counting center serving more than one municipality is located shall prepare a plan which indicates acquisition of sufficient facilities, computer time, and professional services and which describes the proposed manner of complying with section 206.80. The plan must be signed, notarized, and submitted to the secretary of state more than 60 days before the first election at which the municipality uses an electronic voting system. Prior to July 1 of each subsequent general election year, the clerk or auditor shall submit to the secretary of state notification of any changes to the plan on file with the secretary of state. The secretary of state shall review each plan for its sufficiency and may request technical assistance from the Department of Administration or other agency which may be operating as the central computer authority. The secretary of state shall notify each reporting authority of the sufficiency or insufficiency of its plan within 20 days of receipt of the plan. The attorney general, upon request of the secretary of state, may seek a district court order requiring an election official to fulfill duties imposed by this subdivision or by rules promulgated pursuant to this section.

Sec. 83. Minnesota Statutes 2004, section 206.83, is amended to read:

206.83 [TESTING OF VOTING SYSTEMS.]

The official in charge of elections shall within 14 days prior to election day have the voting system tested to ascertain that the system will correctly mark ballots using all methods supported by the system, including through assistive technology, and count the votes cast for all candidates and on all questions ~~within 14 days prior to election day~~. Public notice of the time and place of the test must be given at least two days in advance by publication once in official newspapers. The test must be observed by at least two election judges, who are not of the same major political party, and must be open to representatives of the political parties, candidates, the press, and the public. The test must be conducted by (1) processing a preaudited group of ballots punched or marked to record a predetermined number of valid votes for each candidate and on each question, and must include for each office one or more ballot cards which have votes in excess of the number allowed by law in order to test the ability of the voting system tabulator and electronic ballot marker to reject those votes; and (2) processing an additional test deck of ballots marked using the electronic ballot marker to be employed in the precinct, including ballots marked using the electronic ballot display, audio ballot reader, and each of the assistive voting peripheral devices used with the electronic ballot marker. If any error is detected, the cause must be ascertained and corrected and an errorless count must be made before the voting system may be used in the election. After the completion of the test, the programs used and ballot cards must be sealed, retained, and disposed of as provided for paper ballots.

Sec. 84. Minnesota Statutes 2004, section 206.84, subdivision 1, is amended to read:

Subdivision 1. [INSTRUCTION OF JUDGES, VOTERS.] The officials in charge of elections shall determine procedures to instruct election judges and voters in the use of electronic voting system manual marking devices and the electronic ballot marker, including assistive peripheral devices.

Sec. 85. Minnesota Statutes 2004, section 206.84, subdivision 3, is amended to read:

Subd. 3. [BALLOTS.] The ballot information must be in the same order provided for paper ballots, except that the information may be in vertical or horizontal rows, or on a number of separate pages. The secretary of state shall provide by rule for standard ballot formats for electronic voting systems. Electronic ballot displays and audio ballot

readers shall be in the order provided for on the optical scan ballot. Electronic ballot displays may employ zooms or other devices as assistive voting technology. Audio ballot readers may employ rewinds or audio cues as assistive voting technology.

Ballot cards may contain special printed marks ~~and holes~~ as required for proper positioning and reading of the ballots by electronic vote counting equipment. Ballot cards must contain an identification of the precinct for which they have been prepared which can be read visually and which can be tabulated by the automatic tabulating equipment.

Sec. 86. Minnesota Statutes 2004, section 206.84, subdivision 6, is amended to read:

Subd. 6. [DUTIES OF OFFICIAL IN CHARGE.] The official in charge of elections in each municipality where an electronic voting system is used shall have the voting systems put in order, set, adjusted, and made ready for voting when delivered to the election precincts. The official shall also provide each precinct with a container for transporting ballot cards to the counting location after the polls close. The container shall be of sturdy material to protect the ballots from all reasonably foreseeable hazards including auto collisions. The election judges shall meet at the polling place at least one hour before the time for opening the polls. Before the polls open the election judges shall compare the ballot cards used with the sample ballots, electronic ballot displays, and audio ballot reader furnished to see that the names, numbers, and letters on both agree and shall certify to that fact on forms provided for the purpose. The certification must be filed with the election returns.

Sec. 87. Minnesota Statutes 2004, section 206.85, subdivision 1, is amended to read:

Subdivision 1. [DUTIES OF RESPONSIBLE OFFICIAL.] The official in charge of elections in a municipality where an electronic voting system is used at a counting center must:

- (a) be present or personally represented throughout the counting center proceedings;
- (b) be responsible for acquiring sufficient facilities and personnel to ensure timely and lawful processing of votes;
- (c) be responsible for the proper training of all personnel participating in counting center proceedings and deputize all personnel who are not otherwise election judges;
- (d) maintain actual control over all proceedings and be responsible for the lawful execution of all proceedings in the counting center whether or not by experts;
- (e) be responsible for assuring the lawful retention and storage of ballots and read-outs; and
- (f) arrange for observation by the public and by candidates' representatives of counting center procedures by publishing the exact location of the counting center in a legal newspaper at least once during the week preceding the week of election and in the newspaper of widest circulation once on the day preceding the election, or once the week preceding the election if the newspaper is a weekly.

The official may make arrangements with news reporters which permit prompt reporting of election results but which do not interfere with the timely and lawful completion of counting procedures.

Sec. 88. Minnesota Statutes 2004, section 206.90, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] For the purposes of this section, "optical scan voting system" means an electronic voting system approved for use under sections 206.80 to 206.81 in which the voter records votes by marking with a pencil or other ~~writing instrument device~~, including an electronic ballot marker, a ballot on which the names of candidates, office titles, party designation in a partisan primary or election, and a statement of any question accompanied by the words "Yes" and "No" are printed.

Sec. 89. Minnesota Statutes 2004, section 206.90, subdivision 4, is amended to read:

Subd. 4. [ABSENTEE VOTING.] An optical scan voting system may be used for absentee voting. ~~The county auditor may supply an appropriate marking instrument to the voter along with the ballot.~~

Sec. 90. Minnesota Statutes 2004, section 206.90, subdivision 5, is amended to read:

Subd. 5. [INSTRUCTION OF JUDGES, VOTERS.] In instructing judges and voters under section 206.84, subdivision 1, officials in charge of election precincts using optical scan voting systems shall include instruction on the proper mark for recording votes on ballot cards marked with a pencil or other writing instrument and the insertion by the voter of the ballot card into automatic tabulating equipment that examines and counts votes as the ballot card is deposited into the ballot box.

Officials shall include instruction on the insertion by the voter of the ballot card into an electronic ballot marker that can examine votes before the ballot card is deposited into the ballot box.

Sec. 91. Minnesota Statutes 2004, section 206.90, subdivision 6, is amended to read:

Subd. 6. [BALLOTS.] In precincts using optical scan voting systems, a single ballot card on which all ballot information is included must be printed in black ink on white colored material except that marks not to be read by the automatic tabulating equipment may be printed in another color ink.

On the front of the ballot must be printed the words "Official Ballot" and the date of the election and lines for the initials of at least two election judges.

When optical scan ballots are used, the offices to be elected must appear in the following order: federal offices; state legislative offices; constitutional offices; proposed constitutional amendments; county offices and questions; municipal offices and questions; school district offices and questions; special district offices and questions; and judicial offices.

On optical scan ballots, the names of candidates and the words "yes" and "no" for ballot questions must be printed as close to their corresponding vote targets as possible.

The line on an optical scan ballot for write-in votes must contain the words "write-in, if any."

If a primary ballot contains both a partisan ballot and a nonpartisan ballot, the instructions to voters must include a statement that reads substantially as follows: "THIS BALLOT CARD CONTAINS A PARTISAN BALLOT AND A NONPARTISAN BALLOT. ON THE PARTISAN BALLOT YOU ARE PERMITTED TO VOTE FOR CANDIDATES OF ONE POLITICAL PARTY ONLY." If a primary ballot contains political party columns on both sides of the ballot, the instructions to voters must include a statement that reads substantially as follows: "ADDITIONAL POLITICAL PARTIES ARE PRINTED ON THE OTHER SIDE OF THIS BALLOT. VOTE FOR ONE POLITICAL PARTY ONLY." At the bottom of each political party column on the primary ballot, the ballot must contain a statement that reads substantially as follows: "CONTINUE VOTING ON THE NONPARTISAN BALLOT." The instructions in section 204D.08, subdivision 4, do not apply to optical scan partisan primary ballots. Electronic ballot displays and audio ballot readers must follow the order of offices and questions on the optical scan or paper ballot used in the same precinct.

Sec. 92. Minnesota Statutes 2004, section 206.90, subdivision 8, is amended to read:

Subd. 8. [DUTIES OF ELECTION OFFICIALS.] The official in charge of elections in each municipality where an optical scan voting system is used shall have the electronic ballot that examines and marks votes on ballot cards and the automatic tabulating equipment that examines and counts votes as ballot cards are deposited into ballot boxes put in order, set, adjusted, and made ready for voting when delivered to the election precincts.

Sec. 93. Minnesota Statutes 2004, section 206.90, subdivision 9, is amended to read:

Subd. 9. [SPOILED BALLOT CARDS.] Automatic tabulating equipment and electronic ballot markers must be capable of examining a ballot card for defects and returning it to the voter before it is counted and deposited into the ballot box and must be programmed to return as a spoiled ballot a ballot card with votes for an office or question which exceed the number which the voter is entitled to cast and at a primary a ballot card with votes for candidates of more than one party.

Sec. 94. Minnesota Statutes 2004, section 208.03, is amended to read:

208.03 [NOMINATION OF PRESIDENTIAL ELECTORS.]

Presidential electors for the major political parties of this state shall be nominated by delegate conventions called and held under the supervision of the respective state central committees of the parties of this state. On or before primary election day the chair of the major political party shall certify to the secretary of state the names of the persons nominated as presidential electors, the names of eight alternate presidential electors, and the names of the party candidates for president and vice-president.

Sec. 95. Minnesota Statutes 2004, section 208.04, subdivision 1, is amended to read:

Subdivision 1. [FORM OF PRESIDENTIAL BALLOTS.] When presidential electors and alternates are to be voted for, a vote cast for the party candidates for president and vice-president shall be deemed a vote for that party's electors and alternates as filed with the secretary of state. The secretary of state shall certify the names of all duly nominated presidential and vice-presidential candidates to the county auditors of the counties of the state. Each county auditor, subject to the rules of the secretary of state, shall cause the names of the candidates of each major political party and the candidates nominated by petition to be printed in capital letters, set in type of the same size and style as for candidates on the state white ballot, before the party designation. To the left of, and on the same line with the names of the candidates for president and vice-president, near the margin, shall be placed a square or box, in which the voters may indicate their choice by marking an "X."

The form for the presidential ballot and the relative position of the several candidates shall be determined by the rules applicable to other state officers. The state ballot, with the required heading, shall be printed on the same piece of paper and shall be below the presidential ballot with a blank space between one inch in width.

Sec. 96. Minnesota Statutes 2004, section 208.05, is amended to read:

208.05 [STATE CANVASSING BOARD.]

The State Canvassing Board at its meeting on the second Tuesday after each state general election shall open and canvass the returns made to the secretary of state for presidential electors and alternates, prepare a statement of the number of votes cast for the persons receiving votes for these offices, and declare the person or persons receiving the highest number of votes for each office duly elected. When it appears that more than the number of persons to be elected as presidential electors or alternates have the highest and an equal number of votes, the secretary of state, in the presence of the board shall decide by lot which of the persons shall be declared elected. The governor shall transmit to each person declared elected a certificate of election, signed by the governor, sealed with the state seal, and countersigned by the secretary of state.

Sec. 97. Minnesota Statutes 2004, section 208.06, is amended to read:

208.06 [ELECTORS TO MEET AT CAPITOL; FILLING OF VACANCIES.]

The presidential electors and alternate presidential electors, before 12:00 M. on the day before that fixed by Congress for the electors to vote for president and vice-president of the United States, shall notify the governor that they are at the State Capitol and ready at the proper time to fulfill their duties as electors. The governor shall deliver to the electors present a certificate of the names of all the electors. If any elector named therein fails to appear before 9:00 a.m. on the day, and at the place, fixed for voting for president and vice-president of the United States, an alternate, chosen from among the alternates by lot, shall be appointed to act for that elector. If more than eight alternates are necessary, the electors present shall, in the presence of the governor, immediately elect by ballot a person to fill the vacancy. If more than the number of persons required have the highest and an equal number of votes, the governor, in the presence of the electors attending, shall decide by lot which of those persons shall be elected.

Sec. 98. Minnesota Statutes 2004, section 208.07, is amended to read:

208.07 [CERTIFICATE OF ELECTORS.]

Immediately after the vacancies have been filled, the original electors and alternates present shall certify to the governor the names of the persons elected to complete their number, and the governor shall at once cause written notice to be given to each person elected to fill a vacancy. The persons so chosen shall be presidential electors and shall meet and act with the other electors.

Sec. 99. Minnesota Statutes 2004, section 208.08, is amended to read:

208.08 [ELECTORS TO MEET AT STATE CAPITOL.]

The original, alternate, and substituted presidential electors, at 12:00 M., shall meet in the executive chamber at the State Capitol and shall perform all the duties imposed upon them as electors by the Constitution and laws of the United States and this state.

Each elector, as a condition of having been chosen under the name of the party of a presidential and a vice-presidential candidate, is obligated to vote for those candidates. The elector shall speak aloud or affirm in a nonverbal manner the name of the candidate for president and for vice-president for whom the elector is voting and then confirm that vote by written public ballot.

If an elector fails to cast a ballot for the presidential or vice-presidential candidate of the party under whose name the elector was chosen, the elector's vote or abstention is invalidated and an alternate presidential elector, chosen by lot from among the alternates, shall cast a ballot in the name of the elector for the presidential and vice-presidential candidate of the party under whose name the elector was chosen. The invalidation of an elector's vote or abstention on the ballot for president or vice-president does not apply if the presidential candidate under whose party's name the elector was chosen has without condition released the elector or has died or become mentally disabled.

Sec. 100. Minnesota Statutes 2004, section 211B.01, subdivision 3, is amended to read:

Subd. 3. [CANDIDATE.] "Candidate" means an individual who seeks nomination or election to a ~~federal,~~ statewide, legislative, judicial, or local office including special districts, school districts, towns, home rule charter and statutory cities, and counties, ~~except candidates for president and vice-president of the United States.~~

Sec. 101. Minnesota Statutes 2004, section 358.11, is amended to read:

358.11 [OATHS, WHERE FILED.]

Except as otherwise provided by law, the oath required to be taken and subscribed by any person shall be filed as follows:

- (1) if that of an officer of the state, whether elective or appointive, executive, legislative, or judicial, with the secretary of state;
- (2) if of a county officer, or an officer chosen within or for any county, with the county auditor;
- (3) if of a city officer, with the clerk or recorder of the municipality;
- (4) if of a town officer, with the town clerk;
- (5) if of a school district officer, with the clerk of the district;
- (6) if of a person appointed by, or made responsible to, a court in any action or proceeding therein, with the court administrator of such court;
- (7) if that of a person appointed by any state, county, or other officer for a special service in connection with official duties, with such officer.

If the person taking such oath be also required to give bond, the oath shall be attached to or endorsed upon such bond and filed therewith, in lieu of other filing.

Sec. 102. Minnesota Statutes 2004, section 414.01, is amended by adding a subdivision to read:

Subd. 18. [ANNEXATIONS NOT PERMITTED AT CERTAIN TIMES.] Notwithstanding the provisions of this chapter, no annexation shall become effective between the opening of filing for a previously scheduled municipal election of the municipality which is annexing the unincorporated land and the issuance of the certificates of election to the candidates elected at that election.

Sec. 103. [414.0305] [MUNICIPAL ANNEXATION.]

Notwithstanding the provisions of this chapter, no annexation by a municipality shall be effective during the period from the opening of filing for any previously scheduled municipal election until after the end of the contest period for that election.

Sec. 104. Minnesota Statutes 2004, section 447.32, subdivision 4, is amended to read:

Subd. 4. [CANDIDATES; BALLOTS; CERTIFYING ELECTION.] A person who wants to be a candidate for the hospital board shall file an affidavit of candidacy for the election either as member at large or as a member representing the city or town where the candidate resides. The affidavit of candidacy must be filed with the city or town clerk not more than ~~ten weeks~~ 70 days nor less than ~~eight weeks~~ 56 days before the first Tuesday after the ~~second first~~ Monday in ~~September~~ November of the year in which the general election is held. The city or town clerk must forward the affidavits of candidacy to the clerk of the hospital district or, for the first election, the clerk of the most populous city or town immediately after the last day of the filing period. A candidate may withdraw from the election by filing an affidavit of withdrawal with the clerk of the district no later than 5:00 p.m. two days after the last day to file affidavits of candidacy.

Voting must be by secret ballot. The clerk shall prepare, at the expense of the district, necessary ballots for the election of officers. Ballots must be printed on tan paper and prepared as provided in the rules of the secretary of state. The ballots must be marked and initialed by at least two judges as official ballots and used exclusively at the election. Any proposition to be voted on may be printed on the ballot provided for the election of officers. The hospital board may also authorize the use of voting systems subject to chapter 206. Enough election judges may be appointed to receive the votes at each polling place. The election judges shall act as clerks of election, count the ballots cast, and submit them to the board for canvass.

After canvassing the election, the board shall issue a certificate of election to the candidate who received the largest number of votes cast for each office. The clerk shall deliver the certificate to the person entitled to it in person or by certified mail. Each person certified shall file an acceptance and oath of office in writing with the clerk within 30 days after the date of delivery or mailing of the certificate. The board may fill any office as provided in subdivision 1 if the person elected fails to qualify within 30 days, but qualification is effective if made before the board acts to fill the vacancy.

Sec. 105. [APPROPRIATIONS.]

Subdivision 1. [ASSISTIVE VOTING EQUIPMENT; OPERATING COSTS.] (a) \$25,000,000 is appropriated from the Help America Vote Act account to the secretary of state for grants to counties to purchase electronic voting systems equipped for individuals with disabilities that meet the requirements of section 301(a) of the Help America Vote Act, Public Law 107-252, and Minnesota Statutes, sections 206.80, and 206.57, subdivision 5, and have been certified by the secretary of state under Minnesota Statutes, section 206.57. The secretary of state shall make a grant to each county in the amount of \$6,100 times the number of precincts in the county as certified by the county, which must not be more than the number of precincts used by the county in the state general election of 2004; plus \$6,100 to purchase an electronic voting system to be used by the county auditor for absentee and mail balloting, until the \$25,000,000 is exhausted. These funds may be used either for the purchase of ballot marking equipment for persons with disabilities and other voters, or assistive voting machines that combine voting methods used for persons with disabilities with precinct-based optical scan voting machines. Any unused funds must be set aside in a segregated account for future purchases of voting equipment complying with the Help America Vote Act and Minnesota law.

(b)(1) For the purposes of this paragraph, "operating costs" include actual county and municipal costs for hardware maintenance, election day technical support, software licensing, system programming, voting system testing, training of county or municipal staff in the use of the assistive voting system, transportation of the assistive voting systems to and from the polling places, and storage of the assistive voting systems between elections.

(2) \$2,500,000 is appropriated to the secretary of state for grants to counties to defray the operating costs of the assistive voting equipment. Each county may submit a request for no more than \$600 per polling place per year until the appropriation is exhausted.

Subd. 2. [OPTIC SCAN EQUIPMENT.] \$6,000,000 is appropriated from the Help America Vote Act account to the secretary of state for grants to counties to purchase optical scan voting equipment. Counties are eligible for these funds to the extent that they decide to purchase ballot marking machines and as a result do not have sufficient federal funds remaining to also purchase a compatible precinct-based optical scan machine or central count machine. These grants will be allocated to counties at a rate of \$3,000 per eligible precinct until the appropriation is exhausted with priority in the payment of grants to be given to counties currently using hand and central count voting systems and counties using precinct-count optical scan voting systems incompatible with assistive voting systems or ballot marking machines.

Subd. 3. [SECRETARY OF STATE ELECTION ADMINISTRATION.] \$5,000,000 is appropriated from the Help America Vote Act account to the secretary of state for further development of the statewide voter registration system and for training of local election officials, education of the public, and other election administration improvements permitted by the Help America Vote Act.

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

Sec. 106. [LOCAL EQUIPMENT PLANS.]

(a) The county auditor shall convene a working group of all city and town election officials in each county to create a local equipment plan. The working group must continue to meet until the plan is completed, which must be no later than September 15, 2005; or 45 days after state certification of assistive voting systems, whichever is later. The plan must:

(1) contain procedures to implement voting systems as defined in Minnesota Statutes, section 206.80 in each polling location;

(2) define who is responsible for any capital or operating costs related to election equipment not covered by federal money from the Help America Vote Act account; and

(3) outline how the federal money from the Help America Vote Act account will be spent.

(b) A county plan must provide funding to purchase either precinct-based optical scan voting equipment, or assistive voting machines that combine voting methods used for persons with disabilities with precinct-based optical scan voting machines for any precinct whose city or town requests it, if the requesting city or town agrees with the county on who will be responsible for operating and replacement costs related to the use of the precinct-based equipment.

(c) The plan must be submitted to the secretary of state for review and comment. The county board of commissioners must adopt the local equipment plan after a public hearing. Money from the Help America Vote Act account may not be expended until the plan is adopted. The county auditor shall file the adopted local equipment plan with the secretary of state.

(d) To receive a grant under this section, the county must apply to the secretary of state on forms prescribed by the secretary of state and must set forth how the grant money will be spent pursuant to the plan. A county may submit more than one grant application, so long as the appropriation remains available and the total amount granted to the county does not exceed the county's allocation.

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

Sec. 107. [REPORT.]

Each county receiving a grant under this article must report to the secretary of state by March 15, 2006, the amount spent for the purchase of each kind of electronic voting system and for operating costs of the systems purchased. The secretary of state shall compile this information and report it to the legislature by April 15, 2006.

Sec. 108. [RANDOM AUDITS.]

Notwithstanding Minnesota Statutes, section 10A.02, subdivision 9, the Campaign Finance and Public Disclosure Board must perform only random inspections of material filed with the board during the biennium ending June 30, 2007.

Sec. 109. [REPEALER.]

Minnesota Statutes 2004, sections 204B.22, subdivision 2; and 204C.50, subdivision 7, are repealed.

Minnesota Rules, parts 4501.0300, subparts 1 and 4; 4501.0500, subpart 4; 4501.0600; 4503.0200, subpart 4; 4503.0300, subpart 2; 4503.0400, subpart 2; 4503.0500, subpart 9; and 4503.0800, subpart 1, are repealed.

ARTICLE 9

PERIODIC STATE AND LOCAL ELECTION DATES

Section 1. [204D.035] [PERIODIC ELECTION DAY.]

Subdivision 1. [SHORT TITLE.] This section may be referred to as the "Periodic Election Day Act of 2005."

Subd. 2. [ELECTIONS COVERED.] This section applies to all state, county, municipal, school district, and any other political subdivision elections held in the state of Minnesota, and elections on ballot questions, except for (1) elections held to fill a vacancy in office and required by statute to be held sooner than the next day designated in subdivision 3, or (2) elections conducted by mail.

Subd. 3. [ELECTIONS ON DESIGNATED DAYS.] (a) Notwithstanding other law to the contrary, elections subject to subdivision 2 may be held only on the following days:

(1) the fourth Tuesday in January;

(2) the second Tuesday in March;

(3) the third Tuesday in May;

(4) the first Tuesday after the second Monday in September; and

(5) the first Tuesday after the first Monday in November.

(b) The time period in which a special election must be conducted under any other law or charter provision must be extended to conform to the requirements of this subdivision.

Subd. 4. [PRIMARY DATE IF NOT SPECIFIED.] If other law provides for a primary to take place for a particular office but does not specify the date of the primary, the primary may be held on one of the days specified in subdivision 3, paragraph (a), clauses (1) to (4). The general election for the office must be held on the date listed in subdivision 3 that immediately follows the date chosen for the primary.

Subd. 5. [ELECTION TIMES AND POLLING PLACES.] An election held in a jurisdiction on one of the days specified in subdivision 3 must be held during the hours determined under section 204C.05. The governing body of the municipality must set the polling place locations to be used for each precinct in all elections in any calendar year before the start of that calendar year.

Subd. 6. [APPLICABLE LAWS.] Except as otherwise provided by this section, Minnesota election law remains applicable to elections held on any of the days listed in subdivision 3.

Sec. 2. [EFFECTIVE DATE.]

This article is effective January 1, 2006.

ARTICLE 10

CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 2004, section 123B.63, subdivision 3, is amended to read:

Subd. 3. [CAPITAL PROJECT LEVY REFERENDUM.] A district may levy the local tax rate approved by a majority of the electors voting on the question to provide funds for an approved project. The election must take place no more than five years before the estimated date of commencement of the project. The referendum must be held on a date ~~set by the board~~ specified in section 204D.035, subdivision 3. A referendum for a project not receiving a positive review and comment by the commissioner under section 123B.71 must be approved by at least 60 percent of the voters at the election. The referendum may be called by the school board and may be held:

(1) separately, before an election for the issuance of obligations for the project under chapter 475; or

(2) in conjunction with an election for the issuance of obligations for the project under chapter 475; or

(3) notwithstanding section 475.59, as a conjunctive question authorizing both the capital project levy and the issuance of obligations for the project under chapter 475. Any obligations authorized for a project may be issued within five years of the date of the election.

The ballot must provide a general description of the proposed project, state the estimated total cost of the project, state whether the project has received a positive or negative review and comment from the commissioner, state the maximum amount of the capital project levy as a percentage of net tax capacity, state the amount that will be raised by that local tax rate in the first year it is to be levied, and state the maximum number of years that the levy authorization will apply.

The ballot must contain a textual portion with the information required in this section and a question stating substantially the following:

"Shall the capital project levy proposed by the board of School District No. be approved?"

If approved, the amount provided by the approved local tax rate applied to the net tax capacity for the year preceding the year the levy is certified may be certified for the number of years approved.

In the event a conjunctive question proposes to authorize both the capital project levy and the issuance of obligations for the project, appropriate language authorizing the issuance of obligations must also be included in the question.

The district must notify the commissioner of the results of the referendum.

Sec. 2. Minnesota Statutes 2004, section 126C.17, subdivision 11, is amended to read:

Subd. 11. [REFERENDUM DATE.] (a) Except for a referendum held under paragraph (b), any referendum under this section held on a day other than the first Tuesday after the first Monday in November must be conducted by mail in accordance with section 204B.46. Notwithstanding subdivision 9, paragraph (b), to the contrary, in the case of a referendum conducted by mail under this paragraph, the notice required by subdivision 9, paragraph (b), must be prepared and delivered by first-class mail at least 20 days before the referendum.

(b) In addition to the referenda allowed in subdivision 9, clause (a), the commissioner may grant authority to a district to hold a referendum on a different day if the district is in statutory operating debt and has an approved plan or has received an extension from the department to file a plan to eliminate the statutory operating debt. A referendum must be held on a date specified in section 204D.035, subdivision 3.

(c) The commissioner must approve, deny, or modify each district's request for a referendum levy on a different day within 60 days of receiving the request from a district.

Sec. 3. Minnesota Statutes 2004, section 204C.05, is amended by adding a subdivision to read:

Subd. 1c. [ELECTIONS; MUNICIPALITIES AND SCHOOL DISTRICTS.] The governing body of a municipality or school district may, by resolution, designate the hours during which the polling places will remain open for voting at the next succeeding and all later municipal or school district elections that are not held at the same time as the state primary or state general election. All polling places must be open at least between the hours of 10:00 a.m. and 8:00 p.m. The resolution remains in effect until revoked by the governing board or until a petition from voters is filed under this subdivision. If a petition requesting longer voting hours for any election is signed by a number of voters equal to ten percent of the votes cast in the last municipal or school district general election, whichever applies, and filed with the appropriate municipal or school district clerk no later than 30 days before an election, the polling places for that election must open at 7:00 a.m. and close at 8:00 p.m. The municipal or school district clerk must give ten days published and posted notice of the change in hours and notify the appropriate county auditors of the change.

Sec. 4. Minnesota Statutes 2004, section 205.10, subdivision 3, is amended to read:

Subd. 3. [PROHIBITION.] ~~No~~ A special election authorized under subdivision 1 may be held ~~within 40 days after the state general election~~ only on one of the dates specified in section 204D.035, subdivision 3.

Sec. 5. [205.176] [VOTING HOURS.]

In all municipal elections the hours for voting must be determined as provided in section 204C.05 except for an election at which only township offices are to be elected.

Sec. 6. Minnesota Statutes 2004, section 205A.05, subdivision 1, is amended to read:

Subdivision 1. [QUESTIONS.] Special elections must be held for a school district on a question on which the voters are authorized by law to pass judgment. The school board may on its own motion call a special election to vote on any matter requiring approval of the voters of a district. Upon petition of 50 or more voters of the school district or five percent of the number of voters voting at the preceding regular school district election, the school board shall by resolution call a special election to vote on any matter requiring approval of the voters of a district. A question is carried only with the majority in its favor required by law. The election officials for a special election are the same as for the most recent school district general election unless changed according to law. Otherwise, special elections must be conducted and the returns made in the manner provided for the school district general election. ~~A special election may not be held during the 30 days before and the 30 days after the state primary, during the 30 days before and the 40 days after the state general election. In addition, a special election may not be held during the 20 days before and the 20 days after any regularly scheduled election of a municipality wholly or partially within the school district.~~ A special election under this subdivision must be held only on one of the dates specified in section 204D.035, subdivision 3. Notwithstanding any other law to the contrary, the time period in which a special election must be conducted under any other law may be extended by the school board to conform with the requirements of this subdivision.

Sec. 7. [205A.095] [HOURS FOR VOTING.]

The hours for voting in school district elections must be determined as provided in section 204C.05.

Sec. 8. Minnesota Statutes 2004, section 373.40, subdivision 2, is amended to read:

Subd. 2. [APPLICATION OF ELECTION REQUIREMENT.] (a) Bonds issued by a county to finance capital improvements under an approved capital improvement plan are not subject to the election requirements of section 375.18 or 475.58. The bonds must be approved by vote of at least three-fifths of the members of the county board. In the case of a metropolitan county, the bonds must be approved by vote of at least two-thirds of the members of the county board.

(b) Before issuance of bonds qualifying under this section, the county must publish a notice of its intention to issue the bonds and the date and time of a hearing to obtain public comment on the matter. The notice must be published in the official newspaper of the county or in a newspaper of general circulation in the county. The notice must be published at least 14, but not more than 28, days before the date of the hearing.

(c) A county may issue the bonds only upon obtaining the approval of a majority of the voters voting on the question of issuing the obligations, if a petition requesting a vote on the issuance is signed by voters equal to five percent of the votes cast in the county in the last general election and is filed with the county auditor within 30 days after the public hearing. The commissioner of revenue shall prepare a suggested form of the question to be presented at the election. The election may be held only on one of the dates specified in section 204D.035, subdivision 3.

Sec. 9. Minnesota Statutes 2004, section 375.20, is amended to read:

375.20 [BALLOT QUESTIONS.]

If the county board may do an act, incur a debt, appropriate money for a purpose, or exercise any other power or authority, only if authorized by a vote of the people, the question may be submitted at a special or general election, by a resolution specifying the matter or question to be voted upon. If the question is to authorize the appropriation of money, creation of a debt, or levy of a tax, it shall state the amount. Notice of the election shall be given as in the case of special elections. If the question submitted is adopted, the board shall pass an appropriate resolution to carry it into effect. In the election the form of the ballot shall be: "In favor of (here state the substance of the resolution to be submitted), Yes No.....," with a square opposite each of the words "yes" and "no," in one of which the voter shall mark an "X" to indicate a choice. The county board may call a special county election upon a question to be held ~~within 60 days~~ on any date specified in section 204D.035, subdivision 3, after a resolution to that effect is adopted by the county board. Upon the adoption of the resolution the county auditor shall post and publish notices of the election, as required by section 204D.22, subdivisions 2 and 3. The election shall be conducted and the returns canvassed in the manner prescribed by sections 204D.20 to 204D.27, so far as practicable.

Sec. 10. Minnesota Statutes 2004, section 458.40, is amended to read:

458.40 [MUST VOTE TO ISSUE BONDS IF CHARTER SAYS SO.]

If a charter adopted under the Minnesota Constitution, article IV, section 36, article XI, section 4, or article XII, section 5, has a provision that requires the question of the issuance of bonds to be submitted to the electors, the provision prevails over sections 458.36 to 458.40. The question must be submitted to voters on one of the dates specified in section 204D.035, subdivision 3, notwithstanding any contrary provision in the charter regarding the date of submission.

Sec. 11. Minnesota Statutes 2004, section 465.82, subdivision 2, is amended to read:

Subd. 2. [CONTENTS OF PLAN.] The plan must state:

- (1) the specific cooperative activities the units will engage in during the first two years of the venture;
- (2) the steps to be taken to effect the merger of the governmental units, with completion no later than four years after the process begins;
- (3) the steps by which a single governing body will be created or, when the entire territory of a unit will be apportioned between or among two or more units contiguous to the unit that is to be apportioned, the steps to be taken by the governing bodies of the remaining units to provide for representation of the residents of the apportioned unit;
- (4) changes in services provided, facilities used, and administrative operations and staffing required to effect the preliminary cooperative activities and the final merger, and a two-, five-, and ten-year projection of expenditures for each unit if it combined and if it remained separate;
- (5) treatment of employees of the merging governmental units, specifically including provisions for reassigning employees, dealing with exclusive representatives, and providing financial incentives to encourage early retirements;
- (6) financial arrangements for the merger, specifically including responsibility for debt service on outstanding obligations of the merging units;
- (7) one- and two-year impact analyses, prepared by the granting state agency at the request of the local government unit, of major state aid revenues received for each unit if it combined and if it remained separate, including an impact analysis, prepared by the Department of Revenue, of any property tax revenue implications associated with tax increment financing districts and fiscal disparities under chapter 276A or 473F resulting from the merger;
- (8) procedures for a referendum to be held on a date specified in section 204D.035, subdivision 3, before the proposed combination to approve combining the local government units, specifically stating whether a majority of those voting in each district proposed for combination or a majority of those voting on the question in the entire area proposed for combination is needed to pass the referendum; and
- (9) a time schedule for implementation.

Notwithstanding clause (3) or any other law to the contrary, all current members of the governing bodies of the local government units that propose to combine under sections 465.81 to 465.86 may serve on the initial governing body of the combined unit until a gradual reduction in membership is achieved by foregoing election of new members when terms expire until the number permitted by other law is reached.

Sec. 12. Minnesota Statutes 2004, section 465.84, is amended to read:

465.84 [REFERENDUM.]

During the first or second year of cooperation, a referendum on the question of combination must be conducted. The referendum must be on a date specified in section 204D.035, subdivision 3, and called by the governing bodies of the units that propose to combine. The referendum must be conducted according to the Minnesota Election Law,

as defined in section 200.01. If the referendum fails, the same question or a modified question may be submitted the following year. If the referendum fails again, the same question may not be submitted. Referendums shall be conducted on the same date in all local government units.

Sec. 13. Minnesota Statutes 2004, section 469.053, subdivision 5, is amended to read:

Subd. 5. [REVERSE REFERENDUM.] A city may increase its levy for port authority purposes under subdivision 4 only as provided in this subdivision. Its city council must first pass a resolution stating the proposed amount of levy increase. The city must then publish the resolution together with a notice of public hearing on the resolution for two successive weeks in its official newspaper or, if none exists, in a newspaper of general circulation in the city. The hearing must be held two to four weeks after the first publication. After the hearing, the city council may decide to take no action or may adopt a resolution authorizing the proposed increase or a lesser increase. A resolution authorizing an increase must be published in the city's official newspaper or, if none exists, in a newspaper of general circulation in the city. The resolution is not effective if a petition requesting a referendum on the resolution is filed with the city clerk within 30 days of publication of the resolution. The petition must be signed by voters equaling five percent of the votes cast in the city in the last general election. The resolution is effective if approved by a majority of those voting on the question. The commissioner of revenue shall prepare a suggested form of referendum question. The referendum must be held at a special or general election ~~before October 1~~ on a date specified in section 204D.035, subdivision 3, of the year for which the levy increase is proposed.

Sec. 14. Minnesota Statutes 2004, section 469.0724, is amended to read:

469.0724 [GENERAL OBLIGATION BONDS.]

The port authority of Cannon Falls or Redwood Falls must not proceed with the sale of general obligation tax supported bonds until the city council by resolution approves the proposed issuance. The resolution must be published in the official newspaper. If, within 30 days after the publication, a petition signed by voters equal in number to ten percent of the number of voters at the last regular city election is filed with the city clerk, the city and port authority must not issue the general obligation tax supported bonds until the proposition has been approved by a majority of the votes cast on the question at a regular or special election held on one of the dates specified in section 204D.035, subdivision 3.

Sec. 15. Minnesota Statutes 2004, section 469.190, subdivision 5, is amended to read:

Subd. 5. [REVERSE REFERENDUM.] If the county board passes a resolution under subdivision 4 to impose the tax, the resolution must be published for two successive weeks in a newspaper of general circulation within the unorganized territory, together with a notice fixing a date for a public hearing on the proposed tax.

The hearing must be held not less than two weeks nor more than four weeks after the first publication of the notice. After the public hearing, the county board may determine to take no further action, or may adopt a resolution authorizing the tax as originally proposed or approving a lesser rate of tax. The resolution must be published in a newspaper of general circulation within the unorganized territory. The voters of the unorganized territory may request a referendum on the proposed tax by filing a petition with the county auditor within 30 days after the resolution is published. The petition must be signed by voters who reside in the unorganized territory. The number of signatures must equal at least five percent of the number of persons voting in the unorganized territory in the last general election. If such a petition is timely filed, the resolution is not effective until it has been submitted to the voters residing in the unorganized territory at a general or special election held on one of the dates specified in section 204D.035, subdivision 3, and a majority of votes cast on the question of approving the resolution are in the affirmative. The commissioner of revenue shall prepare a suggested form of question to be presented at the referendum.

Sec. 16. Minnesota Statutes 2004, section 475.521, subdivision 2, is amended to read:

Subd. 2. [ELECTION REQUIREMENT.] (a) Bonds issued by a city to finance capital improvements under an approved capital improvements plan are not subject to the election requirements of section 475.58. The bonds are subject to the net debt limits under section 475.53. The bonds must be approved by an affirmative vote of three-fifths of the members of a five-member city council. In the case of a city council having more than five members, the bonds must be approved by a vote of at least two-thirds of the city council.

(b) Before the issuance of bonds qualifying under this section, the city must publish a notice of its intention to issue the bonds and the date and time of the hearing to obtain public comment on the matter. The notice must be published in the official newspaper of the city or in a newspaper of general circulation in the city. Additionally, the notice may be posted on the official Web site, if any, of the city. The notice must be published at least 14 but not more than 28 days before the date of the hearing.

(c) A city may issue the bonds only after obtaining the approval of a majority of the voters voting on the question of issuing the obligations, if a petition requesting a vote on the issuance is signed by voters equal to five percent of the votes cast in the city in the last general election and is filed with the city clerk within 30 days after the public hearing. The commissioner of revenue shall prepare a suggested form of the question to be presented at the election. The election must be held on one of the dates specified in section 204D.035, subdivision 3.

Sec. 17. Minnesota Statutes 2004, section 475.58, subdivision 1, is amended to read:

Subdivision 1. [APPROVAL BY ELECTORS; EXCEPTIONS.] Obligations authorized by law or charter may be issued by any municipality upon obtaining the approval of a majority of the electors voting at a special or general election held on one of the dates specified in section 204D.035, subdivision 3, on the question of issuing the obligations, but an election shall not be required to authorize obligations issued:

(1) to pay any unpaid judgment against the municipality;

(2) for refunding obligations;

(3) for an improvement or improvement program, which obligation is payable wholly or partly from the proceeds of special assessments levied upon property specially benefited by the improvement or by an improvement within the improvement program, or of taxes levied upon the increased value of property within a district for the development of which the improvement is undertaken, including obligations which are the general obligations of the municipality, if the municipality is entitled to reimbursement in whole or in part from the proceeds of such special assessments or taxes and not less than 20 percent of the cost of the improvement or the improvement program is to be assessed against benefited property or is to be paid from the proceeds of federal grant funds or a combination thereof, or is estimated to be received from such taxes within the district;

(4) payable wholly from the income of revenue producing conveniences;

(5) under the provisions of a home rule charter which permits the issuance of obligations of the municipality without election;

(6) under the provisions of a law which permits the issuance of obligations of a municipality without an election;

(7) to fund pension or retirement fund liabilities pursuant to section 475.52, subdivision 6;

(8) under a capital improvement plan under section 373.40; and

(9) under sections 469.1813 to 469.1815 (property tax abatement authority bonds), if the proceeds of the bonds are not used for a purpose prohibited under section 469.176, subdivision 4g, paragraph (b).

Sec. 18. Minnesota Statutes 2004, section 475.58, subdivision 1a, is amended to read:

Subd. 1a. [RESUBMISSION LIMITATION.] If the electors do not approve the issuing of obligations at an election required by subdivision 1, the question of authorizing the obligations for the same purpose and in the same amount may not be submitted to the electors ~~within a period of~~ until a special or general election held on a date specified in section 204D.035, subdivision 3, and not sooner than 180 days from the date the election was held. If the question of authorizing the obligations for the same purpose and in the same amount is not approved a second time it may not be submitted to the electors within a period of one year after the second election.

Sec. 19. Minnesota Statutes 2004, section 475.59, is amended to read:

475.59 [MANNER OF SUBMISSION; NOTICE.]

When the governing body of a municipality resolves to issue bonds for any purpose requiring the approval of the electors, it shall provide for submission of the proposition of their issuance at a general or special election held on a date specified in section 204D.035, subdivision 3, or at a town or common school district meeting. Notice of such election or meeting shall be given in the manner required by law and shall state the maximum amount and the purpose of the proposed issue. In any school district, the school board or board of education may, according to its judgment and discretion, submit as a single ballot question or as two or more separate questions in the notice of election and ballots the proposition of their issuance for any one or more of the following, stated conjunctively or in the alternative: acquisition or enlargement of sites, acquisition, betterment, erection, furnishing, equipping of one or more new schoolhouses, remodeling, repairing, improving, adding to, betterment, furnishing, equipping of one or more existing schoolhouses. In any city, town, or county, the governing body may, according to its judgment and discretion, submit as a single ballot question or as two or more separate questions in the notice of election and ballots the proposition of their issuance, stated conjunctively or in the alternative, for the acquisition, construction, or improvement of any facilities at one or more locations.

Sec. 20. [REPEALER.]

Minnesota Statutes 2004, sections 204C.05, subdivisions 1a and 1b; 205.175; and 205A.09, are repealed.

Sec. 21. [EFFECTIVE DATE.]

This article is effective January 1, 2006. Section 17 is effective for obligations authorized at an election held after January 1, 2006."

Delete the title and insert:

"A bill for an act relating to government operations; appropriating money for the general legislative and administrative expenses of state government; regulating state and local government operations; modifying provisions related to public employment; ratifying certain labor agreements and compensation plans; regulating elections and campaign finance; regulating Minneapolis teacher pensions; modifying provisions related to the military and veterans; providing conforming amendments; amending Minnesota Statutes 2004, sections 3.011; 3.012; 3.02; 3.922, subdivision 5; 3.9223, subdivision 5; 3.9225, subdivision 5; 3.9226, subdivision 5; 10A.01, subdivisions 5, 21, 23, 26; 10A.025, by adding a subdivision; 10A.071, subdivision 3; 10A.08; 10A.20, subdivisions

2, 5, by adding a subdivision; 10A.27, subdivision 1; 10A.28, subdivision 2; 10A.31, subdivisions 1, 3, 4, 5, 6a; 11A.04; 11A.07, subdivisions 4, 5; 11A.24, subdivision 6; 13.635, by adding a subdivision; 14.19; 15.054; 15B.17, subdivision 1; 16A.103, by adding a subdivision; 16A.1286, subdivisions 2, 3; 16A.152, subdivision 2; 16A.1522, subdivision 1; 16A.281; 16B.52, subdivision 1; 16C.10, subdivision 7; 16C.144; 16C.16, subdivision 1, by adding a subdivision; 16C.23, by adding a subdivision; 43A.183; 43A.23, subdivision 1; 123B.63, subdivision 3; 126C.17, subdivision 11; 190.16, by adding a subdivision; 192.19; 192.261, subdivisions 1, 2; 192.501, subdivision 2; 193.29, subdivision 3; 193.30; 193.31; 197.608, subdivision 5; 200.02, subdivisions 7, 23, by adding a subdivision; 201.022, by adding a subdivision; 201.061, subdivision 3; 201.071, subdivision 1; 201.091, subdivision 5; 203B.01, subdivision 3; 203B.02, subdivision 1; 203B.04, subdivisions 1, 4, by adding a subdivision; 203B.07, subdivision 2; 203B.11, subdivision 1; 203B.12, subdivision 2; 203B.20; 203B.21, subdivisions 1, 3; 203B.24, subdivision 1; 204B.10, subdivision 6; 204B.14, subdivision 2; 204B.16, subdivisions 1, 5; 204B.18, subdivision 1; 204B.22, subdivision 3; 204B.27, subdivisions 1, 3; 204B.33; 204C.05, subdivision 1a, by adding a subdivision; 204C.08, subdivision 1; 204C.24, subdivision 1; 204C.28, subdivision 1; 204C.50, subdivision 1; 204D.03, subdivision 1; 204D.14, subdivision 3; 204D.27, subdivision 5; 205.10, subdivision 3; 205.175, subdivision 2; 205A.05, subdivision 1; 205A.09, subdivision 1; 206.56, subdivisions 2, 3, 7, 8, 9, by adding subdivisions; 206.57, subdivisions 1, 5, by adding a subdivision; 206.58, subdivision 1; 206.61, subdivisions 4, 5; 206.64, subdivision 1; 206.80; 206.81; 206.82, subdivisions 1, 2; 206.83; 206.84, subdivisions 1, 3, 6; 206.85, subdivision 1; 206.90, subdivisions 1, 4, 5, 6, 8, 9; 208.03; 208.04, subdivision 1; 208.05; 208.06; 208.07; 208.08; 211B.01, subdivision 3; 240A.02, subdivision 3; 354A.08; 354A.12, subdivisions 3a, 3b; 358.11; 373.40, subdivision 2; 375.20; 394.25, by adding a subdivision; 414.01, by adding a subdivision; 447.32, subdivision 4; 458.40; 462.357, by adding a subdivision; 465.82, subdivision 2; 465.84; 469.053, subdivision 5; 469.0724; 469.190, subdivision 5; 471.345, by adding a subdivision; 471.975; 473.147, by adding a subdivision; 475.521, subdivision 2; 475.58, subdivisions 1, 1a; 475.59; Laws 2000, chapter 461, article 4, section 4, as amended; proposing coding for new law in Minnesota Statutes, chapters 3; 4; 5; 6; 8; 14; 15; 15B; 16A; 16B; 16C; 43A; 196; 197; 204D; 205; 205A; 206; 298; 354A; 414; 471; proposing coding for new law as Minnesota Statutes, chapter 471B; repealing Minnesota Statutes 2004, sections 3.9222; 16A.151, subdivision 5; 16A.30; 43A.11, subdivision 2; 197.455, subdivision 3; 204B.22, subdivision 2; 204C.05, subdivisions 1a, 1b; 204C.50, subdivision 7; 205.175; 205A.09; 240A.08; 354A.28; Minnesota Rules, parts 4501.0300, subparts 1, 4; 4501.0500, subpart 4; 4501.0600; 4503.0200, subpart 4; 4503.0300, subpart 2; 4503.0400, subpart 2; 4503.0500, subpart 9; 4503.0800, subpart 1."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Knoblach from the Committee on Ways and Means to which was referred:

H. F. No. 1521, A bill for an act relating to professions; extending the application period for power limited technicians; amending Minnesota Statutes 2004, section 326.242, subdivision 3d.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Pursuant to Joint Rule 2.03, H. F. No. 1521 was re-referred to the Committee on Rules and Legislative Administration.

Knoblach from the Committee on Ways and Means to which was referred:

H. F. No. 1964, A bill for an act relating to state government; establishing an energy savings program; authorizing the Department of Administration to use energy forward pricing mechanisms for budget risk reduction; amending Minnesota Statutes 2004, section 16C.144; proposing coding for new law in Minnesota Statutes, chapter 16C.

Reported the same back with the following amendments:

Page 1, line 25, after "exceed" insert "90 percent of"

With the recommendation that when so amended the bill pass.

The report was adopted.

Pursuant to Joint Rule 2.03, H. F. No. 1964 was re-referred to the Committee on Rules and Legislative Administration.

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 2129, A bill for an act relating to gambling; modifying certain provisions relating to card clubs; amending Minnesota Statutes 2004, section 240.30, subdivision 8.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 2279, A bill for an act relating to the city of Cologne; providing exemption to wetland replacement requirements.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Knoblach from the Committee on Ways and Means to which was referred:

H. F. No. 2335, A bill for an act relating to education finance; making forecast adjustments to education appropriations; amending Laws 2003, First Special Session chapter 9, article 1, section 53, subdivisions 2, as amended, 3, as amended, 11, as amended, 12, as amended; Laws 2003, First Special Session chapter 9, article 2, section 55, subdivisions 2, as amended, 5, as amended, 9, as amended, 12, as amended; Laws 2003, First Special Session chapter 9, article 3, section 20, subdivisions 2, 4, as amended, 5, as amended, 6, as amended, 8, as amended, 9, as amended; Laws 2003, First Special Session chapter 9, article 4, section 31, subdivisions 2, as amended, 3, as amended, 4; Laws 2003, First Special Session chapter 9, article 5, section 35, subdivision 3, as amended; Laws

2003, First Special Session chapter 9, article 6, section 4, as amended; Laws 2003, First Special Session chapter 9, article 7, section 11, subdivisions 2, 4; Laws 2003, First Special Session chapter 9, article 8, section 7, subdivisions 2, as amended, 3, 5, as amended; Laws 2003, First Special Session chapter 9, article 9, section 9, subdivision 2, as amended.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Pursuant to Joint Rule 2.03, H. F. No. 2335 was re-referred to the Committee on Rules and Legislative Administration.

Knoblach from the Committee on Ways and Means to which was referred:

S. F. No. 1621, A bill for an act relating to the military; providing for rental of certain facilities at Camp Ripley; amending Minnesota Statutes 2004, section 190.16, by adding a subdivision.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Pursuant to Joint Rule 2.03, S. F. No. 1621 was re-referred to the Committee on Rules and Legislative Administration.

SECOND READING OF HOUSE BILLS

H. F. Nos. 2129 and 2279 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. No. 51 was read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Abeler and Huntley introduced:

H. F. No. 2456, A bill for an act relating to health; requiring the commissioner of human services to fund the University of Minnesota's U special kids program; eliminating the expiration date for section 256B.075; appropriating money; amending Minnesota Statutes 2004, section 256B.075, subdivision 2; repealing Minnesota Statutes 2004, section 256B.075, subdivision 5.

The bill was read for the first time and referred to the Committee on Health Policy and Finance.

Krinkie, Howes and Vandevveer introduced:

H. F. No. 2457, A bill for an act relating to levy limits; imposing levy limits on counties and certain cities; amending Minnesota Statutes 2004, sections 275.70, subdivision 5; 275.71, subdivisions 2, 4, 5; repealing Minnesota Statutes 2004, section 275.71, subdivision 3.

The bill was read for the first time and referred to the Committee on Taxes.

Greiling introduced:

H. F. No. 2458, A bill for an act relating to education; providing increased funding for child care assistance, early childhood family education programs, general community education, adult basic education, special education, and the general education formula allowance; suspending and reducing certain fees relating to child care; imposing a temporary individual income tax surtax; providing grants; appropriating money; amending Minnesota Statutes 2004, sections 119B.09, subdivision 1; 119B.13, by adding a subdivision; 124D.135, subdivision 1; 124D.20, subdivision 3; 124D.52, subdivision 3; 124D.531, subdivisions 1, 4; 125A.76, subdivisions 1, 4; 125A.79, subdivisions 1, 6; 126C.10, subdivision 2; 245A.10, by adding a subdivision; 290.06, by adding a subdivision; repealing Laws 2003, First Special Session chapter 14, article 9, section 36.

The bill was read for the first time and referred to the Committee on Jobs and Economic Opportunity Policy and Finance.

Zellers and Holberg introduced:

H. F. No. 2459, A bill for an act relating to consumer fraud; modifying private remedies; amending Minnesota Statutes 2004, section 8.31, subdivision 3a, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Commerce and Financial Institutions.

Krinkie; Johnson, J.; DeLaForest and Kahn introduced:

H. F. No. 2460, A bill for an act relating to civil actions; providing punitive damages if news media violates a promise to protect a confidential source; proposing coding for new law in Minnesota Statutes, chapter 595.

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

Holberg, Ruth and Magnus introduced:

H. F. No. 2461, A bill for an act relating to appropriations; appropriating money for transportation, Metropolitan Council, and public safety activities; authorizing issuance of trunk highway bonds; providing for general contingent accounts and tort claims; modifying provision for handling state mail; modifying vehicle registration plate, tax, and fee provisions and providing for definitions; modifying motor vehicle, traffic regulation, driver's license, and driving record provisions relating to commercial motor vehicles; proposing amendments to Minnesota Constitution to allocate proceeds of taxes on sales of motor vehicles and motor fuels; increasing or modifying fees for motor vehicle transfers and driver and vehicle services; allowing state transportation funds to be used for design and preliminary engineering of bridges in smaller cities; authorizing billing for highway sign program and establishing special account; modifying apportionments for county state-aid highways; increasing amount deductible from county

state-aid highway fund for administrative costs; redefining recreational vehicle combination to include certain combinations hauling horse trailers and related vehicles; increasing maximum gross weight for certain vehicles and combinations hauling livestock on noninterstate trunk highways; modifying driver's license and permit provisions; providing a bidding exception for certain federally subsidized transit facilities; providing for metropolitan transit operations and funding; permitting development of bus rapid transit in Cedar Avenue transit corridor; providing for the speed limit on marked Interstate Highway 35E; requiring discontinuance of insurance verification sampling program until modified and providing remedies for charged violations; establishing accounts; abolishing statewide bicycle registration program; requiring reports; making technical and clarifying revisions; amending Minnesota Statutes 2004, sections 16B.49; 115A.908, subdivision 1; 161.04, by adding a subdivision; 162.06, subdivision 2; 162.07, subdivision 1, by adding a subdivision; 162.08, subdivision 3; 168.011, subdivisions 3, 4, 5, 5a, 6, 7, 25, by adding subdivisions; 168.013, subdivisions 1a, 8; 168.09, subdivision 7; 168.091, subdivision 1; 168.105, subdivisions 2, 3, 5; 168.12; 168.123, subdivisions 1, 2, 4, by adding a subdivision; 168.1235; 168.124; 168.125; 168.1255; 168.127, subdivision 6; 168.128; 168.129; 168.1291; 168.1293; 168.1296; 168.1297; 168.15, subdivision 1; 168.16; 168.27, subdivision 11; 168.31, subdivision 5; 168.33; 168.345, subdivisions 1, 2; 168.381; 168.54, subdivisions 4, 5; 168A.152, subdivision 2; 168A.29; 168A.31; 169.01, subdivisions 75, 76, 78; 169.09, subdivision 13; 169.14, by adding a subdivision; 169.81, subdivision 3c; 169.824, subdivision 2; 169.86, subdivision 5; 169A.52, subdivision 3; 169A.60, subdivision 16; 171.01, subdivisions 22, 35, 47, by adding a subdivision; 171.02; 171.03; 171.04, subdivision 2; 171.05, subdivisions 1, 2; 171.06, subdivisions 2, 2a; 171.061, subdivision 4; 171.07, subdivision 11; 171.09; 171.12, subdivisions 3, 6; 171.13, subdivisions 2, 6, by adding a subdivision; 171.165, subdivisions 1, 2, 6; 171.20, subdivision 4; 171.26; 171.29, subdivision 2; 171.36; 174.50, by adding a subdivision; 297B.09, subdivision 1; 469.015, subdivision 4; 473.446, subdivision 3; 473.4461; 473F.08, subdivision 3b; 609.855, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 160; 168; 171; 299A; repealing Minnesota Statutes 2004, sections 168.011, subdivision 19; 168.012, subdivision 12; 168.041, subdivision 11; 168.105, subdivision 6; 168.15, subdivision 2; 168.231; 168.345, subdivisions 3, 4; 168C.01; 168C.02; 168C.03; 168C.04; 168C.05; 168C.06; 168C.07; 168C.08; 168C.09; 168C.10; 168C.11; 168C.12; 168C.13; 169.99, subdivision 1b; 170.23; 171.12, subdivision 8; 171.165, subdivisions 3, 4, 4a, 4b; 171.185; Minnesota Rules, parts 7407.0100; 7407.0200; 7407.0300; 7407.0400; 7407.0500; 7407.0600; 7407.0700; 7407.0800; 7407.0900; 7407.1000; 7407.1100; 7407.1200; 7407.1300; 7503.2400.

The bill was read for the first time and referred to the Committee on Transportation Finance.

MESSAGES FROM THE SENATE

The following message was received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 1820, A bill for an act relating to the Cambridge State Hospital; naming a cemetery; proposing coding for new law in Minnesota Statutes, chapter 246.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Eastlund moved that the House concur in the Senate amendments to H. F. No. 1820 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 1820, A bill for an act relating to the Cambridge State Hospital; naming a cemetery; providing for a sign; proposing coding for new law in Minnesota Statutes, chapter 246.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Hilty	Lesch	Paymar	Soderstrom
Abrams	Dittrich	Holberg	Liebling	Pelowski	Solberg
Anderson, B.	Dorman	Hoppe	Lieder	Penas	Sykora
Anderson, I.	Dorn	Hornstein	Lillie	Peppin	Thao
Atkins	Eastlund	Hortman	Loeffler	Peterson, A.	Thissen
Beard	Eken	Hosch	Magnus	Peterson, N.	Tingelstad
Bernardy	Ellison	Howes	Mahoney	Peterson, S.	Urdahl
Blaine	Emmer	Huntley	Mariani	Poppe	Vandevveer
Bradley	Entenza	Jaros	Marquart	Powell	Wagenius
Brod	Erhardt	Johnson, J.	McNamara	Rukavina	Walker
Buesgens	Erickson	Johnson, R.	Meslow	Ruth	Wardlow
Carlson	Finstad	Johnson, S.	Moe	Ruud	Welti
Charron	Fritz	Juhnke	Mullery	Sailer	Westerberg
Clark	Garofalo	Kelliher	Murphy	Samuelson	Westrom
Cornish	Gazelka	Klinzing	Nelson, M.	Scalze	Wilkin
Cox	Greiling	Knoblach	Nelson, P.	Seifert	Zellers
Cybart	Gunther	Koenen	Newman	Sertich	Spk. Sviggum
Davids	Hackbarth	Kohls	Nornes	Severson	
Davnie	Hamilton	Krinkie	Olson	Sieben	
Dean	Hansen	Lanning	Opatz	Simon	
DeLaForest	Hausman	Larson	Otremba	Simpson	
Demmer	Heidgerken	Latz	Ozment	Slawik	
Dempsey	Hilstrom	Lenczewski	Paulsen	Smith	

The bill was repassed, as amended by the Senate, and its title agreed to.

CALENDAR FOR THE DAY

H. F. No. 823, A bill for an act relating to natural resources; modifying designations of forest roads; modifying terms of timber sales on tax-forfeited lands; modifying the State Timber Act; modifying standard measurements for wood; amending Minnesota Statutes 2004, sections 89.71, subdivision 1; 90.01, by adding subdivisions; 90.041, subdivision 5; 90.042; 90.101, subdivision 2; 90.121; 90.172; 90.173; 90.195; 90.211; 90.301, subdivision 4; 239.33; 282.04, subdivision 1; repealing Minnesota Statutes 2004, sections 90.01, subdivision 9; 90.041, subdivisions 3, 4.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 134 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Hilstrom	Latz	Ozment	Slawik
Abrams	Dittrich	Hilty	Lenczewski	Paulsen	Smith
Anderson, B.	Dorman	Holberg	Lesch	Paymar	Soderstrom
Anderson, I.	Dorn	Hoppe	Liebling	Pelowski	Solberg
Atkins	Eastlund	Hornstein	Lieder	Penas	Sykora
Beard	Eken	Hortman	Lillie	Peppin	Thao
Bernardy	Ellison	Hosch	Loeffler	Peterson, A.	Thissen
Blaine	Emmer	Howes	Magnus	Peterson, N.	Tingelstad
Bradley	Entenza	Huntley	Mahoney	Peterson, S.	Urdahl
Brod	Erhardt	Jaros	Mariani	Poppe	Vandev eer
Buesgens	Erickson	Johnson, J.	Marquart	Powell	Wagenius
Carlson	Finstad	Johnson, R.	McNamara	Rukavina	Walker
Charron	Fritz	Johnson, S.	Meslow	Ruth	Wardlow
Clark	Garofalo	Juhnke	Moe	Ruud	Welti
Cornish	Gazelka	Kahn	Mullery	Sailer	Westerberg
Cox	Goodwin	Kelliher	Murphy	Samuelson	Westrom
Cybart	Greiling	Klinzing	Nelson, M.	Scalze	Wilkin
Davids	Gunther	Knoblach	Nelson, P.	Seifert	Zellers
Davnie	Hackbarth	Koenen	Newman	Sertich	Spk. Sviggum
Dean	Hamilton	Kohls	Nornes	Severson	
DeLaForest	Hansen	Krinkie	Olson	Sieben	
Demmer	Hausman	Lanning	Opatz	Simon	
Dempsey	Heidgerken	Larson	Otremba	Simpson	

The bill was passed and its title agreed to.

H. F. No. 1320 was reported to the House.

Hortman, Dittrich, Tingelstad and Abeler moved to amend H. F. No. 1320, the first engrossment, as follows:

Page 1, line 26, strike "a" and insert "one"

Page 6, after line 32, insert:

"Sec. 11. Minnesota Statutes 2004, section 473.351, subdivision 6, is amended to read:

Subd. 6. [RESTRICTION.] A metropolitan area regional park receiving grant money for maintenance and operation costs must agree:

(1) to sell or promote licenses, passes, or registrations required to engage in recreational activities appropriate to the park or the site of the park when a building on the park site is staffed and open to the public; and

(2) to provide drinking water supplies adequate for the recreational uses of the park. Each implementing agency must consult with groups representing users of its parks to determine the adequacy of drinking water supplies.

In addition, the Three River Parks District, as a condition of receiving grant money for maintenance and operation costs, must agree to maintain the Coon Rapids Dam in a condition to raise the pool level each spring and decrease the pool level each winter.

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

ReNUMBER the sections in sequence and correct internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

H. F. No. 1320, A bill for an act relating to local government; modifying regional park district provisions for Hennepin County; changing the term limit for a park superintendent; amending Minnesota Statutes 2004, sections 383B.68, subdivisions 1, 2, 4; 383B.70; 383B.702; 383B.703; 383B.71; 383B.72; 383B.73, subdivision 1; 398.10; 473.351, subdivisions 1, 6; 609.531, subdivision 1.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 110 yeas and 24 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilstrom	Lesch	Paulsen	Simpson
Anderson, I.	Dorman	Hilty	Liebling	Paymar	Slawik
Atkins	Dorn	Hoppe	Lieder	Pelowski	Smith
Beard	Eastlund	Hornstein	Lillie	Penas	Soderstrom
Bernardy	Eken	Hortman	Loeffler	Peppin	Solberg
Blaine	Entenza	Hosch	Mahoney	Peterson, A.	Sykora
Bradley	Erhardt	Howes	Mariani	Peterson, N.	Tingelstad
Carlson	Finstad	Huntley	Marquart	Peterson, S.	Urdahl
Charron	Fritz	Jaros	McNamara	Poppe	Vandever
Clark	Garofalo	Johnson, R.	Meslow	Powell	Wagenius
Cornish	Gazelka	Johnson, S.	Moe	Rukavina	Walker
Cox	Goodwin	Juhnke	Murphy	Ruth	Welti
Cybart	Greiling	Kahn	Nelson, M.	Ruud	Westerberg
Davids	Gunther	Kelliher	Nelson, P.	Sailer	Westrom
Davnie	Hackbarth	Knoblach	Newman	Samuelson	Spk. Sviggum
DeLaForest	Hamilton	Koenen	Nornes	Scalze	
Demmer	Hansen	Lanning	Opatz	Sertich	
Dempsey	Hausman	Larson	Otremba	Sieben	
Dill	Heidgerken	Latz	Ozment	Simon	

Those who voted in the negative were:

Abrams	Dean	Holberg	Krinkie	Olson	Thissen
Anderson, B.	Ellison	Johnson, J.	Lenczewski	Seifert	Wardlow
Brod	Emmer	Klinzing	Magnus	Severson	Wilkin
Buesgens	Erickson	Kohls	Mullery	Thao	Zellers

The bill was passed, as amended, and its title agreed to.

Speaker pro tempore Abrams called Davids to the Chair.

Paulsen moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

MOTIONS AND RESOLUTIONS

Cox moved that the name of Latz be added as an author on H. F. No. 981. The motion prevailed.

Gunther moved that the name of Liebling be added as an author on H. F. No. 984. The motion prevailed.

Hoppe moved that the names of Dittrich, Abeler and Hortman be added as authors on H. F. No. 1320. The motion prevailed.

Peterson, A., moved that the name of Hortman be added as an author on H. F. No. 1561. The motion prevailed.

Charron moved that his name be stricken as an author on H. F. No. 1688. The motion prevailed.

Peterson, A., moved that the name of Hortman be added as an author on H. F. No. 1798. The motion prevailed.

Beard moved that the name of Klinzing be added as an author on H. F. No. 2086. The motion prevailed.

Dean moved that his name be stricken as an author on H. F. No. 2117. The motion prevailed.

Howes moved that the name of Koenen be added as an author on H. F. No. 2428. The motion prevailed.

Gazelka moved that the name of Westerberg be added as an author on H. F. No. 2445. The motion prevailed.

Krinkie moved that the name of Knoblach be added as an author on H. F. No. 2450. The motion prevailed.

Paulsen introduced:

House Concurrent Resolution No. 4, A House concurrent resolution relating to the adjournment of the Senate on April 21, 2005.

SUSPENSION OF RULES

Paulsen moved that the rules be so far suspended that House Concurrent Resolution No. 4 be now considered and be placed upon its adoption. The motion prevailed.

HOUSE CONCURRENT RESOLUTION NO. 4

A House concurrent resolution relating to the adjournment of the Senate on April 21, 2005.

Be It Resolved, by the House of Representatives, the Senate concurring, that upon adjournment on April 21, 2005, the Senate may adjourn for more than three days.

Paulsen moved that House Concurrent Resolution No. 4 be now adopted. The motion prevailed and House Concurrent Resolution No. 4 was adopted.

ADJOURNMENT

Paulsen moved that when the House adjourns today it adjourn until 3:00 p.m., Thursday, April 21, 2005. The motion prevailed.

Paulsen moved that the House adjourn. The motion prevailed, and Speaker pro tempore Davids declared the House stands adjourned until 3:00 p.m., Thursday, April 21, 2005.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives

