

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-THIRD LEGISLATURE

SEVENTY-SEVENTH DAY

St. Paul, Minnesota, Monday, March 22, 2004

The Senate met at 11:00 a.m. and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by the Chaplains, Rev. Grant H. Abbott and Rev. Johnson Loud, Jr.

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

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

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

The President declared a quorum present.

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 2558.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 18, 2004

FIRST READING OF HOUSE BILLS

The following bill was read the first time and referred as indicated.

H.F. No. 2558: A bill for an act relating to education; providing for the state to affirm No Child Left Behind Act of 2001; authorizing rulemaking and implementing the rigorous core academic standards in social studies and science; amending Minnesota Statutes 2003 Supplement, section 120B.021, subdivision 3, by adding a subdivision.

Referred to the Committee on Education.

REPORTS OF COMMITTEES

Senator Johnson, D.E. moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Senator Kelley from the Committee on Education, to which was referred

S.F. No. 1853: A resolution memorializing the Congress of the United States to amend the No Child Left Behind Act immediately to provide more flexibility for states and to include a mechanism for an automatic waiver from provisions for school accountability for states such as Minnesota that have successfully increased student achievement through their own standards and accountability reforms.

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

Page 1, delete lines 10 to 27

Page 2, delete lines 1 to 36

Page 3, delete lines 1 to 8 and insert:

"WHEREAS, Minnesota is a national leader in high academic student achievement; and

WHEREAS, in 2001 the No Child Left Behind (NCLB) Act was enacted on a bipartisan basis, which has as its purpose bringing academic achievement in language arts, math, and science to students who are not presently achieving at acceptable levels; and

WHEREAS, while Minnesota has been a national leader with a successful track record of school performance and accountability, NCLB will, according to the Minnesota Office of the Legislative Auditor, cause between 80 and 100 percent of Minnesota elementary schools to fail to meet adequate yearly progress for proficiency by 2014; and

WHEREAS, even though Minnesota has demonstrated significant success in raising student achievement through standards and accountability, there is no provision in NCLB to grant waivers from the mandates of NCLB to states such as Minnesota which have demonstrated records of success; and

WHEREAS, a stated goal of NCLB is to provide flexibility for states to improve academic achievement; and

WHEREAS, although Minnesota recognizes there is a serious achievement gap for some students, NCLB provisions improperly apply to all public schools and public school students; and

WHEREAS, NCLB sets expectations for all students to meet the same proficiency levels, these expectations are not reasonable for students with limited English proficiency and students with disabilities, making it impossible for Minnesota schools to comply with the law in the next decade; and

WHEREAS, NCLB represents a federal intrusion into state and local control of education, which violates time-honored American principles of balanced federalism and respect for state and local prerogatives; and

WHEREAS, NCLB may violate the Tenth Amendment of the United States Constitution which restricts the power of the federal government to those so delegated by the United States Constitution and reserves powers not delegated to the federal government, such as education, to the states and the people; NOW, THEREFORE,

BE IT RESOLVED by the Legislature of the State of Minnesota that it urges the Congress of the United States to amend the No Child Left Behind Act immediately to include a mechanism for a waiver from its provisions that shall automatically be granted to states such as Minnesota that have high student achievement, that any NCLB requirements negotiated with Minnesota shall only apply to students whose learning is directly assisted by NCLB funds, and that Minnesota be allowed to continue to work towards the goal of closing the achievement gap.

BE IT FURTHER RESOLVED that the Secretary of State of the State of Minnesota is directed to prepare copies of this memorial and transmit them to the President and the Secretary of the United States Senate, the Speaker and the Clerk of the United States House of Representatives, and Minnesota's Senators and Representatives in Congress so that they may be apprised of the sense of the Minnesota Legislature in this matter."

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

Senator Kelley from the Committee on Education, to which was referred

S.F. No. 1921: A bill for an act relating to education; requiring legislative affirmation of implementation of No Child Left Behind.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 2091: A bill for an act relating to health care; requiring pharmacists to disclose the cost of prescriptions; proposing coding for new law in Minnesota Statutes, chapter 151.

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

Delete everything after the enacting clause and insert:

"Section 1. [151.214] [PAYMENT DISCLOSURE.]

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

Subd. 2. [NO PROHIBITION ON DISCLOSURE.] No contracting agreement between a health plan company or its contracted pharmacy benefit manager and a resident or nonresident pharmacy registered under this chapter may prohibit the pharmacy from disclosing to patients the total reimbursement to the pharmacy, including the amount of the patient's co-payment and the amount paid to the pharmacy by the health plan company or its contracted pharmacy benefit manager."

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

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 2150: A bill for an act relating to health; clarifying that individuals may participate in pharmaceutical manufacturer's rebate programs; amending Minnesota Statutes 2002, section 62J.23, subdivision 2.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 62J.23, subdivision 2, is amended to read:

Subd. 2. [INTERIM RESTRICTIONS.] (a) From July 1, 1992, until rules are adopted by the commissioner under this section, the restrictions in the federal Medicare antikickback statutes in section 1128B(b) of the Social Security Act, United States Code, title 42, section 1320a-7b(b), and rules adopted under the federal statutes, apply to all persons in the state, regardless of whether the person participates in any state health care program. ~~The commissioner shall approve a transition plan submitted to the commissioner by January 1, 1993, by a person who is in violation of this section that provides a reasonable time for the person to modify prohibited practices or divest financial interests in other persons in order to come into compliance with this section. Transition plans that identify individuals are private data. Transition plans that do not identify individuals are nonpublic data.~~

(b) Nothing in paragraph (a) shall be construed to prohibit an individual from receiving a discount or other reduction in price or a limited-time free supply of a prescription drug offered by a pharmaceutical manufacturer, medical supply or device manufacturer, health plan company, or pharmacy benefit manager, so long as:

(1) the discount, reduction, or free supply is provided directly to the individual in connection with the purchase of a prescription drug, medical supply, or medical equipment prescribed for that individual;

(2) the individual is not enrolled in any state and federal health care program; and

(3) the discount or reduction in price does not exceed the amount paid directly by the individual for the prescription drug.

(c) Except as permitted under paragraph (b), a pharmaceutical manufacturer, medical supply or device manufacturer, health plan company, or pharmacy benefit manager is prohibited from offering or paying any remuneration, directly or indirectly, in cash or in kind, to any individual to induce the individual to purchase or order a specific prescription drug, medical supply, or medical equipment.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

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

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 1966: A bill for an act relating to human services; providing for prescription drug bulk purchasing; proposing coding for new law in Minnesota Statutes, chapter 256.

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

Page 1, line 15, delete "Medicaid" and insert "prescription drug"

Page 1, line 16, delete "correctional and"

Page 1, lines 20 and 21, delete "Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP)" and insert "The Department of Administration"

Page 2, line 9, delete "direct MMCAP" and insert "request the Department of Administration"

Page 2, line 28, delete "MMCAP" and insert "The Department of Administration"

Page 2, after line 29, insert:

"Subd. 5. [COMMISSIONER DISCRETION.] The commissioner of human services is not required to establish or administer any of the bulk purchasing programs in subdivisions 1 to 4 if the commissioner determines that any such program would not result in significant savings to the state. The commissioner shall not include the state Medicaid program, MinnesotaCare program, or Department of Corrections in the bulk purchasing programs in subdivisions 1 to 4. These programs may later be included in any or all of the bulk purchasing programs in subdivisions 1 to 4 if the commissioner deems those bulk purchasing programs to be beneficial to the state and that the inclusion of the state Medicaid program, MinnesotaCare, and the Department of Corrections in a bulk purchasing program would result in savings to the state.

Subd. 6. [PHARMACY PARTICIPATION.] Any pharmaceuticals purchased by state or local government entities or Minnesota consumers pursuant to the bulk purchasing programs identified in subdivisions 1 to 4 shall be distributed through Minnesota pharmacies, unless the commissioner or the state or local government entities select an alternate distribution system."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

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

S.F. No. 2666: A bill for an act relating to human rights; changing provisions for charge processing; allowing the department to seek sanctions; authorizing release of protected data in certain cases; repealing the 180-day hearing; amending Minnesota Statutes 2003 Supplement, sections 363A.28, subdivision 6; 363A.35, subdivision 3; repealing Minnesota Statutes 2003 Supplement, section 363A.29, subdivision 2.

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

Page 2, line 13, delete ", except that" and insert a period

Page 2, line 16, after "period" insert ", provided that the commissioner makes a determination within 24 months after the charge is filed"

Page 5, line 21, after the period, insert "The commissioner must notify the subject of the data when a disclosure is made under this subdivision."

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

Senator Vickerman from the Committee on Agriculture, Veterans and Gaming, to which was referred

S.F. No. 2626: A bill for an act relating to veterans homes; extending certain leasing authority.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Senator Vickerman from the Committee on Agriculture, Veterans and Gaming, to which was referred

S.F. No. 2866: A bill for an act relating to agriculture; limiting nuisance claims against certain agricultural operations; amending Minnesota Statutes 2002, section 561.19, subdivision 2.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 561.19, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the following terms have the meanings given them:

(a) "Agricultural operation" means a facility and its appurtenances for the production of crops, livestock, poultry, dairy products or poultry products, but not a facility primarily engaged in processing agricultural products.

(b) "Established date of operation" means the date on which the agricultural operation commenced. If the agricultural operation is subsequently expanded or significantly altered, the established date of operation for each expansion or alteration is deemed to be the date of commencement of the expanded or altered operation. As used in this paragraph, "expanded" means an expansion by at least 25 percent in the number of a particular kind of animal or livestock located on an agricultural operation.

"Significantly altered" does not mean:

(1) a transfer of an ownership interest to and held by persons or the spouses of persons related to each other within the third degree of kindred according to the rules of civil law to the person making the transfer so long as at least one of the related persons is actively operating the farm, or to a family farm trust under section 500.24;

(2) temporary cessation or interruption of cropping activities;

(3) adoption of new technologies; or

(4) a change in the crop product produced.

(c) "Generally accepted agricultural practices" means those practices commonly used by other farmers in the county or a contiguous county in which a nuisance claim is asserted.

Sec. 2. Minnesota Statutes 2002, section 561.19, subdivision 2, is amended to read:

Subd. 2. [AGRICULTURAL OPERATION NOT A NUISANCE.] (a) An agricultural operation is not and shall not become a private or public nuisance after two years from its established date of operation ~~if the operation was not a nuisance at its established date of~~ as a matter of law if the operation:

(1) is located in an agriculturally zoned area;

(2) complies with the provisions of all applicable federal, state, or county laws, regulations, rules, and ordinances and any permits issued for the agricultural operation; and

(3) operates according to generally accepted agricultural practices.

~~(b) An agricultural operation is operating according to generally accepted agricultural practices if it is located in an agriculturally zoned area and complies with the provisions of all applicable federal and state statutes and rules or any issued permits for the operation.~~

(e) An agricultural operation in compliance with the requirements of paragraph (a) constitutes an affirmative defense to a private or public nuisance claim against the agricultural operation.

(c) The provisions of this subdivision do not apply:

~~(1) to a condition or injury which results from the negligent or improper operation of an agricultural operation or from operations contrary to commonly accepted agricultural practices or to applicable state or local laws, ordinances, rules, or permits;~~

~~(2) when an agricultural operation causes injury or direct threat of injury to the health or safety of any person;~~

~~(3) to the pollution of, or change in the condition of, the waters of the state or the overflow of waters on the lands of any person;~~

~~(4) to an animal feedlot facility with a swine capacity of 1,000 or more animal units as defined in the rules of the Pollution Control Agency for control of pollution from animal feedlots, or a cattle capacity of 2,500 animals or more; or~~

~~(5) (2) to any prosecution for the crime of public nuisance as provided in section 609.74 or to an action by a public authority to abate a particular condition which is a public nuisance; or~~

~~(3) to any enforcement action brought by a local unit of government related to zoning under chapter 394 or 462.~~

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective on the day following final enactment."

Amend the title as follows:

Page 1, line 4, delete "subdivision 2" and insert "subdivisions 1, 2"

And when so amended the bill do pass and be re-referred to the Committee on Judiciary. Amendments adopted. Report adopted.

Senator Vickerman from the Committee on Agriculture, Veterans and Gaming, to which was re-referred

S.F. No. 2145: A bill for an act relating to natural resources; appropriating money for conservation easements; authorizing the sale of state bonds.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 103F.505, is amended to read:

103F.505 [PURPOSE AND POLICY.]

It is the purpose of sections 103F.505 to 103F.531 to keep certain marginal agricultural land out of crop production to protect soil and water quality, prevent flood damage, and support fish and wildlife habitat. It is state policy to encourage the retirement of marginal, highly erodible land, particularly land adjacent to public waters, drainage systems, wetlands, and locally designated priority waters, from crop production and to reestablish a cover of perennial vegetation.

Sec. 2. Minnesota Statutes 2002, section 103F.515, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT OF PROGRAM.] The board, in consultation with the commissioner of agriculture and the commissioner of natural resources, shall establish and administer a conservation reserve program. The board shall implement sections 103F.505 to 103F.531. Selection of land for the conservation reserve program must be based on its potential for fish and wildlife production, reducing erosion, preventing flood damage, and protecting water quality.

Sec. 3. Minnesota Statutes 2002, section 103F.515, subdivision 2, is amended to read:

Subd. 2. [ELIGIBLE LAND.] (a) Land may be placed in the conservation reserve program if the land meets the requirements of paragraphs (b) and (c).

(b) Land is eligible if the land:

- (1) is marginal agricultural land;
- (2) is adjacent to marginal agricultural land and is either beneficial to resource protection or necessary for efficient recording of the land description;
- (3) consists of a drained wetland;
- (4) is land that with a windbreak would be beneficial to resource protection;
- (5) is land in a sensitive groundwater area;
- (6) is riparian land;
- (7) is cropland or noncropland adjacent to restored wetlands to the extent of up to four acres of cropland or one acre of noncropland for each acre of wetland restored;
- (8) is a woodlot on agricultural land;
- (9) is abandoned building site on agricultural land, provided that funds are not used for compensation of the value of the buildings; ~~or~~
- (10) is land on a hillside used for pasture; or
- (11) is land that is subject to frequent flooding events.

(c) Eligible land under paragraph (a) must:

- (1) be owned by the landowner, or a parent or other blood relative of the landowner, for at least one year before the date of application;
- (2) be at least five acres in size, except for a drained wetland area, riparian area, windbreak, woodlot, or abandoned building site, or be a whole field as defined by the United States Agricultural Stabilization and Conservation Services;
- (3) not be set aside, enrolled or diverted under another federal or state government program unless enrollment in the conservation reserve program would provide additional conservation benefits or a longer term of enrollment than under the current federal or state program; and
- (4) have been in agricultural crop production for at least two of the last five years before the date of application except drained wetlands, riparian lands, woodlots, abandoned building sites, or land on a hillside used for pasture.

(d) In selecting drained wetlands for enrollment in the program, the highest priority must be given to wetlands with a cropping history during the period 1976 to 1985.

(e) In selecting land for enrollment in the program, highest priority must be given to permanent easements that are consistent with the purposes stated in section 103F.505.

Sec. 4. Minnesota Statutes 2002, section 103F.515, subdivision 4, is amended to read:

Subd. 4. [NATURE OF PROPERTY RIGHTS ACQUIRED.] (a) A conservation easement must prohibit:

- (1) alteration of wildlife habitat and other natural features, unless specifically approved by the board;
- (2) agricultural crop production, unless:
 - (i) specifically approved by the board for wildlife management purposes; or
 - (ii) for the purpose of cutting hay on lands subject to agreements entered into after the effective date of this section; and

(3) grazing of livestock except, for:

(i) agreements entered before the effective date of Laws 1990, chapter 391, grazing of livestock may be allowed only if approved by the board after consultation with the commissioner of natural resources;

(ii) in the case of severe drought, or a local emergency declared under section 12.29; and or

(iii) agreements entered into after the effective date of this section

~~(4) spraying with chemicals or mowing, except as necessary to comply with noxious weed control laws or emergency control of pests necessary to protect public health.~~

(b) The easement must require that the landowner control noxious weeds in accordance with sections 18.77 to 18.88.

(c) A conservation easement is subject to the terms of the agreement provided in subdivision 5.

~~(e)~~ (d) A conservation easement must allow repairs, improvements, and inspections necessary to maintain public drainage systems provided the easement area is restored to the condition required by the terms of the conservation easement.

Sec. 5. Minnesota Statutes 2002, section 103F.515, subdivision 5, is amended to read:

Subd. 5. [AGREEMENTS BY LANDOWNER.] The board may enroll eligible land in the conservation reserve program by signing an agreement in recordable form with a landowner in which the landowner agrees:

(1) to convey to the state a conservation easement that is not subject to any prior title, lien, or encumbrance;

(2) to seed the land subject to the conservation easement, as specified in the agreement, to establish and maintain perennial cover of either a grass-legume mixture or native grasses for the term of the easement, at seeding rates determined by the board; or to plant trees or carry out other long-term capital improvements approved by the board for soil and water conservation or wildlife management;

(3) to convey to the state a permanent easement for the wetland restoration; and

~~(4) that other land supporting natural vegetation owned or leased as part of the same farm operation at the time of application, if it supports natural vegetation or has not been used in agricultural crop production, will not be converted to agricultural crop production or pasture; and~~

~~(5) that the easement duration may be lengthened through mutual agreement with the board in consultation with the commissioners of agriculture and natural resources if they determine that the changes effectuate the purpose of the program or facilitate its administration.~~

Sec. 6. [APPROPRIATION.]

(a) \$23,200,000 is appropriated to the Board of Water and Soil Resources to acquire easements under Minnesota Statutes, section 103F.515, for the purpose of the conservation reserve enhancement program. Of the amount appropriated:

(1) \$20,000,000 is from the bond proceeds fund to acquire easements; and

(2) \$3,200,000 is from the general fund for technical or professional services necessary to acquire easements and implement easement conservation practices and is available until spent.

(b) For easements acquired in the northwest region of the state, the board shall give the highest priority to easements on land that is subject to frequent flooding.

(c) Notwithstanding Minnesota Statutes, section 103F.515, subdivision 2, paragraph (e), the board shall not give preference for permanent easements with money appropriated in this section.

Sec. 7. [BOND SALE.]

To provide the money appropriated in this act from the bond proceeds fund, the commissioner of finance shall sell and issue bonds of the state in an amount up to \$20,000,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective the day following final enactment."

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "modifying the conditions for easement acquisition under the reinvest in Minnesota reserve program;"

Page 1, line 4, after "bonds" insert "; amending Minnesota Statutes 2002, sections 103F.505; 103F.515, subdivisions 1, 2, 4, 5"

And when so amended the bill do pass and be re-referred to the Committee on Environment and Natural Resources. Amendments adopted. Report adopted.

Senator Vickerman from the Committee on Agriculture, Veterans and Gaming, to which was referred

S.F. No. 2756: A bill for an act relating to food law; clarifying the basis on which food can be labeled as kosher; amending Minnesota Statutes 2002, sections 31.651, subdivision 1; 31.661.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Judiciary. Report adopted.

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 2351: A bill for an act relating to health; modifying licensing requirements for speech-language pathologists, audiologists, and occupational therapy practitioners; amending Minnesota Statutes 2002, sections 148.6402, by adding a subdivision; 148.6403, subdivision 5; 148.6405; 148.6428; 148.6443, subdivisions 1, 5; Minnesota Statutes 2003 Supplement, sections 148.5161, subdivision 4; 148.5175; 148.518; 148.5193, subdivision 1.

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

Page 1, after line 11, insert:

"ARTICLE 1

SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY, AND
OCCUPATIONAL THERAPY

Section 1. Minnesota Statutes 2003 Supplement, section 148.511, is amended to read:

148.511 [SCOPE.]

Sections 148.511 to 148.5196 apply to persons who are applicants for licensure, who use protected titles, who represent that they are licensed, or who engage in the practice of speech-language pathology or audiology. Sections 148.511 to 148.5196 do not apply to school personnel licensed by the Board of Teaching and practicing within the scope of their school license under Minnesota Rules, part 8710.6000, or the paraprofessionals who assist these individuals.

Sec. 2. Minnesota Statutes 2002, section 148.512, subdivision 9, is amended to read:

Subd. 9. [CONTINUING EDUCATION.] "Continuing education" is a planned learning experience in speech-language pathology or audiology not including the basic educational program leading to a degree if the education is used by the registrant licensee for credit to achieve a baccalaureate or master's degree in speech-language pathology or audiology.

Sec. 3. Minnesota Statutes 2003 Supplement, section 148.512, subdivision 12, is amended to read:

Subd. 12. [PRACTICE OF AUDIOLOGY.] The "practice of audiology" means:

(1) identification, assessment, and interpretation, diagnosis, rehabilitation, and prevention of hearing disorders;

(2) conservation of the auditory system function; development and implementation of hearing conservation programs;

(3) measurement, assessment, and interpretation of auditory and vestibular function;

(4) selecting, fitting, and dispensing of assistive listening devices, alerting and amplification devices, and systems for personal and public use, including hearing aids and devices, and providing training in their use;

(5) aural habilitation and rehabilitation and related counseling for hearing impaired individuals and their families;

(6) screening of speech, language, voice, or fluency for the purposes of audiologic evaluation or identification of possible communication disorders; or

(7) ~~teaching of, consultation or research about,~~ or supervision of the functions in clauses (1) to (6).

The practice of audiology does not include the practice of medicine and surgery, or osteopathic medicine and surgery, or medical diagnosis that is commonly performed by a physician.

Sec. 4. Minnesota Statutes 2003 Supplement, section 148.512, subdivision 13, is amended to read:

Subd. 13. [PRACTICE OF SPEECH-LANGUAGE PATHOLOGY.] The "practice of speech-language pathology" means:

(1) identification, assessment, and interpretation, diagnosis, habilitation, rehabilitation, treatment and prevention of disorders of speech, articulation, fluency, voice, and language;

(2) identification, assessment, and interpretation, diagnosis, habilitation, and rehabilitation of disorders of oral-pharyngeal function and related disorders;

(3) identification, assessment, and interpretation, diagnosis, habilitation, and rehabilitation of communication disorders associated with cognition;

(4) assessing, selecting, and developing augmentative and alternative communication systems and providing training in their use;

(5) aural habilitation and rehabilitation and related counseling for hearing impaired individuals and their families;

(6) enhancing speech-language proficiency and communication effectiveness;

(7) audiometric screening for the purposes of speech-language evaluation or for the identification of possible hearing disorders; or

(8) ~~teaching of, consultation or research about,~~ or supervision of the functions in clauses (1) to (7).

The practice of speech-language pathology does not include the practice of medicine and surgery, or osteopathic medicine and surgery, or medical diagnosis that is commonly performed by a physician.

Sec. 5. Minnesota Statutes 2002, section 148.512, is amended by adding a subdivision to read:

Subd. 17a. [SPEECH-LANGUAGE PATHOLOGY ASSISTANT.] "Speech-language pathology assistant" means a person who provides speech-language pathology services under the supervision of a licensed speech-language pathologist in accordance with section 148.5192.

Sec. 6. Minnesota Statutes 2002, section 148.512, subdivision 19, is amended to read:

Subd. 19. [SUPERVISION.] "Supervision" means the direct or indirect evaluation or direction of:

- (1) a practitioner of speech-language pathology or audiology;
- (2) a person performing a function of supervised clinical training as a student of speech-language pathology or audiology; or
- (3) a person performing a function of supervised postgraduate clinical experience in speech-language pathology or audiology; or
- (4) a speech-language pathology assistant in accordance with section 148.5192.

Sec. 7. Minnesota Statutes 2003 Supplement, section 148.513, subdivision 1, is amended to read:

Subdivision 1. [UNLICENSED PRACTICE PROHIBITED.] A person must not engage in the practice of speech-language pathology or audiology unless the person is licensed as a speech-language pathologist or an audiologist under sections 148.511 to 148.5196 or is practicing as a speech-language pathology assistant in accordance with section 148.5192. For purposes of this subdivision, a speech-language pathology assistant's duties are limited to the duties described in accordance with section 148.5192, subdivision 2.

Sec. 8. Minnesota Statutes 2003 Supplement, section 148.513, subdivision 2, is amended to read:

Subd. 2. [PROTECTED TITLES AND RESTRICTIONS ON USE.] (a) Notwithstanding paragraph (b), the use of the following terms or initials which represent the following terms, alone or in combination with any word or words, by any person to form an occupational title is prohibited unless that person is licensed under sections 148.511 to 148.5196:

- (1) speech-language;
- (2) speech-language pathologist, S, SP, or SLP;
- (3) speech pathologist;
- (4) language pathologist;
- (5) audiologist, A, or AUD;
- (6) speech therapist;
- (7) speech clinician;
- (8) speech correctionist;
- (9) language therapist;
- (10) voice therapist;

- (11) voice pathologist;
- (12) logopedist;
- (13) communicologist;
- (14) aphasiologist;
- (15) phoniatriest;
- (16) audiometrist;
- (17) audioprosthologist;
- (18) hearing therapist;
- (19) hearing clinician; or
- (20) hearing aid audiologist.

Use of the term "Minnesota licensed" in conjunction with the titles protected under this section paragraph by any person is prohibited unless that person is licensed under sections 148.511 to 148.5196.

(b) A speech-language pathology assistant practicing under section 148.5192 must not represent, indicate, or imply to the public that the assistant is a licensed speech-language pathologist and shall only utilize one of the following titles: "speech-language pathology assistant," "SLP assistant," or "SLP asst."

Sec. 9. Minnesota Statutes 2003 Supplement, section 148.5161, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION.] Clinical fellowship and doctoral externship candidates must be licensed with a clinical fellowship or doctoral externship license. The commissioner shall issue clinical fellowship licensure or doctoral externship licensure as a speech-language pathologist or audiologist to an applicant who has applied for licensure under section 148.515, who is not the subject of a disciplinary action or past disciplinary action, and who has not violated a provision of section 148.5195, subdivision 3.

Page 1, after line 18, insert:

"Sec. 11. Minnesota Statutes 2003 Supplement, section 148.5161, subdivision 6, is amended to read:

Subd. 6. [TITLE USED.] A licensee with a clinical fellowship or doctoral externship shall be identified by one of the protected titles and a designation indicating clinical fellowship status or doctoral externship status.

Page 3, after line 10, insert:

"Sec. 14. [148.5192] [SPEECH-LANGUAGE PATHOLOGY ASSISTANTS.]

Subdivision 1. [DELEGATION REQUIREMENTS.] A licensed speech-language pathologist may delegate duties to a speech-language pathology assistant in accordance with this section. Duties may only be delegated to an individual who has documented with a transcript from an educational institution satisfactory completion of either:

(1) an associate degree from a speech-language pathology assistant program that is accredited by the Higher Learning Commission of the North Central Association of Colleges or its equivalent as approved by the commissioner; or

(2) a bachelor's degree in the discipline of communication sciences or disorders with additional transcript credit in the area of instruction in assistant-level service delivery practices and has

completed at least 100 hours of supervised field work experience as a speech-language pathology assistant student.

Subd. 2. [DELEGATED DUTIES; PROHIBITIONS.] (a) A certified speech-language pathology assistant may perform only those duties delegated by a licensed speech-language pathologist and must be limited to duties within the training and experience of the speech-language pathology assistant.

(b) Duties may include the following as delegated by the supervising speech-language pathologist:

- (1) assist with speech language and hearing screenings;
- (2) implement documented treatment plans or protocols developed by the supervising speech-language pathologist;
- (3) document client performance;
- (4) assist with assessments of clients;
- (5) assist with preparing materials and scheduling activities as directed;
- (6) perform checks and maintenance of equipment;
- (7) support the supervising speech-language pathologist in research projects, in-service training, and public relations programs; and
- (8) collect data for quality improvement.

(c) A speech-language pathology assistant may not:

- (1) perform standardized or nonstandardized diagnostic tests, perform formal or informal evaluations, or interpret test results;
- (2) screen or diagnose clients for feeding or swallowing disorders, including using a checklist or tabulating results of feeding or swallowing evaluations, or demonstrate swallowing strategies or precautions to clients or the clients' families;
- (3) participate in parent conferences, case conferences, or any interdisciplinary team without the presence of the supervising speech-language pathologist or other licensed speech-language pathologist as authorized by the supervising speech-language pathologist;
- (4) provide client or family counseling or consult with the client or the family regarding the client status or service;
- (5) write, develop, or modify a client's individualized treatment plan or individualized education program;
- (6) select clients for service;
- (7) discharge clients from service;
- (8) disclose clinical or confidential information either orally or in writing to anyone other than the supervising speech-language pathologist; or
- (9) make referrals for additional services.

(d) A speech-language pathology assistant must not sign any formal documents, including treatment plans, education plans, reimbursement forms, or reports. The speech-language pathology assistant must sign or initial all treatment notes written by the assistant.

Subd. 3. [SUPERVISION REQUIREMENTS.] (a) A supervising speech-language pathologist shall authorize and accept full responsibility for the performance, practice, and activity of a speech-language pathology assistant.

(b) A supervising speech-language pathologist must meet the following requirements:

(1) be licensed under sections 148.511 to 148.5196;

(2) hold a certificate of clinical competence from the American Speech-Language-Hearing Association or its equivalent as approved by the commissioner; and

(3) have completed at least one continuing education unit in supervision.

(c) The supervision of a speech-language pathology assistant shall be maintained on the following schedule:

(1) for the first 90 work days, within a 40-hour work week, 30 percent of the work performed by the speech-language pathology assistant must be supervised and at least 20 percent of the work performed must be under direct supervision; and

(2) for the work period after the initial 90-day period, within a 40-hour work week, 20 percent of the work must be supervised and at least ten percent of the work performed must be under direct supervision.

(d) For purposes of this section, "direct supervision" means on-site, in-view observation and guidance by the supervising speech-language pathologist during the performance of a delegated duty. The supervision requirements described in this section are minimum requirements. Additional supervision requirements may be imposed at the discretion of the supervising speech-language pathologist.

(e) A supervising speech-language pathologist must be available to communicate with a speech-language pathology assistant at any time the assistant is in direct contact with a client.

(f) A supervising speech-language pathologist must document activities performed by the assistant that are directly supervised by the supervising speech-language pathologist. At a minimum, the documentation must include:

(1) information regarding the quality of the speech-language pathology assistant's performance of the delegated duties; and

(2) verification that any delegated clinical activity was limited to duties authorized to be performed by the speech-language pathology assistant under this section.

(g) A supervising speech-language pathologist must review and cosign all informal treatment notes signed or initialed by the speech-language pathology assistant.

(h) A full-time, speech-language pathologist may supervise no more than one full-time, speech-language pathology assistant or the equivalent of one full-time assistant.

Subd. 4. [NOTIFICATION.] Any agency or clinic that intends to utilize the services of a speech-language pathology assistant must provide written notification to the client or, if the client is younger than 18 years old, to the client's parent or guardian before a speech-language pathology assistant may perform any of the duties described in this section."

Page 4, line 29, strike "cannot" and insert "may not"

Page 4, after line 30, insert:

"Sec. 16. Minnesota Statutes 2003 Supplement, section 148.5193, subdivision 6a, is amended to read:

Subd. 6a. [VERIFICATION OF ATTENDANCE.] An applicant for licensure renewal must submit verification of attendance as follows:

(1) a certificate of attendance from the sponsor with the continuing education course name, course date, and licensee's name. If a certificate of attendance is not available, the commissioner

may accept other evidence of attendance such as a confirmation or statement of registration for regional or national annual conferences or conventions of professional associations, a copy of the continuing education courses indicating those attended, and an affidavit of attendance;

- (2) a copy of a record of attendance from the sponsor of the continuing education course;
- (3) a signature of the presenter or a designee at the continuing education activity on the continuing education report form;
- (4) a summary or outline of the educational content of an audio or video educational activity if a designee is not available to sign the continuing education report form;
- (5) for self-study programs, a certificate of completion or other documentation indicating that the individual has demonstrated knowledge and has successfully completed the program; or
- (6) for attendance at a university, college, or vocational course, an official transcript.

Sec. 17. Minnesota Statutes 2003 Supplement, section 148.5195, subdivision 3, is amended to read:

Subd. 3. [GROUNDS FOR DISCIPLINARY ACTION BY COMMISSIONER.] The commissioner may take any of the disciplinary actions listed in subdivision 4 on proof that the individual has:

- (1) intentionally submitted false or misleading information to the commissioner or the advisory council;
- (2) failed, within 30 days, to provide information in response to a written request, via certified mail, by the commissioner or advisory council;
- (3) performed services of a speech-language pathologist or audiologist in an incompetent or negligent manner;
- (4) violated sections 148.511 to 148.5196;
- (5) failed to perform services with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment;
- (6) violated any state or federal law, rule, or regulation, and the violation is a felony or misdemeanor, an essential element of which is dishonesty, or which relates directly or indirectly to the practice of speech-language pathology or audiology. Conviction for violating any state or federal law which relates to speech-language pathology or audiology is necessarily considered to constitute a violation, except as provided in chapter 364;
- (7) aided or abetted another person in violating any provision of sections 148.511 to 148.5196;
- (8) been or is being disciplined by another jurisdiction, if any of the grounds for the discipline is the same or substantially equivalent to those under sections 148.511 to 148.5196;
- (9) not cooperated with the commissioner or advisory council in an investigation conducted according to subdivision 1;
- (10) advertised in a manner that is false or misleading;
- (11) engaged in conduct likely to deceive, defraud, or harm the public; or demonstrated a willful or careless disregard for the health, welfare, or safety of a client;
- (12) failed to disclose to the consumer any fee splitting or any promise to pay a portion of a fee to any other professional other than a fee for services rendered by the other professional to the client;
- (13) engaged in abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws, Food and Drug Administration regulations, or state medical assistance laws;

(14) obtained money, property, or services from a consumer through the use of undue influence, high pressure sales tactics, harassment, duress, deception, or fraud;

(15) performed services for a client who had no possibility of benefiting from the services;

(16) failed to refer a client for medical evaluation or to other health care professionals when appropriate or when a client indicated symptoms associated with diseases that could be medically or surgically treated;

(17) if the individual is a dispenser of hearing instruments as defined by section 153A.13, subdivision 5, had the certification required by chapter 153A, denied, suspended, or revoked according to chapter 153A; or

(18) used the term doctor of audiology, doctor of speech-language pathology, AuD, or SLPD without having obtained the degree from an institution accredited by the North Central Association of Colleges and Secondary Schools, the Council on Academic Accreditation in Audiology and Speech-Language Pathology, the United States Department of Education, or an equivalent; or

(19) failed to comply with the requirements of section 148.5192, regarding supervision of speech-language pathology assistants.

Sec. 18. Minnesota Statutes 2003 Supplement, section 148.5196, subdivision 3, is amended to read:

Subd. 3. [DUTIES.] The advisory council shall:

(1) advise the commissioner regarding speech-language pathologist and audiologist licensure standards;

(2) advise the commissioner regarding the delegation of duties to and the training required for speech-language pathology assistants;

~~(2)~~ (3) advise the commissioner on enforcement of sections 148.511 to 148.5196;

~~(3)~~ (4) provide for distribution of information regarding speech-language pathologist and audiologist licensure standards;

~~(4)~~ (5) review applications and make recommendations to the commissioner on granting or denying licensure or licensure renewal;

~~(5)~~ (6) review reports of investigations relating to individuals and make recommendations to the commissioner as to whether licensure should be denied or disciplinary action taken against the individual;

~~(6)~~ (7) advise the commissioner regarding approval of continuing education activities provided by sponsors using the criteria in section 148.5193, subdivision 2; and

~~(7)~~ (8) perform other duties authorized for advisory councils under chapter 214, or as directed by the commissioner."

Page 7, after line 35, insert:

"ARTICLE 2
PHYSICIAN ASSISTANTS

Section 1. Minnesota Statutes 2002, section 147A.02, is amended to read:

147A.02 [QUALIFICATIONS FOR REGISTRATION.]

Except as otherwise provided in this chapter, an individual shall be registered by the board before the individual may practice as a physician assistant.

The board may grant registration as a physician assistant to an applicant who:

- (1) submits an application on forms approved by the board;
- (2) pays the appropriate fee as determined by the board;
- (3) has current certification from the National Commission on Certification of Physician Assistants, or its successor agency as approved by the board;
- (4) certifies that the applicant is mentally and physically able to engage safely in practice as a physician assistant;
- (5) has no licensure, certification, or registration as a physician assistant under current discipline, revocation, suspension, or probation for cause resulting from the applicant's practice as a physician assistant, unless the board considers the condition and agrees to licensure;
- (6) ~~has a physician-physician assistant agreement, and internal protocol and prescribing delegation form, if the physician assistant has been delegated prescribing authority, as described in section 147A.18 in place at the address of record;~~
- ~~(7) submits to the board a practice setting description and any other information the board deems necessary to evaluate the applicant's qualifications; and~~
- ~~(8) (7) has been approved by the board.~~

All persons registered as physician assistants as of June 30, 1995, are eligible for continuing registration renewal. All persons applying for registration after that date shall be registered according to this chapter.

Sec. 2. Minnesota Statutes 2003 Supplement, section 147A.09, subdivision 2, is amended to read:

Subd. 2. [DELEGATION.] Patient services may include, but are not limited to, the following, as delegated by the supervising physician and authorized in the agreement:

- (1) taking patient histories and developing medical status reports;
- (2) performing physical examinations;
- (3) interpreting and evaluating patient data;
- (4) ordering or performing diagnostic procedures, including radiography;
- (5) ordering or performing therapeutic procedures;
- (6) providing instructions regarding patient care, disease prevention, and health promotion;
- (7) assisting the supervising physician in patient care in the home and in health care facilities;
- (8) creating and maintaining appropriate patient records;
- (9) transmitting or executing specific orders at the direction of the supervising physician;
- (10) prescribing, administering, and dispensing legend drugs and medical devices if this function has been delegated by the supervising physician pursuant to and subject to the limitations of section ~~147.34~~ 147A.18 and chapter 151. Physician assistants who have been delegated the authority to prescribe controlled substances shall maintain a separate addendum to the delegation form which lists all schedules and categories of controlled substances which the physician assistant has the authority to prescribe. This addendum shall be maintained with the physician-physician assistant agreement, and the delegation form at the address of record;
- (11) for physician assistants not delegated prescribing authority, administering legend drugs and medical devices following prospective review for each patient by and upon direction of the supervising physician;

(12) functioning as an emergency medical technician with permission of the ambulance service and in compliance with section 144E.127, and ambulance service rules adopted by the commissioner of health;

(13) initiating evaluation and treatment procedures essential to providing an appropriate response to emergency situations; and

(14) certifying a physical disability under section 169.345, subdivision 2a.

Orders of physician assistants shall be considered the orders of their supervising physicians in all practice-related activities, including, but not limited to, the ordering of diagnostic, therapeutic, and other medical services.

Sec. 3. Minnesota Statutes 2002, section 147A.20, is amended to read:

147A.20 [PHYSICIAN AND PHYSICIAN ASSISTANT AGREEMENT.]

(a) A physician assistant and supervising physician must sign an agreement which specifies scope of practice and amount and manner of supervision as required by the board. The agreement must contain:

(1) a description of the practice setting;

(2) a statement of practice type/specialty;

(3) a listing of categories of delegated duties;

(4) a description of supervision type, amount, and frequency; and

(5) a description of the process and schedule for review of prescribing, dispensing, and administering legend and controlled drugs and medical devices by the physician assistant authorized to prescribe.

(b) The agreement must be maintained by the supervising physician and physician assistant and made available to the board upon request. If there is a delegation of prescribing, administering, and dispensing of legend drugs, controlled substances, and medical devices, the agreement shall include an internal protocol and delegation form. Physician assistants shall have a separate agreement for each place of employment. Agreements must be reviewed and updated on an annual basis. The supervising physician and physician assistant must maintain the agreement, delegation form, and internal protocol at the address of record. Copies shall be provided to the board upon request.

(c) Physician assistants must provide written notification to the board within 30 days of the following:

(1) name change;

(2) address of record change;

(3) telephone number of record change; and

(4) addition or deletion of alternate supervising physician provided that the information submitted includes, for an additional alternate physician, an affidavit of consent to act as an alternate supervising physician signed by the alternate supervising physician.

(d) Modifications requiring submission prior to the effective date are changes to the practice setting description which include:

(1) supervising physician change, excluding alternate supervising physicians; or

(2) delegation of prescribing, administering, or dispensing of legend drugs, controlled substances, or medical devices.

(e) The agreement must be completed and the practice setting description submitted to the board before providing medical care as a physician assistant.

Sec. 4. [EXCEPTION TO REGISTRATION REQUIREMENTS.]

Notwithstanding the requirements of Minnesota Statutes, section 147A.02, the Board of Medical Practice shall register an individual as a physician assistant if the individual:

(1) is ineligible for the certification examination by the National Commission on the Certification of Physician Assistants because the individual's education took place in a nonaccredited institution, or the individual was informally trained on the job;

(2) trained and served in the United States military as a medic or hospital corpsman on active duty and has continuously practiced as a physician or surgeon's assistant in Minnesota since 1976, including a practice which combined in-office surgical practice with the individual's supervised autonomous schedule and with assisting in a hospital operating room on cases warranting a first assistant;

(3) meets the requirements for registration described under Minnesota Statutes, section 147A.02, clauses (1), (2), (4), (5), (6), and (7);

(4) submits satisfactory recommendations from a supervising physician; and

(5) achieves a satisfactory result on any criminal background or health check required by the board.

The board must accept applications under this section only until January 1, 2005.

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

Sec. 5. [PROVISIONAL REGISTRATION.]

An individual registered under section 1 is deemed to hold a provisional registration for two years from the date of registration. If there have been no substantiated complaints against an individual during the provisional period, the board shall extend full registration to the individual upon completion of the provisional period.

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

ARTICLE 3

BOARD OF NURSING

Section 1. Minnesota Statutes 2002, section 148.211, subdivision 1, is amended to read:

Subdivision 1. [LICENSURE BY EXAMINATION.] (a) An applicant for a license to practice as a registered nurse or licensed practical nurse shall apply to the board for a license by examination on forms prescribed by the board and pay a fee in an amount determined by ~~rule~~ statute. An applicant applying for reexamination shall pay a fee in an amount determined by ~~rule~~ law. In no case may fees be refunded.

~~Before being scheduled for examination, the applicant shall provide written evidence verified by oath that the applicant (1) has not engaged in conduct warranting disciplinary action as set forth in section 148.261; (2) meets secondary education requirements as determined by the board and other preliminary qualification requirements the board may prescribe by rule; and (3) has completed a course of study in a nursing program approved by the board, another United States nursing board, or a Canadian province. An applicant who graduates from a nursing program in another country, except Canada, must also successfully complete the Commission on Graduates of Foreign Nursing Schools Qualifying Examination. The nursing program must be approved for the preparation of applicants for the type of license for which the application has been submitted.~~

~~The applicant must pass a written examination in the subjects the board may determine. Written examination includes both paper and pencil examinations and examinations administered with a~~

~~computer and related technology. Each written examination may be supplemented by an oral or practical examination.~~ (b) The applicant must satisfy the following requirements for licensure by examination:

(1) present evidence the applicant has not engaged in conduct warranting disciplinary action as set forth in section 148.261;

(2) present evidence of completion of a nursing education program approved by the board, another United States nursing board, or a Canadian province which prepared the applicant for the type of license for which the application has been submitted; and

(3) pass a national nurse licensure written examination. "Written examination" includes paper and pencil examinations and examinations administered with a computer and related technology and may include supplemental oral or practical examinations approved by the board.

(c) An applicant who graduated from an approved nursing education program in Canada and was licensed in Canada or another United States jurisdiction without passing the national nurse licensure examination, must also submit a verification of licensure from the original Canadian licensure authority or from the United States jurisdiction.

(d) An applicant who graduated from a nursing program in a country other than the United States or Canada must also satisfy the following requirements:

(1) present verification of graduation from a nursing education program which prepared the applicant for the type of license for which the application has been submitted and is determined to be equivalent to the education required in the same type of nursing education programs in the United States as evaluated by a credentials evaluation service acceptable to the board. The credentials evaluation service must submit the evaluation and verification directly to the board;

(2) demonstrate successful completion of coursework to resolve identified nursing education deficiencies; and

(3) pass examinations acceptable to the board that test written and spoken English, unless the applicant graduated from a nursing education program conducted in English and located in an English-speaking country. The results of the examinations must be submitted directly to the board from the testing service.

(e) An applicant failing to pass the examination may apply for reexamination.

~~Upon submission by the applicant of an affidavit of graduation or transcript from an approved nursing program as well as proof that the applicant has passed the examination, paid the required fees, and~~ (f) When the applicant has met all other requirements stated in this subdivision, the board shall issue a license to the applicant. The board may issue a license with conditions and limitations if it considers it necessary to protect the public.

Sec. 2. Minnesota Statutes 2003 Supplement, section 148.212, subdivision 1, is amended to read:

Subdivision 1. [ISSUANCE.] Upon receipt of the applicable licensure or reregistration fee and permit fee, and in accordance with rules of the board, the board may issue a nonrenewable temporary permit to practice professional or practical nursing to an applicant for licensure or reregistration who is not the subject of a pending investigation or disciplinary action, nor disqualified for any other reason, under the following circumstances:

(a) The applicant for licensure by examination under section 148.211, subdivision 1, has graduated from an approved nursing program within the 60 days preceding board receipt of an affidavit of graduation or transcript and has been authorized by the board to write the licensure examination for the first time in the United States. The permit holder must practice professional or practical nursing under the direct supervision of a registered nurse. The permit is valid from the date of issue until the date the board takes action on the application or for 60 days whichever occurs first.

(b) The applicant for licensure by endorsement under section 148.211, subdivision 2, is currently licensed to practice professional or practical nursing in another state, territory, or Canadian province. The permit is valid from submission of a proper request until the date of board action on the application.

(c) The applicant for licensure by endorsement under section 148.211, subdivision 2, or for reregistration under section 148.231, subdivision 5, is currently registered in a formal, structured refresher course or its equivalent for nurses that includes clinical practice.

(d) The applicant for licensure by examination under section 148.211, subdivision 1, ~~has been issued a Commission on Graduates of Foreign Nursing Schools certificate, who graduated from a nursing program in a country other than the United States or Canada has completed all requirements for licensure except the registering for and taking the nurse licensure examination, and has been authorized by the board to write the licensure examination for the first time in the United States.~~ The permit holder must practice professional nursing under the direct supervision of a registered nurse. The permit is valid from the date of issue until the date the board takes action on the application or for 60 days, whichever occurs first.

Sec. 3. Minnesota Statutes 2002, section 148.284, is amended to read:

148.284 [CERTIFICATION OF ADVANCED PRACTICE REGISTERED NURSES.]

(a) No person shall practice advanced practice registered nursing or use any title, abbreviation, or other designation tending to imply that the person is an advanced practice registered nurse, clinical nurse specialist, nurse anesthetist, nurse-midwife, or nurse practitioner unless the person is certified for such advanced practice registered nursing by a national nurse certification organization.

(b) ~~Paragraph Paragraphs (a) does and (e) do not apply to an advanced practice registered nurse who is within six months after completion of an advanced practice registered nurse course of study and is awaiting certification, provided that the person has not previously failed the certification examination.~~

(c) An advanced practice registered nurse who has completed a formal course of study as an advanced practice registered nurse and has been certified by a national nurse certification organization prior to January 1, 1999, may continue to practice in the field of nursing in which the advanced practice registered nurse is practicing as of July 1, 1999, regardless of the type of certification held if the advanced practice registered nurse is not eligible for the proper certification.

(d) Prior to July 1, 2007, a clinical nurse specialist may petition the board for waiver from the certification requirement in paragraph (a) if the clinical nurse specialist is academically prepared as a clinical nurse specialist in a specialty area for which there is no certification within the clinical nurse specialist role and specialty or a related specialty. The board may determine that an available certification as a clinical nurse specialist in a related specialty must be obtained in lieu of the specific specialty or subspecialty. The petitioner must be academically prepared as a clinical nurse specialist in a specific field of clinical nurse specialist practice with a master's degree in nursing that included clinical experience in the clinical specialty and must have 1,000 hours of supervised clinical experience in the clinical specialty for which the individual was academically prepared with a minimum of 500 hours of supervised clinical practice after graduation. The board may grant a nonrenewable permit for no longer than 12 months for the supervised postgraduate clinical experience. The board may renew the waiver for three-year periods provided the clinical nurse specialist continues to be ineligible for certification as a clinical nurse specialist by an organization acceptable to the board.

(e) An advanced practice registered nurse who practices advanced practice registered nursing without current certification or current waiver of certification as a clinical nurse specialist, nurse midwife, nurse practitioner, or registered nurse anesthetist, or practices with current certification but fails to notify the board of current certification, shall pay a penalty fee of \$200 for the first month or part of a month and an additional \$100 for each subsequent month or parts of months of

practice. The amount of the penalty fee shall be calculated from the first day the advanced practice registered nurse practiced without current advanced practice registered nurse certification or current waiver of certification to the date of last practice or from the first day the advanced practice registered nurse practiced without the current status on file with the board until the day the current certification is filed with the board.

ARTICLE 4

BOARD OF DENTISTRY

Section 1. Minnesota Statutes 2003 Supplement, section 116J.70, subdivision 2a, is amended to read:

Subd. 2a. [LICENSE; EXCEPTIONS.] "Business license" or "license" does not include the following:

(1) any occupational license or registration issued by a licensing board listed in section 214.01 or any occupational registration issued by the commissioner of health pursuant to section 214.13;

(2) any license issued by a county, home rule charter city, statutory city, township, or other political subdivision;

(3) any license required to practice the following occupation regulated by the following sections:

- (i) abstracters regulated pursuant to chapter 386;
- (ii) accountants regulated pursuant to chapter 326A;
- (iii) adjusters regulated pursuant to chapter 72B;
- (iv) architects regulated pursuant to chapter 326;
- (v) assessors regulated pursuant to chapter 270;
- (vi) athletic trainers regulated pursuant to chapter 148;
- (vii) attorneys regulated pursuant to chapter 481;
- (viii) auctioneers regulated pursuant to chapter 330;
- (ix) barbers regulated pursuant to chapter 154;
- (x) beauticians regulated pursuant to chapter 155A;
- (xi) boiler operators regulated pursuant to chapter 183;
- (xii) chiropractors regulated pursuant to chapter 148;
- (xiii) collection agencies regulated pursuant to chapter 332;
- (xiv) cosmetologists regulated pursuant to chapter 155A;
- (xv) dentists, ~~registered~~ dental assistants, and dental hygienists regulated pursuant to chapter 150A;
- (xvi) detectives regulated pursuant to chapter 326;
- (xvii) electricians regulated pursuant to chapter 326;
- (xviii) mortuary science practitioners regulated pursuant to chapter 149A;
- (xix) engineers regulated pursuant to chapter 326;

- (xx) insurance brokers and salespersons regulated pursuant to chapter 60A;
- (xxi) certified interior designers regulated pursuant to chapter 326;
- (xxii) midwives regulated pursuant to chapter 147D;
- (xxiii) nursing home administrators regulated pursuant to chapter 144A;
- (xxiv) optometrists regulated pursuant to chapter 148;
- (xxv) osteopathic physicians regulated pursuant to chapter 147;
- (xxvi) pharmacists regulated pursuant to chapter 151;
- (xxvii) physical therapists regulated pursuant to chapter 148;
- (xxviii) physician assistants regulated pursuant to chapter 147A;
- (xxix) physicians and surgeons regulated pursuant to chapter 147;
- (xxx) plumbers regulated pursuant to chapter 326;
- (xxxi) podiatrists regulated pursuant to chapter 153;
- (xxxii) practical nurses regulated pursuant to chapter 148;
- (xxxiii) professional fund-raisers regulated pursuant to chapter 309;
- (xxxiv) psychologists regulated pursuant to chapter 148;
- (xxxv) real estate brokers, salespersons, and others regulated pursuant to chapters 82 and 83;
- (xxxvi) registered nurses regulated pursuant to chapter 148;
- (xxxvii) securities brokers, dealers, agents, and investment advisers regulated pursuant to chapter 80A;
- (xxxviii) steamfitters regulated pursuant to chapter 326;
- (xxxix) teachers and supervisory and support personnel regulated pursuant to chapter 125;
- (xl) veterinarians regulated pursuant to chapter 156;
- (xli) water conditioning contractors and installers regulated pursuant to chapter 326;
- (xlii) water well contractors regulated pursuant to chapter 103I;
- (xliii) water and waste treatment operators regulated pursuant to chapter 115;
- (xliv) motor carriers regulated pursuant to chapter 221;
- (xlv) professional firms regulated under chapter 319B;
- (xlvi) real estate appraisers regulated pursuant to chapter 82B;
- (xlvii) residential building contractors, residential remodelers, residential roofers, manufactured home installers, and specialty contractors regulated pursuant to chapter 326;
- (xlviii) licensed professional counselors regulated pursuant to chapter 148B;
- (4) any driver's license required pursuant to chapter 171;
- (5) any aircraft license required pursuant to chapter 360;
- (6) any watercraft license required pursuant to chapter 86B;

(7) any license, permit, registration, certification, or other approval pertaining to a regulatory or management program related to the protection, conservation, or use of or interference with the resources of land, air, or water, which is required to be obtained from a state agency or instrumentality; and

(8) any pollution control rule or standard established by the Pollution Control Agency or any health rule or standard established by the commissioner of health or any licensing rule or standard established by the commissioner of human services.

Sec. 2. Minnesota Statutes 2002, section 144.054, subdivision 2, is amended to read:

Subd. 2. [HIV; HBV.] The commissioner may subpoena privileged medical information of patients who may have been exposed by a licensed dental hygienist, dentist, physician, nurse, podiatrist, a ~~registered or~~ dental assistant, or a physician's assistant who is infected with the human immunodeficiency virus (HIV) or hepatitis B virus (HBV) when the commissioner has determined that it may be necessary to notify those patients that they may have been exposed to HIV or HBV.

Sec. 3. Minnesota Statutes 2002, section 150A.01, subdivision 5, is amended to read:

Subd. 5. [DENTAL ASSISTANT AIDE.] "Dental ~~assistant~~ aide" means a person performing acts authorized under section 150A.10, subdivision 2.

Sec. 4. Minnesota Statutes 2002, section 150A.01, subdivision 8, is amended to read:

Subd. 8. [~~REGISTERED DENTAL ASSISTANT.~~] "Registered Dental assistant" means a person ~~registered licensed pursuant to section 150A.06~~ sections 150A.01 to 150A.12 to perform the services authorized pursuant to sections 150A.05, subdivision 1b, and 150A.10, subdivision 2.

Sec. 5. Minnesota Statutes 2002, section 150A.02, subdivision 1, is amended to read:

Subdivision 1. There is hereby created a board of dentistry whose duty it shall be to carry out the purposes and enforce the provisions of sections 150A.01 to 150A.12. The board shall consist of two public members as defined by section 214.02, five qualified resident dentists, one qualified resident ~~registered~~ dental assistant, and one qualified resident dental hygienist appointed by the governor. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of board complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214. Each board member who is a dentist, ~~registered~~ dental assistant, or dental hygienist shall have been lawfully in active practice in this state for five years immediately preceding appointment; and no board member shall be eligible for appointment to more than two consecutive four-year terms, and members serving on the board at the time of the enactment hereof shall be eligible to reappointment provided they shall not have served more than nine consecutive years at the expiration of the term to which they are to be appointed. At least 90 days prior to the expiration of the terms of dentists, ~~registered~~ dental assistants, or dental hygienists, the Minnesota dental association, Minnesota dental assistants association, or the Minnesota state dental hygiene association shall recommend to the governor for each term expiring not less than two dentists, two ~~registered~~ dental assistants, or two dental hygienists, respectively, who are qualified to serve on the board, and from the list so recommended the governor may appoint members to the board for the term of four years, the appointments to be made within 30 days after the expiration of the terms. Within 60 days after the occurrence of a dentist, ~~registered~~ dental assistant, or dental hygienist vacancy, prior to the expiration of the term, in the board, the Minnesota dental association, the Minnesota dental assistants association, or the Minnesota state dental hygiene association shall recommend to the governor not less than two dentists, two ~~registered~~ dental assistants, or two dental hygienists, who are qualified to serve on the board and from the list so recommended the governor, within 30 days after receiving such list of dentists, may appoint one member to the board for the unexpired term occasioned by such vacancy. Any appointment to fill a vacancy shall be made within 90 days after the occurrence of such vacancy. The first four-year term of the dental hygienist and of the ~~registered~~ dental assistant shall commence on the first Monday in January, 1977.

Sec. 6. Minnesota Statutes 2002, section 150A.03, subdivision 1, is amended to read:

Subdivision 1. [OFFICERS.] The board shall elect from its members a president, a vice-president, and a secretary. The board shall have a common seal. It may hold meetings at such times as may be necessary and as it may determine. The board may affiliate and participate, both in and out-of-state, with regional and national testing agencies for the purpose of conducting examinations for licensure ~~and registration~~. The fee charged by such an agency for conducting the examination may be in addition to the application fee established by the board pursuant to section 150A.06.

Sec. 7. Minnesota Statutes 2002, section 150A.05, is amended by adding a subdivision to read:

Subd. 1b. [PRACTICE OF DENTAL ASSISTING.] A person shall be deemed to be practicing as a dental assistant within the meaning of sections 150A.01 to 150A.12 who performs any duty or related services delegated by a licensed dentist as permitted by the rules of the board.

Sec. 8. Minnesota Statutes 2002, section 150A.05, subdivision 2, is amended to read:

Subd. 2. [EXEMPTIONS AND EXCEPTIONS OF CERTAIN PRACTICES AND OPERATIONS.] Sections 150A.01 to 150A.12 do not apply to:

(1) the practice of dentistry ~~or~~, dental hygiene, or dental assisting in any branch of the armed services of the United States, the United States Public Health Service, or the United States Veterans Administration;

(2) the practice of dentistry, dental hygiene, or dental assisting by undergraduate dental students, dental hygiene students, and dental assisting students of the University of Minnesota, schools of dental hygiene, or schools of dental assisting approved by the board, when acting under the direction and supervision of a licensed dentist ~~or~~, a licensed dental hygienist, or a licensed dental assistant acting as an instructor;

(3) the practice of dentistry by licensed dentists of other states or countries while appearing as clinicians under the auspices of a duly approved dental school or college, or a reputable dental society, or a reputable dental study club composed of dentists;

(4) the actions of persons while they are taking examinations for licensure ~~or registration~~ administered or approved by the board pursuant to sections 150A.03, subdivision 1, and 150A.06, subdivisions 1, 2, and 2a;

(5) the practice of dentistry by dentists and dental hygienists licensed by other states during their functioning as examiners responsible for conducting licensure ~~or registration~~ examinations administered by regional and national testing agencies with whom the board is authorized to affiliate and participate under section 150A.03, subdivision 1, and the practice of dentistry by the regional and national testing agencies during their administering examinations pursuant to section 150A.03, subdivision 1;

(6) the use of X-rays or other diagnostic imaging modalities for making radiographs or other similar records in a hospital under the supervision of a physician or dentist or by a person who is credentialed to use diagnostic imaging modalities or X-ray machines for dental treatment, roentgenograms, or dental diagnostic purposes by a credentialing agency other than the board of dentistry; or

(7) the service, other than service performed directly upon the person of a patient, of constructing, altering, repairing, or duplicating any denture, partial denture, crown, bridge, splint, orthodontic, prosthetic, or other dental appliance, when performed according to a written work order from a licensed dentist in accordance with section 150A.10, subdivision 3.

Sec. 9. Minnesota Statutes 2002, section 150A.06, as amended by Laws 2003, First Special Session chapter 5, sections 1, 2, and 3, is amended to read:

150A.06 [LICENSURE.]

Subdivision 1. [DENTISTS.] A person of good moral character ~~not already a licensed dentist of the state~~ who has graduated from a dental program accredited by the Commission on Dental Accreditation of the American Dental Association, having submitted an application and fee as prescribed by the board and the diploma or equivalent awarded to the person by a dental college approved by the board, may be examined by the board or by an agency pursuant to section 150A.03, subdivision 1, in a manner to test the applicant's fitness to practice dentistry. A graduate of a dental college in another country must not be disqualified from examination solely because of the applicant's foreign training if the board determines that the training is equivalent to or higher than that provided by a dental college ~~approved~~ accredited by the Commission on Dental Accreditation of the American Dental Association ~~or a successor organization~~. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants ~~may~~ shall take the examination prior to applying to the board for licensure. The examination shall include an examination of the applicant's knowledge of the laws of Minnesota relating to dentistry and the rules of the board. An applicant is ineligible to retake the clinical examination required by the board after failing it twice until further education and training are obtained as specified by the board by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all other requirements of the board shall be licensed to practice dentistry and ~~supplied with granted~~ a general dentist license by the board.

Subd. 1a. [FACULTY DENTISTS.] (a) Faculty members of a school of dentistry must be licensed ~~or registered~~ in order to practice dentistry as defined in section 150A.05. The board may issue to members of the faculty of a school of dentistry a license designated as either a "limited faculty license" or a "full faculty license" entitling the holder to practice dentistry within the terms described in paragraph (b) or (c). The dean of ~~the~~ a school of dentistry and program directors of ~~accredited a~~ Minnesota dental hygiene or dental assisting ~~schools~~ school accredited by the Commission on Dental Accreditation of the American Dental Association shall certify to the board those members of the school's faculty who practice dentistry but are not licensed to practice dentistry in Minnesota. A faculty member who practices dentistry as defined in section 150A.05, before beginning duties in ~~the~~ a school of dentistry or a dental hygiene or dental assisting school, shall apply to the board for a limited or full faculty license. The license expires the next July 1 and may, at the discretion of the board, be renewed on a yearly basis. The faculty applicant shall pay a nonrefundable fee set by the board for issuing and renewing the faculty license. The faculty license is valid during the time the holder remains a member of the faculty of a school of dentistry or a dental hygiene or dental assisting school and subjects the holder to this chapter.

(b) The board may issue to dentist members of the faculty of ~~an accredited a~~ Minnesota school of dentistry, dental hygiene, or dental assisting ~~accredited by the Commission on Dental Accreditation of the American Dental Association~~, a license designated as a limited faculty license entitling the holder to practice dentistry within the school and its affiliated teaching facilities, but only for the purposes of ~~instructing~~ teaching or conducting research. The practice of dentistry at a school facility for purposes other than ~~instruction~~ teaching or research is not allowed unless the ~~faculty member is licensed under subdivision 1 or is dentist~~ was a faculty member on August 1, 1993.

(c) The board may issue to dentist members of the faculty of ~~an accredited a~~ Minnesota school of dentistry, dental hygiene, or dental assisting ~~accredited by the Commission on Dental Accreditation of the American Dental Association~~, a license designated as a full faculty license entitling the holder to practice dentistry within the school and its affiliated teaching facilities and elsewhere if the holder of the license is employed 50 percent time or more by the school in the practice of teaching or research, and upon successful review by the board of the applicant's qualifications as described in subdivisions 1, 1c, and 4, and board rule. The board, at its discretion, may waive specific licensing prerequisites.

Subd. 1b. [RESIDENT DENTISTS.] A person who is a graduate of a dental school and is an enrolled graduate student or student of an accredited advanced dental education program and who is not licensed to practice dentistry in the state shall obtain from the board a license to practice dentistry as a resident dentist. The license must be designated "resident dentist license" and authorizes the licensee to practice dentistry only under the supervision of a licensed dentist. A

resident dentist license must be renewed annually pursuant to the board's rules. An applicant for a resident dentist license shall pay a nonrefundable fee set by the board for issuing and renewing the license. The requirements of sections 150A.01 to 150A.21 apply to resident dentists except as specified in rules adopted by the board. A resident dentist license does not qualify a person for licensure under subdivision 1. ~~This subdivision takes effect on September 1 following the date that the rules adopted under this subdivision become effective.~~

Subd. 1c. [SPECIALTY DENTISTS.] (a) The board may grant a specialty license in the following specialty areas of dentistry:

- ~~(1) endodontics;~~
- ~~(2) oral and maxillofacial surgery;~~
- ~~(3) oral pathology;~~
- ~~(4) orthodontics;~~
- ~~(5) pediatric dentistry;~~
- ~~(6) periodontics;~~
- ~~(7) prosthodontics; and~~
- ~~(8) public health that are recognized by the American Dental Association.~~

~~(b) Notwithstanding section 147.081, subdivision 3, a person practicing in the specialty area of oral and maxillofacial surgery must either be licensed by the board under subdivision 1, or have a specialty license in the oral and maxillofacial surgery specialty area. Notwithstanding paragraph (c), an oral and maxillofacial surgery specialty license may be issued to a person not licensed under subdivision 1. An applicant for a specialty license shall:~~

~~(1) have successfully completed a postdoctoral specialty education program accredited by the Commission on Dental Accreditation of the American Dental Association, or have announced a limitation of practice before 1967;~~

~~(2) have been certified by a specialty examining board approved by the Minnesota Board of Dentistry, or provide evidence of having passed a clinical examination for licensure in another state or Canadian province, or in the case of oral and maxillofacial surgeons only, have a Minnesota medical license in good standing;~~

~~(3) have been in active practice or a postdoctoral specialty education program or United States government service at least 2,000 hours in the 36 months prior to applying for a specialty license;~~

~~(4) be interviewed by a committee of the board, which may include the assistance of specialists in the evaluation process, and satisfactorily respond to questions designed to determine the applicant's knowledge of dental subjects and ability to practice;~~

~~(5) if requested by the board, present complete records on a sample of patients treated by the applicant. The sample must be drawn from patients treated by the applicant during the 36 months preceding the date of application. The number of records shall be established by the board. The records shall be reasonably representative of the treatment typically provided by the applicant;~~

~~(6) at board discretion, pass a board-approved English proficiency test if English is not the applicant's primary language;~~

~~(7) pass all components of the National Dental Board examinations;~~

~~(8) pass the Minnesota Board of Dentistry jurisprudence examination;~~

~~(9) abide by professional ethical conduct requirements; and~~

(10) meet all other requirements prescribed by the Board of Dentistry.

(c) An applicant for a specialty license shall The application must include:

(1) have successfully completed an advanced education program approved by the Commission on Accreditation in one of the specialty areas;

(2) have announced a limitation of practice before 1967; or

(3) have been certified by a specialty examining board approved by the board.

The board shall also require the applicant to be licensed under subdivision 1 or have an equivalent license in another state as determined by the board, meet all other requirements prescribed by the board, and pay a nonrefundable fee set by the board.

(1) a completed application furnished by the board;

(2) at least two character references from two different dentists, one of whom must be a dentist practicing in the same specialty area, and the other the director of the specialty program attended;

(3) a licensed physician's statement attesting to the applicant's physical and mental condition;

(4) a statement from a licensed ophthalmologist or optometrist attesting to the applicant's visual acuity;

(5) a nonrefundable fee set by the board; and

(6) a notarized, unmounted passport-type photograph, three inches by three inches, taken not more than six months before the date of application.

(d) A dentist with an equivalent license in another state and a specialty license in Minnesota is limited in Minnesota to practicing only in the specialty license area as defined by the board. A specialty dentist holding a specialty license is limited to practicing in the dentist's designated specialty area. The scope of practice must be defined by each national specialty board recognized by the American Dental Association.

(e) A specialty dentist holding a general dentist license is limited to practicing in the dentist's designated specialty area if the dentist has announced a limitation of practice. The scope of practice must be defined by each national specialty board recognized by the American Dental Association.

(f) All specialty dentists who have fulfilled the specialty dentist requirements and who intend to limit their practice to a particular specialty area after January 1, 2005, must apply for a specialty license. Dentists who were licensed under section 150A.06 prior to January 1, 2005, and who limit their practice to a specialty recognized by the American Dental Association, may apply for a specialty license but are not required to do so.

Subd. 2. [DENTAL HYGIENISTS.] A person of good moral character not already a licensed dental hygienist of this state, who has graduated from a dental hygiene program established in an institution that is accredited by an accrediting agency recognized by the United States Department of Education to offer college-level programs accredited by the Commission on Dental Accreditation of the American Dental Association may apply for licensure. The dental hygiene program must provide a minimum of two academic years of dental hygiene curriculum and be accredited by the American Dental Association Commission on Dental Accreditation education. The applicant must submit an application and fee as prescribed by the board and a diploma or certificate of dental hygiene. Prior to being licensed, the applicant must pass the National Board of Dental Hygiene examination and a board approved examination designed to determine the applicant's clinical competency. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants may shall take the examination before applying to the board for licensure. The applicant must also pass an examination testing the applicant's knowledge of the laws of Minnesota relating to the practice of dentistry and of the rules of the board. An applicant is

ineligible to retake the clinical examination required by the board after failing it twice until further education and training are obtained as specified by the board by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all the other requirements of the board shall be licensed as a dental hygienist and ~~supplied with a license by the board.~~

Subd. 2a. [~~REGISTERED DENTAL ASSISTANT ASSISTANTS.~~] A person of good moral character, who has ~~submitted~~ graduated from a dental assisting program accredited by the Commission on Dental Accreditation of the American Dental Association may apply for registration. The applicant must submit an application and fee as prescribed by the board and the diploma or equivalent awarded to the person by a training school for certificate of dental assistants or its equivalent approved by the board, may be examined by the board or by an agency pursuant to ~~section 150A.03, subdivision 1,~~ in a manner to test the applicant's fitness to perform as a ~~registered dental assistant assisting.~~ In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants ~~may~~ shall take the examination before applying to the board for ~~registration licensure.~~ The examination shall include an examination of the applicant's knowledge of the laws of Minnesota relating to dentistry and the rules of the board. An applicant is ineligible to retake the ~~clinical license examination~~ required by the board after failing it twice until further education and training are obtained as specified by the board by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all the other requirements of the board shall be ~~registered~~ licensed as a dental assistant. ~~The examination fee set by the board in rule is the application fee until the board amends, repeals, or otherwise changes the rules pursuant to chapter 14.~~

Subd. 2b. [~~EXAMINATION.~~] When the Board ~~members administer~~ of Dentistry ~~administers~~ the examination for licensure ~~or registration,~~ only those board members or board-appointed deputy examiners qualified for the particular examination may administer it. An examination which the board requires as a condition of licensure ~~or registration~~ must have been taken within the five years before the board receives the application for licensure ~~or registration.~~

Subd. 2c. [~~GUEST LICENSE OR REGISTRATION.~~] (a) The board shall grant a guest license to practice as a dentist ~~or,~~ dental hygienist, or a guest registration to practice as a dental assistant if the following conditions are met:

(1) the dentist, dental hygienist, or dental assistant is currently licensed ~~or registered~~ in good standing in North Dakota, South Dakota, Iowa, or Wisconsin;

(2) the dentist, dental hygienist, or dental assistant is currently engaged in the practice of that person's respective profession in North Dakota, South Dakota, Iowa, or Wisconsin;

(3) the dentist, dental hygienist, or dental assistant ~~is seeking to~~ will limit that person's practice in to a public health setting in Minnesota that (i) is approved by the board; (ii) was established by a nonprofit organization that is tax exempt under chapter 501(c)(3) of the Internal Revenue Code of 1986; and (iii) provides dental care to patients who have difficulty accessing dental care;

(4) the dentist, dental hygienist, or dental assistant agrees to treat indigent patients who meet the eligibility criteria established by the clinic; and

(5) the dentist, dental hygienist, or dental assistant has applied to the board for a guest license ~~or registration, providing evidence of being currently licensed or registered in good standing in North Dakota, South Dakota, Iowa, or Wisconsin,~~ and has paid a nonrefundable license fee to the board of \$50 not to exceed \$75.

(b) A dentist, dental hygienist, or dental assistant practicing under a guest license ~~or registration~~ may only practice at a single, specific location in Minnesota. A guest license ~~or registration~~ must be renewed annually with the board and pay an annual renewal fee of \$50 must be paid to the board. ~~If the clinic in Minnesota at which a dentist, dental hygienist, or dental assistant seeks to practice permanently ceases operation, the guest license or registration issued under this subdivision is automatically revoked not to exceed \$75.~~

(c) A dentist, dental hygienist, or dental assistant practicing under a guest license ~~or registration~~ under this subdivision shall have the same obligations as a dentist, dental hygienist, or dental assistant who is licensed in Minnesota and shall be subject to the laws and rules of Minnesota and the regulatory authority of the board. If the board suspends or revokes the guest license ~~or registration~~ of, or otherwise disciplines, a dentist, dental hygienist, or dental assistant practicing under this subdivision, the board shall promptly report such disciplinary action to the dentist's, dental hygienist's, or dental assistant's regulatory board in the border state.

Subd. 2d. [VOLUNTEER AND RETIRED DENTISTS, DENTAL HYGIENISTS, AND REGISTERED DENTAL ASSISTANTS CONTINUING EDUCATION AND PROFESSIONAL DEVELOPMENT WAIVER.] (a) The board shall grant a waiver to the continuing education requirements under this chapter for a licensed dentist, licensed dental hygienist, or registered licensed dental assistant who documents to the satisfaction of the board that the dentist, dental hygienist, or registered dental assistant has retired from active practice in the state and limits the provision of dental care services to those offered without compensation in a public health, community, or tribal clinic or a nonprofit organization that provides services to the indigent or to recipients of medical assistance, general assistance medical care, or MinnesotaCare programs.

(b) The board may require written documentation from the volunteer and retired dentist, dental hygienist, or ~~registered~~ dental assistant prior to granting this waiver.

(c) The board shall require the volunteer and retired dentist, dental hygienist, or ~~registered~~ dental assistant to meet the following requirements:

(1) a licensee ~~or registrant~~ seeking a waiver under this subdivision must complete and document at least five hours of approved courses in infection control, medical emergencies, and medical management for the continuing education cycle; and

(2) provide documentation of certification in advanced or basic cardiac life support recognized by the American Heart Association, the American Red Cross, or an equivalent entity.

Subd. 3. [WAIVER OF EXAMINATION.] (a) All or any part of the examination for dentists or dental hygienists, except that pertaining to the law of Minnesota relating to dentistry and the rules of the board, may, at the discretion of the board, be waived for an applicant who presents a certificate of qualification from the National Board of Dental Examiners or evidence of having maintained an adequate scholastic standing as determined by the board, in dental school as to dentists, or dental hygiene school as to dental hygienists.

(b) Effective January 1, 2004, the board shall waive the clinical examination required for licensure for any dentist applicant who is a graduate of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association ~~or an equivalent organization as determined by the board~~, who has successfully completed ~~parts I and II~~ all components of the National ~~boards~~ Dental Board examination, and who has satisfactorily completed a Minnesota-based postdoctoral general dentistry residency program accredited by the Commission on Dental Accreditation of the American Dental Association if the program is of at least one year's duration and includes an outcome assessment evaluation assessing the resident's competence to practice dentistry. The board may require the applicant to submit any information deemed necessary by the board to determine whether the waiver is applicable. The board may waive the clinical examination for an applicant who meets the requirements of this paragraph and has satisfactorily completed an accredited postdoctoral general dentistry residency program located outside of Minnesota.

Subd. 4. [LICENSURE BY CREDENTIALS.] (a) Any person ~~who is lawfully practicing dentistry or dental hygiene in another state or Canadian province having and maintaining a standard of examination for licensure and of laws regulating the practice within that state or Canadian province, substantially equivalent to Minnesota's, as determined by the board, who is a reputable dentist or dental hygienist of good moral character, and who deposits, in person, with the Board of Dentistry a certificate from the board of dentistry of the state or Canadian province in which the applicant is licensed, certifying to the fact of licensure and that the applicant is of good moral character and professional attainments, shall, upon payment of the fee established by the~~

~~board, be interviewed by the board. The interview shall consist of assessing the applicant's knowledge of dental subjects. If the applicant does not demonstrate the minimum knowledge in dental subjects required for licensure under subdivisions 1 and 2, the application shall be denied. When denying a license, the board may notify the applicant of any specific course that the applicant could take which, if passed, would qualify the applicant for licensure. The denial shall not prohibit the applicant from applying for licensure under subdivisions 1 and 2. If the applicant demonstrates the minimum knowledge in dental subjects required for licensure under subdivisions 1 and 2 and meets the other requirements of this subdivision, a license shall be granted to practice in this state, if the applicant passes an examination on the laws of Minnesota relating to dentistry and the rules of the Board of Dentistry. dentist or dental hygienist may, upon application and payment of a fee established by the board, apply for licensure based on their performance record in lieu of passing a board-approved examination as defined in section 150A.03, subdivision 1, and be interviewed by the board to determine if the applicant:~~

(1) has been in active practice at least 2,000 hours within 36 months of the application date, or passed a board-approved re-entry program within 36 months of the application date;

(2) currently has a license in another state or Canadian province and is not subject to any pending or final disciplinary action, or if not currently licensed, previously had a license in another state or Canadian province in good standing that was not subject to any final or pending disciplinary action at the time of surrender;

(3) is of good moral character and abides by professional ethical conduct requirements;

(4) at board discretion, has passed a board-approved English proficiency test if English is not the applicant's primary language; and

(5) meets other credentialing requirements specified in board rule.

(b) An applicant who fulfills the conditions of this subdivision and demonstrates the minimum knowledge in dental subjects required for licensure under subdivision 1 or 2 must be licensed to practice the applicant's profession.

(c) If the applicant does not demonstrate the minimum knowledge in dental subjects required for licensure under subdivision 1 or 2, the application must be denied. When denying a license, the board may notify the applicant of any specific remedy that the applicant could take which, when passed, would qualify the applicant for licensure. A denial does not prohibit the applicant from applying for licensure under subdivision 1 or 2.

(d) A candidate whose application has been denied may appeal the decision to the board according to subdivision 4a.

Subd. 4a. [APPEAL OF DENIAL OF APPLICATION.] A person whose application for licensure by credentials has been denied may appeal the decision to the board. The board shall establish an appeals process and inform a denied candidate of the right to appeal and the process for filing the appeal.

Subd. 5. [FRAUD IN SECURING LICENSES.] Every person implicated in employing fraud or deception in applying for or securing a license to practice dentistry or, dental hygiene, or in applying for or securing a registration to practice dental assisting or in annually registering renewing a license or registration under sections 150A.01 to 150A.12 is guilty of a gross misdemeanor.

Subd. 6. [DISPLAY OF NAME AND CERTIFICATES.] ~~The name, initial license certificate, and annual registration certificate subsequent renewal of every licensed dentist, dental hygienist, or registered dental assistant shall be conspicuously displayed in every office in which that person practices, in plain sight of patients. If there is more than one dentist, dental hygienist, or registered dental assistant practicing or employed in any office, the manager or proprietor of the office shall display in plain sight the name, license certificate and annual registration certificate of each dentist, dental hygienist, or registered dental assistant practicing or employed there. Near or on the entrance door to every office where dentistry is practiced, the name of each dentist practicing~~

there, as inscribed on the current license certificate and annual registration certificate of each dentist, shall be displayed in plain sight.

Subd. 7. [ADDITIONAL REMEDIES FOR LICENSURE.] On a case-by-case basis, for initial or renewal of licensure, the board may add additional remedies for deficiencies found based on the applicant's performance, character, and education.

Subd. 8. [LICENSURE BY CREDENTIALS.] (a) Any dental assistant may, upon application and payment of a fee established by the board, apply for licensure based on an evaluation of their education, experience, and performance record in lieu of completing a board-approved dental assisting program for expanded functions as defined in rule, and may be interviewed by the board to determine if the applicant:

(1) has graduated from an accredited dental assisting program accredited by the Commission of Dental Accreditation of the American Dental Association, or is currently certified by the Dental Assisting National Board;

(2) is not subject to any pending or final disciplinary action in another state or Canadian province, or if not currently certified, licensed, or registered, previously had a certification, licensure, or registration in another state or Canadian province in good standing that was not subject to any final or pending disciplinary action at the time of surrender;

(3) is of good moral character and abides by professional ethical conduct requirements;

(4) at board discretion, has passed a board-approved English proficiency test if English is not the applicant's primary language; and

(5) has met all expanded functions curriculum equivalency requirements of a Minnesota board-approved dental assisting program.

(b) The board, at its discretion, may waive specific licensure requirements in paragraph (a).

(c) An applicant who fulfills the conditions of this subdivision and demonstrates the minimum knowledge in dental subjects required for licensure under subdivision 2a must be licensed to practice the applicant's profession.

(d) If the applicant does not demonstrate the minimum knowledge in dental subjects required for licensure under subdivision 2a, the application must be denied. If licensure is denied, the board may notify the applicant of any specific remedy that the applicant could take, which when passed, would qualify the applicant for licensure. A denial does not prohibit the applicant from applying for licensure under subdivision 2a.

(e) A candidate whose application has been denied may appeal the decision to the board according to subdivision 4a.

Sec. 10. Minnesota Statutes 2002, section 150A.08, subdivision 1, is amended to read:

Subdivision 1. [GROUNDS.] The board may refuse or by order suspend or revoke, limit or modify by imposing conditions it deems necessary, any license to practice dentistry or, dental hygiene, or the registration of any dental assistant assisting upon any of the following grounds:

(1) fraud or deception in connection with the practice of dentistry or the securing of a license or annual registration certificate;

(2) conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of a felony or gross misdemeanor reasonably related to the practice of dentistry as evidenced by a certified copy of the conviction;

(3) conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of an offense involving moral turpitude as evidenced by a certified copy of the conviction;

- (4) habitual overindulgence in the use of intoxicating liquors;
- (5) improper or unauthorized prescription, dispensing, administering, or personal or other use of any legend drug as defined in chapter 151, of any chemical as defined in chapter 151, or of any controlled substance as defined in chapter 152;
- (6) conduct unbecoming a person licensed to practice dentistry ~~or~~, dental hygiene, or registered ~~as a dental assistant assisting~~, or conduct contrary to the best interest of the public, as such conduct is defined by the rules of the board;
- (7) gross immorality;
- (8) any physical, mental, emotional, or other disability which adversely affects a dentist's, dental hygienist's, or registered licensed dental assistant's ability to perform the service for which the person is licensed ~~or registered~~;
- (9) revocation or suspension of a license, registration, or equivalent authority to practice, or other disciplinary action or denial of a license ~~or registration~~ application taken by a licensing, registering, or credentialing authority of another state, territory, or country as evidenced by a certified copy of the licensing authority's order, if the disciplinary action or application denial was based on facts that would provide a basis for disciplinary action under this chapter and if the action was taken only after affording the credentialed person or applicant notice and opportunity to refute the allegations or pursuant to stipulation or other agreement;
- (10) failure to maintain adequate safety and sanitary conditions for a dental office in accordance with the standards established by the rules of the board;
- (11) failure to maintain malpractice insurance related to the practice of dentistry;
- (12) employing, assisting, or enabling in any manner an unlicensed person to practice dentistry;
- ~~(12)~~ (13) failure or refusal to attend, testify, and produce records as directed by the board under subdivision 7;
- ~~(13)~~ (14) violation of, or failure to comply with, any other provisions of sections 150A.01 to 150A.12, the rules of the Board of Dentistry, or any disciplinary order issued by the board, section 144.335 or 595.02, subdivision 1, paragraph (d), or for any other just cause related to the practice of dentistry. Suspension, revocation, modification or limitation of any license shall not be based upon any judgment as to therapeutic or monetary value of any individual drug prescribed or any individual treatment rendered, but only upon a repeated pattern of conduct;
- (14) (15) knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo; or
- (15) (16) aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:
 - (i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;
 - (ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;
 - (iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or
 - (iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2.

Sec. 11. Minnesota Statutes 2003 Supplement, section 150A.08, subdivision 3, is amended to read:

Subd. 3. [REINSTATEMENT.] Any licensee ~~or registrant~~ whose license ~~or registration~~ has been suspended or revoked may have the license ~~or registration~~ reinstated or a new license ~~or registration~~ issued, as the case may be, when the board deems the action is warranted.

Sec. 12. Minnesota Statutes 2002, section 150A.08, subdivision 4, is amended to read:

Subd. 4. [RECORDS.] The executive secretary of the board shall keep a record of all licenses ~~and registration certificates~~ issued, suspended, or revoked.

Sec. 13. Minnesota Statutes 2002, section 150A.08, subdivision 5, is amended to read:

Subd. 5. [MEDICAL EXAMINATIONS.] If the board has probable cause to believe that a dentist, dental hygienist, ~~registered dental assistant~~, or applicant engages in acts described in subdivision 1, clause (4) or (5), or has a condition described in subdivision 1, clause (8), it shall direct the dentist, dental hygienist, ~~dental assistant~~, or applicant to submit to a mental or physical examination or a chemical dependency assessment. For the purpose of this subdivision, every dentist, hygienist, or assistant licensed ~~or registered~~ under this chapter or person submitting an application for a license ~~or registration~~ is deemed to have given consent to submit to a mental or physical examination when directed in writing by the board and to have waived all objections in any proceeding under this section to the admissibility of the examining physician's testimony or examination reports on the ground that they constitute a privileged communication. Failure to submit to an examination without just cause may result in an application being denied or a default and final order being entered without the taking of testimony or presentation of evidence, other than evidence which may be submitted by affidavit, that the licensee, ~~registrant~~, or applicant did not submit to the examination. A dentist, dental hygienist, ~~registered dental assistant~~, or applicant affected under this section shall at reasonable intervals be afforded an opportunity to demonstrate ability to start or resume the competent practice of dentistry or perform the duties of a dental hygienist or ~~registered dental assistant~~ with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor the orders entered by the board is admissible, is subject to subpoena, or may be used against the dentist, dental hygienist, ~~registered dental assistant~~, or applicant in any proceeding not commenced by the board. Information obtained under this subdivision shall be classified as private pursuant to the Minnesota Government Data Practices Act.

Sec. 14. Minnesota Statutes 2002, section 150A.08, subdivision 6, is amended to read:

Subd. 6. [MEDICAL RECORDS.] Notwithstanding contrary provisions of sections 13.384 and 144.651 or any other statute limiting access to medical or other health data, the board may obtain medical data and health records of a licensee, ~~registrant~~, or applicant without the licensee's, ~~registrant's~~, or applicant's consent if the information is requested by the board as part of the process specified in subdivision 5. The medical data may be requested from a provider, as defined in section 144.335, subdivision 1, clause (b), an insurance company, or a government agency, including the department of human services. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and shall not be liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision shall be classified as private under the Minnesota Government Data Practices Act.

Sec. 15. Minnesota Statutes 2002, section 150A.08, subdivision 8, is amended to read:

Subd. 8. [SUSPENSION OF LICENSE.] In addition to any other remedy provided by law, the board may, through its designated board members pursuant to section 214.10, subdivision 2, temporarily suspend a license ~~or registration~~ without a hearing if the board finds that the licensee ~~or registrant~~ has violated a statute or rule which the board is empowered to enforce and continued practice by the licensee ~~or registrant~~ would create an imminent risk of harm to others. The suspension shall take effect upon written notice to the licensee ~~or registrant~~ served by first class mail specifying the statute or rule violated, and the time, date, and place of the hearing before the board. If the notice is returned by the post office, the notice shall be effective upon reasonable

attempts to locate and serve the licensee ~~or registrant~~. Within ten days of service of the notice, the board shall hold a hearing before its own members on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the board, or licensee, ~~or registrant~~, shall be in affidavit form only. The licensee ~~or registrant~~ or counsel of the licensee ~~or registrant~~ may appear for oral argument. Within five working days after the hearing, the board shall issue its order and, if the suspension is continued, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act within 45 days of issuance of the order. The administrative law judge shall issue a report within 30 days of the closing of the contested case hearing record. The board shall issue a final order within 30 days of receiving that report. The board may allow a person who was licensed by any state to practice dentistry and whose license has been suspended to practice dentistry under the supervision of a licensed dentist for the purpose of demonstrating competence and eligibility for reinstatement.

Sec. 16. Minnesota Statutes 2002, section 150A.081, subdivision 1, is amended to read:

Subdivision 1. [ACCESS TO DATA ON LICENSEE OR REGISTRANT.] When the board has probable cause to believe that a licensee's ~~or registrant's~~ condition meets a ground listed in section 150A.08, subdivision 1, clause (4) or (8), it may, notwithstanding sections 13.384, 144.651, or any other law limiting access to medical data, obtain medical or health records on the licensee ~~or registrant~~ without the licensee's ~~or registrant's~~ consent. The medical data may be requested from a provider, as defined in section 144.335, subdivision 1, paragraph (b), an insurance company, or a government agency. A provider, insurance company, or government agency shall comply with a written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released under the written request, unless the information is false and the entity providing the information knew, or had reason to believe, the information was false.

Sec. 17. Minnesota Statutes 2002, section 150A.081, subdivision 2, is amended to read:

Subd. 2. [ACCESS TO DATA ON PATIENTS.] The board has access to medical records of a patient treated by a licensee ~~or registrant~~ under review if the patient signs a written consent permitting access. If the patient has not given consent, the licensee ~~or registrant~~ must delete data from which a patient may be identified before releasing medical records to the board.

Sec. 18. Minnesota Statutes 2002, section 150A.09, subdivision 1, is amended to read:

Subdivision 1. [REGISTRATION RENEWAL INFORMATION AND PROCEDURE.] On or before the license ~~or registration certificate~~ expiration date, every licensed dentist, dental hygienist, and ~~registered~~ dental assistant shall transmit to the executive secretary of the board, pertinent information required by the board, together with the fee established by the board. At least 30 days before a license ~~or registration certificate~~ expiration date, the board shall send a written notice stating the amount and due date of the fee and the information to be provided to every licensed dentist, dental hygienist, and ~~registered~~ dental assistant.

Sec. 19. Minnesota Statutes 2002, section 150A.09, subdivision 3, is amended to read:

Subd. 3. [CURRENT ADDRESS, CHANGE OF ADDRESS.] Every dentist, dental hygienist, and ~~registered~~ dental assistant shall maintain with the board a correct and current mailing address. For dentists engaged in the practice of dentistry, the address shall be that of the location of the primary dental practice. Within 30 days after changing addresses, every dentist, dental hygienist, and ~~registered~~ dental assistant shall provide the board written notice of the new address either personally or by first class mail.

Sec. 20. Minnesota Statutes 2002, section 150A.09, subdivision 4, is amended to read:

Subd. 4. [DUPLICATE CERTIFICATES.] Duplicate licenses or duplicate ~~annual~~ certificates of license renewal may be issued by the board upon satisfactory proof of the need for the duplicates and upon payment of the fee established by the board.

Sec. 21. Minnesota Statutes 2002, section 150A.09, subdivision 5, is amended to read:

Subd. 5. [LATE FEE.] A late fee established by the board shall be paid if the information and fee required by subdivision 1 is not received by the executive secretary of the board on or before the registration or license renewal date.

Sec. 22. Minnesota Statutes 2002, section 150A.10, subdivision 2, is amended to read:

Subd. 2. [DENTAL ASSISTANTS AND DENTAL AIDES.] Every licensed dentist who uses the services of ~~any unlicensed person~~ a licensed dental assistant or a dental aide for the purpose of assistance in the practice of dentistry shall be responsible for the acts of such unlicensed person while engaged in such assistance. ~~Such dentist shall permit such unlicensed assistant to perform only those acts which are authorized to be delegated to unlicensed assistants by the board of dentistry~~ A licensed dental assistant may provide any service delegated by a licensed dentist as permitted by the rules of the board. A dental aide may only perform those services that are authorized to be delegated by a licensed dentist to a dental aide by the board of dentistry. Such acts services shall be performed under supervision of a licensed dentist. The board may permit differing levels of dental assistance based upon recognized educational standards, approved by the board, for the training of dental assistants. The board may also define by rule the scope of practice of registered and nonregistered licensed dental assistants and dental aides. The board by rule may require continuing education for differing levels of dental assistants and dental aides, as a condition to their registration licensure or authority to perform their authorized duties. Any licensed dentist who shall permit such unlicensed ~~permits a licensed dental assistant or a dental aide to perform any dental service other than that those authorized by the board shall be deemed to be enabling an unlicensed person to practice dentistry, and commission of such an act by such unlicensed a licensed assistant or a dental aide shall constitute a violation of sections 150A.01 to 150A.12.~~

Sec. 23. Minnesota Statutes 2002, section 214.18, subdivision 5, is amended to read:

Subd. 5. [REGULATED PERSON.] "Regulated person" means a licensed dental hygienist, dentist, physician, nurse who is currently registered as a registered nurse or licensed practical nurse, podiatrist, a registered or dental assistant, a physician's assistant, and for purposes of sections 214.19, subdivisions 4 and 5; 214.20, paragraph (a); and 214.24, a chiropractor.

Sec. 24. Minnesota Statutes 2002, section 352.91, subdivision 3g, is amended to read:

Subd. 3g. [ADDITIONAL CORRECTIONS DEPARTMENT PERSONNEL.] (a) "Covered correctional service" means service by a state employee in one of the employment positions at the designated Minnesota correctional facility specified in paragraph (b), provided that at least 75 percent of the employee's working time is spent in direct contact with inmates and the fact of this direct contact is certified to the executive director by the commissioner of corrections.

(b) The employment positions and correctional facilities are:

(1) corrections discipline unit supervisor, at the Minnesota correctional facility-Faribault, the Minnesota correctional facility-Lino Lakes, the Minnesota correctional facility-Oak Park Heights, and the Minnesota correctional facility-St. Cloud;

(2) dental assistant registered, at the Minnesota correctional facility-Faribault, the Minnesota correctional facility-Lino Lakes, the Minnesota correctional facility-Moose Lake, the Minnesota correctional facility-Oak Park Heights, and the Minnesota correctional facility-Red Wing;

(3) dental hygienist, at the Minnesota correctional facility-Shakopee;

(4) psychologist 2, at the Minnesota correctional facility-Faribault, the Minnesota correctional facility-Lino Lakes, the Minnesota correctional facility-Moose Lake, the Minnesota correctional facility-Oak Park Heights, the Minnesota correctional facility-Red Wing, the Minnesota correctional facility-St. Cloud, the Minnesota correctional facility-Shakopee, and the Minnesota correctional facility-Stillwater; and

(5) sentencing to service crew leader involved with the inmate community work crew program, at the Minnesota correctional facility-Faribault and the Minnesota correctional facility-Lino Lakes.

ARTICLE 5
PODIATRIC MEDICINE

Section 1. Minnesota Statutes 2002, section 153.01, subdivision 2, is amended to read:

Subd. 2. [PODIATRIC MEDICINE.] "Podiatric medicine" means the diagnosis or medical, mechanical, or surgical treatment of the ailments of the human hand, foot, ankle, and the soft tissue of the lower leg distal to the tibial tuberosity, ~~including~~. Medical or surgical treatment includes partial foot amputation of the toe, but not including and excludes amputation of the foot, hand, or fingers, or the. Use of local anesthetics is within the scope of medical and surgical management in patient care. Use of anesthetics, other than local anesthetics, is excluded, except as provided in section 153.26. Podiatric medicine includes the prescribing or recommending of appliances, devices, or shoes for the correction or relief of foot ailments. Podiatric medicine includes the prescribing or administering of any drugs or medications necessary or helpful to the practice of podiatry ~~podiatric medicine as defined by this subdivision, provided, however, that licensed podiatrists shall be restricted in their prescribing or administering of any drugs or medications by the limitations imposed on the scope of practice of podiatric medicine as defined in this chapter.~~ The scope of practice of podiatric medicine includes the performance of routine medical history and physical examination for emergency hospital admission and for preoperative clearance for podiatric surgery. Podiatric medicine also includes the cosigning of a medical history and physical examination by a licensed podiatric physician that has been performed by a physician licensed under chapter 147 who does not have privileges or credentials at the facility where podiatric surgery is to be performed.

Sec. 2. Minnesota Statutes 2002, section 153.16, subdivision 1, is amended to read:

Subdivision 1. [LICENSE REQUIREMENTS.] The board shall issue a license to practice podiatric medicine to a person who meets the following requirements:

(a) The applicant for a license shall file a written notarized application on forms provided by the board, showing to the board's satisfaction that the applicant is of good moral character and satisfies the requirements of this section.

(b) The applicant shall present evidence satisfactory to the board of being a graduate of a podiatric medical school approved by the board based upon its faculty, curriculum, facilities, accreditation by a recognized national accrediting organization approved by the board, and other relevant factors.

(c) ~~The applicant must have passed an examination received a passing score on each part of the national board examinations, parts one and two, prepared and graded by the National Board of Podiatric Medical Examiners and also pass a state clinical examination prepared and graded by the state Board of Podiatric Medicine or a national clinical examination prepared and graded by the National Board of Podiatric Medical Examiners. The board shall by rule determine what score constitutes a passing score in each examination. The passing score for each part of the national board examinations, parts one and two, is as defined by the National Board of Podiatric Medical Examiners.~~

(d) Applicants graduating after 1986 from a podiatric medical school shall present evidence satisfactory to the board of the completion of (1) one year of graduate, clinical residency or preceptorship in a program accredited by a national accrediting organization approved by the board or (2) other graduate training that meets standards equivalent to those of an approved national accrediting organization or school of podiatric medicine.

(e) The applicant shall appear in person before the board or its designated representative to show that the applicant satisfies the requirements of this section, including knowledge of laws, rules, and ethics pertaining to the practice of podiatric medicine. The board may establish as internal operating procedures the procedures or requirements for the applicant's personal presentation.

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

(g) The applicant must not have engaged in conduct warranting disciplinary action against a licensee. If the applicant does not satisfy the requirements of this paragraph, the board may refuse to issue a license unless it determines that the public will be protected through issuance of a license with conditions and limitations the board considers appropriate.

(h) Upon payment of a fee as the board may require, an applicant who fails to pass an examination and is refused a license is entitled to reexamination within one year of the board's refusal to issue the license. No more than two reexaminations are allowed without a new application for a license.

Sec. 3. Minnesota Statutes 2002, section 153.16, subdivision 2, is amended to read:

Subd. 2. [APPLICANTS LICENSED IN ANOTHER STATE.] The board shall issue a license to practice podiatric medicine to any person currently or formerly licensed to practice podiatric medicine in another state who satisfies the requirements of this section:

(a) The applicant shall satisfy the requirements established in subdivision 1.

(b) The applicant shall present evidence satisfactory to the board indicating the current status of a license to practice podiatric medicine issued by the ~~proper agency in another state or country~~ first state of licensure and all other states and countries in which the individual has held a license.

(c) If the applicant ~~must not have~~ has had a license revoked, engaged in conduct warranting disciplinary action against a licensee ~~the applicant's license~~, or been subjected to disciplinary action, in another state. ~~If an applicant does not satisfy the requirements of this paragraph,~~ the board may refuse to issue a license unless it determines that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.

(d) The applicant shall submit with the license application the following additional information for the five-year period preceding the date of filing of the application: (1) the name and address of the applicant's professional liability insurer in the other state; and (2) the number, date, and disposition of any podiatric medical malpractice settlement or award made to the plaintiff relating to the quality of podiatric medical treatment.

(e) If the license is active, the applicant shall submit with the license application evidence of compliance with the continuing education requirements in the current state of licensure.

(f) If the license is inactive, the applicant shall submit with the license application evidence of participation in one-half the number of hours of acceptable continuing education required for biennial renewal, as specified under Minnesota Rules, up to five years. If the license has been inactive for more than two years, the amount of acceptable continuing education required must be obtained during the two years immediately before application or the applicant must provide other evidence as the board may reasonably require.

Sec. 4. Minnesota Statutes 2002, section 153.19, subdivision 1, is amended to read:

Subdivision 1. [GROUNDS LISTED.] The board may refuse to grant a license or may impose disciplinary action as described in this section against any doctor of podiatric medicine. The following conduct is prohibited and is grounds for disciplinary action:

(1) failure to demonstrate the qualifications or satisfy the requirements for a license contained in this chapter or rules of the board; the burden of proof shall be upon the applicant to demonstrate the qualifications or satisfaction of the requirements;

(2) obtaining a license by fraud or cheating or attempting to subvert the licensing examination process;

(3) conviction, during the previous five years, of a felony reasonably related to the practice of podiatric medicine;

(4) revocation, suspension, restriction, limitation, or other disciplinary action against the

person's podiatric medical license in another state or jurisdiction, failure to report to the board that charges regarding the person's license have been brought in another state or jurisdiction, or having been refused a license by any other state or jurisdiction;

(5) advertising that is false or misleading;

(6) violating a rule adopted by the board or an order of the board, a state, or federal law that relates to the practice of podiatric medicine, or in part regulates the practice of podiatric medicine, or a state or federal narcotics or controlled substance law;

(7) engaging in any unethical conduct; conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient; or podiatric medical practice that is professionally incompetent, in that it may create unnecessary danger to any patient's life, health, or safety, in any of which cases, proof of actual injury need not be established;

(8) failure to supervise a preceptor or, resident, other graduate trainee, or undergraduate student;

(9) aiding or abetting an unlicensed person in the practice of podiatric medicine, except that it is not a violation of this clause for a podiatrist to employ, supervise, or delegate functions to a qualified person who may or may not be required to obtain a license or registration to provide health services if that person is practicing within the scope of that person's license or registration or delegated authority;

(10) adjudication as mentally incompetent, or a person who is mentally ill, or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of competent jurisdiction, within or without this state;

(11) engaging in unprofessional conduct that includes any departure from or the failure to conform to the minimal standards of acceptable and prevailing podiatric medical practice, but actual injury to a patient need not be established;

(12) inability to practice podiatric medicine with reasonable skill and safety to patients by reason of illness or chemical dependency or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills;

(13) revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law;

(14) improper management of medical records, including failure to maintain adequate medical records, to comply with a patient's request made under section 144.335 or to furnish a medical record or report required by law;

(15) accepting, paying, or promising to pay a part of a fee in exchange for patient referrals;

(16) engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(17) becoming addicted or habituated to a drug or intoxicant;

(18) prescribing a drug for other than medically accepted therapeutic or experimental or investigative purposes authorized by a state or federal agency;

(19) engaging in sexual conduct with a patient or conduct that may reasonably be interpreted by the patient as sexual, or in verbal behavior which is seductive or sexually demeaning to a patient;

(20) failure to make reports as required by section 153.24 or to cooperate with an investigation of the board as required by section 153.20;

(21) knowingly providing false or misleading information that is directly related to the care of

that patient unless done for an accepted therapeutic purpose such as the administration of a placebo.

Sec. 5. Minnesota Statutes 2002, section 153.24, subdivision 4, is amended to read:

Subd. 4. [INSURERS.] ~~Four times a year as prescribed by the board, by the first day of the months of February, May, August, and November of each year, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to podiatrists shall submit to the board a report concerning the podiatrists against whom podiatric medical malpractice settlements or awards have been made to the plaintiff. The report must contain at least the following information:~~

- (1) the total number of podiatric malpractice settlements or awards made to the plaintiff;
- (2) the date the podiatric malpractice settlements or awards to the plaintiff were made;
- (3) the allegations contained in the claim or complaint leading to the settlements or awards made to the plaintiff;
- (4) the dollar amount of each podiatric malpractice settlement or award;
- (5) the regular address of the practice of the podiatrist against whom an award was made or with whom a settlement was made; and
- (6) the name of the podiatrist against whom an award was made or with whom a settlement was made.

The insurance company shall, in addition to the foregoing information, report to the board any information it has that tends to substantiate a charge that a podiatrist may have engaged in conduct violating the law as specified in this chapter.

Sec. 6. Minnesota Statutes 2002, section 153.25, subdivision 1, is amended to read:

Subdivision 1. [REPORTING.] Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report to the board under section 153.24 or for otherwise reporting to the board violations or alleged violations of section 153.19. Reports are confidential data on individuals under section 13.02, subdivision 3, and are privileged communications.

Sec. 7. [REPEALER.]

Minnesota Rules, parts 6900.0020, subparts 3, 3a, 9, and 10; and 6900.0400, are repealed.

ARTICLE 6

ALCOHOL AND DRUG COUNSELORS

Section 1. Minnesota Statutes 2003 Supplement, section 148C.04, subdivision 6, is amended to read:

Subd. 6. [TEMPORARY PERMIT REQUIREMENTS.] (a) The commissioner shall issue a temporary permit to practice alcohol and drug counseling prior to being licensed under this chapter if the person:

- (1) either:
 - (i) submits verification of a current and unrestricted credential for the practice of alcohol and drug counseling from a national certification body or a certification or licensing body from another state, United States territory, or federally recognized tribal authority;
 - (ii) submits verification of the completion of at least 64 semester credits, including 270 clock hours or 18 semester credits of formal classroom education in alcohol and drug counseling and at least 880 clock hours of alcohol and drug counseling practicum from an accredited school or educational program; ~~or~~

(iii) applies to renew a lapsed license according to the requirements of section 148C.055, subdivision 3, clauses (1) and (2), or section 148C.055, subdivision 4, clauses (1) and (2); or

(iv) meets the requirements of section 148C.11, subdivision 6, clauses (1), (2), and (5);

(2) applies, in writing, on an application form provided by the commissioner, which includes the nonrefundable temporary permit fee as specified in section 148C.12 and an affirmation by the person's supervisor, as defined in paragraph (c), clause (1), which is signed and dated by the person and the person's supervisor; and

(3) has not been disqualified to practice temporarily on the basis of a background investigation under section 148C.09, subdivision 1a.

(b) The commissioner must notify the person in writing within 90 days from the date the completed application and all required information is received by the commissioner whether the person is qualified to practice under this subdivision.

(c) A person practicing under this subdivision:

(1) may practice under tribal jurisdiction or under the direct supervision of a person who is licensed under this chapter;

(2) is subject to the Rules of Professional Conduct set by rule; and

(3) is not subject to the continuing education requirements of section 148C.075.

(d) A person practicing under this subdivision must use the title or description stating or implying that the person is a trainee engaged in the practice of alcohol and drug counseling.

(e) A person practicing under this subdivision must annually submit a renewal application on forms provided by the commissioner with the renewal fee required in section 148C.12, subdivision 3, and the commissioner may renew the temporary permit if the trainee meets the requirements of this subdivision. A trainee may renew a practice permit no more than five times.

(f) A temporary permit expires if not renewed, upon a change of employment of the trainee or upon a change in supervision, or upon the granting or denial by the commissioner of a license.

Sec. 2. Minnesota Statutes 2003 Supplement, section 148C.075, subdivision 2, is amended to read:

Subd. 2. [CONTINUING EDUCATION REQUIREMENTS FOR LICENSEE'S FIRST FOUR YEARS.] A licensee must, as part of meeting the clock hour requirement of this section, obtain and document 18 hours of cultural diversity training within the first four years after the licensee's initial license effective date according to the commissioner's reporting schedule. Cultural diversity training includes gaining knowledge in areas described in Minnesota Rules, part 4747.1100, subpart 2, and in identified population groups defined in Minnesota Rules, part 4747.0030, subpart 20.

Sec. 3. Minnesota Statutes 2003 Supplement, section 148C.11, subdivision 6, is amended to read:

Subd. 6. [TRANSITION PERIOD FOR HOSPITAL AND CITY, COUNTY, AND STATE AGENCY ALCOHOL AND DRUG COUNSELORS.] For the period between July 1, 2003, and January 1, 2006, the commissioner shall grant a license to an individual who is employed as an alcohol and drug counselor at a Minnesota school district or hospital, or a city, county, or state agency in Minnesota, if the individual:

(1) was employed as an alcohol and drug counselor at a school district, a hospital, or a city, county, or state agency before August 1, 2002;

(2) has 8,000 hours of alcohol and drug counselor work experience;

(3) has completed a written case presentation and satisfactorily passed an oral examination established by the commissioner;

(4) has satisfactorily passed a written examination as established by the commissioner; and

(5) meets the requirements in section 148C.0351.

Sec. 4. Minnesota Statutes 2003 Supplement, section 148C.12, subdivision 2, is amended to read:

Subd. 2. [BIENNIAL RENEWAL FEE.] The license renewal fee is \$295. If the commissioner changes establishes the renewal schedule and the expiration date is less than two years, the fee must be prorated.

Sec. 5. Minnesota Statutes 2003 Supplement, section 148C.12, subdivision 3, is amended to read:

Subd. 3. [TEMPORARY PERMIT FEE.] The initial fee for applicants under section 148C.04, subdivision 6, paragraph (a), is \$100. The fee for annual renewal of a temporary permit is \$100, but when the first expiration date occurs in less or more than one year, the fee must be prorated.

ARTICLE 7

BOARD OF BEHAVIORAL HEALTH AND THERAPY

Section 1. Minnesota Statutes 2003 Supplement, section 148B.52, is amended to read:

148B.52 [DUTIES OF THE BOARD.]

(a) The Board of Behavioral Health and Therapy shall:

(1) establish by rule appropriate techniques, including examinations and other methods, for determining whether applicants and licensees are qualified under sections 148B.50 to 148B.593;

(2) establish by rule standards for professional conduct, including adoption of a Code of Professional Ethics and requirements for continuing education and supervision;

(3) issue licenses to individuals qualified under sections 148B.50 to 148B.593;

(4) establish by rule standards for initial education including coursework for licensure and content of professional education;

~~(5) establish by rule procedures, including a standard disciplinary process, to assess whether individuals licensed as licensed professional counselors comply with the board's rules;~~

~~(6) establish, maintain, and publish annually a register of current licensees and approved supervisors;~~

~~(7) (6) establish initial and renewal application and examination fees sufficient to cover operating expenses of the board and its agents;~~

~~(8) (7) educate the public about the existence and content of the laws and rules for licensed professional counselors to enable consumers to file complaints against licensees who may have violated the rules;~~

~~(9) establish rules and regulations pertaining to treatment for impaired practitioners; and~~

~~(10) (8) periodically evaluate its rules in order to refine the standards for licensing professional counselors and to improve the methods used to enforce the board's standards.~~

(b) The board may appoint a professional discipline committee for each occupational licensure regulated by the board, and may appoint a board member as chair. The professional discipline committee shall consist of five members representative of the licensed occupation and shall provide recommendations to the board with regard to rule techniques, standards, procedures, and related issues specific to the licensed occupation.

Sec. 2. Minnesota Statutes 2003 Supplement, section 148B.53, subdivision 1, is amended to read:

Subdivision 1. [GENERAL REQUIREMENTS.] (a) To be licensed as a licensed professional counselor (LPC), an applicant must provide evidence satisfactory to the board that the applicant:

(1) is at least 18 years of age;

(2) is of good moral character;

(3) has completed a master's degree program in counseling that includes a minimum of 48 semester hours and a supervised field experience of not fewer than 700 hours that is counseling in nature;

(4) has submitted to the board a plan for supervision during the first 2,000 hours of professional practice or has submitted proof of supervised professional practice that is acceptable to the board; and

(5) has demonstrated competence in professional counseling by passing the National Counseling Exam (NCE) administered by the National Board for Certified Counselors, Inc. (NBCC) including obtaining a passing score on the examination accepted by the board based on the determinations made by the NBCC and oral and situational examinations if prescribed by the board;

~~(6) will conduct all professional activities as a licensed professional counselor in accordance with standards for professional conduct established by the rules of the board; and~~

~~(7) has declared to the board and agrees to continue to declare areas of professional competencies through a statement of professional disclosure, describing the intended use of the license and the population to be served.~~

(b) The degree described in paragraph (a), clause (3), must be from a counseling program recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP) or from an institution of higher education that is accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation (CHEA). Specific academic course content and training must meet standards established by the CACREP, including course work in the following subject areas:

(1) the helping relationship, including counseling theory and practice;

(2) human growth and development;

(3) lifestyle and career development;

(4) group dynamics, processes, counseling, and consulting;

(5) assessment and appraisal;

(6) social and cultural foundations, including multicultural issues;

(7) principles of etiology, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;

(8) family counseling and therapy;

(9) research and evaluation; and

(10) professional counseling orientation and ethics.

(c) To be licensed as a professional counselor, a psychological practitioner licensed under section 148.908 need only show evidence of licensure under that section and is not required to comply with paragraph (a) or (b).

Sec. 3. Minnesota Statutes 2003 Supplement, section 148B.53, subdivision 3, is amended to read:

Subd. 3. [FEE.] Each applicant shall pay a nonrefundable fee ~~set by the board~~ as follows:

- (1) initial license application fee for licensed professional counseling (LPC) - \$250;
- (2) annual active license renewal fee for LPC - \$200 or equivalent;
- (3) annual inactive license renewal fee for LPC - \$100;
- (4) license renewal late fee - \$100 per month or portion thereof;
- (5) copy of board order or stipulation - \$10;
- (6) certificate of good standing or license verification - \$10;
- (7) duplicate certificate fee - \$10;
- (8) professional firm renewal fee - \$25;
- (9) initial registration fee - \$50; and
- (10) annual registration renewal fee - \$25.

Sec. 4. Minnesota Statutes 2003 Supplement, section 148B.54, is amended to read:

148B.54 [LICENSE RENEWAL REQUIREMENTS.]

Subdivision 1. [RENEWAL.] Licensees shall renew licenses at the time and in the manner established by the rules of the board.

Subd. 2. [CONTINUING EDUCATION.] At the completion of the first two years of licensure, a licensee must provide evidence satisfactory to the board of completion of 12 additional postgraduate semester credit hours or its equivalent in counseling as determined by the board, except that no licensee shall be required to show evidence of greater than 60 semester hours or its equivalent. Thereafter, at the time of renewal, each licensee shall provide evidence satisfactory to the board that the licensee has completed during each two-year period at least the equivalent of 40 clock hours of professional postdegree continuing education in programs approved by the board and continues to be qualified to practice under sections 148B.50 to 148B.593.

Sec. 5. Minnesota Statutes 2003 Supplement, section 148B.55, is amended to read:

148B.55 [LICENSES; TRANSITION PERIOD.]

For two years beginning July 1, 2003, the board shall issue a license without examination to an applicant if the board determines that the applicant otherwise satisfies the requirements in section 148B.53, subdivision 1, if the applicant is a licensed psychological practitioner, a licensed marriage and family therapist, or a licensed alcohol and drug counselor, or is in the process of being so licensed. An applicant licensed under this section must also agree to conduct all professional activities as a licensed professional counselor in accordance with standards for professional conduct established by the board by rule. This section expires July 1, 2005.

Sec. 6. Minnesota Statutes 2003 Supplement, section 148B.59, is amended to read:

148B.59 [GROUNDS FOR DISCIPLINARY ACTION; FORMS OF DISCIPLINARY ACTION; RESTORATION OF LICENSE.]

(a) The board may impose disciplinary action as described in paragraph (b) against an applicant or licensee whom the board, by a preponderance of the evidence, determines:

- (1) has violated a statute, rule, or order that the board issued or is empowered to enforce;

(2) has engaged in fraudulent, deceptive, or dishonest conduct, whether or not the conduct relates to the practice of licensed professional counseling, that adversely affects the person's ability or fitness to practice professional counseling;

(3) has engaged in unprofessional conduct or any other conduct which has the potential for causing harm to the public, including any departure from or failure to conform to the minimum standards of acceptable and prevailing practice without actual injury having to be established;

(4) has been convicted of or has pled guilty or nolo contendere to a felony or other crime, an element of which is dishonesty or fraud, or has been shown to have engaged in acts or practices tending to show that the applicant or licensee is incompetent or has engaged in conduct reflecting adversely on the applicant's or licensee's ability or fitness to engage in the practice of professional counseling;

(5) has employed fraud or deception in obtaining or renewing a license, or in passing an examination;

(6) has had any counseling license, certificate, registration, privilege to take an examination, or other similar authority denied, revoked, suspended, canceled, limited, or not renewed for cause in any jurisdiction;

(7) has failed to meet any requirement for the issuance or renewal of the person's license. The burden of proof is on the applicant or licensee to demonstrate the qualifications or satisfy the requirements for a license under the licensed professional counseling act;

(8) has failed to cooperate with an investigation of the board;

(9) has demonstrated an inability to practice professional counseling with reasonable skill and safety to clients due to any mental or physical illness or condition; or

(10) has engaged in fee splitting. This clause does not apply to the distribution of revenues from a partnership, group practice, nonprofit corporation, or professional corporation to its partners, shareholders, members, or employees if the revenues consist only of fees for services performed by the licensee or under a licensee's administrative authority. Fee splitting includes, but is not limited to:

(i) dividing fees with another person or a professional corporation, unless the division is in proportion to the services provided and the responsibility assumed by each professional; and

(ii) referring a client to any health care provider as defined in section 144.335 in which the referring licensee has a significant financial interest, unless the licensee has disclosed in advance to the client the licensee's own financial interest; or

(11) has engaged in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient.

(b) If grounds for disciplinary action exist under paragraph (a), the board may take one or more of the following actions:

(1) refuse to grant or renew a license;

(2) revoke a license;

(3) suspend a license;

(4) impose limitations or conditions on a licensee's practice of professional counseling, including, but not limited to, limiting the scope of practice to designated competencies, imposing retraining or rehabilitation requirements, requiring the licensee to practice under supervision, or conditioning continued practice on the demonstration of knowledge or skill by appropriate examination or other review of skill and competence;

(5) censure or reprimand the licensee;

(6) refuse to permit an applicant to take the licensure examination or refuse to release an applicant's examination grade if the board finds that it is in the public interest; or

(7) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the ~~physical therapist~~ applicant or licensee of any economic advantage gained by reason of the violation charged, to discourage similar violations or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members.

(c) In lieu of or in addition to paragraph (b), the board may require, as a condition of continued licensure, termination of suspension, reinstatement of license, examination, or release of examination grades, that the applicant or licensee:

(1) submit to a quality review, as specified by the board, of the applicant's or licensee's ability, skills, or quality of work; and

(2) complete to the satisfaction of the board educational courses specified by the board. The board may also refer a licensee, if appropriate, to the health professionals services program described in sections 214.31 to 214.37.

(d) Service of the order is effective if the order is served on the applicant, licensee, or counsel of record personally or by mail to the most recent address provided to the board for the licensee, applicant, or counsel of record. The order shall state the reasons for the entry of the order.

Sec. 7. [148B.5915] [PROFESSIONAL COOPERATION; APPLICANT OR LICENSEE.]

An applicant or a licensee who is the subject of an investigation or who is questioned in connection with an investigation by or on behalf of the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by or on behalf of the board relating to the subject of the investigation, executing all releases requested by the board, providing copies of client and other records in the applicant's or licensee's possession relating to the matter under investigation and executing releases for records, as reasonably requested by the board, and appearing at conferences or hearings scheduled by the board. The board shall pay for copies requested. The board shall be allowed access to any records of a client provided services by the applicant or licensee under review. If the client has not signed a consent permitting access to the client's records, the applicant or licensee shall delete any data in the record that identifies the client before providing them to the board. The board shall maintain any records obtained under this section as investigative data pursuant to chapter 13.

Sec. 8. [148B.5916] [IMMUNITY.]

Subdivision 1. [REPORTING.] A person, health care facility, business, or organization is immune from civil liability or criminal prosecution for reporting to the board violations or alleged violations of sections 148B.50 to 148B.593. All such reports are classified under section 13.41.

Subd. 2. [INVESTIGATION.] Members of the board, persons employed by the board, and consultants retained by the board for the purpose of investigation of violations or the preparation and management of charges of violations of this chapter on behalf of the board are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under sections 148B.50 to 148B.593.

Sec. 9. Laws 2003, chapter 118, section 28, is amended to read:

Sec. 28. [REVISOR INSTRUCTION.]

(a) The revisor of statutes shall insert the "board of behavioral health and therapy" or "board" wherever "commissioner of health" or "commissioner" appears in Minnesota Statutes, chapter 148C, and Minnesota Rules, chapter 4747.

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

(b) The revisor of statutes shall strike the terms "unlicensed mental health practitioner" and "the office of unlicensed mental health practitioner" from Minnesota Statutes and Minnesota Rules.

[EFFECTIVE DATE.] This paragraph is effective July 1, ~~2004~~ 2005.

Sec. 10. Laws 2003, chapter 118, section 29, is amended to read:

Sec. 29. [REPEALER.]

(a) Minnesota Statutes 2002, sections 148B.60; 148B.61; 148B.63; 148B.64; 148B.65; 148B.66; 148B.67; 148B.68; 148B.69; 148B.70; and 148B.71, are repealed.

[EFFECTIVE DATE.] This paragraph is effective July 1, ~~2004~~ 2005.

(b) Minnesota Statutes 2002, section 148C.01, subdivision 6, is repealed.

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

Sec. 11. [TRANSITION PLAN.]

The commissioner of health, in consultation with the executive directors of the health-related licensing boards, must develop a transition plan to transfer the authority for licensed alcohol and drug counselors from the commissioner of health to the Board of Behavioral Health and Therapy and for the regulation of unlicensed mental health practitioners by the Board of Behavioral Health and Therapy after July 1, 2005. The transition plan must include any necessary legislative language to transfer authority and corresponding funding to the board, identify critical licensing activities, and specify a schedule for transferring all duties and activities.

Sec. 12. [EFFECTIVE DATE.]

Sections 1 to 8 are effective the day following final enactment."

Renumber the sections in sequence

Delete the title and insert:

"A bill for an act relating to health; establishing and modifying credentialing requirements for speech-language pathologists, audiologists, occupational therapists, speech-language pathology assistants, physician assistants, registered nurses, advanced practice registered nurses, dentists, dental hygienists, dental assistants, dental aides, podiatrists, alcohol and drug counselors, and licensed professional counselors; amending Minnesota Statutes 2002, sections 144.054, subdivision 2; 147A.02; 147A.20; 148.211, subdivision 1; 148.284; 148.512, subdivisions 9, 19, by adding a subdivision; 148.6402, by adding a subdivision; 148.6403, subdivision 5; 148.6405; 148.6428; 148.6443, subdivisions 1, 5; 150A.01, subdivisions 5, 8; 150A.02, subdivision 1; 150A.03, subdivision 1; 150A.05, subdivision 2, by adding a subdivision; 150A.06, as amended; 150A.08, subdivisions 1, 4, 5, 6, 8; 150A.081, subdivisions 1, 2; 150A.09, subdivisions 1, 3, 4, 5; 150A.10, subdivision 2; 153.01, subdivision 2; 153.16, subdivisions 1, 2; 153.19, subdivision 1; 153.24, subdivision 4; 153.25, subdivision 1; 214.18, subdivision 5; 352.91, subdivision 3g; Minnesota Statutes 2003 Supplement, sections 116J.70, subdivision 2a; 147A.09, subdivision 2; 148.212, subdivision 1; 148.511; 148.512, subdivisions 12, 13; 148.513, subdivisions 1, 2; 148.5161, subdivisions 1, 4, 6; 148.5175; 148.518; 148.5193, subdivisions 1, 6a; 148.5195; subdivision 3; 148.5196, subdivision 3; 148B.52; 148B.53, subdivisions 1, 3; 148B.54; 148B.55; 148B.59; 148C.04, subdivision 6; 148C.075, subdivision 2; 148C.11, subdivision 6; 148C.12, subdivisions 2, 3; 150A.08, subdivision 3; Laws 2003, chapter 118, section 28; Laws 2003, chapter 118, section 29; proposing coding for new law in Minnesota Statutes, chapters 148; 148B; repealing Minnesota Rules, parts 6900.0020, subparts 3, 3a, 9, 10; 6900.0400."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 2333: A bill for an act proposing an amendment to the Minnesota Constitution, article XIII, by adding a section; affirming that every resident of Minnesota has the right to affordable, basic health care.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Rules and Administration. Report adopted.

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 2305: A bill for an act relating to health; proposing an amendment to the Minnesota Constitution by adding a section to article XIII; requiring the legislature to establish a universal health care system that guarantees health care access to all citizens.

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

Page 1, line 13, after the comma, insert "access to health care for"

Page 1, line 25, delete "to" and insert "that will provide for the prevention and treatment of disease and disability for"

And when so amended the bill do pass and be re-referred to the Committee on Rules and Administration. Amendments adopted. Report adopted.

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 979: A bill for an act relating to health; providing for a universal health care system that provides affordable access to high quality medical care for all Minnesotans; requiring a focus on preventive care and early intervention; providing comprehensive benefits; reducing costs through prevention, efficiency, and elimination of bureaucracy; directing the commissioner of health to prepare a plan to be implemented by 2010; proposing coding for new law in Minnesota Statutes, chapter 144.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 2401: A bill for an act relating to human services; creating a children's health security account; establishing the children's health security program; specifying eligibility criteria, covered services, and administrative procedures; increasing the tax on tobacco products; appropriating money; amending Minnesota Statutes 2002, sections 297F.05, subdivisions 3, 4; 297F.10, as amended; Minnesota Statutes 2003 Supplement, section 297F.05, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 16A; proposing coding for new law as Minnesota Statutes, chapter 256N.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Taxes. Report adopted.

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 2635: A bill for an act relating to health; establishing state policy for stem cell

research; providing criminal penalties; proposing coding for new law in Minnesota Statutes, chapters 137; 145.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 2570: A bill for an act relating to health; requiring information provided through the Woman's Right to Know Act to be medically and factually accurate; amending Minnesota Statutes 2003 Supplement, sections 145.4241, by adding a subdivision; 145.4242; 145.4243.

Reports the same back with the recommendation that the bill do pass. Report adopted.

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

S.F. No. 2713: A bill for an act relating to local government; repealing the compensation limit for local government employees; amending Minnesota Statutes 2002, sections 356.611, subdivision 1; 465.719, subdivision 9; repealing Minnesota Statutes 2002, section 43A.17, subdivision 9.

Reports the same back with the recommendation that the bill do pass. Report adopted.

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

H.F. No. 2105: A bill for an act relating to Iron Range Resources and Rehabilitation; providing for the name of the agency; amending Minnesota Statutes 2002, section 298.22, subdivision 1.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

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

S.F. No. 2216: A bill for an act relating to natural resources; modifying electronic licensing provisions; clarifying certain wild rice provisions; modifying disposition of certain proceeds; modifying snowmobile training and operating requirements; modifying certain fee provisions; eliminating RIM work plan requirement; modifying reporting requirements; modifying motorboat equipment and noise provisions; modifying provisions for cross-country ski passes; providing for certain refunds, fees, and commissions; modifying authority to issue and sell licenses and appoint agents; modifying nonresident minnow transport requirements; providing for rulemaking; appropriating money; amending Minnesota Statutes 2002, sections 84.027, subdivision 15; 84.091, subdivision 1; 84.83, subdivision 2; 84.86, subdivision 1; 84.862, subdivisions 1, 3; 84.872, subdivision 1; 85.41, subdivisions 2, 4, 5; 85.43; 86B.321, subdivision 2; 86B.521, subdivisions 1, 2; 97A.055, subdivision 4; 97A.311, by adding a subdivision; 97A.434, subdivision 3; 97A.4742, subdivision 4; 97A.485, subdivisions 3, 4, 5, 7, 11; 97C.501, subdivision 4; 97C.525, subdivisions 3, 5; Minnesota Statutes 2003 Supplement, sections 84.862, subdivision 2a; 97A.475, subdivision 26; 97A.485, subdivision 6; 103G.615, subdivision 2; repealing Minnesota Statutes 2002, sections 84.862, subdivision 2; 84.95, subdivision 3; 97A.485, subdivisions 2, 8, 10; Minnesota Statutes 2003 Supplement, section 97A.475, subdivision 28.

Reports the same back with the recommendation that the bill do pass. Report adopted.

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

S.F. No. 2894: A bill for an act relating to the State Board of Investment; authorizing increased State Board of Investment participation in venture capital investments; classifying data related to certain venture capital investments; appropriating money in the event of certain venture capital investment shortfalls; amending Minnesota Statutes 2002, sections 11A.24, subdivision 6, by adding a subdivision; 13.635, by adding a subdivision.

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

Page 4, line 15, after "under" insert "this" and delete everything after "subdivision"

Page 4, line 16, delete "(c),"

Page 4, lines 18 and 23, delete "a limit of" and insert "the" and after "\$200,000,000" insert "limit"

Page 4, line 24, after "under" insert "this"

Page 4, line 25, delete "6, paragraph (c),"

Page 4, line 29, delete ", paragraph (c)"

And when so amended the bill do pass and be re-referred to the Committee on Judiciary. Amendments adopted. Report adopted.

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

S.F. No. 1789: A bill for an act relating to long-term care insurance coverage; clarifying eligibility; requiring new bids from qualified vendors under certain circumstances; amending Minnesota Statutes 2002, section 43A.318, subdivisions 1, 2.

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

Page 3, line 18, after the period, insert "In any written communication to eligible persons about participation in the program, the commissioner must provide the following disclosure in 14-point, boldface, capital letters: 'NOTICE: YOU SHOULD SHOP AND OBTAIN INFORMATION ABOUT OTHER LONG-TERM CARE INSURANCE POLICIES SOLD BY INSURANCE COMPANIES THAT MAY PROVIDE MORE FAVORABLE COVERAGE AND RATES THAN THE STATEWIDE PUBLIC EMPLOYEES LONG-TERM CARE INSURANCE PROGRAM.'" The written communication from the commissioner must also include information provided by the commissioner of commerce regarding the long-term care insurance marketplace, including the names of other private insurers licensed to sell long-term care insurance in Minnesota."

Page 3, line 31, after "persons" insert "who have expressed, in writing, orally, or by electronic means, an interest in being contacted about the program"

Page 3, line 32, after "eligible" insert ", interested"

Page 3, line 33, after "eligible" insert ", interested"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 1759: A bill for an act relating to health; allowing application for designation of an essential community provider; amending Minnesota Statutes 2003 Supplement, section 62Q.19, subdivision 2.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 2602: A bill for an act relating to health care; modifying medical assistance, general assistance medical care, and MinnesotaCare programs; providing for determination of health care provider tax rates; increasing the tax on tobacco products; appropriating money; amending Minnesota Statutes 2002, sections 256B.055, by adding a subdivision; 256B.057, by adding a subdivision; 295.52, subdivisions 1, 1a, 2, 3, by adding a subdivision; 297F.05, subdivisions 3, 4; 297F.10, subdivision 2; Minnesota Statutes 2003 Supplement, sections 256B.057, subdivisions 1, 2; 256B.0625, subdivisions 9, 13e; 256B.76; 256D.03, subdivision 4; 256L.03, subdivision 1; 256L.07, subdivisions 1, 3; 297F.05, subdivision 1; 297F.10, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 145; repealing Minnesota Statutes 2003 Supplement, section 256L.035.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Taxes. Report adopted.

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 2504: A bill for an act relating to health; modifying coverage through purchasing alliances for seasonal employees; amending Minnesota Statutes 2002, section 62T.02, by adding a subdivision.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 62T.02, is amended by adding a subdivision to read:

Subd. 3. [SEASONAL EMPLOYEES.] A purchasing alliance may define eligible employees to include seasonal employees. For purposes of this chapter, "seasonal employee" means an employee who is employed on a full-time basis for at least six months during the calendar year and is unemployed for no longer than four months during the calendar year. If seasonal employees are included:

(1) the alliance must not show bias in the selection of members based on the percentage of seasonal employees employed by an employer member;

(2) prior to issuance or renewal, the employer must inform the alliance that it will include seasonal employees;

(3) the employer must cover seasonal employees for the entire term of its plan year; and

(4) the purchasing alliance may require an employer-member contribution of at least 50 percent of the cost of employee coverage during the months the seasonal employee is unemployed."

And when so amended the bill do pass and be re-referred to the Committee on Commerce. Amendments adopted. Report adopted.

Senator Foley from the Committee on Crime Prevention and Public Safety, to which was referred

S.F. No. 1863: A bill for an act relating to crime prevention and public safety; increasing the statutory maximum sentences for sex and sex-related offenses; providing for indeterminate

sentences with lifetime maximums for repeat sex and sex-related offenses; streamlining the patterned and predatory offender sentencing law; amending Minnesota Statutes 2002, sections 244.05, subdivisions 4, 5; 609.108, subdivisions 1, 3; 609.109, subdivision 7; 609.341, by adding subdivisions; 609.342, subdivisions 2, 3; 609.343, subdivisions 2, 3; 609.344, subdivisions 2, 3; 609.345, subdivisions 2, 3; proposing coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 2002, section 609.108, subdivision 2.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

SEX OFFENDERS:

MANDATORY LIFE SENTENCES FOR REPEAT SEX OFFENSES;

OTHER SENTENCING CHANGES

Section 1. [LEGISLATIVE FINDINGS AND INTENT.]

The legislature finds that sex offenders pose a significant public safety threat. Based upon the harm they cause to their victims and the community, psychological factors unique to their makeup, and their future dangerousness, these types of offenders merit long-term supervision and treatment more so than do other types of criminal offenders. The legislature further finds that this type of supervision and treatment is best provided in a correctional setting and that the costs associated with this are an appropriate use of state resources.

It is the legislature's intent in enacting this act to provide a flexible approach that allows dangerous sex offenders to be incarcerated for longer periods of time than is currently possible. The legislature specifically intends that a sex offender's future dangerousness be taken into consideration when making sentencing and release decisions concerning the offender.

Sec. 2. Minnesota Statutes 2002, section 244.05, subdivision 4, is amended to read:

Subd. 4. [MINIMUM IMPRISONMENT, LIFE SENTENCE.] An inmate serving a mandatory life sentence under section 609.106 must not be given supervised release under this section. An inmate serving a mandatory life sentence under section 609.185, clause (1), (3), (5), or (6); or 609.109, subdivision 2a 3, must not be given supervised release under this section without having served a minimum term of 30 years. An inmate serving a mandatory life sentence under section 609.385 must not be given supervised release under this section without having served a minimum term of imprisonment of 17 years. An inmate serving a mandatory life sentence under section 609.342, subdivision 2, paragraph (b); 609.343, subdivision 2, paragraph (b); 609.344, subdivision 2, paragraph (b); 609.345, subdivision 2, paragraph (b); or 609.3453, subdivision 2, paragraph (b), must not be given supervised release under this section without having served the minimum term of imprisonment specified by the court in its sentence.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2002, section 244.05, subdivision 5, is amended to read:

Subd. 5. [SUPERVISED RELEASE, LIFE SENTENCE.] (a) The commissioner of corrections may, under rules promulgated by the commissioner, give supervised release to an inmate serving a mandatory life sentence under section 609.185, clause (1), (3), (5), or (6); 609.109, subdivision 2a 3; 609.342, subdivision 2, paragraph (b); 609.343, subdivision 2, paragraph (b); 609.344, subdivision 2, paragraph (b); 609.345, subdivision 2, paragraph (b); 609.3453, subdivision 2, paragraph (b); or 609.385 after the inmate has served the minimum term of imprisonment specified in subdivision 4.

(b) The commissioner shall require the preparation of a community investigation report and shall consider the findings of the report when making a supervised release decision under this

subdivision. The report shall reflect the sentiment of the various elements of the community toward the inmate, both at the time of the offense and at the present time. The report shall include the views of the sentencing judge, the prosecutor, any law enforcement personnel who may have been involved in the case, and any successors to these individuals who may have information relevant to the supervised release decision. The report shall also include the views of the victim and the victim's family unless the victim or the victim's family chooses not to participate.

(c) The commissioner shall make reasonable efforts to notify the victim, in advance, of the time and place of the inmate's supervised release review hearing. The victim has a right to submit an oral or written statement at the review hearing. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the inmate should be given supervised release at this time. The commissioner must consider the victim's statement when making the supervised release decision.

(d) When considering whether to give supervised release to an inmate serving a life sentence under section 609.342, subdivision 2, paragraph (b); 609.343, subdivision 2, paragraph (b); 609.344, subdivision 2, paragraph (b); 609.345, subdivision 2, paragraph (b); or 609.3453, subdivision 2, paragraph (b), the commissioner shall consider, at a minimum, the following: the risk the inmate poses to the community if released, the inmate's progress in treatment, the inmate's behavior while incarcerated, psychological or other diagnostic evaluations of the inmate, the inmate's criminal history, and any other relevant conduct of the inmate while incarcerated or before incarceration.

(e) As used in this subdivision, "victim" means the individual who suffered harm as a result of the inmate's crime or, if the individual is deceased, the deceased's surviving spouse or next of kin.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2002, section 609.108, subdivision 1, is amended to read:

Subdivision 1. [MANDATORY INCREASED SENTENCE.] (a) A court shall commit a person to the commissioner of corrections for a period of time that is not less than double the presumptive sentence under the Sentencing Guidelines and not more than the statutory maximum, or if the statutory maximum is less than double the presumptive sentence, for a period of time that is equal to the statutory maximum, if:

~~(1) the court is imposing an executed sentence, based on a Sentencing Guidelines presumptive imprisonment sentence or a dispositional departure for aggravating circumstances or a mandatory minimum sentence, on a person convicted of committing or attempting to commit a violation of section 609.342, 609.343, 609.344, or 609.345, or on a person convicted of committing or attempting to commit any other crime listed in subdivision 3 if it reasonably appears to the court that the crime was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal 609.3453;~~

(2) the court finds that the offender is a danger to public safety; and

(3) the court finds that the offender needs long-term treatment or supervision beyond the presumptive term of imprisonment and supervised release. The finding must be based on a professional assessment by an examiner experienced in evaluating sex offenders that concludes that the offender is a patterned sex offender. The assessment must contain the facts upon which the conclusion is based, with reference to the offense history of the offender or the severity of the current offense, the social history of the offender, and the results of an examination of the offender's mental status unless the offender refuses to be examined. The conclusion may not be based on testing alone. A patterned sex offender is one whose criminal sexual behavior is so engrained that the risk of reoffending is great without intensive psychotherapeutic intervention or other long-term controls.

(b) The court shall consider imposing a sentence under this section whenever a person is convicted of violating section 609.342 or 609.343.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2002, section 609.108, subdivision 3, is amended to read:

Subd. 3. [PREDATORY CRIME.] A predatory crime is a felony violation of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.221, 609.222, 609.223, 609.24, 609.245, 609.25, 609.255, 609.342, 609.343, 609.344, 609.345, 609.365, 609.498, 609.561, or 609.582, subdivision 1. As used in this section, "predatory crime" has the meaning given in section 609.341, subdivision 24.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2002, section 609.109, subdivision 7, is amended to read:

Subd. 7. [CONDITIONAL RELEASE OF SEX OFFENDERS.] (a) Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the Sentencing Guidelines, when a court sentences a person to prison for a violation of section 609.342, 609.343, 609.344, ~~or 609.345,~~ or 609.3453, the court shall provide that after the person has completed the sentence imposed, the commissioner of corrections shall place the person on conditional release.

If the person was convicted for a violation of section 609.342, 609.343, 609.344, ~~or 609.345,~~ or 609.3453, the person shall be placed on conditional release for five years, minus the time the person served on supervised release.

If the person was convicted for a violation of one of those sections after a previous and the violation is a second or subsequent sex offense conviction as defined in section 609.341, subdivision 5 23, or sentenced under subdivision 6 to a mandatory departure, the person shall be placed on conditional release for ten years, minus the time the person served on supervised release.

(b) The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other conditions the commissioner considers appropriate. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve the remaining portion of the conditional release term in prison. The commissioner shall not dismiss the offender from supervision before the conditional release term expires.

Conditional release under this subdivision is governed by provisions relating to supervised release, except as otherwise provided in this subdivision, section 244.04, subdivision 1, or 244.05.

(c) The commissioner shall pay the cost of treatment of a person released under this subdivision. This section does not require the commissioner to accept or retain an offender in a treatment program.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2002, section 609.341, is amended by adding a subdivision to read:

Subd. 22. [SEX OFFENSE.] Except for section 609.3452, "sex offense" means any violation of, or attempt to violate, section 609.342, 609.343, 609.344, 609.345, 609.3453, or any similar statute of the United States, this state, or any other state.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2002, section 609.341, is amended by adding a subdivision to read:

Subd. 23. [SECOND OR SUBSEQUENT SEX OFFENSE.] "Second or subsequent sex

offense" means a sex offense for which the offender is convicted or adjudicated delinquent after the offender has already been convicted or adjudicated delinquent for another sex offense in a separate behavioral incident, regardless of when the behavioral incidents occurred.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2002, section 609.341, is amended by adding a subdivision to read:

Subd. 24. [PREDATORY CRIME.] "Predatory crime" means a felony violation of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.221, 609.222, 609.223, 609.24, 609.245, 609.25, 609.255, 609.365, 609.498, 609.561, or 609.582, subdivision 1.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2002, section 609.342, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] (a) Except as otherwise provided in ~~section 609.109 paragraph (b)~~, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~30~~ 60 years or to a payment of a fine of not more than \$40,000, or both.

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 144 months must be imposed on an offender convicted of violating this section. Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

(b) A person convicted under subdivision 1 of a second or subsequent sex offense shall be sentenced to imprisonment for life. At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2002, section 609.342, subdivision 3, is amended to read:

Subd. 3. [STAY.] Except when imprisonment is required under ~~section 609.109 subdivision 2, paragraph (b)~~, if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2002, section 609.343, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] (a) Except as otherwise provided in ~~section 609.109~~ paragraph (b), a person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~25~~ 60 years or to a payment of a fine of not more than \$35,000, or both.

~~(b)~~ Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 90 months must be imposed on an offender convicted of violating subdivision 1, clause (c), (d), (e), (f), or (h). Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

(b) A person convicted under subdivision 1 of a second or subsequent sex offense shall be sentenced to imprisonment for life. At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2002, section 609.343, subdivision 3, is amended to read:

Subd. 3. [STAY.] Except when imprisonment is required under ~~section 609.109~~ subdivision 2, paragraph (b), if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2002, section 609.344, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] (a) Except as otherwise provided in paragraph (b), a person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~15~~ 60 years or to a payment of a fine of not more than \$30,000, or both.

(b) A person convicted under subdivision 1 of a second or subsequent sex offense shall be sentenced to imprisonment for life. At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 15. Minnesota Statutes 2002, section 609.344, subdivision 3, is amended to read:

Subd. 3. [STAY.] Except when imprisonment is required under ~~section 609.109~~ subdivision 2, paragraph (b), if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

- (a) a stay is in the best interest of the complainant or the family unit; and
- (b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

- (1) incarceration in a local jail or workhouse;
- (2) a requirement that the offender complete a treatment program; and
- (3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 16. Minnesota Statutes 2002, section 609.345, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] (a) Except as otherwise provided in paragraph (b), a person convicted under subdivision 1 may be sentenced to imprisonment for not more than ten 60 years or to a payment of a fine of not more than \$20,000, or both.

(b) A person convicted under subdivision 1 of a second or subsequent sex offense shall be sentenced to imprisonment for life. At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 17. Minnesota Statutes 2002, section 609.345, subdivision 3, is amended to read:

Subd. 3. [STAY.] Except when imprisonment is required under section ~~609.109~~ subdivision 2, paragraph (b), if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

- (a) a stay is in the best interest of the complainant or the family unit; and
- (b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

- (1) incarceration in a local jail or workhouse;
- (2) a requirement that the offender complete a treatment program; and
- (3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 18. [609.3453] [CRIMINAL SEXUAL CONDUCT IN THE SIXTH DEGREE.]

Subdivision 1. [CRIME DEFINED.] A person is guilty of criminal sexual conduct in the sixth degree if the person commits a predatory crime that was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal.

Subd. 2. [PENALTY.] (a) Except as provided in paragraph (b), a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 60 years or to payment of a fine of not more than \$20,000, or both.

(b) A person convicted under subdivision 1 of a second or subsequent sex offense shall be sentenced to imprisonment for life. At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 19. [REPEALER.]

Minnesota Statutes 2002, section 609.108, subdivision 2, is repealed.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

ARTICLE 2

SEX OFFENDERS:

PREDATORY OFFENDER REGISTRATION;

COMMUNITY NOTIFICATION; NONSENTENCING CHANGES;

APPROPRIATIONS

Section 1. Minnesota Statutes 2002, section 243.166, as amended by Laws 2003, chapter 116, section 2, and Laws 2003, First Special Session chapter 2, article 8, sections 4 and 5, is amended to read:

243.166 [REGISTRATION OF PREDATORY OFFENDERS.]

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

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

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

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

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

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

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

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

~~(4) the person was convicted of or adjudicated delinquent for, including pursuant to a court~~

~~martial, violating a law of the United States, including the Uniform Code of Military Justice, similar to the offenses described in clause (1), (2), or (3).~~

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

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

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

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

~~For purposes of this paragraph:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) kidnapping under section 609.25; or

(iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; 609.3451, subdivision 3; or 609.3453; or

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

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

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

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

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

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

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

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

(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 ~~residencee~~ 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 ~~residencee~~ 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 4 1b, paragraph (b), because the person is

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The corrections agent or law enforcement authority may require that a person required to register under this section appear before the agent or authority to be photographed. The agent or authority shall require a person required to register under this section who is classified as a level III offender under section 244.052 to appear before the agent or authority at least every six months to be photographed. The agent or authority shall forward the photograph to the bureau of ~~Criminal Apprehension~~.

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

(1) Except for persons registering under subdivision 3a, the bureau of Criminal Apprehension shall mail a verification form to the last reported address of the person's 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 under section 244.052 is assigned to risk level II or risk level III, and who is no longer under correctional supervision, shall have an annual in-person contact with the law enforcement authority in the area of the person's primary address or if the person has no primary address where the person is staying. During the month of the person's birth date, the person shall report to the authority to verify the accuracy of the registration information and to be photographed. Within three days of this contact, the authority shall enter information as required by the bureau into the predatory offender registration database and submit an updated photograph of the person to the bureau's predatory offender registration unit. The authority may waive the photograph requirement for a person assigned to risk level III who has recently been photographed under paragraph (d).

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

For persons required to register under subdivision 1 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States, the bureau shall comply with clause (1) at least four times each year. For persons who under section 244.052 are assigned to risk level III and who are no longer under correctional supervision, the bureau shall comply with clause (1) at least two times each year. For all other persons required to register under this section, the bureau shall comply with clause (1) each year within 30 days of the anniversary date of the person's initial registration.

(f) When sending out a verification form, the bureau of ~~Criminal Apprehension~~ must shall determine whether the person to whom the verification form is being sent has signed a written consent form as provided for in paragraph (a). If the person has not signed such a consent form, the bureau of ~~Criminal Apprehension~~ must shall send a written consent form to the person along with the verification form. A person who receives this written consent form must shall sign and return it to the bureau of ~~Criminal Apprehension~~ at the same time as the verification form.

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

Subd. 4a. [INFORMATION REQUIRED TO BE PROVIDED.] (a) ~~As used in this section:~~

(1) ~~"motor vehicle" has the meaning given "vehicle" in section 169.01, subdivision 2;~~

(2) ~~"primary residence" means any place where the person resides longer than 14 days or that is deemed a primary residence by a person's corrections agent, if one is assigned to the person; and~~

(3) ~~"secondary residence" means any place where the person regularly stays overnight when not staying at the person's primary residence, and includes, but is not limited to:~~

(i) the person's parent's home if the person is a student and stays at the home at times when the person is not staying at school, including during the summer; and

(ii) the home of someone with whom the person has a minor child in common where the child's custody is shared.

(b) A person required to register under this section shall provide to the corrections agent or law enforcement authority the following information:

(1) the address of the person's primary residence address;

(2) the addresses of all of the person's secondary residences addresses in Minnesota, including all addresses used for residential or recreational purposes;

(3) the addresses of all Minnesota property owned, leased, or rented by the person;

(4) the addresses of all locations where the person is employed;

(5) the addresses of all residences schools where the person resides while attending school is enrolled; and

(6) the year, model, make, license plate number, and color of all motor vehicles owned or regularly driven by the person.

(e) (b) The person shall report to the agent or authority the information required to be provided under paragraph (b) (a), clauses (2) to (6), within five days of the date the clause becomes applicable. If because of a change in circumstances any information reported under paragraph (b) (a), clauses (1) to (6), no longer applies, the person shall immediately inform the agent or authority that the information is no longer valid. If the person leaves a primary address and does not have a new primary address, the person shall register as provided in subdivision 3a.

Subd. 5. [CRIMINAL PENALTY.] (a) A person required to register under this section who knowingly violates any of its provisions or intentionally provides false information to a corrections agent, law enforcement authority, or the bureau of Criminal Apprehension is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(b) Except as provided in paragraph (c), a person convicted of violating paragraph (a) shall be committed to the custody of the commissioner of corrections for not less than a year and a day, nor more than five years.

(c) A person convicted of violating paragraph (a), who has previously been convicted of or adjudicated delinquent for violating this section, shall be committed to the custody of the commissioner of corrections for not less than two years, nor more than five years.

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

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

Subd. 6. [REGISTRATION PERIOD.] (a) Notwithstanding the provisions of section 609.165, subdivision 1, and except as provided in paragraphs (b), (c), and (d), a person required to register under this section shall continue to comply with this section until ten years have elapsed since the

person initially registered in connection with the offense, or until the probation, supervised release, or conditional release period expires, whichever occurs later. For a person required to register under this section who is committed under section 253B.18 or 253B.185, the ten-year registration period does not include the period of commitment.

(b) If a person required to register under this section fails to register following a change in residencee the person's primary or secondary address, employment, school, or motor vehicle information; fails to report any property the person owns, leases, or rents; or fails to return the annual verification form within ten days, the commissioner of public safety may require the person to continue to register for an additional period of five years. This five-year period is added to the end of the offender's registration period.

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

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

(1) if the person is convicted of or adjudicated delinquent for any offense for which registration is required under subdivision 1 1b, or any offense from another state or any federal offense similar to the offenses described in subdivision 1 1b, and the person has a prior conviction or adjudication for an offense for which registration was or would have been required under subdivision 1 1b, or an offense from another state or a federal offense similar to an offense described in subdivision 1 1b;

(2) if the person is required to register based upon a conviction or delinquency adjudication for an offense under section 609.185, clause (2), or a similar statute from another state or the United States;

(3) if the person is required to register based upon a conviction for an offense under section 609.342, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); 609.343, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); 609.344, subdivision 1, paragraph (a), (c), or (g); or 609.345, subdivision 1, paragraph (a), (c), or (g); or a statute from another state or the United States similar to the offenses described in this clause; or

(4) if the person is required to register under subdivision 1 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States.

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

Subd. 7a. [AVAILABILITY OF INFORMATION ON OFFENDERS WHO ARE OUT OF COMPLIANCE WITH REGISTRATION LAW.] (a) The bureau of ~~Criminal Apprehension~~ may make information available to the public about offenders who are 16 years of age or older and who are out of compliance with this section for 30 days or longer for failure to provide the ~~address of the offenders' primary or secondary residencees addresses.~~ This information may be made available to the public through electronic, computerized, or other accessible means. The amount and type of information made available ~~shall be~~ is limited to the information necessary for the public to assist law enforcement in locating the offender.

(b) An offender who comes into compliance with this section after the bureau of ~~Criminal Apprehension~~ discloses information about the offender to the public may send a written request to the bureau requesting the bureau to treat information about the offender as private data, consistent with subdivision 7. The bureau shall review the request and promptly take reasonable action to

treat the data as private, if the offender has complied with the requirement that the offender provide the addresses of the offender's primary and secondary residences addresses, or promptly notify the offender that the information will continue to be treated as public information and the reasons for the bureau's decision.

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

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

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

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

Subd. 11. [VENUE; AGGREGATION.] (a) A violation of this section may be prosecuted in any jurisdiction where an offense takes place. However, the prosecutorial agency in the jurisdiction where the person last registered a primary address is initially responsible to review the case for prosecution.

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

Subd. 12. [CERTIFIED COPIES AS EVIDENCE.] Certified copies of predatory offender registration records are admissible as substantive evidence when necessary to prove the commission of a violation of this section.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to persons subject to predatory offender registration on or after that date.

Sec. 2. Minnesota Statutes 2002, section 243.167, is amended to read:

243.167 [REGISTRATION UNDER THE PREDATORY OFFENDER REGISTRATION LAW FOR OTHER OFFENSES.]

Subdivision 1. [DEFINITION.] As used in this section, "crime against the person" means a violation of any of the following or a similar law of another state or of the United States: section 609.165; 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223; 609.2231; 609.224, subdivision 2 or 4; 609.2242, subdivision 2 or 4; 609.235; 609.245, subdivision 1; 609.25; 609.255; 609.3451, subdivision 2; 609.498, subdivision 1; 609.582, subdivision 1; or 617.23, subdivision 2; or any felony-level violation of section 609.229; 609.377; 609.749; or 624.713.

Subd. 2. [WHEN REQUIRED.] (a) In addition to the requirements of section 243.166, a person also shall register under section 243.166 if:

(1) the person is convicted of a crime against the person; and

(2) the person was previously convicted of or adjudicated delinquent for an offense listed in section 243.166, ~~subdivision 1, paragraph (a)~~, but was not required to register for the offense because the registration requirements of that section did not apply to the person at the time the offense was committed or at the time the person was released from imprisonment.

(b) A person who was previously required to register ~~under section 243.166 in any state and who has completed the registration requirements of that section~~ shall again register under section 243.166 if the person commits a crime against the person.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 3. [243.95] [REPORT ON COMMUNITY CORRECTIONAL SUPERVISION.]

By January 15 of each year, the commissioner of corrections shall report to the chairs of the senate and house committees having jurisdiction over criminal justice policy on the number, geographic location, and aggregate and average caseloads for each caseload type of level II and level III sex offender residing in the state for the preceding calendar year. In addition, the commissioner shall provide this information for all other types of offenders. The commissioner shall compile and include in the report comparative historical data for the five calendar years preceding the year included in the report.

Sec. 4. Minnesota Statutes 2002, section 244.052, subdivision 3, is amended to read:

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

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

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

(2) a law enforcement officer;

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

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

(5) a victim's services professional.

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

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

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

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

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

(4) private criminal history data under section 13.87.

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

(d)(i) Except as otherwise provided in item (ii), at least 90 days before a predatory offender is to be released from confinement, the commissioner of corrections shall convene the appropriate end-of-confinement review committee for the purpose of assessing the risk presented by the

offender and determining the risk level to which the offender shall be assigned under paragraph (e). The offender and the law enforcement agency that was responsible for the charge resulting in confinement shall be notified of the time and place of the committee's meeting. The offender has a right to be present and be heard at the meeting. The law enforcement agency may provide material in writing that is relevant to the offender's risk level to the chair of the committee. The committee shall use the risk factors described in paragraph (g) and the risk assessment scale developed under subdivision 2 to determine the offender's risk assessment score and risk level. Offenders scheduled for release from confinement shall be assessed by the committee established at the facility from which the offender is to be released.

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

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

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

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

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

- (i) the degree of likely force or harm;
- (ii) the degree of likely physical contact; and
- (iii) the age of the likely victim;

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

- (i) the relationship of prior victims to the offender;
- (ii) the number of prior offenses or victims;
- (iii) the duration of the offender's prior offense history;
- (iv) the length of time since the offender's last prior offense while the offender was at risk to commit offenses; and

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

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

- (i) the offender's response to prior treatment efforts; and
- (ii) the offender's history of substance abuse;

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

- (i) the availability and likelihood that the offender will be involved in therapeutic treatment;
- (ii) the availability of residential supports to the offender, such as a stable and supervised living arrangement in an appropriate location;
- (iii) the offender's familial and social relationships, including the nature and length of these relationships and the level of support that the offender may receive from these persons; and
- (iv) the offender's lack of education or employment stability;

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

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

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

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

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

(k) The commissioner shall establish an end-of-confinement review committee to assign a risk level to offenders who:

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

(2) are accepted from another state under a reciprocal agreement for parole supervision under the interstate compact authorized by section 243.16 or 243.1605.

The committee shall make reasonable efforts to conform to the same timelines as applied to Minnesota cases. Offenders accepted from another state under a reciprocal agreement for probation supervision are not assigned a risk level, but are considered downward dispositional departures. The probation or court services officer and law enforcement officer shall manage such cases in accordance with section 244.10, subdivision 2a. the policies and procedures of the committee for federal offenders and interstate compact cases must be in accordance with all requirements as set forth in this section, unless restrictions caused by the nature of federal or interstate transfers prevents such conformance.

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

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to offenders entering the state, released from confinement, subject to community notification, or sentenced on or after that date.

Sec. 5. Minnesota Statutes 2002, section 244.052, is amended by adding a subdivision to read:

Subd. 3a. [OUT-OF-STATE OFFENDERS; NOTIFICATION AUTHORIZED.] (a) This subdivision applies to offenders who move or have moved to Minnesota from other states and who:

(1) at the time of the move are subject to a community notification statute similar to this section in the state from which the offender is moving; and

(2) are not assigned a risk level under subdivision 3, paragraph (k).

(b) The law enforcement agency in the area where an offender described in paragraph (a) resides, expects to reside, or is regularly found, may disclose information regarding the offender consistent with subdivision 4, paragraph (a). The extent of the notification must be consistent with the notification made about the offender in the state from which the offender is moving or has moved. However, the extent of the notification may not exceed that of a risk level II offender under subdivision 4, paragraph (b), unless the requirements of paragraph (c) have been met. Except as otherwise provided in this subdivision and unless clearly inapplicable, the provisions of subdivision 4 apply to notifications made under this paragraph.

(c) If the notification made concerning the offender in the state from which the offender is moving or has moved is broader than that authorized for a level II offender under subdivision 4, paragraph (b), and the agency wants to make a broader disclosure, the agency may request the end of confinement review committee at the nearest state correctional or treatment facility to assign a risk level to the offender. The agency shall provide to the committee all information concerning the offender's criminal history, the risk the offender poses to the community, and other relevant information. In addition, the committee shall attempt to obtain other information relevant to determining which risk level to assign the offender. Except as provided in this subdivision and unless clearly inapplicable, the provisions of subdivision 3 govern the risk assessment under this paragraph. If the committee assigns the offender to risk level III, the agency may disclose information in a manner consistent with a level III offender under subdivision 4, paragraph (b).

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to offenders entering the state, released from confinement, subject to community notification, or sentenced on or after that date.

Sec. 6. Minnesota Statutes 2002, section 244.052, subdivision 4, is amended to read:

Subd. 4. [LAW ENFORCEMENT AGENCY; DISCLOSURE OF INFORMATION TO PUBLIC.] (a) The law enforcement agency in the area where the predatory offender resides,

expects to reside, is employed, or is regularly found, shall disclose to the public any information regarding the offender contained in the report forwarded to the agency under subdivision 3, paragraph (f), that is relevant and necessary to protect the public and to counteract the offender's dangerousness, consistent with the guidelines in paragraph (b). The extent of the information disclosed and the community to whom disclosure is made must relate to the level of danger posed by the offender, to the offender's pattern of offending behavior, and to the need of community members for information to enhance their individual and collective safety.

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

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

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

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

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

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

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

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

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

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

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

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

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

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to offenders entering the state, released from confinement, subject to community notification, or sentenced on or after that date.

Sec. 7. Minnesota Statutes 2002, section 244.10, subdivision 2a, is amended to read:

Subd. 2a. [NOTICE OF INFORMATION REGARDING PREDATORY OFFENDERS.] (a) Subject to paragraph (b), in any case in which a person is convicted of an offense and the presumptive sentence under the Sentencing Guidelines is commitment to the custody of the commissioner of corrections, if the court grants a dispositional departure and stays imposition or execution of sentence, the probation or court services officer who is assigned to supervise the offender shall provide in writing to the following the fact that the offender is on probation and the terms and conditions of probation:

(1) a victim of and any witnesses to the offense committed by the offender, if the victim or the witness has requested notice; and

(2) the chief law enforcement officer in the area where the offender resides or intends to reside.

The law enforcement officer, in consultation with the offender's probation officer, may provide all or part of this information to any of the following agencies or groups the offender is likely to encounter: public and private educational institutions, day care establishments, and establishments or organizations that primarily serve individuals likely to be victimized by the offender. The law enforcement officer, in consultation with the offender's probation officer, also may disclose the information to individuals the officer believes are likely to be victimized by the offender. The officer's belief shall be based on the offender's pattern of offending or victim preference as documented in the information provided by the Department of Corrections or Department of Human Services.

The probation officer is not required under this subdivision to provide any notice while the offender is placed or resides in a residential facility that is licensed under section 245A.02, subdivision 14, or 241.021, if the facility staff is trained in the supervision of sex offenders.

(b) Paragraph (a) applies only to offenders required to register under section 243.166, as a result of the conviction.

(c) The notice authorized by paragraph (a) shall be limited to data classified as public under section 13.84, subdivision 6, unless the offender provides informed consent to authorize the release of nonpublic data or unless a court order authorizes the release of nonpublic data.

(d) Nothing in this subdivision shall be interpreted to impose a duty on any person to use any information regarding an offender about whom notification is made under this subdivision.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to offenders entering the state, released from confinement, subject to community notification, or sentenced on or after that date.

Sec. 8. [609.3455] [USE OF POLYGRAPHS FOR SEX OFFENDERS ON PROBATION OR CONDITIONAL RELEASE.]

(a) A court may order as an intermediate sanction under section 609.135 and the commissioner of corrections may order as a condition of release under section 244.05, 609.108, or 609.109 that an offender under supervision for a sex offense submit to polygraphic examinations to ensure compliance with the terms of probation or conditions of release.

(b) The court or commissioner may order the offender to pay all or a portion of the costs of the examinations. The fee may be waived if the offender is indigent or if payment would result in an economic hardship to the offender's immediate family.

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

Sec. 9. [PROTOCOL ON USE OF POLYGRAPHS.]

By September 1, 2004, the chief justice of the Supreme Court, in consultation with the Conference of Chief Judges, is requested to develop a protocol for the use of polygraphic examinations for sex offenders placed on probation under Minnesota Statutes, section 609.3455. This protocol shall be distributed to judges across the state.

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

Sec. 10. [REVISOR INSTRUCTION.]

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

Sec. 11. [APPROPRIATIONS.]

Subdivision 1. [CORRECTIONS.] \$..... is appropriated from the general fund to the commissioner of corrections for the fiscal year ending June 30, 2005. Of this amount:

- (1) \$..... is for the polygraphic examinations detailed in Minnesota Statutes, section 609.3455;
- (2) \$..... is for the acquisition of bracelets equipped with tracking devices designed to track and monitor the movement and location of criminal offenders;
- (3) \$..... is to provide intensive supervised release services for unserved counties and to increase services to existing intensive supervised release programs for high-risk sex offenders;
- (4) \$..... is to increase the supervision of sex offenders who are on probation or supervised release by means of caseload reduction; and
- (5) \$..... is for grants to counties to provide chemical dependency and sex offender treatment to criminal offenders incarcerated at local correctional facilities or ordered to complete treatment as a condition of probation or release.

The commissioner shall use the bracelets described in clause (2) 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.

The commissioner shall distribute the appropriation in clause (4) proportionately between community corrections act counties, probation and supervised release services, and county probation officer reimbursements.

Subd. 2. [STATE COURT ADMINISTRATOR.] \$..... is appropriated from the general fund to the state court administrator for the fiscal year ending June 30, 2005, for the polygraphic examinations detailed in Minnesota Statutes, section 609.3455.

Sec. 12. [REPEALER.]

Minnesota Statutes 2002, section 243.166, subdivisions 1 and 8, are repealed.

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

ARTICLE 3

SEX OFFENDERS:

TECHNICAL AND CONFORMING CHANGES

Section 1. Minnesota Statutes 2003 Supplement, section 14.03, subdivision 3, is amended to read:

Subd. 3. [RULEMAKING PROCEDURES.] (a) The definition of a rule in section 14.02, subdivision 4, does not include:

(1) rules concerning only the internal management of the agency or other agencies that do not directly affect the rights of or procedures available to the public;

(2) an application deadline on a form; and the remainder of a form and instructions for use of the form to the extent that they do not impose substantive requirements other than requirements contained in statute or rule;

(3) the curriculum adopted by an agency to implement a statute or rule permitting or mandating minimum educational requirements for persons regulated by an agency, provided the topic areas to be covered by the minimum educational requirements are specified in statute or rule;

(4) procedures for sharing data among government agencies, provided these procedures are consistent with chapter 13 and other law governing data practices.

(b) The definition of a rule in section 14.02, subdivision 4, does not include:

(1) rules of the commissioner of corrections relating to the release, placement, term, and supervision of inmates serving a supervised release or conditional release term, the internal management of institutions under the commissioner's control, and rules adopted under section 609.105 governing the inmates of those institutions;

(2) rules relating to weight limitations on the use of highways when the substance of the rules is indicated to the public by means of signs;

(3) opinions of the attorney general;

(4) the data element dictionary and the annual data acquisition calendar of the Department of Education to the extent provided by section 125B.07;

(5) the occupational safety and health standards provided in section 182.655;

(6) revenue notices and tax information bulletins of the commissioner of revenue;

(7) uniform conveyancing forms adopted by the commissioner of commerce under section 507.09; or

(8) the interpretive guidelines developed by the commissioner of human services to the extent provided in chapter 245A.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2002, section 244.05, subdivision 6, is amended to read:

Subd. 6. **[INTENSIVE SUPERVISED RELEASE.]** The commissioner may order that an inmate be placed on intensive supervised release for all or part of the inmate's supervised release or parole term if the commissioner determines that the action will further the goals described in section 244.14, subdivision 1, clauses (2), (3), and (4). In addition, the commissioner may order that an inmate be placed on intensive supervised release for all of the inmate's conditional or supervised release term if the inmate was convicted of a sex offense under sections section 609.342 to, 609.343, 609.344, 609.345, or 609.3453 or was sentenced under the provisions of section 609.108. The commissioner may impose appropriate conditions of release on the inmate including but not limited to unannounced searches of the inmate's person, vehicle, or premises by an intensive supervision agent; compliance with court-ordered restitution, if any; random drug testing; house arrest; daily curfews; frequent face-to-face contacts with an assigned intensive supervision agent; work, education, or treatment requirements; and electronic surveillance. In addition, any sex offender placed on intensive supervised release may be ordered to participate in an appropriate sex offender program as a condition of release. If the inmate violates the conditions of the intensive supervised release, the commissioner shall impose sanctions as provided in subdivision 3 and section 609.108.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2002, section 244.05, subdivision 7, is amended to read:

Subd. 7. **[SEX OFFENDERS; CIVIL COMMITMENT DETERMINATION.]** (a) Before the commissioner releases from prison any inmate convicted under sections section 609.342 to, 609.343, 609.344, 609.345, or 609.3453 or sentenced as a patterned offender under section 609.108, and determined by the commissioner to be in a high risk category, the commissioner shall make a preliminary determination whether, in the commissioner's opinion, a petition under section 253B.185 may be appropriate.

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

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

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

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

(4) private criminal history data under section 13.87.

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

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2002, section 244.052, subdivision 3, is amended to read:

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

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

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

(2) a law enforcement officer;

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

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

(5) a victim's services professional.

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

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

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

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

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

(4) private criminal history data under section 13.87.

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

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

(ii) If an offender is received for confinement in a facility with less than 90 days remaining in the offender's term of confinement, the offender's risk shall be assessed at the first regularly scheduled end of confinement review committee that convenes after the appropriate

documentation for the risk assessment is assembled by the committee. The commissioner shall make reasonable efforts to ensure that offender's risk is assessed and a risk level is assigned or reassigned at least 30 days before the offender's release date.

(iii) If the offender is subject to a mandatory life sentence under section 609.342, subdivision 2, paragraph (b); 609.343, subdivision 2, paragraph (b); 609.344, subdivision 2, paragraph (b); 609.345, subdivision 2, paragraph (b); or 609.3453, subdivision 2, paragraph (b), the commissioner of corrections shall convene the appropriate end-of-confinement review committee at least nine months before the offender's minimum term of imprisonment has been served. If the offender is received for confinement in a facility with less than nine months remaining before the offender's minimum term of imprisonment has been served, the committee shall conform its procedures to those outlined in item (ii) to the extent practicable.

(iv) If the offender is granted supervised release, the commissioner of corrections shall notify the appropriate end-of-confinement review committee that it needs to review the offender's previously determined risk level at its next regularly scheduled meeting. The commissioner shall make reasonable efforts to ensure that the offender's earlier risk level determination is reviewed and the risk level is confirmed or reassigned at least 60 days before the offender's release date. The committee shall give the report to the offender and to the law enforcement agency at least 60 days before an offender is released from confinement.

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

(f) Before the predatory offender is released from confinement, the committee shall prepare a risk assessment report which specifies the risk level to which the offender has been assigned and the reasons underlying the committee's risk assessment decision. Except for an offender subject to a mandatory life sentence under section 609.342, subdivision 2, paragraph (b); 609.343, subdivision 2, paragraph (b); 609.344, subdivision 2, paragraph (b); 609.345, subdivision 2, paragraph (b); or 609.3453, subdivision 2, paragraph (b), who has not been granted supervised release, the committee shall give the report to the offender and to the law enforcement agency at least 60 days before an offender is released from confinement. If the offender is subject to a mandatory life sentence and has not yet served the entire minimum term of imprisonment, the committee shall give the report to the offender and to the commissioner at least six months before the offender is first eligible for release. If the risk assessment is performed under the circumstances described in paragraph (d), item (ii), the report shall be given to the offender and the law enforcement agency as soon as it is available. The committee also shall inform the offender of the availability of review under subdivision 6.

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

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

- (i) the degree of likely force or harm;
- (ii) the degree of likely physical contact; and
- (iii) the age of the likely victim;

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

- (i) the relationship of prior victims to the offender;
- (ii) the number of prior offenses or victims;
- (iii) the duration of the offender's prior offense history;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

outlined in paragraphs (a) to (c) in the reassessment. An offender who is incarcerated may not request a reassessment under this paragraph.

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

(k) The commissioner shall establish an end-of-confinement review committee to assign a risk level to offenders who are released from a federal correctional facility in Minnesota or another state and who intend to reside in Minnesota, and to offenders accepted from another state under a reciprocal agreement for parole supervision under the interstate compact authorized by section 243.16. The committee shall make reasonable efforts to conform to the same timelines as applied to Minnesota cases. Offenders accepted from another state under a reciprocal agreement for probation supervision are not assigned a risk level, but are considered downward dispositional departures. The probation or court services officer and law enforcement officer shall manage such cases in accordance with section 244.10, subdivision 2a. The policies and procedures of the committee for federal offenders and interstate compact cases must be in accordance with all requirements as set forth in this section, unless restrictions caused by the nature of federal or interstate transfers prevents such conformance.

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

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2002, section 609.117, subdivision 1, is amended to read:

Subdivision 1. [UPON SENTENCING.] The court shall order an offender to provide a biological specimen for the purpose of DNA analysis as defined in section 299C.155 when:

(1) the court sentences a person charged with violating or attempting to violate any of the following, and the person is convicted of that offense or of any offense arising out of the same set of circumstances:

(i) murder under section 609.185, 609.19, or 609.195;

(ii) manslaughter under section 609.20 or 609.205;

(iii) assault under section 609.221, 609.222, or 609.223;

(iv) robbery under section 609.24 or aggravated robbery under section 609.245;

(v) kidnapping under section 609.25;

(vi) false imprisonment under section 609.255;

(vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, ~~or 609.3451,~~ subdivision 3, or 609.3453;

(viii) incest under section 609.365;

(ix) burglary under section 609.582, subdivision 1; or

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

(2) the court sentences a person as a patterned sex offender under section 609.108; or

(3) the juvenile court adjudicates a person a delinquent child who is the subject of a delinquency petition for violating or attempting to violate any of the following, and the delinquency adjudication is based on a violation of one of those sections or of any offense arising out of the same set of circumstances:

- (i) murder under section 609.185, 609.19, or 609.195;
- (ii) manslaughter under section 609.20 or 609.205;
- (iii) assault under section 609.221, 609.222, or 609.223;
- (iv) robbery under section 609.24 or aggravated robbery under section 609.245;
- (v) kidnapping under section 609.25;
- (vi) false imprisonment under section 609.255;
- (vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, or 609.3451, subdivision 3, or 609.3453;
- (viii) incest under section 609.365;
- (ix) burglary under section 609.582, subdivision 1; or
- (x) indecent exposure under section 617.23, subdivision 3.

The biological specimen or the results of the analysis shall be maintained by the Bureau of Criminal Apprehension as provided in section 299C.155.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2002, section 609.117, subdivision 2, is amended to read:

Subd. 2. [BEFORE RELEASE.] The commissioner of corrections or local corrections authority shall order a person to provide a biological specimen for the purpose of DNA analysis before completion of the person's term of imprisonment when the person has not provided a biological specimen for the purpose of DNA analysis and the person:

(1) is currently serving a term of imprisonment for or has a past conviction for violating or attempting to violate any of the following or a similar law of another state or the United States or initially charged with violating one of the following sections or a similar law of another state or the United States and convicted of another offense arising out of the same set of circumstances:

- (i) murder under section 609.185, 609.19, or 609.195;
- (ii) manslaughter under section 609.20 or 609.205;
- (iii) assault under section 609.221, 609.222, or 609.223;
- (iv) robbery under section 609.24 or aggravated robbery under section 609.245;
- (v) kidnapping under section 609.25;
- (vi) false imprisonment under section 609.255;
- (vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, or 609.3451, subdivision 3, or 609.3453;
- (viii) incest under section 609.365;
- (ix) burglary under section 609.582, subdivision 1; or
- (x) indecent exposure under section 617.23, subdivision 3; or

(2) was sentenced as a patterned sex offender under section 609.108, and committed to the custody of the commissioner of corrections; or

(3) is serving a term of imprisonment in this state under a reciprocal agreement although

convicted in another state of an offense described in this subdivision or a similar law of the United States or any other state. The commissioner of corrections or local corrections authority shall forward the sample to the Bureau of Criminal Apprehension.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2002, section 609.347, is amended to read:

609.347 [EVIDENCE IN CRIMINAL SEXUAL CONDUCT CASES.]

Subdivision 1. In a prosecution under sections 609.109 ~~or~~, 609.342 to 609.3451, or 609.3453, the testimony of a victim need not be corroborated.

Subd. 2. In a prosecution under sections 609.109 ~~or~~, 609.342 to 609.3451, or 609.3453, there is no need to show that the victim resisted the accused.

Subd. 3. In a prosecution under sections 609.109, 609.342 to 609.3451, 609.3453, or 609.365, evidence of the victim's previous sexual conduct shall not be admitted nor shall any reference to such conduct be made in the presence of the jury, except by court order under the procedure provided in subdivision 4. The evidence can be admitted only if the probative value of the evidence is not substantially outweighed by its inflammatory or prejudicial nature and only in the circumstances set out in paragraphs (a) and (b). For the evidence to be admissible under paragraph (a), subsection (i), the judge must find by a preponderance of the evidence that the facts set out in the accused's offer of proof are true. For the evidence to be admissible under paragraph (a), subsection (ii) or paragraph (b), the judge must find that the evidence is sufficient to support a finding that the facts set out in the accused's offer of proof are true, as provided under Rule 901 of the Rules of Evidence.

(a) When consent of the victim is a defense in the case, the following evidence is admissible:

(i) evidence of the victim's previous sexual conduct tending to establish a common scheme or plan of similar sexual conduct under circumstances similar to the case at issue. In order to find a common scheme or plan, the judge must find that the victim made prior allegations of sexual assault which were fabricated; and

(ii) evidence of the victim's previous sexual conduct with the accused.

(b) When the prosecution's case includes evidence of semen, pregnancy, or disease at the time of the incident or, in the case of pregnancy, between the time of the incident and trial, evidence of specific instances of the victim's previous sexual conduct is admissible solely to show the source of the semen, pregnancy, or disease.

Subd. 4. The accused may not offer evidence described in subdivision 3 except pursuant to the following procedure:

(a) A motion shall be made by the accused at least three business days prior to trial, unless later for good cause shown, setting out with particularity the offer of proof of the evidence that the accused intends to offer, relative to the previous sexual conduct of the victim;

(b) If the court deems the offer of proof sufficient, the court shall order a hearing out of the presence of the jury, if any, and in such hearing shall allow the accused to make a full presentation of the offer of proof;

(c) At the conclusion of the hearing, if the court finds that the evidence proposed to be offered by the accused regarding the previous sexual conduct of the victim is admissible under subdivision 3 and that its probative value is not substantially outweighed by its inflammatory or prejudicial nature, the court shall make an order stating the extent to which evidence is admissible. The accused may then offer evidence pursuant to the order of the court;

(d) If new information is discovered after the date of the hearing or during the course of trial,

which may make evidence described in subdivision 3 admissible, the accused may make an offer of proof pursuant to clause (a) and the court shall order an in camera hearing to determine whether the proposed evidence is admissible by the standards herein.

Subd. 5. In a prosecution under sections 609.109 ~~or~~, 609.342 to 609.3451, or 609.3453, the court shall not instruct the jury to the effect that:

(a) It may be inferred that a victim who has previously consented to sexual intercourse with persons other than the accused would be therefore more likely to consent to sexual intercourse again; or

(b) The victim's previous or subsequent sexual conduct in and of itself may be considered in determining the credibility of the victim; or

(c) Criminal sexual conduct is a crime easily charged by a victim but very difficult to disprove by an accused because of the heinous nature of the crime; or

(d) The jury should scrutinize the testimony of the victim any more closely than it should scrutinize the testimony of any witness in any felony prosecution.

Subd. 6. (a) In a prosecution under sections 609.109 ~~or~~, 609.342 to 609.3451, or 609.3453, involving a psychotherapist and patient, evidence of the patient's personal or medical history is not admissible except when:

(1) the accused requests a hearing at least three business days prior to trial and makes an offer of proof of the relevancy of the history; and

(2) the court finds that the history is relevant and that the probative value of the history outweighs its prejudicial value.

(b) The court shall allow the admission only of specific information or examples of conduct of the victim that are determined by the court to be relevant. The court's order shall detail the information or conduct that is admissible and no other evidence of the history may be introduced.

(c) Violation of the terms of the order is grounds for mistrial but does not prevent the retrial of the accused.

Subd. 7. [EFFECT OF STATUTE ON RULES.] Rule 412 of the Rules of Evidence is superseded to the extent of its conflict with this section.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2002, section 609.3471, is amended to read:

609.3471 [RECORDS PERTAINING TO VICTIM IDENTITY CONFIDENTIAL.]

Notwithstanding any provision of law to the contrary, no data contained in records or reports relating to petitions, complaints, or indictments issued pursuant to section 609.342; 609.343; 609.344; ~~or 609.345~~; or 609.3453, which specifically identifies a victim who is a minor shall be accessible to the public, except by order of the court. Nothing in this section authorizes denial of access to any other data contained in the records or reports, including the identity of the defendant.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2002, section 609.348, is amended to read:

609.348 [MEDICAL PURPOSES; EXCLUSION.]

Sections 609.109 ~~and~~, 609.342 to 609.3451, and 609.3453 do not apply to sexual penetration or sexual contact when done for a bona fide medical purpose.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2002, section 609.353, is amended to read:

609.353 [JURISDICTION.]

A violation or attempted violation of section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or 609.352 may be prosecuted in any jurisdiction in which the violation originates or terminates.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2002, section 631.045, is amended to read:

631.045 [EXCLUDING SPECTATORS FROM THE COURTROOM.]

At the trial of a complaint or indictment for a violation of sections 609.109, 609.341 to 609.3451, 609.3453, or 617.246, subdivision 2, when a minor under 18 years of age is the person upon, with, or against whom the crime is alleged to have been committed, the judge may exclude the public from the courtroom during the victim's testimony or during all or part of the remainder of the trial upon a showing that closure is necessary to protect a witness or ensure fairness in the trial. The judge shall give the prosecutor, defendant and members of the public the opportunity to object to the closure before a closure order. The judge shall specify the reasons for closure in an order closing all or part of the trial. Upon closure the judge shall only admit persons who have a direct interest in the case.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 12. [REVISOR INSTRUCTION.]

(a) The revisor of statutes shall renumber Minnesota Statutes, section 609.3452, as Minnesota Statutes, section 609.3455, 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 609.3455. The revisor shall include a notation in Minnesota Statutes to inform readers of the statutes of the renumbering of section 609.3455.

(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 4

METHAMPHETAMINE PROVISIONS

Section 1. Minnesota Statutes 2002, section 82.197, subdivision 6, is amended to read:

Subd. 6. [MATERIAL FACTS.] (a) Licensees shall disclose to any prospective purchaser all material facts of which the licensees are aware, which could adversely and significantly affect an ordinary purchaser's use or enjoyment of the property, or any intended use of the property of which the licensees are aware.

(b) It is not a material fact relating to real property offered for sale and no regulatory action shall be brought against a licensee for failure to disclose in any real estate transaction the fact or suspicion that the property:

(1) is or was occupied by an owner or occupant who is or was suspected to be infected with human immunodeficiency virus or diagnosed with acquired immunodeficiency syndrome;

(2) was the site of a suicide, accidental death, natural death, or perceived paranormal activity;
or

(3) is located in a neighborhood containing any adult family home, community-based residential facility, or nursing home.

(c) A licensee or employee of the licensee has no duty to disclose information regarding an offender who is required to register under section 243.166, or about whom notification is made under that section, if the broker or salesperson, in a timely manner, provides a written notice that information about the predatory offender registry and persons registered with the registry may be obtained by contacting local law enforcement where the property is located or the Department of Corrections.

(d) A licensee is not required to disclose, except as otherwise provided in paragraph (e), information relating to the physical condition of the property or any other information relating to the real estate transaction, if a written report that discloses the information has been prepared by a qualified third party and provided to the person. For the purposes of this paragraph, "qualified third party" means a federal, state, or local governmental agency, or any person whom the broker, salesperson, or a party to the real estate transaction reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation that has been conducted by the third party in order to prepare the written report and who is acceptable to the person to whom the disclosure is being made.

(e) A licensee shall disclose to the parties to a real estate transaction any facts known by the broker or salesperson that contradict any information included in a written report, if a copy of the report is provided to the licensee, described in paragraph (d).

(f) For property that was ever subject to an order under section 152.0275, subdivision 2, paragraph (c), unless the order has been vacated under section 152.0275, subdivision 2, paragraph (e), a licensee shall disclose to the parties to a real estate transaction the fact that the property was contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine. It is the duty of the licensee to ascertain whether the property was subject to such an order.

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

Sec. 2. [152.016] [SURCHARGE ON VIOLATIONS OF THIS CHAPTER.]

Subdivision 1. [WHEN REQUIRED.] (a) When a court sentences a person convicted of an offense under this chapter, it shall impose a surcharge of \$50. This section applies when the sentence is executed, stayed, or suspended. The court may not waive payment or authorize payment of the surcharge in installments unless it makes written findings on the record that the convicted person is indigent or that the surcharge would create undue hardship for the convicted person or that person's immediate family.

(b) The surcharge required under this section is in addition to the surcharge required by section 357.021, subdivision 6 (surcharges on criminal and traffic offenders).

Subd. 2. [DISTRIBUTION OF MONEY.] The county shall collect and forward the surcharge to the commissioner of finance within 60 days after sentencing or explain to the commissioner in writing why the money was not forwarded within this time period. The commissioner shall credit the money to the general fund.

[EFFECTIVE DATE.] This section is effective July 1, 2004, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2003 Supplement, section 152.021, subdivision 2a, is amended to read:

Subd. 2a. [METHAMPHETAMINE MANUFACTURE CRIMES CRIME; POSSESSION OF SUBSTANCES WITH INTENT TO MANUFACTURE METHAMPHETAMINE CRIME.] (a) Notwithstanding subdivision 1, sections 152.022, subdivision 1, 152.023, subdivision 1, and 152.024, subdivision 1, a person is guilty of controlled substance crime in the first degree if the person manufactures any amount of methamphetamine.

(b) ~~Notwithstanding paragraph (a) and section 609.17,~~ A person is guilty of attempted ~~manufacture of methamphetamine~~ a crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine. As used in this section, "chemical reagents or precursors" refers to one or more of the following substances, or their salts, isomers, and salts of isomers:

- (1) ephedrine;
- (2) pseudoephedrine;
- (3) phenyl-2-propanone;
- (4) phenylacetone;
- (5) anhydrous ammonia, ~~as defined in section 18C.005, subdivision 1a;~~
- (6) organic solvents;
- (7) hydrochloric acid;
- (8) lithium metal;
- (9) sodium metal;
- (10) ether;
- (11) sulfuric acid;
- (12) red phosphorus;
- (13) iodine;
- (14) sodium hydroxide;
- (15) benzaldehyde;
- (16) benzyl methyl ketone;
- (17) benzyl cyanide;
- (18) nitroethane;
- (19) methylamine;
- (20) phenylacetic acid;
- (21) hydriodic acid; or
- (22) hydriotic acid.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2003 Supplement, section 152.021, subdivision 3, is amended to read:

Subd. 3. [PENALTY.] (a) A person convicted under subdivisions 1 to 2a, paragraph (a), may be sentenced to imprisonment for not more than 30 years or to payment of a fine of not more than \$1,000,000, or both; a person convicted under subdivision 2a, paragraph (b), may be sentenced to imprisonment for not more than ~~three~~ ten years or to payment of a fine of not more than ~~\$5,000~~ \$20,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivisions 1 to 2a, paragraph (a), shall be committed to the commissioner of corrections for not

less than four years nor more than 40 years and, in addition, may be sentenced to payment of a fine of not more than \$1,000,000; a person convicted under subdivision 2a, paragraph (b), may be sentenced to imprisonment for not more than ~~four~~ 15 years or to payment of a fine of not more than ~~\$5,000~~ \$30,000, or both.

(c) In a prosecution under subdivision 1 involving sales by the same person in two or more counties within a 90-day period, the person may be prosecuted for all of the sales in any county in which one of the sales occurred.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 5. [152.0275] [CERTAIN CONTROLLED SUBSTANCE OFFENSES; RESTITUTION; PROHIBITIONS ON PROPERTY USE.]

Subdivision 1. [RESTITUTION.] (a) As used in this subdivision:

(1) "clandestine lab site" means any structure or conveyance or outdoor location occupied or affected by conditions or chemicals, typically associated with the manufacturing of methamphetamine;

(2) "emergency response" includes, but is not limited to, removing and collecting evidence, securing the site, removal, remediation, and hazardous chemical assessment or inspection of the site where the relevant offense or offenses took place, regardless of whether these actions are performed by the public entities themselves or by private contractors paid by the public entities, or the property owner;

(3) "remediation" means proper cleanup, treatment, or containment of hazardous substances or methamphetamine at or in a clandestine lab site, and may include demolition or disposal of structures or other property when an assessment so indicates; and

(4) "removal" means the removal from the clandestine lab site of precursor or waste chemicals, chemical containers, or equipment associated with the manufacture, packaging, or storage of illegal drugs.

(b) A court shall require a person convicted of manufacturing or attempting to manufacture a controlled substance or of an illegal activity involving a precursor substance, where the response to the crime involved an emergency response, to pay restitution to all public entities that participated in the response. The restitution ordered must cover the reasonable costs of their participation in the response.

(c) In addition to the restitution required in paragraph (b), a court shall require a person convicted of manufacturing or attempting to manufacture a controlled substance or of illegal activity involving a precursor substance to pay restitution to a property owner who incurred removal or remediation costs because of the crime.

(d) Notwithstanding paragraphs (b) and (c), if the court finds that the convicted person is indigent or that payment of the restitution would create undue hardship for the convicted person's immediate family, the court may reduce the amount of restitution to an appropriate level.

Subd. 2. [PROPERTY-RELATED PROHIBITIONS.] (a) As used in this subdivision:

(1) "clandestine lab site" has the meaning given in subdivision 1, paragraph (a);

(2) "property" includes buildings and other structures, and motor vehicles as defined in section 609.487, subdivision 2a. Property also includes real property whether publicly or privately owned and public waters and rights-of-way;

(3) "remediation" has the meaning given in subdivision 1, paragraph (a); and

(4) "removal" has the meaning given in subdivision 1, paragraph (a).

(b) A peace officer who arrests a person at a clandestine lab site shall notify the appropriate county or local health department, state duty officer, and child protection services of the arrest and the location of the site.

(c) A county or local health department or sheriff shall order that all property that has been found to be a clandestine lab site and contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine be prohibited from being occupied, rented, sold, or used until it has been assessed and remediated as provided in the Department of Health's clandestine drug labs general cleanup guidelines.

(d) Unless clearly inapplicable, the procedures specified in chapter 145A and any related rules adopted under that chapter addressing the enforcement of public health laws, the removal and abatement of public health nuisances, and the remedies available to property owners or occupants apply to this subdivision.

(e) Upon the proper removal and remediation of any property used as a clandestine lab site, the contractor shall verify that the work was completed according to the Department of Health's clandestine drug labs general cleanup guidelines and best practices and that levels of contamination have been reduced to levels set forth in the guidelines. Following this, the applicable authority shall vacate its order issued under paragraph (c).

(f) If the applicable authority determines under paragraph (c) that a motor vehicle has been contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine and if the authority is able to obtain the certificate of title for the motor vehicle, the authority shall notify the registrar of motor vehicles of this fact and in addition, forward the certificate of title to the registrar. The authority shall also notify the registrar when it vacates its order under paragraph (e).

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2002, section 152.135, subdivision 2, is amended to read:

Subd. 2. [EXCEPTIONS.] (a) A drug product containing ephedrine, its salts, optical isomers, and salts of optical isomers is exempt from subdivision 1 if the drug product:

(1) may be lawfully sold over the counter without a prescription under the federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 321, et seq.;

(2) is labeled and marketed in a manner consistent with the pertinent OTC Tentative Final or Final Monograph;

(3) is manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse;

(4) is not marketed, advertised, or labeled for the indication of stimulation, mental alertness, weight loss, muscle enhancement, appetite control, or energy; and

(5) is in solid oral dosage forms, including soft gelatin caplets, that combine 400 milligrams of guaifenesin and 25 milligrams of ephedrine per dose, according to label instructions; or is an anorectal preparation containing not more than five percent ephedrine; and

(6) is sold in a manner that does not conflict with section 152.136.

(b) Subdivisions 1 and 3 shall not apply to products containing ephedra or ma huang and lawfully marketed as dietary supplements under federal law.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 7. [152.136] [SALES OF METHAMPHETAMINE PRECURSOR DRUGS; CRIMINAL PENALTIES; REPORTING.]

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

(b) "Methamphetamine precursor drug" includes single-source methamphetamine precursor drugs and non-single-source methamphetamine precursor drugs.

(c) "Non-single-source methamphetamine precursor drug" means a combination drug or product containing as one of its active ingredients ephedrine or pseudoephedrine. However, the term does not include a single-source methamphetamine precursor drug.

(d) "Over-the-counter sale" means a retail sale of a drug or product but does not include the sale of a drug or product pursuant to the terms of a valid prescription.

(e) "Single-source methamphetamine precursor drug" means a drug or product containing as its sole active ingredient ephedrine or pseudoephedrine.

(f) "Suspicious transaction" means the sale, distribution, delivery, or other transfer of a substance under circumstances that would lead a reasonable person to believe that the substance is likely to be used to illegally manufacture a controlled substance based on factors such as the amount of the substance involved in the transaction, the method of payment, the method of delivery, and any past dealings with any participant in the transaction.

Subd. 2. [PROHIBITED CONDUCT.] (a) No person may sell in a single over-the-counter sale more than three packages of a methamphetamine precursor drug or a combination of methamphetamine precursor drugs or any combination of packages exceeding a total weight of nine grams.

(b) Over-the-counter sales of methamphetamine precursor drugs are limited to:

(1) packages containing not more than a total of three grams of one or more methamphetamine precursor drugs, calculated in terms of ephedrine base or pseudoephedrine base; or

(2) for nonliquid products, sales in blister packs, where each blister contains not more than two dosage units, or, if the use of blister packs is not technically feasible, sales in unit dose packets or pouches.

(c) A business establishment that offers for sale single-source methamphetamine precursor drugs in an over-the-counter sale shall do one of the following:

(1) ensure that all packages of the drugs are displayed and offered for sale only:

(i) behind a checkout counter where the public is not permitted;

(ii) inside a locked display case; or

(iii) within ten feet of an unobstructed view of an attended checkout counter;

(2) utilize an electronic antitheft system having a product tag and detection alarm designed to specifically prevent the theft of the drugs from the business establishment; or

(3) prohibit sales of the drugs to persons under the age of 18 years.

It is an affirmative defense to a charge under clause (3) if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6.

Subd. 3. [CRIMINAL PENALTY.] A person who knowingly violates subdivision 2 is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days, or to payment of a fine of not more than \$1,000, or both.

Subd. 4. [EXCEPTION TO CRIMINAL PENALTY.] (a) An owner, operator, supervisor, or manager of a business establishment that offers for sale methamphetamine precursor drugs whose employee or agent is convicted of or charged with violating this section is not subject to the criminal penalties for violating this section if the person:

(1) did not have prior knowledge of, participate in, or direct the employee or agent to commit the violation; and

(2) documents that an employee training program was in place to provide the employee or agent with information on the state and federal regulations regarding methamphetamine precursor drugs.

(b) Subdivisions 2 and 3 do not apply to a methamphetamine precursor drug that is manufactured in a manner that prevents the drug from being used to manufacture methamphetamine.

Subd. 5. [SUSPICIOUS TRANSACTIONS; REPORTING; IMMUNITY.] Any person employed by a business establishment that offers for sale methamphetamine precursor drugs who sells such a drug to any person in a suspicious transaction shall report the transaction to the owner, supervisor, or manager of the establishment. The owner, supervisor, or manager may report the transaction to local law enforcement. A person who reports information under this subdivision in good faith is immune from civil liability relating to the report.

Subd. 6. [EXEMPTION.] This section does not apply to pediatric products labeled pursuant to federal regulation primarily intended for administration to children under 12 years of age according to label instructions.

Subd. 7. [EFFECT ON LOCAL ORDINANCES.] This section preempts all local ordinances or regulations governing the sale by a retail distributor of over-the-counter products containing ephedrine or pseudoephedrine. Any existing local ordinance or regulation is void.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 8. [152.137] [ANHYDROUS AMMONIA; PROHIBITED CONDUCT; CRIMINAL PENALTIES; CIVIL LIABILITY.]

Subdivision 1. [DEFINITIONS.] As used in this section, "tamper" means action taken by a person not authorized to take that action by law or by the owner or authorized custodian of an anhydrous ammonia container or of equipment where anhydrous ammonia is used, stored, distributed, or transported.

Subd. 2. [PROHIBITED CONDUCT.] (a) A person may not:

(1) steal or unlawfully take or carry away any amount of anhydrous ammonia;

(2) purchase, possess, transfer or distribute any amount of anhydrous ammonia, knowing, or having reason to know, that it will be used to unlawfully manufacture a controlled substance;

(3) place, have placed, or possess anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to contain or transport anhydrous ammonia;

(4) transport anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to transport anhydrous ammonia;

(5) use, deliver, receive, sell, or transport a container designed and constructed to contain anhydrous ammonia without the express consent of the owner or authorized custodian of the container; or

(6) tamper with any equipment or facility used to contain, store, or transport anhydrous ammonia.

(b) For the purposes of this subdivision, containers designed and constructed for the storage and transport of anhydrous ammonia are described in rules adopted under section 18C.121, subdivision 1, or in Code of Federal Regulations, title 49.

Subd. 3. [NO CAUSE OF ACTION.] (a) Except as provided in paragraph (b), a person tampering with anhydrous ammonia containers or equipment under subdivision 2 shall have no cause of action for damages arising out of the tampering against:

- (1) the owner or lawful custodian of the container or equipment;
- (2) a person responsible for the installation or maintenance of the container or equipment; or
- (3) a person lawfully selling or offering for sale the anhydrous ammonia.

(b) Paragraph (a) does not apply to a cause of action against a person who unlawfully obtained the anhydrous ammonia or anhydrous ammonia container or who possesses the anhydrous ammonia or anhydrous ammonia container for any unlawful purpose.

Subd. 4. [CRIMINAL PENALTY.] A person who knowingly violates subdivision 2 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$50,000, or both.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 9. [152.138] [METHAMPHETAMINE-RELATED CRIMES INVOLVING CHILDREN AND VULNERABLE ADULTS.]

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

(b) "Chemical substance" means a substance intended to be used as a precursor in the manufacture of methamphetamine or any other chemical intended to be used in the manufacture of methamphetamine.

(c) "Child" means any person under the age of 18 years.

(d) "Methamphetamine paraphernalia" means all equipment, products, and materials of any kind that are used, intended for use, or designed for use in manufacturing, injecting, ingesting, inhaling, or otherwise introducing methamphetamine into the human body.

(e) "Methamphetamine waste products" means substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine.

(f) "Vulnerable adult" has the meaning given in section 609.232, subdivision 11.

Subd. 2. [PROHIBITED CONDUCT.] (a) No person may knowingly engage in any of the following activities in the presence of a child or vulnerable adult; in the residence of a child or a vulnerable adult; in a building, structure, conveyance, or outdoor location where a child or vulnerable adult might reasonably be expected to be present; in a room offered to the public for overnight accommodation; or in any multiple unit residential building:

- (1) manufacturing or attempting to manufacture methamphetamine;
- (2) storing any chemical substance;
- (3) storing any methamphetamine waste products; or
- (4) storing any methamphetamine paraphernalia.

(b) No person may knowingly cause or permit a child or vulnerable adult to inhale, be exposed

to, have contact with, or ingest methamphetamine, a chemical substance, or methamphetamine paraphernalia.

Subd. 3. [CRIMINAL PENALTY.] A person who violates subdivision 2 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Subd. 4. [MULTIPLE SENTENCES.] Notwithstanding sections 609.035 and 609.04, a prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 5. [PROTECTIVE CUSTODY.] A peace officer may take any child present in an area where any of the activities described in subdivision 2, paragraph (a), clauses (1) to (4), are taking place into protective custody in accordance with section 260C.175, subdivision 1, paragraph (b), clause (2). A child taken into protective custody under this subdivision shall be provided health screening to assess potential health concerns related to methamphetamine as provided in section 260C.188. A child not taken into protective custody under this subdivision but who is known to have been exposed to methamphetamine shall be offered health screening for potential health concerns related to methamphetamine as provided in section 260C.188.

Subd. 6. [REPORTING MALTREATMENT OF VULNERABLE ADULT.] (a) A peace officer shall make a report of suspected maltreatment of a vulnerable adult if the vulnerable adult is present in an area where any of the activities described in subdivision 2, paragraph (a), clauses (1) to (4), are taking place, and the peace officer has reason to believe the vulnerable adult inhaled, was exposed to, had contact with, or ingested methamphetamine, a chemical substance, or methamphetamine paraphernalia. The peace officer shall immediately report to the county common entry point as described in section 626.557, subdivision 9b.

(b) As required in section 626.557, subdivision 9b, law enforcement is the primary agency to conduct investigations of any incident when there is reason to believe a crime has been committed. Law enforcement shall initiate a response immediately. If the common entry point notified a county agency for adult protective services, law enforcement shall cooperate with that county agency when both agencies are involved and shall exchange data to the extent authorized in section 626.557, subdivision 12b, paragraph (g). County adult protection shall initiate a response immediately.

(c) The county social services agency shall immediately respond as required in section 626.557, subdivision 10, upon receipt of a report from the common entry point staff.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 10. [152.185] [METHAMPHETAMINE AWARENESS AND EDUCATIONAL ACCOUNT; MINNESOTA METH WATCH.]

Subdivision 1. [ACCOUNT ESTABLISHED; EDUCATIONAL PROGRAM.] The methamphetamine awareness and educational account is a special revenue account in the state treasury. Money in the account is appropriated to the commissioner of public safety to be used to support projects relating to educating retailers and the public on the dangers of methamphetamines and methamphetamine precursor drugs and the laws and regulations governing their use, including an educational initiative entitled "Minnesota meth watch" addressing methamphetamine, its use and manufacture, and the impact of methamphetamine-related activities on children, the environment, and the state's quality of life.

Subd. 2. [CONTRIBUTIONS.] The state may accept contributions, gifts, grants, and bequests for deposit into the fund.

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

Sec. 11. Minnesota Statutes 2002, section 168A.05, subdivision 3, is amended to read:

Subd. 3. [CONTENT OF CERTIFICATE.] Each certificate of title issued by the department shall contain:

- (1) the date issued;
- (2) the first, middle, and last names, the dates of birth, and addresses of all owners who are natural persons, the full names and addresses of all other owners;
- (3) the names and addresses of any secured parties in the order of priority as shown on the application, or if the application is based on a certificate of title, as shown on the certificate, or as otherwise determined by the department;
- (4) any liens filed pursuant to a court order or by a public agency responsible for child support enforcement against the owner;
- (5) the title number assigned to the vehicle;
- (6) a description of the vehicle including, so far as the following data exists, its make, model, year, identifying number, type of body, whether new or used, and if a new vehicle, the date of the first sale of the vehicle for use;
- (7) with respect to motor vehicles subject to the provisions of section 325E.15, the true cumulative mileage registered on the odometer or that the actual mileage is unknown if the odometer reading is known by the owner to be different from the true mileage;
- (8) with respect to vehicles subject to sections 325F.6641 and 325F.6642, the appropriate term "flood damaged," "rebuilt," "prior salvage," or "reconstructed"; and
- (9) with respect to a vehicle contaminated by methamphetamine production, if the registrar has received the certificate of title and notice described in section 152.0275, subdivision 2, paragraph (f), the term "hazardous waste contaminated vehicle;" and
- (10) any other data the department prescribes.

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

Sec. 12. [446A.083] [METHAMPHETAMINE LABORATORY CLEANUP REVOLVING FUND.]

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

- (1) "clandestine lab site" has the meaning given in section 152.0275, subdivision 1, paragraph (a);
- (2) "property" has the meaning given in section 152.0275, subdivision 2, paragraph (a), but does not include motor vehicles; and
- (3) "remediate" has the meaning given to remediation in section 152.0275, subdivision 1, paragraph (a).

Subd. 2. [FUND ESTABLISHED.] The authority shall establish a methamphetamine laboratory cleanup revolving fund to provide loans to counties and cities to remediate clandestine lab sites. The fund must be credited with repayments.

Subd. 3. [APPLICATIONS.] Applications by a county or city for a loan from the fund must be made to the authority on the forms prescribed by the authority. The application must include, but is not limited to:

- (1) the amount of the loan requested and the proposed use of the loan proceeds;
- (2) the source of revenues to repay the loan; and
- (3) certification by the county or city that it meets the loan eligibility requirements of subdivision 4.

Subd. 4. [LOAN ELIGIBILITY.] A county or city is eligible for a loan under this section if the county or city:

- (1) identifies a site or sites designated by a local public health department or law enforcement as a clandestine lab site;
- (2) has required the site's property owner to remediate the site at cost, under chapter 145A or a local public health nuisance ordinance that addresses clandestine lab remediation;
- (3) certifies that the property owner cannot pay for the remediation immediately;
- (4) certifies that the property owner has not properly remediated the site; and
- (5) issues a revenue bond payable to the authority to secure the loan.

Subd. 5. [USE OF LOAN PROCEEDS; REIMBURSEMENT BY PROPERTY OWNER.] (a) A loan recipient shall use the loan to remediate the clandestine lab site or if this has already been done to reimburse the applicable county or city fund for costs paid by the recipient to remediate the clandestine lab site.

(b) A loan recipient shall seek reimbursement from the owner of the property containing the clandestine lab site for the costs of the remediation. In addition to other lawful means of seeking reimbursement, the loan recipient may recover its costs through a property tax assessment by following the procedures specified in section 145A.08, subdivision 2, paragraph (c).

Subd. 6. [AWARD AND DISBURSEMENT OF FUNDS.] The authority shall award loans to recipients on a first-come, first-served basis, provided that the recipient is able to comply with the terms and conditions of the authority loan, which must be in conformance with this section. The authority shall make a single disbursement of the loan upon receipt of a payment request that includes a list of remediation expenses and evidence that a second-party sampling was undertaken to ensure that the remediation work was successful or a guarantee that such a sampling will be undertaken.

Subd. 7. [LOAN CONDITIONS AND TERMS.] (a) When making loans from the revolving fund, the authority shall comply with the criteria in paragraphs (b) to (e).

(b) Loans must be made at a two percent per annum interest rate for terms not to exceed ten years unless the recipient requests a 20-year term due to financial hardship.

(c) The annual principal and interest payments must begin no later than one year after completion of the clean up. Loans must be amortized no later than 20 years after completion of the clean up.

(d) A loan recipient must identify and establish a source of revenue for repayment of the loan and must undertake whatever steps are necessary to collect payments within one year of receipt of funds from the authority.

(e) The fund must be credited with all payments of principal and interest on all loans, except the costs as permitted under section 446A.04, subdivision 5, paragraph (a).

(f) Loans must be made only to recipients with clandestine lab ordinances that address remediation.

Subd. 8. [AUTHORITY TO INCUR DEBT.] Counties and cities may incur debt under this section by resolution of the board or council authorizing issuance of a revenue bond to the authority.

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

Sec. 13. Minnesota Statutes 2002, section 609.1095, subdivision 1, is amended to read:

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

(b) "Conviction" means any of the following accepted and recorded by the court: a plea of guilty, a verdict of guilty by a jury, or a finding of guilty by the court. The term includes a conviction by any court in Minnesota or another jurisdiction.

(c) "Prior conviction" means a conviction that occurred before the offender committed the next felony resulting in a conviction and before the offense for which the offender is being sentenced under this section.

(d) "Violent crime" means a violation of or an attempt or conspiracy to violate any of the following laws of this state or any similar laws of the United States or any other state: section sections 152.138; 609.165; 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.66, subdivision 1e; 609.687; 609.855, subdivision 5; any provision of sections 609.229; 609.377; 609.378; 609.749; and 624.713 that is punishable by a felony penalty; or any provision of chapter 152 that is punishable by a maximum sentence of 15 years or more.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 14. [METHAMPHETAMINE TREATMENT GRANTS; REPORT TO LEGISLATURE.]

The commissioner of human services shall report the following relating to the methamphetamine treatment grants in section 17 to the chairs and ranking minority members of the senate and house committees or divisions having jurisdiction over human services and criminal justice funding:

(1) by January 15, 2006, the commissioner shall report the amount of each grant, who the grant recipient was, and specific information about the treatment program funded, including, but not limited to, the nature of the treatment offered, the structure of the program, and initial information about the completion rate of offenders who entered the program; and

(2) by January 15, 2008, the commissioner shall report information on the success of the pilot programs funded, including recidivism data on offenders who entered the program.

Sec. 15. [METHAMPHETAMINE REPORT REQUIRED; DEPARTMENT OF CORRECTIONS.]

By January 15, 2006, the commissioner of corrections shall report to the chairs and ranking minority members of the senate and house committees or divisions having jurisdiction over criminal justice policy and funding on issues related to methamphetamine. The report must include, but is not limited to, an analysis of the current number of state correctional inmates incarcerated on a methamphetamine-related crime, information on how that number compares to that of recent years, a projection of the number of future state correctional inmates incarcerated on a methamphetamine-related charge, recidivism information for released methamphetamine offenders, the types of treatment offered to methamphetamine offenders in prison and the costs of this treatment, and to the degree possible, the same information described in this section for methamphetamine offenders at the local level.

Sec. 16. [REQUESTED LEGISLATIVE AUDITOR'S REPORT; DRUG TREATMENT.]

(a) The Legislative Audit Commission is requested to direct the legislative auditor to study and issue a report on the efficacy of controlled substance treatment programs for criminal offenders in Minnesota. The report must include programs offered in state and local correctional facilities and community-based programs. The auditor shall study the programs offered for each type of controlled substance addiction. The report must compare the costs of the programs and their success rates. To the degree feasible, the auditor shall investigate treatment programs offered in other states for controlled substance offenders and compare the breadth and comprehensiveness of the treatment options available in Minnesota, their costs, and their success rates to those in other states.

(b) If the Legislative Audit Commission directs the legislative auditor to conduct the study described in paragraph (a), the auditor shall report its findings to the legislature by February 1, 2005.

Sec. 17. [APPROPRIATION.]

(a) \$..... is appropriated to the commissioner of human services from the general fund for the fiscal year ending June 30, 2005, for grants to counties or groups of counties to fund three pilot project methamphetamine treatment programs for offenders convicted of methamphetamine-related crimes. The pilot project treatment programs must provide "differentiated substance abuse treatment" for methamphetamine users both while in county jails and after release.

(b) \$..... is appropriated to the Public Facilities Authority from the general fund for the fiscal year ending June 30, 2005, to carry out the authority's duties under Minnesota Statutes, section 446A.083.

Sec. 18. [REPEALER.]

Minnesota Statutes 2002, sections 18C.005, subdivisions 1a and 35a; 18C.201, subdivisions 6 and 7; and 18D.331, subdivision 5, are repealed.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

ARTICLE 5

MISCELLANEOUS CRIMINAL PROVISIONS

Section 1. [169A.093] [DETERMINATION OF PRIOR IMPAIRED DRIVING-RELATED LOSS OF LICENSE LOOK-BACK PERIOD.]

When determining whether a prior impaired driving-related loss of license is considered an aggravating factor or a predicate for a first-degree driving while impaired crime, the ten-year look-back period begins with the date of the license or privilege suspension, revocation, cancellation, denial, or disqualification.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2002, section 169A.095, is amended to read:

169A.095 [DETERMINING NUMBER OF AGGRAVATING FACTORS.]

(a) When determining the number of aggravating factors present for purposes of this chapter, subject to section 169A.09 (sanctions for prior behavior to be based on separate courses of conduct), each qualified prior impaired driving incident within the ten years immediately preceding the current offense is counted as a separate aggravating factor.

(b) No more than one aggravating factor may be counted for having a child under the age of 16 in the motor vehicle at the time of the offense regardless of the number of children in the vehicle.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2002, section 169A.52, subdivision 7, is amended to read:

Subd. 7. [TEST REFUSAL; DRIVING PRIVILEGE LOST.] (a) On behalf of the commissioner, a peace officer requiring a test or directing the administration of a chemical test shall serve immediate notice of intention to revoke and of revocation on a person who refuses to permit a test or on a person who submits to a test the results of which indicate an alcohol concentration of 0.10 or more.

(b) On behalf of the commissioner, a peace officer requiring a test or directing the administration of a chemical test of a person driving, operating, or in physical control of a commercial motor vehicle shall serve immediate notice of intention to disqualify and of disqualification on a person who refuses to permit a test, or on a person who submits to a test the results of which indicate an alcohol concentration of 0.04 or more.

(c) The officer shall either:

~~(1) take the driver's license or permit, if any, invalidate the person's driver's license or permit card in such a way that no identifying information is destroyed, and immediately return the card to the person;~~

~~(2) issue the person a temporary license effective for only seven days; and~~

~~(3) send it the notification of this action to the commissioner along with the certificate required by subdivision 3 or 4, and issue a temporary license effective only for seven days; or~~

~~(2) invalidate the driver's license or permit in such a way that no identifying information is destroyed.~~

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2002, section 169A.60, subdivision 11, is amended to read:

Subd. 11. [RESCISSION OF REVOCATION; AND DISMISSAL OR ACQUITTAL; NEW PLATES.] If:

(1) the driver's license revocation that is the basis for an impoundment order is rescinded; and

(2) the charges for the plate impoundment violation have been dismissed with prejudice; or

~~(3) the violator has been acquitted of the plate impoundment violation;~~

then the registrar of motor vehicles shall issue new registration plates for the vehicle at no cost, when the registrar receives an application that includes a copy of the order rescinding the driver's license revocation, and the order dismissing the charges, or the judgment of acquittal.

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

Sec. 5. Minnesota Statutes 2002, section 243.55, subdivision 1, is amended to read:

Subdivision 1. Any person who brings, sends, or in any manner causes to be introduced into any state correctional facility or state hospital, or within or upon the grounds belonging to or land or controlled by any such facility or hospital, or is found in possession of any controlled substance as defined in section 152.01, subdivision 4, or any firearms, weapons or explosives of any kind, without the consent of the chief executive officer thereof, shall be guilty of a felony and, upon conviction thereof, punished by imprisonment for a term of not more than ten years. Any person who brings, sends, or in any manner causes to be introduced into any state correctional facility or within or upon the grounds belonging to or land controlled by the facility, or is found in the possession of any intoxicating or alcoholic liquor or malt beverage of any kind without the consent of the chief executive officer thereof, shall be guilty of a gross misdemeanor. The provisions of this section shall not apply to physicians carrying drugs or introducing any of the above described liquors into such facilities for use in the practice of their profession; nor to sheriffs or other peace officers carrying revolvers or firearms as such officers in the discharge of duties.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2002, section 299A.38, subdivision 2, is amended to read:

Subd. 2. [STATE AND LOCAL REIMBURSEMENT.] Peace officers and heads of local law

enforcement agencies who buy vests for the use of peace officer employees may apply to the commissioner for reimbursement of funds spent to buy vests. On approving an application for reimbursement, the commissioner shall pay the applicant an amount equal to the lesser of one-half of the vest's purchase price or \$300 \$600, as adjusted according to subdivision 2a. The political subdivision that employs the peace officer shall pay at least the lesser of one-half of the vest's purchase price or \$300 \$600, as adjusted according to subdivision 2a. The political subdivision may not deduct or pay its share of the vest's cost from any clothing, maintenance, or similar allowance otherwise provided to the peace officer by the law enforcement agency.

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

Sec. 7. Minnesota Statutes 2002, section 299A.38, subdivision 2a, is amended to read:

Subd. 2a. [ADJUSTMENT OF REIMBURSEMENT AMOUNT.] On October 1, 1997 2005, the commissioner of public safety shall adjust the \$300 \$600 reimbursement amounts specified in subdivision 2, and in each subsequent year, on October 1, the commissioner shall adjust the reimbursement amount applicable immediately preceding that October 1 date. The adjusted rate must reflect the annual percentage change in the Consumer Price Index for all urban consumers, published by the federal Bureau of Labor Statistics, occurring in the one-year period ending on the preceding June 1.

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

Sec. 8. Minnesota Statutes 2002, section 609.321, subdivision 7, is amended to read:

Subd. 7. [PROMOTES THE PROSTITUTION OF AN INDIVIDUAL.] "Promotes the prostitution of an individual" means any of the following wherein the person knowingly:

- (1) solicits or procures patrons for a prostitute; or
- (2) provides, leases or otherwise permits premises or facilities owned or controlled by the person to aid the prostitution of an individual; or
- (3) owns, manages, supervises, controls, keeps or operates, either alone or with others, a place of prostitution to aid the prostitution of an individual; or
- (4) owns, manages, supervises, controls, operates, institutes, aids or facilitates, either alone or with others, a business of prostitution to aid the prostitution of an individual; or
- (5) admits a patron to a place of prostitution to aid the prostitution of an individual; or
- (6) transports an individual from one point within this state to another point either within or without this state, or brings an individual into this state to aid the prostitution of the individual; or
- (7) engages in the sex trafficking of an individual.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2002, section 609.321, is amended by adding a subdivision to read:

Subd. 7a. [SEX TRAFFICKING.] "Sex trafficking" means receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2002, section 609.487, is amended by adding a subdivision to read:

Subd. 6. [FLEEING, OTHER THAN VEHICLE.] Whoever, for the purpose of avoiding arrest, detention, or investigation, or in order to conceal or destroy potential evidence related to the

commission of a crime, attempts to evade or elude a peace officer, who is acting in the lawful discharge of an official duty, by means of running, hiding, or by any other means except fleeing in a motor vehicle, is guilty of a misdemeanor.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2003 Supplement, section 609.527, subdivision 3, is amended to read:

Subd. 3. [PENALTIES.] A person who violates subdivision 2 may be sentenced as follows:

(1) if the offense involves a single direct victim and the total, combined loss to the direct victim and any indirect victims is \$250 or less, the person may be sentenced as provided in section 609.52, subdivision 3, clause (5);

(2) if the offense involves a single direct victim and the total, combined loss to the direct victim and any indirect victims is more than \$250 but not more than \$500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (4);

(3) if the offense involves two or three direct victims or the total, combined loss to the direct and indirect victims is more than \$500 but not more than \$2,500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (3);

(4) if the offense involves more than three but not more than seven direct victims, or if the total combined loss to the direct and indirect victims is more than \$2,500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (2); and

(5) if the offense involves eight or more direct victims; or if the total, combined loss to the direct and indirect victims is more than \$35,000; or if the offense is related to possession or distribution of pornographic work in violation of section 617.246 or 617.247; the person may be sentenced as provided in section 609.52, subdivision 3, clause (1).

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2002, section 609.527, subdivision 4, is amended to read:

Subd. 4. [RESTITUTION; ITEMS PROVIDED TO VICTIM.] (a) A direct or indirect victim of an identity theft crime shall be considered a victim for all purposes, including any rights that accrue under chapter 611A and rights to court-ordered restitution.

(b) The court shall order a person convicted of violating this section to pay restitution of not less than \$1,000 to each direct victim of the offense.

(c) Upon request of a direct victim or the prosecutor, the court shall provide to the victim, without cost, a certified copy of the complaint filed in the matter, the judgment of conviction, and an order setting forth the facts and circumstances of the offense.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2002, section 609.5315, subdivision 1, is amended to read:

Subdivision 1. [DISPOSITION.] (a) Subject to paragraph (b), if the court finds under section 609.5313, 609.5314, or 609.5318 that the property is subject to forfeiture, it shall order the appropriate agency to do one of the following:

(1) unless a different disposition is provided under clause (3) or (4), either destroy firearms, ammunition, and firearm accessories that the agency decides not to use for law enforcement purposes under clause (8), or sell them to federally licensed firearms dealers, as defined in section 624.7161, subdivision 1, and distribute the proceeds under subdivision 5 or 5b;

(2) sell property that is not required to be destroyed by law and is not harmful to the public and distribute the proceeds under subdivision 5 or 5b;

(3) sell antique firearms, as defined in section 624.712, subdivision 3, to the public and distribute the proceeds under subdivision 5 or 5b;

(4) destroy or use for law enforcement purposes semiautomatic military-style assault weapons, as defined in section 624.712, subdivision 7;

(5) take custody of the property and remove it for disposition in accordance with law;

(6) forward the property to the federal drug enforcement administration;

(7) disburse money as provided under subdivision 5 or 5b; or

(8) keep property other than money for official use by the agency and the prosecuting agency.

(b) Notwithstanding paragraph (a), the Hennepin or Ramsey county sheriff may not sell firearms, ammunition, or firearms accessories if the policy is disapproved by the applicable county board.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2002, section 609.5315, is amended by adding a subdivision to read:

Subd. 5b. **[DISPOSITION OF CERTAIN FORFEITED PROCEEDS; PROSTITUTION, TRAFFICKING OFFENSES.]** For forfeitures resulting from violations of section 609.322, the money or proceeds from the sale of forfeited property, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be distributed as follows:

(1) 40 percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the agency's operating fund or similar fund for use in law enforcement;

(2) 20 percent of the proceeds must be forwarded to the county attorney or other prosecuting agency that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes; and

(3) the remaining 40 percent of the proceeds must be forwarded to the Department of Public Safety for distribution to crime victims services organizations that provide services to victims of prostitution or sex trafficking offenses.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 15. Minnesota Statutes 2002, section 609.605, subdivision 1, is amended to read:

Subdivision 1. **[MISDEMEANOR.]** (a) The following terms have the meanings given them for purposes of this section.

(i) "Premises" means real property and any appurtenant building or structure.

(ii) "Dwelling" means the building or part of a building used by an individual as a place of residence on either a full-time or a part-time basis. A dwelling may be part of a multidwelling or multipurpose building, or a manufactured home as defined in section 168.011, subdivision 8.

(iii) "Construction site" means the site of the construction, alteration, painting, or repair of a building or structure.

(iv) "Owner or lawful possessor," as used in paragraph (b), clause (9), means the person on

whose behalf a building or dwelling is being constructed, altered, painted, or repaired and the general contractor or subcontractor engaged in that work.

(v) "Posted," as used in clause (9), means the placement of a sign at least 11 inches square in a conspicuous place on the exterior of the building that is under construction, alteration, or repair, and additional signs in at least two conspicuous places for each ten acres being protected. The sign must carry an appropriate notice and the name of the person giving the notice, followed by the word "owner" if the person giving the notice is the holder of legal title to the land on which the construction site is located or by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land.

(vi) "Business licensee," as used in paragraph (b), clause (9), includes a representative of a building trades labor or management organization.

(vii) "Building" has the meaning given in section 609.581, subdivision 2.

(b) A person is guilty of a misdemeanor if the person intentionally:

(1) permits domestic animals or fowls under the actor's control to go on the land of another within a city;

(2) interferes unlawfully with a monument, sign, or pointer erected or marked to designate a point of a boundary, line or a political subdivision, or of a tract of land;

(3) trespasses on the premises of another and, without claim of right, refuses to depart from the premises on demand of the lawful possessor;

(4) occupies or enters the dwelling or locked or posted building of another, without claim of right or consent of the owner or the consent of one who has the right to give consent, except in an emergency situation;

(5) enters the premises of another with intent to take or injure any fruit, fruit trees, or vegetables growing on the premises, without the permission of the owner or occupant;

(6) enters or is found on the premises of a public or private cemetery without authorization during hours the cemetery is posted as closed to the public;

(7) returns to the property of another with the intent to abuse, disturb, or cause distress in or threaten another, after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent;

(8) returns to the property of another within ~~30 days~~ one year after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent; or

(9) enters the locked or posted construction site of another without the consent of the owner or lawful possessor, unless the person is a business licensee.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 16. Minnesota Statutes 2002, section 609.605, subdivision 4, is amended to read:

Subd. 4. [TRESPASSES ON SCHOOL PROPERTY.] (a) It is a misdemeanor for a person to enter or be found in a public or nonpublic elementary, middle, or secondary school building unless the person:

(1) is an enrolled student in, a parent or guardian of an enrolled student in, or an employee of the school or school district;

(2) has permission or an invitation from a school official to be in the building;

(3) is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; or

(4) has reported the person's presence in the school building in the manner required for visitors to the school.

(b) It is a misdemeanor for a person to be on the roof of a public or nonpublic elementary, middle, or secondary school building unless the person has permission from a school official to be on the roof of the building.

(c) It is a gross misdemeanor for a group of three or more persons to enter or be found in a public or nonpublic elementary, middle, or secondary school building unless one of the persons:

(1) is an enrolled student in, a parent or guardian of an enrolled student in, or an employee of the school or school district;

(2) has permission or an invitation from a school official to be in the building;

(3) is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; or

(4) has reported the person's presence in the school building in the manner required for visitors to the school.

~~(e)~~ (d) It is a misdemeanor for a person to enter or be found on school property within ~~six months~~ one year after being told by the school principal or the principal's designee to leave the property and not to return, unless the principal or the principal's designee has given the person permission to return to the property. As used in this paragraph, "school property" has the meaning given in section 152.01, subdivision 14a, clauses (1) and (3).

~~(d)~~ (e) A school principal or a school employee designated by the school principal to maintain order on school property, who has reasonable cause to believe that a person is violating this subdivision may detain the person in a reasonable manner for a reasonable period of time pending the arrival of a peace officer. A school principal or designated school employee is not civilly or criminally liable for any action authorized under this paragraph if the person's action is based on reasonable cause.

(e) (f) A peace officer may arrest a person without a warrant if the officer has probable cause to believe the person violated this subdivision within the preceding four hours. The arrest may be made even though the violation did not occur in the peace officer's presence.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 17. Minnesota Statutes 2002, section 609.746, subdivision 1, is amended to read:

Subdivision 1. [SURREPTITIOUS INTRUSION; OBSERVATION DEVICE.] (a) A person is guilty of a gross misdemeanor who:

(1) enters upon another's property;

(2) surreptitiously gazes, stares, or peeps in the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(b) A person is guilty of a gross misdemeanor who:

(1) enters upon another's property;

(2) surreptitiously installs or uses any device for observing, photographing, recording,

amplifying, or broadcasting sounds or events through the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(c) A person is guilty of a gross misdemeanor who:

(1) surreptitiously gazes, stares, or peeps in the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(d) A person is guilty of a gross misdemeanor who:

(1) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(e) A person is guilty of a ~~gross misdemeanor~~ felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both, if the person:

(1) violates this subdivision after a previous conviction under this subdivision or section 609.749; or

(2) violates this subdivision against a minor under the age of ~~16~~ 18, knowing or having reason to know that the minor is present.

(f) Paragraphs (b) and (d) do not apply to law enforcement officers or corrections investigators, or to those acting under their direction, while engaged in the performance of their lawful duties. Paragraphs (c) and (d) do not apply to conduct in: (1) a medical facility; or (2) a commercial establishment if the owner of the establishment has posted conspicuous signs warning that the premises are under surveillance by the owner or the owner's employees.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 18. [REQUESTED LEGISLATIVE AUDITOR'S REPORT; COMMUNITY SUPERVISION FOR CRIMINAL OFFENDERS.]

(a) The Legislative Audit Commission is requested to direct the legislative auditor to study and issue a report on the correctional supervision of criminal offenders who are on probation, supervised release, or conditional release. The report must analyze current and historical supervisor-to-offender caseload ratios, the conditions imposed on offenders, and the effectiveness of the supervision provided.

(b) If the Legislative Audit Commission directs the legislative auditor to conduct the study described in paragraph (a), the auditor shall report its findings to the legislature by February 1, 2005."

Delete the title and insert:

"A bill for an act relating to crime prevention and public safety; increasing the statutory maximum sentences for sex offenses; providing for mandatory life sentences for repeat sex

offenses; streamlining the patterned and predatory offender sentencing law; authorizing the use of polygraphic examinations for sex offenders under community supervision; making numerous changes to the predatory offender registration law and the community notification law; making various changes related to methamphetamine, including creating new crimes and modifying existing ones, imposing certain property restrictions, regulating certain activities, defining terms, addressing civil and criminal liability, creating a revolving loan cleanup fund, providing for treatment, requiring reports and education, and requiring the disclosure of certain information; imposing a surcharge; preempting local ordinances; making conforming and technical statutory changes; making various changes to the driving while impaired, prostitution, identity theft, fleeing a peace officer, trespass, and interference with privacy laws; providing for mandatory restitution in certain cases; providing increased reimbursement for bullet-resistant vests; imposing criminal penalties; appropriating money; amending Minnesota Statutes 2002, sections 82.197, subdivision 6; 152.135, subdivision 2; 168A.05, subdivision 3; 169A.095; 169A.52, subdivision 7; 169A.60, subdivision 11; 243.166, as amended; 243.167; 243.55, subdivision 1; 244.05, subdivisions 4, 5, 6, 7; 244.052, subdivisions 3, 4, by adding a subdivision; 244.10, subdivision 2a; 299A.38, subdivisions 2, 2a; 609.108, subdivisions 1, 3; 609.109, subdivision 7; 609.1095, subdivision 1; 609.117, subdivisions 1, 2; 609.321, subdivision 7, by adding a subdivision; 609.341, by adding subdivisions; 609.342, subdivisions 2, 3; 609.343, subdivisions 2, 3; 609.344, subdivisions 2, 3; 609.345, subdivisions 2, 3; 609.347; 609.3471; 609.348; 609.353; 609.487, by adding a subdivision; 609.527, subdivision 4; 609.5315, subdivision 1, by adding a subdivision; 609.605, subdivisions 1, 4; 609.746, subdivision 1; 631.045; Minnesota Statutes 2003 Supplement, sections 14.03, subdivision 3; 152.021, subdivisions 2a, 3; 609.527, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 152; 169A; 243; 446A; 609; repealing Minnesota Statutes 2002, sections 18C.005, subdivisions 1a, 35a; 18C.201, subdivisions 6, 7; 18D.331, subdivision 5; 243.166, subdivisions 1, 8; 609.108, subdivision 2."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

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

S.F. No. 2844: A bill for an act relating to workers' compensation; making technical changes; modifying the definition of "personal injury" to include injury or disease resulting from certain vaccines; authorizing qualifying employees to opt to receive alternative workers' compensation benefits; amending Minnesota Statutes 2002, sections 176.011, subdivisions 15, 16; 176.081, subdivision 1; 176.092, subdivision 1a; 176.102, subdivision 3a; 176.129, subdivisions 1b, 2a, 13; 176.135, subdivisions 1, 7; 176.1351, subdivisions 3, 5, by adding a subdivision; 176.181, by adding a subdivision; 176.1812, subdivision 6; 176.185, subdivision 1; 176.231, subdivision 5; 176.238, subdivision 10; 176.391, subdivision 2; 176.83, subdivision 5.

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

Page 21, after line 29, insert:

"(h) This section expires July 1, 2007, and does not apply to injuries occurring on or after that date."

And when so amended the bill do pass and be re-referred to the Committee on Health and Family Security. Amendments adopted. Report adopted.

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

H.F. No. 1861 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS

H.F. No. S.F. No.
1861 1645

CONSENT CALENDAR

H.F. No. S.F. No.

CALENDAR

H.F. No. S.F. No.

and that the above Senate File be indefinitely postponed.

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

Senator Marty from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2210: A bill for an act relating to natural resources; modifying requirements for certain equipment used by the department; exempting certain patrol vehicles from the security barrier requirement; providing for designation of certain enforcement personnel by commissioner's order; providing for enforcement of certain rules; providing criminal penalties; amending Minnesota Statutes 2002, sections 84.025, subdivision 10; 84.03; 85.052, subdivision 1; 89.031; 89.19; 89.21; Minnesota Statutes 2003 Supplement, sections 84.029, subdivision 1; 84A.02; 84A.21; 84A.32, subdivision 1; 84A.55, subdivision 8; 85.04, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 84.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 84.025, subdivision 10, is amended to read:

Subd. 10. [RECREATIONAL VEHICLES AND BOATS USED FOR PUBLIC PURPOSES.] All snowmobiles and Outboard motors of 250 horsepower or less and all snowmobiles that are purchased by the commissioner of natural resources must be of the four-stroke engine model. All all-terrain vehicles purchased by the commissioner must be manufactured in the state of Minnesota.

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

Sec. 2. [84.0286] [CONSERVATION OFFICER PATROL VEHICLE SECURITY BARRIER; EXEMPTION.]

Marked conservation officer patrol vehicles are exempt from any law or rule requiring a security barrier in the vehicle.

Sec. 3. Minnesota Statutes 2003 Supplement, section 84.029, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT, DEVELOPMENT, MAINTENANCE AND OPERATION.] In addition to other lawful authority, the commissioner of natural resources may establish, develop, maintain, and operate recreational areas, including but not limited to trails and canoe routes, for the use and enjoyment of the public on any state-owned or leased land under the commissioner's jurisdiction. The commissioner may employ and designate individuals according to section ~~85.04~~ 84.0835 to enforce laws governing the use of recreational areas.

Sec. 4. [84.0835] [DESIGNATION OF EMPLOYEES FOR LIMITED NATURAL RESOURCES LAW ENFORCEMENT.]

Subdivision 1. [COMMISSIONER'S AUTHORITY TO DESIGNATE EMPLOYEES.] As provided in this section, the commissioner may designate by written order certain employees to enforce laws governing the use of state parks, state monuments, state recreation areas, state waysides, forest subareas, forest lands under the authority of the commissioner when incidental to trail management or normal forestry duties, and game preserves and other lands administered as wildlife management areas. The designation by the commissioner is not subject to rulemaking under chapter 14 and section 14.386 does not apply.

Subd. 2. [DESIGNATED EMPLOYEE AUTHORITIES; GENERALLY.] An employee designated under subdivision 1:

(1) has citizen arrest powers according to sections 629.37 to 629.39;

(2) may issue citations, on a form prescribed by the commissioner, in lieu of arrest for petty misdemeanor violations and misdemeanor violations, unless the violation occurs in the presence of a conservation officer or other peace officer, as defined under section 626.84, subdivision 1, paragraph (c); and

(3) may issue a report of violation to be turned over to a conservation officer or other peace officer for possible charges at the peace officer's discretion.

Subd. 3. [CITATION AUTHORITY.] Employees designated by the commissioner under subdivision 2 may issue citations, as specifically authorized under this subdivision, for violations of:

(1) sections 85.052, subdivision 3 (payment of camping fees in state parks) and 85.45, subdivision 1 (cross-country ski pass);

(2) rules relating to hours and days of operation, restricted areas, noise, fireworks, environmental protection, fires and refuse, pets, picnicking, camping and dispersed camping, nonmotorized uses, construction of unauthorized permanent trails, mooring of boats, fish cleaning, swimming, storage and abandonment of personal property, structures and stands, animal trespass, state park individual and group motor vehicle permits, licensed motor vehicles, designated roads, and snowmobile operation off trails;

(3) rules relating to off-highway vehicle registration, display of registration numbers, required equipment, operation restrictions, off-trail use for hunting and trapping, and operation in lakes, rivers, and streams;

(4) rules relating to off-highway vehicle and snowmobile operation causing damage or in closed areas within the Richard J. Dorer Memorial Hardwood State Forest;

(5) rules relating to parking, snow removal, and damage on state forest roads; and

(6) rules relating to controlled hunting zones on major wildlife management units.

Sec. 5. Minnesota Statutes 2003 Supplement, section 84A.02, is amended to read:

84A.02 [DEPARTMENT TO MANAGE PRESERVE.]

(a) The Department of Natural Resources shall manage and control the Red Lake Game Preserve. The department may adopt and enforce rules for the care, preservation, protection, breeding, propagation, and disposition of all species of wildlife in the preserve. The department may adopt and enforce rules for the regulation, issuance, sale, and revocation of special licenses or special permits for hunting, fishing, camping, and other uses of this area, consistent with sections 84A.01 to 84A.11. The department may by rule set the terms, conditions, and charges for these licenses and permits.

(b) The rules may specify and control the terms under which wildlife may be taken, captured, or killed in the preserve, and under which fur-bearing animals, or animals and fish otherwise having commercial value, may be taken, captured, trapped, killed, sold, and removed from it. These rules may also provide for (1) the afforestation and reforestation of state lands in the preserve, (2) the sale of merchantable timber from these lands when, in the opinion of the department, it can be sold and removed without damage or injury to the further use and development of the land for wildlife and game in the preserve, and (3) the purposes for which the preserve is established by sections 84A.01 to 84A.11.

(c) The department may provide for the policing of the preserve as necessary for its proper development and use for the purposes specified. The commissioner of natural resources may

employ and designate individuals according to section 85.04 84.0835 to enforce laws governing the use of the preserve.

(d) The department shall also adopt and enforce rules concerning the burning of grass, timber slashings, and other flammable matter, and the clearing, development, and use of lands in the preserve as necessary to prevent forest fires and grass fires that would injure the use and development of this area for wildlife preservation and propagation and to protect its forest and wooded areas.

(e) Lands within the preserve are subject to the rules, whether owned by the state or privately, consistent with the rights of the private owners and with applicable state law. The rules may establish areas and zones within the preserve where hunting, fishing, trapping, or camping is prohibited or specially regulated, to protect and propagate particular wildlife in the preserve.

(f) Rules adopted under sections 84A.01 to 84A.11 must be posted on the boundaries of the preserve.

Sec. 6. Minnesota Statutes 2003 Supplement, section 84A.21, is amended to read:

84A.21 [DEPARTMENT TO MANAGE PROJECTS.]

(a) The department shall manage and control each project approved and accepted under section 84A.20. The department may adopt and enforce rules for the purposes in section 84A.20, subdivision 1, for the prevention of forest fires in the projects, and for the sale of merchantable timber from lands so acquired by the state when, in the opinion of the department, the timber may be sold and removed without damage to the project.

(b) These rules may relate to the care, preservation, protection, breeding, propagation, and disposition of any species of wildlife in the project and the regulation, issuance, sale, and revocation of special licenses or special permits for hunting, fishing, camping, and other uses of the areas consistent with applicable state law.

(c) The department may provide for the policing of each project as needed for the proper development, use, and protection of the project and its purposes. The commissioner of natural resources may employ and designate individuals according to section 85.04 84.0835 to enforce laws governing the use of the projects.

(d) Lands within a project are subject to these rules, whether owned by the state or privately, consistent with the rights of the private owners or with applicable state law. The rules must be published once in one qualified newspaper in each county affected and take effect after publication. They must also be posted on the boundaries of each project affected.

Sec. 7. Minnesota Statutes 2003 Supplement, section 84A.32, subdivision 1, is amended to read:

Subdivision 1. [RULES.] (a) The department shall manage and control each project approved and accepted under section 84A.31. The department may adopt and enforce rules for the purposes in section 84A.31, subdivision 1, for the prevention of forest fires in the projects, and for the sale of merchantable timber from lands acquired by the state in the projects when, in the opinion of the department, the timber may be sold and removed without damage to the purposes of the projects. Rules must not interfere with, destroy, or damage any privately owned property without just compensation being made to the owner of the private property by purchase or in lawful condemnation proceedings. The rules may relate to the care, preservation, protection, breeding, propagation, and disposition of any species of wildlife in the projects and the regulation, issuance, sale, and revocation of special licenses or special permits for hunting, fishing, camping, or other uses of these areas consistent with applicable state law.

(b) The department may provide for the policing of each project as necessary for the proper development, use, and protection of the project, and of its purpose. The commissioner of natural resources may employ and designate individuals according to section 85.04 84.0835 to enforce laws governing the use of the projects.

(c) Lands within the project are subject to these rules, whether owned by the state, or privately, consistent with the constitutional rights of the private owners or with applicable state law. The department may exclude from the operation of the rules any lands owned by private individuals upon which taxes are delinquent for three years or less. Rules must be published once in the official newspaper of each county affected and take effect 30 days after publication. They must also be posted on each of the four corners of each township of each project affected.

(d) In the management, operation, and control of areas taken for afforestation, reforestation, flood control projects, and wild game and fishing reserves, nothing shall be done that will in any manner obstruct or interfere with the operation of ditches or drainage systems existing within the areas, or damage or destroy existing roads or highways within these areas or projects, unless the ditches, drainage systems, roads, or highways are first taken under the right of eminent domain and compensation made to the property owners and municipalities affected and damaged. Each area or project shall contribute from the funds of the project, in proportion of the state land within the project, for the construction and maintenance of roads and highways necessary within the areas and projects to give the settlers and private owners within them access to their land. The department may construct and maintain roads and highways within the areas and projects as it considers necessary.

Sec. 8. Minnesota Statutes 2003 Supplement, section 84A.55, subdivision 8, is amended to read:

Subd. 8. [POLICING.] The commissioner may police the game preserves, areas, and projects as necessary to carry out this section. The commissioner may employ and designate individuals according to section ~~85.04~~ 84.0835 to enforce laws governing the use of the game preserves, areas, and projects.

Sec. 9. Minnesota Statutes 2003 Supplement, section 85.04, subdivision 2, is amended to read:

Subd. 2. [OTHER EMPLOYEES.] ~~Until August 1, 2004,~~ The commissioner of natural resources may designate certain employees according to section 84.0835 to enforce laws governing the use of state parks, state monuments, state recreation areas, state waysides, state forest lands when incidental to normal forestry duties, and state forest subareas. ~~The designation by the commissioner is not subject to rulemaking under chapter 14.~~

Delete the title and insert:

"A bill for an act relating to natural resources; modifying requirements for certain equipment used by the department; exempting certain patrol vehicles from the security barrier requirement; providing for designation of certain enforcement personnel by commissioner's order; amending Minnesota Statutes 2002, section 84.025, subdivision 10; Minnesota Statutes 2003 Supplement, sections 84.029, subdivision 1; 84A.02; 84A.21; 84A.32, subdivision 1; 84A.55, subdivision 8; 85.04, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 84."

And when so amended the bill do pass and be re-referred to the Committee on State and Local Government Operations. Amendments adopted. Report adopted.

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

S.F. No. 260: A bill for an act relating to employment; requiring the adoption of an occupational safety and health standard regulating ergonomic hazards.

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

Page 1, line 8, delete "2004" and insert "2005"

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

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

S.F. No. 2739: A bill for an act relating to the Metropolitan Airports Commission; requiring certain labor-related provisions in contracts with concession operators; proposing coding for new law in Minnesota Statutes, chapter 473.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Marty from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2848: A bill for an act relating to drainage maintenance; reestablishing the Aitkin Drainage and Conservancy District.

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

Page 1, line 8, after "reestablished" insert "pursuant to Minnesota Statutes 1986, chapter 111,"

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

Senator Marty from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2250: A bill for an act relating to natural resources; providing for evaluation of construction aggregate located on state trust lands; appropriating money; amending Minnesota Statutes 2002, section 16A.125, by adding a subdivision.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Senator Marty from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2726: A bill for an act relating to environment; extending certain environmental advisory councils; amending Minnesota Statutes 2002, section 115A.12; Minnesota Statutes 2003 Supplement, section 115A.072, subdivision 1.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Marty from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2472: A bill for an act relating to natural resources; providing for certain rulemaking exemptions; granting authorities to the commissioner of natural resources; authorizing fees; modifying civil penalties; amending Minnesota Statutes 2002, sections 83A.02; 84.027, by adding a subdivision; 84.029, by adding a subdivision; 84.033; 84.0855, by adding a subdivision; 84.791, subdivision 2, by adding a subdivision; 84.86, subdivision 1; 84.8712, subdivision 2; 84.925, subdivision 1, by adding a subdivision; 84D.13, subdivision 5; 85.052, subdivisions 1, 2, by adding subdivisions; 85.055, subdivision 1a; 85.22, subdivision 3; 86A.05, subdivision 5; 86A.07, subdivision 3; 86A.21; 86B.321, subdivision 2; 86B.521, by adding a subdivision; 88.79, by adding a subdivision; 89.012; 89.018, subdivisions 1, 2, by adding a subdivision; 89.19; 89.21; 89.37, by adding a subdivision; 89.53, subdivision 1; 89.71, subdivision 1; 97A.101, subdivision 2; 97A.133, subdivision 3; 97A.135, subdivision 1; 97A.145, subdivision 1; 97B.015, by adding a subdivision; 97B.025; 103G.223; 103I.601, subdivision 3; 282.01, subdivision 3; Minnesota Statutes 2003 Supplement, sections 84.029, subdivision 1; 84.775, subdivision 1; 84.780.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on State and Local Government Operations. Report adopted.

Senator Marty from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2763: A bill for an act relating to the environment; providing for issuance of pipeline routing permits by the Environmental Quality Board; ratifying the authority of the board to impose conditions, to suspend permits, and to pursue enforcement of permits; amending Minnesota Statutes 2002, section 116I.015, subdivision 3, by adding subdivisions.

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

Page 2, line 13, after "construction" insert "to monitor compliance with the conditions of the permit"

Page 3, line 36, delete "Any person who"

Page 4, delete lines 1 to 7

Page 4, line 8, delete everything before "The"

Page 4, line 15, delete "(c)" and insert "(b)" and after "has" insert "knowingly or with reason to know"

Page 4, line 22, after the period, insert "Before exercising its authority under this section, the board shall notify the person in writing and provide the person 30 days to correct the violation."

And when so amended the bill do pass and be re-referred to the Committee on Judiciary. Amendments adopted. Report adopted.

Senator Marty from the Committee on Environment and Natural Resources, to which was re-referred

S.F. No. 2580: A bill for an act relating to energy; requiring the development of a state plan for reducing greenhouse gas emissions from electric generation facilities and other sources.

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

Pages 1 and 2, delete section 1

Page 3, line 7, delete "senate Committee on Jobs, Energy and Community" and insert "legislative policy committees with jurisdiction over energy, the environment and natural resources, agriculture, and regulated industries by January 15, 2005."

Page 3, delete lines 8 to 11

Page 3, line 16, after the third "the" insert "legislative policy committees with jurisdiction over energy, the environment and natural resources, agriculture, and regulated industries."

Page 3, delete lines 17 to 20

Page 3, line 21, delete "(c)" and insert "(1)"

Page 3, line 23, before the period, insert "; and

(2) "cap and trade program" means a program that places a ceiling on emissions of greenhouse gases and allows for the trade of emission credits"

Page 3, after line 23, insert:

"Sec. 2. [APPROPRIATION.]

\$20,000 is appropriated from the general fund to the commissioner of commerce in fiscal year 2005 for the purpose of carrying out the commissioner's duties under section 1."

Reorder the sections in sequence

Amend the title as follows:

Page 1, line 4, before the period, insert "; appropriating money"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Scheid from the Committee on Commerce, to which was referred

S.F. No. 2613: A bill for an act relating to Minnesota Comprehensive Health Association; increasing the minimum premium rate; authorizing a reduced premium rate for participation in a disease management program; phasing out Medicare-extended basic supplement plans; requiring two rejections before eligible for a state plan; clarifying eligibility if employer-sponsored coverage is available; amending Minnesota Statutes 2002, sections 62E.02, subdivision 13; 62E.10, subdivisions 2, 10; 62E.141; Minnesota Statutes 2003 Supplement, sections 62E.08, subdivision 1; 62E.091; 62E.12; 62E.14, subdivision 1.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 62A.65, is amended by adding a subdivision to read:

Subd. 5a. [GUARANTEED ISSUE; MCHA ENROLLEES.] A health carrier must offer an individual health plan to any individual previously covered by the Minnesota Comprehensive Health Association, so long as the individual maintained continuous coverage as defined in section 62L.02, was covered by the association after exhausting continuation coverage provided under state or federal law, and had health claims for the prior three-year period in an amount less than the average for an individual of the same age in this state. The underwriting and premium for this coverage must comply with the limitations set forth in subdivision 5, paragraph (b).

Sec. 2. Minnesota Statutes 2003 Supplement, section 62E.08, subdivision 1, is amended to read:

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

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

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

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

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

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

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

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

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

(c) the premiums for the plans with a \$2,000, \$5,000, or \$10,000 annual deductible shall range

from a minimum of ~~101~~ 115 percent to a maximum of ~~125~~ 135 percent of the weighted average of rates charged by those insurers and health maintenance organizations with individuals enrolled in:

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

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

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

(d) the premium for each type of Medicare supplement plan required to be offered by the association pursuant to section 62E.12 shall range from a minimum of ~~101~~ 115 percent to a maximum of ~~125~~ 135 percent of the weighted average of rates charged by those insurers and health maintenance organizations with individuals enrolled in:

(1) Medicare supplement plans in force in Minnesota;

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

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

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

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

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

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

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

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

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

Sec. 3. Minnesota Statutes 2003 Supplement, section 62E.091, is amended to read:

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

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

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

In no case, however, may the commissioner approve premiums for those plans of coverage described in section 62E.08, subdivision 1, paragraphs (a) to (d), that are lower than ~~40~~ 115 percent or greater than ~~125~~ 135 percent of the weighted averages computed by the association pursuant to section 62E.08. The commissioner shall support a decision to approve, modify, or reject any premium proposed by the association with written findings and conclusions addressing each criterion specified in this section. If the commissioner does not approve, modify, or reject the premiums proposed by the association sooner than 45 days before the effective date for premiums specified in section 62E.08, subdivision 3, the premiums proposed by the association under this section become effective.

Sec. 4. Minnesota Statutes 2002, section 62E.10, subdivision 2, is amended to read:

Subd. 2. [BOARD OF DIRECTORS; ORGANIZATION.] The board of directors of the association shall be made up of nine members as follows: five directors selected by contributing members, subject to approval by the commissioner, one of whom must be a health actuary; four public directors selected by the commissioner, at least two of whom must be plan enrollees and two of whom must be representatives of employers whose accident and health insurance premiums are part of the association's assessment base. At least two of the public directors shall reside outside of the seven-county metropolitan area. ~~Public members may include licensed insurance agents.~~ In determining voting rights at members' meetings, each member shall be entitled to vote in person or proxy. The vote shall be a weighted vote based upon the member's cost of self-insurance, accident and health insurance premium, subscriber contract charges, health maintenance contract payment, or community integrated service network payment derived from or on behalf of Minnesota residents in the previous calendar year, as determined by the

commissioner. In approving directors of the board, the commissioner shall consider, among other things, whether all types of members are fairly represented. Directors selected by contributing members may be reimbursed from the money of the association for expenses incurred by them as directors, but shall not otherwise be compensated by the association for their services. The costs of conducting meetings of the association and its board of directors shall be borne by members of the association.

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

Sec. 5. Minnesota Statutes 2002, section 62E.10, subdivision 10, is amended to read:

Subd. 10. **[COST CONTAINMENT GOALS.]** (a) By July 1, 2001, the association shall investigate managed care delivery systems, and if cost effective, enter into contracts with third-party entities as provided in section 62E.101.

(b) By July 1, 2001, the association shall establish a system to annually identify individuals insured by the Minnesota Comprehensive Health Association who may be eligible for private health care coverage, medical assistance, state drug programs, or other state or federal programs and notify them about their eligibility for these programs.

(c) The association shall endeavor to reduce health care costs using additional methods consistent with effective patient care. At a minimum, by July 1, 2001, the association shall:

- (1) develop a focused chronic disease management and case management program;
- (2) develop a comprehensive program of preventive care; and
- (3) implement a total drug formulary program.

The association may provide an incentive for enrollee participation in the chronic disease management and case management program developed under this section.

Sec. 6. Minnesota Statutes 2003 Supplement, section 62E.12, is amended to read:

62E.12 [MINIMUM BENEFITS OF COMPREHENSIVE HEALTH INSURANCE PLAN.]

(a) The association through its comprehensive health insurance plan shall offer policies which provide the benefits of a number one qualified plan and a number two qualified plan, except that the maximum lifetime benefit on these plans shall be \$2,800,000; and an extended basic Medicare supplement plan and a basic Medicare supplement plan as described in sections 62A.31 to 62A.44. The association may also offer a plan that is identical to a number one and number two qualified plan except that it has a \$2,000 annual deductible and a \$2,800,000 maximum lifetime benefit. The association, subject to the approval of the commissioner, may also offer plans that are identical to the number one or number two qualified plan, except that they have annual deductibles of \$5,000 and \$10,000, respectively; have limitations on total annual out-of-pocket expenses equal to those annual deductibles and therefore cover 100 percent of the allowable cost of covered services in excess of those annual deductibles; and have a \$2,800,000 maximum lifetime benefit. As of January 1, 2006, the association shall no longer be required to offer an extended basic Medicare supplement plan.

(b) The requirement that a policy issued by the association must be a qualified plan is satisfied if the association contracts with a preferred provider network and the level of benefits for services provided within the network satisfies the requirements of a qualified plan. If the association uses a preferred provider network, payments to nonparticipating providers must meet the minimum requirements of section 72A.20, subdivision 15.

(c) The association shall offer health maintenance organization contracts in those areas of the state where a health maintenance organization has agreed to make the coverage available and has been selected as a writing carrier.

(d) Notwithstanding the provisions of section 62E.06 and unless those charges are billed by a

provider that is part of the association's preferred provider network, the state plan shall exclude coverage of services of a private duty nurse other than on an inpatient basis and any charges for treatment in a hospital located outside of the state of Minnesota in which the covered person is receiving treatment for a mental or nervous disorder, unless similar treatment for the mental or nervous disorder is medically necessary, unavailable in Minnesota and provided upon referral by a licensed Minnesota medical practitioner.

Sec. 7. Minnesota Statutes 2003 Supplement, section 62E.14, subdivision 5, is amended to read:

Subd. 5. [TERMINATED EMPLOYEES.] An employee who is voluntarily or involuntarily terminated or laid off from employment ~~and unable to exercise the option to continue, had an income of less than 275 percent of the poverty level prior to being terminated, and is unable to exercise the option to continue coverage under section 62A.17~~ may enroll, by submitting an application that is received by the writing carrier no later than 90 days after termination or layoff, with a waiver of the preexisting condition limitation set forth in subdivision 3 and a waiver of the evidence of rejection set forth in subdivision 1, paragraph (c).

Sec. 8. Minnesota Statutes 2002, section 62E.141, is amended to read:

62E.141 [INCLUSION IN EMPLOYER-SPONSORED PLAN.]

(a) No employee of an employer that offers a health plan, under which the employee is eligible for coverage, is eligible to enroll, or continue to be enrolled, in the comprehensive health association, except for enrollment or continued enrollment necessary to cover conditions that are subject to an unexpired preexisting condition limitation, preexisting condition exclusion, or exclusionary rider under the employer's health plan. ~~This section paragraph does not apply to persons enrolled in the Comprehensive Health Association as of June 30, 1993 2004.~~ With respect to persons eligible to enroll in the health plan of an employer that has more than 29 current employees, as defined in section 62L.02, ~~this section paragraph does not apply to persons enrolled in the Comprehensive Health Association as of December 31, 1994.~~

(b) ~~Paragraph (a) applies to an employee's dependents if the employer offers dependent coverage and the dependent is eligible for coverage but does not apply to persons enrolled in the Comprehensive Health Association as of June 30, 2004.~~

Sec. 9. [PRESUMPTIVE CONDITIONS STUDY.]

~~The Minnesota Comprehensive Health Association, in consultation with the commissioner of commerce, shall contract with an independent entity to conduct an analysis of the eligibility standards used for enrollment for coverage under the Minnesota Comprehensive Health Association in terms of the use of presumptive conditions for automatic eligibility and the underwriting practices for the individual market regarding the denial or limitations of coverage due to preexisting conditions. The analysis must compare the Minnesota Comprehensive Health Association's practices with that of other states' high-risk pools and examine the basis for denials within the individual market. The analysis must also determine whether there should be additional guidelines or standards in place before the existence of a specific condition or diagnosis is deemed automatically eligible for coverage under the Minnesota Comprehensive Health Association.~~

~~The commissioner of commerce shall submit the results of the study and any recommendations to the legislature by January 15, 2005.~~

~~The Minnesota Comprehensive Health Association must also contract for claims analysis and evaluation of its current disease management and quality measurement function."~~

Delete the title and insert:

"A bill for an act relating to Minnesota Comprehensive Health Association; increasing the minimum premium rate; authorizing enrollee incentives for participation in a disease management program; phasing out Medicare-extended basic supplement plans; modifying eligibility requirements; amending Minnesota Statutes 2002, sections 62A.65, by adding a subdivision;

62E.10, subdivisions 2, 10; 62E.141; Minnesota Statutes 2003 Supplement, sections 62E.08, subdivision 1; 62E.091; 62E.12; 62E.14, subdivision 5."

And when so amended the bill do pass and be re-referred to the Committee on State and Local Government Operations. Amendments adopted. Report adopted.

Senator Scheid from the Committee on Commerce, to which was referred

S.F. No. 2265: A bill for an act relating to financial institutions; clarifying the status of industrial loan and thrift companies that accept deposits; amending Minnesota Statutes 2002, section 53.01.

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

Page 1, line 20, before "An" insert "If"

Page 1, line 21, after "company" insert "is owned or controlled by a company, as defined in United States Code, title 12, section 1467a(a)(1)(C), the industrial loan and thrift company"

Page 1, line 23, delete "its owner" and insert "the company that owns or controls the industrial loan and thrift company"

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

Senator Scheid from the Committee on Commerce, to which was referred

S.F. No. 2134: A bill for an act relating to insurance; modifying regulation of joint self-insurance employee benefit plans; amending Minnesota Statutes 2002, sections 62H.01; 62H.02; repealing Minnesota Statutes 2002, section 62H.07.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 62H.01, is amended to read:

62H.01 [AUTHORITY TO JOINTLY SELF-INSURE.]

Any two or more employers, excluding the state and its political subdivisions as described in section 471.617, subdivision 1, who are authorized to transact business in Minnesota may jointly self-insure employee health, dental, short-term disability benefits, or other benefits permitted under the Employee Retirement Income Security Act of 1974, United States Code, title 29, sections 1001 et seq. If an employer chooses to jointly self-insure in accordance with this chapter, the employer must participate in the joint plan for at least three consecutive years. If an employer terminates participation in the joint plan before the conclusion of this three-year period, a financial penalty may be assessed under the joint plan, not to exceed the amount contributed by the employer to the plan's reserves as determined under Minnesota Rules, part 2765.1200. Joint plans must have a minimum of 1,000 covered employees enrollees and meet all conditions and terms of sections 62H.01 to 62H.08. Joint plans covering employers not resident in Minnesota must meet the requirements of sections 62H.01 to 62H.08 as if the portion of the plan covering Minnesota resident employees was treated as a separate plan. ~~A plan may cover employees resident in other states only if the plan complies with the applicable laws of that state.~~

A multiple employer welfare arrangement as defined in United States Code, title 29, section 1002(40)(a), is subject to this chapter to the extent authorized by the Employee Retirement Income Security Act of 1974, United States Code, title 29, sections 1001 et seq. The commissioner of commerce may, on behalf of the state, enter into an agreement with the United States Secretary of Labor for delegation to the state of some or all of the secretary's enforcement authority with respect to multiple employer welfare arrangements, as described in United States Code, title 29, section 1136(c).

Sec. 2. Minnesota Statutes 2002, section 62H.02, is amended to read:

62H.02 [REQUIRED PROVISIONS.]

A joint self-insurance plan must include aggregate excess stop-loss coverage and individual excess stop-loss coverage provided by an insurance company licensed by the state of Minnesota. Aggregate excess stop-loss coverage must include provisions to cover incurred, unpaid claim liability in the event of plan termination. In addition, the plan of self-insurance must have participating employers fund an amount at least equal to the point at which the excess or stop-loss insurer has contracted to assume 100 percent of additional liability. A joint self-insurance plan must submit its proposed excess or stop-loss insurance contract to the commissioner of commerce at least 30 days prior to the proposed plan's effective date and at least 30 days subsequent to any renewal date. The commissioner shall review the contract to determine if they meet the standards established by sections 62H.01 to 62H.08 and respond within a 30-day period. Any excess or stop-loss insurance plan must contain a provision that the excess or stop-loss insurer will give the plan and the commissioner of commerce a minimum of 180 days' notice of termination or nonrenewal. If the plan fails to secure replacement coverage within 60 days after receipt of the notice of cancellation or nonrenewal, the commissioner shall issue an order providing for the orderly termination of the plan. The commissioner may waive the requirements of this section and of any rule relating to the requirements of this section, if the commissioner determines that a joint self-insurance plan has established alternative arrangements that fully fund the plan's liability or incurred but unpaid claims. The commissioner may not waive the requirement that a joint self-insurance plan have excess stop-loss coverage.

Sec. 3. Minnesota Statutes 2002, section 62H.04, is amended to read:

62H.04 [COMPLIANCE WITH OTHER LAWS.]

(a) A joint self-insurance plan is subject to the requirements of chapters 62A, 62E, 62L, and 62Q, and sections 72A.17 to 72A.32 unless otherwise specifically exempt. A joint self-insurance plan must pay assessments made by the Minnesota Comprehensive Health Association, as required under section 62E.11.

(b) A joint self-insurance plan is exempt from providing the mandated health benefits described in chapters 62A, 62E, 62L, and 62Q if it otherwise provides the benefits required under the Employee Retirement Income Security Act of 1974, United States Code, title 29, sections 1001, et seq., for all employers and not just for the employers with 50 or more employees who are covered by that federal law.

(c) A joint self-insurance plan is exempt from section 62L.03, subdivision 1, if the plan offers an annual open enrollment period of no less than 15 days during which all employers that qualify for membership may enter the plan without preexisting condition limitations or exclusions except those permitted under chapter 62L.

(d) A joint self-insurance plan is exempt from sections 62A.146, 62A.148, 62A.16, 62A.17, 62A.20, and 62A.21, 62A.65, subdivision 5, paragraph (b), and 62E.16 if the joint self-insurance plan complies with the continuation requirements under the Employee Retirement Income Security Act of 1974, United States Code, title 29, sections 1001, et seq., for all employers and not just for the employers with 20 or more employees who are covered by that federal law.

(e) A joint self-insurance plan must provide to all employers the maternity coverage required by federal law for employers with 15 or more employees.

Sec. 4. [REPEALER.]

Minnesota Statutes 2002, section 62H.07, is repealed."

Amend the title as follows:

Page 1, line 4, after "62H.02;" insert "62H.04;"

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

SECOND READING OF SENATE BILLS

S.F. Nos. 1853, 2091, 2150, 2666, 2626, 2570, 2713, 2216, 260, 2739, 2848, 2726, 2265 and 2134 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 2105 and 1861 were read the second time.

MOTIONS AND RESOLUTIONS

Senator Marty moved that the name of Senator Berglin be added as a co-author to S.F. No. 979. The motion prevailed.

Senator Higgins moved that the name of Senator Berglin be added as a co-author to S.F. No. 1627. The motion prevailed.

Senator Anderson moved that the name of Senator Murphy be added as a co-author to S.F. No. 2492. The motion prevailed.

Senator Ortman moved that the name of Senator Johnson, D.J. be added as a co-author to S.F. No. 2702. The motion prevailed.

Senator McGinn moved that his name be stricken as a co-author to S.F. No. 2733. The motion prevailed.

Senator Reiter moved that the name of Senator Bachmann be added as a co-author to S.F. No. 2733. The motion prevailed.

Senator Kelley moved that S.F. No. 2798 be withdrawn from the Committee on Education and re-referred to the Committee on State and Local Government Operations. The motion prevailed.

Senator Kelley introduced--

Senate Resolution No. 125: A Senate resolution congratulating Charles James Magrew for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Senators Reiter, Bachmann and Betzold introduced--

Senate Resolution No. 126: A Senate resolution honoring Tom Gorowsky for receiving Minnesota's Mr. Hockey for 2004

Referred to the Committee on Rules and Administration.

Senators Reiter, Bachmann and Betzold introduced--

Senate Resolution No. 127: A Senate resolution congratulating the Centennial High School Boys hockey team on winning the 2004 State High School Class AA Boys Hockey Tournament.

Referred to the Committee on Rules and Administration.

Senator Pogemiller moved that S.F. No. 1398 be withdrawn from the Committee on Finance and re-referred to the Committee on Judiciary. The motion prevailed.

Pursuant to Rule 5.1, Senator Bachmann, chief author, moved that S.F. No. 2715 be withdrawn from the Committee on Judiciary, given a second reading, and placed on General Orders.

CALL OF THE SENATE

Senator Betzold imposed a call of the Senate for the balance of the proceedings on S.F. No. 2715. The Sergeant at Arms was instructed to bring in the absent members.

Senator Betzold moved the previous question.

The question was taken on "Shall the main question now be put?"

The roll was called, and there were yeas 35 and nays 31, as follows:

Those who voted in the affirmative were:

Anderson	Foley	Lourey	Pogemiller	Skoglund
Bakk	Higgins	Marko	Ranum	Solon
Berglin	Hottinger	Marty	Rest	Sparks
Betzold	Johnson, D.E.	Metzen	Sams	Stumpf
Chaudhary	Kelley	Moua	Saxhaug	Tomassoni
Cohen	Kubly	Murphy	Scheid	Vickerman
Dibble	Langseth	Pappas	Skoe	Wiger

Those who voted in the negative were:

Bachmann	Johnson, D.J.	Larson	Olson	Ruud
Belanger	Jungbauer	LeClair	Ortman	Senjem
Day	Kierlin	Limmer	Ourada	Wergin
Dille	Kiscaden	McGinn	Pariseau	
Fischbach	Kleis	Michel	Reiter	
Gaither	Knutson	Neuville	Robling	
Hann	Koering	Nienow	Rosen	

The motion prevailed.

The question was taken on the adoption of the Bachmann motion.

Senator Johnson, D.E. moved that those not voting be excused from voting.

The question was taken on the adoption of the Johnson, D.E. motion.

The roll was called and there were yeas 37 and nays 29, as follows:

Those who voted in the affirmative were:

Anderson	Foley	Lourey	Ranum	Sparks
Bakk	Higgins	Marko	Rest	Stumpf
Berglin	Hottinger	Marty	Sams	Tomassoni
Betzold	Johnson, D.E.	Metzen	Saxhaug	Vickerman
Chaudhary	Kelley	Moua	Scheid	Wiger
Cohen	Koering	Murphy	Skoe	
Dibble	Kubly	Pappas	Skoglund	
Dille	Langseth	Pogemiller	Solon	

Those who voted in the negative were:

Bachmann	Johnson, D.J.	Larson	Nienow	Robling
Belanger	Jungbauer	LeClair	Olson	Rosen
Day	Kierlin	Limmer	Ortman	Ruud
Fischbach	Kiscaden	McGinn	Ourada	Senjem
Gaither	Kleis	Michel	Pariseau	Wergin
Hann	Knutson	Neuville	Reiter	

The motion prevailed.

The roll was called on the Bachmann motion, and there were yeas 31 and nays 35, as follows:

Those who voted in the affirmative were:

Bachmann	Johnson, D.J.	Larson	Olson	Ruud
Belanger	Jungbauer	LeClair	Ortman	Senjem
Day	Kierlin	Limmer	Ourada	Wergin
Dille	Kiscaden	McGinn	Pariseau	
Fischbach	Kleis	Michel	Reiter	
Gaither	Knutson	Neuville	Robling	
Hann	Koering	Nienow	Rosen	

Those who voted in the negative were:

Anderson	Foley	Lourey	Pogemiller	Skoglund
Bakk	Higgins	Marko	Ranum	Solon
Berglin	Hottinger	Marty	Rest	Sparks
Betzold	Johnson, D.E.	Metzen	Sams	Stumpf
Chaudhary	Kelley	Moua	Saxhaug	Tomassoni
Cohen	Kubly	Murphy	Scheid	Vickerman
Dibble	Langseth	Pappas	Skoe	Wiger

The motion did not prevail.

MOTIONS AND RESOLUTIONS - CONTINUED

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

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 35 and nays 25, as follows:

Those who voted in the affirmative were:

Anderson	Foley	Lourey	Pogemiller	Skoglund
Bakk	Higgins	Marko	Ranum	Solon
Berglin	Hottinger	Marty	Rest	Sparks
Betzold	Johnson, D.E.	Metzen	Sams	Stumpf
Chaudhary	Kelley	Moua	Saxhaug	Tomassoni
Cohen	Kubly	Murphy	Scheid	Vickerman
Dibble	Langseth	Pappas	Skoe	Wiger

Those who voted in the negative were:

Bachmann	Johnson, D.J.	Larson	Nienow	Robling
Belanger	Jungbauer	LeClair	Olson	Rosen
Fischbach	Kierlin	Limmer	Ortman	Ruud
Gaither	Kleis	McGinn	Pariseau	Senjem
Hann	Koering	Michel	Reiter	Wergin

The motion prevailed.

CONSENT CALENDAR

S.F. No. 1653: A bill for an act relating to real property; clarifying plat and survey approval requirements; clarifying the process for preserving section and quarter-section markers; amending Minnesota Statutes 2002, sections 160.15; 389.09.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 2386: A bill for an act relating to economic development; providing a bidding exception for certain federally subsidized transit facilities; amending Minnesota Statutes 2002, section 469.015, subdivision 4.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 2647: A bill for an act relating to local government; authorizing the city of St. Paul to participate in the creation of, and to contract with, a nonprofit organization for management and operation of the RiverCentre complex.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 1928: A bill for an act relating to commerce; making changes in the board membership of MCHA; requiring the association to post notice of the reasons for a change in writing carriers; amending Minnesota Statutes 2002, section 62E.10, subdivision 2; Minnesota Statutes 2003 Supplement, section 62E.13, subdivision 2.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 2357: A bill for an act relating to criminal justice; defining collateral sanctions; requiring the revisor of statutes to create a new statutory chapter containing cross-references to collateral sanction laws located throughout Minnesota Statutes.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 1671: A bill for an act relating to health; placing the term "assisted living facility" into statute as a formal means of referring to registered housing with services establishments; proposing coding for new law in Minnesota Statutes, chapter 144D.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 2300: A bill for an act relating to redistricting; adjusting the boundary between house districts 41A and 41B to correct an error; proposing coding for new law in Minnesota Statutes, chapter 2.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

H.F. No. 307: A bill for an act relating to elections; providing an exemption for noncommercial signs from ordinances that limit the number of noncommercial signs; amending Minnesota Statutes 2002, section 211B.045.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 61 and nays 2, as follows:

Those who voted in the affirmative were:

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

Ranum	Ruud	Scheid	Sparks	Vickerman
Reiter	Sams	Skoe	Stumpf	Wergin
Robling	Saxhaug	Solon	Tomassoni	Wiger
Rosen				

Those who voted in the negative were:

Rest	Skoglund
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So the bill passed and its title was agreed to.

S.F. No. 1604: A bill for an act relating to human services; requiring the commissioner of human services to provide rate notices within certain timelines under certain conditions; requiring a planned nursing facility closure to be budget neutral; amending Minnesota Statutes 2002, sections 256B.431, subdivision 10; 256B.437, subdivision 3.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 1958: A bill for an act relating to local government; authorizing townships to make payments by electronic or wire transfer, and accept payment by credit card or other methods; authorizing townships to use electronic approvals; amending Minnesota Statutes 2002, section 471.381.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 2772: A bill for an act relating to local government; authorizing the city of Hoyt Lakes to extend its zoning and subdivision regulations within part of the town of White subject to the town of White's consent.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Reports of Committees.

REPORTS OF COMMITTEES

Senator Johnson, D.E. moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 2512: A bill for an act relating to health; providing for public health emergencies; amending Minnesota Statutes 2002, sections 144.419, subdivision 1; 144.4195, subdivisions 1, 2, 3, 5; Minnesota Statutes 2003 Supplement, section 13.37, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 12; 144; repealing Laws 2002, chapter 402, section 21.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 12.03, subdivision 4d, is amended to read:

Subd. 4d. [FACILITY.] "Facility" means any real property, building, structure, or other improvement to real property or any motor vehicle, rolling stock, aircraft, watercraft, or other means of transportation. Facility does not include a private residence but may include a licensed health care facility only when other alternatives are not feasible.

Sec. 2. Minnesota Statutes 2002, section 12.39, subdivision 2, is amended to read:

Subd. 2. [INFORMATION GIVEN.] ~~Where feasible,~~ Before performing examinations, testing, treatment, or vaccination of an individual under subdivision 1, a health care provider shall notify

the individual of the right to refuse the examination, testing, treatment, or vaccination, and the consequences, including isolation or quarantine, upon refusal.

Sec. 3. [12.60] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] For purposes of sections 12.60 to 12.64, the definitions in this section apply.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of health.

Subd. 3. [DIRECTOR.] "Director" means the director of the Division of Homeland Security and Emergency Management.

Subd. 4. [EMERGENCY PLAN.] "Emergency plan" includes:

(1) any plan for managing a public health emergency developed by the commissioner or a local public health official;

(2) any plan for managing a public health emergency developed by one or more hospitals, clinics, nursing homes, health care plans, or other parts of the health care system and approved by the commissioner or a local public health official in consultation with the director or local emergency management officials; or

(3) any provision for assistance by out-of-state responders under an interstate or international compact, including, but not limited to, the Emergency Management Assistance Compact.

Subd. 5. [LOCAL GOVERNMENT.] "Local government" means:

(1) a board of health established under section 145A.03 or 145A.07; or

(2) a city, county, or other municipal or public corporation or any instrumentality thereof.

Subd. 6. [PUBLIC HEALTH EMERGENCY RESPONDER OR RESPONDER.] "Public health emergency responder" or "responder" means a person or organization that provides health care or health services including, but not limited to, a physician, physician assistant, registered or other nurse, certified nursing assistant, or other applicable staff position within a health care provider organization; pharmacist; chiropractor; dentist; emergency medical technician; laboratory technician; firefighter or another registered as a first responder; mental health professional; hospital; nursing facility, boarding care facility, home health care agency, or other long-term care provider; medical or dental clinic; and medical laboratory and including, but not limited to, ambulance service personnel and dispatch services and a person not registered as a first responder but who is affiliated with a medical response unit and is dispatched to the scene of an emergency by a public safety answering point or licensed ambulance service.

Subd. 7. [STATE.] "State" means the state of Minnesota or any of its agencies, departments, boards, or commissions.

Subd. 8. [VOLUNTEER.] "Volunteer" means an individual that offers services to state or local government without expectation of compensation from the state or local government. A volunteer may receive lodging, meal, and transportation expenses incidental to the services, or per diem payments intended to approximate such expenses, without loss of volunteer status.

Sec. 4. [12.61] [LIABILITY PROTECTION FOR PUBLIC HEALTH VOLUNTEERS.]

(a) The policy of the state is to encourage preparation for and response to a catastrophic public health emergency by all citizens, especially those trained in health care and related fields.

(b) A volunteer shall have the same liability protection and right to defense and indemnification as a paid employee of the local government or of the state if the volunteer:

(1) registers with and is accepted by a local government or the state to assist in a future or existing public health emergency;

(2) acts at the express or implied request of the local government or the state;

(3) acts within the scope of duties approved by the local government or the state and within the volunteer's limits of training and skills;

(4) cooperates with the local government or the state in the defense or prosecution of any administrative or legal action arising out of the volunteer's work; and

(5) has not acted, or failed to act, in a manner constituting willful misconduct, gross negligence, or reckless disregard for the life or health of those in the volunteer's care.

(c) This section applies to volunteer activity both during a public health emergency and during training or other preparations directed to readiness for such an emergency.

Sec. 5. [12.62] [TORT ACTION AGAINST A VOLUNTEER.]

(a) In the case of a local government volunteer, the exclusive cause of action for any tort claim brought against a volunteer who satisfies the requirements of section 12.61 is an action under chapter 466 against the local government only.

(b) In the case of a state volunteer, the exclusive cause of action for any tort claim brought against a volunteer who satisfies the requirements of section 12.61 is an action under section 3.736 against the state only.

(c) No tort action is permitted against a volunteer in an individual capacity, or the volunteer's personal insurance coverage, when the volunteer satisfies the requirements of section 12.61.

(d) For any action brought under this section, the single occurrence limit of sections 3.736, subdivision 4, and 466.04, subdivision 1, applies to a volunteer's alleged action or failure to act and not to the public health emergency.

Sec. 6. [12.63] [RESPONDER LIABILITY LIMITATION; HOSPITAL CAPACITY EXCEEDED.]

For purposes of this section, "regional hospital system" means all hospitals in one of the hospital bioterrorism preparedness program geographic regions of the state set forth in the most recent hospital preparedness plan available on the Minnesota Department of Health Web site at www.health.state.mn.us/oep. During a national security emergency or a peacetime emergency due to a public health emergency declared under section 12.31, the governor may issue an emergency executive order upon finding that the number of seriously ill or injured persons exceeds the emergency capacity of one or more regional hospital systems and that care has to be given in temporary facilities. A responder in any impacted region acting consistent with an emergency plan is not liable for any civil damages as a result of good faith acts or omissions by that responder in rendering emergency care, advice, or assistance during the effective period of the emergency executive order.

Sec. 7. [12.64] [EMERGENCY VACCINE ADMINISTRATION AND LEGEND DRUG DISPENSING.]

When the governor has declared, under section 12.31, a national security emergency or a peacetime emergency due to a public health emergency, the commissioner may authorize any person, including, but not limited to, any person licensed or otherwise credentialed under chapters 144E, 147 to 148, 150A, 151, 153, or 156, to administer vaccinations or dispense legend drugs if the commissioner determines that such action is necessary to protect the health and safety of the public. The authorization shall be in writing and shall contain the categories of persons included in the authorization, any additional training required before performance of the vaccination or drug dispensing by such persons, any supervision required for performance of the vaccination or drug dispensing, and the duration of the authorization. The commissioner may, in writing, extend the scope and duration of the authorization as the emergency warrants. Any person licensed or otherwise credentialed under chapters 144E, 147 to 148, 150A, 151, 153, or 156 shall not be subject to criminal liability, administrative penalty, professional discipline, or other administrative

sanction because the person acted outside the scope of activities allowed under the person's license or other credential in good faith performance of vaccination or drug dispensing duties assigned under this section.

Sec. 8. Minnesota Statutes 2003 Supplement, section 13.37, subdivision 3, is amended to read:

Subd. 3. [DATA DISSEMINATION.] (a) Crime prevention block maps and names, home addresses, and telephone numbers of volunteers who participate in community crime prevention programs may be disseminated to volunteers participating in crime prevention programs. The location of a National Night Out event is public data.

(b) A government entity engaged in or temporarily assisting with emergency preparedness or response may make any data classified as security information under subdivision 1, paragraph (a), accessible to another government entity or to a private person or organization engaged in or temporarily assisting with emergency preparedness or response, an agency or political subdivision of another state or country, a federal agency, an international organization, or a tribal authority if the disclosing government entity determines that granting the access will aid public health, promote public safety, assist law enforcement, or otherwise reduce risk to the security of information, possessions, individuals, or property.

Sec. 9. Minnesota Statutes 2002, section 144.419, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of ~~this section and section 144.4195~~ sections 144.419 to 144.4196, the following definitions apply:

(1) "bioterrorism" means the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence the conduct of government or to intimidate or coerce a civilian population;

(2) "communicable disease" means a disease caused by a living organism or virus and believed to be caused by bioterrorism or a new or novel or previously controlled or eradicated infectious agent or biological toxin that can be transmitted person to person and for which isolation or quarantine is an effective control strategy, excluding a disease that is directly transmitted as defined under section 144.4172, subdivision 5;

(3) "isolation" means separation, during the period of communicability, of a person infected with a communicable disease, in a place and under conditions so as to prevent direct or indirect transmission of an infectious agent to others; and

(4) "quarantine" means restriction, during a period of communicability, of activities or travel of an otherwise healthy person who likely has been exposed to a communicable disease to prevent disease transmission during the period of communicability in the event the person is infected.

Sec. 10. Minnesota Statutes 2002, section 144.4195, subdivision 1, is amended to read:

Subdivision 1. [EX PARTE ORDER FOR ISOLATION OR QUARANTINE.] (a) Before isolating or quarantining a person or group of persons, the commissioner of health shall obtain a written, ex parte order authorizing the isolation or quarantine from the District Court of Ramsey County, the county where the person or group of persons is located, or a county adjoining the county where the person or group of persons is located. The evidence or testimony in support of an application may be made or taken by telephone, facsimile transmission, video equipment, or other electronic communication. The court shall grant the order upon a finding that probable cause exists to believe isolation or quarantine is warranted to protect the public health.

(b) The order must state the specific facts justifying isolation or quarantine, must state that the person being isolated or quarantined has a right to a court hearing under this section and a right to be represented by counsel during any proceeding under this section, and must be provided immediately to each person isolated or quarantined. The commissioner of health shall provide a

copy of the authorizing order to the commissioner of public safety and other peace officers known to the commissioner to have jurisdiction over the site of the isolation or quarantine. If feasible, the commissioner of health shall give each person being isolated or quarantined an estimate of the expected period of the person's isolation or quarantine.

(c) If it is impracticable to provide individual orders to a group of persons isolated or quarantined, one order shall suffice to isolate or quarantine a group of persons believed to have been commonly infected with or exposed to a communicable disease. A copy of the order and notice shall be posted in a conspicuous place:

(1) in the isolation or quarantine premises, but only if the persons to be isolated or quarantined are already at the isolation or quarantine premises and have adequate access to the order posted there; or

(2) in another location where the group of persons to be isolated or quarantined is located, such that the persons have adequate access to the order posted there.

If the court determines that posting the order according to clause (1) or (2) is impractical due to the number of persons to be isolated or quarantined or the geographical area affected, the court must use the best means available to ensure that the affected persons are fully informed of the order and notice.

(d) A peace officer, as defined under section 144.4803, subdivision 16, shall enforce an order under this section and may use all necessary and lawful means to apprehend, hold, transport, quarantine, or isolate a person subject to the order. "Necessary and lawful means" includes reasonable force but not deadly force as defined in section 609.066, subdivision 1. The peace officer shall act upon telephone, facsimile, or other electronic notification of the court order. The commissioner or an agent of a local board of health authorized under section 145A.04 shall advise the peace officer, upon request, of protective measures necessary to protect the peace officer from possible transmission of the communicable disease.

(e) No person may be isolated or quarantined pursuant to an order issued under this subdivision for longer than 21 days without a court hearing under subdivision 3 to determine whether isolation or quarantine should continue. A person who is isolated or quarantined may request a court hearing under subdivision 3 at any time before the expiration of the order.

Sec. 11. Minnesota Statutes 2002, section 144.4195, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY HOLD UPON COMMISSIONER'S DIRECTIVE.] (a) Notwithstanding subdivision 1, the commissioner of health may by directive isolate or quarantine a person or group of persons without first obtaining a written, ex parte order from the court if a delay in isolating or quarantining the person or group of persons would significantly jeopardize the commissioner of health's ability to prevent or limit the transmission of a communicable or potentially communicable disease to others. The commissioner must provide the person or group of persons subject to the temporary hold with notice that the person has a right to request a court hearing under this section and a right to be represented by counsel during a proceeding under this section. If it is impracticable to provide individual notice to each person subject to the temporary hold, notice of these rights may be posted in the same manner as the posting of orders under subdivision 1, paragraph (c). Following the imposition of isolation or quarantine under this subdivision, the commissioner of health shall within 24 hours apply for a written, ex parte order pursuant to subdivision 1 authorizing the isolation or quarantine. The court must rule within 24 hours of receipt of the application. If the person is under a temporary hold, the person may not be held in isolation or quarantine after the temporary hold expires unless the court issues an ex parte order under subdivision 1.

(b) A peace officer, as defined under section 144.4803, subdivision 16, shall enforce a commissioner's directive under paragraph (a) as the peace officer would enforce a court order under this section. The peace officer shall act upon telephone, facsimile, or other electronic notification of the commissioner's directive. The commissioner or an agent of a local board of health authorized under section 145A.04 shall advise the peace officer, upon request, of protective

measures necessary to protect the peace officer from possible transmission of the communicable disease.

(c) If a person subject to a commissioner's directive under paragraph (a) is already institutionalized in an appropriate health care facility, the commissioner of health may direct the facility to continue to hold the person. The facility shall take all reasonable measures to prevent the person from exposing others to the communicable disease.

Sec. 12. Minnesota Statutes 2002, section 144.4195, subdivision 3, is amended to read:

Subd. 3. [COURT HEARING.] (a) A person isolated or quarantined under an order issued pursuant to subdivision 1 or a temporary hold under subdivision 2 or the person's representative may petition the court to contest the court order or temporary hold at any time prior to the expiration of the order or temporary hold. If a petition is filed, the court must hold a hearing within 72 hours from the date of the filing. A petition for a hearing does not stay the order of isolation or quarantine. At the hearing, the commissioner of health must show by clear and convincing evidence that the isolation or quarantine is warranted to protect the public health.

(b) If the commissioner of health wishes to extend the order for isolation or quarantine past the period of time stated in subdivision 1, paragraph ~~(d)~~ (e), the commissioner must petition the court to do so. Notice of the hearing must be served upon the person or persons who are being isolated or quarantined at least three days before the hearing. If it is impracticable to provide individual notice to large groups who are isolated or quarantined, a copy of the notice may be posted in the same manner as described under subdivision 1, paragraph (c).

(c) The notice must contain the following information:

- (1) the time, date, and place of the hearing;
- (2) the grounds and underlying facts upon which continued isolation or quarantine is sought;
- (3) the person's right to appear at the hearing; and

(4) the person's right to counsel, including the right, if indigent, to be represented by counsel designated by the court or county of venue.

(d) The court may order the continued isolation or quarantine of the person or group of persons if it finds by clear and convincing evidence that the person or persons would pose an imminent health threat to others if isolation or quarantine was lifted. In no case may the isolation or quarantine continue longer than 30 days from the date of the court order issued under this subdivision unless the commissioner petitions the court for an extension. Any hearing to extend an order is governed by this subdivision.

Sec. 13. Minnesota Statutes 2002, section 144.4195, subdivision 5, is amended to read:

Subd. 5. [JUDICIAL PROCEDURES AND DECISIONS.] Court orders issued pursuant to subdivision 3 or 4 shall be based upon clear and convincing evidence and a written record of the disposition of the case shall be made and retained. Any person subject to isolation or quarantine has the right to be represented by counsel or other lawful representative. The court may choose to conduct a hearing under subdivision 3 or 4 by telephonic, interactive video, or other electronic means to maintain isolation or quarantine precautions and reduce the risk of spread of a communicable disease. Otherwise, the manner in which the request for a hearing is filed and acted upon shall be in accordance with the existing laws and rules of the courts of this state or, if the isolation or quarantine occurs during a national security or peacetime emergency, any rules that are developed by the courts for use during a national security or peacetime emergency.

Sec. 14. [144.4196] [EMPLOYEE PROTECTION.]

Subdivision 1. [DEFINITIONS.] For purposes of this section:

- (1) "qualifying employee" means a person who performs services for hire in Minnesota and

who has been subject to isolation or quarantine for a communicable disease, as defined in section 144.419, subdivision 1, clause (2). The term applies to persons who comply with isolation or quarantine restrictions because of:

(i) a commissioner's temporary hold directive;

(ii) an order of a federal quarantine officer;

(iii) a state or federal court order; or

(iv) a written recommendation of the commissioner or the commissioner's designee that the person enter isolation or quarantine. A person qualifying under this item must demonstrate that the person's isolation or quarantine was subject to monitoring by the commissioner or the commissioner's designee or by the person's own health care provider; and

(2) "employer" means a person having one or more employees in Minnesota and includes the state and any political subdivision of the state.

Subd. 2. [PROTECTIONS.] (a) An employer shall not discharge, discipline, threaten, or penalize a qualifying employee, or otherwise discriminate in the work terms, conditions, location, or privileges of the qualifying employee, because the qualifying employee has been in isolation or quarantine.

(b) A qualifying employee claiming a violation of paragraph (a) may bring a civil action for recovery of lost wages or benefits, for reinstatement, or for other relief within one year of the claimed violation or within one year of the end of the isolation or quarantine, whichever is later. A qualifying employee who prevails shall be allowed reasonable attorney fees fixed by the court.

(c) Nothing in this subdivision is intended to alter sick leave or sick pay terms of the employment relationship.

Subd. 3. [LIMITATION.] This section does not apply to work absences due to isolation or quarantine under subdivision 1 for periods longer than 21 consecutive days.

Sec. 15. [WORKERS' COMPENSATION ADVISORY COUNCIL REPORT.]

The Council on Workers' Compensation, established under Minnesota Statutes, section 175.007, must study extending workers' compensation to volunteers during a public health emergency and during emergency preparedness preparations. The report must be completed and presented to the legislature by January 15, 2005. The report must comply with Minnesota Statutes, sections 3.195 to 3.197.

Sec. 16. [HEALTH STUDY.]

(a) The commissioner of health must prepare a plan for the development and implementation of a statewide public health data management system in cooperation and consultation with representatives of local public health departments. The plan must provide state and local public health departments with a cost-effective, reliable means for collecting, utilizing, and disseminating public health data. The plan must include cost estimates for the planning and development of a statewide system. Nothing in this section requires the commissioner to collect additional health data.

(b) The plan must be completed and presented to the legislature by January 15, 2005. The plan must comply with Minnesota Statutes, sections 3.195 and 3.197.

Sec. 17. [REPEALER.]

Laws 2002, chapter 402, section 21, is repealed.

Sec. 18. [EXPIRATION.]

(a) Minnesota Statutes 2002, sections 12.03, subdivisions 1c, 4d, 6a, 9a; 12.311; 12.312;

12.381; 12.39; 13.3806, subdivisions 1a and 10a; 144.419; and 144.4195; and sections 3 to 7, and 16, expire August 1, 2008.

(b) The amendments to Minnesota Statutes, by Laws 2002, chapter 402, sections 6 to 9, 12, and 13, to sections 12.21, subdivision 3; 12.31, subdivisions 1, 2, and 3; 12.32; 12.34, subdivision 1, and the amendments in sections 2 and 8 expire August 1, 2008.

Sec. 19. [EFFECTIVE DATE.]

Sections 1 to 18 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to health; providing for public health emergencies; regulating public employees group long-term care insurance; amending Minnesota Statutes 2002, sections 12.03, subdivision 4d; 12.39, subdivision 2; 144.419, subdivision 1; 144.4195, subdivisions 1, 2, 3, 5; Minnesota Statutes 2003 Supplement, section 13.37, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 12; 144; repealing Laws 2002, chapter 402, section 21."

And when so amended the bill do pass and be re-referred to the Committee on State and Local Government Operations. Amendments adopted. Report adopted.

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

S.F. No. 2491: A bill for an act relating to insurance; creating a statewide health insurance pool for school district employees; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 62A.

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

Page 1, line 21, before the period, insert "subject to the provisions of chapter 317A"

Page 2, line 6, after the semicolon, insert "and"

Page 2, line 8, delete "; and"

Page 2, line 9, delete everything before the period

Page 2, after line 22, insert:

"(d) In the event the plan does not provide coverage under subdivision 5, paragraph (b), by December 15, 2008, the board expires and this section expires on that date."

Page 2, line 23, delete "(d)" and insert "(e)"

Page 2, line 25, delete "(e)" and insert "(f)"

And when so amended the bill be re-referred to the Committee on Health and Family Security without recommendation. Amendments adopted. Report adopted.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Koering moved that S.F. No. 2725 be withdrawn from the Committee on Environment and Natural Resources and re-referred to the Committee on Finance. The motion prevailed.

Senator Wiger moved that S.F. No. 1626 be taken from the table. The motion prevailed.

S.F. No. 1626: A bill for an act relating to municipalities; making certain changes regarding storm and sanitary sewer authorizations; amending Minnesota Statutes 2002, section 444.075, subdivisions 1, 1a, 2, 3.

CONCURRENCE AND REPASSAGE

Senator Wiger moved that the Senate concur in the amendments by the House to S.F. No. 1626 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1626 was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

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

Those who voted in the affirmative were:

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

So the bill, as amended, was repassed and its title was agreed to.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Senator Anderson introduced--

S.F. No. 2957: A bill for an act relating to economic development; limiting what is a qualifying business in a job opportunity building zone; amending Minnesota Statutes 2003 Supplement, section 469.310, subdivision 11.

Referred to the Committee on Jobs, Energy and Community Development.

Senator Hottinger introduced--

S.F. No. 2958: A bill for an act relating to taxation; property; establishing an aggregate resource preservation property tax program; requiring a restrictive covenant on certain land; providing a classification for property containing certain unmined aggregate; providing definitions; amending Minnesota Statutes 2003 Supplement, section 273.13, subdivision 23; proposing coding for new law in Minnesota Statutes, chapter 273.

Referred to the Committee on Taxes.

Senator Sams introduced--

S.F. No. 2959: A bill for an act proposing an amendment to the Minnesota Constitution, by adding a section to article XIV, to dedicate motor vehicle sales tax revenue attributable to sale of new motor vehicles exclusively to public transit purposes and all other motor vehicle sales tax revenue exclusively to highway purposes.

Referred to the Committee on Finance.

Senator Johnson, D.E. introduced--

S.F. No. 2960: A bill for an act relating to civil liability; providing for immunity from liability arising from donated fire or emergency medical services equipment; proposing coding for new law in Minnesota Statutes, chapter 604A.

Referred to the Committee on Judiciary.

Senator Dille introduced--

S.F. No. 2961: A bill for an act relating to human services; placing nursing facilities in the city of Dassel into a different geographic group; amending Minnesota Statutes 2002, section 256B.431, subdivision 2b.

Referred to the Committee on Health and Family Security.

Senators Knutson, Ourada and Ortman introduced--

S.F. No. 2962: A bill for an act relating to elections; modifying certain restrictions on corporate spending in political campaigns; amending Minnesota Statutes 2002, section 211B.15, subdivisions 1, 17, by adding a subdivision.

Referred to the Committee on Elections.

Senators Frederickson, Vickerman, Kubly, Fischbach and Rosen introduced--

S.F. No. 2963: A bill for an act relating to health; exempting certain food establishments from certain equipment design and construction rules; amending Minnesota Statutes 2002, section 157.011, by adding a subdivision.

Referred to the Committee on Health and Family Security.

Senators Kleis, Michel, Ourada and Wergin introduced--

S.F. No. 2964: A bill for an act relating to employment; amending the definition of prevailing wage rate; amending Minnesota Statutes 2002, section 177.42, subdivision 6.

Referred to the Committee on Jobs, Energy and Community Development.

Senators Dibble and Sams introduced--

S.F. No. 2965: A bill for an act relating to the environment; extending the period for collecting dry cleaner environmental reimbursement fees; amending Minnesota Statutes 2002, section 115B.49, subdivision 4a.

Referred to the Committee on Environment and Natural Resources.

Senators Michel and Kiscaden introduced--

S.F. No. 2966: A bill for an act relating to education; modifying student enrollment in the postsecondary enrollment options program; modifying the counseling requirements of the postsecondary enrollment options program; amending Minnesota Statutes 2002, section 124D.09, subdivisions 5, 6.

Referred to the Committee on Education.

Senators Hann, Kiscaden and Olson introduced--

S.F. No. 2967: A bill for an act relating to education; prohibiting negotiation of teacher contracts during the school year; repealing the January 15 penalty for failing to settle teacher contracts; proposing coding for new law in Minnesota Statutes, chapter 179A; repealing Minnesota Statutes 2002, section 123B.05, subdivisions 2, 3, 4, 5; Minnesota Statutes 2003 Supplement, section 123B.05, subdivision 1.

Referred to the Committee on Education.

Senators Rosen, Knutson, Ruud, McGinn and Foley introduced--

S.F. No. 2968: A bill for an act relating to crime; increasing penalties for certain drug paraphernalia violations; amending Minnesota Statutes 2002, sections 152.092; 152.093.

Referred to the Committee on Crime Prevention and Public Safety.

Senators Kubly; Johnson, D.E.; Metzen; Dille and Pogemiller introduced--

S.F. No. 2969: A bill for an act relating to taxation; extending the construction date requirement applicable to a property tax exemption for a biomass electric generation facility; extending the duration of a sales tax exemption on construction materials for a biomass electric generation facility; amending Minnesota Statutes 2003 Supplement, section 272.02, subdivision 47; Laws 2001, First Special Session chapter 5, article 12, section 67.

Referred to the Committee on Taxes.

Senator Larson introduced--

S.F. No. 2970: A bill for an act relating to taxes; increasing the population size of cities permitted to hold land for economic development purposes for 15 years; amending Minnesota Statutes 2002, section 272.02, subdivision 39.

Referred to the Committee on Taxes.

Senator Tomassoni introduced--

S.F. No. 2971: A bill for an act relating to local government; providing a ceiling in cities of the first class for percentage net tax capacity in TIF districts above which a TIF moratorium applies.

Referred to the Committee on Taxes.

Senator Pappas introduced--

S.F. No. 2972: A bill for an act relating to urban riverfronts; requiring a model ordinance.

Referred to the Committee on State and Local Government Operations.

Senator Jungbauer introduced--

S.F. No. 2973: A bill for an act relating to game and fish; modifying decoy restrictions; amending Minnesota Statutes 2002, section 97B.811, subdivision 3; repealing Minnesota Statutes 2002, section 97B.811, subdivision 4.

Referred to the Committee on Environment and Natural Resources.

Senators Fischbach; Johnson, D.E.; Sams; Dille and Larson introduced--

S.F. No. 2974: A bill for an act relating to taxation; authorizing an increased levy by the Sauk River Watershed District.

Referred to the Committee on Taxes.

Senators Kelley and Ranum introduced--

S.F. No. 2975: A bill for an act relating to education; providing for grants for site-based achievement contracts and for implementing innovative school personnel methods; appropriating money.

Referred to the Committee on Education.

Senators Johnson, D.J. and Jungbauer introduced--

S.F. No. 2976: A bill for an act relating to education; modifying student transportation fees; amending Minnesota Statutes 2002, sections 123B.36, subdivision 1; 123B.37, subdivision 1; 123B.88, subdivision 1.

Referred to the Committee on Finance.

Senator Kelley introduced--

S.F. No. 2977: A bill for an act relating to education; modifying school accountability requirements; amending Minnesota Statutes 2003 Supplement, section 120B.36.

Referred to the Committee on Education.

Senator Vickerman introduced--

S.F. No. 2978: A bill for an act relating to gaming; assessing a tax of six percent on wagers at an authorized card club conducted by a licensed pari-mutuel racetrack; amending Minnesota Statutes 2002, sections 240.135; 240.15, subdivision 1; 240.30, subdivision 4.

Referred to the Committee on Agriculture, Veterans and Gaming.

Senator Kleis introduced--

S.F. No. 2979: A bill for an act relating to finance; exempting a certain sale of the Paramount Arts District Regional Arts Center in the city of St. Cloud from certain requirements; amending Laws 1998, chapter 404, section 23, subdivision 17, as amended.

Referred to the Committee on Finance.

Senators Dibble, Marko, Rest and Murphy introduced--

S.F. No. 2980: A bill for an act relating to taxation; providing for deposit of revenues from sales tax on motor vehicles; removing obsolete language; amending Minnesota Statutes 2003 Supplement, section 297B.09, subdivision 1.

Referred to the Committee on Finance.

Senators Stumpf and Saxhaug introduced--

S.F. No. 2981: A bill for an act relating to game and fish; providing for a quality deer management pilot zone in Kittson, Lake of the Woods, Marshall, Pennington, and Roseau Counties; requiring a report; imposing a penalty.

Referred to the Committee on Environment and Natural Resources.

MEMBERS EXCUSED

Senator Frederickson was excused from the Session of today. Senator Limmer was excused from the Session of today from 11:50 a.m to 12:15 p.m. Senator Bachmann was excused from the Session of today from 11:55 a.m. to 12:25 p.m. Senator Reiter was excused from the Session of today from 12:10 to 12:20 p.m.

ADJOURNMENT

Senator Johnson, D.E. moved that the Senate do now adjourn until 9:00 a.m., Thursday, March 25, 2004. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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