STATE OF MINNESOTA

EIGHTY-THIRD SESSION — 2003

FORTIETH DAY

SAINT PAUL, MINNESOTA, TUESDAY, APRIL 22, 2003

The House of Representatives convened at 12:00 noon and was called to order by Steve Sviggum, Speaker of the House.

Prayer was offered by Pastor Walter Glucklich, Elim Mission Church, Cokato, Minnesota.

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

The roll was called and the following members were present:

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

A quorum was present.

Erhardt, Fuller and Walker were excused.

Entenza was excused until 1:10 p.m. Beard was excused until 2:05 p.m.

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

REPORTS OF CHIEF CLERK

S. F. No. 28 and H. F. No. 155, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Kohls moved that S. F. No. 28 be substituted for H. F. No. 155 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 233 and H. F. No. 496, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Abeler moved that the rules be so far suspended that S. F. No. 233 be substituted for H. F. No. 496 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 272 and H. F. No. 572, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Samuelson moved that the rules be so far suspended that S. F. No. 272 be substituted for H. F. No. 572 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 421 and H. F. No. 389, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Hornstein moved that the rules be so far suspended that S. F. No. 421 be substituted for H. F. No. 389 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 433 and H. F. No. 410, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Abeler moved that S. F. No. 433 be substituted for H. F. No. 410 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 727 and H. F. No. 653, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Olsen, S., moved that S. F. No. 727 be substituted for H. F. No. 653 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 872 and H. F. No. 1114, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Kohls moved that the rules be so far suspended that S. F. No. 872 be substituted for H. F. No. 1114 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 907 and H. F. No. 920, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Fuller moved that the rules be so far suspended that S. F. No. 907 be substituted for H. F. No. 920 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 941 and H. F. No. 1066, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Zellers moved that the rules be so far suspended that S. F. No. 941 be substituted for H. F. No. 1066 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 942 and H. F. No. 909, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Lipman moved that S. F. No. 942 be substituted for H. F. No. 909 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1158 and H. F. No. 1035, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Strachan moved that the rules be so far suspended that S. F. No. 1158 be substituted for H. F. No. 1035 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1176 and H. F. No. 1326, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Latz moved that the rules be so far suspended that S. F. No. 1176 be substituted for H. F. No. 1326 and that the House File be indefinitely postponed. The motion prevailed.

PETITIONS AND COMMUNICATIONS

The following communications were received:

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

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

I have the honor to inform you that the following enrolled Act of the 2003 Session of the State Legislature has been received from the Office of the Governor and is deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S. F. No.	*H. F. No.*	*Session Laws Chapter No.*	*Time and Date Approved 2003*	*Date Filed 2003*
112		12	5:45 p.m. April 11	April 14

Sincerely,

MARY KIFFMEYER
Secretary of State

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

The Honorable Steve Sviggum
Speaker of the House of Representatives

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S. F. No.	*H. F. No.*	*Session Laws Chapter No.*	*Time and Date Approved 2003*	*Date Filed 2003*
187		14	4:45 p.m. April 14	April 14

Sincerely,

MARY KIFFMEYER
Secretary of State

REPORTS OF STANDING COMMITTEES

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

H. F. No. 437, A bill for an act relating to human services; expanding the alternative quality assurance licensing system; extending a sunset; appropriating money; amending Minnesota Statutes 2002, sections 256B.095; 256B.0951, subdivisions 1, 2, 3, 5, 7, 9; 256B.0952, subdivision 1; 256B.0953, subdivision 2; 256B.0955.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

WELFARE REFORM; PUBLIC ASSISTANCE MODIFICATIONS

Section 1. Minnesota Statutes 2002, section 256.984, subdivision 1, is amended to read:

Subdivision 1. [DECLARATION.] Every application for public assistance under this chapter ~~and/or~~ or chapters 256B, 256D, ~~256K, MFIP program~~ 256J, and food stamps or food support under chapter 393 shall be in writing or reduced to writing as prescribed by the state agency and shall contain the following declaration which shall be signed by the applicant:

"I declare under the penalties of perjury that this application has been examined by me and to the best of my knowledge is a true and correct statement of every material point. I understand that a person convicted of perjury may be sentenced to imprisonment of not more than five years or to payment of a fine of not more than $10,000, or both."

Sec. 2. Minnesota Statutes 2002, section 256D.06, subdivision 2, is amended to read:

Subd. 2. [EMERGENCY NEED.] Notwithstanding the provisions of subdivision 1, a grant of emergency general assistance shall, to the extent funds are available, be made to an eligible single adult, married couple, or family for an emergency need, as defined in rules promulgated by the commissioner, where the recipient requests temporary assistance not exceeding 30 days if an emergency situation appears to exist and ~~(a) until March 31, 1998, the individual is ineligible for the program of emergency assistance under aid to families with dependent children and is not a recipient of aid to families with dependent children at the time of application; or (b)~~ the individual or

family is ~~(i)~~ ineligible for MFIP or is not a participant of MFIP~~; and (ii) is ineligible for emergency assistance under section 256J.48~~. If an applicant or recipient relates facts to the county agency which may be sufficient to constitute an emergency situation, the county agency shall, to the extent funds are available, advise the person of the procedure for applying for assistance according to this subdivision. An emergency general assistance grant is available to a recipient not more than once in any 12-month period. Funding for an emergency general assistance program is limited to the appropriation. Each fiscal year, the commissioner shall allocate to counties the money appropriated for emergency general assistance grants based on each county agency's average share of state's emergency general expenditures for the immediate past three fiscal years as determined by the commissioner, and may reallocate any unspent amounts to other counties. Any emergency general assistance expenditures by a county above the amount of the commissioner's allocation to the county must be made from county funds.

Sec. 3. Minnesota Statutes 2002, section 256D.44, subdivision 5, is amended to read:

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

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

(1) high protein diet, at least 80 grams daily, 25 percent of thrifty food plan;

(2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent of thrifty food plan;

(3) controlled protein diet, less than 40 grams and requires special products, 125 percent of thrifty food plan;

(4) low cholesterol diet, 25 percent of thrifty food plan;

(5) high residue diet, 20 percent of thrifty food plan;

(6) pregnancy and lactation diet, 35 percent of thrifty food plan;

(7) gluten-free diet, 25 percent of thrifty food plan;

(8) lactose-free diet, 25 percent of thrifty food plan;

(9) antidumping diet, 15 percent of thrifty food plan;

(10) hypoglycemic diet, 15 percent of thrifty food plan; or

(11) ketogenic diet, 25 percent of thrifty food plan.

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

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

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

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

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

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

Sec. 4. Minnesota Statutes 2002, section 256D.46, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] A county agency must grant emergency Minnesota supplemental aid ~~must be granted,~~ to the extent funds are available, if the recipient is without adequate resources to resolve an emergency that, if unresolved, will threaten the health or safety of the recipient. For the purposes of this section, the term "recipient" includes persons for whom a group residential housing benefit is being paid under sections 256I.01 to 256I.06.

Sec. 5. Minnesota Statutes 2002, section 256D.46, subdivision 3, is amended to read:

Subd. 3. [PAYMENT AMOUNT.] The amount of assistance granted under emergency Minnesota supplemental aid is limited to the amount necessary to resolve the emergency. An emergency Minnesota supplemental aid grant is available to a recipient no more than once in any 12-month period. Funding for emergency Minnesota supplemental aid is limited to the appropriation. Each fiscal year, the commissioner shall allocate to counties the money appropriated for emergency Minnesota supplemental aid grants based on each county agency's average share of state's emergency Minnesota supplemental aid expenditures for the immediate past three fiscal years as determined by the commissioner, and may reallocate any unspent amounts to other counties. Any emergency Minnesota supplemental aid expenditures by a county above the amount of the commissioner's allocation to the county must be made from county funds.

Sec. 6. Minnesota Statutes 2002, section 256D.48, subdivision 1, is amended to read:

Subdivision 1. [NEED FOR PROTECTIVE PAYEE.] The county agency shall determine whether a recipient needs a protective payee when a physical or mental condition renders the recipient unable to manage funds and when payments to the recipient would be contrary to the recipient's welfare. Protective payments must be issued

when there is evidence of: (1) repeated inability to plan the use of income to meet necessary expenditures; (2) repeated observation that the recipient is not properly fed or clothed; (3) repeated failure to meet obligations for rent, utilities, food, and other essentials; (4) evictions or a repeated incurrence of debts; or (5) lost or stolen checks~~; or (6) use of emergency Minnesota supplemental aid more than twice in a calendar year~~. The determination of representative payment by the Social Security Administration for the recipient is sufficient reason for protective payment of Minnesota supplemental aid payments.

Sec. 7. Minnesota Statutes 2002, section 256J.01, subdivision 5, is amended to read:

Subd. 5. [COMPLIANCE SYSTEM.] The commissioner shall administer a compliance system for the state's temporary assistance for needy families (TANF) program, the food stamp program, ~~emergency assistance,~~ general assistance, medical assistance, general assistance medical care, emergency general assistance, Minnesota supplemental aid, preadmission screening, child support program, and alternative care grants under the powers and authorities named in section 256.01, subdivision 2. The purpose of the compliance system is to permit the commissioner to supervise the administration of public assistance programs and to enforce timely and accurate distribution of benefits, completeness of service and efficient and effective program management and operations, to increase uniformity and consistency in the administration and delivery of public assistance programs throughout the state, and to reduce the possibility of sanction and fiscal disallowances for noncompliance with federal regulations and state statutes.

Sec. 8. Minnesota Statutes 2002, section 256J.02, subdivision 2, is amended to read:

Subd. 2. [USE OF MONEY.] State money appropriated for purposes of this section and TANF block grant money must be used for:

(1) financial assistance to or on behalf of any minor child who is a resident of this state under section 256J.12;

(2) ~~employment and training services under this chapter or chapter 256K;~~

~~(3) emergency financial assistance and services under section 256J.48;~~

~~(4) diversionary assistance under section 256J.47;~~

~~(5)~~ the health care and human services training and retention program under chapter 116L, for costs associated with families with children with incomes below 200 percent of the federal poverty guidelines;

~~(6)~~ (3) the pathways program under section 116L.04, subdivision 1a;

~~(7) welfare to work extended employment services for MFIP participants with severe impairment to employment as defined in section 268A.15, subdivision 1a;~~

~~(8) the family homeless prevention and assistance program under section 462A.204;~~

~~(9) the rent assistance for family stabilization demonstration project under section 462A.205;~~

~~(10)~~ (4) welfare to work transportation authorized under Public Law ~~Number~~ 105-178;

~~(11)~~ (5) reimbursements for the federal share of child support collections passed through to the custodial parent;

~~(12)~~ (6) reimbursements for the working family credit under section 290.0671;

~~(13) intensive ESL grants under Laws 2000, chapter 489, article 1;~~

~~(14) transitional housing programs under section 119A.43;~~

~~(15) programs and pilot projects under chapter 256K; and~~

~~(16)~~ (7) program administration under this chapter;

(8) the diversionary work program under section 256J.95;

(9) the MFIP consolidated fund under section 256J.626; and

(10) the Minnesota department of health consolidated fund under Laws 2001, First Special Session chapter 9, article 17, section 3, subdivision 2.

Sec. 9. Minnesota Statutes 2002, section 256J.021, is amended to read:

256J.021 [SEPARATE STATE PROGRAM FOR USE OF STATE MONEY.]

Beginning October 1, 2001, and each year thereafter, the commissioner of human services must treat ~~financial assistance~~ MFIP expenditures made to or on behalf of any minor child under section 256J.02, subdivision 2, clause (1), who is a resident of this state under section 256J.12, and who is part of a two-parent eligible household as expenditures under a separately funded state program and report those expenditures to the federal Department of Health and Human Services as separate state program expenditures under Code of Federal Regulations, title 45, section 263.5.

Sec. 10. Minnesota Statutes 2002, section 256J.08, is amended by adding a subdivision to read:

Subd. 11a. [CHILD ONLY CASE.] "Child only case" means a case that would be part of the child only TANF program under section 256J.88.

Sec. 11. Minnesota Statutes 2002, section 256J.08, is amended by adding a subdivision to read:

Subd. 24b. [DIVERSIONARY WORK PROGRAM OR DWP.] "Diversionary work program" or "DWP" has the meaning given in section 256J.95.

Sec. 12. Minnesota Statutes 2002, section 256J.08, is amended by adding a subdivision to read:

Subd. 28b. [EMPLOYABLE.] "Employable" means a person is capable of performing existing positions in the local labor market, regardless of the current availability of openings for those positions.

Sec. 13. Minnesota Statutes 2002, section 256J.08, is amended by adding a subdivision to read:

Subd. 34a. [FAMILY VIOLENCE.] (a) "Family violence" means the following, if committed against a family or household member by a family or household member:

(1) physical harm, bodily injury, or assault;

(2) the infliction of fear of imminent physical harm, bodily injury, or assault; or

(3) terroristic threats, within the meaning of section 609.713, subdivision 1; criminal sexual conduct, within the meaning of section 609.342, 609.343, 609.344, 609.345, or 609.3451; or interference with an emergency call within the meaning of section 609.78, subdivision 2.

(b) For the purposes of family violence, "family or household member" means:

(1) spouses and former spouses;

(2) parents and children;

(3) persons related by blood;

(4) persons who are residing together or who have resided together in the past;

(5) persons who have a child in common regardless of whether they have been married or have lived together at any time;

(6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at anytime; and

(7) persons involved in a current or past significant romantic or sexual relationship.

Sec. 14. Minnesota Statutes, section 256J.08, is amended by adding a subdivision to read:

Subd. 34b. [FAMILY VIOLENCE WAIVER.] "Family violence waiver" means a waiver of the 60-month time limit for victims of family violence who meet the criteria in section 256J.545 and are complying with an employment plan in section 256J.521, subdivision 3.

Sec. 15. Minnesota Statutes 2002, section 256J.08, subdivision 35, is amended to read:

Subd. 35. [FAMILY WAGE LEVEL.] "Family wage level" means 110 percent of the transitional standard as specified in section 256J.24, subdivision 7.

Sec. 16. Minnesota Statutes 2002, section 256J.08, is amended by adding a subdivision to read:

Subd. 51b. [LEARNING DISABLED.] "Learning disabled," for purposes of an extension to the 60-month time limit under section 256J.425, subdivision 3, clause (3), means the person has a disorder in one or more of the psychological processes involved in perceiving, understanding, or using concepts through verbal language or nonverbal means. Learning disabled does not include learning problems that are primarily the result of visual, hearing, or motor handicaps, mental retardation, emotional disturbance, or due to environmental, cultural, or economic disadvantage.

Sec. 17. Minnesota Statutes 2002, section 256J.08, subdivision 65, is amended to read:

Subd. 65. [PARTICIPANT.] "Participant" means a person who is currently receiving cash assistance or the food portion available through MFIP ~~as funded by TANF and the food stamp program~~. A person who fails to withdraw or access electronically any portion of the person's cash and food assistance payment by the end of the payment month, who makes a written request for closure before the first of a payment month and repays cash and food assistance electronically issued for that payment month within that payment month, or who returns any uncashed assistance check and food coupons and withdraws from the program is not a participant. A person who withdraws a cash or food assistance payment by electronic transfer or receives and cashes an MFIP assistance check or food

coupons and is subsequently determined to be ineligible for assistance for that period of time is a participant, regardless whether that assistance is repaid. The term "participant" includes the caregiver relative and the minor child whose needs are included in the assistance payment. A person in an assistance unit who does not receive a cash and food assistance payment because the ~~person~~ case has been suspended from MFIP is a participant. A person who receives cash payments under the diversionary work program under section 256J.95 is a participant.

Sec. 18. Minnesota Statutes 2002, section 256J.08, is amended by adding a subdivision to read:

Subd. 65a. [PARTICIPATION REQUIREMENTS OF TANF.] "Participation requirements of TANF" means activities and hourly requirements allowed under title IV-A of the federal Social Security Act.

Sec. 19. Minnesota Statutes 2002, section 256J.08, is amended by adding a subdivision to read:

Subd. 73a. [QUALIFIED PROFESSIONAL.] (a) For physical illness, injury, or incapacity, a "qualified professional" means a licensed physician, a physician's assistant, a nurse practitioner, or in the case of spinal subluxation, a licensed chiropractor.

(b) For mental retardation and intelligence testing, a "qualified professional" means an individual qualified by training and experience to administer the tests necessary to make determinations, such as tests of intellectual functioning, assessments of adaptive behavior, adaptive skills, and developmental functioning. These professionals include licensed psychologists, certified school psychologists, or certified psychometrists working under the supervision of a licensed psychologist.

(c) For learning disabilities, a "qualified professional" means a licensed psychologist or school psychologist with experience determining learning disabilities.

(d) For mental health, a "qualified professional" means a licensed physician or a qualified mental health professional. A "qualified mental health professional" means:

(1) for children, in psychiatric nursing, a registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist in child and adolescent psychiatric or mental health nursing by a national nurse certification organization or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) for adults, in psychiatric nursing, a registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist in adult psychiatric and mental health nursing by a national nurse certification organization or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in clinical social work, a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(4) in psychology, an individual licensed by the board of psychology under sections 148.88 to 148.98, who has stated to the board of psychology competencies in the diagnosis and treatment of mental illness;

(5) in psychiatry, a physician licensed under chapter 147 and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry; and

(6) in marriage and family therapy, the mental health professional must be a marriage and family therapist licensed under sections 148B.29 to 148B.39, with at least two years of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness.

Sec. 20. Minnesota Statutes 2002, section 256J.08, subdivision 82, is amended to read:

Subd. 82. [SANCTION.] "Sanction" means the reduction of a family's assistance payment by a specified percentage of the MFIP standard of need because: a nonexempt participant fails to comply with the requirements of sections ~~256J.52~~ 256J.515 to ~~256J.55~~ 256J.57; a parental caregiver fails without good cause to cooperate with the child support enforcement requirements; or a participant fails to comply with ~~the insurance, tort liability, or~~ other requirements of this chapter.

Sec. 21. Minnesota Statutes 2002, section 256J.08, is amended by adding a subdivision to read:

Subd. 84a. [SSI RECIPIENT.] "SSI recipient" means a person who receives at least $1 in SSI benefits, or who is not receiving an SSI benefit due to recoupment or a one month suspension by the Social Security Administration due to excess income.

Sec. 22. Minnesota Statutes 2002, section 256J.08, subdivision 85, is amended to read:

Subd. 85. [TRANSITIONAL STANDARD.] "Transitional standard" means the basic standard for a family ~~with no other income or a nonworking family~~ without earned income and is a combination of the cash ~~assistance needs~~ portion and food ~~assistance needs for a family of that size~~ portion as specified in section 256J.24, subdivision 5.

Sec. 23. Minnesota Statutes 2002, section 256J.08, is amended by adding a subdivision to read:

Subd. 90. [SEVERE FORMS OF TRAFFICKING IN PERSONS.] "Severe forms of trafficking in persons" means: (1) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform the act has not attained 18 years of age; or (2) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Sec. 24. Minnesota Statutes 2002, section 256J.09, subdivision 2, is amended to read:

Subd. 2. [COUNTY AGENCY RESPONSIBILITY TO PROVIDE INFORMATION.] When a person inquires about assistance, a county agency must:

(1) explain the eligibility requirements of, and how to apply for~~, diversionary assistance as provided in section 256J.47; emergency assistance as provided in section 256J.48; MFIP as provided in section 256J.10; or~~ any ~~other~~ assistance for which the person may be eligible; and

(2) offer the person brochures developed or approved by the commissioner that describe how to apply for assistance.

Sec. 25. Minnesota Statutes 2002, section 256J.09, subdivision 3, is amended to read:

Subd. 3. [SUBMITTING THE APPLICATION FORM.] (a) A county agency must offer, in person or by mail, the application forms prescribed by the commissioner as soon as a person makes a written or oral inquiry. At that time, the county agency must:

(1) inform the person that assistance begins with the date the signed application is received by the county agency or the date all eligibility criteria are met, whichever is later;

(2) inform the person that any delay in submitting the application will reduce the amount of assistance paid for the month of application;

(3) inform a person that the person may submit the application before an interview;

(4) explain the information that will be verified during the application process by the county agency as provided in section 256J.32;

(5) inform a person about the county agency's average application processing time and explain how the application will be processed under subdivision 5;

(6) explain how to contact the county agency if a person's application information changes and how to withdraw the application;

(7) inform a person that the next step in the application process is an interview and what a person must do if the application is approved including, but not limited to, attending orientation under section 256J.45 and complying with employment and training services requirements in sections ~~256J.52~~ 256J.515 to ~~256J.55~~ 256J.57;

(8) explain the child care and transportation services that are available under paragraph (c) to enable caregivers to attend the interview, screening, and orientation; and

(9) identify any language barriers and arrange for translation assistance during appointments, including, but not limited to, screening under subdivision 3a, orientation under section 256J.45, and ~~the initial~~ assessment under section ~~256J.52~~ 256J.521.

(b) Upon receipt of a signed application, the county agency must stamp the date of receipt on the face of the application. The county agency must process the application within the time period required under subdivision 5. An applicant may withdraw the application at any time by giving written or oral notice to the county agency. The county agency must issue a written notice confirming the withdrawal. The notice must inform the applicant of the county agency's understanding that the applicant has withdrawn the application and no longer wants to pursue it. When, within ten days of the date of the agency's notice, an applicant informs a county agency, in writing, that the applicant does not wish to withdraw the application, the county agency must reinstate the application and finish processing the application.

(c) Upon a participant's request, the county agency must arrange for transportation and child care or reimburse the participant for transportation and child care expenses necessary to enable participants to attend the screening under subdivision 3a and orientation under section 256J.45.

Sec. 26. Minnesota Statutes 2002, section 256J.09, subdivision 3a, is amended to read:

Subd. 3a. [SCREENING.] The county agency, or at county option, the county's employment and training service provider as defined in section 256J.49, must screen each applicant to determine immediate needs and to determine if the applicant may be eligible for:

~~(1)~~ another program that is not partially funded through the federal temporary assistance to needy families block grant under Title I of Public Law ~~Number~~ 104-193, including the expedited issuance of food stamps under section 256J.28, subdivision 1. ~~If the applicant may be eligible for another program, a county caseworker must provide the appropriate referral to the program;~~

~~(2) the diversionary assistance program under section 256J.47; or~~

~~(3) the emergency assistance program under section 256J.48.~~ If the applicant appears eligible for another program, including any program funded by the MFIP consolidated fund, the county must make a referral to the appropriate program.

Sec. 27. Minnesota Statutes 2002, section 256J.09, subdivision 3b, is amended to read:

Subd. 3b. [INTERVIEW TO DETERMINE REFERRALS AND SERVICES.] If the applicant is not diverted from applying for MFIP, and if the applicant meets the MFIP eligibility requirements, then a county agency must:

(1) identify an applicant who is under the age of 20 without a high school diploma or its equivalent and explain to the applicant the assessment procedures and employment plan requirements ~~for minor parents~~ under section 256J.54;

(2) explain to the applicant the eligibility criteria in section 256J.545 for ~~an exemption under~~ the family violence ~~provisions in section 256J.52, subdivision 6~~ waiver, and ~~explain~~ what an applicant should do to develop an ~~alternative~~ employment plan;

(3) determine if an applicant qualifies for an exemption under section 256J.56 from employment and training services requirements, explain how a person should report to the county agency any status changes, and explain that an applicant who is exempt may volunteer to participate in employment and training services;

(4) for applicants who are not exempt from the requirement to attend orientation, arrange for an orientation under section 256J.45 and an ~~initial~~ assessment under section ~~256J.52~~ 256J.521;

(5) inform an applicant who is not exempt from the requirement to attend orientation that failure to attend the orientation is considered an occurrence of noncompliance with program requirements and will result in an imposition of a sanction under section 256J.46; and

(6) explain how to contact the county agency if an applicant has questions about compliance with program requirements.

Sec. 28. Minnesota Statutes 2002, section 256J.09, subdivision 8, is amended to read:

Subd. 8. [ADDITIONAL APPLICATIONS.] Until a county agency issues notice of approval or denial, additional applications submitted by an applicant are void. However, an application for monthly assistance or other benefits funded under section 256J.626 and an application for ~~emergency assistance or~~ emergency general assistance may exist concurrently. More than one application for monthly assistance~~, emergency assistance,~~ or emergency general assistance may exist concurrently when the county agency decisions on one or more earlier applications

have been appealed to the commissioner, and the applicant asserts that a change in circumstances has occurred that would allow eligibility. A county agency must require additional application forms or supplemental forms as prescribed by the commissioner when a payee's name changes, or when a caregiver requests the addition of another person to the assistance unit.

Sec. 29. Minnesota Statutes 2002, section 256J.09, subdivision 10, is amended to read:

Subd. 10. [APPLICANTS WHO DO NOT MEET ELIGIBILITY REQUIREMENTS FOR MFIP OR THE DIVERSIONARY WORK PROGRAM.] When an applicant is not eligible for MFIP or the diversionary work program under section 256J.95 because the applicant does not meet eligibility requirements, the county agency must determine whether the applicant is eligible for food stamps~~, medical assistance, diversionary assistance, or has a need for emergency assistance when the applicant meets the eligibility requirements for those programs~~ or health care programs. The county must also inform applicants about resources available through the county or other agencies to meet short-term emergency needs.

Sec. 30. Minnesota Statutes 2002, section 256J.14, is amended to read:

256J.14 [ELIGIBILITY FOR PARENTING OR PREGNANT MINORS.]

(a) The definitions in this paragraph only apply to this subdivision.

(1) "Household of a parent, legal guardian, or other adult relative" means the place of residence of:

(i) a natural or adoptive parent;

(ii) a legal guardian according to appointment or acceptance under section 260C.325, 525.615, or 525.6165, and related laws;

(iii) a caregiver as defined in section 256J.08, subdivision 11; or

(iv) an appropriate adult relative designated by a county agency.

(2) "Adult-supervised supportive living arrangement" means a private family setting which assumes responsibility for the care and control of the minor parent and minor child, or other living arrangement, not including a public institution, licensed by the commissioner of human services which ensures that the minor parent receives adult supervision and supportive services, such as counseling, guidance, independent living skills training, or supervision.

(b) A minor parent and the minor child who is in the care of the minor parent must reside in the household of a parent, legal guardian, other adult relative, or in an adult-supervised supportive living arrangement in order to receive MFIP unless:

(1) the minor parent has no living parent, other adult relative, or legal guardian whose whereabouts is known;

(2) no living parent, other adult relative, or legal guardian of the minor parent allows the minor parent to live in the parent's, other adult relative's, or legal guardian's home;

(3) the minor parent lived apart from the minor parent's own parent or legal guardian for a period of at least one year before either the birth of the minor child or the minor parent's application for MFIP;

(4) the physical or emotional health or safety of the minor parent or minor child would be jeopardized if the minor parent and the minor child resided in the same residence with the minor parent's parent, other adult relative, or legal guardian; or

(5) an adult supervised supportive living arrangement is not available for the minor parent and child in the county in which the minor parent and child currently reside. If an adult supervised supportive living arrangement becomes available within the county, the minor parent and child must reside in that arrangement.

(c) The county agency shall inform minor applicants both orally and in writing about the eligibility requirements, their rights and obligations under the MFIP program, and any other applicable orientation information. The county must advise the minor of the possible exemptions under section 256J.54, subdivision 5, and specifically ask whether one or more of these exemptions is applicable. If the minor alleges one or more of these exemptions, then the county must assist the minor in obtaining the necessary verifications to determine whether or not these exemptions apply.

(d) If the county worker has reason to suspect that the physical or emotional health or safety of the minor parent or minor child would be jeopardized if they resided with the minor parent's parent, other adult relative, or legal guardian, then the county worker must make a referral to child protective services to determine if paragraph (b), clause (4), applies. A new determination by the county worker is not necessary if one has been made within the last six months, unless there has been a significant change in circumstances which justifies a new referral and determination.

(e) If a minor parent is not living with a parent, legal guardian, or other adult relative due to paragraph (b), clause (1), (2), or (4), the minor parent must reside, when possible, in a living arrangement that meets the standards of paragraph (a), clause (2).

(f) Regardless of living arrangement, MFIP must be paid, when possible, in the form of a protective payment on behalf of the minor parent and minor child according to section 256J.39, subdivisions 2 to 4.

Sec. 31. Minnesota Statutes 2002, section 256J.20, subdivision 3, is amended to read:

Subd. 3. [OTHER PROPERTY LIMITATIONS.] To be eligible for MFIP, the equity value of all nonexcluded real and personal property of the assistance unit must not exceed $2,000 for applicants and $5,000 for ongoing participants. The value of assets in clauses (1) to (19) must be excluded when determining the equity value of real and personal property:

(1) a licensed vehicle up to a loan value of less than or equal to $7,500. The county agency shall apply any excess loan value as if it were equity value to the asset limit described in this section. If the assistance unit owns more than one licensed vehicle, the county agency shall determine the vehicle with the highest loan value and count only the loan value over $7,500, excluding: (i) the value of one vehicle per physically disabled person when the vehicle is needed to transport the disabled unit member; this exclusion does not apply to mentally disabled people; (ii) the value of special equipment for a handicapped member of the assistance unit; and (iii) any vehicle used for long-distance travel, other than daily commuting, for the employment of a unit member.

The county agency shall count the loan value of all other vehicles and apply this amount as if it were equity value to the asset limit described in this section. To establish the loan value of vehicles, a county agency must use the N.A.D.A. Official Used Car Guide, Midwest Edition, for newer model cars. When a vehicle is not listed in the guidebook, or when the applicant or participant disputes the loan value listed in the guidebook as unreasonable given the condition of the particular vehicle, the county agency may require the applicant or participant document

the loan value by securing a written statement from a motor vehicle dealer licensed under section 168.27, stating the amount that the dealer would pay to purchase the vehicle. The county agency shall reimburse the applicant or participant for the cost of a written statement that documents a lower loan value;

(2) the value of life insurance policies for members of the assistance unit;

(3) one burial plot per member of an assistance unit;

(4) the value of personal property needed to produce earned income, including tools, implements, farm animals, inventory, business loans, business checking and savings accounts used at least annually and used exclusively for the operation of a self-employment business, and any motor vehicles if at least 50 percent of the vehicle's use is to produce income and if the vehicles are essential for the self-employment business;

(5) the value of personal property not otherwise specified which is commonly used by household members in day-to-day living such as clothing, necessary household furniture, equipment, and other basic maintenance items essential for daily living;

(6) the value of real and personal property owned by a recipient of Supplemental Security Income or Minnesota supplemental aid;

(7) the value of corrective payments, but only for the month in which the payment is received and for the following month;

(8) a mobile home or other vehicle used by an applicant or participant as the applicant's or participant's home;

(9) money in a separate escrow account that is needed to pay real estate taxes or insurance and that is used for this purpose;

(10) money held in escrow to cover employee FICA, employee tax withholding, sales tax withholding, employee worker compensation, business insurance, property rental, property taxes, and other costs that are paid at least annually, but less often than monthly;

(11) monthly assistance~~, emergency assistance, and diversionary~~ payments for the current month's ~~needs~~ or short-term emergency needs under section 256J.626, subdivision 2;

(12) the value of school loans, grants, or scholarships for the period they are intended to cover;

(13) payments listed in section 256J.21, subdivision 2, clause (9), which are held in escrow for a period not to exceed three months to replace or repair personal or real property;

(14) income received in a budget month through the end of the payment month;

(15) savings from earned income of a minor child or a minor parent that are set aside in a separate account designated specifically for future education or employment costs;

(16) the federal earned income credit, Minnesota working family credit, state and federal income tax refunds, state homeowners and renters credits under chapter 290A, property tax rebates and other federal or state tax rebates in the month received and the following month;

(17) payments excluded under federal law as long as those payments are held in a separate account from any nonexcluded funds;

(18) the assets of children ineligible to receive MFIP benefits because foster care or adoption assistance payments are made on their behalf; and

(19) the assets of persons whose income is excluded under section 256J.21, subdivision 2, clause (43).

Sec. 32. Minnesota Statutes 2002, section 256J.21, subdivision 1, is amended to read:

Subdivision 1. [INCOME INCLUSIONS.] To determine MFIP eligibility, the county agency must evaluate income received by members of an assistance unit, or by other persons whose income is considered available to the assistance unit, and only count income that is available to the member of the assistance unit. Income is available if the individual has legal access to the income. All payments, unless specifically excluded in subdivision 2, must be counted as income. The county agency shall verify the income of all MFIP recipients and applicants.

Sec. 33. Minnesota Statutes 2002, section 256J.21, subdivision 2, is amended to read:

Subd. 2. [INCOME EXCLUSIONS.] The following must be excluded in determining a family's available income:

(1) payments for basic care, difficulty of care, and clothing allowances received for providing family foster care to children or adults under Minnesota Rules, parts 9545.0010 to 9545.0260 and 9555.5050 to 9555.6265, and payments received and used for care and maintenance of a third-party beneficiary who is not a household member;

(2) reimbursements for employment training received through the ~~Job Training Partnership~~ Workforce Investment Act 1998, United States Code, title ~~29~~ 20, chapter ~~19~~ 73, ~~sections 1501 to 1792b~~ section 9201;

(3) reimbursement for out-of-pocket expenses incurred while performing volunteer services, jury duty, employment, or informal carpooling arrangements directly related to employment;

(4) all educational assistance, except the county agency must count graduate student teaching assistantships, fellowships, and other similar paid work as earned income and, after allowing deductions for any unmet and necessary educational expenses, shall count scholarships or grants awarded to graduate students that do not require teaching or research as unearned income;

(5) loans, regardless of purpose, from public or private lending institutions, governmental lending institutions, or governmental agencies;

(6) loans from private individuals, regardless of purpose, provided an applicant or participant documents that the lender expects repayment;

(7)(i) state income tax refunds; and

(ii) federal income tax refunds;

(8)(i) federal earned income credits;

(ii) Minnesota working family credits;

(iii) state homeowners and renters credits under chapter 290A; and

(iv) federal or state tax rebates;

(9) funds received for reimbursement, replacement, or rebate of personal or real property when these payments are made by public agencies, awarded by a court, solicited through public appeal, or made as a grant by a federal agency, state or local government, or disaster assistance organizations, subsequent to a presidential declaration of disaster;

(10) the portion of an insurance settlement that is used to pay medical, funeral, and burial expenses, or to repair or replace insured property;

(11) reimbursements for medical expenses that cannot be paid by medical assistance;

(12) payments by a vocational rehabilitation program administered by the state under chapter 268A, except those payments that are for current living expenses;

(13) in-kind income, including any payments directly made by a third party to a provider of goods and services;

(14) assistance payments to correct underpayments, but only for the month in which the payment is received;

(15) ~~emergency assistance~~ payments for short-term emergency needs under section 256J.626, subdivision 2;

(16) funeral and cemetery payments as provided by section 256.935;

(17) nonrecurring cash gifts of $30 or less, not exceeding $30 per participant in a calendar month;

(18) any form of energy assistance payment made through Public Law ~~Number~~ 97-35, Low-Income Home Energy Assistance Act of 1981, payments made directly to energy providers by other public and private agencies, and any form of credit or rebate payment issued by energy providers;

(19) Supplemental Security Income (SSI), including retroactive SSI payments and other income of an SSI recipient, except as described in section 256J.37, subdivision 3b;

(20) Minnesota supplemental aid, including retroactive payments;

(21) proceeds from the sale of real or personal property;

(22) adoption assistance payments under section 259.67;

(23) state-funded family subsidy program payments made under section 252.32 to help families care for children with mental retardation or related conditions, consumer support grant funds under section 256.476, and resources and services for a disabled household member under one of the home and community-based waiver services programs under chapter 256B;

(24) interest payments and dividends from property that is not excluded from and that does not exceed the asset limit;

(25) rent rebates;

(26) income earned by a minor caregiver, minor child through age 6, or a minor child who is at least a half-time student in an approved elementary or secondary education program;

(27) income earned by a caregiver under age 20 who is at least a half-time student in an approved elementary or secondary education program;

(28) MFIP child care payments under section 119B.05;

(29) all other payments made through MFIP to support a caregiver's pursuit of greater ~~self-support~~ economic stability;

(30) income a participant receives related to shared living expenses;

(31) reverse mortgages;

(32) benefits provided by the Child Nutrition Act of 1966, United States Code, title 42, chapter 13A, sections 1771 to 1790;

(33) benefits provided by the women, infants, and children (WIC) nutrition program, United States Code, title 42, chapter 13A, section 1786;

(34) benefits from the National School Lunch Act, United States Code, title 42, chapter 13, sections 1751 to 1769e;

(35) relocation assistance for displaced persons under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, United States Code, title 42, chapter 61, subchapter II, section 4636, or the National Housing Act, United States Code, title 12, chapter 13, sections 1701 to 1750jj;

(36) benefits from the Trade Act of 1974, United States Code, title 19, chapter 12, part 2, sections 2271 to 2322;

(37) war reparations payments to Japanese Americans and Aleuts under United States Code, title 50, sections 1989 to 1989d;

(38) payments to veterans or their dependents as a result of legal settlements regarding Agent Orange or other chemical exposure under Public Law ~~Number~~ 101-239, section 10405, paragraph (a)(2)(E);

(39) income that is otherwise specifically excluded from MFIP consideration in federal law, state law, or federal regulation;

(40) security and utility deposit refunds;

(41) American Indian tribal land settlements excluded under Public ~~Law Numbers~~ Laws 98-123, 98-124, and 99-377 to the Mississippi Band Chippewa Indians of White Earth, Leech Lake, and Mille Lacs reservations and payments to members of the White Earth Band, under United States Code, title 25, chapter 9, section 331, and chapter 16, section 1407;

(42) all income of the minor parent's parents and stepparents when determining the grant for the minor parent in households that include a minor parent living with parents or stepparents on MFIP with other children;

(43) income of the minor parent's parents and stepparents equal to 200 percent of the federal poverty guideline for a family size not including the minor parent and the minor parent's child in households that include a minor parent living with parents or stepparents not on MFIP when determining the grant for the minor parent. The remainder of income is deemed as specified in section 256J.37, subdivision 1b;

(44) payments made to children eligible for relative custody assistance under section 257.85;

(45) vendor payments for goods and services made on behalf of a client unless the client has the option of receiving the payment in cash; and

(46) the principal portion of a contract for deed payment.

Sec. 34. Minnesota Statutes 2002, section 256J.24, subdivision 3, is amended to read:

Subd. 3. [INDIVIDUALS WHO MUST BE EXCLUDED FROM AN ASSISTANCE UNIT.] (a) The following individuals who are part of the assistance unit determined under subdivision 2 are ineligible to receive MFIP:

(1) individuals ~~receiving~~ who are recipients of Supplemental Security Income or Minnesota supplemental aid;

(2) individuals disqualified from the food stamp program or MFIP, until the disqualification ends;

(3) children on whose behalf federal, state or local foster care payments are made, except as provided in sections 256J.13, subdivision 2, and 256J.74, subdivision 2; and

(4) children receiving ongoing monthly adoption assistance payments under section 259.67.

(b) The exclusion of a person under this subdivision does not alter the mandatory assistance unit composition.

Sec. 35. Minnesota Statutes 2002, section 256J.24, subdivision 5, is amended to read:

Subd. 5. [MFIP TRANSITIONAL STANDARD.] The ~~following table represents the~~ MFIP transitional standard ~~table when all members of~~ is based on the number of persons in the assistance unit ~~are~~ eligible for both food and cash assistance unless the restrictions in subdivision 6 on the birth of a child apply. The following table represents the transitional standards effective October 1, 2002.

Number of Eligible People	Transitional Standard	Cash Portion	Food Portion
1	~~$351~~ $370:	$250	$120
2	~~$609~~ $658:	$437	$221
3	~~$763~~ $844:	$532	$312
4	~~$903~~ $998:	$621	$377
5	~~$1,025~~ $1,135:	$697	$438
6	~~$1,165~~ $1,296:	$773	$523
7	~~$1,273~~ $1,414:	$850	$564
8	~~$1,403~~ $1,558:	$916	$642
9	~~$1,530~~ $1,700:	$980	$720
10	~~$1,653~~ $1,836:	$1,035	$801
over 10	add ~~$121~~ $136:	$53	$83
per additional member.			

The commissioner shall annually publish in the State Register the transitional standard for an assistance unit sizes 1 to 10 including a breakdown of the cash and food portions.

Sec. 36. Minnesota Statutes 2002, section 256J.24, subdivision 6, is amended to read:

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

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

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

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

(3) the child was conceived as a result of a sexual assault or incest, provided that:

(i) the incident has been reported to a law enforcement agency which determines that there is probable cause to believe the crime occurred; and

(ii) a physician verifies that there is reason to believe the pregnancy or birth resulted from the reported incident;

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

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

(c) Income and resources of a child excluded under this subdivision must be considered using the same policies as for other children when determining the grant amount of the assistance unit.

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

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

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

Sec. 37. Minnesota Statutes 2002, section 256J.24, subdivision 7, is amended to read:

Subd. 7. [FAMILY WAGE LEVEL ~~STANDARD~~.] The family wage level ~~standard~~ is 110 percent of the transitional standard under subdivision 5 or 6, when applicable, and is the standard used when there is earned income in the assistance unit. As specified in section 256J.21, earned income is subtracted from the family wage level to determine the amount of the assistance payment. ~~Not including~~ The ~~family wage level standard,~~ assistance ~~payments~~ payment may not exceed the ~~MFIP standard of need~~ transitional standard under subdivision 5 or 6, or the shared household standard under subdivision 9, whichever is applicable, for the assistance unit.

Sec. 38. Minnesota Statutes 2002, section 256J.24, subdivision 10, is amended to read:

Subd. 10. [MFIP EXIT LEVEL.] The commissioner shall adjust the MFIP earned income disregard to ensure that most participants do not lose eligibility for MFIP until their income reaches at least ~~120~~ 115 percent of the federal poverty guidelines in effect in October of each fiscal year. The adjustment to the disregard shall be based on a household size of three, and the resulting earned income disregard percentage must be applied to all household sizes. The adjustment under this subdivision must be implemented at the same time as the October food stamp cost-of-living adjustment is reflected in the food portion of MFIP transitional standard as required under subdivision 5a.

Sec. 39. Minnesota Statutes 2002, section 256J.30, subdivision 9, is amended to read:

Subd. 9. [CHANGES THAT MUST BE REPORTED.] A caregiver must report the changes or anticipated changes specified in clauses (1) to ~~(17)~~ (16) within ten days of the date they occur, at the time of the periodic recertification of eligibility under section 256J.32, subdivision 6, or within eight calendar days of a reporting period as in subdivision 5 or 6, whichever occurs first. A caregiver must report other changes at the time of the periodic recertification of eligibility under section 256J.32, subdivision 6, or at the end of a reporting period under subdivision 5 or 6, as applicable. A caregiver must make these reports in writing to the county agency. When a county agency could have reduced or terminated assistance for one or more payment months if a delay in reporting a change specified under clauses (1) to ~~(16)~~ (15) had not occurred, the county agency must determine whether a timely notice under section 256J.31, subdivision 4, could have been issued on the day that the change occurred. When a timely notice could have been issued, each month's overpayment subsequent to that notice must be considered a client error overpayment under section 256J.38. Calculation of overpayments for late reporting under clause ~~(17)~~ (16) is specified in section 256J.09, subdivision 9. Changes in circumstances which must be reported within ten days must also be reported on the MFIP household report form for the reporting period in which those changes occurred. Within ten days, a caregiver must report:

(1) a change in initial employment;

(2) a change in initial receipt of unearned income;

(3) a recurring change in unearned income;

(4) a nonrecurring change of unearned income that exceeds $30;

(5) the receipt of a lump sum;

(6) an increase in assets that may cause the assistance unit to exceed asset limits;

(7) a change in the physical or mental status of an incapacitated member of the assistance unit if the physical or mental status is the basis of exemption from an MFIP employment services program under section 256J.56, or as the basis for reducing the hourly participation requirements under section 256J.55, subdivision 1, or the type of activities included in an employment plan under section 256J.521, subdivision 2;

(8) a change in employment status;

(9) information affecting an exception under section 256J.24, subdivision 9;

(10) ~~a change in health insurance coverage;~~

~~(11)~~ the marriage or divorce of an assistance unit member;

~~(12)~~ (11) the death of a parent, minor child, or financially responsible person;

~~(13)~~ (12) a change in address or living quarters of the assistance unit;

~~(14)~~ (13) the sale, purchase, or other transfer of property;

~~(15)~~ (14) a change in school attendance of a ~~custodial parent~~ caregiver under age 20 or an employed child;

~~(16)~~ (15) filing a lawsuit, a workers' compensation claim, or a monetary claim against a third party; and

~~(17)~~ (16) a change in household composition, including births, returns to and departures from the home of assistance unit members and financially responsible persons, or a change in the custody of a minor child.

Sec. 40. Minnesota Statutes 2002, section 256J.32, subdivision 2, is amended to read:

Subd. 2. [DOCUMENTATION.] The applicant or participant must document the information required under subdivisions 4 to 6 or authorize the county agency to verify the information. The applicant or participant has the burden of providing documentary evidence to verify eligibility. The county agency shall assist the applicant or participant in obtaining required documents when the applicant or participant is unable to do so. ~~When an applicant or participant and the county agency are unable to obtain documents needed to verify information, the county agency may accept an affidavit from an applicant or participant as sufficient documentation.~~ The county agency may accept an affidavit only for factors specified under subdivision 8.

Sec. 41. Minnesota Statutes 2002, section 256J.32, subdivision 4, is amended to read:

Subd. 4. [FACTORS TO BE VERIFIED.] The county agency shall verify the following at application:

(1) identity of adults;

(2) presence of the minor child in the home, if questionable;

(3) relationship of a minor child to caregivers in the assistance unit;

(4) age, if necessary to determine MFIP eligibility;

(5) immigration status;

(6) social security number according to the requirements of section 256J.30, subdivision 12;

(7) income;

(8) self-employment expenses used as a deduction;

(9) source and purpose of deposits and withdrawals from business accounts;

(10) spousal support and child support payments made to persons outside the household;

(11) real property;

(12) vehicles;

(13) checking and savings accounts;

(14) savings certificates, savings bonds, stocks, and individual retirement accounts;

(15) pregnancy, if related to eligibility;

(16) inconsistent information, if related to eligibility;

(17) ~~medical insurance;~~

~~(18)~~ burial accounts;

~~(19)~~ (18) school attendance, if related to eligibility;

~~(20)~~ (19) residence;

~~(21)~~ (20) a claim of family violence if used as a basis ~~for a~~ to qualify for the family violence waiver ~~from the 60-month time limit in section 256J.42 and regular employment and training services requirements in section 256J.56~~;

~~(22)~~ (21) disability if used as the basis for an exemption from employment and training services requirements under section 256J.56 or as the basis for reducing the hourly participation requirements under section 256J.55, subdivision 1, or the type of activity included in an employment plan under section 256J.521, subdivision 2; and

~~(23)~~ (22) information needed to establish an exception under section 256J.24, subdivision 9.

Sec. 42. Minnesota Statutes 2002, section 256J.32, subdivision 5a, is amended to read:

Subd. 5a. [INCONSISTENT INFORMATION.] When the county agency verifies inconsistent information under subdivision 4, clause (16), or 6, clause ~~(4)~~ (5), the reason for verifying the information must be documented in the financial case record.

Sec. 43. Minnesota Statutes 2002, section 256J.32, is amended by adding a subdivision to read:

Subd. 8. [AFFIDAVIT.] The county agency may accept an affidavit from the applicant or recipient as sufficient documentation at the time of application or recertification only for the following factors:

(1) a claim of family violence if used as a basis to qualify for the family violence waiver;

(2) information needed to establish an exception under section 256J.24, subdivision 9;

(3) relationship of a minor child to caregivers in the assistance unit; and

(4) citizenship status from a noncitizen who reports to be, or is identified as, a victim of severe forms of trafficking in persons, if the noncitizen reports that the noncitizen's immigration documents are being held by an individual or group of individuals against the noncitizen's will. The noncitizen must follow up with the Office of Refugee Resettlement (ORR) to pursue certification. If verification that certification is being pursued is not received within 30 days, the MFIP case must be closed and the agency shall pursue overpayments. The ORR documents certifying the noncitizen's status as a victim of severe forms of trafficking in persons, or the reason for the delay in processing, must be received within 90 days, or the MFIP case must be closed and the agency shall pursue overpayments.

Sec. 44. Minnesota Statutes 2002, section 256J.37, is amended by adding a subdivision to read:

Subd. 3a. [RENTAL SUBSIDIES; UNEARNED INCOME.] (a) Effective July 1, 2003, the county agency shall count $100 of the value of public and assisted rental subsidies provided through the Department of Housing and Urban Development (HUD) as unearned income to the cash portion of the MFIP grant. The full amount of the subsidy must be counted as unearned income when the subsidy is less than $100. For the purposes of initial implementation of this subdivision, the county shall budget the income from the subsidy prospectively in the months of July and August 2003. This shall be done regardless of whether the case is in the retrospective or prospective budgeting cycle. Thereafter, the income from this subsidy shall be budgeted according to section 256J.34.

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

(1) age 60 or older;

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

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

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

Sec. 45. Minnesota Statutes 2002, section 256J.37, is amended by adding a subdivision to read:

Subd. 3b. [TREATMENT OF SUPPLEMENTAL SECURITY INCOME.] Effective July 1, 2003, the county shall reduce the cash portion of the MFIP grant by $175 per SSI recipient who resides in the household, and who would otherwise be included in the MFIP assistance unit under section 256J.24, subdivision 2, but is excluded solely due to the SSI recipient status under section 256J.24, subdivision 3, paragraph (a), clause (1). If the SSI recipient receives less than $175 of SSI, only the amount received shall be used in calculating the MFIP cash assistance payment. This provision does not apply to relative caregivers who could elect to be included in the MFIP assistance unit under section 256J.24, subdivision 4, unless the caregiver's children or stepchildren are included in the MFIP assistance unit.

Sec. 46. Minnesota Statutes 2002, section 256J.37, subdivision 9, is amended to read:

Subd. 9. [UNEARNED INCOME.] ~~(a)~~ The county agency must apply unearned income to the MFIP standard of need. When determining the amount of unearned income, the county agency must deduct the costs necessary to secure payments of unearned income. These costs include legal fees, medical fees, and mandatory deductions such as federal and state income taxes.

~~(b) Effective July 1, 2003, the county agency shall count $100 of the value of public and assisted rental subsidies provided through the Department of Housing and Urban Development (HUD) as unearned income. The full amount of the subsidy must be counted as unearned income when the subsidy is less than $100.~~

~~(c) The provisions of paragraph (b) shall not apply to MFIP participants who are exempt from the employment and training services component because they are:~~

~~(i) individuals who are age 60 or older;~~

~~(ii) individuals who are suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment; or~~

~~(iii) caregivers whose presence in the home is required because of the professionally certified illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household.~~

~~(d) The provisions of paragraph (b) shall not apply to an MFIP assistance unit where the parental caregiver receives supplemental security income.~~

Sec. 47. Minnesota Statutes 2002, section 256J.38, subdivision 3, is amended to read:

Subd. 3. [RECOVERING OVERPAYMENTS ~~FROM FORMER PARTICIPANTS~~.] A county agency must initiate efforts to recover overpayments paid to a former participant or caregiver. ~~Adults~~ Caregivers, both parental and nonparental, and minor caregivers of an assistance unit at the time an overpayment occurs, whether receiving assistance or not, are jointly and individually liable for repayment of the overpayment. The county agency must request repayment from the former participants and caregivers. When an agreement for repayment is not completed within six months of the date of discovery or when there is a default on an agreement for repayment after six months, the county agency must initiate recovery consistent with chapter 270A, or section 541.05. When a person has been convicted of fraud under section 256.98, recovery must be sought regardless of the amount of overpayment. When an overpayment is less than $35, and is not the result of a fraud conviction under section 256.98, the county agency must not seek recovery under this subdivision. The county agency must retain information about all overpayments regardless of the amount. When an adult, adult caregiver, or minor caregiver reapplies for assistance, the overpayment must be recouped under subdivision 4.

Sec. 48. Minnesota Statutes 2002, section 256J.38, subdivision 4, is amended to read:

Subd. 4. [RECOUPING OVERPAYMENTS FROM PARTICIPANTS.] A participant may voluntarily repay, in part or in full, an overpayment even if assistance is reduced under this subdivision, until the total amount of the overpayment is repaid. When an overpayment occurs due to fraud, the county agency must recover from the overpaid assistance unit, including child only cases, ten percent of the applicable standard or the amount of the monthly assistance payment, whichever is less. When a nonfraud overpayment occurs, the county agency must recover from the overpaid assistance unit, including child only cases, three percent of the MFIP standard of need or the amount of the monthly assistance payment, whichever is less.

Sec. 49. Minnesota Statutes 2002, section 256J.40, is amended to read:

256J.40 [FAIR HEARINGS.]

Caregivers receiving a notice of intent to sanction or a notice of adverse action that includes a sanction, reduction in benefits, suspension of benefits, denial of benefits, or termination of benefits may request a fair hearing. A request for a fair hearing must be submitted in writing to the county agency or to the commissioner and must be mailed within 30 days after a participant or former participant receives written notice of the agency's action or within 90 days when a participant or former participant shows good cause for not submitting the request within 30 days. A former participant who receives a notice of adverse action due to an overpayment may appeal the adverse action according to the requirements in this section. Issues that may be appealed are:

(1) the amount of the assistance payment;

(2) a suspension, reduction, denial, or termination of assistance;

(3) the basis for an overpayment, the calculated amount of an overpayment, and the level of recoupment;

(4) the eligibility for an assistance payment; and

(5) the use of protective or vendor payments under section 256J.39, subdivision 2, clauses (1) to (3).

Except for benefits issued under section 256J.95, a county agency must not reduce, suspend, or terminate payment when an aggrieved participant requests a fair hearing prior to the effective date of the adverse action or within ten days of the mailing of the notice of adverse action, whichever is later, unless the participant requests in writing not to receive continued assistance pending a hearing decision. An appeal request cannot extend benefits for the diversionary work program under section 256J.95 beyond the four-month time limit. Assistance issued pending a fair hearing is subject to recovery under section 256J.38 when as a result of the fair hearing decision the participant is determined ineligible for assistance or the amount of the assistance received. A county agency may increase or reduce an assistance payment while an appeal is pending when the circumstances of the participant change and are not related to the issue on appeal. The commissioner's order is binding on a county agency. No additional notice is required to enforce the commissioner's order.

A county agency shall reimburse appellants for reasonable and necessary expenses of attendance at the hearing, such as child care and transportation costs and for the transportation expenses of the appellant's witnesses and representatives to and from the hearing. Reasonable and necessary expenses do not include legal fees. Fair hearings must be conducted at a reasonable time and date by an impartial referee employed by the department. The hearing may be conducted by telephone or at a site that is readily accessible to persons with disabilities.

The appellant may introduce new or additional evidence relevant to the issues on appeal. Recommendations of the appeals referee and decisions of the commissioner must be based on evidence in the hearing record and are not limited to a review of the county agency action.

Sec. 50. Minnesota Statutes 2002, section 256J.42, subdivision 4, is amended to read:

Subd. 4. [VICTIMS OF FAMILY VIOLENCE.] Any cash assistance received by an assistance unit in a month when a caregiver complied with a safety plan, an alternative employment plan, or an employment plan ~~or after October 1, 2001, complied or is complying with an alternative employment plan~~ under section ~~256J.49~~ 256J.521, subdivision ~~1a~~ 3, does not count toward the 60-month limitation on assistance.

Sec. 51. Minnesota Statutes 2002, section 256J.42, subdivision 5, is amended to read:

Subd. 5. [EXEMPTION FOR CERTAIN FAMILIES.] (a) Any cash assistance received by an assistance unit does not count toward the 60-month limit on assistance during a month in which the caregiver is ~~in the category in~~ age 60 or older, including months during which the caregiver was exempt under section 256J.56, paragraph (a), clause (1).

(b) From July 1, 1997, until the date MFIP is operative in the caregiver's county of financial responsibility, any cash assistance received by a caregiver who is complying with Minnesota Statutes 1996, section 256.73, subdivision 5a, and Minnesota Statutes 1998, section 256.736, if applicable, does not count toward the 60-month limit on assistance. Thereafter, any cash assistance received by a minor caregiver who is complying with the requirements of sections 256J.14 and 256J.54, if applicable, does not count towards the 60-month limit on assistance.

(c) Any diversionary assistance or emergency assistance received prior to July 1, 2003, does not count toward the 60-month limit.

(d) Any cash assistance received by an 18- or 19-year-old caregiver who is complying with ~~the requirements of~~ an employment plan that includes an education option under section 256J.54 does not count toward the 60-month limit.

(e) Payments provided to meet short-term emergency needs under section 256J.626 and diversionary work program benefits provided under section 256J.95 do not count toward the 60-month time limit.

Sec. 52. Minnesota Statutes 2002, section 256J.42, subdivision 6, is amended to read:

Subd. 6. [CASE REVIEW.] (a) Within 180 days, but not less than 60 days, before the end of the participant's 60th month on assistance, the county agency or job counselor must review the participant's case to determine if the employment plan is still appropriate or if the participant is exempt under section 256J.56 from the employment and training services component, and attempt to meet with the participant face-to-face.

(b) During the face-to-face meeting, a county agency or the job counselor must:

(1) inform the participant how many months of counted assistance the participant has accrued and when the participant is expected to reach the 60th month;

(2) explain the hardship extension criteria under section 256J.425 and what the participant should do if the participant thinks a hardship extension applies;

(3) identify other resources that may be available to the participant to meet the needs of the family; and

(4) inform the participant of the right to appeal the case closure under section 256J.40.

(c) If a face-to-face meeting is not possible, the county agency must send the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5.

(d) Before a participant's case is closed under this section, the county must ensure that:

(1) the case has been reviewed by the job counselor's supervisor or the review team designated ~~in~~ by the ~~county's approved local service unit plan~~ county to determine if the criteria for a hardship extension, if requested, were applied appropriately; and

(2) the county agency or the job counselor attempted to meet with the participant face-to-face.

Sec. 53. Minnesota Statutes 2002, section 256J.425, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] (a) To be eligible for a hardship extension, a participant in an assistance unit subject to the time limit under section 256J.42, subdivision 1, ~~in which any participant has received 60 counted months of assistance,~~ must be in compliance in the participant's 60th counted month ~~the participant is applying for the extension~~. For purposes of determining eligibility for a hardship extension, a participant is in compliance in any month that the participant has not been sanctioned.

(b) If one participant in a two-parent assistance unit is determined to be ineligible for a hardship extension, the county shall give the assistance unit the option of disqualifying the ineligible participant from MFIP. In that case, the assistance unit shall be treated as a one-parent assistance unit and the assistance unit's MFIP grant shall be calculated using the shared household standard under section 256J.08, subdivision 82a.

Sec. 54. Minnesota Statutes 2002, section 256J.425, subdivision 1a, is amended to read:

Subd. 1a. [REVIEW.] If a county grants a hardship extension under this section, a county agency shall review the case every six or 12 months, whichever is appropriate based on the participant's circumstances and the extension category. More frequent reviews shall be required if eligibility for an extension is based on a condition that is subject to change in less than six months.

Sec. 55. Minnesota Statutes 2002, section 256J.425, subdivision 2, is amended to read:

Subd. 2. [ILL OR INCAPACITATED.] (a) An assistance unit subject to the time limit in section 256J.42, subdivision 1, ~~in which any participant has received 60 counted months of assistance,~~ is eligible to receive months of assistance under a hardship extension if the participant who reached the time limit belongs to any of the following groups:

(1) participants who are suffering from ~~a professionally certified~~ an illness, injury, or incapacity which has been certified by a qualified professional when the illness, injury, or incapacity is expected to continue for more than 30 days and ~~which~~ prevents the person from obtaining or retaining employment ~~and who are following~~. These participants must follow the treatment recommendations of the ~~health care provider~~ qualified professional certifying the illness, injury, or incapacity;

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

(3) caregivers with a child or an adult in the household who meets the disability or medical criteria for home care services under section 256B.0627, subdivision 1, paragraph ~~(c)~~ (f), or a home and community-based waiver services program under chapter 256B, or meets the criteria for severe emotional disturbance under section 245.4871, subdivision 6, or for serious and persistent mental illness under section 245.462, subdivision 20, paragraph (c). Caregivers in this category are presumed to be prevented from obtaining or retaining employment.

(b) An assistance unit receiving assistance under a hardship extension under this subdivision may continue to receive assistance as long as the participant meets the criteria in paragraph (a), clause (1), (2), or (3).

Sec. 56. Minnesota Statutes 2002, section 256J.425, subdivision 3, is amended to read:

Subd. 3. [HARD-TO-EMPLOY PARTICIPANTS.] An assistance unit subject to the time limit in section 256J.42, subdivision 1, ~~in which any participant has received 60 counted months of assistance,~~ is eligible to receive months of assistance under a hardship extension if the participant who reached the time limit belongs to any of the following groups:

(1) a person who is diagnosed by a licensed physician, psychological practitioner, or other qualified professional, as mentally retarded or mentally ill, and that condition prevents the person from obtaining or retaining unsubsidized employment;

(2) a person who:

(i) has been assessed by a vocational specialist or the county agency to be unemployable for purposes of this subdivision; or

(ii) has an IQ below 80 who has been assessed by a vocational specialist or a county agency to be employable, but not at a level that makes the participant eligible for an extension under subdivision 4 ~~or~~,. The determination of IQ level must be made by a qualified professional. In the case of a non-English-speaking person ~~for whom it is not possible to provide a determination due to language barriers or absence of culturally appropriate assessment tools, is determined by a qualified professional to have an IQ below 80. A person is considered employable if positions of employment in the local labor market exist, regardless of the current availability of openings for those positions, that the person is capable of performing:~~ (A) the determination must be made by a qualified professional with experience conducting culturally appropriate assessments, whenever possible; (B) the county may accept reports that identify an IQ range as opposed to a specific score; (C) these reports must include a statement of confidence in the results;

(3) a person who is determined by ~~the county agency~~ a qualified professional to be learning disabled ~~or~~, and the disability severely limits the person's ability to obtain, perform, or maintain suitable employment. For purposes of the initial approval of a learning disability extension, the determination must have been made or confirmed within the previous 12 months. In the case of a non-English-speaking person ~~for whom it is not possible to provide a medical diagnosis due to language barriers or absence of culturally appropriate assessment tools, is determined by a qualified professional to have a learning disability. If a rehabilitation plan for the person is developed or approved by the county agency, the plan must be incorporated into the employment plan. However, a rehabilitation plan does not replace the requirement to develop and comply with an employment plan under section 256J.52. For purposes of this section, "learning disabled" means the applicant or recipient has a disorder in one or more of the psychological processes involved in perceiving, understanding, or using concepts through verbal language or nonverbal means. The disability must severely limit the applicant or recipient in obtaining, performing, or maintaining suitable employment. Learning disabled does not include learning problems that are primarily the result of visual, hearing, or motor handicaps; mental retardation; emotional disturbance; or due to environmental, cultural, or economic disadvantage~~: (i) the determination must be made by a qualified professional with experience conducting culturally appropriate assessments, whenever possible; and (ii) these reports must include a statement of confidence in the results. If a rehabilitation plan for a participant extended as learning disabled is developed or approved by the county agency, the plan must be incorporated into the employment plan. However, a rehabilitation plan does not replace the requirement to develop and comply with an employment plan under section 256J.521; or

(4) a person who ~~is a victim of~~ has been granted a family violence ~~as defined in section 256J.49, subdivision 2~~ waiver, and who is ~~participating in~~ complying with an ~~alternative~~ employment plan under section ~~256J.49~~ 256J.521, subdivision ~~1a~~ 3.

Sec. 57. Minnesota Statutes 2002, section 256J.425, subdivision 4, is amended to read:

Subd. 4. [EMPLOYED PARTICIPANTS.] (a) An assistance unit subject to the time limit under section 256J.42, subdivision 1, ~~in which any participant has received 60 months of assistance,~~ is eligible to receive assistance under a hardship extension if the participant who reached the time limit belongs to:

(1) a one-parent assistance unit in which the participant is participating in work activities for at least 30 hours per week, of which an average of at least 25 hours per week every month are spent participating in employment;

(2) a two-parent assistance unit in which the participants are participating in work activities for at least 55 hours per week, of which an average of at least 45 hours per week every month are spent participating in employment; or

(3) an assistance unit in which a participant is participating in employment for fewer hours than those specified in clause (1), and the participant submits verification from a ~~health care provider~~ qualified professional, in a form acceptable to the commissioner, stating that the number of hours the participant may work is limited due to illness or disability, as long as the participant is participating in employment for at least the number of hours specified by the ~~health care provider~~ qualified professional. The participant must be following the treatment recommendations of the ~~health care provider~~ qualified professional providing the verification. The commissioner shall develop a form to be completed and signed by the ~~health care provider~~ qualified professional, documenting the diagnosis and any additional information necessary to document the functional limitations of the participant that limit work hours. If the participant is part of a two-parent assistance unit, the other parent must be treated as a one-parent assistance unit for purposes of meeting the work requirements under this subdivision.

(b) For purposes of this section, employment means:

(1) unsubsidized employment under section 256J.49, subdivision 13, clause (1);

(2) subsidized employment under section 256J.49, subdivision 13, clause (2);

(3) on-the-job training under section 256J.49, subdivision 13, clause ~~(4)~~ (2);

(4) an apprenticeship under section 256J.49, subdivision 13, clause ~~(19)~~ (1);

(5) supported work~~. For purposes of this section, "supported work" means services supporting a participant on the job which include, but are not limited to, supervision, job coaching, and subsidized wages~~ under section 256J.49, subdivision 13, clause (2);

(6) a combination of clauses (1) to (5); or

(7) child care under section 256J.49, subdivision 13, clause ~~(25)~~ (7), if it is in combination with paid employment.

(c) If a participant is complying with a child protection plan under chapter 260C, the number of hours required under the child protection plan count toward the number of hours required under this subdivision.

(d) The county shall provide the opportunity for subsidized employment to participants needing that type of employment within available appropriations.

(e) To be eligible for a hardship extension for employed participants under this subdivision, a participant ~~in a one-parent assistance unit or both parents in a two-parent assistance unit~~ must be in compliance for at least ten out of the 12 months immediately preceding the participant's 61st month on assistance. ~~If only one parent in a two-parent~~

~~assistance unit fails to be in compliance ten out of the 12 months immediately preceding the participant's 61st month, the county shall give the assistance unit the option of disqualifying the noncompliant parent. If the noncompliant participant is disqualified, the assistance unit must be treated as a one-parent assistance unit for the purposes of meeting the work requirements under this subdivision and the assistance unit's MFIP grant shall be calculated using the shared household standard under section 256J.08, subdivision 82a.~~

(f) The employment plan developed under section ~~256J.52~~ 256J.521, subdivision ~~5~~ 2, for participants under this subdivision must contain the number of hours specified in paragraph (a) related to employment and work activities. The job counselor and the participant must sign the employment plan to indicate agreement between the job counselor and the participant on the contents of the plan.

(g) Participants who fail to meet the requirements in paragraph (a), without good cause under section 256J.57, shall be sanctioned or permanently disqualified under subdivision 6. Good cause may only be granted for that portion of the month for which the good cause reason applies. Participants must meet all remaining requirements in the approved employment plan or be subject to sanction or permanent disqualification.

(h) If the noncompliance with an employment plan is due to the involuntary loss of employment, the participant is exempt from the hourly employment requirement under this subdivision for one month. Participants must meet all remaining requirements in the approved employment plan or be subject to sanction or permanent disqualification. This exemption is available to ~~one-parent assistance units~~ a participant two times in a 12-month period~~, and two-parent assistance units, two times per parent in a 12-month period~~.

~~(i) This subdivision expires on June 30, 2004.~~

Sec. 58. Minnesota Statutes 2002, section 256J.425, subdivision 6, is amended to read:

Subd. 6. [SANCTIONS FOR EXTENDED CASES.] (a) If one or both participants in an assistance unit receiving assistance under subdivision 3 or 4 are not in compliance with the employment and training service requirements in sections ~~256J.52~~ 256J.521 to ~~256J.55~~ 256J.57, the sanctions under this subdivision apply. For a first occurrence of noncompliance, an assistance unit must be sanctioned under section 256J.46, subdivision 1, paragraph ~~(d)~~ (c), clause (1). For a second or third occurrence of noncompliance, the assistance unit must be sanctioned under section 256J.46, subdivision 1, paragraph ~~(d)~~ (c), clause (2). For a fourth occurrence of noncompliance, the assistance unit is disqualified from MFIP. If a participant is determined to be out of compliance, the participant may claim a good cause exception under section 256J.57, however, the participant may not claim an exemption under section 256J.56.

(b) If both participants in a two-parent assistance unit are out of compliance at the same time, it is considered one occurrence of noncompliance.

Sec. 59. Minnesota Statutes 2002, section 256J.425, subdivision 7, is amended to read:

Subd. 7. [STATUS OF DISQUALIFIED PARTICIPANTS.] (a) An assistance unit that is disqualified under subdivision 6, paragraph (a), may be approved for MFIP if the participant complies with MFIP program requirements and demonstrates compliance for up to one month. No assistance shall be paid during this period.

(b) An assistance unit that is disqualified under subdivision 6, paragraph (a), and that reapplies under paragraph (a) is subject to sanction under section 256J.46, subdivision 1, paragraph ~~(d)~~ (c), clause (1), for a first occurrence of noncompliance. A subsequent occurrence of noncompliance results in a permanent disqualification.

(c) If one participant in a two-parent assistance unit receiving assistance under a hardship extension under subdivision 3 or 4 is determined to be out of compliance with the employment and training services requirements under sections ~~256J.52~~ 256J.521 to ~~256J.55~~ 256J.57, the county shall give the assistance unit the option of disqualifying the noncompliant participant from MFIP. In that case, the assistance unit shall be treated as a one-parent assistance unit for the purposes of meeting the work requirements under subdivision 4 and the assistance unit's MFIP grant shall be calculated using the shared household standard under section 256J.08, subdivision 82a. An applicant who is disqualified from receiving assistance under this paragraph may reapply under paragraph (a). If a participant is disqualified from MFIP under this subdivision a second time, the participant is permanently disqualified from MFIP.

(d) Prior to a disqualification under this subdivision, a county agency must review the participant's case to determine if the employment plan is still appropriate and attempt to meet with the participant face-to-face. If a face-to-face meeting is not conducted, the county agency must send the participant a notice of adverse action as provided in section 256J.31. During the face-to-face meeting, the county agency must:

(1) determine whether the continued noncompliance can be explained and mitigated by providing a needed preemployment activity, as defined in section 256J.49, subdivision 13, clause ~~(16), or services under a local intervention grant for self-sufficiency under section 256J.625~~ (9);

(2) determine whether the participant qualifies for a good cause exception under section 256J.57;

(3) inform the participant of the family violence waiver criteria and make appropriate referrals if the waiver is requested;

(4) inform the participant of the participant's sanction status and explain the consequences of continuing noncompliance;

~~(4)~~ (5) identify other resources that may be available to the participant to meet the needs of the family; and

~~(5)~~ (6) inform the participant of the right to appeal under section 256J.40.

Sec. 60. Minnesota Statutes 2002, section 256J.45, subdivision 2, is amended to read:

Subd. 2. [GENERAL INFORMATION.] The MFIP orientation must consist of a presentation that informs caregivers of:

(1) the necessity to obtain immediate employment;

(2) the work incentives under MFIP, including the availability of the federal earned income tax credit and the Minnesota working family tax credit;

(3) the requirement to comply with the employment plan and other requirements of the employment and training services component of MFIP, including a description of the range of work and training activities that are allowable under MFIP to meet the individual needs of participants;

(4) the consequences for failing to comply with the employment plan and other program requirements, and that the county agency may not impose a sanction when failure to comply is due to the unavailability of child care or other circumstances where the participant has good cause under subdivision 3;

(5) the rights, responsibilities, and obligations of participants;

(6) the types and locations of child care services available through the county agency;

(7) the availability and the benefits of the early childhood health and developmental screening under sections 121A.16 to 121A.19; 123B.02, subdivision 16; and 123B.10;

(8) the caregiver's eligibility for transition year child care assistance under section 119B.05;

(9) ~~the caregiver's eligibility for extended medical assistance when the caregiver loses eligibility for MFIP due to increased earnings or increased child or spousal support~~ the availability of all health care programs, including transitional medical assistance;

(10) the caregiver's option to choose an employment and training provider and information about each provider, including but not limited to, services offered, program components, job placement rates, job placement wages, and job retention rates;

(11) the caregiver's option to request approval of an education and training plan according to section ~~256J.52~~ 256J.53;

(12) the work study programs available under the higher education system; and

(13) ~~effective October 1, 2001,~~ information about the 60-month time limit ~~exemption and waivers of regular employment and training requirements for family violence victims~~ exemptions under the family violence waiver and referral information about shelters and programs for victims of family violence.

Sec. 61. Minnesota Statutes 2002, section 256J.46, subdivision 1, is amended to read:

Subdivision 1. [PARTICIPANTS NOT COMPLYING WITH PROGRAM REQUIREMENTS.] (a) A participant who fails without good cause under section 256J.57 to comply with the requirements of this chapter, and who is not subject to a sanction under subdivision 2, shall be subject to a sanction as provided in this subdivision. Prior to the imposition of a sanction, a county agency shall provide a notice of intent to sanction under section 256J.57, subdivision 2, and, when applicable, a notice of adverse action as provided in section 256J.31.

(b) ~~A participant who fails to comply with an alternative employment plan must have the plan reviewed by a person trained in domestic violence and a job counselor or the county agency to determine if components of the alternative employment plan are still appropriate. If the activities are no longer appropriate, the plan must be revised with a person trained in domestic violence and approved by a job counselor or the county agency. A participant who fails to comply with a plan that is determined not to need revision will lose their exemption and be required to comply with regular employment services activities.~~

~~(c)~~ A sanction under this subdivision becomes effective the month following the month in which a required notice is given. A sanction must not be imposed when a participant comes into compliance with the requirements for orientation under section 256J.45 ~~or third-party liability for medical services under section 256J.30, subdivision 10,~~ prior to the effective date of the sanction. A sanction must not be imposed when a participant comes into compliance with the requirements for employment and training services under sections ~~256J.49~~ 256J.515 to ~~256J.55~~ 256J.57 ten days prior to the effective date of the sanction. For purposes of this subdivision, each month that a participant fails to comply with a requirement of this chapter shall be considered a separate occurrence of noncompliance. ~~A participant who has had one or more sanctions imposed must remain in compliance with the provisions of this chapter for six months in order for a subsequent occurrence of noncompliance to be considered a first occurrence.~~ If both participants in a two-parent assistance unit are out of compliance at the same time, it is considered one occurrence of noncompliance.

~~(d)~~ (c) Sanctions for noncompliance shall be imposed as follows:

(1) For the first occurrence of noncompliance by a participant in an assistance unit, the assistance unit's grant shall be reduced by ten percent of the MFIP standard of need for an assistance unit of the same size with the residual grant paid to the participant. The reduction in the grant amount must be in effect for a minimum of one month and shall be removed in the month following the month that the participant returns to compliance.

(2) For a second ~~or subsequent~~, third, fourth, fifth, or sixth occurrence of noncompliance by a participant in an assistance unit, ~~or when each of the participants in a two-parent assistance unit have a first occurrence of noncompliance at the same time,~~ the assistance unit's shelter costs shall be vendor paid up to the amount of the cash portion of the MFIP grant for which the assistance unit is eligible. At county option, the assistance unit's utilities may also be vendor paid up to the amount of the cash portion of the MFIP grant remaining after vendor payment of the assistance unit's shelter costs. The residual amount of the grant after vendor payment, if any, must be reduced by an amount equal to 30 percent of the MFIP standard of need for an assistance unit of the same size before the residual grant is paid to the assistance unit. The reduction in the grant amount must be in effect for a minimum of one month and shall be removed in the month following the month that the participant in a one-parent assistance unit returns to compliance. In a two-parent assistance unit, the grant reduction must be in effect for a minimum of one month and shall be removed in the month following the month both participants return to compliance. The vendor payment of shelter costs and, if applicable, utilities shall be removed six months after the month in which the participant or participants return to compliance. If an assistance unit is sanctioned under this clause, the participant's case file must be reviewed ~~as required under paragraph (e)~~ to determine if the employment plan is still appropriate.

~~(e) When a sanction under paragraph (d), clause (2), is in effect~~ (d) For a seventh occurrence of noncompliance by a participant in an assistance unit, or when the participants in a two-parent assistance unit have a total of seven occurrences of noncompliance, the county agency shall close the MFIP assistance unit's financial assistance case, both the cash and food portions. The case must remain closed for a minimum of one full month. Closure under this paragraph does not make a participant automatically ineligible for food support, if otherwise eligible. Before the case is closed, the county agency must review the participant's case to determine if the employment plan is still appropriate and attempt to meet with the participant face-to-face. The participant may bring an advocate to the face-to-face meeting. If a face-to-face meeting is not conducted, the county agency must send the participant a written notice that includes the information required under clause (1).

(1) During the face-to-face meeting, the county agency must:

(i) determine whether the continued noncompliance can be explained and mitigated by providing a needed preemployment activity, as defined in section 256J.49, subdivision 13, clause ~~(16), or services under a local intervention grant for self-sufficiency under section 256J.625~~ (9);

(ii) determine whether the participant qualifies for a good cause exception under section 256J.57, or if the sanction is for noncooperation with child support requirements, determine if the participant qualifies for a good cause exemption under section 256.741, subdivision 10;

(iii) determine whether the participant qualifies for an exemption under section 256J.56 or the work activities in the employment plan are appropriate based on the criteria in section 256J.521, subdivision 2 or 3;

(iv) ~~determine whether the participant qualifies for an exemption from regular employment services requirements for victims of family violence under section 256J.52, subdivision 6~~ determine whether the participant qualifies for the family violence waiver;

(v) inform the participant of the participant's sanction status and explain the consequences of continuing noncompliance;

(vi) identify other resources that may be available to the participant to meet the needs of the family; and

(vii) inform the participant of the right to appeal under section 256J.40.

(2) If the lack of an identified activity or service can explain the noncompliance, the county must work with the participant to provide the identified activity~~, and the county must restore the participant's grant amount to the full amount for which the assistance unit is eligible. The grant must be restored retroactively to the first day of the month in which the participant was found to lack preemployment activities or to qualify for an exemption under section 256J.56, a good cause exception under section 256J.57, or an exemption for victims of family violence under section 256J.52, subdivision 6~~.

(3) ~~If the participant is found to qualify for a good cause exception or an exemption, the county must restore the participant's grant to the full amount for which the assistance unit is eligible.~~ The grant must be restored to the full amount for which the assistance unit is eligible retroactively to the first day of the month in which the participant was found to lack preemployment activities or to qualify for an exemption under section 256J.56, a family violence waiver, or for a good cause exemption under section 256.741, subdivision 10, or 256J.57.

(e) For the purpose of applying sanctions under this section, only occurrences of noncompliance that occur after the effective date of this section shall be considered. If the participant is in 30 percent sanction in the month this section takes effect, that month counts as the first occurrence for purposes of applying the sanctions under this section, but the sanction shall remain at 30 percent for that month.

(f) An assistance unit whose case is closed under paragraph (d) or (g), or under an approved county option sanction plan under section 256J.462 in effect June 30, 2003, or a county pilot project under Laws 2000, chapter 488, article 10, section 29, in effect June 30, 2003, may reapply for MFIP and shall be eligible if the participant complies with MFIP program requirements and demonstrates compliance for up to one month. No assistance shall be paid during this period.

(g) An assistance unit whose case has been closed for noncompliance, that reapplies under paragraph (f) is subject to sanction under paragraph (c), clause (2), for a first occurrence of noncompliance. Any subsequent occurrence of noncompliance shall result in case closure under paragraph (d).

Sec. 62. Minnesota Statutes 2002, section 256J.46, subdivision 2, is amended to read:

Subd. 2. [SANCTIONS FOR REFUSAL TO COOPERATE WITH SUPPORT REQUIREMENTS.] The grant of an MFIP caregiver who refuses to cooperate, as determined by the child support enforcement agency, with support requirements under section 256.741, shall be subject to sanction as specified in this subdivision and subdivision 1. For a first occurrence of noncooperation, the assistance unit's grant must be reduced by ~~25~~ 30 percent of the applicable MFIP standard of need. Subsequent occurrences of noncooperation shall be subject to sanction under subdivision 1, paragraphs (c), clause (2), and (d). The residual amount of the grant, if any, must be paid to the caregiver. A sanction under this subdivision becomes effective the first month following the month in which a required notice is given. A sanction must not be imposed when a caregiver comes into compliance with the requirements under section 256.741 prior to the effective date of the sanction. The sanction shall be removed in the month following the month that the caregiver cooperates with the support requirements. Each month that an MFIP caregiver fails to comply with the requirements of section 256.741 must be considered a separate occurrence of noncompliance for the purpose of applying sanctions under subdivision 1, paragraphs (c), clause (2), and (d). ~~An MFIP caregiver who has had one or more sanctions imposed must remain in compliance with the requirements of section 256.741 for six months in order for a subsequent sanction to be considered a first occurrence.~~

Sec. 63. Minnesota Statutes 2002, section 256J.46, subdivision 2a, is amended to read:

Subd. 2a. [DUAL SANCTIONS.] (a) Notwithstanding the provisions of subdivisions 1 and 2, for a participant subject to a sanction for refusal to comply with child support requirements under subdivision 2 and subject to a concurrent sanction for refusal to cooperate with other program requirements under subdivision 1, sanctions shall be imposed in the manner prescribed in this subdivision.

~~A participant who has had one or more sanctions imposed under this subdivision must remain in compliance with the provisions of this chapter for six months in order for a subsequent occurrence of noncompliance to be considered a first occurrence.~~ Any vendor payment of shelter costs or utilities under this subdivision must remain in effect for six months after the month in which the participant is no longer subject to sanction under subdivision 1.

(b) If the participant was subject to sanction for:

(i) noncompliance under subdivision 1 before being subject to sanction for noncooperation under subdivision 2; or

(ii) noncooperation under subdivision 2 before being subject to sanction for noncompliance under subdivision 1, the participant is considered to have a second occurrence of noncompliance and shall be sanctioned as provided in subdivision 1, paragraph ~~(d)~~ (c), clause (2). Each subsequent occurrence of noncompliance shall be considered one additional occurrence and shall be subject to the applicable level of sanction under subdivision 1~~, paragraph (d), or section 256J.462~~. The requirement that the county conduct a review as specified in subdivision 1, paragraph ~~(e)~~ (d), remains in effect.

(c) A participant who first becomes subject to sanction under both subdivisions 1 and 2 in the same month is subject to sanction as follows:

(i) in the first month of noncompliance and noncooperation, the participant's grant must be reduced by ~~25~~ 30 percent of the applicable MFIP standard of need, with any residual amount paid to the participant;

(ii) in the second and subsequent months of noncompliance and noncooperation, the participant shall be subject to the applicable level of sanction under subdivision 1~~, paragraph (d), or section 256J.462~~.

The requirement that the county conduct a review as specified in subdivision 1, paragraph ~~(e)~~ (d), remains in effect.

(d) A participant remains subject to sanction under subdivision 2 if the participant:

(i) returns to compliance and is no longer subject to sanction ~~under subdivision 1 or section 256J.462~~ for noncompliance with section 256J.45 or sections 256J.515 to 256J.57; or

(ii) has the sanction ~~under subdivision 1, paragraph (d), or section 256J.462~~ for noncompliance with section 256J.45 or sections 256J.515 to 256J.57 removed upon completion of the review under subdivision 1, paragraph (e).

A participant remains subject to the applicable level of sanction under subdivision 1~~, paragraph (d), or section 256J.462~~ if the participant cooperates and is no longer subject to sanction under subdivision 2.

Sec. 64. Minnesota Statutes 2002, section 256J.49, subdivision 4, is amended to read:

Subd. 4. [EMPLOYMENT AND TRAINING SERVICE PROVIDER.] "Employment and training service provider" means:

(1) a public, private, or nonprofit employment and training agency certified by the commissioner of economic security under sections 268.0122, subdivision 3, and 268.871, subdivision 1, or is approved under section 256J.51 and is included in the county ~~plan~~ service agreement submitted under section ~~256J.50~~ 256J.626, subdivision ~~7~~ 4;

(2) a public, private, or nonprofit agency that is not certified by the commissioner under clause (1), but with which a county has contracted to provide employment and training services and which is included in the county's ~~plan~~ service agreement submitted under section ~~256J.50~~ 256J.626, subdivision ~~7~~ 4; or

(3) a county agency, if the county has opted to provide employment and training services and the county has indicated that fact in the ~~plan~~ service agreement submitted under section ~~256J.50~~ 256J.626, subdivision ~~7~~ 4.

Notwithstanding section 268.871, an employment and training services provider meeting this definition may deliver employment and training services under this chapter.

Sec. 65. Minnesota Statutes 2002, section 256J.49, subdivision 5, is amended to read:

Subd. 5. [EMPLOYMENT PLAN.] "Employment plan" means a plan developed by the job counselor and the participant which identifies the participant's most direct path to unsubsidized employment, lists the specific steps that the caregiver will take on that path, and includes a timetable for the completion of each step. The plan should also identify any subsequent steps that support long-term economic stability. For participants who request and qualify for a family violence waiver, an employment plan must be developed by the job counselor, the participant, and a person trained in domestic violence and follow the employment plan provisions in section 256J.521, subdivision 3.

Sec. 66. Minnesota Statutes 2002, section 256J.49, is amended by adding a subdivision to read:

Subd. 6a. [FUNCTIONAL WORK LITERACY.] "Functional work literacy" means an intensive English as a second language program that is work focused and offers at least 20 hours of class time per week.

Sec. 67. Minnesota Statutes 2002, section 256J.49, subdivision 9, is amended to read:

Subd. 9. [PARTICIPANT.] "Participant" means a recipient of MFIP assistance who participates or is required to participate in employment and training services under sections 256J.515 to 256J.57 and 256J.95.

Sec. 68. Minnesota Statutes 2002, section 256J.49, is amended by adding a subdivision to read:

Subd. 12a. [SUPPORTED WORK.] "Supported work" means a subsidized or unsubsidized work experience placement with a public or private sector employer, which may include services such as individualized supervision and job coaching to support the participant on the job.

Sec. 69. Minnesota Statutes 2002, section 256J.49, subdivision 13, is amended to read:

Subd. 13. [WORK ACTIVITY.] "Work activity" means any activity in a participant's approved employment plan that ~~is tied to the participant's~~ leads to employment ~~goal~~. For purposes of the MFIP program, ~~any activity that is included in a participant's approved employment plan meets~~ this includes activities that meet the definition of work activity ~~as counted~~ under the ~~federal~~ participation ~~standards~~ requirements of TANF. Work activity includes~~, but is not limited to~~:

(1) unsubsidized employment, including work study and paid apprenticeships or internships;

(2) subsidized private sector or public sector employment, including grant diversion as specified in section 256J.69, on-the-job training as specified in section 256J.66, the self-employment investment demonstration program (SEID) as specified in section 256J.65, paid work experience, and supported work when a wage subsidy is provided;

(3) unpaid work experience, including ~~CWEP~~ community service, volunteer work, the community work experience program as specified in section 256J.67, unpaid apprenticeships or internships, and ~~including work associated with the refurbishing of publicly assisted housing if sufficient private sector employment is not available~~ supported work when a wage subsidy is not provided;

(4) ~~on the job training as specified in section 256J.66~~ job search including job readiness assistance, job clubs, job placement, job-related counseling, and job retention services;

~~(5) job search, either supervised or unsupervised;~~

~~(6) job readiness assistance;~~

~~(7) job clubs, including job search workshops;~~

~~(8) job placement;~~

~~(9) job development;~~

~~(10) job-related counseling;~~

~~(11) job coaching;~~

~~(12) job retention services;~~

~~(13) job-specific training or education;~~

~~(14) job skills training directly related to employment;~~

~~(15) the self-employment investment demonstration (SEID), as specified in section 256J.65;~~

~~(16) preemployment activities, based on availability and resources, such as volunteer work, literacy programs and related activities, citizenship classes, English as a second language (ESL) classes as limited by the provisions of section 256J.52, subdivisions 3, paragraph (d), and 5, paragraph (c), or participation in dislocated worker services, chemical dependency treatment, mental health services, peer group networks, displaced homemaker programs, strength-based resiliency training, parenting education, or other programs designed to help families reach their employment goals and enhance their ability to care for their children;~~

~~(17) community service programs;~~

~~(18) vocational educational training or educational programs that can reasonably be expected to lead to employment, as limited by the provisions of section 256J.53;~~

~~(19) apprenticeships;~~

~~(20) satisfactory attendance in general educational development diploma classes or an adult diploma program;~~

~~(21) satisfactory attendance at secondary school, if the participant has not received a high school diploma;~~

~~(22) adult basic education classes;~~

~~(23) internships;~~

~~(24) bilingual employment and training services;~~

~~(25) providing child care services to a participant who is working in a community service program; and~~

~~(26) activities included in an alternative employment plan that is developed under section 256J.52, subdivision 6.~~

(5) job readiness education, including English as a second language (ESL) or functional work literacy classes as limited by the provisions of section 256J.531, subdivision 2, general educational development (GED) course work, high school completion, and adult basic education as limited by the provisions of section 256J.531, subdivision 1;

(6) job skills training directly related to employment, including education and training that can reasonably be expected to lead to employment, as limited by the provisions of section 256J.53;

(7) providing child care services to a participant who is working in a community service program;

(8) activities included in the employment plan that is developed under section 256J.521, subdivision 3; and

(9) preemployment activities including chemical and mental health assessments, treatment, and services; learning disabilities services; child protective services; family stabilization services; or other programs designed to enhance employability.

Sec. 70. Minnesota Statutes 2002, section 256J.50, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYMENT AND TRAINING SERVICES COMPONENT OF MFIP.] (a) ~~By January 1, 1998,~~ Each county must develop and ~~implement~~ provide an employment and training services component ~~of MFIP~~ which is designed to put participants on the most direct path to unsubsidized employment. Participation in these services is mandatory for all MFIP caregivers, unless the caregiver is exempt under section 256J.56.

(b) A county must provide employment and training services under sections 256J.515 to 256J.74 within 30 days after the ~~caregiver's participation becomes mandatory under subdivision 5 or within 30 days of receipt of a request for services from a caregiver who under section 256J.42 is no longer eligible to receive MFIP but whose income is below 120 percent of the federal poverty guidelines for a family of the same size. The request must be made within 12 months of the date the caregivers' MFIP case was closed~~ caregiver is determined eligible for MFIP, or within five days when the caregiver participated in the diversionary work program under section 256J.95 within the past 12 months.

Sec. 71. Minnesota Statutes 2002, section 256J.50, subdivision 8, is amended to read:

Subd. 8. [COUNTY DUTY TO ENSURE EMPLOYMENT AND TRAINING CHOICES FOR PARTICIPANTS.] Each county, or group of counties working cooperatively, shall make available to participants the choice of at least two employment and training service providers as defined under section 256J.49, subdivision 4, except in counties utilizing workforce centers that use multiple employment and training services, offer multiple services options under a collaborative effort and can document that participants have choice among employment and training services designed to meet specialized needs. The requirements of this subdivision do not apply to the diversionary work program under section 256J.95.

Sec. 72. Minnesota Statutes 2002, section 256J.50, subdivision 9, is amended to read:

Subd. 9. [EXCEPTION; FINANCIAL HARDSHIP.] Notwithstanding subdivision 8, a county that explains in the ~~plan~~ service agreement required under section 256J.626, subdivision ~~7~~ 4, that the provision of alternative employment and training service providers would result in financial hardship for the county is not required to make available more than one employment and training provider.

Sec. 73. Minnesota Statutes 2002, section 256J.50, subdivision 10, is amended to read:

Subd. 10. [REQUIRED NOTIFICATION TO VICTIMS OF FAMILY VIOLENCE.] (a) County agencies and their contractors must provide universal notification to all applicants and recipients of MFIP that:

(1) referrals to counseling and supportive services are available for victims of family violence;

(2) nonpermanent resident battered individuals married to United States citizens or permanent residents may be eligible to petition for permanent residency under the federal Violence Against Women Act, and that referrals to appropriate legal services are available;

(3) victims of family violence are exempt from the 60-month limit on assistance ~~while the individual is~~ if they are complying with an ~~approved safety plan or, after October 1, 2001, an alternative~~ employment plan~~, as defined in~~ under section ~~256J.49~~ 256J.521, subdivision ~~1a~~ 3; and

(4) victims of family violence may choose to have regular work requirements waived while the individual is complying with an ~~alternative~~ employment plan ~~as defined in~~ under section ~~256J.49~~ 256J.521, subdivision ~~1a~~ 3.

(b) If an ~~alternative~~ employment plan under section 256J.521, subdivision 3, is denied, the county or a job counselor must provide reasons why the plan is not approved and document how the denial of the plan does not interfere with the safety of the participant or children.

Notification must be in writing and orally at the time of application and recertification, when the individual is referred to the title IV-D child support agency, and at the beginning of any job training or work placement assistance program.

Sec. 74. Minnesota Statutes 2002, section 256J.51, subdivision 1, is amended to read:

Subdivision 1. [PROVIDER APPLICATION.] An employment and training service provider that is not included in a county's ~~plan~~ service agreement under section ~~256J.50~~ 256J.626, subdivision ~~7~~ 4, because the county has demonstrated financial hardship under section 256J.50, subdivision 9 ~~of that section~~, may appeal its exclusion to the commissioner of economic security under this section.

Sec. 75. Minnesota Statutes 2002, section 256J.51, subdivision 2, is amended to read:

Subd. 2. [APPEAL; ALTERNATE APPROVAL.] (a) An employment and training service provider that is not included by a county agency in the ~~plan~~ service agreement under section ~~256J.50~~ 256J.626, subdivision ~~7~~ 4, and that meets the criteria in paragraph (b), may appeal its exclusion to the commissioner of economic security, and may request alternative approval by the commissioner of economic security to provide services in the county.

(b) An employment and training services provider that is requesting alternative approval must demonstrate to the commissioner that the provider meets the standards specified in section 268.871, subdivision 1, paragraph (b), except that the provider's past experience may be in services and programs similar to those specified in section 268.871, subdivision 1, paragraph (b).

Sec. 76. Minnesota Statutes 2002, section 256J.51, subdivision 3, is amended to read:

Subd. 3. [COMMISSIONER'S REVIEW.] (a) The commissioner must act on a request for alternative approval under this section within 30 days of the receipt of the request. If after reviewing the provider's request, and the county's ~~plan~~ service agreement submitted under section ~~256J.50~~ 256J.626, subdivision ~~7~~ 4, the commissioner determines that the provider meets the criteria under subdivision 2, paragraph (b), and that approval of the provider would not cause financial hardship to the county, the county must submit a revised ~~plan~~ service agreement under subdivision 4 that includes the approved provider.

(b) If the commissioner determines that the approval of the provider would cause financial hardship to the county, the commissioner must notify the provider and the county of this determination. The alternate approval process under this section shall be closed to other requests for alternate approval to provide employment and training services in the county for up to 12 months from the date that the commissioner makes a determination under this paragraph.

Sec. 77. Minnesota Statutes 2002, section 256J.51, subdivision 4, is amended to read:

Subd. 4. [REVISED ~~PLAN~~ SERVICE AGREEMENT REQUIRED.] The commissioner of economic security must notify the county agency when the commissioner grants an alternative approval to an employment and training service provider under subdivision 2. Upon receipt of the notice, the county agency must submit a revised ~~plan~~ service agreement under section ~~256J.50~~ 256J.626, subdivision ~~7~~ 4, that includes the approved provider. The county has 90 days from the receipt of the commissioner's notice to submit the revised ~~plan~~ service agreement.

Sec. 78. [256J.521] [ASSESSMENT; EMPLOYMENT PLANS.]

Subdivision 1. [ASSESSMENTS.] (a) For purposes of MFIP employment services, assessment is a continuing process of gathering information related to employability for the purpose of identifying both participant's strengths and strategies for coping with issues that interfere with employment. The job counselor must use information from the assessment process to develop and update the employment plan under subdivision 2.

(b) The scope of assessment must cover at least the following areas:

(1) basic information about the participant's ability to obtain and retain employment, including: a review of the participant's education level; interests, skills, and abilities; prior employment or work experience; transferable work skills; child care and transportation needs;

(2) identification of personal and family circumstances that impact the participant's ability to obtain and retain employment, including: any special needs of the children, the level of English proficiency, family violence issues, and any involvement with social services or the legal system;

(3) the results of a mental and chemical health screening tool designed by the commissioner and results of the brief screening tool for special learning needs. Screening for mental and chemical health and special learning needs must be completed by participants who are unable to find suitable employment after six weeks of job search under subdivision 2, paragraph (b), and participants who are determined to have barriers to employment under subdivision 2, paragraph (d). Failure to complete the screens will result in sanction under section 256J.46; and

(4) a comprehensive review of participation and progress for participants who have received MFIP assistance and have not worked in unsubsidized employment during the past 12 months. The purpose of the review is to determine the need for additional services and supports, including placement in subsidized employment or unpaid work experience under section 256J.49, subdivision 13.

(c) Information gathered during a caregiver's participation in the diversionary work program under section 256J.95 must be incorporated into the assessment process.

(d) The job counselor may require the participant to complete a professional chemical use assessment to be performed according to the rules adopted under section 254A.03, subdivision 3, including provisions in the administrative rules which recognize the cultural background of the participant, or a professional psychological assessment as a component of the assessment process, when the job counselor has a reasonable belief, based on objective evidence, that a participant's ability to obtain and retain suitable employment is impaired by a medical condition. The job counselor may assist the participant with arranging services, including child care assistance and transportation, necessary to meet needs identified by the assessment. Data gathered as part of a professional assessment must be classified and disclosed according to the provisions in section 13.46.

Subd. 2. [EMPLOYMENT PLAN; CONTENTS.] (a) Based on the assessment under subdivision 1, the job counselor and the participant must develop an employment plan that includes participation in activities and hours that meet the requirements of section 256J.55, subdivision 1. The purpose of the employment plan is to identify for each participant the most direct path to unsubsidized employment and any subsequent steps that support long-term economic stability. The employment plan should be developed using the highest level of activity appropriate for the participant. Activities must be chosen from clauses (1) to (6), which are listed in order of preference. The employment plan must also list the specific steps the participant will take to obtain employment, including steps necessary for the participant to progress from one level of activity to another, and a timetable for completion of each step. Levels of activity include:

(1) unsubsidized employment;

(2) job search;

(3) subsidized employment or unpaid work experience;

(4) unsubsidized employment and job readiness education or job skills training;

(5) unsubsidized employment or unpaid work experience, and activities related to a family violence waiver or preemployment needs; and

(6) activities related to a family violence waiver or preemployment needs.

(b) Participants who are determined able to work in unsubsidized employment must job search at least 30 hours per week for up to six weeks, and accept any offer of suitable employment. The remaining hours necessary to meet the requirements of section 256J.55, subdivision 1, may be met through participation in other work activities under section 256J.49, subdivision 13. The participant's employment plan must specify, at a minimum: (1) whether the job search is supervised or unsupervised; (2) support services that will be provided; and (3) how frequently the participant must report to the job counselor. Participants who are unable to find suitable employment after six weeks must meet with the job counselor to determine whether other activities in paragraph (a) should be incorporated into the employment plan. Job search activities which are continued after six weeks must be structured and supervised.

(c) Beginning July 1, 2004, activities and hourly requirements in the employment plan may be adjusted as necessary to accommodate the personal and family circumstances of participants identified under section 256J.561, subdivision 2, paragraph (d). Participants who no longer meet the provisions of section 256J.561, subdivision 2, paragraph (d), must meet with the job counselor within ten days of the determination to revise the employment plan.

(d) Participants who are determined to have barriers to obtaining or retaining employment that will not be overcome during six weeks of job search under paragraph (b) must work with the job counselor to develop an employment plan that addresses those barriers by incorporating appropriate activities from paragraph (a), clauses (1) to (6). The employment plan must include enough hours to meet the participation requirements in section 256J.55, subdivision 1, unless a compelling reason to require fewer hours is noted in the participant's file.

(e) The job counselor and the participant must sign the employment plan to indicate agreement on the contents. Failure to develop or comply with activities in the plan, or voluntarily quitting suitable employment without good cause, will result in the imposition of a sanction under section 256J.46.

(f) Employment plans must be reviewed at least every three months to determine whether activities and hourly requirements should be revised.

Subd. 3. [EMPLOYMENT PLAN; FAMILY VIOLENCE WAIVER.] (a) A participant who requests and qualifies for a family violence waiver shall develop or revise the employment plan as specified in this subdivision with a job counselor or county, and a person trained in domestic violence. The revised or new employment plan must be approved by the county or the job counselor. The plan may address safety, legal, or emotional issues, and other demands on the family as a result of the family violence. Information in section 256J.515, clauses (1) to (8), must be included as part of the development of the plan.

(b) The primary goal of an employment plan developed under this subdivision is to ensure the safety of the caregiver and children. To the extent it is consistent with ensuring safety, the plan shall also include activities that are designed to lead to economic stability. An activity is inconsistent with ensuring safety if, in the opinion of a person trained in domestic violence, the activity would endanger the safety of the participant or children. A plan under this subdivision may not automatically include a provision that requires a participant to obtain an order for protection or to attend counseling.

(c) If at any time there is a disagreement over whether the activities in the plan are appropriate or the participant is not complying with activities in the plan under this subdivision, the participant must receive the assistance of a person trained in domestic violence to help resolve the disagreement or noncompliance with the county or job counselor. If the person trained in domestic violence recommends that the activities are still appropriate, the county or a job counselor must approve the activities in the plan or provide written reasons why activities in the plan are not approved and document how denial of the activities do not endanger the safety of the participant or children.

Subd. 4. [SELF-EMPLOYMENT.] (a) Self-employment activities may be included in an employment plan contingent on the development of a business plan which establishes a timetable and earning goals that will result in the participant exiting MFIP assistance. Business plans must be developed with assistance from an individual or organization with expertise in small business as approved by the job counselor.

(b) Participants with an approved plan that includes self-employment must meet the participation requirements in section 256J.55, subdivision 1. Only hours where the participant earns at least minimum wage shall be counted toward the requirement. Additional activities and hours necessary to meet the participation requirements in section 256J.55, subdivision 1, must be included in the employment plan.

(c) Employment plans which include self-employment activities must be reviewed every three months. Participants who fail, without good cause, to make satisfactory progress as established in the business plan must revise the employment plan to replace the self-employment with other approved work activities.

(d) The requirements of this subdivision may be waived for participants who are enrolled in the self-employment investment demonstration program (SEID) under section 256J.65, and who make satisfactory progress as determined by the job counselor and the SEID provider.

Subd. 5. [TRANSITION FROM THE DIVERSIONARY WORK PROGRAM.] Participants who become eligible for MFIP assistance after completing the diversionary work program under section 256J.95 must comply with all requirements of subdivisions 1 and 2. Participants who become eligible for MFIP assistance after being determined unable to benefit from the diversionary work program must comply with the requirements of subdivisions 1 and 2, with the exception of subdivision 2, paragraph (b).

Subd. 6. [LOSS OF EMPLOYMENT.] Participants who are laid off, quit with good cause, or are terminated from employment through no fault of their own must meet with the job counselor within ten working days to ascertain the reason for the job loss and to revise the employment plan as necessary to address the problem.

Sec. 79. Minnesota Statutes 2002, section 256J.53, subdivision 1, is amended to read:

Subdivision 1. [LENGTH OF PROGRAM.] (a) In order for a post-secondary education or training program to be an approved work activity as defined in section 256J.49, subdivision 13, clause ~~(18)~~ (6), it must be a program lasting ~~24~~ 12 months or less, and the participant must meet the requirements of subdivisions 2 ~~and~~, 3, and 5.

(b) The 12 months of allowable postsecondary education or training may be used to complete the final 12 months of a longer program, provided the program does not exceed the undergraduate level.

(c) All course work must be completed within 18 months of enrollment in the program.

Sec. 80. Minnesota Statutes 2002, section 256J.53, subdivision 2, is amended to read:

Subd. 2. [~~DOCUMENTATION SUPPORTING PROGRAM~~ APPROVAL OF POSTSECONDARY EDUCATION OR TRAINING.] (a) In order for a post-secondary education or training program to be an approved activity in ~~a participant's~~ an employment plan, the participant ~~or the employment and training service provider~~ must ~~provide documentation that:~~ be working in unsubsidized employment at least 25 hours per week.

(b) Participants seeking approval of a postsecondary education or training plan must provide documentation that:

(1) the ~~participant's~~ employment ~~plan identifies specific goals that~~ goal can only be met with the additional education or training;

(2) there are suitable employment opportunities that require the specific education or training in the area in which the participant resides or is willing to reside;

(3) the education or training will result in significantly higher wages for the participant than the participant could earn without the education or training;

(4) the participant can meet the requirements for admission into the program; and

(5) there is a reasonable expectation that the participant will complete the training program based on such factors as the participant's MFIP assessment, previous education, training, and work history; current motivation; and changes in previous circumstances.

(c) The hourly unsubsidized employment requirement may be reduced for intensive education or training programs lasting 12 weeks or less when full-time attendance is required.

(d) Participants with an approved employment plan in place on July 1, 2003, which includes more than 12 months of postsecondary education or training shall be allowed to complete that plan provided that hourly requirements in section 256J.55, subdivision 1, and conditions specified in paragraph (b), and subdivisions 3 and 5 are met.

Sec. 81. Minnesota Statutes 2002, section 256J.53, subdivision 5, is amended to read:

Subd. 5. [~~JOB SEARCH AFTER COMPLETION OF WORK ACTIVITY~~ REQUIREMENTS AFTER POSTSECONDARY EDUCATION OR TRAINING.] ~~If a participant's employment plan includes a post-secondary educational or training program, the plan must include an anticipated completion date for those activities. At the time the education or training is completed, the participant must participate in job search. If, after three months of job search, the participant does not find a job that is consistent with the participant's employment goal, the participant must accept any offer of suitable employment.~~ Upon completion of an approved education or training program, a participant who does not meet the participation requirements in section 256J.55, subdivision 1, through unsubsidized employment must participate in job search. If, after six weeks of job search, the participant does not find a full-time job consistent with the employment goal, the participant must accept any offer of full-time suitable employment, or meet with the job counselor to revise the employment plan to include additional work activities necessary to meet hourly requirements.

Sec. 82. [256J.531] [BASIC EDUCATION; ENGLISH AS A SECOND LANGUAGE.]

Subdivision 1. [APPROVAL OF ADULT BASIC EDUCATION.] With the exception of classes related to obtaining a general educational development credential (GED), a participant must have reading or mathematics proficiency below a ninth grade level in order for adult basic education classes to be an approved work activity. The employment plan must also specify that the participant fulfill no more than one-half of the participation requirements in section 256J.55, subdivision 1, through attending adult basic educational or general educational development classes.

Subd. 2. [APPROVAL OF ENGLISH AS A SECOND LANGUAGE.] In order for English as a second language (ESL) classes to be an approved work activity in an employment plan, a participant must be below a spoken language proficiency level of SPL6 or its equivalent, as measured by a nationally recognized test. In approving ESL as a work activity, the job counselor must give preference to enrollment in a functional work literacy program, if one is available, over a regular ESL program. A participant may not be approved for more than a combined total of 24 months of ESL classes while participating in the diversionary work program and the employment and training services component of MFIP. The employment plan must also specify that the participant fulfill no more than one-half of the participation requirements in section 256J.55, subdivision 1, through attending ESL classes.

Sec. 83. Minnesota Statutes 2002, section 256J.54, subdivision 1, is amended to read:

Subdivision 1. [ASSESSMENT OF EDUCATIONAL PROGRESS AND NEEDS.] (a) The county agency must document the educational level of each MFIP caregiver who is under the age of 20 and determine if the caregiver has obtained a high school diploma or its equivalent. If the caregiver has not obtained a high school diploma or its equivalent, ~~and is not exempt from the requirement to attend school under subdivision 5,~~ the county agency must complete an individual assessment for the caregiver unless the caregiver is exempt from the requirement to attend school under subdivision 5 or has chosen to have an employment plan under section 256J.521, subdivision 2, as allowed in paragraph (b). The assessment must be performed as soon as possible but within 30 days of determining MFIP eligibility for the caregiver. The assessment must provide an initial examination of the caregiver's educational progress and needs, literacy level, child care and supportive service needs, family circumstances, skills, and work experience. In the case of a caregiver under the age of 18, the assessment must also consider the results of either the caregiver's or the caregiver's minor child's child and teen checkup under Minnesota Rules, parts 9505.0275 and 9505.1693 to 9505.1748, if available, and the effect of a child's development and educational needs on the caregiver's ability to participate in the program. The county agency must advise the caregiver that the caregiver's first goal must be to complete an appropriate ~~educational~~ education option if one is identified for the caregiver through the assessment and, in consultation with educational agencies, must review the various school completion options with the caregiver and assist in selecting the most appropriate option.

(b) The county agency must give a caregiver, who is age 18 or 19 and has not obtained a high school diploma or its equivalent, the option to choose an employment plan with an education option under subdivision 3 or an employment plan under section 256J.521, subdivision 2.

Sec. 84. Minnesota Statutes 2002, section 256J.54, subdivision 2, is amended to read:

Subd. 2. [RESPONSIBILITY FOR ASSESSMENT AND EMPLOYMENT PLAN.] For caregivers who are under age 18 without a high school diploma or its equivalent, the assessment under subdivision 1 and the employment plan under subdivision 3 must be completed by the social services agency under section 257.33. For caregivers who are age 18 or 19 without a high school diploma or its equivalent who choose to have an employment plan with an education option under subdivision 3, the assessment under subdivision 1 and the employment plan under subdivision 3 must be completed by the job counselor or, at county option, by the social services agency under section 257.33. Upon reaching age 18 or 19 a caregiver who received social services under section 257.33 and is without a high school diploma or its equivalent has the option to choose whether to continue receiving services under the caregiver's plan from the social services agency or to utilize an MFIP employment and training service provider. The social services agency or the job counselor shall consult with representatives of educational agencies that are required to assist in developing educational plans under section 124D.331.

Sec. 85. Minnesota Statutes 2002, section 256J.54, subdivision 3, is amended to read:

Subd. 3. [~~EDUCATIONAL~~ EDUCATION OPTION DEVELOPED.] If the job counselor or county social services agency identifies an appropriate ~~educational~~ education option for a minor caregiver ~~under the age of 20~~ without a high school diploma or its equivalent, or a caregiver age 18 or 19 without a high school diploma or its equivalent who chooses an employment plan with an education option, the job counselor or agency must develop an employment plan which reflects the identified option. The plan must specify that participation in an educational activity is required, what school or educational program is most appropriate, the services that will be provided, the activities the caregiver will take part in, including child care and supportive services, the consequences to the caregiver for failing to participate or comply with the specified requirements, and the right to appeal any adverse action. The employment plan must, to the extent possible, reflect the preferences of the caregiver.

Sec. 86. Minnesota Statutes 2002, section 256J.54, subdivision 5, is amended to read:

Subd. 5. [SCHOOL ATTENDANCE REQUIRED.] (a) Notwithstanding the provisions of section 256J.56, minor parents, or 18- or 19-year-old parents without a high school diploma or its equivalent who chooses an employment plan with an education option must attend school unless:

(1) transportation services needed to enable the caregiver to attend school are not available;

(2) appropriate child care services needed to enable the caregiver to attend school are not available;

(3) the caregiver is ill or incapacitated seriously enough to prevent attendance at school; or

(4) the caregiver is needed in the home because of the illness or incapacity of another member of the household. This includes a caregiver of a child who is younger than six weeks of age.

(b) The caregiver must be enrolled in a secondary school and meeting the school's attendance requirements. The county, social service agency, or job counselor must verify at least once per quarter that the caregiver is meeting the school's attendance requirements. An enrolled caregiver is considered to be meeting the attendance requirements when the school is not in regular session, including during holiday and summer breaks.

Sec. 87. [256J.545] [FAMILY VIOLENCE WAIVER CRITERIA.]

(a) In order to qualify for a family violence waiver, an individual must provide documentation of past or current family violence which may prevent the individual from participating in certain employment activities. A claim of family violence must be documented by the applicant or participant providing a sworn statement which is supported by collateral documentation.

(b) Collateral documentation may consist of:

(1) police, government agency, or court records;

(2) a statement from a battered women's shelter staff with knowledge of the circumstances or credible evidence that supports the sworn statement;

(3) a statement from a sexual assault or domestic violence advocate with knowledge of the circumstances or credible evidence that supports the sworn statement;

(4) a statement from professionals from whom the applicant or recipient has sought assistance for the abuse; or

(5) a sworn statement from any other individual with knowledge of circumstances or credible evidence that supports the sworn statement.

Sec. 88. Minnesota Statutes 2002, section 256J.55, subdivision 1, is amended to read:

Subdivision 1. [~~COMPLIANCE WITH JOB SEARCH OR EMPLOYMENT PLAN; SUITABLE EMPLOYMENT~~ PARTICIPATION REQUIREMENTS.] ~~(a) Each MFIP participant must comply with the terms of the participant's job search support plan or employment plan. When the participant has completed the steps listed in the employment plan, the participant must comply with section 256J.53, subdivision 5, if applicable, and then the participant must not refuse any offer of suitable employment. The participant may choose to accept an offer of suitable employment before the participant has completed the steps of the employment plan.~~

~~(b) For a participant under the age of 20 who is without a high school diploma or general educational development diploma, the requirement to comply with the terms of the employment plan means the participant must meet the requirements of section 256J.54.~~

~~(c) Failure to develop or comply with a job search support plan or an employment plan, or quitting suitable employment without good cause, shall result in the imposition of a sanction as specified in sections 256J.46 and 256J.57.~~

(a) All caregivers must participate in employment services under sections 256J.515 to 256J.57 concurrent with receipt of MFIP assistance.

(b) Until July 1, 2004, participants who meet the requirements of section 256J.56 are exempt from participation requirements.

(c) Participants under paragraph (a) must develop and comply with an employment plan under section 256J.521, or section 256J.54 in the case of a participant under the age of 20 who has not obtained a high school diploma or its equivalent.

(d) With the exception of participants under the age of 20 who must meet the education requirements of section 256J.54, all participants must meet the hourly participation requirements of TANF or the hourly requirements listed in clauses (1) to (3), whichever is higher.

(1) In single-parent families with no children under six years of age, the job counselor and the caregiver must develop an employment plan that includes 30 to 35 hours per week of work activities.

(2) In single-parent families with a child under six years of age, the job counselor and the caregiver must develop an employment plan that includes 20 to 35 hours per week of work activities.

(3) In two-parent families, the job counselor and the caregivers must develop employment plans which result in a combined total of at least 55 hours per week of work activities.

(e) Failure to participate in employment services, including the requirement to develop and comply with an employment plan, including hourly requirements, without good cause under section 256J.57, shall result in the imposition of a sanction under section 256J.46.

Sec. 89. Minnesota Statutes 2002, section 256J.55, subdivision 2, is amended to read:

Subd. 2. [DUTY TO REPORT.] The participant must inform the job counselor within ~~three~~ ten working days regarding any changes related to the participant's employment status.

Sec. 90. Minnesota Statutes 2002, section 256J.56, is amended to read:

256J.56 [EMPLOYMENT AND TRAINING SERVICES COMPONENT; EXEMPTIONS.]

(a) An MFIP participant is exempt from the requirements of sections ~~256J.52~~ 256J.515 to ~~256J.55~~ 256J.57 if the participant belongs to any of the following groups:

(1) participants who are age 60 or older;

(2) participants who are suffering from a ~~professionally certified~~ permanent or temporary illness, injury, or incapacity which has been certified by a qualified professional when the illness, injury, or incapacity is expected to continue for more than 30 days and ~~which~~ prevents the person from obtaining or retaining employment. Persons in this category with a temporary illness, injury, or incapacity must be reevaluated at least quarterly;

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

(4) women who are pregnant, if the pregnancy has resulted in ~~a professionally certified~~ an incapacity that prevents the woman from obtaining or retaining employment, and the incapacity has been certified by a qualified professional;

(5) caregivers of a child under the age of one year who personally provide full-time care for the child. This exemption may be used for only 12 months in a lifetime. In two-parent households, only one parent or other relative may qualify for this exemption;

(6) participants experiencing a personal or family crisis that makes them incapable of participating in the program, as determined by the county agency. If the participant does not agree with the county agency's determination, the participant may seek ~~professional~~ certification from a qualified professional, as defined in section 256J.08, that the participant is incapable of participating in the program.

Persons in this exemption category must be reevaluated every 60 days. A personal or family crisis related to family violence, as determined by the county or a job counselor with the assistance of a person trained in domestic violence, should not result in an exemption, but should be addressed through the development or revision of an ~~alternative~~ employment plan under section ~~256J.52~~ 256J.521, subdivision ~~6~~ 3; or

(7) caregivers with a child or an adult in the household who meets the disability or medical criteria for home care services under section 256B.0627, subdivision 1, paragraph ~~(c)~~ (f), or a home and community-based waiver services program under chapter 256B, or meets the criteria for severe emotional disturbance under section 245.4871, subdivision 6, or for serious and persistent mental illness under section 245.462, subdivision 20, paragraph (c). Caregivers in this exemption category are presumed to be prevented from obtaining or retaining employment.

A caregiver who is exempt under clause (5) must enroll in and attend an early childhood and family education class, a parenting class, or some similar activity, if available, during the period of time the caregiver is exempt under this section. Notwithstanding section 256J.46, failure to attend the required activity shall not result in the imposition of a sanction.

(b) The county agency must provide employment and training services to MFIP participants who are exempt under this section, but who volunteer to participate. Exempt volunteers may request approval for any work activity under section 256J.49, subdivision 13. The hourly participation requirements for nonexempt participants under section ~~256J.50~~ 256J.55, subdivision ~~5~~ 1, do not apply to exempt participants who volunteer to participate.

(c) This section expires on June 30, 2004.

Sec. 91. [256J.561] [UNIVERSAL PARTICIPATION REQUIRED.]

Subdivision 1. [IMPLEMENTATION OF UNIVERSAL PARTICIPATION REQUIREMENTS.] (a) All caregivers whose applications were received July 1, 2004, or after, are immediately subject to the requirements in subdivision 2.

(b) For all MFIP participants who were exempt from participating in employment services under section 256J.56 as of June 30, 2004, between July 1, 2004, and June 30, 2005, the county, as part of the participant's recertification under section 256J.32, subdivision 6, shall determine whether a new employment plan is required to meet the requirements in subdivision 2. Counties shall notify each participant who is in need of an employment plan that the participant must meet with a job counselor within ten days to develop an employment plan. Until a participant's employment plan is developed, the participant shall be considered in compliance with the participation requirements in this section if the participant continues to meet the criteria for an exemption under section 256J.56 as in effect on June 30, 2004, and is cooperating in the development of the new plan.

Subd. 2. [PARTICIPATION REQUIREMENTS.] (a) All MFIP caregivers, except caregivers who meet the criteria in subdivision 3, must participate in employment services. Except as specified in paragraphs (b) to (d), the employment plan must meet the requirements of section 256J.521, subdivision 2, contain allowable work activities, as defined in section 256J.49, subdivision 13, and, include at a minimum, the number of participation hours required under section 256J.55, subdivision 1.

(b) Minor caregivers and caregivers who are less than age 20 who have not completed high school or obtained a GED are required to comply with section 256J.54.

(c) A participant who has a family violence waiver shall develop and comply with an employment plan under section 256J.521, subdivision 3.

(d) As specified in section 256J.521, subdivision 2, paragraph (c), a participant who meets any one of the following criteria may work with the job counselor to develop an employment plan that contains less than the number of participation hours under section 256J.55, subdivision 1. Employment plans for participants covered under this paragraph must be tailored to recognize the special circumstances of caregivers and families including limitations due to illness or disability and caregiving needs:

(1) a participant who is age 60 or older;

(2) a participant who has been diagnosed by a qualified professional as suffering from an illness or incapacity that is expected to last for 30 days or more, including a pregnant participant who is determined to be unable to obtain or retain employment due to the pregnancy; or

(3) a participant who is determined by a qualified professional as being needed in the home to care for an ill or incapacitated family member, including caregivers with a child or an adult in the household who meets the disability or medical criteria for home care services under section 256B.0627, subdivision 1, paragraph (f), or a home and community-based waiver services program under chapter 256B, or meets the criteria for severe emotional disturbance under section 245.4871, subdivision 6, or for serious and persistent mental illness under section 245.462, subdivision 20, paragraph (c).

(e) For participants covered under paragraphs (c) and (d), the county shall review the participant's employment services status every three months to determine whether conditions have changed. When it is determined that the participant's status is no longer covered under paragraph (c) or (d), the county shall notify the participant that a new or revised employment plan is needed. The participant and job counselor shall meet within ten days of the determination to revise the employment plan.

Subd. 3. [CHILD UNDER 12 WEEKS OF AGE.] (a) A participant who has a natural born child who is less than 12 weeks of age who meets the criteria in clauses (1) and (2) is not required to participate in employment services until the child reaches 12 weeks of age. To be eligible for this provision, the following conditions must be met:

(1) the child must have been born within ten months of the caregiver's application for the diversionary work program or MFIP; and

(2) the assistance unit must not have already used this provision or the previously allowed child under age one exemption. However, an assistance unit that has an approved child under age one exemption at the time this provision becomes effective may continue to use that exemption until the child reaches one year of age.

(b) The provision in paragraph (a) ends the first full month after the child reaches 12 weeks of age. This provision is available only once in a caregiver's lifetime. In a two-parent household, only one parent shall be allowed to use this provision. The participant and job counselor must meet within ten days after the child reaches 12 weeks of age to revise the participant's employment plan.

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

Sec. 92. Minnesota Statutes 2002, section 256J.57, is amended to read:

256J.57 [GOOD CAUSE; FAILURE TO COMPLY; NOTICE; CONCILIATION CONFERENCE.]

Subdivision 1. [GOOD CAUSE FOR FAILURE TO COMPLY.] The county agency shall not impose the sanction under section 256J.46 if it determines that the participant has good cause for failing to comply with the requirements of sections ~~256J.52~~ 256J.515 to ~~256J.55~~ 256J.57. Good cause exists when:

(1) appropriate child care is not available;

(2) the job does not meet the definition of suitable employment;

(3) the participant is ill or injured;

(4) a member of the assistance unit, a relative in the household, or a foster child in the household is ill and needs care by the participant that prevents the participant from complying with the ~~job search support plan or~~ employment plan;

(5) the parental caregiver is unable to secure necessary transportation;

(6) the parental caregiver is in an emergency situation that prevents compliance with the ~~job search support plan or~~ employment plan;

(7) the schedule of compliance with the ~~job search support plan or~~ employment plan conflicts with judicial proceedings;

(8) a mandatory MFIP meeting is scheduled during a time that conflicts with a judicial proceeding or a meeting related to a juvenile court matter, or a participant's work schedule;

(9) the parental caregiver is already participating in acceptable work activities;

(10) the employment plan requires an educational program for a caregiver under age 20, but the educational program is not available;

(11) activities identified in the ~~job search support plan or~~ employment plan are not available;

(12) the parental caregiver is willing to accept suitable employment, but suitable employment is not available; or

(13) the parental caregiver documents other verifiable impediments to compliance with the ~~job search support plan or~~ employment plan beyond the parental caregiver's control.

The job counselor shall work with the participant to reschedule mandatory meetings for individuals who fall under clauses (1), (3), (4), (5), (6), (7), and (8).

Subd. 2. [NOTICE OF INTENT TO SANCTION.] (a) When a participant fails without good cause to comply with the requirements of sections ~~256J.52~~ 256J.515 to ~~256J.55~~ 256J.57, the job counselor or the county agency must provide a notice of intent to sanction to the participant specifying the program requirements that were not complied with, informing the participant that the county agency will impose the sanctions specified in section 256J.46, and informing the participant of the opportunity to request a conciliation conference as specified in paragraph (b). The notice must also state that the participant's continuing noncompliance with the specified requirements will result in additional sanctions under section 256J.46, without the need for additional notices or conciliation conferences under this subdivision. The notice, written in English, must include the department of human services language block, and must be sent to every applicable participant. If the participant does not request a conciliation conference within ten calendar days of the mailing of the notice of intent to sanction, the job counselor must notify the county agency that the assistance payment should be reduced. The county must then send a notice of adverse action to the participant informing the participant of the sanction that will be imposed, the reasons for the sanction, the effective date of the sanction, and the participant's right to have a fair hearing under section 256J.40.

(b) The participant may request a conciliation conference by sending a written request, by making a telephone request, or by making an in-person request. The request must be received within ten calendar days of the date the county agency mailed the ten-day notice of intent to sanction. If a timely request for a conciliation is received, the

county agency's service provider must conduct the conference within five days of the request. The job counselor's supervisor, or a designee of the supervisor, must review the outcome of the conciliation conference. If the conciliation conference resolves the noncompliance, the job counselor must promptly inform the county agency and request withdrawal of the sanction notice.

(c) Upon receiving a sanction notice, the participant may request a fair hearing under section 256J.40, without exercising the option of a conciliation conference. In such cases, the county agency shall not require the participant to engage in a conciliation conference prior to the fair hearing.

(d) If the participant requests a fair hearing or a conciliation conference, sanctions will not be imposed until there is a determination of noncompliance. Sanctions must be imposed as provided in section 256J.46.

Sec. 93. Minnesota Statutes 2002, section 256J.62, subdivision 9, is amended to read:

Subd. 9. [CONTINUATION OF CERTAIN SERVICES.] Only if services were approved as part of an employment plan prior to June 30, 2003, at the request of the participant, the county may continue to provide case management, counseling, or other support services to a participant:

~~(a)~~ (1) who has achieved the employment goal; or

~~(b)~~ (2) who under section 256J.42 is no longer eligible to receive MFIP but whose income is below 115 percent of the federal poverty guidelines for a family of the same size.

These services may be provided for up to 12 months following termination of the participant's eligibility for MFIP.

Sec. 94. [256J.626] [MFIP CONSOLIDATED FUND.]

Subdivision 1. [CONSOLIDATED FUND.] The consolidated fund is established to support counties and tribes in meeting their duties under this chapter. Counties and tribes must use funds from the consolidated fund to develop programs and services that are designed to improve participant outcomes as measured in section 256J.751, subdivision 2. Counties may use the funds for any allowable expenditures under subdivision 2. Tribes may use the funds for any allowable expenditures under subdivision 2, except those in clauses (1) and (6).

Subd. 2. [ALLOWABLE EXPENDITURES.] (a) The commissioner must restrict expenditures under the consolidated fund to benefits and services allowed under title IV-A of the federal Social Security Act. Allowable expenditures under the consolidated fund may include, but are not limited to:

(1) short-term, nonrecurring shelter and utility needs that are excluded from the definition of assistance under Code of Federal Regulations, title 45, section 260.31, for families who meet the residency requirement in section 256J.12, subdivisions 1 and 1a. Payments under this subdivision are not considered TANF cash assistance and are not counted towards the 60-month time limit;

(2) transportation needed to obtain or retain employment or to participate in other approved work activities;

(3) direct and administrative costs of staff to deliver employment services for MFIP or the diversionary work program, to administer financial assistance, and to provide specialized services intended to assist hard-to-employ participants to transition to work;

(4) costs of education and training including functional work literacy and English as a second language;

(5) cost of work supports including tools, clothing, boots, and other work-related expenses;

(6) county administrative expenses as defined in Code of Federal Regulations, title 45, section 260(b);

(7) services to parenting and pregnant teens;

(8) supported work;

(9) wage subsidies;

(10) child care needed for MFIP or diversionary work program participants to participate in social services;

(11) child care to ensure that families leaving MFIP or diversionary work program will continue to receive child care assistance from the time the family no longer qualifies for transition year child care until an opening occurs under the basic sliding fee child care program; and

(12) services to help noncustodial parents who live in Minnesota and have minor children receiving MFIP or DWP assistance, but do not live in the same household as the child, obtain or retain employment.

(b) Administrative costs that are not matched with county funds as provided in subdivision 8 may not exceed 7.5 percent of a county's or 15 percent of a tribe's reimbursement under this section. The commissioner shall define administrative costs for purposes of this subdivision.

Subd. 3. [ELIGIBILITY FOR SERVICES.] Families with a minor child, a pregnant woman, or a noncustodial parent of a minor child receiving assistance, with incomes below 200 percent of the federal poverty guideline for a family of the applicable size, are eligible for services funded under the consolidated fund. Counties and tribes must give priority to families currently receiving MFIP or diversionary work program, and families at risk of receiving MFIP or diversionary work program.

Subd. 4. [COUNTY AND TRIBAL BIENNIAL SERVICE AGREEMENTS.] (a) Effective January 1, 2004, and each two-year period thereafter, each county and tribe must have in place an approved biennial service agreement related to the services and programs in this chapter. Counties may collaborate to develop multicounty, multitribal, or regional service agreements.

(b) The service agreements will be completed in a form prescribed by the commissioner. The agreement must include:

(1) a statement of the needs of the service population and strengths and resources in the community;

(2) numerical goals for participant outcomes measures to be accomplished during the biennial period. The commissioner may identify outcomes from section 256J.751, subdivision 2, as core outcomes for all counties and tribes;

(3) strategies the county or tribe will pursue to achieve the outcome targets. Strategies must include specification of how funds under this section will be used and may include community partnerships that will be established or strengthened; and

(4) other items prescribed by the commissioner in consultation with counties and tribes.

(c) The commissioner shall provide each county and tribe with information needed to complete an agreement, including: (1) information on MFIP cases in the county or tribe; (2) comparisons with the rest of the state; (3) baseline performance on outcome measures; and (4) promising program practices.

(d) The service agreement must be submitted to the commissioner by October 15, 2003, and October 15 of each second year thereafter. The county or tribe must allow a period of not less than 30 days prior to the submission of the agreement to solicit comments from the public on the contents of the agreement.

(e) The commissioner must, within 60 days of receiving each county or tribal service agreement, inform the county or tribe if the service agreement is approved. If the service agreement is not approved, the commissioner must inform the county or tribe of any revisions needed prior to approval.

(f) The service agreement in this subdivision supersedes the plan requirements of section 268.88.

Subd. 5. [INNOVATION PROJECTS.] Beginning January 1, 2005, no more than $3,000,000 of the funds annually appropriated to the commissioner for use in the consolidated fund shall be available to the commissioner for projects testing innovative approaches to improving outcomes for MFIP participants, and persons at risk of receiving MFIP as detailed in subdivision 3. Projects shall be targeted to geographic areas with poor outcomes as specified in section 256J.751, subdivision 5, or to subgroups within the MFIP case load who are experiencing poor outcomes.

Subd. 6. [BASE ALLOCATION TO COUNTIES AND TRIBES.] (a) For purposes of this section, the following terms have the meanings given them:

(1) "2002 historic spending base" means the commissioner's determination of the sum of the reimbursement related to fiscal year 2002 of county or tribal agency expenditures for the base programs listed in clause (4), items (i) to (iv), and earnings related to calendar year 2002 in the base program listed in clause (4), item (v), and the amount of spending in fiscal year 2002 in the base program listed in clause (4), item (vi), issued to or on behalf of persons residing in the county or tribal service delivery area.

(2) "Initial allocation" means the amount potentially available to each county or tribe based on the formula in paragraphs (b) to (d).

(3) "Final allocation" means the amount available to each county or tribe based on the formula in paragraphs (b) to (d), after adjustment by subdivision 7.

(4) "Base programs" means the:

(i) MFIP employment and training services under section 256J.62, subdivision 1, in effect June 30, 2002;

(ii) bilingual employment and training services to refugees under section 256J.62, subdivision 6, in effect June 30, 2002;

(iii) work literacy language programs under section 256J.62, subdivision 7, in effect June 30, 2002;

(iv) supported work program authorized in Laws 2001, First Special Session chapter 9, article 17, section 2, in effect June 30, 2002;

(v) administrative aid program under section 256J.76 in effect December 31, 2002; and

(vi) emergency assistance program under section 256J.48 in effect June 30, 2002.

(b)(1) Beginning July 1, 2003, the commissioner shall determine the initial allocation of funds available under this section according to clause (2).

(2)(i) Ninety percent of the funds available for the period beginning July 1, 2003, and ending December 31, 2004, shall be allocated to each county or tribe in proportion to the county's or tribe's share of the statewide 2002 historic spending base;

(ii) the remaining funds for the period beginning July 1, 2003, and ending December 31, 2004, shall be allocated to each county or tribe in proportion to the average number of MFIP cases:

(A) the average number of cases must be based upon counts of MFIP or tribal TANF cases as of March 31, June 30, September 30, and December 31 using the most recent available data, less the number of child only cases. Two-parent cases, with the exception of those with a caregiver age 60 or over, will be multiplied by a factor of two;

(B) the MFIP or tribal TANF case count for each eligible tribal provider shall be based upon the number of MFIP or tribal TANF cases with participating adults who are enrolled in, or are eligible for enrollment in, the tribe; and to be counted, the case must be an active MFIP case, and the case members must reside within the tribal program's service delivery area;

(C) the MFIP or tribal TANF case count for each eligible tribal provider shall be further adjusted by multiplying the count by the proportion of base program spending in paragraph (a), clause (4), item (i), compared to paragraph (a), clause (4), items (i) to (vi); and

(D) to prevent duplicate counts, MFIP or tribal TANF cases counted for determining allocations to tribal providers in clause (C) shall be removed from the case counts of the respective counties where they reside.

(c)(1) Beginning January 1, 2005, the commissioner shall determine the initial allocation of funds to be made available under this section according to clause (2).

(2)(i) Seventy percent of the funds available for the calendar year shall be allocated to each county or tribe in proportion to the county's or tribe's share of the statewide 2002 historic spending base;

(ii) the remaining funds shall be allocated to each county or tribe in proportion to the sum of the average number of MFIP cases and the average monthly count of diversionary work program cases. The commissioner shall determine the count of MFIP and diversionary work program cases according to subitems (A) to (C):

(A) the average number of cases must be based upon counts of MFIP, tribal TANF, or diversionary work program cases as of March 31, June 30, September 30, and December 31 using the most recent available data, less the number of child only cases. Two-parent cases, with the exception of those with a caregiver age 60 or over, will be multiplied by a factor of two;

(B) the case count for each eligible tribal provider shall be based upon the number of MFIP, tribal TANF, or diversionary work program cases with participating adults who are enrolled in, or are eligible for enrollment in, the tribe; and to be counted, the case must be an active MFIP or diversionary work program case, and the case members must reside within the tribal program's service delivery area;

(C) the MFIP or tribal TANF case count, including diversionary work program cases, for each eligible tribal provider shall be further adjusted by multiplying the count by the proportion of base program spending in paragraph (a), clause (4), item (i), compared to paragraph (a), clause (4), items (i) to (vi); and

(D) to prevent duplicate counts, MFIP, tribal TANF, or diversionary work program cases counted for determining allocations to tribal providers under clause (C) shall be removed from the case counts of the respective counties where they reside.

(d)(1) Beginning January 1, 2006, and effective January 1 of each subsequent year, the commissioner shall determine the initial allocation of funds available under this section according to clause (2).

(2)(i) Fifty percent of the funds available for the calendar year shall be allocated to each county or tribe in proportion to the county's or tribe's share of the statewide 2002 historic spending base;

(ii) the remaining funds shall be allocated to each county or tribe in proportion to the sum of the average number of MFIP cases and the average monthly count of diversionary work program cases. The commissioner shall determine the count of MFIP and diversionary work program cases according to subitems (A) to (C):

(A) the average number of cases must be based upon counts of MFIP, tribal TANF, or diversionary work program cases as of March 31, June 30, September 30, and December 31 using the most recent available data, less the number of child only cases. Two-parent cases, with the exception of those with a caregiver age 60 or over, will be multiplied by a factor of two;

(B) the case count for each eligible tribal provider shall be based upon the number of MFIP, tribal TANF, or diversionary work program cases with participating adults who are enrolled in, or are eligible for, enrollment in the tribe; and to be counted, the case must be an active MFIP or diversionary work program case, and the case members must reside within the tribal program's service delivery area;

(C) the MFIP or tribal TANF case count, including diversionary work program cases, for each eligible tribal provider shall be further adjusted by multiplying the count by the proportion of base program spending in paragraph (a), clause (4), item (i), compared to paragraph (a), clause (4), items (i) to (vi); and

(D) to prevent duplicate counts, MFIP, tribal TANF, or diversionary work program cases counted for determining allocations to tribal providers in clause (C) shall be removed from the case counts of the respective counties where they reside.

(e) Before November 30, 2003, a county or tribe may ask for a review of the commissioner's determination of the historic base spending when the county or tribe believes the 2002 information was inaccurate or incomplete. By January 1, 2004, the commissioner must adjust that county's or tribe's base when the commissioner has determined that inaccurate or incomplete information was used to develop that base. The commissioner shall adjust each county's or tribe's initial allocation under paragraph (c) and final allocation under subdivision 7 to reflect the base change.

(f) Effective January 1, 2005, and effective January 1 of each succeeding year, counties and tribes will have their final allocations adjusted based on the performance provisions of subdivision 7.

Subd. 7. [PERFORMANCE BASE FUNDS.] (a) Beginning with allocations for calendar year 2005, each county and tribe will be allocated 95 percent of their initial allocation. Counties and tribes will be allocated additional funds based on performance as follows:

(1) a county or tribe that achieves a 50 percent rate or higher on the MFIP participation rate under section 256J.751, subdivision 2, clause (8), as averaged across the four quarterly measurements for the most recent year for which the measurements are available, will receive an additional allocation equal to 2.5 percent of its initial allocation; and

(2) a county or tribe that performs above the top of its range of expected performance on the three-year self-support index under section 256J.751, subdivision 2, clause (7), in both measurements in the preceding year will receive an additional allocation equal to five percent of its initial allocation; or

(3) a county or tribe that performs within its range of expected performance on the three-year self-support index under section 256J.751, subdivision 2, clause (7), in both measurements in the preceding year, or above the top of its range of expected performance in one measurement and within its expected range of performance in the other measurement, will receive an additional allocation equal to 2.5 percent of its initial allocation.

(b) Funds remaining unallocated after the performance-based allocations in paragraph (a) are available to the commissioner for innovation projects under subdivision 5.

(c)(1) If available funds are insufficient to meet county and tribal allocations under paragraph (a), the commissioner may make available for allocation funds that are unobligated and available from the innovation projects through the end of the current biennium.

(2) If after the application of clause (1) funds remain insufficient to meet county and tribal allocations under paragraph (a), the commissioner must proportionally reduce the allocation of each county and tribe with respect to their maximum allocation available under paragraph (a).

Subd. 8. [REPORTING REQUIREMENT AND REIMBURSEMENT.] (a) The commissioner shall specify requirements for reporting according to section 256.01, subdivision 2, clause (17). Each county or tribe shall be reimbursed for eligible expenditures up to the limit of its allocation and subject to availability of funds.

(b) Reimbursements for county administrative-related expenditures determined through the income maintenance random moment time study shall be reimbursed at a rate of 50 percent of eligible expenditures.

(c) The commissioner of human services shall review county and tribal agency expenditures of the MFIP consolidated fund as appropriate and may reallocate unencumbered or unexpended money appropriated under this section to those county and tribal agencies that can demonstrate a need for additional money.

Subd. 9. [REPORT.] The commissioner shall, in consultation with counties and tribes:

(1) determine how performance-based allocations under subdivision 7, paragraph (a), clauses (2) and (3), will be allocated to groupings of counties and tribes when groupings are used to measure expected performance ranges for the self-support index under section 256J.751, subdivision 2, clause (7); and

(2) determine how performance-based allocations under subdivision 7, paragraph (a), clauses (2) and (3), will be allocated to tribes.

The commissioner shall report to the legislature on the formulas developed in clauses (1) and (2) by January 1, 2004.

Sec. 95. Minnesota Statutes 2002, section 256J.645, subdivision 3, is amended to read:

Subd. 3. [FUNDING.] If the commissioner and an Indian tribe are parties to an agreement under this subdivision, the agreement shall annually provide to the Indian tribe the funding allocated in section ~~256J.62, subdivisions 1 and 2a~~ 256J.626.

Sec. 96. Minnesota Statutes 2002, section 256J.66, subdivision 2, is amended to read:

Subd. 2. [TRAINING AND PLACEMENT.] (a) County agencies shall limit the length of training based on the complexity of the job and the caregiver's previous experience and training. Placement in an on-the-job training position with an employer is for the purpose of training and employment with the same employer who has agreed to retain the person upon satisfactory completion of training.

(b) Placement of any participant in an on-the-job training position must be compatible with the participant's assessment and employment plan under section ~~256J.52~~ 256J.521.

Sec. 97. Minnesota Statutes 2002, section 256J.67, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHING THE COMMUNITY WORK EXPERIENCE PROGRAM.] To the extent of available resources, each county agency may establish and operate a work experience component for MFIP caregivers who are participating in employment and training services. This option for county agencies supersedes the requirement in section 402(a)(1)(B)(iv) of the Social Security Act that caregivers who have received assistance for two months and who are not exempt from work requirements must participate in a work experience program. The purpose of the work experience component is to enhance the caregiver's employability and self-sufficiency and to provide meaningful, productive work activities. The county shall use this program for an individual after exhausting all other unsubsidized employment opportunities. ~~The county agency shall not require a caregiver to participate in the community work experience program unless the caregiver has been given an opportunity to participate in other work activities.~~

Sec. 98. Minnesota Statutes 2002, section 256J.67, subdivision 3, is amended to read:

Subd. 3. [EMPLOYMENT OPTIONS.] (a) Work sites developed under this section are limited to projects that serve a useful public service such as: health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, community service, services to aged or disabled citizens, and child care. To the extent possible, the prior training, skills, and experience of a caregiver must be considered in making appropriate work experience assignments.

(b) Structured, supervised volunteer work with an agency or organization, which is monitored by the county service provider, may, with the approval of the county agency, be used as a work experience placement.

(c) As a condition of placing a caregiver in a program under this section, the county agency shall first provide the caregiver the opportunity~~:~~

~~(1)~~ for placement in suitable ~~subsidized or~~ unsubsidized employment through participation in a job search~~; or~~

~~(2) for placement in suitable employment through participation in on the job training, if such employment is available~~.

Sec. 99. Minnesota Statutes 2002, section 256J.69, subdivision 2, is amended to read:

Subd. 2. [TRAINING AND PLACEMENT.] (a) County agencies shall limit the length of training to nine months. Placement in a grant diversion training position with an employer is for the purpose of training and employment with the same employer who has agreed to retain the person upon satisfactory completion of training.

(b) Placement of any participant in a grant diversion subsidized training position must be compatible with the assessment and employment plan or employability development plan established for the recipient under section ~~256J.52 or 256K.03, subdivision 8~~ 256J.521.

Sec. 100. Minnesota Statutes 2002, section 256J.75, subdivision 3, is amended to read:

Subd. 3. [RESPONSIBILITY FOR INCORRECT ASSISTANCE PAYMENTS.] A county of residence, when different from the county of financial responsibility, will be charged by the commissioner for the value of incorrect assistance payments ~~and medical assistance~~ paid to or on behalf of a person who was not eligible to receive that amount. Incorrect payments include payments to an ineligible person or family resulting from decisions, failures to act, miscalculations, or overdue recertification. However, financial responsibility does not accrue for a county when the recertification is overdue at the time the referral is received by the county of residence or when the county of financial responsibility does not act on the recommendation of the county of residence. ~~When federal or state law requires that medical assistance continue after assistance ends, this subdivision also governs financial responsibility for the extended medical assistance.~~

Sec. 101. Minnesota Statutes 2002, section 256J.751, subdivision 1, is amended to read:

Subdivision 1. [~~QUARTERLY~~ MONTHLY COUNTY CASELOAD REPORT.] The commissioner shall report ~~quarterly~~ monthly to each county ~~on~~ the ~~county's performance on the following measures~~ following caseload information:

~~(1) number of cases receiving only the food portion of assistance;~~

~~(2) number of child only cases;~~

~~(3) number of minor caregivers;~~

~~(4) number of cases that are exempt from the 60 month time limit by the exemption category under section 256J.42;~~

~~(5) number of participants who are exempt from employment and training services requirements by the exemption category under section 256J.56;~~

~~(6) number of assistance units receiving assistance under a hardship extension under section 256J.425;~~

~~(7) number of participants and number of months spent in each level of sanction under section 256J.46, subdivision 1;~~

~~(8) number of MFIP cases that have left assistance;~~

~~(9) federal participation requirements as specified in title 1 of Public Law Number 104-193;~~

~~(10) median placement wage rate; and~~

~~(11) of each county's total MFIP caseload less the number of cases in clauses (1) to (6):~~

~~(i) number of one-parent cases;~~

~~(ii) number of two-parent cases;~~

~~(iii) percent of one-parent cases that are working more than 20 hours per week;~~

~~(iv) percent of two-parent cases that are working more than 20 hours per week; and~~

~~(v) percent of cases that have received more than 36 months of assistance.~~

(1) total number of cases receiving MFIP, and subtotals of cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent;

(2) total number of child only assistance cases;

(3) total number of eligible adults and children receiving an MFIP grant, and subtotals for cases with one eligible parent, two eligible parents, an eligible caregiver who is not a parent, and child only cases;

(4) number of cases with an exemption from the 60-month time limit based on a family violence waiver;

(5) number of MFIP cases with work hours, and subtotals for cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent;

(6) number of employed MFIP cases, and subtotals for cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent;

(7) average monthly gross earnings, and averages for subgroups of cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent;

(8) number of employed cases receiving only the food portion of assistance;

(9) number of parents or caregivers exempt from work activity requirements, with subtotals for each exemption type; and

(10) number of cases with a sanction, with subtotals by level of sanction for cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent.

Sec. 102. Minnesota Statutes 2002, section 256J.751, subdivision 2, is amended to read:

Subd. 2. [QUARTERLY COMPARISON REPORT.] The commissioner shall report quarterly to all counties on each county's performance on the following measures:

(1) percent of MFIP caseload working in paid employment;

(2) percent of MFIP caseload receiving only the food portion of assistance;

(3) number of MFIP cases that have left assistance;

(4) federal participation requirements as specified in Title 1 of Public Law ~~Number~~ 104-193;

(5) median placement wage rate; ~~and~~

(6) caseload by months of TANF assistance;

(7) percent of MFIP cases off cash assistance or working 30 or more hours per week at one-year, two-year, and three-year follow-up points from a base line quarter. This measure is called the self-support index. Twice annually, the commissioner shall report an expected range of performance for each county, county grouping, and tribe on the

self-support index. The expected range shall be derived by a statistical methodology developed by the commissioner in consultation with the counties and tribes. The statistical methodology shall control differences across counties in economic conditions and demographics of the MFIP case load; and

(8) the MFIP work participation rate, defined as the participation requirements specified in title 1 of Public Law 104-193 applied to all MFIP cases except child only cases and cases exempt under section 256J.56.

Sec. 103. Minnesota Statutes 2002, section 256J.751, subdivision 5, is amended to read:

Subd. 5. [FAILURE TO MEET FEDERAL PERFORMANCE STANDARDS.] (a) If sanctions occur for failure to meet the performance standards specified in title 1 of Public Law ~~Number~~ 104-193 of the Personal Responsibility and Work Opportunity Act of 1996, the state shall pay 88 percent of the sanction. The remaining 12 percent of the sanction will be paid by the counties. The county portion of the sanction will be distributed across all counties in proportion to each county's percentage of the MFIP average monthly caseload during the period for which the sanction was applied.

(b) If a county fails to meet the performance standards specified in title 1 of Public Law ~~Number~~ 104-193 of the Personal Responsibility and Work Opportunity Act of 1996 for any year, the commissioner shall work with counties to organize a joint state-county technical assistance team to work with the county. The commissioner shall coordinate any technical assistance with other departments and agencies including the departments of economic security and children, families, and learning as necessary to achieve the purpose of this paragraph.

(c) For state performance measures, a low-performing county is one that:

(1) performs below the bottom of their expected range for the measure in subdivision 2, clause (7), in both measurements during the year; or

(2) performs below 40 percent for the measure in subdivision 2, clause (8), as averaged across the four quarterly measurements for the year, or the ten counties with the lowest rates if more than ten are below 40 percent.

(d) Low-performing counties under paragraph (c) must engage in corrective action planning as defined by the commissioner. The commissioner may coordinate technical assistance as specified in paragraph (b) for low-performing counties under paragraph (c).

Sec. 104. [256J.95] [DIVERSIONARY WORK PROGRAM.]

Subdivision 1. [ESTABLISHING A DIVERSIONARY WORK PROGRAM (DWP).] (a) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, establishes block grants to states for temporary assistance for needy families (TANF). TANF provisions allow states to use TANF dollars for nonrecurrent, short-term diversionary benefits. The diversionary work program established on July 1, 2003, is Minnesota's TANF program to provide short-term diversionary benefits to eligible recipients of the diversionary work program.

(b) The goal of the diversionary work program is to provide short-term, necessary services and supports to families which will lead to unsubsidized employment, increase economic stability, and reduce the risk of those families needing longer term assistance, under the Minnesota family investment program (MFIP).

(c) When a family unit meets the eligibility criteria in this section, the family must receive a diversionary work program grant and is not eligible for MFIP.

(d) A family unit is eligible for the diversionary work program for a maximum of four months only once in a 12-month period. The 12-month period begins at the date of application or the date eligibility is met, whichever is later. During the four-month period, family maintenance needs as defined in subdivision 2, shall be vendor paid, up to the cash portion of the MFIP standard of need for the same size household. To the extent there is a balance available between the amount paid for family maintenance needs and the cash portion of the transitional standard, a personal needs allowance of up to $70 per DWP recipient in the family unit shall be issued. The personal needs allowance payment plus the family maintenance needs shall not exceed the cash portion of the MFIP standard of need. Counties may provide supportive and other allowable services funded by the MFIP consolidated fund under section 256J.626 to eligible participants during the four-month diversionary period.

Subd. 2. [DEFINITIONS.] The terms used in this section have the following meanings.

(a) "Diversionary Work Program (DWP)" means the program established under this section.

(b) "Employment plan" means a plan developed by the job counselor and the participant which identifies the participant's most direct path to unsubsidized employment, lists the specific steps that the caregiver will take on that path, and includes a timetable for the completion of each step. For participants who request and qualify for a family violence waiver in section 256J.521, subdivision 3, an employment plan must be developed by the job counselor, the participant and a person trained in domestic violence and follow the employment plan provisions in section 256J.521, subdivision 3. Employment plans under this section shall be written for a period of time not to exceed four months.

(c) "Employment services" means programs, activities, and services in this section that are designed to assist participants in obtaining and retaining employment.

(d) "Family maintenance needs" means current housing costs including rent, manufactured home lot rental costs, or monthly principal, interest, insurance premiums, and property taxes due for mortgages or contracts for deed, association fees required for homeownership, utility costs for current month expenses of gas and electric, garbage, water and sewer, and a flat rate of $35 for telephone services.

(e) "Family unit" means a group of people applying for or receiving DWP benefits together. For the purposes of determining eligibility for this program, the unit includes the relationships in section 256J.24, subdivisions 2 and 4.

(f) "Minnesota family investment program (MFIP)" means the assistance program as defined in section 256J.08, subdivision 57.

(g) "Personal needs allowance" means an allowance of up to $70 per month per DWP unit member to pay for expenses such as household products and personal products.

(h) "Work activities" means allowable work activities as defined in section 256J.49, subdivision 13.

Subd. 3. [ELIGIBILITY FOR DIVERSIONARY WORK PROGRAM.] (a) Except for the categories of family units listed below, all family units who apply for cash benefits and who meet MFIP eligibility as required in sections 256J.11 to 256J.15 are eligible and must participate in the diversionary work program. Family units that are not eligible for the diversionary work program include:

(1) child only cases;

(2) a single-parent family unit that includes a child under 12 weeks of age. A parent is eligible for this exception once in a parent's lifetime and is not eligible if the parent has already used the previously allowed child under age one exemption from MFIP employment services;

(3) a minor parent without a high school diploma or its equivalent;

(4) a caregiver 18 or 19 years of age without a high school diploma or its equivalent who chooses to have an employment plan with an education option;

(5) a caregiver age 60 or over;

(6) family units with a parent who received DWP benefits within a 12-month period as defined in subdivision 1, paragraph (d); and

(7) family units with a parent who received MFIP within the past 12 months.

(b) A two-parent family must participate in DWP unless both parents meet the criteria for an exception under paragraph (a), clauses (1) through (5), or the family unit includes a parent who meets the criteria in paragraph (a), clause (6) or (7).

Subd. 4. [COOPERATION WITH PROGRAM REQUIREMENTS.] (a) To be eligible for DWP, an applicant must comply with the requirements of paragraphs (b) to (d).

(b) Applicants and participants must cooperate with the requirements of the child support enforcement program, but will not be charged a fee under section 518.551, subdivision 7.

(c) The applicant must provide each member of the family unit's social security number to the county agency. This requirement is satisfied when each member of the family unit cooperates with the procedures for verification of numbers, issuance of duplicate cards, and issuance of new numbers which have been established jointly between the Social Security Administration and the commissioner.

(d) Before DWP benefits can be issued to a family unit, the caregiver must, in conjunction with a job counselor, develop and sign an employment plan. In two-parent family units, both parents must develop and sign employment plans before benefits can be issued. Food support and health care benefits are not contingent on the requirement for a signed employment plan.

Subd. 5. [SUBMITTING APPLICATION FORM.] The eligibility date for the diversionary work program begins with the date the signed combined application form (CAF) is received by the county agency or the date diversionary work program eligibility criteria are met, whichever is later. The county agency must inform the applicant that any delay in submitting the application will reduce the benefits paid for the month of application. The county agency must inform a person that an application may be submitted before the person has an interview appointment. Upon receipt of a signed application, the county agency must stamp the date of receipt on the face of the application. The applicant may withdraw the application at any time prior to approval by giving written or oral notice to the county agency. The county agency must follow the notice requirements in section 256J.09, subdivision 3, when issuing a notice confirming the withdrawal.

Subd. 6. [INITIAL SCREENING OF APPLICATIONS.] Upon receipt of the application, the county agency must determine if the applicant may be eligible for other benefits as required in sections 256J.09, subdivision 3a, and 256J.28, subdivisions 1 and 5. The county must also follow the provisions in section 256J.09, subdivision 3b, clause (2).

Subd. 7. [PROGRAM AND PROCESSING STANDARDS.] (a) The interview to determine financial eligibility for the diversionary work program must be conducted within five working days of the receipt of the cash application form. During the intake interview the financial worker must discuss:

(1) the goals, requirements, and services of the diversionary work program;

(2) the availability of child care assistance. If child care is needed, the worker must obtain a completed application for child care from the applicant before the interview is terminated. The same day the application for child care is received, the application must be forwarded to the appropriate child care worker. For purposes of eligibility for child care assistance under chapter 119B, DWP participants shall be eligible for the same benefits as MFIP recipients; and

(3) if the applicant has not requested food support and health care assistance on the application, the county agency shall, during the interview process, talk with the applicant about the availability of these benefits.

(b) The county shall follow section 256J.74, subdivision 2, paragraph (b), clauses (1) and (2), when an applicant or a recipient of DWP has a person who is a member of more than one assistance unit in a given payment month.

(c) If within 30 days the county agency cannot determine eligibility for the diversionary work program, the county must deny the application and inform the applicant of the decision according to the notice provisions in section 256J.31. A family unit is eligible for a fair hearing under section 256J.40.

Subd. 8. [VERIFICATION REQUIREMENTS.] (a) A county agency must only require verification of information necessary to determine DWP eligibility and the amount of the payment. The applicant or participant must document the information required or authorize the county agency to verify the information. The applicant or participant has the burden of providing documentary evidence to verify eligibility. The county agency shall assist the applicant or participant in obtaining required documents when the applicant or participant is unable to do so.

(b) A county agency must not request information about an applicant or participant that is not a matter of public record from a source other than county agencies, the department of human services, or the United States Department of Health and Human Services without the person's prior written consent. An applicant's signature on an application form constitutes consent for contact with the sources specified on the application. A county agency may use a single consent form to contact a group of similar sources, but the sources to be contacted must be identified by the county agency prior to requesting an applicant's consent.

(c) Factors to be verified shall follow section 256J.32, subdivision 4. Except for personal needs, family maintenance needs must be verified before the expense can be allowed in the calculation of the DWP grant.

Subd. 9. [PROPERTY AND INCOME LIMITATIONS.] The asset limits and exclusions in section 256J.20, apply to applicants and recipients of DWP. All payments, unless excluded in section 256J.21, must be counted as income to determine eligibility for the diversionary work program. The county shall treat income as outlined in section 256J.37, except for subdivision 3a. The initial income test and the disregards in section 256J.21, subdivision 3, shall be followed for determining eligibility for the diversionary work program.

Subd. 10. [DIVERSIONARY WORK PROGRAM GRANT.] (a) The amount of cash benefits that a family unit is eligible for under the diversionary work program is based on the number of persons in the family unit, the family maintenance needs, personal needs allowance, and countable income. The county agency shall evaluate the income of the family unit that is requesting payments under the diversionary work program. Countable income means gross earned and unearned income not excluded or disregarded under MFIP. The same disregards for earned income that are allowed under MFIP are allowed for the diversionary work program.

(b) The DWP grant is based on the family maintenance needs for which the DWP family unit is responsible plus a personal needs allowance. Housing and utilities, except for telephone service, shall be vendor paid. Unless otherwise stated in this section, actual housing and utility expenses shall be used when determining the amount of the DWP grant.

(c) The maximum monthly benefit amount available under the diversionary work program is the difference between the family unit's family maintenance needs under paragraph (b) and the family unit's countable income not to exceed the cash portion of the MFIP standard of need as defined in section 256J.08, subdivision 55a, for the family unit's size. The family wage level as defined in section 256J.08, subdivision 35, shall be used when determining the amount of countable income for working members.

(d) Once the county has determined a grant amount, the DWP grant amount will not be decreased if the determination is based on the best information available at the time of approval and shall not be decreased because of any additional income to the family unit. The grant can be increased if a participant later verifies an increase in family maintenance needs or family unit size. The minimum cash benefit amount, if income and asset tests are met, is $10. Benefits of $10 shall not be vendor paid.

(e) When all criteria are met, including the development of an employment plan as described in subdivision 14 and eligibility exists for the month of application, the amount of benefits for the diversionary work program retroactive to the date of application is as specified in section 256J.35, paragraph (a).

(f) Any month during the four-month DWP period that a person receives a DWP benefit directly or through a vendor payment made on the person's behalf, that person is ineligible for MFIP or any other TANF cash assistance program except for benefits defined in section 256J.626, subdivision 2, clause (1).

If during the four-month period a family unit that receives DWP benefits moves to a county that has not established a diversionary work program, the family unit may be eligible for MFIP the month following the last month of the issuance of the DWP benefit.

Subd. 11. [UNIVERSAL PARTICIPATION REQUIRED.] (a) All DWP caregivers, except caregivers who meet the criteria in paragraph (d), are required to participate in DWP employment services. Except as specified in paragraphs (b) and (c), employment plans under DWP must, at a minimum, meet the requirements in section 256J.55, subdivision 1.

(b) A caregiver who is a member of a two-parent family that is required to participate in DWP who would otherwise be ineligible for DWP under subdivision 3 may be allowed to develop an employment plan under section 256J.521, subdivision 2, paragraph (c), that may contain alternate activities and reduced hours.

(c) A participant who has a family violence waiver shall be allowed to develop an employment plan under section 256J.521, subdivision 3.

(d) One parent in a two-parent family unit that has a natural born child under 12 weeks of age is not required to have an employment plan until the child reaches 12 weeks of age unless the family unit has already used the exclusion under section 256J.561, subdivision 2, or the previously allowed child under age one exemption under section 256J.56, paragraph (a), clause (5).

(e) The provision in paragraph (d) ends the first full month after the child reaches 12 weeks of age. This provision is allowable only once in a caregiver's lifetime. In a two-parent household, only one parent shall be allowed to use this category.

(f) The participant and job counselor must meet within ten working days after the child reaches 12 weeks of age to revise the participant's employment plan. The employment plan for a family unit that has a child under 12 weeks of age that has already used the exclusion in section 256J.561 or the previously allowed child under age one exemption under section 256J.56, paragraph (a), clause (5), must be tailored to recognize the caregiving needs of the parent.

Subd. 12. [CONVERSION OR REFERRAL TO MFIP.] (a) If at any time during the DWP application process or during the four-month DWP eligibility period, it is determined that a participant is unlikely to benefit from the diversionary work program, the county shall convert or refer the participant to MFIP as specified in paragraph (d). Participants who are determined to be unlikely to benefit from the diversionary work program must develop and sign an employment plan. Participants who meet the criteria in paragraph (b) shall be considered to be unlikely to benefit from DWP, provided the necessary documentation is available to support the determination.

(b) A participant who:

(1) has been determined by a qualified professional as being unable to obtain or retain employment due to an illness, injury, or incapacity that is expected to last at least 60 days;

(2) is determined by a qualified professional as being needed in the home to care for a family member, or a relative in the household, or a foster child, due to an illness, injury, or incapacity that is expected to last at least 60 days;

(3) is determined by a qualified professional as being needed in the home to care for a child meeting the special medical criteria in section 256J.425, subdivision 2, clause (3);

(4) is pregnant and is determined by a qualified professional as being unable to obtain or retain employment due to the pregnancy; and

(5) has applied for SSI or RSDI.

(c) In a two-parent family unit, both parents must be determined to be unlikely to benefit from the diversionary work program before the family unit can be converted or referred to MFIP.

(d) A participant who is determined to be unlikely to benefit from the diversionary work program shall be converted to MFIP and, if the determination was made within 30 days of the initial application for benefits, a new combined application form will not be required. A participant who is determined to be unlikely to benefit from the diversionary work program shall be referred to MFIP and, if the determination is made more than 30 days after the initial application, the participant must submit a new combined application form. The county agency shall process the combined application form by the first of the following month to ensure that no gap in benefits is due to delayed action by the county agency.

Subd. 13. [IMMEDIATE REFERRAL TO EMPLOYMENT SERVICES.] Within one working day of determination that the applicant is eligible for the diversionary work program, but before benefits are issued to or on behalf of the family unit, the county shall refer all caregivers to employment services. The referral to the DWP employment services must be in writing and must contain the following information:

(1) notification that, as part of the application process, applicants are required to develop an employment plan or the DWP application will be denied;

(2) the employment services provider name and phone number;

(3) the date, time, and location of the scheduled employment services interview;

(4) the immediate availability of supportive services, including, but not limited to, child care, transportation, and other work-related aid; and

(5) the rights, responsibilities, and obligations of participants in the program, including, but not limited to, the grounds for good cause, the consequences of refusing or failing to participate fully with program requirements, and the appeal process.

Subd. 14. [EMPLOYMENT PLAN; DWP BENEFITS.] Within five working days of being notified that a participant is financially eligible for the diversionary work program, the employment services provider and participant shall meet to develop an employment plan. Once the employment plan has been developed and signed by the participant and the job counselor, the employment services provider shall notify the county within one working day that the employment plan has been signed. The county shall issue DWP benefits within one working day after receiving notice that the employment plan has been signed.

Subd. 15. [LIMITATIONS ON CERTAIN WORK ACTIVITIES.] (a) Except as specified in paragraphs (b) to (d), employment activities listed in section 256J.49, subdivision 13, are allowable under the diversionary work program.

(b) Work activities under section 256J.49, subdivision 13, clause (5), shall be allowable only when in combination with approved work activities under section 256J.49, subdivision 13, clauses (1) to (4), and shall be limited to no more than one-half of the hours required in the employment plan.

(c) In order for an English as a second language (ESL) class to be an approved work activity, a participant must:

(1) be below a spoken language proficiency level of SPL6 or its equivalent, as measured by a nationally recognized test; and

(2) not have been enrolled in ESL for more than 24 months while previously participating in MFIP or DWP. A participant who has been enrolled in ESL for 20 or more months may be approved for ESL until the participant has received 24 total months.

(d) Work activities under section 256J.49, subdivision 13, clause (6), shall be allowable only when the training or education program will be completed within the four-month DWP period. Training or education programs that will not be completed within the four-month DWP period shall not be approved.

Subd. 16. [FAILURE TO COMPLY WITH REQUIREMENTS.] A family unit that includes a participant who fails to comply with DWP employment service or child support enforcement requirements, without good cause as defined in sections 256.741 and 256J.57, shall be disqualified from the diversionary work program. The county shall provide written notice as specified in section 256J.31 to the participant prior to disqualifying the family unit due to noncompliance with employment service or child support. The disqualification does not apply to food support or health care benefits.

Subd. 17. [GOOD CAUSE FOR NOT COMPLYING WITH REQUIREMENTS.] A participant who fails to comply with the requirements of the diversionary work program may claim good cause for reasons listed in sections 256.741 and 256J.57, subdivision 1, clauses (1) to (13). The county shall not impose a disqualification if good cause exists.

Subd. 18. [REINSTATEMENT FOLLOWING DISQUALIFICATION.] A participant who has been disqualified from the diversionary work program due to noncompliance with employment services may regain eligibility for the diversionary work program by complying with program requirements. A participant who has been disqualified from the diversionary work program due to noncooperation with child support enforcement requirements may regain eligibility by complying with child support requirements under section 256J.741. Once a participant has been reinstated, the county shall issue prorated benefits for the remaining portion of the month. A

family unit that has been disqualified from the diversionary work program due to noncompliance shall not be eligible for MFIP or any other TANF cash program during the period of time the participant remains noncompliant. In a two-parent family, both parents must be in compliance before the family unit can regain eligibility for benefits.

Subd. 19. [RECOVERY OF OVERPAYMENTS.] When an overpayment or an ATM error is determined, the overpayment shall be recouped or recovered as specified in section 256J.38.

Subd. 20. [IMPLEMENTATION OF DWP.] Counties may establish a diversionary work program according to this section any time on or after July 1, 2003. Prior to establishing a diversionary work program, the county must notify the commissioner. All counties must implement the provisions of this section no later than July 1, 2004.

Sec. 105. Minnesota Statutes 2002, section 261.063, is amended to read:

261.063 [TAX LEVY FOR SOCIAL SERVICES; BOARD DUTY; PENALTY.]

(a) The board of county commissioners of each county shall annually levy taxes and fix a rate sufficient to produce the full amount required for poor relief, general assistance, Minnesota family investment program, diversionary work program, county share of county and state supplemental aid to supplemental security income applicants or recipients, and any other social security measures wherein there is now or may hereafter be county participation, sufficient to produce the full amount necessary for each such item, including administrative expenses, for the ensuing year, within the time fixed by law in addition to all other tax levies and tax rates, however fixed or determined, and any commissioner who shall fail to comply herewith shall be guilty of a gross misdemeanor and shall be immediately removed from office by the governor. For the purposes of this paragraph, "poor relief" means county services provided under sections 261.035~~, 261.04,~~ and 261.21 to 261.231.

(b) Nothing within the provisions of this section shall be construed as requiring a county agency to provide income support or cash assistance to needy persons when they are no longer eligible for assistance under general assistance, ~~the Minnesota family investment program~~ chapter 256J, or Minnesota supplemental aid.

Sec. 106. Minnesota Statutes 2002, section 393.07, subdivision 10, is amended to read:

Subd. 10. [FEDERAL FOOD STAMP PROGRAM AND THE MATERNAL AND CHILD NUTRITION ACT.] (a) The local social services agency shall establish and administer the food stamp or support program according to rules of the commissioner of human services, the supervision of the commissioner as specified in section 256.01, and all federal laws and regulations. The commissioner of human services shall monitor food stamp or support program delivery on an ongoing basis to ensure that each county complies with federal laws and regulations. Program requirements to be monitored include, but are not limited to, number of applications, number of approvals, number of cases pending, length of time required to process each application and deliver benefits, number of applicants eligible for expedited issuance, length of time required to process and deliver expedited issuance, number of terminations and reasons for terminations, client profiles by age, household composition and income level and sources, and the use of phone certification and home visits. The commissioner shall determine the county-by-county and statewide participation rate.

(b) On July 1 of each year, the commissioner of human services shall determine a statewide and county-by-county food stamp program participation rate. The commissioner may designate a different agency to administer the food stamp program in a county if the agency administering the program fails to increase the food stamp program participation rate among families or eligible individuals, or comply with all federal laws and regulations governing the food stamp program. The commissioner shall review agency performance annually to determine compliance with this paragraph.

(c) A person who commits any of the following acts has violated section 256.98 or 609.821, or both, and is subject to both the criminal and civil penalties provided under those sections:

(1) obtains or attempts to obtain, or aids or abets any person to obtain by means of a willful statement or misrepresentation, or intentional concealment of a material fact, food stamps or vouchers issued according to sections 145.891 to 145.897 to which the person is not entitled or in an amount greater than that to which that person is entitled or which specify nutritional supplements to which that person is not entitled; or

(2) presents or causes to be presented, coupons or vouchers issued according to sections 145.891 to 145.897 for payment or redemption knowing them to have been received, transferred or used in a manner contrary to existing state or federal law; or

(3) willfully uses, possesses, or transfers food stamp coupons, authorization to purchase cards or vouchers issued according to sections 145.891 to 145.897 in any manner contrary to existing state or federal law, rules, or regulations; or

(4) buys or sells food stamp coupons, authorization to purchase cards, other assistance transaction devices, vouchers issued according to sections 145.891 to 145.897, or any food obtained through the redemption of vouchers issued according to sections 145.891 to 145.897 for cash or consideration other than eligible food.

(d) A peace officer or welfare fraud investigator may confiscate food stamps, authorization to purchase cards, or other assistance transaction devices found in the possession of any person who is neither a recipient of the food stamp program nor otherwise authorized to possess and use such materials. Confiscated property shall be disposed of as the commissioner may direct and consistent with state and federal food stamp law. The confiscated property must be retained for a period of not less than 30 days to allow any affected person to appeal the confiscation under section 256.045.

(e) Food stamp overpayment claims which are due in whole or in part to client error shall be established by the county agency for a period of six years from the date of any resultant overpayment.

(f) With regard to the federal tax revenue offset program only, recovery incentives authorized by the federal food and consumer service shall be retained at the rate of 50 percent by the state agency and 50 percent by the certifying county agency.

(g) A peace officer, welfare fraud investigator, federal law enforcement official, or the commissioner of health may confiscate vouchers found in the possession of any person who is neither issued vouchers under sections 145.891 to 145.897, nor otherwise authorized to possess and use such vouchers. Confiscated property shall be disposed of as the commissioner of health may direct and consistent with state and federal law. The confiscated property must be retained for a period of not less than 30 days.

(h) The commissioner of human services shall seek a waiver from the United States Department of Agriculture to allow the state to specify foods that may and may not be purchased in Minnesota with benefits funded by the federal Food Stamp Program.

Sec. 107. Laws 1997, chapter 203, article 9, section 21, as amended by Laws 1998, chapter 407, article 6, section 111, Laws 2000, chapter 488, article 10, section 28, and Laws 2001, First Special Session chapter 9, article 10, section 62, is amended to read:

Sec. 21. [INELIGIBILITY FOR STATE FUNDED PROGRAMS.]

(a) Effective on the date specified, the following persons will be ineligible for general assistance and general assistance medical care under Minnesota Statutes, chapter 256D, group residential housing under Minnesota Statutes, chapter 256I, and MFIP assistance under Minnesota Statutes, chapter 256J, funded with state money:

(1) Beginning July 1, 2002, persons who are terminated from or denied Supplemental Security Income due to the 1996 changes in the federal law making persons whose alcohol or drug addiction is a material factor contributing to the person's disability ineligible for Supplemental Security Income, and are eligible for general assistance under Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (15), general assistance medical care under Minnesota Statutes, chapter 256D, or group residential housing under Minnesota Statutes, chapter 256I; and

(2) Beginning July 1, 2002, legal noncitizens who are ineligible for Supplemental Security Income due to the 1996 changes in federal law making certain noncitizens ineligible for these programs due to their noncitizen status~~; and~~.

~~(3) Beginning July 1, 2003, legal noncitizens who are eligible for MFIP assistance, either the cash assistance portion or the food assistance portion, funded entirely with state money.~~

(b) State money that remains unspent due to changes in federal law enacted after May 12, 1997, that reduce state spending for legal noncitizens or for persons whose alcohol or drug addiction is a material factor contributing to the person's disability, or enacted after February 1, 1998, that reduce state spending for food benefits for legal noncitizens shall not cancel and shall be deposited in the TANF reserve account.

Sec. 108. [REVISOR'S INSTRUCTION.]

(a) In the next publication of Minnesota Statutes, the revisor of statutes shall codify section 107 of this act.

(b) Wherever "food stamp" or "food stamps" appears in Minnesota Statutes and Rules, the revisor of statutes shall insert "food support" or "or food support" except for instances where federal code or federal law is referenced.

(c) For sections in Minnesota Statutes and Minnesota Rules affected by the repealed sections in this article, the revisor shall delete internal cross-references where appropriate and make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning.

Sec. 109. [REPEALER.]

(a) Minnesota Statutes 2002, sections 256J.02, subdivision 3; 256J.08, subdivisions 28 and 70; 256J.24, subdivision 8; 256J.30, subdivision 10; 256J.462; 256J.47; 256J.48; 256J.49, subdivisions 1a, 2, 6, and 7; 256J.50, subdivisions 2, 3, 3a, 5, and 7; 256J.52; 256J.62, subdivisions 1, 2a, 4, 6, 7, and 8; 256J.625; 256J.655; 256J.74, subdivision 3; 256J.751, subdivisions 3 and 4; 256J.76; and 256K.30, are repealed.

(b) Laws 2000, chapter 488, article 10, section 29, is repealed.

ARTICLE 2

HEALTH CARE

Section 1. Minnesota Statutes 2002, section 16A.724, is amended to read:

16A.724 [HEALTH CARE ACCESS FUND.]

A health care access fund is created in the state treasury. The fund is a direct appropriated special revenue fund. The commissioner shall deposit to the credit of the fund money made available to the fund. Notwithstanding section 11A.20, after June 30, 1997, all investment income and all investment losses attributable to the investment of the health care access fund not currently needed shall be credited to the health care access fund. The health care access fund shall sunset on June 30, 2005, and all remaining funds shall be deposited in the general fund. Beginning July 1, 2005, all activities which would otherwise receive funding from the health care access fund shall be funded out of the general fund.

Sec. 2. [151.4611] [PURCHASE OF PRESCRIBER PRACTICE DATA PROHIBITED.]

A manufacturer or wholesale drug distributor shall not purchase or otherwise obtain data relating to practitioners prescribing or dispensing practices or patterns.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 3. Minnesota Statutes 2002, section 256.01, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC POWERS.] Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall:

(1) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(a) require county agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(b) monitor, on an ongoing basis, the performance of county agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(c) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(d) require county agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(e) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017;

(f) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds; and

(g) enter into contractual agreements with federally recognized Indian tribes with a reservation in Minnesota to the extent necessary for the tribe to operate a federally approved family assistance program or any other program under the supervision of the commissioner. The commissioner shall consult with the affected county or counties in

the contractual agreement negotiations, if the county or counties wish to be included, in order to avoid the duplication of county and tribal assistance program services. The commissioner may establish necessary accounts for the purposes of receiving and disbursing funds as necessary for the operation of the programs.

(2) Inform county agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to county agency administration of the programs.

(3) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the state board of control.

(4) Administer and supervise all noninstitutional service to handicapped persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(5) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(6) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(7) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(8) Act as designated guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded. For children under the guardianship of the commissioner whose interests would be best served by adoptive placement, the commissioner may contract with a licensed child-placing agency or a Minnesota tribal social services agency to provide adoption services. A contract with a licensed child-placing agency must be designed to supplement existing county efforts and may not replace existing county programs, unless the replacement is agreed to by the county board and the appropriate exclusive bargaining representative or the commissioner has evidence that child placements of the county continue to be substantially below that of other counties. Funds encumbered and obligated under an agreement for a specific child shall remain available until the terms of the agreement are fulfilled or the agreement is terminated.

(9) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(10) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(11) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(12) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(a) The secretary of health and human services of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity.

(b) A comprehensive plan, including estimated project costs, shall be approved by the legislative advisory commission and filed with the commissioner of administration.

(13) According to federal requirements, establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(14) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, medical assistance, or food stamp program in the following manner:

(a) One-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance and the AFDC program formerly codified in sections 256.72 to 256.87, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC program formerly codified in sections 256.72 to 256.87, and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due.

(b) Notwithstanding the provisions of paragraph (a), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in paragraph (a), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to paragraph (a).

(15) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in

the state treasury and credited to a special account until the balance in the account reaches $1,000,000. When the balance in the account exceeds $1,000,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(16) Have the authority to make direct payments to facilities providing shelter to women and their children according to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

(17) Have the authority to establish and enforce the following county reporting requirements:

(a) The commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human services programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced.

(b) The county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner.

(c) If the required reports are not received by the deadlines established in clause (b), the commissioner may delay payments and withhold funds from the county board until the next reporting period. When the report is needed to account for the use of federal funds and the late report results in a reduction in federal funding, the commissioner shall withhold from the county boards with late reports an amount equal to the reduction in federal funding until full federal funding is received.

(d) A county board that submits reports that are late, illegible, incomplete, or not in the required format for two out of three consecutive reporting periods is considered noncompliant. When a county board is found to be noncompliant, the commissioner shall notify the county board of the reason the county board is considered noncompliant and request that the county board develop a corrective action plan stating how the county board plans to correct the problem. The corrective action plan must be submitted to the commissioner within 45 days after the date the county board received notice of noncompliance.

(e) The final deadline for fiscal reports or amendments to fiscal reports is one year after the date the report was originally due. If the commissioner does not receive a report by the final deadline, the county board forfeits the funding associated with the report for that reporting period and the county board must repay any funds associated with the report received for that reporting period.

(f) The commissioner may not delay payments, withhold funds, or require repayment under paragraph (c) or (e) if the county demonstrates that the commissioner failed to provide appropriate forms, guidelines, and technical assistance to enable the county to comply with the requirements. If the county board disagrees with an action taken by the commissioner under paragraph (c) or (e), the county board may appeal the action according to sections 14.57 to 14.69.

(g) Counties subject to withholding of funds under paragraph (c) or forfeiture or repayment of funds under paragraph (e) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under paragraph (c) or (e).

(18) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample for the foster care program under title IV-E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV-E foster care maintenance claim for that period.

(19) Be responsible for ensuring the detection, prevention, investigation, and resolution of fraudulent activities or behavior by applicants, recipients, and other participants in the human services programs administered by the department.

(20) Require county agencies to identify overpayments, establish claims, and utilize all available and cost-beneficial methodologies to collect and recover these overpayments in the human services programs administered by the department.

(21) Have the authority to administer a drug rebate program for drugs purchased pursuant to the prescription drug program established under section 256.955 after the beneficiary's satisfaction of any deductible established in the program. The commissioner shall require a rebate agreement from all manufacturers of covered drugs as defined in section 256B.0625, subdivision 13. Rebate agreements for prescription drugs delivered on or after July 1, 2002, must include rebates for individuals covered under the prescription drug program who are under 65 years of age. For each drug, the amount of the rebate shall be equal to the ~~basic~~ rebate as defined for purposes of the federal rebate program in United States Code, title 42, section 1396r-8(c)(1). ~~This basic rebate shall be applied to single-source and multiple-source drugs.~~ The manufacturers must provide full payment within 30 days of receipt of the state invoice for the rebate within the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act. The manufacturers must provide the commissioner with any information necessary to verify the rebate determined per drug. The rebate program shall utilize the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act.

(22) Have the authority to administer the federal drug rebate program for drugs purchased under the medical assistance program as allowed by section 1927 of title XIX of the Social Security Act and according to the terms and conditions of section 1927. Rebates shall be collected for all drugs that have been dispensed or administered in an outpatient setting and that are from manufacturers who have signed a rebate agreement with the United States Department of Health and Human Services.

(23) Have the authority to administer a supplemental drug rebate program for drugs purchased under the medical assistance program. The commissioner may enter into supplemental rebate contracts with pharmaceutical manufacturers and may require prior authorization for drugs that are from manufacturers that have not signed a supplemental rebate contract. Prior authorization of drugs shall be subject to the provisions of section 256B.0625, subdivision 13.

(24) Operate the department's communication systems account established in Laws 1993, First Special Session chapter 1, article 1, section 2, subdivision 2, to manage shared communication costs necessary for the operation of the programs the commissioner supervises. A communications account may also be established for each regional treatment center which operates communications systems. Each account must be used to manage shared communication costs necessary for the operations of the programs the commissioner supervises. The commissioner may distribute the costs of operating and maintaining communication systems to participants in a manner that reflects actual usage. Costs may include acquisition, licensing, insurance, maintenance, repair, staff time and other costs as determined by the commissioner. Nonprofit organizations and state, county, and local government agencies involved in the operation of programs the commissioner supervises may participate in the use of the department's communications technology and share in the cost of operation. The commissioner may accept on behalf of the state

any gift, bequest, devise or personal property of any kind, or money tendered to the state for any lawful purpose pertaining to the communication activities of the department. Any money received for this purpose must be deposited in the department's communication systems accounts. Money collected by the commissioner for the use of communication systems must be deposited in the state communication systems account and is appropriated to the commissioner for purposes of this section.

(25) Receive any federal matching money that is made available through the medical assistance program for the consumer satisfaction survey. Any federal money received for the survey is appropriated to the commissioner for this purpose. The commissioner may expend the federal money received for the consumer satisfaction survey in either year of the biennium.

(26) Incorporate cost reimbursement claims from First Call Minnesota and Greater Twin Cities United Way into the federal cost reimbursement claiming processes of the department according to federal law, rule, and regulations. Any reimbursement received is appropriated to the commissioner and shall be disbursed to First Call Minnesota and Greater Twin Cities United Way according to normal department payment schedules.

(27) Develop recommended standards for foster care homes that address the components of specialized therapeutic services to be provided by foster care homes with those services.

Sec. 4. Minnesota Statutes 2002, section 256.046, subdivision 1, is amended to read:

Subdivision 1. [HEARING AUTHORITY.] A local agency must initiate an administrative fraud disqualification hearing for individuals accused of wrongfully obtaining assistance or intentional program violations, in lieu of a criminal action when it has not been pursued, in the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, MFIP, child care assistance programs, general assistance, family general assistance program formerly codified in section 256D.05, subdivision 1, clause (15), Minnesota supplemental aid, ~~medical care, or~~ food stamp programs, general assistance medical care, MinnesotaCare for adults without children, and upon federal approval, all categories of medical assistance and remaining categories of MinnesotaCare except for children ages up to 18. The hearing is subject to the requirements of section 256.045 and the requirements in Code of Federal Regulations, title 7, section 273.16, for the food stamp program and title 45, section 235.112, as of September 30, 1995, for the cash grant and medical care programs.

Sec. 5. [256.954] [PRESCRIPTION DRUG DISCOUNT PROGRAM.]

Subdivision 1. [ESTABLISHMENT; ADMINISTRATION.] The commissioner of human services shall establish and administer the prescription drug discount program, effective January 1, 2004.

Subd. 2. [COMMISSIONER'S AUTHORITY.] The commissioner shall administer a drug rebate program for drugs purchased according to the prescription drug discount program. The commissioner shall require a rebate agreement from all manufacturers of covered drugs as defined in section 256B.0625, subdivision 13. For each drug, the amount of the rebate shall be equal to the rebate as defined for purposes of the federal rebate program in United States Code, title 42, section 1396r-8. The rebate program shall utilize the terms and conditions used for the federal rebate program established according to section 1927 of title XIX of the federal Social Security Act.

Subd. 3. [DEFINITIONS.] For the purpose of this section, the following terms have the meanings given them:

(a) "Commissioner" means the commissioner of human services.

(b) "Manufacturer" means a manufacturer as defined in section 151.44, paragraph (c).

(c) "Covered prescription drug" means a prescription drug as defined in section 151.44, paragraph (d), that is covered under medical assistance as described in section 256B.0625, subdivision 13, and that is provided by a manufacturer that has a fully executed rebate agreement with the commissioner under this section and complies with that agreement. Multisource drugs for which there are three or more drug products are not subject to the requirements of this section. This exemption does not apply to innovator multisource drugs.

(d) "Health carrier" means an insurance company licensed under chapter 60A to offer, sell, or issue an individual or group policy of accident and sickness insurance as defined in section 62A.01; a nonprofit health service plan corporation operating under chapter 62C; a health maintenance organization operating under chapter 62D; a joint self-insurance employee health plan operating under chapter 62H; a community integrated systems network licensed under chapter 62N; a fraternal benefit society operating under chapter 64B; a city, county, school district, or other political subdivision providing self-insured health coverage under section 461.617 or sections 471.98 to 471.982; and a self-funded health plan under the Employee Retirement Income Security Act of 1974, as amended.

(e) "Participating pharmacy" means a pharmacy as defined in section 151.01, subdivision 2, that agrees to participate in the prescription drug discount program.

(f) "Enrolled individual" means a person who is eligible for the program under subdivision 4 and has enrolled in the program according to subdivision 5.

Subd. 4. [ELIGIBLE PERSONS.] To be eligible for the program, an applicant must:

(1) be a permanent resident of Minnesota as defined in section 256L.09, subdivision 4;

(2) not be enrolled in medical assistance, general assistance medical care, MinnesotaCare, or the prescription drug program under section 256.955;

(3) not be enrolled in and have currently available prescription drug coverage under a health plan offered by a health carrier;

(4) not be enrolled in and have currently available prescription drug coverage under a Medicare supplement plan, as defined in sections 62A.31 to 62A.44, or policies, contracts, or certificates that supplement Medicare issued by health maintenance organizations or those policies, contracts, or certificates governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395, et. seq., as amended; and

(5) have a gross household income that does not exceed 250 percent of the federal poverty guidelines.

Subd. 5. [APPLICATION PROCEDURE.] (a) Applications and information on the program must be made available at county social services agencies, health care provider offices, and agencies and organizations serving senior citizens. Individuals shall submit applications and any information specified by the commissioner as being necessary to verify eligibility directly to the commissioner. The commissioner shall determine an applicant's eligibility for the program within 30 days from the date the application is received. Eligibility begins the month after approval.

(b) The commissioner shall develop an application form that does not exceed one page in length and requires information necessary to determine eligibility for the program.

Subd. 6. [PARTICIPATING PHARMACY.] According to a valid prescription, a participating pharmacy must sell a covered prescription drug to an enrolled individual at the pharmacy's usual and customary retail price, minus an amount that is equal to the rebate amount described in subdivision 8, plus the amount of any administrative fee

and switch fee established by the commissioner under subdivision 10. Each participating pharmacy shall provide the commissioner with all information necessary to administer the program, including, but not limited to, information on prescription drug sales to enrolled individuals and usual and customary retail prices.

Subd. 7. [NOTIFICATION OF REBATE AMOUNT.] The commissioner shall notify each drug manufacturer, each calendar quarter or according to a schedule to be established by the commissioner, of the amount of the rebate owed on the prescription drugs sold by participating pharmacies to enrolled individuals.

Subd. 8. [PROVISION OF REBATE.] To the extent that a manufacturer's prescription drugs are prescribed to a citizen of this state, the manufacturer must provide a rebate equal to the rebate provided under the medical assistance program for any prescription drug distributed by the manufacturer that is purchased by an enrolled individual at a participating pharmacy. The manufacturer must provide full payment within 30 days of receipt of the state invoice for the rebate, or according to a schedule to be established by the commissioner. The commissioner shall deposit all rebates received into the Minnesota prescription drug dedicated fund established under this section. The manufacturer must provide the commissioner with any information necessary to verify the rebate determined per drug.

Subd. 9. [PAYMENT TO PHARMACIES.] The commissioner shall distribute on a biweekly basis an amount that is equal to an estimate of the rebate amount described in subdivision 8 to each participating pharmacy based on the prescription drugs sold by that pharmacy to enrolled individuals, minus the amount of the administrative fee established by the commissioner under subdivision 10.

Subd. 10. [ADMINISTRATIVE FEE; SWITCH FEE.] The commissioner shall establish a reasonable administrative fee that covers the commissioner's expenses for enrollment, processing claims, repaying the appropriation from the health care access fund over a seven-year period, and distributing rebates under this program. The commissioner shall establish a reasonable switch fee that covers expenses incurred by pharmacies in formatting for electronic submission claims for prescription drugs sold to enrolled individuals.

Subd. 11. [DEDICATED FUND; CREATION; USE OF FUND.] (a) The Minnesota prescription drug dedicated fund is established as an account in the state treasury. The commissioner of finance shall credit to the dedicated fund all rebates paid under subdivision 8, any federal funds received for the program, and any appropriations or allocations designated for the fund. The commissioner of finance shall ensure that fund money is invested under section 11A.25. All money earned by the fund must be credited to the fund. The fund shall earn a proportionate share of the total state annual investment income.

(b) Money in the fund is appropriated to the commissioner of human services to reimburse participating pharmacies for prescription drug discounts provided to enrolled individuals under this section, to reimburse the commissioner of human services for costs related to enrollment, processing claims, distributing rebates, and for other reasonable administrative costs related to administration of the prescription drug discount program, and to repay the appropriation provided for this section. The commissioner must administer the program so that the costs total no more than funds appropriated plus the drug rebate proceeds.

Sec. 6. Minnesota Statutes 2002, section 256.955, subdivision 2a, is amended to read:

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

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

(2) is eligible as a qualified Medicare beneficiary according to section 256B.057, subdivision 3~~,~~ or 3a, ~~or 3b, clause (1),~~ or is eligible under section 256B.057, subdivision 3~~,~~ or 3a, ~~or 3b, clause (1),~~ and is also eligible for medical assistance or general assistance medical care with a spenddown as defined in section 256B.056, subdivision 5.

Sec. 7. Minnesota Statutes 2002, section 256.955, subdivision 3, is amended to read:

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

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

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

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

[EFFECTIVE DATE.] This section is effective 90 days after implementation by the board of aging of the prescription drug assistance program under section 256.975, subdivision 9.

Sec. 8. Minnesota Statutes 2002, section 256.955, is amended by adding a subdivision to read:

Subd. 4a. [REFERRALS TO PRESCRIPTION DRUG ASSISTANCE PROGRAM.] County social service agencies, in coordination with the commissioner and the Minnesota board on aging, shall refer individuals applying to the prescription drug program, or enrolled in the prescription drug program, to the prescription drug assistance program for all required prescription drugs that the board on aging determines, under section 256.975, subdivision 9, are covered under an assistance program offered by a pharmaceutical manufacturer. Applicants and enrollees referred to the prescription drug assistance program remain eligible for coverage under the prescription drug program of all prescription drugs covered under subdivision 3. The board on aging shall phase-in participation of enrollees, over a period of 90 days, after implementation of the program under section 256.975, subdivision 9. This subdivision does not apply to individuals who are also eligible for medical assistance with a spenddown as defined in section 256B.056, subdivision 5.

[EFFECTIVE DATE.] This section is effective 90 days after implementation by the board of aging of the prescription drug assistance program under section 256.975, subdivision 9.

Sec. 9. Minnesota Statutes 2002, section 256.969, subdivision 2b, is amended to read:

Subd. 2b. [OPERATING PAYMENT RATES.] In determining operating payment rates for admissions occurring on or after the rate year beginning January 1, 1991, and every two years after, or more frequently as determined by the commissioner, the commissioner shall obtain operating data from an updated base year and establish operating payment rates per admission for each hospital based on the cost-finding methods and allowable costs of the Medicare program in effect during the base year. Rates under the general assistance medical care, medical assistance, and MinnesotaCare programs shall not be rebased to more current data on January 1, 1997, and January 1, 2005. The base year operating payment rate per admission is standardized by the case mix index and adjusted by the hospital cost index, relative values, and disproportionate population adjustment. The cost and charge data used to establish operating rates shall only reflect inpatient services covered by medical assistance and shall not include property cost information and costs recognized in outlier payments.

Sec. 10. Minnesota Statutes 2002, section 256.969, subdivision 3a, is amended to read:

Subd. 3a. [PAYMENTS.] (a) Acute care hospital billings under the medical assistance program must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments for inpatient hospitals that have individual patient lengths of stay over 30 days regardless of diagnostic category. Except as provided in section 256.9693, medical assistance reimbursement for treatment of mental illness shall be

reimbursed based on diagnostic classifications. Individual hospital payments established under this section and sections 256.9685, 256.9686, and 256.9695, in addition to third party and recipient liability, for discharges occurring during the rate year shall not exceed, in aggregate, the charges for the medical assistance covered inpatient services paid for the same period of time to the hospital. This payment limitation shall be calculated separately for medical assistance and general assistance medical care services. The limitation on general assistance medical care shall be effective for admissions occurring on or after July 1, 1991. Services that have rates established under subdivision 11 or 12, must be limited separately from other services. After consulting with the affected hospitals, the commissioner may consider related hospitals one entity and may merge the payment rates while maintaining separate provider numbers. The operating and property base rates per admission or per day shall be derived from the best Medicare and claims data available when rates are established. The commissioner shall determine the best Medicare and claims data, taking into consideration variables of recency of the data, audit disposition, settlement status, and the ability to set rates in a timely manner. The commissioner shall notify hospitals of payment rates by December 1 of the year preceding the rate year. The rate setting data must reflect the admissions data used to establish relative values. Base year changes from 1981 to the base year established for the rate year beginning January 1, 1991, and for subsequent rate years, shall not be limited to the limits ending June 30, 1987, on the maximum rate of increase under subdivision 1. The commissioner may adjust base year cost, relative value, and case mix index data to exclude the costs of services that have been discontinued by the October 1 of the year preceding the rate year or that are paid separately from inpatient services. Inpatient stays that encompass portions of two or more rate years shall have payments established based on payment rates in effect at the time of admission unless the date of admission preceded the rate year in effect by six months or more. In this case, operating payment rates for services rendered during the rate year in effect and established based on the date of admission shall be adjusted to the rate year in effect by the hospital cost index.

(b) For fee-for-service admissions occurring on or after July 1, 2002, the total payment, before third-party liability and spenddown, made to hospitals for inpatient services is reduced by .5 percent from the current statutory rates.

(c) In addition to the reduction in paragraph (b), the total payment for fee-for-service admissions occurring on or after July 1, 2003, made to hospitals for inpatient services before third-party liability and spenddown, is reduced 2.5 percent from the current statutory rates. Mental health services within diagnosis related groups 424 to 432, and facilities defined under subdivision 16 are excluded from this paragraph.

Sec. 11. Minnesota Statutes 2002, section 256.975, is amended by adding a subdivision to read:

Subd. 9. [PRESCRIPTION DRUG ASSISTANCE.] (a) The Minnesota board on aging shall establish and administer a prescription drug assistance program to assist individuals in accessing programs offered by pharmaceutical manufacturers that provide free or discounted prescription drugs or provide coverage for prescription drugs. The board shall use computer software programs to link individuals with the pharmaceutical assistance programs most appropriate for the individual. The board shall make information on the prescription drug assistance program available to interested individuals and health care providers and shall coordinate the program with the statewide information and assistance services provided through the Senior LinkAge Line under subdivision 7.

(b) The board shall work with the commissioner and county social service agencies to coordinate the enrollment of individuals who are referred to the prescription drug assistance program from the prescription drug program, as required under section 256.955, subdivision 4a.

Sec. 12. Minnesota Statutes 2002, section 256.98, subdivision 3, is amended to read:

Subd. 3. [AMOUNT OF ASSISTANCE INCORRECTLY PAID.] The amount of the assistance incorrectly paid under this section is:

(a) the difference between the amount of assistance actually received on the basis of misrepresented or concealed facts and the amount to which the recipient would have been entitled had the specific concealment or misrepresentation not occurred. Unless required by law, rule, or regulation, earned income disregards shall not be applied to earnings not reported by the recipient; or

(b) equal to all payments for health care services, including capitation payments made to a health plan, made on behalf of a person enrolled in MinnesotaCare, medical assistance, or general assistance medical care, for which the person was not entitled due to the concealment or misrepresentation of facts.

Sec. 13. Minnesota Statutes 2002, section 256.98, subdivision 4, is amended to read:

Subd. 4. [RECOVERY OF ASSISTANCE.] The amount of assistance determined to have been incorrectly paid is recoverable from:

(1) the recipient or the recipient's estate by the county or the state as a debt due the county or the state or both; and

(2) any person found to have taken independent action to establish eligibility for, conspired with, or aided and abetted, any recipient of public assistance found to have been incorrectly paid.

The obligations established under this subdivision shall be joint and several and shall extend to all cases involving client error as well as cases involving wrongfully obtained assistance.

MinnesotaCare participants who have been found to have wrongfully obtained assistance as described in subdivision 1, but who otherwise remain eligible for the program, may agree to have their MinnesotaCare premiums increased by an amount equal to ten percent of their premiums or $10 per month, whichever is greater, until the debt is satisfied.

Sec. 14. Minnesota Statutes 2002, section 256.98, subdivision 8, is amended to read:

Subd. 8. [DISQUALIFICATION FROM PROGRAM.] (a) Any person found to be guilty of wrongfully obtaining assistance by a federal or state court or by an administrative hearing determination, or waiver thereof, through a disqualification consent agreement, or as part of any approved diversion plan under section 401.065, or any court-ordered stay which carries with it any probationary or other conditions, in the Minnesota family investment program, the food stamp program, the general assistance program, the group residential housing program, or the Minnesota supplemental aid program shall be disqualified from that program. In addition, any person disqualified from the Minnesota family investment program shall also be disqualified from the food stamp program. The needs of that individual shall not be taken into consideration in determining the grant level for that assistance unit:

(1) for one year after the first offense;

(2) for two years after the second offense; and

(3) permanently after the third or subsequent offense.

The period of program disqualification shall begin on the date stipulated on the advance notice of disqualification without possibility of postponement for administrative stay or administrative hearing and shall continue through completion unless and until the findings upon which the sanctions were imposed are reversed by a court of competent jurisdiction. The period for which sanctions are imposed is not subject to review. The sanctions provided under this subdivision are in addition to, and not in substitution for, any other sanctions that may be

provided for by law for the offense involved. A disqualification established through hearing or waiver shall result in the disqualification period beginning immediately unless the person has become otherwise ineligible for assistance. If the person is ineligible for assistance, the disqualification period begins when the person again meets the eligibility criteria of the program from which they were disqualified and makes application for that program.

(b) A family receiving assistance through child care assistance programs under chapter 119B with a family member who is found to be guilty of wrongfully obtaining child care assistance by a federal court, state court, or an administrative hearing determination or waiver, through a disqualification consent agreement, as part of an approved diversion plan under section 401.065, or a court-ordered stay with probationary or other conditions, is disqualified from child care assistance programs. The disqualifications must be for periods of three months, six months, and two years for the first, second, and third offenses respectively. Subsequent violations must result in permanent disqualification. During the disqualification period, disqualification from any child care program must extend to all child care programs and must be immediately applied.

(c) Any person found to be guilty of wrongfully obtaining general assistance medical care, MinnesotaCare for adults without children, and upon federal approval, all categories of medical assistance and remaining categories of MinnesotaCare, except for children up to age 18, by a federal or state court or by an administrative hearing determination, or waiver thereof, through a disqualification consent agreement, or as part of any approved diversion plan under section 401.065, or any court-ordered stay which carries with it any probationary or other conditions, is disqualified from that program. The period of disqualification is one year after the first offense, two years after the second offense, and permanently after the third or subsequent offense. The period of program disqualification shall begin on the date stipulated on the advance notice of disqualification without possibility of postponement for administrative stay or administrative hearing and shall continue through completion unless and until the findings upon which the sanctions were imposed are reversed by a court of competent jurisdiction. The period for which sanctions are imposed is not subject to review. The sanctions provided under this subdivision are in addition to, and not in substitution for, any other sanctions that may be provided for by law for the offense involved.

Sec. 15. Minnesota Statutes 2002, section 256B.055, is amended by adding a subdivision to read:

Subd. 13. [RESIDENTS OF INSTITUTIONS FOR MENTAL DISEASES.] Beginning October 1, 2003, persons who would be eligible for medical assistance under this chapter but for residing in a facility that is determined by the commissioner or the federal Centers for Medicare and Medicaid Services to be an institution for mental diseases are eligible for medical assistance without federal financial participation.

Sec. 16. Minnesota Statutes 2002, section 256B.056, subdivision 1a, is amended to read:

Subd. 1a. [INCOME AND ASSETS GENERALLY.] Unless specifically required by state law or rule or federal law or regulation, the methodologies used in counting income and assets to determine eligibility for medical assistance for persons whose eligibility category is based on blindness, disability, or age of 65 or more years, the methodologies for the supplemental security income program shall be used. Increases in benefits under title II of the Social Security Act shall not be counted as income for purposes of this subdivision until July 1 of each year. Effective upon federal approval, for children eligible under section 256B.055, subdivision 12, or for home and community-based waiver services whose eligibility for medical assistance is determined without regard to parental income, child support payments, including any payments made by an obligor in satisfaction of or in addition to a temporary or permanent order for child support, and social security payments are not counted as income. For families and children, which includes all other eligibility categories, the methodologies under the state's AFDC plan in effect as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law ~~Number~~ 104-193, shall be used, except that effective ~~July 1, 2002, the $90 and $30~~

~~and one-third earned income disregards shall not apply and the disregard specified in subdivision 1c shall apply~~ October 1, 2003, the earned income disregards and deductions are limited to those in subdivision 1c. For these purposes, a "methodology" does not include an asset or income standard, or accounting method, or method of determining effective dates.

Sec. 17. Minnesota Statutes 2002, section 256B.056, subdivision 1c, is amended to read:

Subd. 1c. [FAMILIES WITH CHILDREN INCOME METHODOLOGY.] (a)(1) For children ages one to five whose eligibility is determined under section 256B.057, subdivision 2, 21 percent of countable earned income shall be disregarded for up to four months. This clause expires July 1, 2003.

(2) For children ages one through 18 whose eligibility is determined under section 256B.057, subdivision 2, the following deductions shall be applied to income counted toward the child's eligibility as allowed under the state's AFDC plan in effect as of July 16, 1996: $90 work expense, dependent care, and child support paid under court order. This clause is effective October 1, 2003.

(b) For families with children whose eligibility is determined using the standard specified in section 256B.056, subdivision 4, paragraph (c), 17 percent of countable earned income shall be disregarded for up to four months and the following deductions shall be applied to each individual's income counted toward eligibility as allowed under the state's AFDC plan in effect as of July 16, 1996: dependent care and child support paid under court order.

(c) If the four month disregard in paragraph (b) has been applied to the wage earner's income for four months, the disregard shall not be applied again until the wage earner's income has not been considered in determining medical assistance eligibility for 12 consecutive months.

[EFFECTIVE DATE.] The amendments to paragraphs (b) and (c) are effective July 1, 2003.

Sec. 18. Minnesota Statutes 2002, section 256B.057, subdivision 1, is amended to read:

Subdivision 1. [PREGNANT WOMEN AND INFANTS.] (a) An infant less than one year of age ~~or a pregnant woman who has written verification of a positive pregnancy test from a physician or licensed registered nurse,~~ is eligible for medical assistance if countable family income is equal to or less than 275 percent of the federal poverty guideline for the same family size. A pregnant woman who has written verification of a positive pregnancy test from a physician or licensed registered nurse is eligible for medical assistance if countable family income is equal to or less than 200 percent of the federal poverty guideline for the same family size. For purposes of this subdivision, "countable family income" means the amount of income considered available using the methodology of the AFDC program under the state's AFDC plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law ~~Number~~ 104-193, except for the earned income disregard and employment deductions.

(b) An amount equal to the amount of earned income exceeding 275 percent of the federal poverty guideline, up to a maximum of the amount by which the combined total of 185 percent of the federal poverty guideline plus the earned income disregards and deductions of the AFDC program under the state's AFDC plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law ~~Number~~ 104-193, exceeds 275 percent of the federal poverty guideline will be deducted for pregnant women and infants less than one year of age. This paragraph expires July 1, 2003.

(c) Effective July 1, 2003, dependent care and child support paid under court order shall be deducted from the countable income of pregnant women.

~~(b)~~ (d) An infant born on or after January 1, 1991, to a woman who was eligible for and receiving medical assistance on the date of the child's birth shall continue to be eligible for medical assistance without redetermination until the child's first birthday, as long as the child remains in the woman's household.

[EFFECTIVE DATE.] This section is effective February 1, 2004, or upon federal approval, whichever is later, except where a different date is specified in the text.

Sec. 19. Minnesota Statutes 2002, section 256B.057, subdivision 2, is amended to read:

Subd. 2. [CHILDREN.] Except as specified in subdivision 1b, effective ~~July 1, 2002~~ October 1, 2003, a child one through 18 years of age in a family whose countable income is no greater than ~~170~~ 150 percent of the federal poverty guidelines for the same family size, is eligible for medical assistance.

Sec. 20. Minnesota Statutes 2002, section 256B.057, subdivision 3b, is amended to read:

Subd. 3b. [QUALIFYING INDIVIDUALS.] Beginning July 1, 1998, ~~to the extent of the federal allocation to Minnesota~~ contingent upon federal funding, a person who would otherwise be eligible as a qualified Medicare beneficiary under subdivision 3, except that the person's income is in excess of the limit, is eligible as a qualifying individual according to the following criteria:

(1) if the person's income is greater than 120 percent, but less than 135 percent of the official federal poverty guidelines for the applicable family size, the person is eligible for medical assistance reimbursement of Medicare Part B premiums; or

(2) if the person's income is equal to or greater than 135 percent but less than 175 percent of the official federal poverty guidelines for the applicable family size, the person is eligible for medical assistance reimbursement of that portion of the Medicare Part B premium attributable to an increase in Part B expenditures which resulted from the shift of home care services from Medicare Part A to Medicare Part B under Public Law ~~Number~~ 105-33, section 4732, the Balanced Budget Act of 1997.

The commissioner shall limit enrollment of qualifying individuals under this subdivision according to the requirements of Public Law ~~Number~~ 105-33, section 4732.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 21. Minnesota Statutes 2002, section 256B.057, subdivision 9, is amended to read:

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

(1) meets the definition of disabled under the supplemental security income program;

(2) is at least 16 but less than 65 years of age;

(3) meets the asset limits in paragraph (b); and

(4) effective November 1, 2003, pays a premium~~, if required,~~ and other obligations under paragraph ~~(c)~~ (d).

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Effective November 1, 2003, for enrollees whose income does not exceed 150 percent of the federal poverty guidelines and who are also enrolled in Medicare, the commissioner must reimburse the enrollee for Medicare Part B premiums under section 256B.0625, subdivision 15, paragraph (a).

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

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

the next available billing month after the change is reported. Except for changes occurring from annual cost-of-living increases or verification of income under section 256B.061, paragraph (b), a change resulting in an increased premium shall not affect the premium amount until the next six-month review.

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

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

[EFFECTIVE DATE.] This section is effective November 1, 2003, except the amendments to Minnesota Statutes 2002, section 256B.057, subdivision 9, paragraphs (e) and (g), are effective July 1, 2003.

Sec. 22. Minnesota Statutes 2002, section 256B.057, subdivision 10, is amended to read:

Subd. 10. [CERTAIN PERSONS NEEDING TREATMENT FOR BREAST OR CERVICAL CANCER.] (a) Medical assistance may be paid for a person who:

(1) has been screened for breast or cervical cancer by the Minnesota breast and cervical cancer control program, and program funds have been used to pay for the person's screening;

(2) according to the person's treating health professional, needs treatment, including diagnostic services necessary to determine the extent and proper course of treatment, for breast or cervical cancer, including precancerous conditions and early stage cancer;

(3) meets the income eligibility guidelines for the Minnesota breast and cervical cancer control program;

(4) is under age 65;

(5) is not otherwise eligible for medical assistance under United States Code, title 42, section 1396(a)(10)(A)(i); and

(6) is not otherwise covered under creditable coverage, as defined under United States Code, title 42, section ~~300gg(c)~~ 1396a(aa).

(b) Medical assistance provided for an eligible person under this subdivision shall be limited to services provided during the period that the person receives treatment for breast or cervical cancer.

(c) A person meeting the criteria in paragraph (a) is eligible for medical assistance without meeting the eligibility criteria relating to income and assets in section 256B.056, subdivisions 1a to 5b.

Sec. 23. Minnesota Statutes 2002, section 256B.0595, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED TRANSFERS.] (a) For transfers of assets made on or before August 10, 1993, if a person or the person's spouse has given away, sold, or disposed of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under the supplemental security program,

within 30 months before or any time after the date of institutionalization if the person has been determined eligible for medical assistance, or within 30 months before or any time after the date of the first approved application for medical assistance if the person has not yet been determined eligible for medical assistance, the person is ineligible for long-term care services for the period of time determined under subdivision 2.

(b) Effective for transfers made after August 10, 1993, a person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or person's spouse, may not give away, sell, or dispose of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under the supplemental security income program, for the purpose of establishing or maintaining medical assistance eligibility. This applies to all transfers, including those made by a community spouse after the month in which the institutionalized spouse is determined eligible for medical assistance. For purposes of determining eligibility for long-term care services, any transfer of such assets within 36 months before or any time after an institutionalized person applies for medical assistance, or 36 months before or any time after a medical assistance recipient becomes institutionalized, for less than fair market value may be considered. Any such transfer is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility and the person is ineligible for long-term care services for the period of time determined under subdivision 2, unless the person furnishes convincing evidence to establish that the transaction was exclusively for another purpose, or unless the transfer is permitted under subdivision 3 or 4. Notwithstanding the provisions of this paragraph, in the case of payments from a trust or portions of a trust that are considered transfers of assets under federal law, any transfers made within 60 months before or any time after an institutionalized person applies for medical assistance and within 60 months before or any time after a medical assistance recipient becomes institutionalized, may be considered.

(c) This section applies to transfers, for less than fair market value, of income or assets, including assets that are considered income in the month received, such as inheritances, court settlements, and retroactive benefit payments or income to which the person or the person's spouse is entitled but does not receive due to action by the person, the person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse.

(d) This section applies to payments for care or personal services provided by a relative, unless the compensation was stipulated in a notarized, written agreement which was in existence when the service was performed, the care or services directly benefited the person, and the payments made represented reasonable compensation for the care or services provided. A notarized written agreement is not required if payment for the services was made within 60 days after the service was provided.

(e) This section applies to the portion of any asset or interest that a person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse, transfers to any annuity that exceeds the value of the benefit likely to be returned to the person or spouse while alive, based on estimated life expectancy using the life expectancy tables employed by the supplemental security income program to determine the value of an agreement for services for life. The commissioner may adopt rules reducing life expectancies based on the need for long-term care. This section applies to an annuity described in this paragraph purchased on or after March 1, 2002, that:

(1) is not purchased from an insurance company or financial institution that is subject to licensing or regulation by the Minnesota department of commerce or a similar regulatory agency of another state;

(2) does not pay out principal and interest in equal monthly installments; or

(3) does not begin payment at the earliest possible date after annuitization.

(f) For purposes of this section, long-term care services include services in a nursing facility, services that are eligible for payment according to section 256B.0625, subdivision 2, because they are provided in a swing bed, intermediate care facility for persons with mental retardation, and home and community-based services provided pursuant to sections 256B.0915, 256B.092, and 256B.49. For purposes of this subdivision and subdivisions 2, 3, and 4, "institutionalized person" includes a person who is an inpatient in a nursing facility or in a swing bed, or intermediate care facility for persons with mental retardation or who is receiving home and community-based services under sections 256B.0915, 256B.092, and 256B.49.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 24. Minnesota Statutes 2002, section 256B.0595, is amended by adding a subdivision to read:

Subd. 1b. [PROHIBITED TRANSFERS.] (a) Notwithstanding any contrary provisions of this section, this subdivision applies to transfers involving recipients of medical assistance that are made on or after its effective date and to all transfers involving persons who apply for medical assistance on or after its effective date if the transfer occurred within 72 months before the person applies for medical assistance, except that this subdivision does not apply to transfers made prior to July 1, 2003. A person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse, may not give away, sell, dispose of, or reduce ownership or control of any income, asset, or interest therein for less than fair market value for the purpose of establishing or maintaining medical assistance eligibility. This applies to all transfers, including those made by a community spouse after the month in which the institutionalized spouse is determined eligible for medical assistance. For purposes of determining eligibility for medical assistance services, any transfer of such income or assets for less than fair market value within 72 months before or any time after a person applies for medical assistance may be considered. Any such transfer is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility, and the person is ineligible for medical assistance services for the period of time determined under subdivision 2b, unless the person furnishes convincing evidence to establish that the transaction was exclusively for another purpose or unless the transfer is permitted under subdivision 3b or 4b.

(b) This section applies to transfers to trusts. The commissioner shall determine valid trust purposes under this section. Assets placed into a trust that is not for a valid purpose shall always be considered available for the purposes of medical assistance eligibility, regardless of when the trust is established.

(c) This section applies to transfers of income or assets for less than fair market value, including assets that are considered income in the month received, such as inheritances, court settlements, and retroactive benefit payments or income to which the person or the person's spouse is entitled but does not receive due to action by the person, the person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse.

(d) This section applies to payments for care or personal services provided by a relative, unless the compensation was stipulated in a notarized written agreement that was in existence when the service was performed, the care or services directly benefited the person, and the payments made represented reasonable compensation for the care or services provided. A notarized written agreement is not required if payment for the services was made within 60 days after the service was provided.

(e) This section applies to the portion of any income, asset, or interest therein that a person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse, transfers to any annuity that exceeds the value of the benefit likely to be returned to the person or the person's spouse while alive, based on estimated life expectancy, using the life expectancy tables employed by the supplemental security income program, or based on a shorter life expectancy if the annuitant had a medical condition that would shorten the annuitant's life expectancy and that was diagnosed

before funds were placed into the annuity. The agency may request and receive a physician's statement to determine if the annuitant had a diagnosed medical condition that would shorten the annuitant's life expectancy. If so, the agency shall determine the expected value of the benefits based upon the physician's statement instead of using a life expectancy table. This section applies to an annuity described in this paragraph purchased on or after March 1, 2002, that:

(1) is not purchased from an insurance company or financial institution that is subject to licensing or regulation by the Minnesota department of commerce or a similar regulatory agency of another state;

(2) does not pay out principal and interest in equal monthly installments; or

(3) does not begin payment at the earliest possible date after annuitization.

(f) Transfers under this section shall affect determinations of eligibility for all medical assistance services or long-term care services, whichever receives federal approval.

[EFFECTIVE DATE.] (a) This section is effective July 1, 2003, to the extent permitted by federal law. If any provision of this section is prohibited by federal law, the provision shall become effective when federal law is changed to permit its application or a waiver is received. The commissioner of human services shall notify the revisor of statutes when federal law is enacted or a waiver or other federal approval is received and publish a notice in the State Register. The commissioner must include the notice in the first State Register published after the effective date of the federal changes.

(b) If, by July 1, 2003, any provision of this section is not effective because of prohibitions in federal law, the commissioner of human services shall apply to the federal government by August 1, 2003, for a waiver of those prohibitions or other federal authority, and that provision shall become effective upon receipt of a federal waiver or other federal approval, notification to the revisor of statutes, and publication of a notice in the State Register to that effect. In applying for federal approval to extend the lookback period, the commissioner shall seek the longest lookback period the federal government will approve, not to exceed 72 months.

Sec. 25. Minnesota Statutes 2002, section 256B.0595, subdivision 2, is amended to read:

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

(b) For uncompensated transfers made after August 10, 1993, the number of months of ineligibility for long-term care services shall be the total uncompensated value of the resources transferred divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the first day of the month after the month in which the assets were transferred except that if one or more uncompensated transfers are made during a period of

ineligibility, the total assets transferred during the ineligibility period shall be combined and a penalty period calculated to begin ~~in~~ on the first day of the month after the month in which the first uncompensated transfer was made. If the transfer was not reported to the local agency ~~at the time of application~~, and the applicant received medical assistance services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of medical assistance services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received. Effective for transfers made on or after March 1, 1996, involving persons who apply for medical assistance on or after April 13, 1996, no cause of action exists for a transfer unless:

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

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

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

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

[EFFECTIVE DATE.] Paragraph (b) of this section is effective July 1, 2003.

Sec. 26. Minnesota Statutes 2002, section 256B.0595, is amended by adding a subdivision to read:

Subd. 2b. [PERIOD OF INELIGIBILITY.] (a) Notwithstanding any contrary provisions of this section, this subdivision applies to transfers, including transfers to trusts, involving recipients of medical assistance that are made on or after its effective date and to all transfers involving persons who apply for medical assistance on or after its effective date, regardless of when the transfer occurred, except that this subdivision does not apply to transfers made prior to July 1, 2003. For any uncompensated transfer occurring within 72 months prior to the date of application, at any time after application, or while eligible, the number of months of cumulative ineligibility for medical assistance services shall be the total uncompensated value of the assets and income transferred divided by the statewide average per-person nursing facility payment made by the state in effect at the time a penalty for a transfer is determined. The amount used to calculate the average per-person nursing facility payment shall be adjusted each July 1 to reflect average payments for the previous calendar year. For applicants, the period of ineligibility begins with the month in which the person applied for medical assistance and satisfied all other requirements for eligibility, or the first month the local agency becomes aware of the transfer and can give proper notice, if later. For recipients, the period of ineligibility begins in the first month after the month the agency becomes aware of the transfer and can give proper notice, except that penalty periods for transfers made during a period of ineligibility as determined under this section shall begin in the month following the existing period of ineligibility. If the transfer was not reported to the local agency, and the applicant received medical assistance services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of medical assistance services provided during the period of ineligibility or for the uncompensated amount of the transfer that was not recovered from the transferor through the implementation of a penalty period under this subdivision, whichever is less. Recovery shall include the costs incurred due to the action. The action may be brought by the

state or the local agency responsible for providing medical assistance under chapter 256B. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received. No cause of action exists for a transfer unless:

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

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

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

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

(c) Ineligibility under this section shall apply to medical assistance services or long-term care services, whichever receives federal approval.

[EFFECTIVE DATE.] (a) This section is effective July 1, 2003, to the extent permitted by federal law. If any provision of this section is prohibited by federal law, the provision shall become effective when federal law is changed to permit its application or a waiver is received. The commissioner of human services shall notify the revisor of statutes when federal law is enacted or a waiver or other federal approval is received and publish a notice in the State Register. The commissioner must include the notice in the first State Register published after the effective date of the federal changes.

(b) If, by July 1, 2003, any provision of this section is not effective because of prohibitions in federal law, the commissioner of human services shall apply to the federal government by August 1, 2003, for a waiver of those prohibitions or other federal authority, and that provision shall become effective upon receipt of a federal waiver or other federal approval, notification to the revisor of statutes, and publication of a notice in the State Register to that effect. In applying for federal approval to extend the lookback period, the commissioner shall seek the longest lookback period the federal government will approve, not to exceed 72 months.

Sec. 27. Minnesota Statutes 2002, section 256B.0595, is amended by adding a subdivision to read:

Subd. 3b. [HOMESTEAD EXCEPTION TO TRANSFER PROHIBITION.] (a) This subdivision applies to transfers involving recipients of medical assistance that are made on or after its effective date and to all transfers involving persons who apply for medical assistance on or after its effective date, regardless of when the transfer occurred, except that this subdivision does not apply to transfers made prior to July 1, 2003. A person is not ineligible for medical assistance services due to a transfer of assets for less than fair market value as described in subdivision 1b, if the asset transferred was a homestead, and:

(1) a satisfactory showing is made that the individual intended to dispose of the homestead at fair market value or for other valuable consideration; or

(2) the local agency grants a waiver of a penalty resulting from a transfer for less than fair market value because denial of eligibility would cause undue hardship for the individual and there exists an imminent threat to the individual's health and well-being. Whenever an applicant or recipient is denied eligibility because of a transfer for less than fair market value, the local agency shall notify the applicant or recipient that the applicant or recipient may

request a waiver of the penalty if the denial of eligibility will cause undue hardship. In evaluating a waiver, the local agency shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. If the local agency does not approve a hardship waiver, the local agency shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the local agency's decision.

(b) When a waiver is granted under paragraph (a), clause (2), a cause of action exists against the person to whom the homestead was transferred for that portion of medical assistance services granted within 72 months of the date the transferor applied for medical assistance and satisfied all other requirements for eligibility or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action shall be brought by the state unless the state delegates this responsibility to the local agency responsible for providing medical assistance under chapter 256B.

[EFFECTIVE DATE.] (a) This section is effective July 1, 2003, to the extent permitted by federal law. If any provision of this section is prohibited by federal law, the provision shall become effective when federal law is changed to permit its application or a waiver is received. The commissioner of human services shall notify the revisor of statutes when federal law is enacted or a waiver or other federal approval is received and publish a notice in the State Register. The commissioner must include the notice in the first State Register published after the effective date of the federal changes.

(b) If, by July 1, 2003, any provision of this section is not effective because of prohibitions in federal law, the commissioner of human services shall apply to the federal government by August 1, 2003, for a waiver of those prohibitions or other federal authority, and that provision shall become effective upon receipt of a federal waiver or other federal approval, notification to the revisor of statutes, and publication of a notice in the State Register to that effect. In applying for federal approval to extend the lookback period, the commissioner shall seek the longest lookback period the federal government will approve, not to exceed 72 months.

Sec. 28. Minnesota Statutes 2002, section 256B.0595, is amended by adding a subdivision to read:

Subd. 4b. [OTHER EXCEPTIONS TO TRANSFER PROHIBITION.] (a) This subdivision applies to transfers involving recipients of medical assistance that are made on or after its effective date and to all transfers involving persons who apply for medical assistance on or after its effective date regardless of when the transfer occurred, except that this subdivision does not apply to transfers made prior to July 1, 2003. A person or a person's spouse who made a transfer prohibited by subdivision 1b is not ineligible for medical assistance services if one of the following conditions applies:

(1) the assets or income were transferred to the individual's spouse or to another for the sole benefit of the spouse, except that after eligibility is established and the assets have been divided between the spouses as part of the asset allowance under section 256B.059, no further transfers between spouses may be made;

(2) the institutionalized spouse, prior to being institutionalized, transferred assets or income to a spouse, provided that the spouse to whom the assets or income were transferred does not then transfer those assets or income to another person for less than fair market value. At the time when one spouse is institutionalized, assets must be allocated between the spouses as provided under section 256B.059;

(3) the assets or income were transferred to a trust for the sole benefit of the individual's child who is blind or permanently and totally disabled as determined in the supplemental security income program and the trust reverts to the state upon the disabled child's death to the extent the medical assistance has paid for services for the grantor or beneficiary of the trust. This clause applies to a trust established after the commissioner publishes a notice in the State Register that the commissioner has been authorized to implement this clause due to a change in federal law or the approval of a federal waiver;

(4) a satisfactory showing is made that the individual intended to dispose of the assets or income either at fair market value or for other valuable consideration; or

(5) the local agency determines that denial of eligibility for medical assistance services would cause undue hardship and grants a waiver of a penalty resulting from a transfer for less than fair market value because there exists an imminent threat to the individual's health and well-being. Whenever an applicant or recipient is denied eligibility because of a transfer for less than fair market value, the local agency shall notify the applicant or recipient that the applicant or recipient may request a waiver of the penalty if the denial of eligibility will cause undue hardship. In evaluating a waiver, the local agency shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. If the local agency does not approve a hardship waiver, the local agency shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the local agency's decision. When a waiver is granted, a cause of action exists against the person to whom the assets were transferred for that portion of medical assistance services granted within 72 months of the date the transferor applied for medical assistance and satisfied all other requirements for eligibility, or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action shall be brought by the state unless the state delegates this responsibility to the local agency responsible for providing medical assistance under this chapter.

[EFFECTIVE DATE.] (a) This section is effective July 1, 2003, to the extent permitted by federal law. If any provision of this section is prohibited by federal law, the provision shall become effective when federal law is changed to permit its application or a waiver is received. The commissioner of human services shall notify the revisor of statutes when federal law is enacted or a waiver or other federal approval is received and publish a notice in the State Register. The commissioner must include the notice in the first State Register published after the effective date of the federal changes.

(b) If, by July 1, 2003, any provision of this section is not effective because of prohibitions in federal law, the commissioner of human services shall apply to the federal government by August 1, 2003, for a waiver of those prohibitions or other federal authority, and that provision shall become effective upon receipt of a federal waiver or other federal approval, notification to the revisor of statutes, and publication of a notice in the State Register to that effect. In applying for federal approval to extend the lookback period, the commissioner shall seek the longest lookback period the federal government will approve, not to exceed 72 months.

Sec. 29. Minnesota Statutes 2002, section 256B.06, subdivision 4, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(c) All qualified noncitizens who were residing in the United States before August 22, 1996, who otherwise meet the eligibility requirements of chapter 256B, are eligible for medical assistance with federal financial participation.

(d) All qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of chapter 256B, are eligible for medical assistance with federal financial participation through November 30, 1996.

Beginning December 1, 1996, qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of chapter 256B are eligible for medical assistance with federal participation for five years if they meet one of the following criteria:

(i) refugees admitted to the United States according to United States Code, title 8, section 1157;

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

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

(iv) veterans of the United States Armed Forces with an honorable discharge for a reason other than noncitizen status, their spouses and unmarried minor dependent children; or

(v) persons on active duty in the United States Armed Forces, other than for training, their spouses and unmarried minor dependent children.

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

(e) Noncitizens who are not qualified noncitizens as defined in paragraph (b), who are lawfully residing in the United States and who otherwise meet the eligibility requirements of chapter 256B, are eligible for medical assistance under clauses (1) to (3). These individuals must cooperate with the Immigration and Naturalization Service to pursue any applicable immigration status, including citizenship, that would qualify them for medical assistance with federal financial participation.

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

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

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

(f) Nonimmigrants who otherwise meet the eligibility requirements of chapter 256B are eligible for the benefits as provided in paragraphs (g) ~~to (i)~~ and (h). For purposes of this subdivision, a "nonimmigrant" is a person in one of the classes listed in United States Code, title 8, section 1101(a)(15).

(g) Payment shall also be made for care and services that are furnished to noncitizens, regardless of immigration status, who otherwise meet the eligibility requirements of chapter 256B, if such care and services are necessary for the treatment of an emergency medical condition, except for organ transplants and related care and services and routine prenatal care.

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

(i) ~~Pregnant noncitizens who are undocumented or nonimmigrants, who otherwise meet the eligibility requirements of chapter 256B, are eligible for medical assistance payment without federal financial participation for care and services through the period of pregnancy, and 60 days postpartum, except for labor and delivery.~~

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

~~(k) The commissioner shall submit to the legislature by December 31, 1998, a report on the number of recipients and cost of coverage of care and services made according to paragraphs (i) and (j).~~

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

[EFFECTIVE DATE.] This section is effective July 1, 2003, except where a different date is specified in the text.

Sec. 30. Minnesota Statutes 2002, section 256B.061, is amended to read:

256B.061 [ELIGIBILITY; RETROACTIVE EFFECT; RESTRICTIONS.]

~~(a)~~ If any individual has been determined to be eligible for medical assistance, it will be made available for care and services included under the plan and furnished in or after the third month before the month in which the individual made application for such assistance, if such individual was, or upon application would have been, eligible for medical assistance at the time the care and services were furnished. The commissioner may limit, restrict, or suspend the eligibility of an individual for up to one year upon that individual's conviction of a criminal offense related to application for or receipt of medical assistance benefits.

~~(b) On the basis of information provided on the completed application, an applicant who meets the following criteria shall be determined eligible beginning in the month of application:~~

~~(1) whose gross income is less than 90 percent of the applicable income standard;~~

~~(2) whose total liquid assets are less than 90 percent of the asset limit;~~

~~(3) does not reside in a long-term care facility; and~~

~~(4) meets all other eligibility requirements.~~

~~The applicant must provide all required verifications within 30 days' notice of the eligibility determination or eligibility shall be terminated.~~

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 31. Minnesota Statutes 2002, section 256B.0625, subdivision 5a, is amended to read:

Subd. 5a. [INTENSIVE EARLY INTERVENTION BEHAVIOR THERAPY SERVICES FOR CHILDREN WITH AUTISM SPECTRUM DISORDERS.] ~~(a)~~ [COVERAGE.] Medical assistance covers home-based intensive early intervention behavior therapy for children with autism spectrum disorders, effective July 1, 2007. Children with autism spectrum disorder, and their custodial parents or foster parents, may access other covered services to treat autism spectrum disorder, and are not required to receive intensive early intervention behavior therapy services under this subdivision. Intensive early intervention behavior therapy does not include coverage for services to treat developmental disorders of language, early onset psychosis, Rett's disorder, selective mutism, social anxiety disorder, stereotypic movement disorder, dementia, obsessive compulsive disorder, schizoid personality disorder, avoidant personality disorder, or reactive attachment disorder. If a child with autism spectrum disorder is diagnosed to have one or more of these conditions, intensive early intervention behavior therapy includes coverage only for services necessary to treat the autism spectrum disorder.

~~(b)~~ Subd. 5b. [PURPOSE OF INTENSIVE EARLY INTERVENTION BEHAVIOR THERAPY SERVICES (IEIBTS).] The purpose of IEIBTS is to improve the child's behavioral functioning, to prevent development of challenging behaviors, to eliminate autistic behaviors, to reduce the risk of out-of-home placement, and to establish independent typical functioning in language and social behavior. The procedures used to accomplish these goals are based upon research in applied behavior analysis.

~~(c)~~ Subd. 5c. [ELIGIBLE CHILDREN.] A child is eligible to initiate IEIBTS if, the child meets the additional eligibility criteria in paragraph (d) and in a diagnostic assessment by a mental health professional who is not under the employ of the service provider, the child:

(1) is found to have an autism spectrum disorder;

(2) has a current IQ of either untestable, or at least 30;

(3) if nonverbal, initiated behavior therapy by 42 months of age;

(4) if verbal, initiated behavior therapy by 48 months of age; or

(5) if having an IQ of at least 50, initiated behavior therapy by 84 months of age.

To continue after six-month individualized treatment plan (ITP) reviews, at least one of the child's custodial parents or foster parents must participate in an average of at least five hours of documented behavior therapy per week for six months, and consistently implement behavior therapy recommendations 24 hours a day. To continue after six-month individualized treatment plan (ITP) reviews, the child must show documented progress toward mastery of six-month benchmark behavior objectives. The maximum number of months during which services may be billed is 54, or up to the month of August in the first year in which the child completes first grade, whichever comes last. If significant progress towards treatment goals has not been achieved after 24 months of treatment, treatment must be discontinued.

~~(d)~~ Subd. 5d. [ADDITIONAL ELIGIBILITY CRITERIA.] A child is eligible to initiate IEIBTS if:

(1) in medical and diagnostic assessments by medical and mental health professionals, it is determined that the child does not have severe or profound mental retardation;

(2) an accurate assessment of the child's hearing has been performed, including audiometry if the brain stem auditory evokes response;

(3) a blood lead test has been performed prior to initiation of treatment; and

(4) an EEG or neurologic evaluation is done, prior to initiation of treatment, if the child has a history of staring spells or developmental regression.

~~(e)~~ Subd. 5e. [COVERED SERVICES.] The focus of IEIBTS must be to treat the principal diagnostic features of the autism spectrum disorder. All IEIBTS must be delivered by a team of practitioners under the consistent supervision of a single clinical supervisor. A mental health professional must develop the ITP for IEIBTS. The ITP must include six-month benchmark behavior objectives. All behavior therapy must be based upon research in applied behavior analysis, with an emphasis upon positive reinforcement of carefully task-analyzed skills for optimum rates of progress. All behavior therapy must be consistently applied and generalized throughout the 24-hour day and seven-day week by all of the child's regular care providers. When placing the child in school activities, a majority of the peers must have no mental health diagnosis, and the child must have sufficient social skills to succeed with 80 percent of the school activities. Reactive consequences, such as redirection, correction, positive practice, or time-out, must be used only when necessary to improve the child's success when proactive procedures alone have not been effective. IEIBTS must be delivered by a team of behavior therapy practitioners who are employed under the direction of the same agency. The team may deliver up to 200 billable hours per year of direct clinical supervisor services, up to 700 billable hours per year of senior behavior therapist services, and up to 1,800 billable hours per year of direct behavior therapist services. A one-hour clinical review meeting for the child, parents, and staff must be scheduled 50 weeks a year, at which behavior therapy is reviewed and planned. At least one-quarter of the annual clinical supervisor billable hours shall consist of on-site clinical meeting time. At least one-half of the annual senior behavior therapist billable hours shall consist of direct services to the child or parents. All of the behavioral therapist billable hours shall consist of direct on-site services to the child or parents. None of the senior behavior therapist billable hours or behavior therapist billable hours shall consist of clinical meeting time. If there is any regression of the autistic spectrum disorder after 12 months of therapy, a neurologic consultation must be performed.

~~(f)~~ Subd. 5f. [PROVIDER QUALIFICATIONS.] The provider agency must be capable of delivering consistent applied behavior analysis (ABA) based behavior therapy in the home. The site director of the agency must be a mental health professional and a board certified behavior analyst certified by the behavior analyst certification board. Each clinical supervisor must be a certified associate behavior analyst certified by the behavior analyst certification board or have equivalent experience in applied behavior analysis.

~~(g)~~ Subd. 5g. [SUPERVISION REQUIREMENTS.] (1) Each behavior therapist practitioner must be continuously supervised while in the home until the practitioner has mastered competencies for independent practice. Each behavior therapist must have mastered three credits of academic content and practice in an applied behavior analysis sequence at an accredited university before providing more than 12 months of therapy. A college degree or minimum hours of experience are not required. Each behavior therapist must continue training through weekly direct observation by the senior behavior therapist, through demonstrated performance in clinical meetings with the clinical supervisor, and annual training in applied behavior analysis.

(2) Each senior behavior therapist practitioner must have mastered the senior behavior therapy competencies, completed one year of practice as a behavior therapist, and six months of co-therapy training with another senior behavior therapist or have an equivalent amount of experience in applied behavior analysis. Each senior behavior therapist must have mastered 12 credits of academic content and practice in an applied behavior analysis sequence at an accredited university before providing more than 12 months of senior behavior therapy. Each senior behavior therapist must continue training through demonstrated performance in clinical meetings with the clinical supervisor, and annual training in applied behavior analysis.

(3) Each clinical supervisor practitioner must have mastered the clinical supervisor and family consultation competencies, completed two years of practice as a senior behavior therapist and one year of co-therapy training with another clinical supervisor, or equivalent experience in applied behavior analysis. Each clinical supervisor must continue training through annual training in applied behavior analysis.

~~(h)~~ Subd. 5h. [PLACE OF SERVICE.] IEIBTS are provided primarily in the child's home and community. Services may be provided in the child's natural school or preschool classroom, home of a relative, natural recreational setting, or day care.

~~(i)~~ Subd. 5i. [PRIOR AUTHORIZATION REQUIREMENTS.] Prior authorization shall be required for services provided after 200 hours of clinical supervisor, 700 hours of senior behavior therapist, or 1,800 hours of behavior therapist services per year.

~~(j)~~ Subd. 5j. [PAYMENT RATES.] The following payment rates apply:

(1) for an IEIBTS clinical supervisor practitioner under supervision of a mental health professional, the lower of the submitted charge or $67 per hour unit;

(2) for an IEIBTS senior behavior therapist practitioner under supervision of a mental health professional, the lower of the submitted charge or $37 per hour unit; or

(3) for an IEIBTS behavior therapist practitioner under supervision of a mental health professional, the lower of the submitted charge or $27 per hour unit.

An IEIBTS practitioner may receive payment for travel time which exceeds 50 minutes one-way. The maximum payment allowed will be $0.51 per minute for up to a maximum of 300 hours per year.

For any week during which the above charges are made to medical assistance, payments for the following services are excluded: supervising mental health professional hours and personal care attendant, home-based mental health, family-community support, or mental health behavioral aide hours.

~~(k)~~ Subd. 5k. [REPORT.] The commissioner shall collect evidence of the effectiveness of intensive early intervention behavior therapy services and present a report to the legislature by July 1, ~~2006~~ 2010.

Sec. 32. Minnesota Statutes 2002, section 256B.0625, subdivision 9, is amended to read:

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

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

(1) diagnostic and preventative services;

(2) basic restorative services; and

(3) emergency services.

Sec. 33. Minnesota Statutes 2002, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. [DRUGS.] (a) Medical assistance covers drugs, except for fertility drugs when specifically used to enhance fertility, if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, by a physician enrolled in the medical assistance program as a dispensing physician, or by a physician or a nurse practitioner employed by or under contract with a community health board as defined in section 145A.02, subdivision 5, for the purposes of communicable disease control.

(b) The dispensed quantity of a prescription drug must not exceed a 34-day supply, unless prior authorization is obtained.

(c) Medical assistance covers the following over-the-counter drugs when prescribed by a licensed practitioner or by a licensed pharmacist who meets standards established by the commissioner, in consultation with the board of pharmacy: antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, vitamins for adults with documented vitamin deficiencies, vitamins for children under the age of seven and pregnant or nursing women, and any other over-the-counter drug identified by the commissioner, in consultation with the pharmaceutical and therapeutics committee, as necessary, appropriate, and cost-effective for the treatment of certain specified chronic diseases, conditions, or disorders, and this determination shall not be subject to the requirements of chapter 14. A pharmacist may prescribe over-the-counter medications as provided under this paragraph for purposes of receiving reimbursement under Medicaid. When prescribing over-the-counter drugs under this paragraph, licensed pharmacists must consult with the recipient to determine necessity, provide drug counseling, review drug therapy for potential adverse interactions, and make referrals as needed to other health care professionals.

(d) The commissioner may contract with a pharmacy benefit administrator or pharmacy benefit manager to administer the medical assistance prescription drug benefit in compliance with subdivisions 13 to 13i. Any contract must require that the entity under contract make transparent and transfer to the state all direct and indirect payments received from pharmaceutical manufacturers. For purposes of this paragraph, a "pharmacy benefit administrator or pharmacy benefit manager" means an entity under contract to process and adjudicate claims, disburse payments to pharmacy providers, channel communication of eligibility and coverage information to beneficiaries and pharmacy providers, provide information and computer support to enable pharmacy providers to conduct drug utilization review, conduct activities to control fraud, abuse, and waste, and negotiate and collect payments from participating pharmaceutical manufacturers.

Subd. 13c. [LIMITS ON NUMBER OF BRAND NAME PRESCRIPTIONS.] (a) Medical assistance outpatient prescription drug coverage for brand name drugs is limited to the dispensing of four brand name drug products per recipient per month. Antiretroviral agents and brand name drugs dispensed to recipients under 18 years of age are

exempt from this restriction. For purposes of this subdivision, "brand name drugs" means single source and innovator multiple source drugs. The commissioner may, through prior authorization, allow exceptions to the limitation on the dispensing of brand name drugs, based on the treatment needs of a recipient.

Subd. 13d. [PHARMACEUTICAL AND THERAPEUTICS COMMITTEE.] (a) The commissioner, after receiving recommendations from professional medical associations and professional pharmacist associations, shall designate a ~~formulary committee to advise the commissioner on the names of drugs for which payment is made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs~~ pharmaceutical and therapeutics committee to develop and assist the commissioner in implementing a medical assistance preferred drug list and to review and recommend to the commissioner drugs which require prior authorization. The committee shall meet at least quarterly. The commissioner may designate the Medicaid drug utilization review board as the committee established under this subdivision.

(b) The ~~formulary~~ pharmaceutical and therapeutics committee shall consist of ~~nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve three-year terms and shall serve without compensation. Members may be reappointed once~~ the following nine members: at least three but no more than four licensed physicians actively engaged in the practice of medicine in Minnesota; at least three licensed pharmacists actively engaged in the practice of pharmacy in Minnesota; and one consumer representative; the remainder to be made up of health care professionals who are licensed in their field and have recognized knowledge in the clinically appropriate prescribing, dispensing, and monitoring of covered outpatient drugs. An honorarium of $100 per meeting and reimbursement for mileage shall be paid to each committee member in attendance.

Subd. 13e. [DRUG FORMULARY.] ~~(b)~~ The commissioner shall establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the Administrative Procedure Act, but the ~~formulary~~ pharmaceutical and therapeutics committee shall review and comment on the formulary contents.

The formulary shall not include:

~~(i)~~ (1) drugs or products for which there is no federal funding;

~~(ii)~~ (2) over-the-counter drugs, except ~~for antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, vitamins for adults with documented vitamin deficiencies, vitamins for children under the age of seven and pregnant or nursing women, and any other over the counter drug identified by the commissioner, in consultation with the drug formulary committee, as necessary, appropriate, and cost effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14~~ as provided in subdivision 13;

~~(iii) anorectics, except that medically necessary anorectics shall be covered for a recipient previously diagnosed as having pickwickian syndrome and currently diagnosed as having diabetes and being morbidly obese~~ (3) drugs used for weight loss;

~~(iv)~~ (4) drugs for which medical value has not been established; and

~~(v)~~ (5) drugs from manufacturers who have not signed a rebate agreement with the Department of Health and Human Services pursuant to section 1927 of title XIX of the Social Security Act.

~~The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations. An honorarium of $100 per meeting and reimbursement for mileage shall be paid to each committee member in attendance.~~

Subd. 13f. [PAYMENT RATES.] ~~(c)~~ (a) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee; the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee; or the usual and customary price charged to the public. The amount of payment basis must be reduced to reflect all discount amounts applied to the charge by any provider/insurer agreement or contract for submitted charges to medical assistance programs. The net submitted charge may not be greater than the patient liability for the service. The pharmacy dispensing fee shall be $3.65, except that the dispensing fee for intravenous solutions which must be compounded by the pharmacist shall be $8 per bag, $14 per bag for cancer chemotherapy products, and $30 per bag for total parenteral nutritional products dispensed in one liter quantities, or $44 per bag for total parenteral nutritional products dispensed in quantities greater than one liter. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug shall be estimated by the commissioner, at average wholesale price minus ~~nine~~ 11.5 percent, except that where a drug has had its wholesale price reduced as a result of the actions of the National Association of Medicaid Fraud Control Units, the estimated actual acquisition cost shall be the reduced average wholesale price, without the ~~nine~~ 11.5 percent deduction. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third-party payors in this state who have maximum allowable cost programs. ~~The commissioner shall set maximum allowable costs for multisource drugs that are not on the federal upper limit list as described in United States Code, title 42, chapter 7, section 1396r-8(e), the Social Security Act, and Code of Federal Regulations, title 42, part 447, section 447.332.~~ Establishment of the amount of payment for drugs shall not be subject to the requirements of the Administrative Procedure Act.

(b) An additional dispensing fee of $.30 may be added to the dispensing fee paid to pharmacists for legend drug prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Over-the-counter medications must be dispensed in the manufacturer's unopened package. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply.

(c) Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written - brand necessary" on the prescription as required by section 151.21, subdivision 2.

(d) ~~For purposes of this subdivision, "multisource drugs" means covered outpatient drugs, excluding innovator multisource drugs for which there are two or more drug products, which:~~

~~(1) are related as therapeutically equivalent under the Food and Drug Administration's most recent publication of "Approved Drug Products with Therapeutic Equivalence Evaluations";~~

~~(2) are pharmaceutically equivalent and bioequivalent as determined by the Food and Drug Administration; and~~

~~(3) are sold or marketed in Minnesota.~~

~~"Innovator multisource drug" means a multisource drug that was originally marketed under an original new drug application approved by the Food and Drug Administration.~~

(e) The basis for determining the amount of payment for drugs administered in an outpatient setting shall be the lower of the usual and customary cost submitted by the provider, the average wholesale price minus five percent, or the maximum allowable cost set by the federal government under United States Code, title 42, chapter 7, section 1396r-8(e), and Code of Federal Regulations, title 42, section 447.332, or by the commissioner under paragraphs (a) to (c).

Subd. 13g. [PRIOR AUTHORIZATION.] (a) The ~~formulary~~ pharmaceutical and therapeutics committee shall review and recommend drugs which require prior authorization. The pharmaceutical and therapeutics committee shall establish general criteria to be used for the prior authorization of brand-name drugs for which generically equivalent drugs are available, but the committee is not required to review each brand-name drug for which a generically equivalent drug is available. The ~~formulary~~ committee may recommend drugs for prior authorization directly to the commissioner, as long as opportunity for public input is provided. ~~Prior authorization may be requested by the commissioner based on medical and clinical criteria and on cost before certain drugs are eligible for payment. Before a drug may be considered for prior authorization at the request of the commissioner:~~

~~(1) the drug formulary committee must develop criteria to be used for identifying drugs; the development of these criteria is not subject to the requirements of chapter 14, but the formulary committee shall provide opportunity for public input in developing criteria;~~

~~(2) the drug formulary committee must hold a public forum and receive public comment for an additional 15 days;~~

~~(3) the drug formulary committee must consider data from the state Medicaid program if such data is available; and~~

~~(4) the commissioner must provide information to the formulary committee on the impact that placing the drug on prior authorization will have on the quality of patient care and on program costs, and information regarding whether the drug is subject to clinical abuse or misuse.~~

Prior authorization may be required by the commissioner before certain formulary drugs are eligible for payment. If prior authorization of a drug is required by the commissioner, the commissioner must provide a 30-day notice period before implementing the prior authorization. If a prior authorization request is denied by the department, the recipient may appeal the denial in accordance with section 256.045. If an appeal is filed, the drug must be provided without prior authorization until a decision is made on the appeal.

~~(f) The basis for determining the amount of payment for drugs administered in an outpatient setting shall be the lower of the usual and customary cost submitted by the provider; the average wholesale price minus five percent; or the maximum allowable cost set by the federal government under United States Code, title 42, chapter 7, section 1396r-8(e), and Code of Federal Regulations, title 42, section 447.332, or by the commissioner under paragraph (c).~~

~~(g)~~ Prior authorization shall not be required or utilized for any antipsychotic drug prescribed to an individual before July 1, 2003, for the treatment of mental illness where there is no generically equivalent drug available unless the commissioner determines that prior authorization is necessary for patient safety. This paragraph applies to any supplemental drug rebate program established or administered by the commissioner.

(b) The prior authorization procedure must:

(1) respond to requests, by telephone or other telecommunications devices, within 24 hours;

(2) provide a 72-hour supply of a prescription drug in an emergency, when the commissioner does not respond within 24 hours as required under clause (1), or when the recipient or provider appeals a denial; and

(3) provide an appeals process under which a recipient or provider may appeal a denial of a request and receive a response within 24 hours.

(c) Prior authorization shall not be required for nonpreferred antipsychotic drugs for the treatment of mental illness, where there is no generically equivalent drug available, and on which patients have been stabilized prior to the implementation of the preferred drug list and supplemental rebate program. All prescriptions for antipsychotic drugs issued after June 30, 2003, must be accompanied by an ICD-9 code and are subject to the preferred drug list and any step therapy guidelines established by the commissioner.

~~(h)~~ (d) Prior authorization shall not be required or utilized for any antihemophilic factor drug prescribed for the treatment of hemophilia and blood disorders where there is no generically equivalent drug available unless the commissioner determines that prior authorization is necessary for patient safety. This paragraph applies to any supplemental drug rebate program established or administered by the commissioner. This paragraph expires July 1, ~~2003~~ 2005.

(e) The commissioner shall require prior authorization of all brand name prescriptions for which the prescription indicates "dispense as written - brand medically necessary" when a generically equivalent product is available.

Subd. 13h. [STEP THERAPY.] The commissioner, in consultation with the pharmaceutical and therapeutics committee, may develop and implement a step therapy program. For purposes of this subdivision, "step therapy" means a prior authorization or prior utilization review procedure that:

(1) requires a prescribing health care provider to prescribe the least costly pharmacological or nonpharmacological therapy which can be used to safely and effectively treat the symptoms of, or effect a cure for, the medical condition for which the therapy is prescribed; and

(2) allows the prescribing health care provider to sequentially prescribe increasingly more costly therapies after providing clinical substantiation that therapies previously prescribed were unsafe or ineffective in treating the medical condition or illness.

Subd. 13i. [PREFERRED DRUG LIST.] (a) The commissioner shall adopt and implement a preferred drug list by January 1, 2004. The commissioner may enter into a contract with a vendor or one or more states for the purpose of participating in a multistate preferred drug list and supplemental rebate program. The commissioner shall ensure that any contract meets all federal requirements and maximizes federal financial participation. The commissioner shall publish the preferred drug list annually in the State Register and shall maintain an accurate and up-to-date list on the agency Web site.

(b) The commissioner may add to, delete from, and otherwise modify the preferred drug list, after consulting with the pharmaceutical and therapeutics committee and appropriate medical specialists and providing public notice and the opportunity for public comment.

(c) The commissioner shall establish procedures for the timely review of prescription drugs recently approved by the federal Food and Drug Administration, including procedures for the review of newly approved prescription drugs in emergency circumstances.

(d) The commissioner shall adopt and administer the preferred drug list as part of the administration of the supplemental drug rebate program. Reimbursement for prescription drugs not on the preferred drug list may be subject to prior authorization, unless the drug manufacturer signs a supplemental rebate contract.

(e) For purposes of this subdivision, "preferred drug list" means a list of prescription drugs within designated therapeutic classes selected by the commissioner, for which prior authorization based on the identity of the drug or class is not required.

(f) The commissioner shall seek any federal waivers or approvals necessary to implement this subdivision.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 34. Minnesota Statutes 2002, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. [TRANSPORTATION COSTS.] (a) Medical assistance covers transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by nonambulatory persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. For the purpose of this subdivision, a person who is incapable of transport by taxicab or bus shall be considered to be nonambulatory.

(b) Medical assistance covers special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, if the provider receives and maintains a current physician's order by the recipient's attending physician certifying that the recipient has a physical or mental impairment that would prohibit the recipient from safely accessing and using a bus, taxi, other commercial transportation, or private automobile. Special transportation includes driver-assisted service to eligible individuals. Driver-assisted service includes passenger pickup at and return to the individual's residence or place of business, assistance with admittance of the individual to the medical facility, and assistance in passenger securement or in securing of wheelchairs or stretchers in the vehicle. ~~The commissioner shall establish maximum medical assistance reimbursement rates for special transportation services for persons who need a wheelchair-accessible van or stretcher-accessible vehicle and for those who do not need a wheelchair-accessible van or stretcher-accessible vehicle. The average of these two rates per trip must not exceed $15 for the base rate and $1.40 per mile. Special transportation provided to nonambulatory persons who do not need a wheelchair-accessible van or stretcher-accessible vehicle, may be reimbursed at a lower rate than special transportation provided to persons who need a wheelchair-accessible van or stretcher-accessible vehicle.~~ The maximum medical assistance reimbursement rates for special transportation services are:

(1) for trips originating within a major metropolitan area, a flat rate of $28.50 per trip for nonambulatory persons who need a wheelchair-accessible van and a flat rate of $21 per trip for nonambulatory persons who do not need a wheelchair-accessible van or a stretcher-accessible vehicle;

(2) for trips originating outside of a major metropolitan area, a base rate of $18 per trip and $1.20 per mile for nonambulatory persons who need a wheelchair-accessible van and a base rate of $12 per trip and $1.40 per mile for nonambulatory persons who do not need a wheelchair-accessible van or a stretcher-accessible vehicle; and

(3) for all trips, a base rate of $36 and $1.40 per mile, and an attendant rate of $9 per trip, for nonambulatory persons who need a stretcher-accessible vehicle.

For purposes of the determining rates under clauses (1) and (2), major metropolitan area means a standard metropolitan statistical area with a population of more than 2,000,0000 people.

Sec. 35. Minnesota Statutes 2002, section 256B.0625, subdivision 18a, is amended to read:

Subd. 18a. [ACCESS TO MEDICAL SERVICES.] (a) Medical assistance reimbursement for meals for persons traveling to receive medical care shall be provided only for travel involving lodging, and may not exceed $5.50 for breakfast, $6.50 for lunch, or $8 for dinner.

(b) Medical assistance reimbursement for lodging for persons traveling to receive medical care shall be provided only if the local agency determines that the medical care service is not available at a location that does not require lodging, and may not exceed $50 per day unless prior authorized by the local agency.

(c) Medical assistance direct mileage reimbursement to the eligible person or the eligible person's driver may not exceed 20 cents per mile.

(d) Medical assistance covers oral language interpreter services when provided by an enrolled health care provider during the course of providing a direct, person-to-person covered health care service to an enrolled recipient with limited English proficiency.

Sec. 36. [256B.0631] [MEDICAL ASSISTANCE CO-PAYMENTS.]

Subdivision 1. [CO-PAYMENTS.] (a) Except as provided in subdivision 2, the medical assistance benefit plan shall include the following co-payments for all recipients, effective for services provided on or after October 1, 2003:

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

(2) $3 for eyeglasses;

(3) $6 for nonemergency visits to a hospital-based emergency room; and

(4) $3 per brand-name drug prescription and $1 per generic drug prescription, subject to a $20 per month maximum for prescription drug co-payments.

(b) Recipients of medical assistance are responsible for all co-payments in this subdivision.

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

(1) children under the age of 21;

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

(3) recipients expected to reside for at least 30 days in a hospital, nursing home, or intermediate care facility for the mentally retarded;

(4) recipients receiving hospice care;

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

(6) emergency services;

(7) family planning services;

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

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

Subd. 3. [COLLECTION.] The medical assistance reimbursement to the provider shall be reduced by the amount of the co-payment, except that reimbursement for prescription drugs shall not be reduced once a recipient has reached the $20 per month maximum for prescription drug co-payments. The provider collects the co-payment from the recipient. Providers may not deny services to recipients who are unable to pay the co-payment, except as provided in subdivision 4.

Subd. 4. [UNCOLLECTED DEBT.] If it is the routine business practice of a provider to refuse service to an individual with uncollected debt, the provider may include uncollected co-payments under this section. A provider must give advance notice to a recipient with uncollected debt before services can be denied.

Sec. 37. Minnesota Statutes 2002, section 256B.0635, subdivision 1, is amended to read:

Subdivision 1. [INCREASED EMPLOYMENT.] (a) Until June 30, 2002, medical assistance may be paid for persons who received MFIP or medical assistance for families and children in at least three of six months preceding the month in which the person became ineligible for MFIP or medical assistance, if the ineligibility was due to an increase in hours of employment or employment income or due to the loss of an earned income disregard. In addition, to receive continued assistance under this section, persons who received medical assistance for families and children but did not receive MFIP must have had income less than or equal to the assistance standard for their family size under the state's AFDC plan in effect as of July 16, 1996, increased by three percent effective July 1, 2000, at the time medical assistance eligibility began. A person who is eligible for extended medical assistance is entitled to six months of assistance without reapplication, unless the assistance unit ceases to include a dependent child. For a person under 21 years of age, medical assistance may not be discontinued within the six-month period of extended eligibility until it has been determined that the person is not otherwise eligible for medical assistance. Medical assistance may be continued for an additional six months if the person meets all requirements for the additional six months, according to title XIX of the Social Security Act, as amended by section 303 of the Family Support Act of 1988, Public Law ~~Number~~ 100-485.

(b) Beginning July 1, 2002, contingent upon federal funding, medical assistance for families and children may be paid for persons who were eligible under section 256B.055, subdivision 3a, in at least three of six months preceding the month in which the person became ineligible under that section if the ineligibility was due to an increase in hours of employment or employment income or due to the loss of an earned income disregard. A person who is eligible for extended medical assistance is entitled to six months of assistance without reapplication, unless the assistance unit ceases to include a dependent child, except medical assistance may not be discontinued for that dependent child under 21 years of age within the six-month period of extended eligibility until it has been determined that the person is not otherwise eligible for medical assistance. Medical assistance may be continued for an additional six months if the person meets all requirements for the additional six months, according to title XIX of the Social Security Act, as amended by section 303 of the Family Support Act of 1988, Public Law ~~Number~~ 100-485.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 38. Minnesota Statutes 2002, section 256B.0635, subdivision 2, is amended to read:

Subd. 2. [INCREASED CHILD OR SPOUSAL SUPPORT.] (a) Until June 30, 2002, medical assistance may be paid for persons who received MFIP or medical assistance for families and children in at least three of the six months preceding the month in which the person became ineligible for MFIP or medical assistance, if the ineligibility was the result of the collection of child or spousal support under part D of title IV of the Social Security

Act. In addition, to receive continued assistance under this section, persons who received medical assistance for families and children but did not receive MFIP must have had income less than or equal to the assistance standard for their family size under the state's AFDC plan in effect as of July 16, 1996, increased by three percent effective July 1, 2000, at the time medical assistance eligibility began. A person who is eligible for extended medical assistance under this subdivision is entitled to four months of assistance without reapplication, unless the assistance unit ceases to include a dependent child, except medical assistance may not be discontinued for that dependent child under 21 years of age within the four-month period of extended eligibility until it has been determined that the person is not otherwise eligible for medical assistance.

(b) Beginning July 1, 2002, contingent upon federal funding, medical assistance for families and children may be paid for persons who were eligible under section 256B.055, subdivision 3a, in at least three of the six months preceding the month in which the person became ineligible under that section if the ineligibility was the result of the collection of child or spousal support under part D of title IV of the Social Security Act. A person who is eligible for extended medical assistance under this subdivision is entitled to four months of assistance without reapplication, unless the assistance unit ceases to include a dependent child, except medical assistance may not be discontinued for that dependent child under 21 years of age within the four-month period of extended eligibility until it has been determined that the person is not otherwise eligible for medical assistance.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 39. Minnesota Statutes 2002, section 256B.15, subdivision 1, is amended to read:

Subdivision 1. [POLICY, APPLICABILITY, PURPOSE, AND CONSTRUCTION; DEFINITION.] (a) It is the policy of this state that individuals or couples, either or both of whom participate in the medical assistance program, use their own assets to pay their share of the total cost of their care during or after their enrollment in the program according to applicable federal law and the laws of this state. The following provisions apply:

(1) subdivisions 1c to 1k shall not apply to claims arising under this section which are presented under section 525.313;

(2) the provisions of subdivisions 1c to 1k expanding the interests included in an estate for purposes of recovery under this section give effect to the provisions of United States Code, title 42, section 1396p, governing recoveries, but do not give rise to any express or implied liens in favor of any other parties not named in these provisions;

(3) the continuation of a recipient's life estate or joint tenancy interest in real property after the recipient's death for the purpose of recovering medical assistance under this section modifies common law principles holding that these interests terminate on the death of the holder;

(4) all laws, rules, and regulations governing or involved with a recovery of medical assistance shall be liberally construed to accomplish their intended purposes;

(5) a deceased recipient's life estate and joint tenancy interests continued under this section shall be owned by the remaindermen or surviving joint tenants as their interests may appear on the date of the recipient's death. They shall not be merged into the remainder interest or the interests of the surviving joint tenants by reason of ownership. They shall be subject to the provisions of this section. Any conveyance, transfer, sale, assignment, or encumbrance by a remainderman, a surviving joint tenant, or their heirs, successors, and assigns shall be deemed to include all of their interest in the deceased recipient's life estate or joint tenancy interest continued under this section; and

(6) the provisions of subdivisions 1c to 1k continuing a recipient's joint tenancy interests in real property after the recipient's death do not apply to a homestead owned of record, on the date the recipient dies, by the recipient and the recipient's spouse as joint tenants with a right of survivorship.

(b) For purposes of this section, "medical assistance" includes the medical assistance program under this chapter and the general assistance medical care program under chapter 256D, but does not include the alternative care program for nonmedical assistance recipients under section 256B.0913, subdivision 4.

[EFFECTIVE DATE.] This section is effective August 1, 2003, and applies to estates of decedents who die on or after that date.

Sec. 40. Minnesota Statutes 2002, section 256B.15, subdivision 1a, is amended to read:

Subd. 1a. [ESTATES SUBJECT TO CLAIMS.] If a person receives any medical assistance hereunder, on the person's death, if single, or on the death of the survivor of a married couple, either or both of whom received medical assistance, or as otherwise provided for in this section, the total amount paid for medical assistance rendered for the person and spouse shall be filed as a claim against the estate of the person or the estate of the surviving spouse in the court having jurisdiction to probate the estate or to issue a decree of descent according to sections 525.31 to 525.313.

A claim shall be filed if medical assistance was rendered for either or both persons under one of the following circumstances:

(a) the person was over 55 years of age, and received services under this chapter, excluding alternative care;

(b) the person resided in a medical institution for six months or longer, received services under this chapter excluding alternative care, and, at the time of institutionalization or application for medical assistance, whichever is later, the person could not have reasonably been expected to be discharged and returned home, as certified in writing by the person's treating physician. For purposes of this section only, a "medical institution" means a skilled nursing facility, intermediate care facility, intermediate care facility for persons with mental retardation, nursing facility, or inpatient hospital; or

(c) the person received general assistance medical care services under chapter 256D.

The claim shall be considered an expense of the last illness of the decedent for the purpose of section 524.3-805. Any statute of limitations that purports to limit any county agency or the state agency, or both, to recover for medical assistance granted hereunder shall not apply to any claim made hereunder for reimbursement for any medical assistance granted hereunder. Notice of the claim shall be given to all heirs and devisees of the decedent whose identity can be ascertained with reasonable diligence. The notice must include procedures and instructions for making an application for a hardship waiver under subdivision 5; time frames for submitting an application and determination; and information regarding appeal rights and procedures. Counties are entitled to one-half of the nonfederal share of medical assistance collections from estates that are directly attributable to county effort.

[EFFECTIVE DATE.] This section is effective August 1, 2003, and applies to the estates of decedents who die on and after that date.

Sec. 41. Minnesota Statutes 2002, section 256B.15, is amended by adding a subdivision to read:

Subd. 1c. [NOTICE OF POTENTIAL CLAIM.] (a) A state agency with a claim or potential claim under this section may file a notice of potential claim under this subdivision anytime before or within one year after a medical assistance recipient dies. The claimant shall be the state agency. A notice filed prior to the recipient's death shall not take effect and shall not be effective as notice until the recipient dies. A notice filed after a recipient dies shall be effective from the time of filing.

(b) The notice of claim shall be filed or recorded in the real estate records in the office of the county recorder or registrar of titles for each county in which any part of the property is located. The recorder shall accept the notice for recording or filing. The registrar of titles shall accept the notice for filing if the recipient has a recorded interest in the property. The registrar of titles shall not carry forward to a new certificate of title any notice filed more than one year from the date of the recipient's death.

(c) The notice must be dated, state the name of the claimant, the medical assistance recipient's name and social security number if filed before their death and their date of death if filed after they die, the name and date of death of any predeceased spouse of the medical assistance recipient for whom a claim may exist, a statement that the claimant may have a claim arising under this section, generally identify the recipient's interest in the property, contain a legal description for the property and whether it is abstract or registered property, a statement of when the notice becomes effective and the effect of the notice, be signed by an authorized representative of the state agency, and may include such other contents as the state agency may deem appropriate.

[EFFECTIVE DATE.] This section is effective August 1, 2003, and applies to the estates of decedents who die on or after that date.

Sec. 42. Minnesota Statutes 2002, section 256B.15, is amended by adding a subdivision to read:

Subd. 1d. [EFFECT OF NOTICE.] From the time it takes effect, the notice shall be notice to remaindermen, joint tenants, or to anyone else owning or acquiring an interest in or encumbrance against the property described in the notice that the medical assistance recipient's life estate, joint tenancy, or other interests in the real estate described in the notice:

(1) shall, in the case of life estate and joint tenancy interests, continue to exist for purposes of this section, and be subject to liens and claims as provided in this section;

(2) shall be subject to a lien in favor of the claimant effective upon the death of the recipient and dealt with as provided in this section;

(3) may be included in the recipient's estate, as defined in this section; and

(4) may be subject to administration and all other provisions of chapter 524 and may be sold, assigned, transferred, or encumbered free and clear of their interest or encumbrance to satisfy claims under this section.

[EFFECTIVE DATE.] This section is effective August 1, 2003, and applies to the estates of decedents who die on or after that date.

Sec. 43. Minnesota Statutes 2002, section 256B.15, is amended by adding a subdivision to read:

Subd. 1e. [FULL OR PARTIAL RELEASE OF NOTICE.] (a) The claimant may fully or partially release the notice and the lien arising out of the notice of record in the real estate records where the notice is filed or recorded at any time. The claimant may give a full or partial release to extinguish any life estates or joint tenancy interests which are or may be continued under this section or whose existence or nonexistence may create a cloud on the title to real property at any time whether or not a notice has been filed. The recorder or registrar of titles shall accept the release for recording or filing. If the release is a partial release, it must include a legal description of the property being released.

(b) At any time, the claimant may, at the claimant's discretion, wholly or partially release, subordinate, modify, or amend the recorded notice and the lien arising out of the notice.

[EFFECTIVE DATE.] This section is effective August 1, 2003, and applies to the estates of decedents who die on or after that date.

Sec. 44. Minnesota Statutes 2002, section 256B.15, is amended by adding a subdivision to read:

Subd. 1f. [AGENCY LIEN.] (a) The notice shall constitute a lien in favor of the department of human services against the recipient's interests in the real estate it describes for a period of 20 years from the date of filing or the date of the recipient's death, whichever is later. Notwithstanding any law or rule to the contrary, a recipient's life estate and joint tenancy interests shall not end upon the recipient's death but shall continue according to subdivisions 1h, 1i, and 1j. The amount of the lien shall be equal to the total amount of the claims that could be presented in the recipient's estate under this section.

(b) If no estate has been opened for the deceased recipient, any holder of an interest in the property may apply to the lien holder for a statement of the amount of the lien or for a full or partial release of the lien. The application shall include the applicant's name, current mailing address, current home and work telephone numbers, and a description of their interest in the property, a legal description of the recipient's interest in the property, and the deceased recipient's name, date of birth, and social security number. The lien holder shall send the applicant by certified mail, return receipt requested, a written statement showing the amount of the lien, whether the lien holder is willing to release the lien and under what conditions, and inform them of the right to a hearing under section 256.045. The lien holder shall have the discretion to compromise and settle the lien upon any terms and conditions the lien holder deems appropriate.

(c) Any holder of an interest in property subject to the lien has a right to request a hearing under section 256.045 to determine the validity, extent, or amount of the lien. The request must be in writing, and must include the names, current addresses, and home and business telephone numbers for all other parties holding an interest in the property. A request for a hearing by any holder of an interest in the property shall be deemed to be a request for a hearing by all parties owning interests in the property. Notice of the hearing shall be given to the lien holder, the party filing the appeal, and all of the other holders of interests in the property at the addresses listed in the appeal by certified mail, return receipt requested, or by ordinary mail. Any owner of an interest in the property to whom notice of the hearing is mailed shall be deemed to have waived any and all claims or defenses in respect to the lien unless they appear and assert any claims or defenses at the hearing.

(d) If the claim the lien secures could be filed under subdivision 1h, the lien holder may collect, compromise, settle, or release the lien upon any terms and conditions it deems appropriate. If the claim the lien secures could be filed under subdivision 1i or 1j, the lien may be adjusted or enforced to the same extent had it been filed under subdivisions 1i and 1j, and the provisions of subdivisions 1i, clause (f), and lj, clause (d), shall apply to voluntary payment, settlement, or satisfaction of the lien.

(e) If no probate proceedings have been commenced for the recipient as of the date the lien holder executes a release of the lien on a recipient's life estate or joint tenancy interest, created for purposes of this section, the release shall terminate the life estate or joint tenancy interest created under this section as of the date it is recorded or filed to the extent of the release. If the claimant executes a release for purposes of extinguishing a life estate or a joint tenancy interest created under this section to remove a cloud on title to real property, the release shall have the effect of extinguishing any life estate or joint tenancy interests in the property it describes which may have been continued by reason of this section retroactive to the date of death of the deceased life tenant or joint tenant except as provided for in section 514.981, subdivision 6.

(f) If the deceased recipient's estate is probated, a claim shall be filed under this section. The amount of the lien shall be limited to the amount of the claim as finally allowed. If the claim the lien secures is filed under subdivision 1h, the lien may be released in full after any allowance of the claim becomes final or according to any agreement to settle and satisfy the claim. The release shall release the lien but shall not extinguish or terminate the interest being released. If the claim the lien secures is filed under subdivision 1i or 1j, the lien shall be released after the lien under

subdivision 1i or 1j is filed or recorded, or settled according to any agreement to settle and satisfy the claim. The release shall not extinguish or terminate the interest being released. If the claim is finally disallowed in full, the claimant shall release the claimant's lien at the claimant's expense.

[EFFECTIVE DATE.] This section takes effect on August 1, 2003, and applies to the estates of decedents who die on or after that date.

Sec. 45. Minnesota Statutes 2002, section 256B.15, is amended by adding a subdivision to read:

Subd. 1g. [ESTATE PROPERTY.] Notwithstanding any law or rule to the contrary, if a claim is presented under this section, interests or the proceeds of interests in real property a decedent owned as a life tenant or a joint tenant with a right of survivorship shall be part of the decedent's estate, subject to administration, and shall be dealt with as provided in this section.

[EFFECTIVE DATE.] This section takes effect on August 1, 2003, and applies to the estates of decedents who die on or after that date.

Sec. 46. Minnesota Statutes 2002, section 256B.15, is amended by adding a subdivision to read:

Subd. 1h. [ESTATES OF SPECIFIC PERSONS RECEIVING MEDICAL ASSISTANCE.] (a) For purposes of this section, paragraphs (b) to (k) apply if a person received medical assistance for which a claim may be filed under this section and died single, or the surviving spouse of the couple and was not survived by any of the persons described in subdivisions 3 and 4.

(b) For purposes of this section, the person's estate consists of: (1) their probate estate; (2) all of the person's interests or proceeds of those interests in real property the person owned as a life tenant or as a joint tenant with a right of survivorship at the time of the person's death; (3) all of the person's interests or proceeds of those interests in securities the person owned in beneficiary form as provided under sections 524.6-301 to 524.6-311 at the time of the person's death, to the extent they become part of the probate estate under section 524.6-307; and (4) all of the person's interests in joint accounts, multiple party accounts, and pay on death accounts, or the proceeds of those accounts, as provided under sections 524.6-201 to 524.6-214 at the time of the person's death to the extent they become part of the probate estate under section 524.6-207. Notwithstanding any law or rule to the contrary, a state or county agency with a claim under this section shall be a creditor under section 524.6-307.

(c) Notwithstanding any law or rule to the contrary, the person's life estate or joint tenancy interest in real property not subject to a medical assistance lien under sections 514.980 to 514.985 on the date of the person's death shall not end upon the person's death and shall continue as provided in this subdivision. The life estate in the person's estate shall be that portion of the interest in the real property subject to the life estate that is equal to the life estate percentage factor for the life estate as listed in the Life Estate Mortality Table of the health care program's manual for a person who was the age of the medical assistance recipient on the date of the person's death. The joint tenancy interest in real property in the estate shall be equal to the fractional interest the person would have owned in the jointly held interest in the property had they and the other owners held title to the property as tenants in common on the date the person died.

(d) The court upon its own motion, or upon motion by the personal representative or any interested party, may enter an order directing the remaindermen or surviving joint tenants and their spouses, if any, to sign all documents, take all actions, and otherwise fully cooperate with the personal representative and the court to liquidate the decedent's life estate or joint tenancy interests in the estate and deliver the cash or the proceeds of those interests to the personal representative and provide for any legal and equitable sanctions as the court deems appropriate to enforce and carry out the order, including an award of reasonable attorney fees.

(e) The personal representative may make, execute, and deliver any conveyances or other documents necessary to convey the decedent's life estate or joint tenancy interest in the estate that are necessary to liquidate and reduce to cash the decedent's interest or for any other purposes.

(f) Subject to administration, all costs, including reasonable attorney fees, directly and immediately related to liquidating the decedent's life estate or joint tenancy interest in the decedent's estate, shall be paid from the gross proceeds of the liquidation allocable to the decedent's interest and the net proceeds shall be turned over to the personal representative and applied to payment of the claim presented under this section.

(g) The personal representative shall bring a motion in the district court in which the estate is being probated to compel the remaindermen or surviving joint tenants to account for and deliver to the personal representative all or any part of the proceeds of any sale, mortgage, transfer, conveyance, or any disposition of real property allocable to the decedent's life estate or joint tenancy interest in the decedent's estate, and do everything necessary to liquidate and reduce to cash the decedent's interest and turn the proceeds of the sale or other disposition over to the personal representative. The court may grant any legal or equitable relief including, but not limited to, ordering a partition of real estate under chapter 558 necessary to make the value of the decedent's life estate or joint tenancy interest available to the estate for payment of a claim under this section.

(h) Subject to administration, the personal representative shall use all of the cash or proceeds of interests to pay an allowable claim under this section. The remaindermen or surviving joint tenants and their spouses, if any, may enter into a written agreement with the personal representative or the claimant to settle and satisfy obligations imposed at any time before or after a claim is filed.

(i) The personal representative may provide any or all of the other owners, remaindermen, or surviving joint tenants with an affidavit terminating the decedent's estate's interest in real property the decedent owned as a life tenant or as a joint tenant with others, if the personal representative determines that neither the decedent nor any of the decedent's predeceased spouses received any medical assistance for which a claim could be filed under this section, or if the personal representative has filed an affidavit with the court that the estate has other assets sufficient to pay a claim, as presented, or if there is a written agreement under paragraph (h), or if the claim, as allowed, has been paid in full or to the full extent of the assets the estate has available to pay it. The affidavit may be recorded in the office of the county recorder or filed in the office of the registrar of titles for the county in which the real property is located. Except as provided in section 514.981, subdivision 6, when recorded or filed, the affidavit shall terminate the decedent's interest in real estate the decedent owned as a life tenant or a joint tenant with others. The affidavit shall: (1) be signed by the personal representative; (2) identify the decedent and the interest being terminated; (3) give recording information sufficient to identify the instrument that created the interest in real property being terminated; (4) legally describe the affected real property; (5) state that the personal representative has determined that neither the decedent nor any of the decedent's predeceased spouses received any medical assistance for which a claim could be filed under this section; (6) state that the decedent's estate has other assets sufficient to pay the claim, as presented, or that there is a written agreement between the personal representative and the claimant and the other owners or remaindermen or other joint tenants to satisfy the obligations imposed under this subdivision; and (7) state that the affidavit is being given to terminate the estate's interest under this subdivision, and any other contents as may be appropriate.

The recorder or registrar of titles shall accept the affidavit for recording or filing. The affidavit shall be effective as provided in this section and shall constitute notice even if it does not include recording information sufficient to identify the instrument creating the interest it terminates. The affidavit shall be conclusive evidence of the stated facts.

(j) The holder of a lien arising under subdivision 1c shall release the lien at the holder's expense against an interest terminated under paragraph (h) to the extent of the termination.

(k) If a lien arising under subdivision 1c is not released under paragraph (j), prior to closing the estate, the personal representative shall deed the interest subject to the lien to the remaindermen or surviving joint tenants as their interests may appear. Upon recording or filing, the deed shall work a merger of the recipient's life estate or joint tenancy interest, subject to the lien, into the remainder interest or interest the decedent and others owned jointly. The lien shall attach to and run with the property to the extent of the decedent's interest at the time of the decedent's death.

[EFFECTIVE DATE.] This section takes effect on August 1, 2003, and applies to the estates of decedents who die on or after that date.

Sec. 47. Minnesota Statutes 2002, section 256B.15, is amended by adding a subdivision to read:

Subd. 1i. [ESTATES OF PERSONS RECEIVING MEDICAL ASSISTANCE AND SURVIVED BY OTHERS.] (a) For purposes of this subdivision, the person's estate consists of the person's probate estate and all of the person's interests in real property the person owned as a life tenant or a joint tenant at the time of the person's death.

(b) Notwithstanding any law or rule to the contrary, this subdivision applies if a person received medical assistance for which a claim could be filed under this section but for the fact the person was survived by a spouse or by a person listed in subdivision 3, or if subdivision 4 applies to a claim arising under this section.

(c) The person's life estate or joint tenancy interests in real property not subject to a medical assistance lien under sections 514.980 to 514.985 on the date of the person's death shall not end upon death and shall continue as provided in this subdivision. The life estate in the estate shall be the portion of the interest in the property subject to the life estate that is equal to the life estate percentage factor for the life estate as listed in the Life Estate Mortality Table of the health care program's manual for a person who was the age of the medical assistance recipient on the date of the person's death. The joint tenancy interest in the estate shall be equal to the fractional interest the medical assistance recipient would have owned in the jointly held interest in the property had they and the other owners held title to the property as tenants in common on the date the medical assistance recipient died.

(d) The county agency shall file a claim in the estate under this section on behalf of the claimant who shall be the commissioner of human services, notwithstanding that the decedent is survived by a spouse or a person listed in subdivision 3. The claim, as allowed, shall not be paid by the estate and shall be disposed of as provided in this paragraph. The personal representative or the court shall make, execute, and deliver a lien in favor of the claimant on the decedent's interest in real property in the estate in the amount of the allowed claim on forms provided by the commissioner to the county agency filing the lien. The lien shall bear interest as provided under section 524.3-806, shall attach to the property it describes upon filing or recording, and shall remain a lien on the real property it describes for a period of 20 years from the date it is filed or recorded. The lien shall be a disposition of the claim sufficient to permit the estate to close.

(e) The state or county agency shall file or record the lien in the office of the county recorder or registrar of titles for each county in which any of the real property is located. The recorder or registrar of titles shall accept the lien for filing or recording. All recording or filing fees shall be paid by the department of human services. The recorder or registrar of titles shall mail the recorded lien to the department of human services. The lien need not be attested, certified, or acknowledged as a condition of recording or filing. Upon recording or filing of a lien against a life estate or a joint tenancy interest, the interest subject to the lien shall merge into the remainder interest or the interest the recipient and others owned jointly. The lien shall attach to and run with the property to the extent of the decedent's interest in the property at the time of the decedent's death as determined under this section.

(f) The department shall make no adjustment or recovery under the lien until after the decedent's spouse, if any, has died, and only at a time when the decedent has no surviving child described in subdivision 3. The estate, any owner of an interest in the property which is or may be subject to the lien, or any other interested party, may voluntarily pay off, settle, or otherwise satisfy the claim secured or to be secured by the lien at any time before or after the lien is filed or recorded. Such payoffs, settlements, and satisfactions shall be deemed to be voluntary repayments of past medical assistance payments for the benefit of the deceased recipient, and neither the process of settling the claim, the payment of the claim, or the acceptance of a payment shall constitute an adjustment or recovery that is prohibited under this subdivision.

(g) The lien under this subdivision may be enforced or foreclosed in the manner provided by law for the enforcement of judgment liens against real estate or by a foreclosure by action under chapter 581. When the lien is paid, satisfied, or otherwise discharged, the state or county agency shall prepare and file a release of lien at its own expense. No action to foreclose the lien shall be commenced unless the lien holder has first given 30 days' prior written notice to pay the lien to the owners and parties in possession of the property subject to the lien. The notice shall: (1) include the name, address, and telephone number of the lien holder; (2) describe the lien; (3) give the amount of the lien; (4) inform the owner or party in possession that payment of the lien in full must be made to the lien holder within 30 days after service of the notice or the lien holder may begin proceedings to foreclose the lien; and (5) be served by personal service, certified mail, return receipt requested, ordinary first class mail, or by publishing it once in a newspaper of general circulation in the county in which any part of the property is located. Service of the notice shall be complete upon mailing or publication.

[EFFECTIVE DATE.] This section takes effect August 1, 2003, and applies to estates of decedents who die on or after that date.

Sec. 48. Minnesota Statutes 2002, section 256B.15, is amended by adding a subdivision to read:

Subd. 1j. [CLAIMS IN ESTATES OF DECEDENTS SURVIVED BY OTHER SURVIVORS.] For purposes of this subdivision, the provisions in subdivision 1i, paragraphs (a) to (c) apply.

(a) If payment of a claim filed under this section is limited as provided in subdivision 4, and if the estate does not have other assets sufficient to pay the claim in full, as allowed, the personal representative or the court shall make, execute, and deliver a lien on the property in the estate that is exempt from the claim under subdivision 4 in favor of the commissioner of human services on forms provided by the commissioner to the county agency filing the claim. If the estate pays a claim filed under this section in full from other assets of the estate, no lien shall be filed against the property described in subdivision 4.

(b) The lien shall be in an amount equal to the unpaid balance of the allowed claim under this section remaining after the estate has applied all other available assets of the estate to pay the claim. The property exempt under subdivision 4 shall not be sold, assigned, transferred, conveyed, encumbered, or distributed until after the personal representative has determined the estate has other assets sufficient to pay the allowed claim in full, or until after the lien has been filed or recorded. The lien shall bear interest as provided under section 524.3-806, shall attach to the property it describes upon filing or recording, and shall remain a lien on the real property it describes for a period of 20 years from the date it is filed or recorded. The lien shall be a disposition of the claim sufficient to permit the estate to close.

(c) The state or county agency shall file or record the lien in the office of the county recorder or registrar of titles in each county in which any of the real property is located. The department shall pay the filing fees. The lien need not be attested, certified, or acknowledged as a condition of recording or filing. The recorder or registrar of titles shall accept the lien for filing or recording.

(d) The commissioner shall make no adjustment or recovery under the lien until none of the persons listed in subdivision 4 are residing on the property or until the property is sold or transferred. The estate or any owner of an interest in the property that is or may be subject to the lien, or any other interested party, may voluntarily pay off, settle, or otherwise satisfy the claim secured or to be secured by the lien at any time before or after the lien is filed or recorded. The payoffs, settlements, and satisfactions shall be deemed to be voluntary repayments of past medical assistance payments for the benefit of the deceased recipient and neither the process of settling the claim, the payment of the claim, or acceptance of a payment shall constitute an adjustment or recovery that is prohibited under this subdivision.

(e) A lien under this subdivision may be enforced or foreclosed in the manner provided for by law for the enforcement of judgment liens against real estate or by a foreclosure by action under chapter 581. When the lien has been paid, satisfied, or otherwise discharged, the claimant shall prepare and file a release of lien at the claimant's expense. No action to foreclose the lien shall be commenced unless the lien holder has first given 30 days prior written notice to pay the lien to the record owners of the property and the parties in possession of the property subject to the lien. The notice shall: (1) include the name, address, and telephone number of the lien holder; (2) describe the lien; (3) give the amount of the lien; (4) inform the owner or party in possession that payment of the lien in full must be made to the lien holder within 30 days after service of the notice or the lien holder may begin proceedings to foreclose the lien; and (5) be served by personal service, certified mail, return receipt requested, ordinary first class mail, or by publishing it once in a newspaper of general circulation in the county in which any part of the property is located. Service shall be complete upon mailing or publication.

(f) Upon filing or recording of a lien against a life estate or joint tenancy interest under this subdivision, the interest subject to the lien shall merge into the remainder interest or the interest the decedent and others owned jointly, effective on the date of recording and filing. The lien shall attach to and run with the property to the extent of the decedent's interest in the property at the time of the decedent's death as determined under this section.

(g)(1) An affidavit may be provided by a personal representative stating the personal representative has determined in good faith that a decedent survived by a spouse or a person listed in subdivision 3, or by a person listed in subdivision 4, or the decedent's predeceased spouse did not receive any medical assistance giving rise to a claim under this section, or that the real property described in subdivision 4 is not needed to pay in full a claim arising under this section.

(2) The affidavit shall: (i) describe the property and the interest being extinguished; (ii) name the decedent and give the date of death; (iii) state the facts listed in clause (1); (iv) state that the affidavit is being filed to terminate the life estate or joint tenancy interest created under this subdivision; (v) be signed by the personal representative; and (vi) contain any other information that the affiant deems appropriate.

(3) Except as provided in section 514.981, subdivision 6, when the affidavit is filed or recorded, the life estate or joint tenancy interest in real property that the affidavit describes shall be terminated effective as of the date of filing or recording. The termination shall be final and may not be set aside for any reason.

[EFFECTIVE DATE.] This section takes effect on August 1, 2003, and applies to the estates of decedents who die on or after that date.

Sec. 49. Minnesota Statutes 2002, section 256B.15, is amended by adding a subdivision to read:

Subd. 1k. [FILING.] Any notice, lien, release, or other document filed under subdivisions 1c to 1l, and any lien, release of lien, or other documents relating to a lien filed under subdivisions 1h, 1i, and 1j must be filed or recorded in the office of the county recorder or registrar of titles, as appropriate, in the county where the affected real property is located. Notwithstanding section 386.77, the state or county agency shall pay any applicable filing fee. An attestation, certification, or acknowledgment is not required as a condition of filing. If the property described in the

filing is registered property, the registrar of titles shall record the filing on the certificate of title for each parcel of property described in the filing. If the property described in the filing is abstract property, the recorder shall file and index the property in the county's grantor-grantee indexes and any tract indexes the county maintains for each parcel of property described in the filing. The recorder or registrar of titles shall return the filed document to the party filing it at no cost. If the party making the filing provides a duplicate copy of the filing, the recorder or registrar of titles shall show the recording or filing data on the copy and return it to the party at no extra cost.

[EFFECTIVE DATE.] This section takes effect on August 1, 2003, and applies to the estates of decedents who die on or after that date.

Sec. 50. Minnesota Statutes 2002, section 256B.15, subdivision 3, is amended to read:

Subd. 3. [SURVIVING SPOUSE, MINOR, BLIND, OR DISABLED CHILDREN.] If a decedent ~~who~~ is survived by a spouse, or was single~~,~~ or ~~who was~~ the surviving spouse of a married couple~~,~~ and is survived by a child who is under age 21 or blind or permanently and totally disabled according to the supplemental security income program criteria, ~~no~~ a claim shall be filed against the estate according to this section.

[EFFECTIVE DATE.] This section is effective August 1, 2003, and applies to decedents who die on or after that date.

Sec. 51. Minnesota Statutes 2002, section 256B.15, subdivision 4, is amended to read:

Subd. 4. [OTHER SURVIVORS.] If the decedent who was single or the surviving spouse of a married couple is survived by one of the following persons, a claim exists against the estate in an amount not to exceed the value of the nonhomestead property included in the estate and the personal representative shall make, execute, and deliver to the county agency a lien against the homestead property in the estate for any unpaid balance of the claim to the claimant as provided under this section:

(a) a sibling who resided in the decedent medical assistance recipient's home at least one year before the decedent's institutionalization and continuously since the date of institutionalization; or

(b) a son or daughter or a grandchild who resided in the decedent medical assistance recipient's home for at least two years immediately before the parent's or grandparent's institutionalization and continuously since the date of institutionalization, and who establishes by a preponderance of the evidence having provided care to the parent or grandparent who received medical assistance, that the care was provided before institutionalization, and that the care permitted the parent or grandparent to reside at home rather than in an institution.

[EFFECTIVE DATE.] This section is effective August 1, 2003, and applies to decedents who die on or after that date.

Sec. 52. Minnesota Statutes 2002, section 256B.195, subdivision 4, is amended to read:

Subd. 4. [ADJUSTMENTS PERMITTED.] (a) The commissioner may adjust the intergovernmental transfers under subdivision 2 and the payments under subdivision 3, ~~and payments and transfers under subdivision 5,~~ based on the commissioner's determination of Medicare upper payment limits, hospital-specific charge limits, and hospital-specific limitations on disproportionate share payments. Any adjustments must be made on a proportional basis. If participation by a particular hospital under this section is limited, the commissioner shall adjust the payments that relate to that hospital under subdivisions 2~~,~~ and 3~~, and 5~~ on a proportional basis in order to allow the hospital to participate under this section to the fullest extent possible and shall increase other payments under subdivisions 2~~,~~ and 3~~, and 5~~ to the extent allowable to maintain the overall level of payments under this section. The

commissioner may make adjustments under this subdivision only after consultation with the counties and hospitals identified in subdivisions 2 and 3~~, and, if subdivision 5 receives federal approval, with the hospital and educational institution identified in subdivision 5~~.

(b) The ratio of medical assistance payments specified in subdivision 3 to the intergovernmental transfers specified in subdivision 2 shall not be reduced except as provided under paragraph (a).

Sec. 53. Minnesota Statutes 2002, section 256B.31, is amended to read:

256B.31 [CONTINUED HOSPITAL CARE FOR LONG-TERM POLIO PATIENT.]

A medical assistance recipient who has been a polio patient in an acute care hospital for a period of not less than 25 consecutive years is eligible to continue receiving hospital care, whether or not the care is medically necessary for purposes of federal reimbursement. The cost of continued hospital care not reimbursable by the federal government must be paid with state money allocated for the medical assistance program. The rate paid to the hospital is the ~~rate per day established using Medicare principles for the hospital's fiscal year ending December 31, 1981, adjusted each year by the annual hospital cost index established under section 256.969, subdivision 1, or by other limits in effect at the time of the adjustment~~ average inpatient routine rate per day for non-MFIP eligibles, excluding rehabilitation and neonate admissions but including property, for hospitals located outside of a metropolitan statistical area, as defined by the United States Census Bureau. This section does not prohibit a voluntary move to another living arrangement by a recipient whose care is reimbursed under this section.

Sec. 54. Minnesota Statutes 2002, section 256B.32, subdivision 1, is amended to read:

Subdivision 1. [FACILITY FEE PAYMENT.] (a) The commissioner shall establish a facility fee payment mechanism that will pay a facility fee to all enrolled outpatient hospitals for each emergency room or outpatient clinic visit provided on or after July 1, 1989. This payment mechanism may not result in an overall increase in outpatient payment rates. This section does not apply to federally mandated maximum payment limits, department approved program packages, or services billed using a nonoutpatient hospital provider number.

(b) For fee-for-service services provided on or after July 1, 2002, the total payment, before third-party liability and spenddown, made to hospitals for outpatient hospital facility services is reduced by .5 percent from the current statutory rates.

(c) In addition to the reduction in paragraph (b), the total payment for fee-for-service services provided on or after July 1, 2003, made to hospitals for outpatient hospital facility services before third-party liability and spenddown, is reduced 2.5 percent from the current statutory rates. Facilities defined under section 256.969, subdivision 16, are excluded from this paragraph.

Sec. 55. Minnesota Statutes 2002, section 256B.69, subdivision 2, is amended to read:

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

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

(b) "Demonstration provider" means a health maintenance organization, community integrated service network, or accountable provider network authorized and operating under chapter 62D, 62N, or 62T that participates in the demonstration project according to criteria, standards, methods, and other requirements established for the project and approved by the commissioner. For purposes of this section, a county board, or group of county boards

operating under a joint powers agreement, is considered a demonstration provider if the county or group of county boards meets the requirements of section 256B.692. Notwithstanding the above, Itasca county may continue to participate as a demonstration provider until July 1, 2004.

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

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

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

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 56. Minnesota Statutes 2002, section 256B.69, subdivision 4, is amended to read:

Subd. 4. [LIMITATION OF CHOICE.] (a) The commissioner shall develop criteria to determine when limitation of choice may be implemented in the experimental counties. The criteria shall ensure that all eligible individuals in the county have continuing access to the full range of medical assistance services as specified in subdivision 6.

(b) The commissioner shall exempt the following persons from participation in the project, in addition to those who do not meet the criteria for limitation of choice:

(1) persons eligible for medical assistance according to section 256B.055, subdivision 1;

(2) persons eligible for medical assistance due to blindness or disability as determined by the social security administration or the state medical review team, unless:

(i) they are 65 years of age or older; or

(ii) they reside in Itasca county or they reside in a county in which the commissioner conducts a pilot project under a waiver granted pursuant to section 1115 of the Social Security Act;

(3) recipients who currently have private coverage through a health maintenance organization;

(4) recipients who are eligible for medical assistance by spending down excess income for medical expenses other than the nursing facility per diem expense;

(5) recipients who receive benefits under the Refugee Assistance Program, established under United States Code, title 8, section 1522(e);

(6) children who are both determined to be severely emotionally disturbed and receiving case management services according to section 256B.0625, subdivision 20;

(7) adults who are both determined to be seriously and persistently mentally ill and received case management services according to section 256B.0625, subdivision 20; ~~and~~

(8) persons eligible for medical assistance according to section 256B.057, subdivision 10; and

(9) persons with access to cost-effective employer-sponsored private health insurance or persons enrolled in an individual health plan determined to be cost-effective according to section 256B.0625, subdivision 15.

Children under age 21 who are in foster placement may enroll in the project on an elective basis. Individuals excluded under clauses (6) and (7) may choose to enroll on an elective basis.

(c) The commissioner may allow persons with a one-month spenddown who are otherwise eligible to enroll to voluntarily enroll or remain enrolled, if they elect to prepay their monthly spenddown to the state.

(d) The commissioner may require those individuals to enroll in the prepaid medical assistance program who otherwise would have been excluded under paragraph (b), clauses (1), (3), and (8), and under Minnesota Rules, part 9500.1452, subpart 2, items H, K, and L.

(e) Before limitation of choice is implemented, eligible individuals shall be notified and after notification, shall be allowed to choose only among demonstration providers. The commissioner may assign an individual with private coverage through a health maintenance organization, to the same health maintenance organization for medical assistance coverage, if the health maintenance organization is under contract for medical assistance in the individual's county of residence. After initially choosing a provider, the recipient is allowed to change that choice only at specified times as allowed by the commissioner. If a demonstration provider ends participation in the project for any reason, a recipient enrolled with that provider must select a new provider but may change providers without cause once more within the first 60 days after enrollment with the second provider.

Sec. 57. Minnesota Statutes 2002, section 256B.69, subdivision 5a, is amended to read:

Subd. 5a. [MANAGED CARE CONTRACTS.] (a) Managed care contracts under this section and sections 256L.12 and 256D.03, shall be entered into or renewed on a calendar year basis beginning January 1, 1996. Managed care contracts which were in effect on June 30, 1995, and set to renew on July 1, 1995, shall be renewed for the period July 1, 1995 through December 31, 1995 at the same terms that were in effect on June 30, 1995.

(b) A prepaid health plan providing covered health services for eligible persons pursuant to chapters 256B, 256D, and 256L, is responsible for complying with the terms of its contract with the commissioner. Requirements applicable to managed care programs under chapters 256B, 256D, and 256L, established after the effective date of a contract with the commissioner take effect when the contract is next issued or renewed.

(c) Effective for services rendered on or after January 1, 2003, the commissioner shall withhold five percent of managed care plan payments under this section for the prepaid medical assistance and general assistance medical care programs pending completion of performance targets. Each performance target must be quantifiable, objective, measurable, and reasonably attainable. Criteria for assessment of each performance target must be outlined in writing prior to the contract effective date. The withheld funds must be returned no sooner than July of the following year if performance targets in the contract are achieved. The commissioner may exclude special demonstration projects under subdivision 23. A managed care plan may include as admitted assets under section 62D.044 any amount withheld under this paragraph that is reasonably expected to be returned.

(d) The commissioner may exempt from paragraph (c) a managed care plan that has entered into a managed care contract with the commissioner in accordance with this section if the contract was the initial contract between the managed care plan and the commissioner, and it was entered into after January 1, 2000. This exemption shall apply for the first five years of operation of the managed care plan.

[EFFECTIVE DATE.] This section is effective for services rendered on or after July 1, 2003, except that the amendment to paragraph (c) is effective for services rendered on or after January 1, 2004.

Sec. 58. Minnesota Statutes 2002, section 256B.69, subdivision 5c, is amended to read:

Subd. 5c. [MEDICAL EDUCATION AND RESEARCH FUND.] (a) The commissioner of human services shall transfer each year to the medical education and research fund established under section 62J.692, the following:

(1) an amount equal to the reduction in the prepaid medical assistance and prepaid general assistance medical care payments as specified in this clause. Until January 1, 2002, the county medical assistance and general assistance medical care capitation base rate prior to plan specific adjustments and after the regional rate adjustments under section 256B.69, subdivision 5b, is reduced 6.3 percent for Hennepin county, two percent for the remaining metropolitan counties, and no reduction for nonmetropolitan Minnesota counties; and after January 1, 2002, the county medical assistance and general assistance medical care capitation base rate prior to plan specific adjustments is reduced 6.3 percent for Hennepin county, two percent for the remaining metropolitan counties, and 1.6 percent for nonmetropolitan Minnesota counties. Nursing facility and elderly waiver payments and demonstration project payments operating under subdivision 23 are excluded from this reduction. The amount calculated under this clause shall not be adjusted for periods already paid due to subsequent changes to the capitation payments;

(2) beginning July 1, ~~2001, $2,537,000~~ 2003, $2,157,000 from the capitation rates paid under this section plus any federal matching funds on this amount;

(3) beginning July 1, 2002, an additional $12,700,000 from the capitation rates paid under this section; and

(4) beginning July 1, 2003, an additional $4,700,000 from the capitation rates paid under this section.

(b) This subdivision shall be effective upon approval of a federal waiver which allows federal financial participation in the medical education and research fund.

(c) Effective July 1, 2003, the amount from general assistance medical care under paragraph (a), clause (1), shall be transferred to the general fund.

Sec. 59. Minnesota Statutes 2002, section 256B.69, is amended by adding a subdivision to read:

Subd. 5h. [PAYMENT REDUCTION.] In addition to the reduction in subdivision 5g, the total payment made to managed care plans under the medical assistance program is reduced 0.5 percent for services provided on or after October 1, 2003, and an additional 0.5 percent for services provided on or after January 1, 2004. This provision excludes payments for nursing home services, home and community-based waivers, and payments to demonstration projects for persons with disabilities.

Sec. 60. Minnesota Statutes 2002, section 256B.69, is amended by adding a subdivision to read:

Subd. 5i. [ACTUARIAL SOUNDNESS.] All payments made to managed care plans under the medical assistance program shall be actuarially sound pursuant to Code of Federal Regulations, title 42, section 438.6. In establishing payment rates for managed care plans under the medical assistance program, payment rates must incorporate at least the following factors: (1) individual health plan annual performance; (2) rate relationships based on actual health plan experience; (3) geographic payment relativities; and (4) rate cell payment relativities.

Sec. 61. Minnesota Statutes 2002, section 256B.75, is amended to read:

256B.75 [HOSPITAL OUTPATIENT REIMBURSEMENT.]

(a) For outpatient hospital facility fee payments for services rendered on or after October 1, 1992, the commissioner of human services shall pay the lower of (1) submitted charge, or (2) 32 percent above the rate in effect on June 30, 1992, except for those services for which there is a federal maximum allowable payment. Effective for services rendered on or after January 1, 2000, payment rates for nonsurgical outpatient hospital facility fees and emergency room facility fees shall be increased by eight percent over the rates in effect on December 31, 1999, except for those services for which there is a federal maximum allowable payment. Services for which there is a federal maximum allowable payment shall be paid at the lower of (1) submitted charge, or (2) the federal maximum allowable payment. Total aggregate payment for outpatient hospital facility fee services shall not exceed the Medicare upper limit. If it is determined that a provision of this section conflicts with existing or future requirements of the United States government with respect to federal financial participation in medical assistance, the federal requirements prevail. The commissioner may, in the aggregate, prospectively reduce payment rates to avoid reduced federal financial participation resulting from rates that are in excess of the Medicare upper limitations.

(b) Notwithstanding paragraph (a), payment for outpatient, emergency, and ambulatory surgery hospital facility fee services for critical access hospitals designated under section 144.1483, clause (11), shall be paid on a cost-based payment system that is based on the cost-finding methods and allowable costs of the Medicare program.

(c) Effective for services provided on or after July 1, 2003, rates that are based on the Medicare outpatient prospective payment system shall be replaced by a budget neutral prospective payment system that is derived using medical assistance data. The commissioner shall provide a proposal to the 2003 legislature to define and implement this provision.

(d) For fee-for-service services provided on or after July 1, 2002, the total payment, before third-party liability and spenddown, made to hospitals for outpatient hospital facility services is reduced by .5 percent from the current statutory rate.

(e) In addition to the reduction in paragraph (d), the total payment for fee-for-service services provided on or after July 1, 2003, made to hospitals for outpatient hospital facility services before third-party liability and spenddown, is reduced 2.5 percent from the current statutory rates. Facilities defined under section 256.969, subdivision 16, are excluded from this paragraph.

Sec. 62. Minnesota Statutes 2002, section 256B.76, is amended to read:

256B.76 [PHYSICIAN AND DENTAL REIMBURSEMENT.]

(a) Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for physician services as follows:

(1) payment for level one Centers for Medicare and Medicaid Services' common procedural coding system codes titled "office and other outpatient services," "preventive medicine new and established patient," "delivery, antepartum, and postpartum care," "critical care," cesarean delivery and pharmacologic management provided to psychiatric patients, and level three codes for enhanced services for prenatal high risk, shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992. If the rate on any procedure code within these categories is different than the rate that would have been paid under the methodology in section 256B.74, subdivision 2, then the larger rate shall be paid;

(2) payments for all other services shall be paid at the lower of (i) submitted charges, or (ii) 15.4 percent above the rate in effect on June 30, 1992;

(3) all physician rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases except that payment rates for home health agency services shall be the rates in effect on September 30, 1992;

(4) effective for services rendered on or after January 1, 2000, payment rates for physician and professional services shall be increased by three percent over the rates in effect on December 31, 1999, except for home health agency and family planning agency services; and

(5) the increases in clause (4) shall be implemented January 1, 2000, for managed care.

(b) Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for dental services as follows:

(1) dental services shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992;

(2) dental rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases;

(3) effective for services rendered on or after January 1, 2000, payment rates for dental services shall be increased by three percent over the rates in effect on December 31, 1999;

(4) the commissioner shall award grants to community clinics or other nonprofit community organizations, political subdivisions, professional associations, or other organizations that demonstrate the ability to provide dental services effectively to public program recipients. Grants may be used to fund the costs related to coordinating access for recipients, developing and implementing patient care criteria, upgrading or establishing new facilities, acquiring furnishings or equipment, recruiting new providers, or other development costs that will improve access to dental care in a region. In awarding grants, the commissioner shall give priority to applicants that plan to serve areas of the state in which the number of dental providers is not currently sufficient to meet the needs of recipients of public programs or uninsured individuals. The commissioner shall consider the following in awarding the grants:

(i) potential to successfully increase access to an underserved population;

(ii) the ability to raise matching funds;

(iii) the long-term viability of the project to improve access beyond the period of initial funding;

(iv) the efficiency in the use of the funding; and

(v) the experience of the proposers in providing services to the target population.

The commissioner shall monitor the grants and may terminate a grant if the grantee does not increase dental access for public program recipients. The commissioner shall consider grants for the following:

(i) implementation of new programs or continued expansion of current access programs that have demonstrated success in providing dental services in underserved areas;

(ii) a pilot program for utilizing hygienists outside of a traditional dental office to provide dental hygiene services; and

(iii) a program that organizes a network of volunteer dentists, establishes a system to refer eligible individuals to volunteer dentists, and through that network provides donated dental care services to public program recipients or uninsured individuals;

(5) beginning October 1, 1999, the payment for tooth sealants and fluoride treatments shall be the lower of (i) submitted charge, or (ii) 80 percent of median 1997 charges;

(6) the increases listed in clauses (3) and (5) shall be implemented January 1, 2000, for managed care; and

(7) effective for services provided on or after January 1, 2002, payment for diagnostic examinations and dental x-rays provided to children under age 21 shall be the lower of (i) the submitted charge, or (ii) 85 percent of median 1999 charges.

(c) Effective for dental services rendered on or after January 1, 2002, the commissioner may, within the limits of available appropriation, increase reimbursements to dentists and dental clinics deemed by the commissioner to be critical access dental providers. Reimbursement to a critical access dental provider may be increased by not more than 50 percent above the reimbursement rate that would otherwise be paid to the provider. Payments to health plan companies shall be adjusted to reflect increased reimbursements to critical access dental providers as approved by the commissioner. In determining which dentists and dental clinics shall be deemed critical access dental providers, the commissioner shall review:

(1) the utilization rate in the service area in which the dentist or dental clinic operates for dental services to patients covered by medical assistance, general assistance medical care, or MinnesotaCare as their primary source of coverage;

(2) the level of services provided by the dentist or dental clinic to patients covered by medical assistance, general assistance medical care, or MinnesotaCare as their primary source of coverage; and

(3) whether the level of services provided by the dentist or dental clinic is critical to maintaining adequate levels of patient access within the service area.

In the absence of a critical access dental provider in a service area, the commissioner may designate a dentist or dental clinic as a critical access dental provider if the dentist or dental clinic is willing to provide care to patients covered by medical assistance, general assistance medical care, or MinnesotaCare at a level which significantly increases access to dental care in the service area.

(d) Effective July 1, 2001, the medical assistance rates for outpatient mental health services provided by an entity that operates:

(1) a Medicare-certified comprehensive outpatient rehabilitation facility; and

(2) a facility that was certified prior to January 1, 1993, with at least 33 percent of the clients receiving rehabilitation services in the most recent calendar year who are medical assistance recipients, will be increased by 38 percent, when those services are provided within the comprehensive outpatient rehabilitation facility and provided to residents of nursing facilities owned by the entity.

(e) An entity that operates both a Medicare certified comprehensive outpatient rehabilitation facility and a facility which was certified prior to January 1, 1993, that is licensed under Minnesota Rules, parts 9570.2000 to 9570.3600, and for whom at least 33 percent of the clients receiving rehabilitation services in the most recent

calendar year are medical assistance recipients, shall be reimbursed by the commissioner for rehabilitation services at rates that are 38 percent greater than the maximum reimbursement rate allowed under paragraph (a), clause (2), when those services are (1) provided within the comprehensive outpatient rehabilitation facility and (2) provided to residents of nursing facilities owned by the entity.

(f) Effective for services rendered on or after January 1, 2007, the commissioner shall make payments for physician and professional services based on the Medicare relative value units (RVUs). This change shall be budget neutral and the cost of implementing RVUs will be incorporated in the established conversion factor.

Sec. 63. Minnesota Statutes 2002, section 256D.03, subdivision 3, is amended to read:

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

(1) ~~who is receiving assistance under section 256D.05, except for families with children who are eligible under Minnesota family investment program (MFIP), who is having a payment made on the person's behalf under sections 256I.01 to 256I.06, or who resides in group residential housing as defined in chapter 256I and can meet a spenddown using the cost of remedial services received through group residential housing; or~~

~~(2)(i)~~ who is a resident of Minnesota; and whose equity in assets is not in excess of ~~$1,000 per assistance unit. Exempt assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in chapter 256B, with the following exception: the maximum amount of undistributed funds in a trust that could be distributed to or on behalf of the beneficiary by the trustee, assuming the full exercise of the trustee's discretion under the terms of the trust, must be applied toward the asset maximum~~ the limits in section 256L.17, subdivision 2; and

~~(ii)~~ (2) who has gross countable income not in excess of ~~the assistance standards established in section 256B.056, subdivision 5c, paragraph (b), or whose excess income is spent down to that standard using a six month budget period. The method for calculating earned income disregards and deductions for a person who resides with a dependent child under age 21 shall follow the AFDC income disregard and deductions in effect under the July 16, 1996, AFDC state plan. The earned income and work expense deductions for a person who does not reside with a dependent child under age 21 shall be the same as the method used to determine eligibility for a person under section 256D.06, subdivision 1, except the disregard of the first $50 of earned income is not allowed;~~

~~(3) who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner or the federal Centers for Medicare and Medicaid Services to be an institution for mental diseases; or~~

~~(4) who is ineligible for medical assistance under chapter 256B or general assistance medical care under any other provision of this section, and is receiving care and rehabilitation services from a nonprofit center established to serve victims of torture. These individuals are eligible for general assistance medical care only for the period during which they are receiving services from the center. During this period of eligibility, individuals eligible under this clause shall not be required to participate in prepaid general assistance medical care~~ 75 percent of the federal poverty guidelines for the family size in effect on October 1, 2003.

(b) Beginning January 1, 2000, applicants or recipients who meet all eligibility requirements of MinnesotaCare as defined in sections 256L.01 to 256L.16, and are:

(i) adults with dependent children under 21 whose gross family income is equal to or less than 275 percent of the federal poverty guidelines; or

(ii) adults without children with earned income and whose family gross income is ~~between~~ equal to or less than 75 percent of the federal poverty guidelines ~~and the amount set by section 256L.04, subdivision 7~~ in effect on October 1, 2003, shall be terminated from general assistance medical care upon enrollment in MinnesotaCare. Earned income is deemed available to family members as defined in section 256D.02, subdivision 8.

(c) For ~~services rendered on or after July 1, 1997, eligibility is limited to one month prior to application if the person is determined eligible in the prior month~~ applications received on or after October 1, 2003, eligibility may begin no earlier than the date of application. A redetermination of eligibility must occur every 12 months. Beginning January 1, 2000, Minnesota health care program applications completed by recipients and applicants who are persons described in paragraph (b), may be returned to the county agency to be forwarded to the department of human services or sent directly to the department of human services for enrollment in MinnesotaCare. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available in any month during which a MinnesotaCare eligibility determination and enrollment are pending. Upon notification of eligibility for MinnesotaCare, notice of termination for eligibility for general assistance medical care shall be sent to an applicant or recipient. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available until enrollment in MinnesotaCare subject to the provisions of paragraph (e).

(d) The date of an initial Minnesota health care program application necessary to begin a determination of eligibility shall be the date the applicant has provided a name, address, and social security number, signed and dated, to the county agency or the department of human services. If the applicant is unable to provide an initial application when health care is delivered due to a medical condition or disability, a health care provider may act on the person's behalf to complete the initial application. The applicant must complete the remainder of the application and provide necessary verification before eligibility can be determined. The county agency must assist the applicant in obtaining verification if necessary. ~~On the basis of information provided on the completed application, an applicant who meets the following criteria shall be determined eligible beginning in the month of application:~~

~~(1) has gross income less than 90 percent of the applicable income standard;~~

~~(2) has liquid assets that total within $300 of the asset standard;~~

~~(3) does not reside in a long-term care facility; and~~

~~(4) meets all other eligibility requirements.~~

~~The applicant must provide all required verifications within 30 days' notice of the eligibility determination or eligibility shall be terminated.~~

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

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

(g) General assistance medical care is not available for applicants or recipients who do not cooperate with the county agency to meet the requirements of medical assistance. ~~General assistance medical care is limited to payment of emergency services only for applicants or recipients as described in paragraph (b), whose MinnesotaCare coverage is denied or terminated for nonpayment of premiums as required by sections 256L.06 and 256L.07.~~

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

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

(j)~~(1) An~~ Undocumented ~~noncitizen or a nonimmigrant is~~ noncitizens and nonimmigrants are ineligible for general assistance medical care ~~other than emergency services~~, except for an individual eligible under paragraph (a), clause (4). For purposes of this subdivision, a nonimmigrant is an individual in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), and an undocumented noncitizen is an individual who resides in the United States without the approval or acquiescence of the Immigration and Naturalization Service.

~~(2) This paragraph does not apply to a child under age 18, to a Cuban or Haitian entrant as defined in Public Law Number 96-422, section 501(e)(1) or (2)(a), or to a noncitizen who is aged, blind, or disabled as defined in Code of Federal Regulations, title 42, sections 435.520, 435.530, 435.531, 435.540, and 435.541, or effective October 1, 1998, to an individual eligible for general assistance medical care under paragraph (a), clause (4), who cooperates with the Immigration and Naturalization Service to pursue any applicable immigration status, including citizenship, that would qualify the individual for medical assistance with federal financial participation.~~

(k) ~~For purposes of paragraphs (g) and (j), "emergency services" has the meaning given in Code of Federal Regulations, title 42, section 440.255(b)(1), except that it also means services rendered because of suspected or actual pesticide poisoning.~~

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

(m) Effective July 1, 2003, general assistance medical care emergency services end. Effective October 1, 2004, the general assistance medical care program ends. Persons enrolled in general assistance medical care as of September 30, 2004, will be converted to MinnesotaCare if they meet all the requirements of chapter 256L.

[EFFECTIVE DATE.] (a) The amendments to paragraphs (a), clauses (1) to (4), and (b) and (c), are effective October 1, 2003.

(b) The amendments to paragraphs (d), (j), (g), and (k), are effective July 1, 2003.

Sec. 64. Minnesota Statutes 2002, section 256D.03, subdivision 4, is amended to read:

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

(1) inpatient hospital services;

(2) outpatient hospital services;

(3) services provided by Medicare certified rehabilitation agencies;

(4) prescription drugs and other products recommended through the process established in section 256B.0625, subdivision 13;

(5) equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level;

(6) eyeglasses and eye examinations provided by a physician or optometrist;

(7) hearing aids;

(8) prosthetic devices;

(9) laboratory and X-ray services;

(10) physician's services;

(11) medical transportation;

(12) chiropractic services as covered under the medical assistance program;

(13) podiatric services;

(14) dental services and dentures, subject to the limitations specified in section 256B.0625, subdivision 9, except that a 25 percent coinsurance requirement applies to basic restorative dental services;

(15) outpatient services provided by a mental health center or clinic that is under contract with the county board and is established under section 245.62;

(16) day treatment services for mental illness provided under contract with the county board;

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

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

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

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

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

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

(b) Except as provided in paragraph (c), for a recipient who is eligible under subdivision 3, paragraph (a), clause (1) or (2), general assistance medical care covers the services listed in paragraph (a) with the exception of special transportation services.

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

(d) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under sections 256B.02, subdivision 8, and 256B.0625. For payments made during fiscal year 1990 and later years, the commissioner shall consult with an independent actuary in establishing prepayment rates, but shall retain final control over the rate methodology. ~~Notwithstanding the provisions of subdivision 3, an individual who becomes ineligible for general assistance medical care because of failure to submit income reports or recertification forms in a timely manner, shall remain enrolled in the prepaid health plan and shall remain eligible for general assistance medical care coverage through the last day of the month in which the enrollee became ineligible for general assistance medical care.~~

(e) ~~There shall be no copayment required of any recipient of benefits for any services provided under this subdivision.~~ A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

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

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

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

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

Sec. 65. [256D.031] [GAMC CO-PAYMENTS AND COINSURANCE.]

Subdivision 1. [CO-PAYMENTS AND COINSURANCE.] (a) Except as provided in subdivision 2, the general assistance medical care benefit plan under section 256D.03, subdivision 3, shall include the following co-payments for all recipients effective for services provided on or after October 1, 2003:

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

(2) $25 for eyeglasses;

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

(4) $3 per brand-name drug prescription and $1 per generic drug prescription, subject to a $20 per month maximum for prescription drug co-payments.

(b) Recipients of general assistance medical care are responsible for all co-payments in this subdivision.

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

(1) children under the age of 21;

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

(3) recipients expected to reside for at least 30 days in a hospital, nursing home, or intermediate care facility for the mentally retarded;

(4) recipients receiving hospice care;

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

(6) emergency services;

(7) family planning services;

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

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

Subd. 3. [COLLECTION.] The general assistance medical care reimbursement to the provider shall be reduced by the amount of the co-payment, except that reimbursement for prescription drugs shall not be reduced once a recipient has reached the $20 per month maximum for prescription drug co-payments. The provider collects the co-payment from the recipient. Providers may not deny services to recipients who are unable to pay the co-payment, except as provided in subdivision 4.

Subd. 4. [UNCOLLECTED DEBT.] If it is the routine business practice of a provider to refuse service to an individual with uncollected debt, the provider may include uncollected co-payments under this section. A provider must give advance notice to a recipient with uncollected debt before services can be denied.

Sec. 66. Minnesota Statutes 2002, section 256G.05, subdivision 2, is amended to read:

Subd. 2. [NON-MINNESOTA RESIDENTS.] State residence is not required for receiving emergency assistance in the Minnesota supplemental aid program. The receipt of emergency assistance must not be used as a factor in determining county or state residence. ~~Non-Minnesota residents are not eligible for emergency general assistance medical care, except emergency hospital services, and professional services incident to the hospital services, for the treatment of acute trauma resulting from an accident occurring in Minnesota. To be eligible under this subdivision a non-Minnesota resident must verify that they are not eligible for coverage under any other health care program, including coverage from a program in their state of residence.~~

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 67. Minnesota Statutes 2002, section 256L.02, is amended by adding a subdivision to read:

Subd. 3a. [FUNDING SOURCE.] Beginning July 1, 2005, all MinnesotaCare obligations shall be funded out of the general fund.

Sec. 68. Minnesota Statutes 2002, section 256L.03, subdivision 1, is amended to read:

Subdivision 1. [COVERED HEALTH SERVICES.] "Covered health services" means the health services reimbursed under chapter 256B, with the exception of inpatient hospital services, special education services, private duty nursing services, adult dental care services other than ~~preventive services~~ services covered under section 256B.0625, subdivision 9, paragraph (b), orthodontic services, nonemergency medical transportation services, personal care assistant and case management services, nursing home or intermediate care facilities services, inpatient mental health services, and chemical dependency services. ~~Effective July 1, 1998, adult dental care for nonpreventive services with the exception of orthodontic services is available to persons who qualify under section 256L.04, subdivisions 1 to 7, with family gross income equal to or less than 175 percent of the federal poverty guidelines.~~ Outpatient mental health services covered under the MinnesotaCare program are limited to diagnostic assessments, psychological testing, explanation of findings, medication management by a physician, day treatment, partial hospitalization, and individual, family, and group psychotherapy.

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

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

Sec. 69. Minnesota Statutes 2002, section 256L.03, subdivision 3, is amended to read:

Subd. 3. [INPATIENT HOSPITAL SERVICES.] (a) Covered health services shall include inpatient hospital services, including inpatient hospital mental health services and inpatient hospital and residential chemical dependency treatment, subject to those limitations necessary to coordinate the provision of these services with

eligibility under the medical assistance spenddown. Prior to July 1, 1997, the inpatient hospital benefit for adult enrollees is subject to an annual benefit limit of $10,000. The inpatient hospital benefit for adult enrollees who qualify under section 256L.04, subdivision 7, or who qualify under section 256L.04, subdivisions 1 and 2, with family gross income that exceeds 175 percent of the federal poverty guidelines and who are not pregnant, is subject to an annual limit of $10,000. For services provided on or after October 1, 2004, the annual limit of $10,000 does not apply to adults who qualify under section 256L.04, subdivision 7, whose gross income is at or below 75 percent of the federal poverty guidelines.

(b) Admissions for inpatient hospital services paid for under section 256L.11, subdivision 3, must be certified as medically necessary in accordance with Minnesota Rules, parts 9505.0500 to 9505.0540, except as provided in clauses (1) and (2):

(1) all admissions must be certified, except those authorized under rules established under section 254A.03, subdivision 3, or approved under Medicare; and

(2) payment under section 256L.11, subdivision 3, shall be reduced by five percent for admissions for which certification is requested more than 30 days after the day of admission. The hospital may not seek payment from the enrollee for the amount of the payment reduction under this clause.

Sec. 70. Minnesota Statutes 2002, section 256L.03, subdivision 5, is amended to read:

Subd. 5. [COPAYMENTS AND COINSURANCE.] (a) Except as provided in paragraphs (b) and (c), the MinnesotaCare benefit plan shall include the following copayments and coinsurance requirements for all enrollees effective for services provided on or after October 1, 2003:

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

(2) $3 per ~~prescription for adult enrollees~~ nonpreventive visit. For purposes of this subdivision, a visit means an episode of service which is required because of a recipient's symptoms, diagnosis, or established illness, and which is delivered in an ambulatory setting by a physician or physician ancillary, chiropractor, podiatrist, nurse, midwife, mental health professional, advanced practice nurse, physical therapist, occupational therapist, speech therapist, audiologist, optician, or optometrist;

(3) $25 for eyeglasses for adult enrollees;

(4) $6 for nonemergency visits to a hospital-based emergency room, except that a $25 co-payment applies to parents with incomes exceeding 100 percent of the federal poverty guidelines for nonemergency visits to a hospital-based emergency room; ~~and~~

~~(4) 50 percent of the fee-for-service rate for adult dental care services other than preventive care services for persons eligible under section 256L.04, subdivisions 1 to 7, with income equal to or less than 175 percent of the federal poverty guidelines~~ (5) $3 per prescription, subject to a $20 per month maximum for prescription drug co-payments; and

(6) basic restorative dental services for adults age 21 and over who are not pregnant are subject to a 25 percent coinsurance requirement.

(b) Paragraph (a), clause (1), does not apply to parents and relative caretakers of children under the age of 21 in households with family income equal to or less than 175 percent of the federal poverty guidelines. Paragraph (a), clause (1), does not apply to parents and relative caretakers of children under the age of 21 in households with

family income greater than 175 percent of the federal poverty guidelines for inpatient hospital admissions occurring on or after January 1, 2001. Effective for services provided on or after October 1, 2004, paragraph (a), clause (1), does not apply to single adults and households without children whose gross income is at or below 75 percent of the federal poverty guidelines.

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

(1) children under the age of 21;

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

(3) enrollees expected to reside for at least 30 days in a hospital, nursing home, or intermediate care facility for the mentally retarded;

(4) enrollees receiving hospice care;

(5) 100 percent federally funded services provided by an Indian Health Service;

(6) emergency services;

(7) family planning services; and

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

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

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

(f) Enrollees are responsible for all co-payments and coinsurance in this subdivision.

(g) The MinnesotaCare reimbursement to the provider shall be reduced by the amount of the co-payment, except that reimbursement for prescription drugs shall not be reduced once a recipient has reached the $20 per month maximum for prescription drug co-payments. The provider collects the co-payment from the enrollee and may not deny services to enrollees who are unable to pay the co-payment, except as provided in paragraph (h).

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

Sec. 71. Minnesota Statutes 2002, section 256L.04, subdivision 1, is amended to read:

Subdivision 1. [FAMILIES WITH CHILDREN.] (a) Families with children with family income equal to or less than 275 percent of the federal poverty guidelines for the applicable family size shall be eligible for MinnesotaCare according to this section. All other provisions of sections 256L.01 to 256L.18, including the insurance-related barriers to enrollment under section 256L.07, shall apply unless otherwise specified.

(b) Parents who enroll in the MinnesotaCare program must also enroll their children ~~and dependent siblings~~, if the children ~~and their dependent siblings~~ are eligible. Children ~~and dependent siblings~~ may be enrolled separately without enrollment by parents. However, if one parent in the household enrolls, both parents must enroll, unless other insurance is available. If one child from a family is enrolled, all children must be enrolled, unless other insurance is available. If one spouse in a household enrolls, the other spouse in the household must also enroll, unless other insurance is available. Families cannot choose to enroll only certain uninsured members.

(c) Beginning February 1, 2004, the dependent sibling definition no longer applies to the MinnesotaCare program. These persons are no longer counted in the parental household and may apply as a separate household.

(d) Beginning July 1, 2003, parents are not eligible for MinnesotaCare if their gross income exceeds $50,000.

[EFFECTIVE DATE.] This section is effective February 1, 2004, unless the statutory language specifies a different effective date.

Sec. 72. Minnesota Statutes 2002, section 256L.05, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION AND INFORMATION AVAILABILITY.] Applications and other information must be made available to provider offices, local human services agencies, school districts, public and private elementary schools in which 25 percent or more of the students receive free or reduced price lunches, community health offices, and Women, Infants and Children (WIC) program sites. These sites may accept applications and forward the forms to the commissioner. Otherwise, applicants may apply directly to the commissioner. Beginning January 1, 2000, MinnesotaCare enrollment sites will be expanded to include local county human services agencies which choose to participate. Beginning October 1, 2004, all local county human service agencies must accept and process applications and renewals for single adults and households without children with income at or below 75 percent of the federal poverty guidelines who choose to have the county administer their case.

Sec. 73. Minnesota Statutes 2002, section 256L.05, subdivision 3, is amended to read:

Subd. 3. [EFFECTIVE DATE OF COVERAGE.] (a) The effective date of coverage is the first day of the month following the month in which eligibility is approved and the first premium payment has been received. As provided in section 256B.057, coverage for newborns is automatic from the date of birth and must be coordinated with other health coverage. The effective date of coverage for eligible newly adoptive children added to a family receiving covered health services is the date of entry into the family. The effective date of coverage for other new recipients added to the family receiving covered health services is the first day of the month following the month in which eligibility is approved or at renewal, whichever the family receiving covered health services prefers. All eligibility criteria must be met by the family at the time the new family member is added. The income of the new family member is included with the family's gross income and the adjusted premium begins in the month the new family member is added.

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

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

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

(e) Notwithstanding paragraphs (a) and (b), effective October 1, 2004, coverage begins for single adults and households without children with gross family income at or below 75 percent of the federal poverty guidelines the first day of the month following approval.

(f) Effective October 1, 2004, the date of an initial application necessary to begin a determination of eligibility for single adults and households without children with gross family income at or below 75 percent of the federal poverty guidelines shall be the date the applicant has provided a name, address, and social security number, signed and dated, to the county agency or the department of human services. If the applicant is unable to provide an initial application when health care is delivered due to a medical condition or disability, a health care provider may act on the person's behalf to complete the initial application. The applicant must complete the remainder of the application and provide necessary verification before eligibility can be determined. The county agency must assist the applicant in obtaining verification if necessary.

Sec. 74. Minnesota Statutes 2002, section 256L.05, subdivision 3a, is amended to read:

Subd. 3a. [RENEWAL OF ELIGIBILITY.] (a) Beginning January 1, 1999, an enrollee's eligibility must be renewed every 12 months. The 12-month period begins in the month after the month the application is approved.

(b) Beginning October 1, 2004, an enrollee's eligibility must be renewed every six months. The first six-month period of eligibility begins in the month after the month the application is approved. Each new period of eligibility must take into account any changes in circumstances that impact eligibility and premium amount. An enrollee must provide all the information needed to redetermine eligibility by the first day of the month that ends the eligibility period. The premium for the new period of eligibility must be received as provided in section 256L.06 in order for eligibility to continue.

Sec. 75. Minnesota Statutes 2002, section 256L.05, subdivision 3c, is amended to read:

Subd. 3c. [RETROACTIVE COVERAGE.] Notwithstanding subdivision 3, the effective date of coverage shall be the first day of the month following termination from medical assistance ~~or general assistance medical care~~ for families and individuals who are eligible for MinnesotaCare and who submitted a written request for retroactive MinnesotaCare coverage with a completed application within 30 days of the mailing of notification of termination from medical assistance ~~or general assistance medical care~~. The applicant must provide all required verifications within 30 days of the written request for verification. For retroactive coverage, premiums must be paid in full for any retroactive month, current month, and next month within 30 days of the premium billing.

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

Sec. 76. Minnesota Statutes 2002, section 256L.05, subdivision 4, is amended to read:

Subd. 4. [APPLICATION PROCESSING.] The commissioner of human services shall determine an applicant's eligibility for MinnesotaCare no more than 30 days from the date that the application is received by the department of human services. Beginning January 1, 2000, this requirement also applies to local county human services agencies that determine eligibility for MinnesotaCare. ~~Once annually at application or reenrollment, to prevent processing delays, applicants or enrollees who, from the information provided on the application, appear to meet eligibility requirements shall be enrolled upon timely payment of premiums. The enrollee must provide all required verifications within 30 days of notification of the eligibility determination or coverage from the program shall be terminated. Enrollees who are determined to be ineligible when verifications are provided shall be disenrolled from the program.~~

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 77. Minnesota Statutes 2002, section 256L.06, subdivision 3, is amended to read:

Subd. 3. [COMMISSIONER'S DUTIES AND PAYMENT.] (a) Premiums are dedicated to the commissioner for MinnesotaCare.

(b) The commissioner shall develop and implement procedures to: (1) require enrollees to report changes in income; (2) adjust sliding scale premium payments, based upon changes in enrollee income; and (3) disenroll enrollees from MinnesotaCare for failure to pay required premiums. Failure to pay includes payment with a dishonored check, a returned automatic bank withdrawal, or a refused credit card or debit card payment. The commissioner may demand a guaranteed form of payment, including a cashier's check or a money order, as the only means to replace a dishonored, returned, or refused payment.

(c) Premiums are calculated on a calendar month basis and may be paid on a monthly, quarterly, or ~~annual~~ semiannual basis, with the first payment due upon notice from the commissioner of the premium amount required. The commissioner shall inform applicants and enrollees of these premium payment options. Premium payment is required before enrollment is complete and to maintain eligibility in MinnesotaCare. Premium payments received before noon are credited the same day. Premium payments received after noon are credited on the next working day.

(d) Nonpayment of the premium will result in disenrollment from the plan effective for the calendar month for which the premium was due. Persons disenrolled for nonpayment or who voluntarily terminate coverage from the program may not reenroll until four calendar months have elapsed. Persons disenrolled for nonpayment who pay all past due premiums as well as current premiums due, including premiums due for the period of disenrollment, within 20 days of disenrollment, shall be reenrolled retroactively to the first day of disenrollment. Persons disenrolled for nonpayment or who voluntarily terminate coverage from the program may not reenroll for four calendar months unless the person demonstrates good cause for nonpayment. Good cause does not exist if a person chooses to pay other family expenses instead of the premium. The commissioner shall define good cause in rule.

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

Sec. 78. Minnesota Statutes 2002, section 256L.07, subdivision 1, is amended to read:

Subdivision 1. [GENERAL REQUIREMENTS.] (a) Children enrolled in the original children's health plan as of September 30, 1992, children who enrolled in the MinnesotaCare program after September 30, 1992, pursuant to Laws 1992, chapter 549, article 4, section 17, and children who have family gross incomes that are equal to or less than ~~175~~ 150 percent of the federal poverty guidelines are eligible without meeting the requirements of subdivision 2 and the four-month requirement in subdivision 3, as long as they maintain continuous coverage in the MinnesotaCare program or medical assistance. Children who apply for MinnesotaCare on or after the implementation date of the employer-subsidized health coverage program as described in Laws 1998, chapter 407, article 5, section 45, who have family gross incomes that are equal to or less than ~~175~~ 150 percent of the federal poverty guidelines, must meet the requirements of subdivision 2 to be eligible for MinnesotaCare.

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

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

(2) Effective February 1, 2004, notwithstanding paragraph (b), children may remain enrolled in MinnesotaCare if ten percent of their annual family income is less than the annual premium for a policy with a $500 deductible available through the Minnesota comprehensive health association. Children who are no longer eligible for MinnesotaCare under this clause shall be given a 12-month notice period from the date that ineligibility is determined before disenrollment. The premium for children remaining eligible under this clause shall be the maximum premium determined under section 256L.15, subdivision 2, paragraph (b), until July 1, 2005, when the premium shall be determined by section 256L.15, subdivision 2, paragraph (c).

[EFFECTIVE DATE.] The amendments to paragraph (a) are effective July 1, 2003. The amendments to paragraph (c), clause (1), are effective October 1, 2003.

Sec. 79. Minnesota Statutes 2002, section 256L.07, subdivision 2, is amended to read:

Subd. 2. [MUST NOT HAVE ACCESS TO EMPLOYER-SUBSIDIZED COVERAGE.] (a) To be eligible, a family or individual must not have access to subsidized health coverage through an employer and must not have had access to employer-subsidized coverage through a current employer for 18 months prior to application or reapplication. A family or individual whose employer-subsidized coverage is lost due to an employer terminating health care coverage as an employee benefit during the previous 18 months is not eligible.

(b) This subdivision does not apply to a family or individual who was enrolled in MinnesotaCare within six months or less of reapplication and who no longer has employer-subsidized coverage due to the employer terminating health care coverage as an employee benefit.

(c) For purposes of this requirement, subsidized health coverage means health coverage for which the employer pays at least 50 percent of the cost of coverage for the employee or dependent, or a higher percentage as specified by the commissioner. Children are eligible for employer-subsidized coverage through either parent, including the noncustodial parent. The commissioner must treat employer contributions to Internal Revenue Code Section 125 plans and any other employer benefits intended to pay health care costs as qualified employer subsidies toward the cost of health coverage for employees for purposes of this subdivision.

(d) Notwithstanding paragraph (c), beginning February 1, 2004, health coverage for single adults and households without children and adults in families with children shall be considered to be subsidized health coverage if the employer contributes any amount towards the cost of coverage.

Sec. 80. Minnesota Statutes 2002, section 256L.07, subdivision 3, is amended to read:

Subd. 3. [OTHER HEALTH COVERAGE.] (a) Families and individuals enrolled in the MinnesotaCare program must have no health coverage while enrolled or for at least four months prior to application and renewal. Children enrolled in the original children's health plan and children in families with income equal to or less than ~~175~~ 150 percent of the federal poverty guidelines, who have other health insurance, are eligible if the coverage:

(1) lacks two or more of the following:

(i) basic hospital insurance;

(ii) medical-surgical insurance; or

(iii) prescription drug coverage;

(iv) dental coverage; or

(v) vision coverage;

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

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

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

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

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

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

(e) Effective October 1, 2003, applicants who were recipients of medical assistance and had cost-effective health insurance which was paid for by medical assistance are exempt from the four-month requirement under this section.

(f) Notwithstanding paragraph (a), effective October 1, 2004, individuals enrolled in the MinnesotaCare program under section 256L.04, subdivision 7, who have gross family income at or below 75 percent are not subject to the requirement of having no other health coverage for four months prior to application and renewal.

[EFFECTIVE DATE.] This section is effective July 1, 2003, except where a different effective date is specified in the text.

Sec. 81. Minnesota Statutes 2002, section 256L.09, subdivision 4, is amended to read:

Subd. 4. [ELIGIBILITY AS MINNESOTA RESIDENT.] (a) For purposes of this section, a permanent Minnesota resident is a person who has demonstrated, through persuasive and objective evidence, that the person is domiciled in the state and intends to live in the state permanently.

(b) To be eligible as a permanent resident, an applicant must demonstrate the requisite intent to live in the state permanently by:

(1) showing that the applicant maintains a residence at a verified address other than a place of public accommodation, through the use of evidence of residence described in section 256D.02, subdivision 12a, clause (1);

(2) demonstrating that the applicant has been continuously domiciled in the state for no less than 180 days immediately before the application; ~~and~~

(3) signing an affidavit declaring that (A) the applicant currently resides in the state and intends to reside in the state permanently; and (B) the applicant did not come to the state for the primary purpose of obtaining medical coverage or treatment;

(4) effective October 1, 2004, single adults and adults in households without children who have gross family income at or below 75 percent of the federal poverty guidelines are exempt from the requirements of clause (1);

(5) effective October 1, 2004, single adults and adults in households without children who have gross family income at or below 75 percent of the federal poverty guidelines are exempt from clause (2), but shall demonstrate that they have been continuously domiciled in the state for no less than 30 days before the date of application. In cases of medical emergencies, the 30-day residency requirement is waived; and

(6) effective October 1, 2004, migrant workers as defined in section 256J.08 who are single adults and adults in households without children who have gross family income at or below 75 percent of the federal poverty guidelines are exempt from the residency requirements of this section, provided the migrant worker provides verification that the migrant family worked in this state within the last 12 months and earned at least $1,000 in gross wages during the time the migrant worker worked in this state.

(c) A person who is temporarily absent from the state does not lose eligibility for MinnesotaCare. "Temporarily absent from the state" means the person is out of the state for a temporary purpose and intends to return when the purpose of the absence has been accomplished. A person is not temporarily absent from the state if another state has determined that the person is a resident for any purpose. If temporarily absent from the state, the person must follow the requirements of the health plan in which the person is enrolled to receive services.

Sec. 82. Minnesota Statutes 2002, section 256L.12, subdivision 6, is amended to read:

Subd. 6. [COPAYMENTS AND BENEFIT LIMITS.] Enrollees are responsible for all copayments in section 256L.03, subdivision ~~4~~ 5, and shall pay copayments to the managed care plan or to its participating providers. The enrollee is also responsible for payment of inpatient hospital charges which exceed the MinnesotaCare benefit limit.

Sec. 83. Minnesota Statutes 2002, section 256L.12, subdivision 9, is amended to read:

Subd. 9. [RATE SETTING; PERFORMANCE WITHHOLDS.] (a) Rates will be prospective, per capita, where possible. The commissioner may allow health plans to arrange for inpatient hospital services on a risk or nonrisk basis. The commissioner shall consult with an independent actuary to determine appropriate rates.

(b) For services rendered on or after January 1, 2003, to December 31, 2003, the commissioner shall withhold .5 percent of managed care plan payments under this section pending completion of performance targets. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year if performance targets in the contract are achieved. A managed care plan may include as admitted assets under section 62D.044 any amount withheld under this paragraph that is reasonably expected to be returned.

(c) For services rendered on or after January 1, 2004, the commissioner shall withhold five percent of managed care plan payments under this section pending completion of performance targets. Each performance target must be quantifiable, objective, measurable, and reasonably attainable. Criteria for assessment of each performance target must be outlined in writing prior to the contract effective date. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if performance targets in the contract are achieved. A managed care plan may include as admitted assets under section 62D.044 any amount withheld under this paragraph that is reasonably expected to be returned.

(d) The commissioner may exempt from paragraph (b) a managed care plan that has entered into a managed care contract with the commissioner in accordance with this section if the contract was the initial contract between the managed care plan and the commissioner, and it was entered into after January 1, 2000. This exemption shall apply for five years after the initial contract was entered into by the managed care plan.

[EFFECTIVE DATE.] This section is effective for services rendered on or after July 1, 2003, except as otherwise provided in the statutory language.

Sec. 84. Minnesota Statutes 2002, section 256L.12, is amending by adding a subdivision to read:

Subd. 9a. [RATE SETTING; RATABLE REDUCTION.] For services rendered on or after October 1, 2003, the total payment made to managed care plans under the MinnesotaCare program is reduced 0.5 percent.

Sec. 85. Minnesota Statutes 2002, section 256L.12, is amended by adding a subdivision to read:

Subd. 9b. [ACTUARIAL SOUNDNESS.] All payments to managed care plans under the MinnesotaCare program shall be actuarially sound pursuant to Code of Federal Regulations, title 42, section 438.6. In establishing payment rates under the MinnesotaCare program, payment rates must incorporate at least the following factors: (1) individual health plan annual performance; (2) rate relationships based on actual health plan experience; (3) geographic payment relativities; and (4) rate cell payment relativities.

Sec. 86. Minnesota Statutes 2002, section 256L.15, subdivision 1, is amended to read:

Subdivision 1. [PREMIUM DETERMINATION.] (a) Families with children and individuals shall pay a premium determined according to ~~a sliding fee based on a percentage of the family's gross family income~~ subdivision 2.

(b) Pregnant women and children under age two are exempt from the provisions of section 256L.06, subdivision 3, paragraph (b), clause (3), requiring disenrollment for failure to pay premiums. For pregnant women, this exemption continues until the first day of the month following the 60th day postpartum. Women who remain enrolled during pregnancy or the postpartum period, despite nonpayment of premiums, shall be disenrolled on the first of the month following the 60th day postpartum for the penalty period that otherwise applies under section 256L.06, unless they begin paying premiums.

(c) Effective October 1, 2004, single adults and households without children with gross family income at or below 75 percent of the federal poverty guidelines who are eligible under section 256L.04, subdivision 7, do not have a premium obligation.

Sec. 87. Minnesota Statutes 2002, section 256L.15, subdivision 2, is amended to read:

Subd. 2. [SLIDING FEE SCALE TO DETERMINE PERCENTAGE OF GROSS INDIVIDUAL OR FAMILY INCOME.] (a) The commissioner shall establish a sliding fee scale to determine the percentage of gross ~~individual or~~ family income that households at different income levels must pay to obtain coverage through the MinnesotaCare program. The sliding fee scale must be based on the enrollee's gross ~~individual or~~ family income. The sliding fee scale must contain separate tables based on enrollment of one, two, or three or more persons. The sliding fee scale begins with a premium of 1.5 percent of gross ~~individual or~~ family income for ~~individuals or~~ families with incomes below the limits for the medical assistance program for families and children in effect on January 1, 1999, and proceeds through the following evenly spaced steps: 1.8, 2.3, 3.1, 3.8, 4.8, 5.9, 7.4, and 8.8 percent. These percentages are matched to evenly spaced income steps ranging from the medical assistance income limit for families and children in effect on January 1, 1999, to 275 percent of the federal poverty guidelines for the applicable family size, up to a family size of five. The sliding fee scale for a family of five must be used for families of more

than five. Effective October 1, 2003, the commissioner shall increase each percentage by 0.5 percentage points for families and children with incomes greater than 100 percent but not exceeding 200 percent of the federal poverty guidelines and shall increase each percentage by 1.0 percentage points for families and children with incomes greater than 200 percent of the federal poverty guidelines. The sliding fee scale and percentages are not subject to the provisions of chapter 14. If a family ~~or individual~~ reports increased income after enrollment, premiums shall not be adjusted until eligibility renewal.

(b)(1) Enrolled ~~individuals and~~ families whose gross annual income increases above 275 percent of the federal poverty guideline shall pay the maximum premium. This clause expires effective February 1, 2004.

(2) Effective October 1, 2003, enrolled single adults and households without children who have gross family income above 75 percent of the federal poverty guidelines shall pay the maximum premium.

(3) Effective February 1, 2004, adults in families with children whose gross income is above 200 percent of the federal poverty guidelines shall pay the maximum premium.

(4) The maximum premium is defined as a base charge for one, two, or three or more enrollees so that if all MinnesotaCare cases paid the maximum premium, the total revenue would equal the total cost of MinnesotaCare medical coverage and administration. In this calculation, administrative costs shall be assumed to equal ten percent of the total. The costs of medical coverage for pregnant women and children under age two and the enrollees in these groups shall be excluded from the total. The maximum premium for two enrollees shall be twice the maximum premium for one, and the maximum premium for three or more enrollees shall be three times the maximum premium for one.

(c) Effective July 1, 2005, single adults and households without children who have gross family income above 75 percent of the federal poverty guidelines and adults in families with children whose gross income is above 200 percent of the federal poverty guidelines shall pay the full cost premium. The full cost premium is defined as a base charge for one, two, or three or more enrollees so that if the base charge were paid by all MinnesotaCare cases subject to the full cost premium, the total revenue would approximately equal the total cost of MinnesotaCare medical coverage and administration for cases subject to the full cost premium. In this calculation, administrative costs shall be assumed to equal ten percent of the total. The full cost premium for two enrollees shall be twice the full cost premium for one, and the full cost premium for three or more enrollees shall be three times the full cost premium for one.

[EFFECTIVE DATE.] The amendments to this section are effective October 1, 2003, unless specified otherwise in the statutory text.

Sec. 88. Minnesota Statutes 2002, section 256L.15, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS TO SLIDING SCALE.] An annual premium of $48 is required for all children in families with income at or less than ~~175~~ 150 percent of federal poverty guidelines.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 89. Minnesota Statutes 2002, section 256L.17, subdivision 2, is amended to read:

Subd. 2. [LIMIT ON TOTAL ASSETS.] ~~(a)~~ Effective July 1, 2002, or upon federal approval, whichever is later, in order to be eligible for the MinnesotaCare program, a household of two or more persons must not own more than $30,000 in total net assets, and a household of one person must not own more than $15,000 in total net assets.

~~(b) For purposes of this subdivision, assets are determined according to section 256B.056, subdivision 3c.~~ In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time of an eligibility redetermination. The value of assets that are not considered in determining eligibility is the value of those assets excluded under the AFDC state plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, with the following exceptions:

(1) household goods and personal effects are not considered;

(2) capital and operating assets of a trade or business up to $200,000 are not considered;

(3) one motor vehicle is excluded for each person of legal driving age who is employed or seeking employment;

(4) one burial plot and all other burial expenses equal to the supplemental security income program asset limit are not considered for each individual;

(5) court-ordered settlements up to $10,000 are not considered;

(6) individual retirement accounts and funds are not considered; and

(7) assets owned by children are not considered.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 90. Minnesota Statutes 2002, section 295.58, is amended to read:

295.58 [DEPOSIT OF REVENUES AND PAYMENT OF REFUNDS.]

The commissioner shall deposit all revenues, including penalties and interest, derived from the taxes imposed by sections 295.50 to 295.57 and from the insurance premiums tax imposed by section 297I.05, subdivision 5, on health maintenance organizations, community integrated service networks, and nonprofit health service plan corporations in the health care access fund. There is annually appropriated from the health care access fund to the commissioner of revenue the amount necessary to make refunds under this chapter. Beginning July 1, 2005, the commissioner shall deposit all revenues, including penalties and interest, derived from the taxes imposed by sections 295.50 to 295.57 and from the insurance premiums tax imposed by section 297I.05, subdivision 5, on health maintenance organizations, community integrated service networks, and nonprofit health service plan corporations in the general fund. There is annually appropriated from the general fund to the commissioner of revenue the amount necessary to make refunds under this chapter.

Sec. 91. Minnesota Statutes 2002, section 514.981, subdivision 6, is amended to read:

Subd. 6. [TIME LIMITS; CLAIM LIMITS; LIENS ON LIFE ESTATES AND JOINT TENANCIES.] (a) A medical assistance lien is a lien on the real property it describes for a period of ten years from the date it attaches according to section 514.981, subdivision 2, paragraph (a), except as otherwise provided for in sections 514.980 to 514.985. The agency may renew a medical assistance lien for an additional ten years from the date it would otherwise expire by recording or filing a certificate of renewal before the lien expires. The certificate shall be recorded or filed in the office of the county recorder or registrar of titles for the county in which the lien is recorded or filed. The certificate must refer to the recording or filing data for the medical assistance lien it renews. The certificate need not be attested, certified, or acknowledged as a condition for recording or filing. The registrar of titles or the recorder shall file, record, index, and return the certificate of renewal in the same manner as provided for medical assistance liens in section 514.982, subdivision 2.

(b) A medical assistance lien is not enforceable against the real property of an estate to the extent there is a determination by a court of competent jurisdiction, or by an officer of the court designated for that purpose, that there are insufficient assets in the estate to satisfy the agency's medical assistance lien in whole or in part because of the homestead exemption under section 256B.15, subdivision 4, the rights of the surviving spouse or minor children under section 524.2-403, paragraphs (a) and (b), or claims with a priority under section 524.3-805, paragraph (a), clauses (1) to (4). For purposes of this section, the rights of the decedent's adult children to exempt property under section 524.2-403, paragraph (b), shall not be considered costs of administration under section 524.3-805, paragraph (a), clause (1).

(c) Notwithstanding any law or rule to the contrary, the provisions in clauses (1) to (7) apply if a life estate subject to a medical assistance lien ends according to its terms, or if a medical assistance recipient who owns a life estate or any interest in real property as a joint tenant that is subject to a medical assistance lien dies.

(1) The medical assistance recipient's life estate or joint tenancy interest in the real property shall not end upon the recipient's death but shall merge into the remainder interest or other interest in real property the medical assistance recipient owned in joint tenancy with others. The medical assistance lien shall attach to and run with the remainder or other interest in the real property to the extent of the medical assistance recipient's interest in the property at the time of the recipient's death as determined under this section.

(2) If the medical assistance recipient's interest was a life estate in real property, the lien shall be a lien against the portion of the remainder equal to the percentage factor for the life estate of a person the medical assistance recipient's age on the date the life estate ended according to its terms or the date of the medical assistance recipient's death as listed in the Life Estate Mortality Table in the health care program's manual.

(3) If the medical assistance recipient owned the interest in real property in joint tenancy with others, the lien shall be a lien against the portion of that interest equal to the fractional interest the medical assistance recipient would have owned in the jointly owned interest had the medical assistance recipient and the other owners held title to that interest as tenants in common on the date the medical assistance recipient died.

(4) The medical assistance lien shall remain a lien against the remainder or other jointly owned interest for the length of time and be renewable as provided in paragraph (a).

(5) Section 514.981, subdivision 5, paragraphs (a), clause (4), (b), clauses (1) and (2); and subdivision 6, paragraph (b), do not apply to medical assistance liens which attach to interests in real property as provided under this subdivision.

(6) The continuation of a medical assistance recipient's life estate or joint tenancy interest in real property after the medical assistance recipient's death for the purpose of recovering medical assistance provided for in sections 514.980 to 514.985 modifies common law principles holding that these interests terminate on the death of the holder.

(7) Notwithstanding any law or rule to the contrary, no release, satisfaction, discharge, or affidavit under section 256B.15 shall extinguish or terminate the life estate or joint tenancy interest of a medical assistance recipient subject to a lien under sections 514.980 to 514.985 on the date the recipient dies.

(8) The provisions of clauses (1) to (7) do not apply to a homestead owned of record, on the date the recipient dies, by the recipient and the recipient's spouse as joint tenants with a right of survivorship.

[EFFECTIVE DATE.] This section is effective August 1, 2003, and applies to all medical assistance liens recorded or filed on or after that date.

Sec. 92. [PHARMACY PLUS WAIVER.]

The commissioner of human services shall seek a pharmacy plus waiver from the Department of Health and Human Services that uses the accumulated savings from all pharmacy and asset transfer provisions in this act and previously adopted pharmacy savings strategies as the factor to prove fiscal neutrality. The commissioner shall expand eligibility for seniors and the disabled up to 135 percent of the federal poverty guidelines for the prescription drug program under Minnesota Statutes, section 256.955, to the extent that the new federal funding under this waiver allows an expansion without an additional state appropriation.

Sec. 93. [REVIEW OF SPECIAL TRANSPORTATION ELIGIBILITY CRITERIA AND POTENTIAL COST SAVINGS.]

The commissioner of human services, in consultation with the commissioner of transportation and special transportation service providers, shall review eligibility criteria for medical assistance special transportation services and shall evaluate whether the level of special transportation services provided should be based on the degree of impairment of the client, as well as the medical diagnosis. The commissioner shall also evaluate methods for reducing the cost of special transportation services, including, but not limited to:

(1) requiring providers to maintain a daily log book confirming delivery of clients to medical facilities;

(2) requiring providers to implement commercially available computer mapping programs to calculate mileage for purposes of reimbursement; and

(3) restricting special transportation service from being provided solely for trips to pharmacies.

The commissioner shall present recommendations for changes in the eligibility criteria and potential cost-savings for special transportation services to the chairs and ranking minority members of the house and senate committees having jurisdiction over health and human services spending by January 15, 2004. The commissioner is prohibited from using a broker or coordinator to manage special transportation services.

Sec. 94. [REBATES FOR MANAGED CARE.]

The commissioner of human services shall develop a proposal to obtain increased pharmacy rebate revenue for recipients served through the prepaid medical assistance program and the MinnesotaCare program. The commissioner may recommend excluding coverage for prescription drugs from prepaid medical assistance programs and MinnesotaCare contracts, or may propose other methods to obtain supplemental drug rebates for this population. The commissioner shall present the proposal to the chairs and ranking minority members of the house and senate committees with jurisdiction over health and human services finance issues.

Sec. 95. [FEDERAL APPROVAL.]

If the amendments to Minnesota Statutes, sections 256.046, subdivision 1, and 256.98, subdivision 8, are not effective because of prohibitions in federal law, the commissioner of human services shall seek the federal waivers and authority necessary to implement the provisions.

Sec. 96. [REVISOR'S INSTRUCTION.]

For sections in Minnesota Statutes and Minnesota Rules affected by the repealed sections in this article, the revisor shall delete internal cross-references where appropriate and make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning.

Sec. 97. [REPEALER.]

(a) Minnesota Statutes 2002, sections 256.955, subdivision 8; 256B.056, subdivision 3c; 256B.057, subdivision 1b; and 256B.195, subdivision 5, are repealed July 1, 2003.

(b) Minnesota Statutes 2002, section 256L.04, subdivision 9, is repealed October 1, 2004.

(c) Minnesota Statutes 2002, section 256B.055, subdivision 10a, is repealed July 1, 2003, or upon federal approval, whichever is later.

(d) Minnesota Statutes 2002, section 256L.02, subdivision 3, is repealed June 30, 2005.

ARTICLE 3

LONG-TERM CARE

Section 1. Minnesota Statutes 2002, section 61A.072, subdivision 6, is amended to read:

Subd. 6. [ACCELERATED BENEFITS.] (a) "Accelerated benefits" covered under this section are benefits payable under the life insurance contract:

(1) to a policyholder or certificate holder, during the lifetime of the insured, ~~in anticipation of death~~ upon the occurrence of a specified life-threatening or catastrophic condition as defined by the policy or rider;

(2) that reduce the death benefit otherwise payable under the life insurance contract; and

(3) that are payable upon the occurrence of a single qualifying event that results in the payment of a benefit amount fixed at the time of acceleration.

(b) "Qualifying event" means one or more of the following:

(1) a medical condition that would result in a drastically limited life span as specified in the contract;

(2) a medical condition that has required or requires extraordinary medical intervention, such as, but not limited to, major organ transplant or continuous artificial life support without which the insured would die; ~~or~~

(3) a condition that requires continuous confinement in an eligible institution as defined in the contract if the insured is expected to remain there for the rest of the insured's life;

(4) a long-term care illness or physical condition that results in cognitive impairment or the inability to perform the activities of daily life or the substantial and material duties of any occupation; or

(5) other qualifying events that the commissioner approves for a particular filing.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to policies issued on or after that date.

Sec. 2. Minnesota Statutes 2002, section 62A.315, is amended to read:

62A.315 [EXTENDED BASIC MEDICARE SUPPLEMENT PLAN; COVERAGE.]

The extended basic Medicare supplement plan must have a level of coverage so that it will be certified as a qualified plan pursuant to section 62E.07, and will provide:

(1) coverage for all of the Medicare part A inpatient hospital deductible and coinsurance amounts, and 100 percent of all Medicare part A eligible expenses for hospitalization not covered by Medicare;

(2) coverage for the daily copayment amount of Medicare part A eligible expenses for the calendar year incurred for skilled nursing facility care;

(3) coverage for the copayment amount of Medicare eligible expenses under Medicare part B regardless of hospital confinement, and the Medicare part B deductible amount;

(4) 80 percent of the usual and customary hospital and medical expenses and supplies described in section 62E.06, subdivision 1, not to exceed any charge limitation established by the Medicare program or state law, the usual and customary hospital and medical expenses and supplies, described in section 62E.06, subdivision 1, while in a foreign country, and prescription drug expenses, not covered by Medicare;

(5) coverage for the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells as defined under federal regulations under Medicare parts A and B, unless replaced in accordance with federal regulations;

(6) 100 percent of the cost of immunizations and routine screening procedures for cancer, including mammograms and pap smears;

(7) preventive medical care benefit: coverage for the following preventive health services:

(i) an annual clinical preventive medical history and physical examination that may include tests and services from clause (ii) and patient education to address preventive health care measures;

(ii) any one or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:

(A) fecal occult blood test and/or digital rectal examination;

(B) dipstick urinalysis for hematuria, bacteriuria, and proteinuria;

(C) pure tone (air only) hearing screening test administered or ordered by a physician;

(D) serum cholesterol screening every five years;

(E) thyroid function test;

(F) diabetes screening;

(iii) any other tests or preventive measures determined appropriate by the attending physician.

Reimbursement shall be for the actual charges up to 100 percent of the Medicare-approved amount for each service as if Medicare were to cover the service as identified in American Medical Association current procedural terminology (AMA CPT) codes to a maximum of $120 annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare;

(8) at-home recovery benefit: coverage for services to provide short-term at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery:

(i) for purposes of this benefit, the following definitions shall apply:

(A) "activities of daily living" include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings;

(B) "care provider" means a duly qualified or licensed home health aide/homemaker, personal care aide, or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry;

(C) "home" means a place used by the insured as a place of residence, provided that the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence;

(D) "at-home recovery visit" means the period of a visit required to provide at-home recovery care, without limit on the duration of the visit, except each consecutive four hours in a 24-hour period of services provided by a care provider is one visit;

(ii) coverage requirements and limitations:

(A) at-home recovery services provided must be primarily services that assist in activities of daily living;

(B) the insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare;

(C) coverage is limited to:

(I) no more than the number and type of at-home recovery visits certified as medically necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare-approved home health care visits under a Medicare-approved home care plan of treatment;

(II) the actual charges for each visit up to a maximum reimbursement of ~~$40~~ $100 per visit;

(III) ~~$1,600~~ $4,000 per calendar year;

(IV) seven visits in any one week;

(V) care furnished on a visiting basis in the insured's home;

(VI) services provided by a care provider as defined in this section;

(VII) at-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded;

(VIII) at-home recovery visits received during the period the insured is receiving Medicare-approved home care services or no more than eight weeks after the service date of the last Medicare-approved home health care visit;

(iii) coverage is excluded for:

(A) home care visits paid for by Medicare or other government programs; and

(B) care provided by ~~family members,~~ unpaid volunteers~~,~~ or providers who are not care providers.

[EFFECTIVE DATE.] This section is effective January 1, 2004, and applies to policies issued on or after that date.

Sec. 3. Minnesota Statutes 2002, section 62A.48, is amended by adding a subdivision to read:

Subd. 12. [REGULATORY FLEXIBILITY.] The commissioner may upon written request issue an order to modify or suspend a specific provision or provisions of sections 62A.46 to 62A.56 with respect to a specific long-term care insurance policy or certificate upon a written finding that:

(1) the modification or suspension is in the best interest of the insureds;

(2) the purpose to be achieved could not be effectively or efficiently achieved without the modifications or suspension; and

(3)(i) the modification or suspension is necessary to the development of an innovative and reasonable approach for insuring long-term care;

(ii) the policy or certificate is to be issued to residents of a life care or continuing care retirement community or some other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of such a community; or

(iii) the modification or suspension is necessary to permit long-term care insurance to be sold as part of, or in conjunction with, another insurance product.

[EFFECTIVE DATE.] This section is effective January 1, 2004, and applies to policies issued on or after that date.

Sec. 4. Minnesota Statutes 2002, section 62A.49, is amended by adding a subdivision to read:

Subd. 3. [PROHIBITED LIMITATIONS.] A long-term care insurance policy or certificate shall not, if it provides benefits for home health care or community care services, limit or exclude benefits by:

(1) requiring that the insured would need care in a skilled nursing facility if home health care services were not provided;

(2) requiring that the insured first or simultaneously receive nursing or therapeutic services in a home, community, or institutional setting before home health care services are covered;

(3) limiting eligible services to services provided by a registered nurse or licensed practical nurse;

(4) requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide or other licensed or certified home care worker acting within the scope of licensure or certification;

(5) excluding coverage for personal care services provided by a home health aide;

(6) requiring that the provision of home health care services be at a level of certification or licensure greater than that required by the eligible service;

(7) requiring that the insured have an acute condition before home health care services are covered;

(8) limiting benefits to services provided by Medicare-certified agencies or providers;

(9) excluding coverage for adult day care services; or

(10) excluding coverage based upon location or type of residence in which the home health care services would be provided.

[EFFECTIVE DATE.] This section is effective January 1, 2004, and applies to policies issued on or after that date.

Sec. 5. Minnesota Statutes 2002, section 62S.22, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED LIMITATIONS.] A long-term care insurance policy or certificate shall not, if it provides benefits for home health care or community care services, limit or exclude benefits by:

(1) requiring that the insured would need care in a skilled nursing facility if home health care services were not provided;

(2) requiring that the insured first or simultaneously receive nursing or therapeutic services in a home, community, or institutional setting before home health care services are covered;

(3) limiting eligible services to services provided by a registered nurse or licensed practical nurse;

(4) requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide or other licensed or certified home care worker acting within the scope of licensure or certification;

(5) excluding coverage for personal care services provided by a home health aide;

(6) requiring that the provision of home health care services be at a level of certification or licensure greater than that required by the eligible service;

(7) requiring that the insured have an acute condition before home health care services are covered;

(8) limiting benefits to services provided by Medicare-certified agencies or providers; ~~or~~

(9) excluding coverage for adult day care services; or

(10) excluding coverage based upon location or type of residence in which the home health care services would be provided.

[EFFECTIVE DATE.] This section is effective January 1, 2004, and applies to policies issued on or after that date.

Sec. 6. [62S.34] [REGULATORY FLEXIBILITY.]

The commissioner may upon written request issue an order to modify or suspend a specific provision or provisions of this chapter with respect to a specific long-term care insurance policy or certificate upon a written finding that:

(1) the modification or suspension is in the best interest of the insureds;

(2) the purpose to be achieved could not be effectively or efficiently achieved without the modifications or suspension; and

(3)(i) the modification or suspension is necessary to the development of an innovative and reasonable approach for insuring long-term care;

(ii) the policy or certificate is to be issued to residents of a life care or continuing care retirement community or some other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of such a community; or

(iii) the modification or suspension is necessary to permit long-term care insurance to be sold as part of, or in conjunction with, another insurance product.

[EFFECTIVE DATE.] This section is effective January 1, 2004, and applies to policies issued on or after that date.

Sec. 7. Minnesota Statutes 2002, section 144A.04, subdivision 3, is amended to read:

Subd. 3. [STANDARDS.] (a) The facility must meet the minimum health, sanitation, safety and comfort standards prescribed by the rules of the commissioner of health with respect to the construction, equipment, maintenance and operation of a nursing home. The commissioner of health may temporarily waive compliance with one or more of the standards if the commissioner determines that:

~~(a)~~ (1) temporary noncompliance with the standard will not create an imminent risk of harm to a nursing home resident; and

~~(b)~~ (2) a controlling person on behalf of all other controlling persons:

~~(1)~~ (i) has entered into a contract to obtain the materials or labor necessary to meet the standard set by the commissioner of health, but the supplier or other contractor has failed to perform the terms of the contract and the inability of the nursing home to meet the standard is due solely to that failure; or

~~(2)~~ (ii) is otherwise making a diligent good faith effort to meet the standard.

The commissioner shall make available to other nursing homes information on facility-specific waivers related to technology or physical plant that are granted. The commissioner shall, upon the request of a facility, extend a waiver granted to a specific facility related to technology or physical plant to the facility making the request, if the commissioner determines that the facility also satisfies clauses (1) and (2) and any other terms and conditions of the waiver.

The commissioner of health shall allow, by rule, a nursing home to provide fewer hours of nursing care to intermediate care residents of a nursing home than required by the present rules of the commissioner if the commissioner determines that the needs of the residents of the home will be adequately met by a lesser amount of nursing care.

(b) A facility is not required to seek a waiver for room furniture or equipment under paragraph (a) when responding to resident-specific requests, if the facility has discussed health and safety concerns with the resident and the resident request and discussion of health and safety concerns are documented in the resident's patient record.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 8. Minnesota Statutes 2002, section 144A.04, is amended by adding a subdivision to read:

Subd. 11. [INCONTINENT RESIDENTS.] Notwithstanding Minnesota Rules, part 4658.0520, an incontinent resident must be checked according to a specific time interval written in the resident's care plan. The resident's attending physician must authorize in writing any interval longer than two hours unless the resident, if competent, or a family member or legally appointed conservator, guardian, or health care agent of a resident who is not competent, agrees in writing to waive physician involvement in determining this interval.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 9. Minnesota Statutes 2002, section 144A.071, subdivision 4a, is amended to read:

Subd. 4a. [EXCEPTIONS FOR REPLACEMENT BEDS.] It is in the best interest of the state to ensure that nursing homes and boarding care homes continue to meet the physical plant licensing and certification requirements by permitting certain construction projects. Facilities should be maintained in condition to satisfy the physical and emotional needs of residents while allowing the state to maintain control over nursing home expenditure growth.

The commissioner of health in coordination with the commissioner of human services, may approve the renovation, replacement, upgrading, or relocation of a nursing home or boarding care home, under the following conditions:

(a) to license or certify beds in a new facility constructed to replace a facility or to make repairs in an existing facility that was destroyed or damaged after June 30, 1987, by fire, lightning, or other hazard provided:

(i) destruction was not caused by the intentional act of or at the direction of a controlling person of the facility;

(ii) at the time the facility was destroyed or damaged the controlling persons of the facility maintained insurance coverage for the type of hazard that occurred in an amount that a reasonable person would conclude was adequate;

(iii) the net proceeds from an insurance settlement for the damages caused by the hazard are applied to the cost of the new facility or repairs;

(iv) the new facility is constructed on the same site as the destroyed facility or on another site subject to the restrictions in section 144A.073, subdivision 5;

(v) the number of licensed and certified beds in the new facility does not exceed the number of licensed and certified beds in the destroyed facility; and

(vi) the commissioner determines that the replacement beds are needed to prevent an inadequate supply of beds.

Project construction costs incurred for repairs authorized under this clause shall not be considered in the dollar threshold amount defined in subdivision 2;

(b) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed $1,000,000;

(c) to license or certify beds in a project recommended for approval under section 144A.073;

(d) to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds;

(e) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure, or in a facility that was granted an exception to the moratorium under section 144A.073, and if the cost of any remodeling of the facility does not exceed $1,000,000. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase beyond the number remaining at the time of the upgrade in licensure. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements;

(f) to license and certify up to 40 beds transferred from an existing facility owned and operated by the Amherst H. Wilder Foundation in the city of St. Paul to a new unit at the same location as the existing facility that will serve persons with Alzheimer's disease and other related disorders. The transfer of beds may occur gradually or in stages, provided the total number of beds transferred does not exceed 40. At the time of licensure and certification of a bed or beds in the new unit, the commissioner of health shall delicense and decertify the same number of beds in the existing facility. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the transfers allowed under this paragraph;

(g) to license and certify nursing home beds to replace currently licensed and certified boarding care beds which may be located either in a remodeled or renovated boarding care or nursing home facility or in a remodeled, renovated, newly constructed, or replacement nursing home facility within the identifiable complex of health care facilities in which the currently licensed boarding care beds are presently located, provided that the number of boarding care beds in the facility or complex are decreased by the number to be licensed as nursing home beds and further provided that, if the total costs of new construction, replacement, remodeling, or renovation exceed ten percent of the appraised value of the facility or $200,000, whichever is less, the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the new construction, replacement, remodeling, or renovation. The provisions contained in section 144A.073 regarding the upgrading of facilities do not apply to facilities that satisfy these requirements;

(h) to license as a nursing home and certify as a nursing facility a facility that is licensed as a boarding care facility but not certified under the medical assistance program, but only if the commissioner of human services certifies to the commissioner of health that licensing the facility as a nursing home and certifying the facility as a nursing facility will result in a net annual savings to the state general fund of $200,000 or more;

(i) to certify, after September 30, 1992, and prior to July 1, 1993, existing nursing home beds in a facility that was licensed and in operation prior to January 1, 1992;

(j) to license and certify new nursing home beds to replace beds in a facility acquired by the Minneapolis community development agency as part of redevelopment activities in a city of the first class, provided the new facility is located within three miles of the site of the old facility. Operating and property costs for the new facility must be determined and allowed under section 256B.431 or 256B.434;

(k) to license and certify up to 20 new nursing home beds in a community-operated hospital and attached convalescent and nursing care facility with 40 beds on April 21, 1991, that suspended operation of the hospital in April 1986. The commissioner of human services shall provide the facility with the same per diem property-related payment rate for each additional licensed and certified bed as it will receive for its existing 40 beds;

(l) to license or certify beds in renovation, replacement, or upgrading projects as defined in section 144A.073, subdivision 1, so long as the cumulative total costs of the facility's remodeling projects do not exceed $1,000,000;

(m) to license and certify beds that are moved from one location to another for the purposes of converting up to five four-bed wards to single or double occupancy rooms in a nursing home that, as of January 1, 1993, was county-owned and had a licensed capacity of 115 beds;

(n) to allow a facility that on April 16, 1993, was a 106-bed licensed and certified nursing facility located in Minneapolis to layaway all of its licensed and certified nursing home beds. These beds may be relicensed and recertified in a newly-constructed teaching nursing home facility affiliated with a teaching hospital upon approval by the legislature. The proposal must be developed in consultation with the interagency committee on long-term care planning. The beds on layaway status shall have the same status as voluntarily delicensed and decertified beds, except that beds on layaway status remain subject to the surcharge in section 256.9657. This layaway provision expires July 1, 1998;

(o) to allow a project which will be completed in conjunction with an approved moratorium exception project for a nursing home in southern Cass county and which is directly related to that portion of the facility that must be repaired, renovated, or replaced, to correct an emergency plumbing problem for which a state correction order has been issued and which must be corrected by August 31, 1993;

(p) to allow a facility that on April 16, 1993, was a 368-bed licensed and certified nursing facility located in Minneapolis to layaway, upon 30 days prior written notice to the commissioner, up to 30 of the facility's licensed and certified beds by converting three-bed wards to single or double occupancy. Beds on layaway status shall have the same status as voluntarily delicensed and decertified beds except that beds on layaway status remain subject to the surcharge in section 256.9657, remain subject to the license application and renewal fees under section 144A.07 and shall be subject to a $100 per bed reactivation fee. In addition, at any time within three years of the effective date of the layaway, the beds on layaway status may be:

(1) relicensed and recertified upon relocation and reactivation of some or all of the beds to an existing licensed and certified facility or facilities located in Pine River, Brainerd, or International Falls; provided that the total project construction costs related to the relocation of beds from layaway status for any facility receiving relocated beds may not exceed the dollar threshold provided in subdivision 2 unless the construction project has been approved through the moratorium exception process under section 144A.073;

(2) relicensed and recertified, upon reactivation of some or all of the beds within the facility which placed the beds in layaway status, if the commissioner has determined a need for the reactivation of the beds on layaway status.

The property-related payment rate of a facility placing beds on layaway status must be adjusted by the incremental change in its rental per diem after recalculating the rental per diem as provided in section 256B.431, subdivision 3a, paragraph (c). The property-related payment rate for a facility relicensing and recertifying beds from layaway status must be adjusted by the incremental change in its rental per diem after recalculating its rental per diem using the number of beds after the relicensing to establish the facility's capacity day divisor, which shall be effective the first day of the month following the month in which the relicensing and recertification became effective. Any beds remaining on layaway status more than three years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified;

(q) to license and certify beds in a renovation and remodeling project to convert 12 four-bed wards into 24 two-bed rooms, expand space, and add improvements in a nursing home that, as of January 1, 1994, met the following conditions: the nursing home was located in Ramsey county; had a licensed capacity of 154 beds; and had been ranked among the top 15 applicants by the 1993 moratorium exceptions advisory review panel. The total project construction cost estimate for this project must not exceed the cost estimate submitted in connection with the 1993 moratorium exception process;

(r) to license and certify up to 117 beds that are relocated from a licensed and certified 138-bed nursing facility located in St. Paul to a hospital with 130 licensed hospital beds located in South St. Paul, provided that the nursing facility and hospital are owned by the same or a related organization and that prior to the date the relocation is completed the hospital ceases operation of its inpatient hospital services at that hospital. After relocation, the nursing facility's status under section 256B.431, subdivision 2j, shall be the same as it was prior to relocation. The nursing facility's property-related payment rate resulting from the project authorized in this paragraph shall become effective no earlier than April 1, 1996. For purposes of calculating the incremental change in the facility's rental per diem resulting from this project, the allowable appraised value of the nursing facility portion of the existing health care facility physical plant prior to the renovation and relocation may not exceed $2,490,000;

(s) to license and certify two beds in a facility to replace beds that were voluntarily delicensed and decertified on June 28, 1991;

(t) to allow 16 licensed and certified beds located on July 1, 1994, in a 142-bed nursing home and 21-bed boarding care home facility in Minneapolis, notwithstanding the licensure and certification after July 1, 1995, of the Minneapolis facility as a 147-bed nursing home facility after completion of a construction project approved in 1993 under section 144A.073, to be laid away upon 30 days' prior written notice to the commissioner. Beds on layaway status shall have the same status as voluntarily delicensed or decertified beds except that they shall remain subject to the surcharge in section 256.9657. The 16 beds on layaway status may be relicensed as nursing home beds and recertified at any time within five years of the effective date of the layaway upon relocation of some or all of the beds to a licensed and certified facility located in Watertown, provided that the total project construction costs related to the relocation of beds from layaway status for the Watertown facility may not exceed the dollar threshold provided in subdivision 2 unless the construction project has been approved through the moratorium exception process under section 144A.073.

The property-related payment rate of the facility placing beds on layaway status must be adjusted by the incremental change in its rental per diem after recalculating the rental per diem as provided in section 256B.431, subdivision 3a, paragraph (c). The property-related payment rate for the facility relicensing and recertifying beds from layaway status must be adjusted by the incremental change in its rental per diem after recalculating its rental per diem using the number of beds after the relicensing to establish the facility's capacity day divisor, which shall be effective the first day of the month following the month in which the relicensing and recertification became effective. Any beds remaining on layaway status more than five years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified;

(u) to license and certify beds that are moved within an existing area of a facility or to a newly constructed addition which is built for the purpose of eliminating three- and four-bed rooms and adding space for dining, lounge areas, bathing rooms, and ancillary service areas in a nursing home that, as of January 1, 1995, was located in Fridley and had a licensed capacity of 129 beds;

(v) to relocate 36 beds in Crow Wing county and four beds from Hennepin county to a 160-bed facility in Crow Wing county, provided all the affected beds are under common ownership;

(w) to license and certify a total replacement project of up to 49 beds located in Norman county that are relocated from a nursing home destroyed by flood and whose residents were relocated to other nursing homes. The operating cost payment rates for the new nursing facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of section 256B.431, except that subdivision 26, paragraphs (a) and (b), shall not apply until the second rate year after the settle-up cost report is filed. Property-related reimbursement rates shall be determined under section 256B.431, taking into account any federal or state flood-related loans or grants provided to the facility;

(x) to license and certify a total replacement project of up to 129 beds located in Polk county that are relocated from a nursing home destroyed by flood and whose residents were relocated to other nursing homes. The operating cost payment rates for the new nursing facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of section 256B.431, except that subdivision 26, paragraphs (a) and (b), shall not apply until the second rate year after the settle-up cost report is filed. Property-related reimbursement rates shall be determined under section 256B.431, taking into account any federal or state flood-related loans or grants provided to the facility;

(y) to license and certify beds in a renovation and remodeling project to convert 13 three-bed wards into 13 two-bed rooms and 13 single-bed rooms, expand space, and add improvements in a nursing home that, as of January 1, 1994, met the following conditions: the nursing home was located in Ramsey county, was not owned by a hospital corporation, had a licensed capacity of 64 beds, and had been ranked among the top 15 applicants by the 1993 moratorium exceptions advisory review panel. The total project construction cost estimate for this project must not exceed the cost estimate submitted in connection with the 1993 moratorium exception process;

(z) to license and certify up to 150 nursing home beds to replace an existing 285 bed nursing facility located in St. Paul. The replacement project shall include both the renovation of existing buildings and the construction of new facilities at the existing site. The reduction in the licensed capacity of the existing facility shall occur during the construction project as beds are taken out of service due to the construction process. Prior to the start of the construction process, the facility shall provide written information to the commissioner of health describing the process for bed reduction, plans for the relocation of residents, and the estimated construction schedule. The relocation of residents shall be in accordance with the provisions of law and rule;

(aa) to allow the commissioner of human services to license an additional 36 beds to provide residential services for the physically handicapped under Minnesota Rules, parts 9570.2000 to 9570.3400, in a 198-bed nursing home located in Red Wing, provided that the total number of licensed and certified beds at the facility does not increase;

(bb) to license and certify a new facility in St. Louis county with 44 beds constructed to replace an existing facility in St. Louis county with 31 beds, which has resident rooms on two separate floors and an antiquated elevator that creates safety concerns for residents and prevents nonambulatory residents from residing on the second floor. The project shall include the elimination of three- and four-bed rooms;

(cc) to license and certify four beds in a 16-bed certified boarding care home in Minneapolis to replace beds that were voluntarily delicensed and decertified on or before March 31, 1992. The licensure and certification is conditional upon the facility periodically assessing and adjusting its resident mix and other factors which may contribute to a potential institution for mental disease declaration. The commissioner of human services shall retain the authority to audit the facility at any time and shall require the facility to comply with any requirements necessary to prevent an institution for mental disease declaration, including delicensure and decertification of beds, if necessary;

(dd) to license and certify 72 beds in an existing facility in Mille Lacs county with 80 beds as part of a renovation project. The renovation must include construction of an addition to accommodate ten residents with beginning and midstage dementia in a self-contained living unit; creation of three resident households where dining, activities, and support spaces are located near resident living quarters; designation of four beds for rehabilitation in a self-contained area; designation of 30 private rooms; and other improvements;

(ee) to license and certify beds in a facility that has undergone replacement or remodeling as part of a planned closure under section 256B.437;

(ff) to license and certify a total replacement project of up to 124 beds located in Wilkin county that are in need of relocation from a nursing home significantly damaged by flood. The operating cost payment rates for the new nursing facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of section 256B.431, except that section 256B.431, subdivision 26, paragraphs (a) and (b), shall not apply until the second rate year after the settle-up cost report is filed. Property-related reimbursement rates shall be determined under section 256B.431, taking into account any federal or state flood-related loans or grants provided to the facility;

(gg) to allow the commissioner of human services to license an additional nine beds to provide residential services for the physically handicapped under Minnesota Rules, parts 9570.2000 to 9570.3400, in a 240-bed nursing home located in Duluth, provided that the total number of licensed and certified beds at the facility does not increase;

(hh) to license and certify up to 120 new nursing facility beds to replace beds in a facility in Anoka county, which was licensed for 98 beds as of July 1, 2000, provided the new facility is located within four miles of the existing facility and is in Anoka county. Operating and property rates shall be determined and allowed under section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080, or section 256B.434 or 256B.435. The provisions of section 256B.431, subdivision 26, paragraphs (a) and (b), do not apply until the second rate year following settle-up; ~~or~~

(ii) to transfer up to 98 beds of a 129-licensed bed facility located in Anoka county that, as of March 25, 2001, is in the active process of closing, to a 122-licensed bed nonprofit nursing facility located in the city of Columbia Heights or its affiliate. The transfer is effective when the receiving facility notifies the commissioner in writing of the number of beds accepted. The commissioner shall place all transferred beds on layaway status held in the name of the receiving facility. The layaway adjustment provisions of section 256B.431, subdivision 30, do not apply to this layaway. The receiving facility may only remove the beds from layaway for recertification and relicensure at the receiving facility's current site, or at a newly constructed facility located in Anoka county. The receiving facility must receive statutory authorization before removing these beds from layaway status; or

(jj) to license and certify beds as part of a project involving the construction of a new addition, conversion of existing space to a special care unit and short-term rehabilitation unit, expansion of dining and activity facilities, and related remodeling and improvements, in a nursing facility located in Hubbard county licensed for 124 beds as of March 3, 2003, provided that the total number of licensed and certified beds at the facility does not increase.

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

Subd. 16. [INDEPENDENT INFORMAL DISPUTE RESOLUTION.] (a) Notwithstanding subdivision 15, a facility certified under the federal Medicare or Medicaid programs may request from the commissioner, in writing, an independent informal dispute resolution process regarding any deficiency citation issued to the facility. The facility must specify in its written request each deficiency citation that it disputes. The commissioner shall provide a hearing under sections 14.57 to 14.62. Upon the written request of the facility, the parties must submit the issues raised to arbitration by an administrative law judge.

(b) Upon receipt of a written request for an arbitration proceeding, the commissioner shall file with the office of administrative hearings a request for the appointment of an arbitrator and simultaneously serve the facility with notice of the request. The arbitrator for the dispute shall be an administrative law judge appointed by the office of administrative hearings. The disclosure provisions of section 572.10 and the notice provisions of section 572.12 apply. The facility and the commissioner have the right to be represented by an attorney.

(c) The commissioner and the facility may present written evidence, depositions, and oral statements and arguments at the arbitration proceeding. Oral statements and arguments may be made by telephone.

(d) Within ten working days of the close of the arbitration proceeding, the administrative law judge shall issue findings regarding each of the deficiencies in dispute. The findings shall be one or more of the following:

(1) Supported in full. The citation is supported in full, with no deletion of findings and no change in the scope or severity assigned to the deficiency citation.

(2) Supported in substance. The citation is supported, but one or more findings are deleted without any change in the scope or severity assigned to the deficiency.

(3) Deficient practice cited under wrong requirement of participation. The citation is amended by moving it to the correct requirement of participation.

(4) Scope not supported. The citation is amended through a change in the scope assigned to the citation.

(5) Severity not supported. The citation is amended through a change in the severity assigned to the citation.

(6) No deficient practice. The citation is deleted because the findings did not support the citation or the negative resident outcome was unavoidable. The findings of the arbitrator are not binding on the commissioner.

(e) The commissioner shall reimburse the office of administrative hearings for the costs incurred by that office for the arbitration proceeding. The facility shall reimburse the commissioner for the proportion of the costs that represent the sum of deficiency citations supported in full under paragraph (d), clause (1), or in substance under paragraph (d), clause (2), divided by the total number of deficiencies disputed. A deficiency citation for which the administrative law judge's sole finding is that the deficient practice was cited under the wrong requirements of participation shall not be counted in the numerator or denominator in the calculation of the proportion of costs.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 11. [144A.351] [BALANCING LONG-TERM CARE: REPORT REQUIRED.]

The commissioners of health and human services, with the cooperation of counties and regional entities, shall prepare a report to the legislature by January 15, 2004, and biennially thereafter, regarding the status of the full range of long-term care services for the elderly in Minnesota. The report shall address:

(1) demographics and need for long-term care in Minnesota;

(2) summary of county and regional reports on long-term care gaps, surpluses, imbalances, and corrective action plans;

(3) status of long-term care services by county and region including:

(i) changes in availability of the range of long-term care services and housing options;

(ii) access problems regarding long-term care; and

(iii) comparative measures of long-term care availability and progress over time; and

(4) recommendations regarding goals for the future of long-term care services, policy changes, and resource needs.

Sec. 12. Minnesota Statutes 2002, section 144A.4605, subdivision 4, is amended to read:

Subd. 4. [LICENSE REQUIRED.] (a) A housing with services establishment registered under chapter 144D that is required to obtain a home care license must obtain an assisted living home care license according to this section or a class A or class E license according to rule. A housing with services establishment that obtains a class E license under this subdivision remains subject to the payment limitations in sections 256B.0913, subdivision ~~5~~ 5f, paragraph ~~(h)~~ (b), and 256B.0915, subdivision ~~3, paragraph (g)~~ 3d.

(b) A board and lodging establishment registered for special services as of December 31, 1996, and also registered as a housing with services establishment under chapter 144D, must deliver home care services according to sections 144A.43 to 144A.47, and may apply for a waiver from requirements under Minnesota Rules, parts 4668.0002 to 4668.0240, to operate a licensed agency under the standards of section 157.17. Such waivers as may be granted by the department will expire upon promulgation of home care rules implementing section 144A.4605.

(c) An adult foster care provider licensed by the department of human services and registered under chapter 144D may continue to provide health-related services under its foster care license until the promulgation of home care rules implementing this section.

(d) An assisted living home care provider licensed under this section must comply with the disclosure provisions of section 325F.72 to the extent they are applicable.

Sec. 13. Minnesota Statutes 2002, section 245A.04, subdivision 3b, is amended to read:

Subd. 3b. [RECONSIDERATION OF DISQUALIFICATION.] (a) The individual who is the subject of the disqualification may request a reconsideration of the disqualification.

The individual must submit the request for reconsideration to the commissioner in writing. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (1) or (2), must be submitted within 30 calendar days of the disqualified individual's receipt of the notice of disqualification. Upon showing that the information in clause (1) or (2) cannot be obtained within 30 days, the disqualified individual may request additional time, not to exceed 30 days, to obtain that information. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (3), must be submitted within 15 calendar days of the disqualified individual's receipt of the notice of disqualification. An individual who was determined to have maltreated a child under section 626.556 or a vulnerable adult under section 626.557, and who was disqualified under this section on the basis of serious or recurring maltreatment, may request reconsideration of both the maltreatment and the disqualification determinations. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification. Removal of a disqualified individual from direct contact shall be ordered if the individual does not request reconsideration within the prescribed time, and for an individual who submits a timely request for reconsideration, if the disqualification is not set aside. The individual must present information showing that:

(1) the information the commissioner relied upon in determining that the underlying conduct giving rise to the disqualification occurred, and for maltreatment, that the maltreatment was serious or recurring, is incorrect; or

(2) the subject of the study does not pose a risk of harm to any person served by the applicant, license holder, or registrant under section 144A.71, subdivision 1.

(b) The commissioner shall rescind the disqualification if the commissioner finds that the information relied on to disqualify the subject is incorrect. The commissioner may set aside the disqualification under this section if the commissioner finds that the individual does not pose a risk of harm to any person served by the applicant, license

holder, or registrant under section 144A.71, subdivision 1. In determining that an individual does not pose a risk of harm, the commissioner shall consider the nature, severity, and consequences of the event or events that lead to disqualification, whether there is more than one disqualifying event, the age and vulnerability of the victim at the time of the event, the harm suffered by the victim, the similarity between the victim and persons served by the program, the time elapsed without a repeat of the same or similar event, documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event, and any other information relevant to reconsideration. In reviewing a disqualification under this section, the commissioner shall give preeminent weight to the safety of each person to be served by the license holder, applicant, or registrant under section 144A.71, subdivision 1, over the interests of the license holder, applicant, or registrant under section 144A.71, subdivision 1.

(c) Unless the information the commissioner relied on in disqualifying an individual is incorrect, the commissioner may not set aside the disqualification of an individual in connection with a license to provide family day care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home if:

(1) less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has been convicted of a violation of any offense listed in sections 609.165 (felon ineligible to possess firearm), criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury), 609.215 (aiding suicide or aiding attempted suicide), felony violations under 609.223 or 609.2231 (assault in the third or fourth degree), 609.713 (terroristic threats), 609.235 (use of drugs to injure or to facilitate crime), 609.24 (simple robbery), 609.255 (false imprisonment), 609.562 (arson in the second degree), 609.71 (riot), 609.498, subdivision 1 or ~~1a~~ 1b (aggravated first degree or first degree tampering with a witness), burglary in the first or second degree under 609.582 (burglary), 609.66 (dangerous weapon), 609.665 (spring guns), 609.67 (machine guns and short-barreled shotguns), 609.749, subdivision 2 (gross misdemeanor harassment; stalking), 152.021 or 152.022 (controlled substance crime in the first or second degree), 152.023, subdivision 1, clause (3) or (4), or subdivision 2, clause (4) (controlled substance crime in the third degree), 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree), 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult), 609.23 (mistreatment of persons confined), 609.231 (mistreatment of residents or patients), 609.2325 (criminal abuse of a vulnerable adult), 609.233 (criminal neglect of a vulnerable adult), 609.2335 (financial exploitation of a vulnerable adult), 609.234 (failure to report), 609.265 (abduction), 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree), 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree), 609.268 (injury or death of an unborn child in the commission of a crime), 617.293 (disseminating or displaying harmful material to minors), a felony level conviction involving alcohol or drug use, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts), a gross misdemeanor offense under 609.378 (neglect or endangerment of a child), a gross misdemeanor offense under 609.377 (malicious punishment of a child), 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state, the elements of which are substantially similar to the elements of any of the foregoing offenses;

(2) regardless of how much time has passed since the involuntary termination of parental rights under section 260C.301 or the discharge of the sentence imposed for the offense, the individual was convicted of a violation of any offense listed in sections 609.185 to 609.195 (murder in the first, second, or third degree), 609.20 (manslaughter in the first degree), 609.205 (manslaughter in the second degree), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.561 (arson in the first degree), 609.749, subdivision 3, 4, or 5 (felony-level harassment; stalking), 609.228 (great bodily harm caused by distribution of drugs), 609.221 or 609.222 (assault in the first or second degree), 609.66, subdivision 1e (drive-by shooting), 609.855, subdivision 5 (shooting in or at a public transit vehicle or facility), 609.2661 to 609.2663 (murder of an unborn child in the first, second, or third degree), a felony offense under 609.377 (malicious punishment of a child), a felony offense under 609.324, subdivision 1 (other prohibited acts), a felony offense under 609.378 (neglect or endangerment of a child), 609.322 (solicitation, inducement, and promotion of prostitution), 609.342 to 609.345 (criminal sexual conduct in the first, second, third, or fourth degree), 609.352 (solicitation of children to engage in sexual conduct), 617.246 (use of minors in a sexual performance),

617.247 (possession of pictorial representations of a minor), 609.365 (incest), a felony offense under sections 609.2242 and 609.2243 (domestic assault), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime against children, or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state, the elements of which are substantially similar to any of the foregoing offenses;

(3) within the seven years preceding the study, the individual committed an act that constitutes maltreatment of a child under section 626.556, subdivision 10e, and that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence; or

(4) within the seven years preceding the study, the individual was determined under section 626.557 to be the perpetrator of a substantiated incident of maltreatment of a vulnerable adult that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence.

In the case of any ground for disqualification under clauses (1) to (4), if the act was committed by an individual other than the applicant, license holder, or registrant under section 144A.71, subdivision 1, residing in the applicant's or license holder's home, or the home of a registrant under section 144A.71, subdivision 1, the applicant, license holder, or registrant under section 144A.71, subdivision 1, may seek reconsideration when the individual who committed the act no longer resides in the home.

The disqualification periods provided under clauses (1), (3), and (4) are the minimum applicable disqualification periods. The commissioner may determine that an individual should continue to be disqualified from licensure or registration under section 144A.71, subdivision 1, because the license holder, applicant, or registrant under section 144A.71, subdivision 1, poses a risk of harm to a person served by that individual after the minimum disqualification period has passed.

(d) The commissioner shall respond in writing or by electronic transmission to all reconsideration requests for which the basis for the request is that the information relied upon by the commissioner to disqualify is incorrect or inaccurate within 30 working days of receipt of a request and all relevant information. If the basis for the request is that the individual does not pose a risk of harm, the commissioner shall respond to the request within 15 working days after receiving the request for reconsideration and all relevant information. If the request is based on both the correctness or accuracy of the information relied on to disqualify the individual and the risk of harm, the commissioner shall respond to the request within 45 working days after receiving the request for reconsideration and all relevant information. If the disqualification is set aside, the commissioner shall notify the applicant or license holder in writing or by electronic transmission of the decision.

(e) Except as provided in subdivision 3c, if a disqualification for which reconsideration was requested is not set aside or is not rescinded, an individual who was disqualified on the basis of a preponderance of evidence that the individual committed an act or acts that meet the definition of any of the crimes listed in subdivision 3d, paragraph (a), clauses (1) to (4); or for failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, pursuant to subdivision 3d, paragraph (a), clause (4), may request a fair hearing under section 256.045. Except as provided under subdivision 3c, the fair hearing is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

(f) Except as provided under subdivision 3c, if an individual was disqualified on the basis of a determination of maltreatment under section 626.556 or 626.557, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, and also requested reconsideration of the disqualification under this subdivision, reconsideration of the

maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. For maltreatment and disqualification determinations made by county agencies, the consolidated reconsideration shall be conducted by the county agency. If the county agency has disqualified an individual on multiple bases, one of which is a county maltreatment determination for which the individual has a right to request reconsideration, the county shall conduct the reconsideration of all disqualifications. Except as provided under subdivision 3c, if an individual who was disqualified on the basis of serious or recurring maltreatment requests a fair hearing on the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, and requests a fair hearing on the disqualification, which has not been set aside or rescinded under this subdivision, the scope of the fair hearing under section 256.045 shall include the maltreatment determination and the disqualification. Except as provided under subdivision 3c, a fair hearing is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

(g) In the notice from the commissioner that a disqualification has been set aside, the license holder must be informed that information about the nature of the disqualification and which factors under paragraph (b) were the bases of the decision to set aside the disqualification is available to the license holder upon request without consent of the background study subject. With the written consent of a background study subject, the commissioner may release to the license holder copies of all information related to the background study subject's disqualification and the commissioner's decision to set aside the disqualification as specified in the written consent.

Sec. 14. Minnesota Statutes 2002, section 256.9657, subdivision 1, is amended to read:

Subdivision 1. [NURSING HOME LICENSE SURCHARGE.] (a) Effective July 1, 1993, each non-state-operated nursing home licensed under chapter 144A shall pay to the commissioner an annual surcharge according to the schedule in subdivision 4. The surcharge shall be calculated as $620 per licensed bed. If the number of licensed beds is reduced, the surcharge shall be based on the number of remaining licensed beds the second month following the receipt of timely notice by the commissioner of human services that beds have been delicensed. The nursing home must notify the commissioner of health in writing when beds are delicensed. The commissioner of health must notify the commissioner of human services within ten working days after receiving written notification. If the notification is received by the commissioner of human services by the 15th of the month, the invoice for the second following month must be reduced to recognize the delicensing of beds. Beds on layaway status continue to be subject to the surcharge. The commissioner of human services must acknowledge a medical care surcharge appeal within 30 days of receipt of the written appeal from the provider.

(b) Effective July 1, 1994, the surcharge in paragraph (a) shall be increased to $625.

(c) Effective August 15, 2002, the surcharge under paragraph (b) shall be increased to $990.

(d) Effective July 15, 2003, the surcharge under paragraph (c) shall be increased to $2,700.

(e) The commissioner may reduce, and may subsequently restore, the surcharge under paragraph (d) based on the commissioner's determination of a permissible surcharge.

(f) Between April 1, 2002, and August 15, ~~2003~~ 2004, a facility governed by this subdivision may elect to assume full participation in the medical assistance program by agreeing to comply with all of the requirements of the medical assistance program, including the rate equalization law in section 256B.48, subdivision 1, paragraph (a), and all other requirements established in law or rule, and to begin intake of new medical assistance recipients. Rates will be determined under Minnesota Rules, parts 9549.0010 to 9549.0080. Notwithstanding section 256B.431, subdivision 27, paragraph (i), rate calculations will be subject to limits as prescribed in rule and law. Other than the

adjustments in sections 256B.431, subdivisions 30 and 32; 256B.437, subdivision 3, paragraph (b), Minnesota Rules, part 9549.0057, and any other applicable legislation enacted prior to the finalization of rates, facilities assuming full participation in medical assistance under this paragraph are not eligible for any rate adjustments until the July 1 following their settle-up period.

[EFFECTIVE DATE.] This section is effective June 30, 2003.

Sec. 15. Minnesota Statutes 2002, section 256.9657, is amended by adding a subdivision to read:

Subd. 3a. [ICF/MR LICENSE SURCHARGE.] Effective July 1, 2003, each nonstate-operated facility as defined under section 256B.501, subdivision 1, shall pay to the commissioner an annual surcharge according to the schedule in subdivision 4, paragraph (d). The annual surcharge shall be $1,040 per licensed bed. If the number of licensed beds is reduced, the surcharge shall be based on the number of remaining licensed beds the second month following the receipt of timely notice by the commissioner of human services that beds have been delicensed. The facility must notify the commissioner of health in writing when beds are delicensed. The commissioner of health must notify the commissioner of human services within ten working days after receiving written notification. If the notification is received by the commissioner of human services by the 15th of the month, the invoice for the second following month must be reduced to recognize the delicensing of beds. The commissioner may reduce, and may subsequently restore, the surcharge under this subdivision based on the commissioner's determination of a permissible surcharge.

Sec. 16. Minnesota Statutes 2002, section 256.9657, subdivision 4, is amended to read:

Subd. 4. [PAYMENTS INTO THE ACCOUNT.] (a) Payments to the commissioner under subdivisions 1 to 3 must be paid in monthly installments due on the 15th of the month beginning October 15, 1992. The monthly payment must be equal to the annual surcharge divided by 12. Payments to the commissioner under subdivisions 2 and 3 for fiscal year 1993 must be based on calendar year 1990 revenues. Effective July 1 of each year, beginning in 1993, payments under subdivisions 2 and 3 must be based on revenues earned in the second previous calendar year.

(b) Effective October 1, 1995, and each October 1 thereafter, the payments in subdivisions 2 and 3 must be based on revenues earned in the previous calendar year.

(c) If the commissioner of health does not provide by August 15 of any year data needed to update the base year for the hospital and health maintenance organization surcharges, the commissioner of human services may estimate base year revenue and use that estimate for the purposes of this section until actual data is provided by the commissioner of health.

(d) Payments to the commissioner under subdivision 3a must be paid in monthly installments due on the 15th of the month beginning August 15, 2003. The monthly payment must be equal to the annual surcharge divided by 12.

Sec. 17. Minnesota Statutes 2002, section 256.9754, subdivision 2, is amended to read:

Subd. 2. [CREATION.] ~~The community services development grants program~~ There is created ~~under the administration of the commissioner of human services~~ the consolidated ElderCare development grant fund for the purpose of rebalancing the long-term care system and increasing home and community-based care alternatives that sustain independent living.

Sec. 18. Minnesota Statutes 2002, section 256.9754, subdivision 3, is amended to read:

Subd. 3. [PROVISION OF GRANTS.] ~~The commissioner shall make grants available to communities, providers of older adult services identified in subdivision 1, or to a consortium of providers of older adult services, to establish older adult services.~~ Grants may be provided for capital and other costs including, but not limited to, start-up and training costs, equipment, and supplies related to older adult services or other residential or service alternatives to nursing facility care. Grants may also be made to renovate current buildings, provide transportation services, fund programs that would allow older adults or disabled individuals to stay in their own homes by sharing a home, fund programs that coordinate and manage formal and informal services to older adults in their homes to enable them to live as independently as possible in their own homes as an alternative to nursing home care, or expand state-funded programs in the area. Other services eligible for funding include: transportation; chore services and homemaking; home health care and personal care assistance; care coordination; housing with services, such as assisted living and foster care; home modification; adult day services; caregiver support and respite; living-at-home block nurse; service integration and development; telemedicine, telehomecare, or other technology-based solutions; grocery shopping; and services identified as needed for community transition.

Sec. 19. Minnesota Statutes 2002, section 256.9754, subdivision 4, is amended to read:

Subd. 4. [ELIGIBILITY.] Grants may be awarded only to communities and providers, including for-profits, nonprofits, and governmental units, or to a consortium of providers that have a local match of 25 percent in the form of cash or in-kind services, except that for capital costs the match is 50 percent ~~of the costs for the project in the form of donations, local tax dollars, in-kind donations, fund-raising, or other local matches~~.

Sec. 20. Minnesota Statutes 2002, section 256.9754, subdivision 5, is amended to read:

Subd. 5. [GRANT PREFERENCE.] The commissioner ~~of human services~~ shall give preference when awarding grants under this section to areas where nursing facility closures have occurred or are occurring. The commissioner may award grants to the extent grant funds are available and to the extent applications are approved by the commissioner. Denial of approval of an application in one year does not preclude submission of an application in a subsequent year. ~~The maximum grant amount is limited to $750,000.~~

Sec. 21. Minnesota Statutes 2002, section 256B.056, subdivision 6, is amended to read:

Subd. 6. [ASSIGNMENT OF BENEFITS.] To be eligible for medical assistance a person must have applied or must agree to apply all proceeds received or receivable by the person or the person's ~~spouse~~ legal representative from any third ~~person~~ party liable for the costs of medical care ~~for the person, the spouse, and children~~. ~~The state agency shall require from any applicant or recipient of medical assistance the assignment of any rights to medical support and third-party payments.~~ By accepting or receiving assistance, the person is deemed to have assigned the person's rights to medical support and third party payments as required by Title 19 of the Social Security Act. Persons must cooperate with the state in establishing paternity and obtaining third party payments. By ~~signing an application for~~ accepting medical assistance, a person assigns to the department of human services all rights the person may have to medical support or payments for medical expenses from any other person or entity on their own or their dependent's behalf and agrees to cooperate with the state in establishing paternity and obtaining third party payments. Any rights or amounts so assigned shall be applied against the cost of medical care paid for under this chapter. Any assignment takes effect upon the determination that the applicant is eligible for medical assistance and up to three months prior to the date of application if the applicant is determined eligible for and receives medical assistance benefits. The application must contain a statement explaining this assignment. ~~Any assignment shall not be effective as to benefits paid or provided under automobile accident coverage and private health care coverage prior to notification of the assignment by the person or organization providing the benefits.~~ For the purposes of this

section, "the department of human services or the state" includes prepaid health plans under contract with the commissioner according to sections 256B.031, 256B.69, 256D.03, subdivision 4, paragraph (d), and 256L.12; children's mental health collaboratives under section 245.493; demonstration projects for persons with disabilities under section 256B.77; nursing facilities under the alternative payment demonstration project under section 256B.434; and the county-based purchasing entities under section 256B.692.

Sec. 22. Minnesota Statutes 2002, section 256B.064, subdivision 2, is amended to read:

Subd. 2. [IMPOSITION OF MONETARY RECOVERY AND SANCTIONS.] (a) The commissioner shall determine any monetary amounts to be recovered and sanctions to be imposed upon a vendor of medical care under this section. Except as provided in ~~paragraph~~ paragraphs (b) and (d), neither a monetary recovery nor a sanction will be imposed by the commissioner without prior notice and an opportunity for a hearing, according to chapter 14, on the commissioner's proposed action, provided that the commissioner may suspend or reduce payment to a vendor of medical care, except a nursing home or convalescent care facility, after notice and prior to the hearing if in the commissioner's opinion that action is necessary to protect the public welfare and the interests of the program.

(b) Except for a nursing home or convalescent care facility, the commissioner may withhold or reduce payments to a vendor of medical care without providing advance notice of such withholding or reduction if either of the following occurs:

(1) the vendor is convicted of a crime involving the conduct described in subdivision 1a; or

(2) the commissioner receives reliable evidence of fraud or willful misrepresentation by the vendor.

(c) The commissioner must send notice of the withholding or reduction of payments under paragraph (b) within five days of taking such action. The notice must:

(1) state that payments are being withheld according to paragraph (b);

(2) except in the case of a conviction for conduct described in subdivision 1a, state that the withholding is for a temporary period and cite the circumstances under which withholding will be terminated;

(3) identify the types of claims to which the withholding applies; and

(4) inform the vendor of the right to submit written evidence for consideration by the commissioner.

The withholding or reduction of payments will not continue after the commissioner determines there is insufficient evidence of fraud or willful misrepresentation by the vendor, or after legal proceedings relating to the alleged fraud or willful misrepresentation are completed, unless the commissioner has sent notice of intention to impose monetary recovery or sanctions under paragraph (a).

(d) The commissioner may suspend or terminate a vendor's participation in the program without providing advance notice and an opportunity for a hearing when the suspension or termination is required because of the vendor's exclusion from participation in Medicare. Within five days of taking such action, the commissioner must send notice of the suspension or termination. The notice must:

(1) state that suspension or termination is the result of the vendor's exclusion from Medicare;

(2) identify the effective date of the suspension or termination;

(3) inform the vendor of the need to be reinstated to Medicare before reapplying for participation in the program; and

(4) inform the vendor of the right to submit written evidence for consideration by the commissioner.

(e) Upon receipt of a notice under paragraph (a) that a monetary recovery or sanction is to be imposed, a vendor may request a contested case, as defined in section 14.02, subdivision 3, by filing with the commissioner a written request of appeal. The appeal request must be received by the commissioner no later than 30 days after the date the notification of monetary recovery or sanction was mailed to the vendor. The appeal request must specify:

(1) each disputed item, the reason for the dispute, and an estimate of the dollar amount involved for each disputed item;

(2) the computation that the vendor believes is correct;

(3) the authority in statute or rule upon which the vendor relies for each disputed item;

(4) the name and address of the person or entity with whom contacts may be made regarding the appeal; and

(5) other information required by the commissioner.

Sec. 23. Minnesota Statutes 2002, section 256B.0913, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY FOR SERVICES.] Alternative care services are available to Minnesotans age 65 or older ~~who are not eligible for medical assistance without a spenddown or waiver obligation but~~ who would be eligible for medical assistance within 180 days of admission to a nursing facility and subject to subdivisions 4 to 13.

Sec. 24. Minnesota Statutes 2002, section 256B.0913, subdivision 4, is amended to read:

Subd. 4. [ELIGIBILITY FOR FUNDING FOR SERVICES FOR NONMEDICAL ASSISTANCE RECIPIENTS.] (a) Funding for services under the alternative care program is available to persons who meet the following criteria:

(1) the person has been determined by a community assessment under section 256B.0911 to be a person who would require the level of care provided in a nursing facility, but for the provision of services under the alternative care program;

(2) the person is age 65 or older;

(3) the person would be eligible for medical assistance within 180 days of admission to a nursing facility;

(4) the person is not ineligible for the medical assistance program due to an asset transfer penalty;

(5) the person needs services that are not funded through other state or federal funding; ~~and~~

(6) the monthly cost of the alternative care services funded by the program for this person does not exceed 75 percent of the ~~statewide weighted average monthly nursing facility rate of the case mix resident class to which the individual alternative care client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the recipient's maintenance needs allowance as described in section 256B.0915, subdivision 1d, paragraph (a), until the first day of the state fiscal year in which the resident assessment system, under section 256B.437, for nursing home rate determination is implemented. Effective on the first day of the state fiscal year in which a resident assessment~~

~~system, under section 256B.437, for nursing home rate determination is implemented and the first day of each subsequent state fiscal year, the monthly cost of alternative care services for this person shall not exceed the alternative care monthly cap for the case mix resident class to which the alternative care client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, which was in effect on the last day of the previous state fiscal year, and adjusted by the greater of any legislatively adopted home and community based services cost of living percentage increase or any legislatively adopted statewide percent rate increase for nursing facilities~~ monthly limit described under section 256B.0915, subdivision 3a. This monthly limit does not prohibit the alternative care client from payment for additional services, but in no case may the cost of additional services purchased under this section exceed the difference between the client's monthly service limit defined under section 256B.0915, subdivision 3, and the alternative care program monthly service limit defined in this paragraph. If medical supplies and equipment or environmental modifications are or will be purchased for an alternative care services recipient, the costs may be prorated on a monthly basis for up to 12 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's other alternative care services exceeds the monthly limit established in this paragraph, the annual cost of the alternative care services shall be determined. In this event, the annual cost of alternative care services shall not exceed 12 times the monthly limit described in this paragraph~~.~~; and

(7) the person is making timely payments of the assessed monthly premium charge. A person is ineligible if payment or the assessed monthly premium charge is over 60 days past due. Following disenrollment due to nonpayment of a monthly premium, eligibility shall not be reinstated for a period of 90 days pending eligibility redetermination.

(b) Alternative care funding under this subdivision is not available for a person who is a medical assistance recipient or who would be eligible for medical assistance without a spenddown or waiver obligation. A person whose initial application for medical assistance and the elderly waiver program is being processed may be served under the alternative care program for a period up to 60 days. If the individual is found to be eligible for medical assistance, medical assistance must be billed for services payable under the federally approved elderly waiver plan and delivered from the date the individual was found eligible for the federally approved elderly waiver plan. Notwithstanding this provision, ~~upon federal approval,~~ alternative care funds may not be used to pay for any service the cost of which: (i) is payable by medical assistance ~~or which~~; (ii) is used by a recipient to meet a ~~medical assistance income spenddown or~~ waiver obligation; or (iii) is used to pay a medical assistance income spenddown for a person who is eligible to participate in the federally approved elderly waiver program under the special income standard provision.

(c) Alternative care funding is not available for a person who resides in a licensed nursing home, certified boarding care home, hospital, or intermediate care facility, except for case management services which are provided in support of the discharge planning process ~~to~~ for a nursing home resident or certified boarding care home resident to assist with a relocation process to a community-based setting.

(d) Alternative care funding is not available for a person whose income is greater than the maintenance needs allowance under section 256B.0915, subdivision 1d, but equal to or less than 120 percent of the federal poverty guideline effective July 1, in the year for which alternative care eligibility is determined, who would be eligible for the elderly waiver with a waiver obligation.

Sec. 25. Minnesota Statutes 2002, section 256B.0913, subdivision 5, is amended to read:

Subd. 5. [SERVICES COVERED UNDER ALTERNATIVE CARE.] ~~(a)~~ Alternative care funding may be used for payment of costs of:

(1) adult foster care;

(2) adult day care;

(3) home health aide;

(4) homemaker services;

(5) personal care;

(6) case management;

(7) respite care;

(8) assisted living;

(9) residential care services;

(10) care-related supplies and equipment;

(11) meals delivered to the home;

(12) transportation;

(13) nursing services;

(14) chore services;

(15) companion services;

(16) nutrition services;

(17) training for direct informal caregivers;

(18) telehome care ~~devices~~ to ~~monitor recipients~~ provide services in their own homes ~~as an alternative to hospital care, nursing home care, or home~~ in conjunction with in-home visits;

(19) ~~other services which includes~~ discretionary ~~funds and direct cash payments to clients,~~ services, for which counties may make payment from their alternative care program allocation or services not otherwise defined in this section or section 256B.0625, following approval by the commissioner~~, subject to the provisions of paragraph (j). Total annual payments for "other services" for all clients within a county may not exceed 25 percent of that county's annual alternative care program base allocation~~; ~~and~~

(20) environmental modifications~~.~~; and

(21) direct cash payments for which counties may make payment from their alternative care program allocation to clients for the purpose of purchasing services, following approval by the commissioner, and subject to the provisions of subdivision 5h, until approval and implementation of consumer-directed services through the federally approved elderly waiver plan. Upon implementation, consumer-directed services under the alternative care program are available statewide and limited to the average monthly expenditures representative of all alternative care program participants for the same case mix resident class assigned in the most recent fiscal year for which complete expenditure data is available.

Total annual payments for discretionary services and direct cash payments, until the federally approved consumer-directed service option is implemented statewide, for all clients within a county may not exceed 25 percent of that county's annual alternative care program base allocation. Thereafter, discretionary services are limited to 25 percent of the county's annual alternative care program base allocation.

Subd. 5a. [SERVICES; SERVICE DEFINITIONS; SERVICE STANDARDS.] (a) Unless specified in statute, the services, service definitions, and standards for alternative care services shall be the same as the services, service definitions, and standards specified in the federally approved elderly waiver plan, except for transitional support services.

(b) The county agency must ensure that the funds are not used to supplant services available through other public assistance or services programs.

~~(c) Unless specified in statute, the services, service definitions, and standards for alternative care services shall be the same as the services, service definitions, and standards specified in the federally approved elderly waiver plan. Except for the county agencies' approval of direct cash payments to clients as described in paragraph (j) or~~ For a provider of supplies and equipment when the monthly cost of the supplies and equipment is less than $250, persons or agencies must be employed by or under a contract with the county agency or the public health nursing agency of the local board of health in order to receive funding under the alternative care program. Supplies and equipment may be purchased from a vendor not certified to participate in the Medicaid program if the cost for the item is less than that of a Medicaid vendor.

(c) Personal care services must meet the service standards defined in the federally approved elderly waiver plan, except that a county agency may contract with a client's relative who meets the relative hardship waiver requirements or a relative who meets the criteria and is also the responsible party under an individual service plan that ensures the client's health and safety and supervision of the personal care services by a qualified professional as defined in section 256B.0625, subdivision 19c. Relative hardship is established by the county when the client's care causes a relative caregiver to do any of the following: resign from a paying job, reduce work hours resulting in lost wages, obtain a leave of absence resulting in lost wages, incur substantial client-related expenses, provide services to address authorized, unstaffed direct care time, or meet special needs of the client unmet in the formal service plan.

~~(d)~~ Subd. 5b. [ADULT FOSTER CARE RATE.] The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board. The adult foster care rate shall be negotiated between the county agency and the foster care provider. The alternative care payment for the foster care service in combination with the payment for other alternative care services, including case management, must not exceed the limit specified in subdivision 4, paragraph (a), clause (6).

~~(e) Personal care services must meet the service standards defined in the federally approved elderly waiver plan, except that a county agency may contract with a client's relative who meets the relative hardship waiver requirement as defined in section 256B.0627, subdivision 4, paragraph (b), clause (10), to provide personal care services if the county agency ensures supervision of this service by a qualified professional as defined in section 256B.0625, subdivision 19c.~~

~~(f)~~ Subd. 5c. [RESIDENTIAL CARE SERVICES; SUPPORTIVE SERVICES; HEALTH-RELATED SERVICES.] For purposes of this section, residential care services are services which are provided to individuals living in residential care homes. Residential care homes are currently licensed as board and lodging establishments under section 157.16, and are registered with the department of health as providing special services under section 157.17 ~~and are not subject to registration~~ except settings that are currently registered under chapter 144D. Residential care services are defined as "supportive services" and "health-related services." "Supportive services" means ~~the provision of up to 24 hour supervision and oversight. Supportive services includes: (1) transportation, when provided by the residential care home only; (2) socialization, when socialization is part of the plan of care, has~~

~~specific goals and outcomes established, and is not diversional or recreational in nature; (3) assisting clients in setting up meetings and appointments; (4) assisting clients in setting up medical and social services; (5) providing assistance with personal laundry, such as carrying the client's laundry to the laundry room. Assistance with personal laundry does not include any laundry, such as bed linen, that is included in the room and board rate~~ services as defined in section 157.17, subdivision 1, paragraph (a). "Health-related services" ~~are limited to minimal assistance with dressing, grooming, and bathing and providing reminders to residents to take medications that are self-administered or providing storage for medications, if requested~~ means services covered in section 157.17, subdivision 1, paragraph (b). Individuals receiving residential care services cannot receive homemaking services funded under this section.

~~(g)~~ Subd. 5d. [ASSISTED LIVING SERVICES.] For the purposes of this section, "assisted living" refers to supportive services provided by a single vendor to clients who reside in the same apartment building of three or more units which are not subject to registration under chapter 144D and are licensed by the department of health as a class A home care provider or a class E home care provider. Assisted living services are defined as up to 24-hour supervision, ~~and~~ oversight, and supportive services as defined in ~~clause (1)~~ section 157.17, subdivision 1, paragraph (a), individualized home care aide tasks as defined in ~~clause (2)~~ Minnesota Rules, part 4668.0110, and individualized home management tasks as defined in ~~clause (3)~~ Minnesota Rules, part 4668.0120 provided to residents of a residential center living in their units or apartments with a full kitchen and bathroom. A full kitchen includes a stove, oven, refrigerator, food preparation counter space, and a kitchen utensil storage compartment. Assisted living services must be provided by the management of the residential center or by providers under contract with the management or with the county.

~~(1) Supportive services include:~~

~~(i) socialization, when socialization is part of the plan of care, has specific goals and outcomes established, and is not diversional or recreational in nature;~~

~~(ii) assisting clients in setting up meetings and appointments; and~~

~~(iii) providing transportation, when provided by the residential center only.~~

~~(2) Home care aide tasks means:~~

~~(i) preparing modified diets, such as diabetic or low sodium diets;~~

~~(ii) reminding residents to take regularly scheduled medications or to perform exercises;~~

~~(iii) household chores in the presence of technically sophisticated medical equipment or episodes of acute illness or infectious disease;~~

~~(iv) household chores when the resident's care requires the prevention of exposure to infectious disease or containment of infectious disease; and~~

~~(v) assisting with dressing, oral hygiene, hair care, grooming, and bathing, if the resident is ambulatory, and if the resident has no serious acute illness or infectious disease. Oral hygiene means care of teeth, gums, and oral prosthetic devices.~~

~~(3) Home management tasks means:~~

~~(i) housekeeping;~~

~~(ii) laundry;~~

~~(iii) preparation of regular snacks and meals; and~~

~~(iv) shopping.~~

Subd. 5e. [FURTHER ASSISTED LIVING REQUIREMENTS.] (a) Individuals receiving assisted living services shall not receive both assisted living services and homemaking services. Individualized means services are chosen and designed specifically for each resident's needs, rather than provided or offered to all residents regardless of their illnesses, disabilities, or physical conditions. Assisted living services as defined in this section shall not be authorized in boarding and lodging establishments licensed according to sections 157.011 and 157.15 to 157.22.

~~(h)~~ (b) For establishments registered under chapter 144D, assisted living services under this section means either the services described in ~~paragraph (g)~~ subdivision 5d and delivered by a class E home care provider licensed by the department of health or the services described under section 144A.4605 and delivered by an assisted living home care provider or a class A home care provider licensed by the commissioner of health.

~~(i)~~ Subd. 5f. [PAYMENT RATES FOR ASSISTED LIVING SERVICES AND RESIDENTIAL CARE.] (a) Payment for assisted living services and residential care services shall be a monthly rate negotiated and authorized by the county agency based on an individualized service plan for each resident and may not cover direct rent or food costs.

~~(1)~~ (b) The individualized monthly negotiated payment for assisted living services as described in ~~paragraph (g)~~ subdivision 5d or ~~(h)~~ 5e, paragraph (b), and residential care services as described in ~~paragraph (f)~~ subdivision 5c, shall not exceed the nonfederal share in effect on July 1 of the state fiscal year for which the rate limit is being calculated of the greater of either the statewide or any of the geographic ~~groups' weighted average monthly nursing facility payment rate of the case mix resident class to which the alternative care eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the maintenance needs allowance as described in section 256B.0915, subdivision 1d, paragraph (a), until the first day of the state fiscal year in which a resident assessment system, under section 256B.437, of nursing home rate determination is implemented. Effective on the first day of the state fiscal year in which a resident assessment system, under section 256B.437, of nursing home rate determination is implemented and the first day of each subsequent state fiscal year, the individualized monthly negotiated payment for the services described in this clause shall not exceed the limit described in this clause which was in effect on the last day of the previous state fiscal year and which has been adjusted by the greater of any legislatively adopted home and community based services cost of living percentage increase or any legislatively adopted statewide percent rate increase for nursing facilities~~ groups according to subdivision 4, paragraph (a), clause (6).

~~(2)~~ (c) The individualized monthly negotiated payment for assisted living services described under section 144A.4605 and delivered by a provider licensed by the department of health as a class A home care provider or an assisted living home care provider and provided in a building that is registered as a housing with services establishment under chapter 144D and that provides 24-hour supervision in combination with the payment for other alternative care services, including case management, must not exceed the limit specified in subdivision 4, paragraph (a), clause (6).

~~(j)~~ Subd. 5g. [PROVISIONS GOVERNING DIRECT CASH PAYMENTS.] A county agency may make payment from their alternative care program allocation for ~~"other services" which include use of "discretionary funds" for services that are not otherwise defined in this section and~~ direct cash payments to the client for the purpose of purchasing the services. The following provisions apply to payments under this ~~paragraph~~ subdivision:

(1) a cash payment to a client under this provision cannot exceed the monthly payment limit for that client as specified in subdivision 4, paragraph (a), clause (6); and

(2) a county may not approve any cash payment for a client who meets either of the following:

(i) has been assessed as having a dependency in orientation, unless the client has an authorized representative. An "authorized representative" means an individual who is at least 18 years of age and is designated by the person or the person's legal representative to act on the person's behalf. This individual may be a family member, guardian, representative payee, or other individual designated by the person or the person's legal representative, if any, to assist in purchasing and arranging for supports; or

(ii) is concurrently receiving adult foster care, residential care, or assisted living services~~;~~.

~~(3)~~ Subd. 5h. [CASH PAYMENTS TO PERSONS.] (a) Cash payments to a person or a person's family will be provided through a monthly payment and be in the form of cash, voucher, or direct county payment to a vendor. Fees or premiums assessed to the person for eligibility for health and human services are not reimbursable through this service option. Services and goods purchased through cash payments must be identified in the person's individualized care plan and must meet all of the following criteria:

~~(i)~~ (1) they must be over and above the normal cost of caring for the person if the person did not have functional limitations;

~~(ii)~~ (2) they must be directly attributable to the person's functional limitations;

~~(iii)~~ (3) they must have the potential to be effective at meeting the goals of the program; and

~~(iv)~~ (4) they must be consistent with the needs identified in the individualized service plan. The service plan shall specify the needs of the person and family, the form and amount of payment, the items and services to be reimbursed, and the arrangements for management of the individual grant~~; and~~.

~~(v)~~ (b) The person, the person's family, or the legal representative shall be provided sufficient information to ensure an informed choice of alternatives. The local agency shall document this information in the person's care plan, including the type and level of expenditures to be reimbursed~~;~~.

(c) Persons receiving grants under this section shall have the following responsibilities:

(1) spend the grant money in a manner consistent with their individualized service plan with the local agency;

(2) notify the local agency of any necessary changes in the grant expenditures;

(3) arrange and pay for supports; and

(4) inform the local agency of areas where they have experienced difficulty securing or maintaining supports.

(d) The county shall report client outcomes, services, and costs under this paragraph in a manner prescribed by the commissioner.

~~(4)~~ Subd. 5i. [IMMUNITY.] The state of Minnesota, county, lead agency under contract, or tribal government under contract to administer the alternative care program shall not be liable for damages, injuries, or liabilities sustained through the purchase of direct supports or goods by the person, the person's family, or the authorized representative with funds received through the cash payments under this section. Liabilities include, but are not limited to, workers' compensation, the Federal Insurance Contributions Act (FICA), or the Federal Unemployment Tax Act (FUTA)~~;~~.

~~(5) persons receiving grants under this section shall have the following responsibilities:~~

~~(i) spend the grant money in a manner consistent with their individualized service plan with the local agency;~~

~~(ii) notify the local agency of any necessary changes in the grant expenditures;~~

~~(iii) arrange and pay for supports; and~~

~~(iv) inform the local agency of areas where they have experienced difficulty securing or maintaining supports; and~~

~~(6) the county shall report client outcomes, services, and costs under this paragraph in a manner prescribed by the commissioner.~~

Sec. 26. Minnesota Statutes 2002, section 256B.0913, subdivision 6, is amended to read:

Subd. 6. [ALTERNATIVE CARE PROGRAM ADMINISTRATION.] (a) The alternative care program is administered by the county agency. This agency is the lead agency responsible for the local administration of the alternative care program as described in this section. However, it may contract with the public health nursing service to be the lead agency. The commissioner may contract with federally recognized Indian tribes with a reservation in Minnesota to serve as the lead agency responsible for the local administration of the alternative care program as described in the contract.

(b) Alternative care pilot projects operate according to this section and the provisions of Laws 1993, First Special Session chapter 1, article 5, section 133, under agreement with the commissioner. Each pilot project agreement period shall begin no later than the first payment cycle of the state fiscal year and continue through the last payment cycle of the state fiscal year.

Sec. 27. Minnesota Statutes 2002, section 256B.0913, subdivision 7, is amended to read:

Subd. 7. [CASE MANAGEMENT.] ~~Providers of case management services for persons receiving services funded by the alternative care program must meet the qualification requirements and standards specified in section 256B.0915, subdivision 1b.~~ The case manager must not approve alternative care funding for a client in any setting in which the case manager cannot reasonably ensure the client's health and safety. The case manager is responsible for the cost-effectiveness of the alternative care individual care plan and must not approve any care plan in which the cost of services funded by alternative care and client contributions exceeds the limit specified in section 256B.0915, subdivision 3, paragraph (b). ~~The county may allow a case manager employed by the county to delegate certain aspects of the case management activity to another individual employed by the county provided there is oversight of the individual by the case manager. The case manager may not delegate those aspects which require professional judgment including assessments, reassessments, and care plan development.~~

Sec. 28. Minnesota Statutes 2002, section 256B.0913, subdivision 8, is amended to read:

Subd. 8. [REQUIREMENTS FOR INDIVIDUAL CARE PLAN.] (a) The case manager shall implement the plan of care for each alternative care client and ensure that a client's service needs and eligibility are reassessed at least every 12 months. The plan shall include any services prescribed by the individual's attending physician as necessary to allow the individual to remain in a community setting. In developing the individual's care plan, the case manager should include the use of volunteers from families and neighbors, religious organizations, social clubs, and civic and service organizations to support the formal home care services. The county shall be held harmless for damages or injuries sustained through the use of volunteers under this subdivision including workers' compensation liability. The lead agency shall provide documentation in each individual's plan of care and, if requested, to the

commissioner that the most cost-effective alternatives available have been offered to the individual and that the individual was free to choose among available qualified providers, both public and private, including qualified case management or service coordination providers other than those employed by the lead agency when the lead agency maintains responsibility for prior authorizing services in accordance with statutory and administrative requirements. The case manager must give the individual a ten-day written notice of any denial, termination, or reduction of alternative care services.

(b) If the county administering alternative care services is different than the county of financial responsibility, the care plan may be implemented without the approval of the county of financial responsibility.

Sec. 29. Minnesota Statutes 2002, section 256B.0913, subdivision 10, is amended to read:

Subd. 10. [ALLOCATION FORMULA.] (a) The alternative care appropriation for fiscal years 1992 and beyond shall cover only alternative care eligible clients. By July 1 of each year, the commissioner shall allocate to county agencies the state funds available for alternative care for persons eligible under subdivision 2.

(b) The adjusted base for each county is the county's current fiscal year base allocation plus any targeted funds approved during the current fiscal year. Calculations for paragraphs (c) and (d) are to be made as follows: for each county, the determination of alternative care program expenditures shall be based on payments for services rendered from April 1 through March 31 in the base year, to the extent that claims have been submitted and paid by June 1 of that year.

(c) If the alternative care program expenditures as defined in paragraph (b) are 95 percent or more of the county's adjusted base allocation, the allocation for the next fiscal year is 100 percent of the adjusted base, plus inflation to the extent that inflation is included in the state budget.

(d) If the alternative care program expenditures as defined in paragraph (b) are less than 95 percent of the county's adjusted base allocation, the allocation for the next fiscal year is the adjusted base allocation less the amount of unspent funds below the 95 percent level.

(e) If the annual legislative appropriation for the alternative care program is inadequate to fund the combined county allocations for a biennium, the commissioner shall distribute to each county the entire annual appropriation as that county's percentage of the computed base as calculated in paragraphs (c) and (d).

(f) On agreement between the commissioner and the lead agency, the commissioner may have discretion to reallocate alternative care base allocations distributed to lead agencies in which the base amount exceeds program expenditures.

Sec. 30. Minnesota Statutes 2002, section 256B.0913, subdivision 12, is amended to read:

Subd. 12. [CLIENT PREMIUMS.] (a) A premium is required for all alternative care eligible clients to help pay for the cost of participating in the program. The amount of the premium for the alternative care client shall be determined as follows:

(1) when the alternative care client's income less recurring and predictable medical expenses is ~~greater than the recipient's maintenance needs allowance as defined in section 256B.0915, subdivision 1d, paragraph (a), but~~ less than 150 percent of the federal poverty guideline effective on July 1 of the state fiscal year in which the premium is being computed, and total assets are less than $10,000, the fee is ~~zero~~ ten percent of the cost of alternative care services; or

(2) when the alternative care client's income less recurring and predictable medical expenses is greater than or equal to 150 percent of the federal poverty guideline effective on July 1 of the state fiscal year in which the premium is being computed~~, and total assets are less than $10,000, the fee is 25 percent of the cost of alternative care services or the difference between 150 percent of the federal poverty guideline effective on July 1 of the state fiscal year in which the premium is being computed and the client's income less recurring and predictable medical expenses, whichever is less; and~~

~~(3) when the alternative care client's~~ or total assets are greater than or equal to $10,000, the fee is 25 percent of the cost of alternative care services.

For married persons, total assets are defined as the total marital assets less the estimated community spouse asset allowance, under section 256B.059, if applicable. For married persons, total income is defined as the client's income less the monthly spousal allotment, under section 256B.058.

All alternative care services ~~except case management~~ shall be included in the estimated costs for the purpose of determining ~~25 percent of~~ the ~~costs~~ premium amount.

Premiums are due and payable each month alternative care services are received unless the actual cost of the services is less than the premium, in which case the fee is the lesser amount.

(b) The fee shall be waived by the commissioner when:

(1) a person who is residing in a nursing facility is receiving case management only;

(2) ~~a person is applying for medical assistance;~~

~~(3)~~ a married couple is requesting an asset assessment under the spousal impoverishment provisions;

~~(4)~~ (3) a person is found eligible for alternative care, but is not yet receiving alternative care services; ~~or~~

~~(5)~~ (4) a person's fee under paragraph (a) is less than $25; or

(5) a person has chosen to participate in a consumer-directed service plan for which the cost is no greater than the total cost of the person's alternative care service plan less the monthly premium amount that would otherwise be assessed.

(c) The county agency must record in the state's receivable system the client's assessed premium amount or the reason the premium has been waived. The commissioner will bill and collect the premium from the client. Money collected must be deposited in the general fund and is appropriated to the commissioner for the alternative care program. The client must supply the county with the client's social security number at the time of application. The county shall supply the commissioner with the client's social security number and other information the commissioner requires to collect the premium from the client. The commissioner shall collect unpaid premiums using the Revenue Recapture Act in chapter 270A and other methods available to the commissioner. The commissioner may require counties to inform clients of the collection procedures that may be used by the state if a premium is not paid. This paragraph does not apply to alternative care pilot projects authorized in Laws 1993, First Special Session chapter 1, article 5, section 133, if a county operating under the pilot project reports the following dollar amounts to the commissioner quarterly:

(1) total premiums billed to clients;

(2) total collections of premiums billed; and

(3) balance of premiums owed by clients.

If a county does not adhere to these reporting requirements, the commissioner may terminate the billing, collecting, and remitting portions of the pilot project and require the county involved to operate under the procedures set forth in this paragraph.

Sec. 31. Minnesota Statutes 2002, section 256B.0915, subdivision 3, is amended to read:

Subd. 3. [LIMITS OF CASES~~, RATES, PAYMENTS, AND FORECASTING~~.] ~~(a)~~ The number of medical assistance waiver recipients that a county may serve must be allocated according to the number of medical assistance waiver cases open on July 1 of each fiscal year. Additional recipients may be served with the approval of the commissioner.

~~(b)~~ Subd. 3a. [ELDERLY WAIVER COST LIMITS.] (a) The monthly limit for the cost of waivered services to an individual elderly waiver client shall be the weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the recipient's maintenance needs allowance as described in subdivision 1d, paragraph (a), until the first day of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented. Effective on the first day of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented and the first day of each subsequent state fiscal year, the monthly limit for the cost of waivered services to an individual elderly waiver client shall be the rate of the case mix resident class to which the waiver client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, in effect on the last day of the previous state fiscal year, adjusted by the greater of any legislatively adopted home and community-based services cost-of-living percentage increase or any legislatively adopted statewide percent rate increase for nursing facilities.

~~(c)~~ (b) If extended medical supplies and equipment or environmental modifications are or will be purchased for an elderly waiver client, the costs may be prorated for up to 12 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's waivered services exceeds the monthly limit established in paragraph ~~(b)~~ (a), the annual cost of all waivered services shall be determined. In this event, the annual cost of all waivered services shall not exceed 12 times the monthly limit of waivered services as described in paragraph ~~(b)~~ (a).

~~(d)~~ Subd. 3b. [COST LIMITS FOR ELDERLY WAIVER APPLICANTS WHO RESIDE IN A NURSING FACILITY.] (a) For a person who is a nursing facility resident at the time of requesting a determination of eligibility for elderly waivered services, a monthly conversion limit for the cost of elderly waivered services may be requested. The monthly conversion limit for the cost of elderly waiver services shall be the resident class assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, for that resident in the nursing facility where the resident currently resides until July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented. Effective on July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented, the monthly conversion limit for the cost of elderly waiver services shall be the per diem nursing facility rate as determined by the resident assessment system as described in section 256B.437 for that resident in the nursing facility where the resident currently resides multiplied by 365 and divided by 12, less the recipient's maintenance needs allowance as described in subdivision 1d. The initially approved conversion rate may be adjusted by the greater of any subsequent legislatively adopted home and community-based services cost-of-living percentage increase or any subsequent legislatively adopted statewide percentage rate increase for nursing facilities. The limit under this ~~clause~~ subdivision only applies to persons discharged from a nursing facility after a minimum 30-day stay and found eligible for waivered services on or after July 1, 1997.

(b) The following costs must be included in determining the total monthly costs for the waiver client:

(1) cost of all waivered services, including extended medical supplies and equipment and environmental modifications; and

(2) cost of skilled nursing, home health aide, and personal care services reimbursable by medical assistance.

~~(e)~~ Subd. 3c. [SERVICE APPROVAL AND CONTRACTING PROVISIONS.] (a) Medical assistance funding for skilled nursing services, private duty nursing, home health aide, and personal care services for waiver recipients must be approved by the case manager and included in the individual care plan.

~~(f)~~ (b) A county is not required to contract with a provider of supplies and equipment if the monthly cost of the supplies and equipment is less than $250.

~~(g)~~ Subd. 3d. [ADULT FOSTER CARE RATE.] The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board. The adult foster care service rate shall be negotiated between the county agency and the foster care provider. The elderly waiver payment for the foster care service in combination with the payment for all other elderly waiver services, including case management, must not exceed the limit specified in subdivision 3a, paragraph ~~(b)~~ (a).

~~(h)~~ Subd. 3e. [ASSISTED LIVING SERVICE RATE.] (a) Payment for assisted living service shall be a monthly rate negotiated and authorized by the county agency based on an individualized service plan for each resident and may not cover direct rent or food costs.

~~(1)~~ (b) The individualized monthly negotiated payment for assisted living services as described in section 256B.0913, ~~subdivision 5, paragraph (g) or (h)~~ subdivisions 5d to 5f, and residential care services as described in section 256B.0913, subdivision ~~5, paragraph (f)~~ 5c, shall not exceed the nonfederal share, in effect on July 1 of the state fiscal year for which the rate limit is being calculated, of the greater of either the statewide or any of the geographic groups' weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the maintenance needs allowance as described in subdivision 1d, paragraph (a), until the July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented. Effective on July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented and July 1 of each subsequent state fiscal year, the individualized monthly negotiated payment for the services described in this clause shall not exceed the limit described in this clause which was in effect on June 30 of the previous state fiscal year and which has been adjusted by the greater of any legislatively adopted home and community-based services cost-of-living percentage increase or any legislatively adopted statewide percent rate increase for nursing facilities.

~~(2)~~ (c) The individualized monthly negotiated payment for assisted living services described in section 144A.4605 and delivered by a provider licensed by the department of health as a class A home care provider or an assisted living home care provider and provided in a building that is registered as a housing with services establishment under chapter 144D and that provides 24-hour supervision in combination with the payment for other elderly waiver services, including case management, must not exceed the limit specified in ~~paragraph (b)~~ subdivision 3a.

~~(i)~~ Subd. 3f. [INDIVIDUAL SERVICE RATES; EXPENDITURE FORECASTS.] (a) The county shall negotiate individual service rates with vendors and may authorize payment for actual costs up to the county's current approved rate. Persons or agencies must be employed by or under a contract with the county agency or the public health nursing agency of the local board of health in order to receive funding under the elderly waiver program, except as a provider of supplies and equipment when the monthly cost of the supplies and equipment is less than $250.

~~(j)~~ (b) Reimbursement for the medical assistance recipients under the approved waiver shall be made from the medical assistance account through the invoice processing procedures of the department's Medicaid Management Information System (MMIS), only with the approval of the client's case manager. The budget for the state share of the Medicaid expenditures shall be forecasted with the medical assistance budget, and shall be consistent with the approved waiver.

~~(k)~~ Subd. 3g. [SERVICE RATE LIMITS; STATE ASSUMPTION OF COSTS.] (a) To improve access to community services and eliminate payment disparities between the alternative care program and the elderly waiver, the commissioner shall establish statewide maximum service rate limits and eliminate county-specific service rate limits.

~~(1)~~ (b) Effective July 1, 2001, for service rate limits, except those described or defined in ~~paragraphs (g) and (h)~~ subdivisions 3d and 3e, the rate limit for each service shall be the greater of the alternative care statewide maximum rate or the elderly waiver statewide maximum rate.

~~(2)~~ (c) Counties may negotiate individual service rates with vendors for actual costs up to the statewide maximum service rate limit.

Sec. 32. Minnesota Statutes 2002, section 256B.15, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] For purposes of this section, "medical assistance" includes the medical assistance program under this chapter and the general assistance medical care program under chapter 256D~~, but does not include the alternative care program for nonmedical assistance recipients under section 256B.0913, subdivision 4~~ and alternative care for nonmedical assistance recipients under section 256B.0913.

[EFFECTIVE DATE.] This section is effective July 1, 2003, for decedents dying on or after that date.

Sec. 33. Minnesota Statutes 2002, section 256B.15, subdivision 1a, is amended to read:

Subd. 1a. [ESTATES SUBJECT TO CLAIMS.] If a person receives any medical assistance hereunder, on the person's death, if single, or on the death of the survivor of a married couple, either or both of whom received medical assistance, the total amount paid for medical assistance rendered for the person and spouse shall be filed as a claim against the estate of the person or the estate of the surviving spouse in the court having jurisdiction to probate the estate or to issue a decree of descent according to sections 525.31 to 525.313.

A claim shall be filed if medical assistance was rendered for either or both persons under one of the following circumstances:

(a) the person was over 55 years of age, and received services under this chapter~~, excluding alternative care~~;

(b) the person resided in a medical institution for six months or longer, received services under this chapter ~~excluding alternative care,~~ and, at the time of institutionalization or application for medical assistance, whichever is later, the person could not have reasonably been expected to be discharged and returned home, as certified in writing by the person's treating physician. For purposes of this section only, a "medical institution" means a skilled nursing facility, intermediate care facility, intermediate care facility for persons with mental retardation, nursing facility, or inpatient hospital; or

(c) the person received general assistance medical care services under chapter 256D.

The claim shall be considered an expense of the last illness of the decedent for the purpose of section 524.3-805. Any statute of limitations that purports to limit any county agency or the state agency, or both, to recover for medical assistance granted hereunder shall not apply to any claim made hereunder for reimbursement for any

medical assistance granted hereunder. Notice of the claim shall be given to all heirs and devisees of the decedent whose identity can be ascertained with reasonable diligence. The notice must include procedures and instructions for making an application for a hardship waiver under subdivision 5; time frames for submitting an application and determination; and information regarding appeal rights and procedures. Counties are entitled to one-half of the nonfederal share of medical assistance collections from estates that are directly attributable to county effort. Counties are entitled to ten percent of the collections for alternative care directly attributable to county effort.

[EFFECTIVE DATE.] This section is effective July 1, 2003, for decedents dying on or after that date.

Sec. 34. Minnesota Statutes 2002, section 256B.15, subdivision 2, is amended to read:

Subd. 2. [LIMITATIONS ON CLAIMS.] The claim shall include only the total amount of medical assistance rendered after age 55 or during a period of institutionalization described in subdivision 1a, clause (b), and the total amount of general assistance medical care rendered, and shall not include interest. Claims that have been allowed but not paid shall bear interest according to section 524.3-806, paragraph (d). A claim against the estate of a surviving spouse who did not receive medical assistance, for medical assistance rendered for the predeceased spouse, is limited to the value of the assets of the estate that were marital property or jointly owned property at any time during the marriage. Claims for alternative care shall be net of all premiums paid under section 256B.0913, subdivision 12, on or after July 1, 2003, and shall be limited to services provided on or after July 1, 2003.

[EFFECTIVE DATE.] This section is effective July 1, 2003, for decedents dying on or after that date.

Sec. 35. Minnesota Statutes 2002, section 256B.431, subdivision 2r, is amended to read:

Subd. 2r. [PAYMENT RESTRICTIONS ON LEAVE DAYS.] Effective July 1, 1993, the commissioner shall limit payment for leave days in a nursing facility to 79 percent of that nursing facility's total payment rate for the involved resident. For services rendered on or after July 1, 2003, for facilities reimbursed under this section or section 256B.434, the commissioner shall limit payment for leave days in a nursing facility to 60 percent of that nursing facility's total payment rate for the involved resident.

Sec. 36. Minnesota Statutes 2002, section 256B.431, is amended by adding a subdivision to read:

Subd. 2t. [PAYMENT LIMITATION.] For services rendered on or after July 1, 2003, for facilities reimbursed under this section or section 256B.434, the amount that shall be paid by or on behalf of the Medicaid program shall only include a co-payment during a Medicare-covered skilled nursing facility stay if the Medicare rate less the resident's co-payment responsibility is less than the Medicaid RUG-III case-mix payment rate. The amount that shall be paid by or on behalf of the Medicaid program is equal to the amount by which the Medicaid RUG-III case-mix payment rate exceeds the Medicare rate less the co-payment responsibility.

Sec. 37. Minnesota Statutes 2002, section 256B.431, subdivision 32, is amended to read:

Subd. 32. [PAYMENT DURING FIRST 90 DAYS.] (a) For rate years beginning on or after July 1, 2001, the total payment rate for a facility reimbursed under this section, section 256B.434, or any other section for the first 90 paid days after admission shall be:

(1) for the first 30 paid days, the rate shall be 120 percent of the facility's medical assistance rate for each case mix class; ~~and~~

(2) for the next 60 paid days after the first 30 paid days, the rate shall be 110 percent of the facility's medical assistance rate for each case mix class~~.~~;

~~(b)~~ (3) beginning with the 91st paid day after admission, the payment rate shall be the rate otherwise determined under this section, section 256B.434, or any other section~~.~~; and

~~(c)~~ (4) payments under this ~~subdivision applies~~ paragraph apply to admissions occurring on or after July 1, 2001, and resident days from that date through June 30, 2003.

(b) For rate years beginning on or after July 1, 2003, the total payment rate for a facility reimbursed under this section, section 256B.434, or any other section shall be:

(1) for the first 30 calendar days after admission, the rate shall be 120 percent of the facility's medical assistance rate for each RUG class;

(2) beginning with the 31st calendar day after admission, the payment rate shall be the rate otherwise determined under this section, section 256B.434, or any other section; and

(3) payments under this paragraph apply to admissions occurring on or after July 1, 2003.

(c) Effective January 1, 2004, the enhanced rates under this subdivision shall not be allowed if a resident has resided in any nursing facility during the previous 30 calendar days.

Sec. 38. Minnesota Statutes 2002, section 256B.431, subdivision 36, is amended to read:

Subd. 36. [EMPLOYEE SCHOLARSHIP COSTS AND TRAINING IN ENGLISH AS A SECOND LANGUAGE.] (a) For the period between July 1, 2001, and June 30, 2003, the commissioner shall provide to each nursing facility reimbursed under this section, section 256B.434, or any other section, a scholarship per diem of 25 cents to the total operating payment rate to be used:

(1) for employee scholarships that satisfy the following requirements:

(i) scholarships are available to all employees who work an average of at least 20 hours per week at the facility except the administrator, department supervisors, and registered nurses; and

(ii) the course of study is expected to lead to career advancement with the facility or in long-term care, including medical care interpreter services and social work; and

(2) to provide job-related training in English as a second language.

(b) A facility receiving a rate adjustment under this subdivision may submit to the commissioner on a schedule determined by the commissioner and on a form supplied by the commissioner a calculation of the scholarship per diem, including: the amount received from this rate adjustment; the amount used for training in English as a second language; the number of persons receiving the training; the name of the person or entity providing the training; and for each scholarship recipient, the name of the recipient, the amount awarded, the educational institution attended, the nature of the educational program, the program completion date, and a determination of the per diem amount of these costs based on actual resident days.

(c) On July 1, 2003, the commissioner shall remove the 25 cent scholarship per diem from the total operating payment rate of each facility.

~~(d) For rate years beginning after June 30, 2003, the commissioner shall provide to each facility the scholarship per diem determined in paragraph (b).~~

Sec. 39. Minnesota Statutes 2002, section 256B.431, is amended by adding a subdivision to read:

Subd. 38. [NURSING HOME RATE INCREASES EFFECTIVE IN FISCAL YEAR 2003.] Effective June 1, 2003, the commissioner shall provide to each nursing home reimbursed under this section or section 256B.434, an increase in each case mix payment rate equal to the increase in the per-bed surcharge paid under section 256.9657, subdivision 1, paragraph (d), divided by 365 and further divided by .90. The increase shall not be subject to any annual percentage increase. The 30-day advance notice requirement in section 256B.47, subdivision 2, shall not apply to rate increases resulting from this section. The commissioner shall not adjust the rate increase under this subdivision unless an adjustment under section 256.9657, subdivision 1, paragraph (e), is greater than 1.5 percent of the surcharge amount.

[EFFECTIVE DATE.] This section is effective May 31, 2003.

Sec. 40. Minnesota Statutes 2002, section 256B.431, is amended by adding a subdivision to read:

Subd. 39. [FACILITY RATES BEGINNING ON OR AFTER JULY 1, 2003.] For rate years beginning on or after July 1, 2003, nursing facilities reimbursed under this section shall have their July 1 operating payment rate be equal to their operating payment rate in effect on the prior June 30th.

Sec. 41. Minnesota Statutes 2002, section 256B.434, subdivision 4, is amended to read:

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

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

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

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

(1) improved cost effectiveness and quality of life as measured by improved clinical outcomes;

(2) successful diversion or discharge to community alternatives;

(3) decreased acute care costs;

(4) improved consumer satisfaction;

(5) the achievement of quality; or

(6) any additional outcomes proposed by a nursing facility that the commissioner finds desirable.

Sec. 42. Minnesota Statutes 2002, section 256B.434, subdivision 10, is amended to read:

Subd. 10. [EXEMPTIONS.] (a) To the extent permitted by federal law, (1) a facility that has entered into a contract under this section is not required to file a cost report, as defined in Minnesota Rules, part 9549.0020, subpart 13, for any year after the base year that is the basis for the calculation of the contract payment rate for the first rate year of the alternative payment demonstration project contract; and (2) a facility under contract is not subject to audits of historical costs or revenues, or paybacks or retroactive adjustments based on these costs or revenues, except audits, paybacks, or adjustments relating to the cost report that is the basis for calculation of the first rate year under the contract.

(b) A facility that is under contract with the commissioner under this section is not subject to the moratorium on licensure or certification of new nursing home beds in section 144A.071, unless the project results in a net increase in bed capacity or involves relocation of beds from one site to another. Contract payment rates must not be adjusted to reflect any additional costs that a nursing facility incurs as a result of a construction project undertaken under this paragraph. In addition, as a condition of entering into a contract under this section, a nursing facility must agree that any future medical assistance payments for nursing facility services will not reflect any additional costs attributable to the sale of a nursing facility under this section and to construction undertaken under this paragraph that otherwise would not be authorized under the moratorium in section 144A.073. Nothing in this section prevents a nursing facility participating in the alternative payment demonstration project under this section from seeking approval of an exception to the moratorium through the process established in section 144A.073, and if approved the facility's rates shall be adjusted to reflect the cost of the project. Nothing in this section prevents a nursing facility participating in the alternative payment demonstration project from seeking legislative approval of an exception to the moratorium under section 144A.071, and, if enacted, the facility's rates shall be adjusted to reflect the cost of the project.

(c) Notwithstanding section 256B.48, subdivision 6, paragraphs (c), (d), and (e), and pursuant to any terms and conditions contained in the facility's contract, a nursing facility that is under contract with the commissioner under this section is in compliance with section 256B.48, subdivision 6, paragraph (b), if the facility is Medicare certified.

(d) Notwithstanding paragraph (a), if by April 1, 1996, the health care financing administration has not approved a required waiver, or the Centers for Medicare and Medicaid Services otherwise requires cost reports to be filed prior to the waiver's approval, the commissioner shall require a cost report for the rate year.

(e) A facility that is under contract with the commissioner under this section shall be allowed to change therapy arrangements from an unrelated vendor to a related vendor during the term of the contract. The commissioner may develop reasonable requirements designed to prevent an increase in therapy utilization for residents enrolled in the medical assistance program.

(f) Nursing facilities participating in the alternative payment system demonstration project must either participate in the alternative payment system quality improvement program established by the commissioner or submit information on their own quality improvement process to the commissioner for approval. Nursing facilities that have had their own quality improvement process approved by the commissioner must report results for at least one key area of quality improvement annually to the commissioner.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 43. Minnesota Statutes 2002, section 256B.48, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED PRACTICES.] A nursing facility is not eligible to receive medical assistance payments unless it refrains from all of the following:

(a) Charging private paying residents rates for similar services which exceed those which are approved by the state agency for medical assistance recipients as determined by the prospective desk audit rate, except under the following circumstances: (1) the nursing facility may ~~(1)~~ (i) charge private paying residents a higher rate for a private room~~,~~ and ~~(2)~~ (ii) charge for special services which are not included in the daily rate if medical assistance residents are charged separately at the same rate for the same services in addition to the daily rate paid by the commissioner~~.~~; (2) effective July 1, 2003, nursing facilities may charge private paying residents rates up to two percent higher than the allowable payment rate in effect on June 30, 2003, plus an adjustment equal to any other rate increase provided in law, for the RUGs group currently assigned to the resident; (3) effective July 1, 2004, nursing facilities may charge private paying residents rates up to four percent higher than the allowable payment rate in effect on June 30, 2003, plus an adjustment equal to any other rate increase provided in law, for the RUGs group currently assigned to the resident; (4) effective July 1, 2005, nursing facilities may charge private paying residents rates up to six percent higher than the allowable payment rate in effect on June 30, 2003, plus an adjustment equal to any other rate increase provided in law, for the RUGs group currently assigned to the resident; and (5) effective July 1, 2006, nursing facilities may charge private paying residents rates up to eight percent higher than the allowable payment rate in effect on June 30, 2003, plus an adjustment equal to any other rate increase provided in law, for the RUGs group currently assigned to the resident. For purposes of this subdivision, the allowable payment rate is the total payment rate under section 256B.431 or 256B.434 including adjustments for enhanced rates during the first 30 days under section 256B.431, subdivision 32, and private room differentials under clause (1), item (i), and Minnesota Rules, part 9549.0060, subpart 11, item C. Nothing in this section precludes a nursing facility from charging a rate allowable under the facility's single room election option under Minnesota Rules, part 9549.0060, subpart 11. Services covered by the payment rate must be the same regardless of payment source. Special services, if offered, must be available to all residents in all areas of the nursing facility and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing facility in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing facility. Services beyond those required to comply with licensure or certification standards must not be charged separately as a special service if they were included in the payment rate for the previous reporting year. A nursing facility that charges a private paying resident a rate in violation of this clause is subject to an action by the state of Minnesota or any of its subdivisions or agencies for civil damages. A private paying resident or the resident's legal representative has a cause of action for civil damages against a nursing facility that charges the resident rates in violation of this clause. The damages awarded shall include three times the payments that result from the violation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent. A private paying resident or the resident's legal representative, the state, subdivision or agency, or a nursing facility may request a hearing to determine the allowed rate or rates at issue in the cause of action. Within 15 calendar days after receiving a request for such a hearing, the commissioner shall request assignment of an administrative law judge under sections 14.48 to 14.56 to conduct the hearing as soon as possible or according to agreement by the parties. The administrative law judge shall issue a report within 15 calendar days following the close of the hearing. The prohibition set forth in this clause shall not apply to facilities licensed as boarding care facilities which are not certified as skilled or intermediate care facilities level I or II for reimbursement through medical assistance.

(b) Effective July 1, 2007, paragraph (a) no longer applies, except that special services, if offered, must be available to all residents of the nursing facility and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing facility in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing facility.

~~(b)~~ (c)(1) Charging, soliciting, accepting, or receiving from an applicant for admission to the facility, or from anyone acting in behalf of the applicant, as a condition of admission, expediting the admission, or as a requirement for the individual's continued stay, any fee, deposit, gift, money, donation, or other consideration not otherwise required as payment under the state plan. For residents on medical assistance, medical assistance payment according to the state plan must be accepted as payment in full for continued stay, except where otherwise provided for under statute;

(2) requiring an individual, or anyone acting in behalf of the individual, to loan any money to the nursing facility;

(3) requiring an individual, or anyone acting in behalf of the individual, to promise to leave all or part of the individual's estate to the facility; or

(4) requiring a third-party guarantee of payment to the facility as a condition of admission, expedited admission, or continued stay in the facility.

Nothing in this paragraph would prohibit discharge for nonpayment of services in accordance with state and federal regulations.

~~(c)~~ (d) Requiring any resident of the nursing facility to utilize a vendor of health care services chosen by the nursing facility. A nursing facility may require a resident to use pharmacies that utilize unit dose packing systems approved by the Minnesota board of pharmacy, and may require a resident to use pharmacies that are able to meet the federal regulations for safe and timely administration of medications such as systems with specific number of doses, prompt delivery of medications, or access to medications on a 24-hour basis. Notwithstanding the provisions of this paragraph, nursing facilities shall not restrict a resident's choice of pharmacy because the pharmacy utilizes a specific system of unit dose drug packing.

~~(d)~~ (e) Providing differential treatment on the basis of status with regard to public assistance.

~~(e)~~ (f) Discriminating in admissions, services offered, or room assignment on the basis of status with regard to public assistance ~~or refusal to purchase special services~~. Discrimination in admissions ~~discrimination~~, services offered, or room assignment shall include, but is not limited to~~:~~

~~(1)~~ basing admissions decisions upon ~~assurance by the applicant to the nursing facility, or the applicant's guardian or conservator, that the applicant is neither eligible for nor will seek~~ information or assurances regarding current or future eligibility for public assistance for payment of nursing facility care ~~costs; and~~.

~~(2) engaging in preferential selection from waiting lists based on an applicant's ability to pay privately or an applicant's refusal to pay for a special service.~~

The collection and use by a nursing facility of financial information of any applicant pursuant to a preadmission screening program established by law shall not raise an inference that the nursing facility is utilizing that information for any purpose prohibited by this paragraph.

~~(f)~~ (g) Requiring any vendor of medical care as defined by section 256B.02, subdivision 7, who is reimbursed by medical assistance under a separate fee schedule, to pay any amount based on utilization or service levels or any portion of the vendor's fee to the nursing facility except as payment for renting or leasing space or equipment or purchasing support services from the nursing facility as limited by section 256B.433. All agreements must be disclosed to the commissioner upon request of the commissioner. Nursing facilities and vendors of ancillary services that are found to be in violation of this provision shall each be subject to an action by the state of Minnesota or any of its subdivisions or agencies for treble civil damages on the portion of the fee in excess of that allowed by this provision and section 256B.433. Damages awarded must include three times the excess payments together with costs and disbursements including reasonable attorney's fees or their equivalent.

~~(g)~~ (h) Refusing, for more than 24 hours, to accept a resident returning to the same bed or a bed certified for the same level of care, in accordance with a physician's order authorizing transfer, after receiving inpatient hospital services.

(i) For a period not to exceed 180 days, the commissioner may continue to make medical assistance payments to a nursing facility or boarding care home which is in violation of this section if extreme hardship to the residents would result. In these cases the commissioner shall issue an order requiring the nursing facility to correct the violation. The nursing facility shall have 20 days from its receipt of the order to correct the violation. If the violation is not corrected within the 20-day period the commissioner may reduce the payment rate to the nursing facility by up to 20 percent. The amount of the payment rate reduction shall be related to the severity of the violation and shall remain in effect until the violation is corrected. The nursing facility or boarding care home may appeal the commissioner's action pursuant to the provisions of chapter 14 pertaining to contested cases. An appeal shall be considered timely if written notice of appeal is received by the commissioner within 20 days of notice of the commissioner's proposed action.

In the event that the commissioner determines that a nursing facility is not eligible for reimbursement for a resident who is eligible for medical assistance, the commissioner may authorize the nursing facility to receive reimbursement on a temporary basis until the resident can be relocated to a participating nursing facility.

Certified beds in facilities which do not allow medical assistance intake on July 1, 1984, or after shall be deemed to be decertified for purposes of section 144A.071 only.

Sec. 44. Minnesota Statutes 2002, section 256B.5012, is amended by adding a subdivision to read:

Subd. 5. [RATE INCREASE EFFECTIVE JUNE 1, 2003.] For rate periods beginning on or after June 1, 2003, the commissioner shall increase the total operating payment rate for each facility reimbursed under this section by $3 per day. The increase shall not be subject to any annual percentage increase.

[EFFECTIVE DATE.] This section is effective June 1, 2003.

Sec. 45. Minnesota Statutes 2002, section 256B.76, is amended to read:

256B.76 [PHYSICIAN AND DENTAL REIMBURSEMENT.]

(a) Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for physician services as follows:

(1) payment for level one Centers for Medicare and Medicaid Services' common procedural coding system codes titled "office and other outpatient services," "preventive medicine new and established patient," "delivery, antepartum, and postpartum care," "critical care," cesarean delivery and pharmacologic management provided to psychiatric patients, and level three codes for enhanced services for prenatal high risk, shall be paid at the lower of

(i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992. If the rate on any procedure code within these categories is different than the rate that would have been paid under the methodology in section 256B.74, subdivision 2, then the larger rate shall be paid;

(2) payments for all other services shall be paid at the lower of (i) submitted charges, or (ii) 15.4 percent above the rate in effect on June 30, 1992;

(3) all physician rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases except that payment rates for home health agency services shall be the rates in effect on September 30, 1992;

(4) effective for services rendered on or after January 1, 2000, payment rates for physician and professional services shall be increased by three percent over the rates in effect on December 31, 1999, except for home health agency and family planning agency services; and

(5) the increases in clause (4) shall be implemented January 1, 2000, for managed care.

(b) Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for dental services as follows:

(1) dental services shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992;

(2) dental rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases;

(3) effective for services rendered on or after January 1, 2000, payment rates for dental services shall be increased by three percent over the rates in effect on December 31, 1999;

(4) the commissioner shall award grants to community clinics or other nonprofit community organizations, political subdivisions, professional associations, or other organizations that demonstrate the ability to provide dental services effectively to public program recipients. Grants may be used to fund the costs related to coordinating access for recipients, developing and implementing patient care criteria, upgrading or establishing new facilities, acquiring furnishings or equipment, recruiting new providers, or other development costs that will improve access to dental care in a region. In awarding grants, the commissioner shall give priority to applicants that plan to serve areas of the state in which the number of dental providers is not currently sufficient to meet the needs of recipients of public programs or uninsured individuals. The commissioner shall consider the following in awarding the grants:

(i) potential to successfully increase access to an underserved population;

(ii) the ability to raise matching funds;

(iii) the long-term viability of the project to improve access beyond the period of initial funding;

(iv) the efficiency in the use of the funding; and

(v) the experience of the proposers in providing services to the target population.

The commissioner shall monitor the grants and may terminate a grant if the grantee does not increase dental access for public program recipients. The commissioner shall consider grants for the following:

(i) implementation of new programs or continued expansion of current access programs that have demonstrated success in providing dental services in underserved areas;

(ii) a pilot program for utilizing hygienists outside of a traditional dental office to provide dental hygiene services; and

(iii) a program that organizes a network of volunteer dentists, establishes a system to refer eligible individuals to volunteer dentists, and through that network provides donated dental care services to public program recipients or uninsured individuals;

(5) beginning October 1, 1999, the payment for tooth sealants and fluoride treatments shall be the lower of (i) submitted charge, or (ii) 80 percent of median 1997 charges;

(6) the increases listed in clauses (3) and (5) shall be implemented January 1, 2000, for managed care; and

(7) effective for services provided on or after January 1, 2002, payment for diagnostic examinations and dental x-rays provided to children under age 21 shall be the lower of (i) the submitted charge, or (ii) 85 percent of median 1999 charges.

(c) Effective for dental services rendered on or after January 1, 2002, the commissioner may, within the limits of available appropriation, increase reimbursements to dentists and dental clinics deemed by the commissioner to be critical access dental providers. Reimbursement to a critical access dental provider may be increased by not more than 50 percent above the reimbursement rate that would otherwise be paid to the provider. Payments to health plan companies shall be adjusted to reflect increased reimbursements to critical access dental providers as approved by the commissioner. In determining which dentists and dental clinics shall be deemed critical access dental providers, the commissioner shall review:

(1) the utilization rate in the service area in which the dentist or dental clinic operates for dental services to patients covered by medical assistance, general assistance medical care, or MinnesotaCare as their primary source of coverage;

(2) the level of services provided by the dentist or dental clinic to patients covered by medical assistance, general assistance medical care, or MinnesotaCare as their primary source of coverage; and

(3) whether the level of services provided by the dentist or dental clinic is critical to maintaining adequate levels of patient access within the service area.

In the absence of a critical access dental provider in a service area, the commissioner may designate a dentist or dental clinic as a critical access dental provider if the dentist or dental clinic is willing to provide care to patients covered by medical assistance, general assistance medical care, or MinnesotaCare at a level which significantly increases access to dental care in the service area.

(d) ~~Effective July 1, 2001, the medical assistance rates for outpatient mental health services provided by an entity that operates:~~

~~(1) a Medicare-certified comprehensive outpatient rehabilitation facility; and~~

~~(2) a facility that was certified prior to January 1, 1993, with at least 33 percent of the clients receiving rehabilitation services in the most recent calendar year who are medical assistance recipients, will be increased by 38 percent, when those services are provided within the comprehensive outpatient rehabilitation facility and provided to residents of nursing facilities owned by the entity.~~

~~(c)~~ An entity that operates both a Medicare certified comprehensive outpatient rehabilitation facility and a facility which was certified prior to January 1, 1993, that is licensed under Minnesota Rules, parts 9570.2000 to 9570.3600, and for whom at least 33 percent of the clients receiving rehabilitation services in the most recent calendar year are medical assistance recipients, shall be reimbursed by the commissioner for rehabilitation services at rates that are 38 percent greater than the maximum reimbursement rate allowed under paragraph (a), clause (2), when those services are (1) provided within the comprehensive outpatient rehabilitation facility and (2) provided to residents of nursing facilities owned by the entity.

Sec. 46. Minnesota Statutes 2002, section 256B.761, is amended to read:

256B.761 [REIMBURSEMENT FOR MENTAL HEALTH SERVICES.]

(a) Effective for services rendered on or after July 1, 2001, payment for medication management provided to psychiatric patients, outpatient mental health services, day treatment services, home-based mental health services, and family community support services shall be paid at the lower of (1) submitted charges, or (2) 75.6 percent of the 50th percentile of 1999 charges.

(b) Effective July 1, 2001, the medical assistance rates for outpatient mental health services provided by an entity that operates: (1) a Medicare-certified comprehensive outpatient rehabilitation facility; and (2) a facility that was certified prior to January 1, 1993, with at least 33 percent of the clients receiving rehabilitation services in the most recent calendar year who are medical assistance recipients, will be increased by 38 percent, when those services are provided within the comprehensive outpatient rehabilitation facility and provided to residents of nursing facilities owned by the entity.

Sec. 47. Minnesota Statutes 2002, section 256D.03, subdivision 3a, is amended to read:

Subd. 3a. [CLAIMS; ASSIGNMENT OF BENEFITS.] Claims must be filed pursuant to section 256D.16. General assistance medical care applicants and recipients must apply or agree to apply third party health and accident benefits to the costs of medical care. They must cooperate with the state in establishing paternity and obtaining third party payments. By ~~signing an application for~~ accepting general assistance, a person assigns to the department of human services all rights to medical support or payments for medical expenses from another person or entity on their own or their dependent's behalf and agrees to cooperate with the state in establishing paternity and obtaining third party payments. The application shall contain a statement explaining the assignment. Any rights or amounts assigned shall be applied against the cost of medical care paid for under this chapter. An assignment is effective on the date general assistance medical care eligibility takes effect. ~~The assignment shall not affect benefits paid or provided under automobile accident coverage and private health care coverage until the person or organization providing the benefits has received notice of the assignment.~~

Sec. 48. Minnesota Statutes 2002, section 256I.02, is amended to read:

256I.02 [PURPOSE.]

The Group Residential Housing Act establishes a comprehensive system of rates and payments for persons who reside in ~~a group residence~~ the community and who meet the eligibility criteria under section 256I.04, subdivision 1.

Sec. 49. Minnesota Statutes 2002, section 256I.04, subdivision 3, is amended to read:

Subd. 3. [MORATORIUM ON THE DEVELOPMENT OF GROUP RESIDENTIAL HOUSING BEDS.] (a) County agencies shall not enter into agreements for new group residential housing beds with total rates in excess of the MSA equivalent rate except: (1) ~~for group residential housing establishments meeting the requirements of subdivision 2a, clause (2) with department approval; (2)~~ for group residential housing establishments licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, provided the facility is needed to meet the census reduction targets for persons with mental retardation or related conditions at regional treatment centers; ~~(3)~~ (2) to ensure compliance with the federal Omnibus Budget Reconciliation Act alternative disposition plan requirements for inappropriately placed persons with mental retardation or related conditions or mental illness; ~~(4)~~ (3) up to 80 beds in a single, specialized facility located in Hennepin county that will provide housing for chronic inebriates who are repetitive users of detoxification centers and are refused placement in emergency shelters because of their state of intoxication, and planning for the specialized facility must have been initiated before July 1, 1991, in anticipation of receiving a grant from the housing finance agency under section 462A.05, subdivision 20a, paragraph (b); ~~(5)~~ (4) notwithstanding the provisions of subdivision 2a, for up to 190 supportive housing units in Anoka, Dakota, Hennepin, or Ramsey county for homeless adults with a mental illness, a history of substance abuse, or human immunodeficiency virus or acquired immunodeficiency syndrome. For purposes of this section, "homeless adult" means a person who is living on the street or in a shelter or discharged from a regional treatment center, community hospital, or residential treatment program and has no appropriate housing available and lacks the resources and support necessary to access appropriate housing. At least 70 percent of the supportive housing units must serve homeless adults with mental illness, substance abuse problems, or human immunodeficiency virus or acquired immunodeficiency syndrome who are about to be or, within the previous six months, has been discharged from a regional treatment center, or a state-contracted psychiatric bed in a community hospital, or a residential mental health or chemical dependency treatment program. If a person meets the requirements of subdivision 1, paragraph (a), and receives a federal or state housing subsidy, the group residential housing rate for that person is limited to the supplementary rate under section 256I.05, subdivision 1a, and is determined by subtracting the amount of the person's countable income that exceeds the MSA equivalent rate from the group residential housing supplementary rate. A resident in a demonstration project site who no longer participates in the demonstration program shall retain eligibility for a group residential housing payment in an amount determined under section 256I.06, subdivision 8, using the MSA equivalent rate. Service funding under section 256I.05, subdivision 1a, will end June 30, 1997, if federal matching funds are available and the services can be provided through a managed care entity. If federal matching funds are not available, then service funding will continue under section 256I.05, subdivision 1a; or (6) for group residential housing beds in settings meeting the requirements of subdivision 2a, clauses (1) and (3), which are used exclusively for recipients receiving home and community-based waiver services under sections 256B.0915, 256B.092, subdivision 5, 256B.093, and 256B.49, and who resided in a nursing facility for the six months immediately prior to the month of entry into the group residential housing setting. The group residential housing rate for these beds must be set so that the monthly group residential housing payment for an individual occupying the bed when combined with the nonfederal share of services delivered under the waiver for that person does not exceed the nonfederal share of the monthly medical assistance payment made for the person to the nursing facility in which the person resided prior to entry into the group residential housing establishment. The rate may not exceed the MSA equivalent rate plus $426.37 for any case.

(b) A county agency may enter into a group residential housing agreement for beds with rates in excess of the MSA equivalent rate in addition to those currently covered under a group residential housing agreement if the additional beds are only a replacement of beds with rates in excess of the MSA equivalent rate which have been made available due to closure of a setting, a change of licensure or certification which removes the beds from group residential housing payment, or as a result of the downsizing of a group residential housing setting. The transfer of available beds from one county to another can only occur by the agreement of both counties.

Sec. 50. Minnesota Statutes 2002, section 256I.05, subdivision 1, is amended to read:

Subdivision 1. [MAXIMUM RATES.] ~~(a)~~ Monthly room and board rates negotiated by a county agency for a recipient living in group residential housing must not exceed the MSA equivalent rate specified under section 256I.03, subdivision 5~~,~~. ~~with the exception that a county agency may negotiate a supplementary room and board rate that exceeds the MSA equivalent rate for recipients of waiver services under title XIX of the Social Security Act. This exception is subject to the following conditions:~~

~~(1) the setting is licensed by the commissioner of human services under Minnesota Rules, parts 9555.5050 to 9555.6265;~~

~~(2) the setting is not the primary residence of the license holder and in which the license holder is not the primary caregiver; and~~

~~(3) the average supplementary room and board rate in a county for a calendar year may not exceed the average supplementary room and board rate for that county in effect on January 1, 2000. For calendar years beginning on or after January 1, 2002, within the limits of appropriations specifically for this purpose, the commissioner shall increase each county's supplemental room and board rate average on an annual basis by a factor consisting of the percentage change in the Consumer Price Index-All items, United States city average (CPI-U) for that calendar year compared to the preceding calendar year as forecasted by Data Resources, Inc., in the third quarter of the preceding calendar year. If a county has not negotiated supplementary room and board rates for any facilities located in the county as of January 1, 2000, or has an average supplemental room and board rate under $100 per person as of January 1, 2000, it may submit a supplementary room and board rate request with budget information for a facility to the commissioner for approval.~~

~~The county agency may at any time negotiate a higher or lower room and board rate than the average supplementary room and board rate.~~

~~(b) Notwithstanding paragraph (a), clause (3), county agencies may negotiate a supplementary room and board rate that exceeds the MSA equivalent rate by up to $426.37 for up to five facilities, serving not more than 20 individuals in total, that were established to replace an intermediate care facility for persons with mental retardation and related conditions located in the city of Roseau that became uninhabitable due to flood damage in June 2002.~~

[EFFECTIVE DATE.] This section is effective July 1, 2004, or upon receipt of federal approval of waiver amendment, whichever is later.

Sec. 51. Minnesota Statutes 2002, section 256I.05, subdivision 1a, is amended to read:

Subd. 1a. [SUPPLEMENTARY SERVICE RATES.] (a) Subject to the provisions of section 256I.04, subdivision 3, ~~in addition to the room and board rate specified in subdivision 1,~~ the county agency may negotiate a payment not to exceed $426.37 for other services necessary to provide room and board provided by the group residence if the residence is licensed by or registered by the department of health, or licensed by the department of human services to provide services in addition to room and board, and if the provider of services is not also concurrently receiving funding for services for a recipient under a home and community-based waiver under title XIX of the Social Security Act; or funding from the medical assistance program under section 256B.0627, subdivision 4, for personal care services for residents in the setting; or residing in a setting which receives funding under Minnesota Rules, parts 9535.2000 to 9535.3000. If funding is available for other necessary services through a home and community-based waiver, or personal care services under section 256B.0627, subdivision 4, then the GRH rate is limited to the rate set in subdivision 1. Unless otherwise provided in law, in no case may the supplementary service rate ~~plus the supplementary room and board rate~~ exceed $426.37. The registration and licensure requirement does not apply to establishments which are exempt from state licensure because they are

located on Indian reservations and for which the tribe has prescribed health and safety requirements. Service payments under this section may be prohibited under rules to prevent the supplanting of federal funds with state funds. The commissioner shall pursue the feasibility of obtaining the approval of the Secretary of Health and Human Services to provide home and community-based waiver services under title XIX of the Social Security Act for residents who are not eligible for an existing home and community-based waiver due to a primary diagnosis of mental illness or chemical dependency and shall apply for a waiver if it is determined to be cost-effective.

(b) The commissioner is authorized to make cost-neutral transfers from the GRH fund for beds under this section to other funding programs administered by the department after consultation with the county or counties in which the affected beds are located. The commissioner may also make cost-neutral transfers from the GRH fund to county human service agencies for beds permanently removed from the GRH census under a plan submitted by the county agency and approved by the commissioner. The commissioner shall report the amount of any transfers under this provision annually to the legislature.

(c) The provisions of paragraph (b) do not apply to a facility that has its reimbursement rate established under section 256B.431, subdivision 4, paragraph (c).

Sec. 52. Minnesota Statutes 2002, section 256I.05, subdivision 7c, is amended to read:

Subd. 7c. [DEMONSTRATION PROJECT.] The commissioner is authorized to pursue a demonstration project under federal food stamp regulation for the purpose of gaining federal reimbursement of food and nutritional costs currently paid by the state group residential housing program. The commissioner shall seek approval no later than January 1, 2004. Any reimbursement received is nondedicated revenue to the general fund.

Sec. 53. [514.991] [ALTERNATIVE CARE LIENS; DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 514.991 to 514.995.

Subd. 2. [ALTERNATIVE CARE AGENCY, AGENCY, OR DEPARTMENT.] "Alternative care agency," "agency," or "department" means the department of human services when it pays for or provides alternative care benefits for a nonmedical assistance recipient directly or through a county social services agency under chapter 256B according to section 256B.0913.

Subd. 3. [ALTERNATIVE CARE BENEFIT OR BENEFITS.] "Alternative care benefit" or "benefits" means a benefit provided to a nonmedical assistance recipient under chapter 256B according to section 256B.0913.

Subd. 4. [ALTERNATIVE CARE RECIPIENT OR RECIPIENT.] "Alternative care recipient" or "recipient" means a person who receives alternative care grant benefits.

Subd. 5. [ALTERNATIVE CARE LIEN OR LIEN.] "Alternative care lien" or "lien" means a lien filed under sections 514.992 to 514.995.

[EFFECTIVE DATE.] This section is effective July 1, 2003, for services for persons first enrolling in the alternative care program on or after that date and on the first day of the first eligibility renewal period for persons enrolled in the alternative care program prior to July 1, 2003.

Sec. 54. [514.992] [ALTERNATIVE CARE LIEN.]

Subdivision 1. [PROPERTY SUBJECT TO LIEN; LIEN AMOUNT.] (a) Subject to sections 514.991 to 514.995, payments made by an alternative care agency to provide benefits to a recipient or to the recipient's spouse who owns property in this state constitute a lien in favor of the agency on all real property the recipient owns at and after the time the benefits are first paid.

(b) The amount of the lien is limited to benefits paid for services provided to recipients over 55 years of age and provided on and after July 1, 2003.

Subd. 2. [ATTACHMENT.] (a) A lien attaches to and becomes enforceable against specific real property as of the date when all of the following conditions are met:

(1) the agency has paid benefits for a recipient;

(2) the recipient has been given notice and an opportunity for a hearing under paragraph (b);

(3) the lien has been filed as provided for in section 514.993 or memorialized on the certificate of title for the property it describes; and

(4) all restrictions against enforcement have ceased to apply.

(b) An agency may not file a lien until it has sent the recipient, their authorized representative, or their legal representative written notice of its lien rights by certified mail, return receipt requested, or registered mail and there has been an opportunity for a hearing under section 256.045. No person other than the recipient shall have a right to a hearing under section 256.045 prior to the time the lien is filed. The hearing shall be limited to whether the agency has met all of the prerequisites for filing the lien and whether any of the exceptions in this section apply.

(c) An agency may not file a lien against the recipient's homestead when any of the following exceptions apply:

(1) while the recipient's spouse is also physically present and lawfully and continuously residing in the homestead;

(2) a child of the recipient who is under age 21 or who is blind or totally and permanently disabled according to supplemental security income criteria is also physically present on the property and lawfully and continuously residing on the property from and after the date the recipient first receives benefits;

(3) a child of the recipient who has also lawfully and continuously resided on the property for a period beginning at least two years before the first day of the month in which the recipient began receiving alternative care, and who provided uncompensated care to the recipient which enabled the recipient to live without alternative care services for the two-year period;

(4) a sibling of the recipient who has an ownership interest in the property of record in the office of the county recorder or registrar of titles for the county in which the real property is located and who has also continuously occupied the homestead for a period of at least one year immediately prior to the first day of the first month in which the recipient received benefits and continuously since that date.

(d) A lien only applies to the real property it describes.

Subd. 3. [CONTINUATION OF LIEN.] A lien remains effective from the time it is filed until it is paid, satisfied, discharged, or becomes unenforceable under sections 514.991 to 514.995.

Subd. 4. [PRIORITY OF LIEN.] (a) A lien which attaches to the real property it describes is subject to the rights of anyone else whose interest in the real property is perfected of record before the lien has been recorded or filed under section 514.993, including:

(1) an owner, other than the recipient or the recipient's spouse;

(2) a good faith purchaser for value without notice of the lien;

(3) a holder of a mortgage or security interest; or

(4) a judgment lien creditor whose judgment lien has attached to the recipient's interest in the real property.

(b) The rights of the other person have the same protections against an alternative care lien as are afforded against a judgment lien that arises out of an unsecured obligation and arises as of the time of the filing of an alternative care grant lien under section 514.993. The lien shall be inferior to a lien for property taxes and special assessments and shall be superior to all other matters first appearing of record after the time and date the lien is filed or recorded.

Subd. 5. [SETTLEMENT, SUBORDINATION, AND RELEASE.] (a) An agency may, with absolute discretion, settle or subordinate the lien to any other lien or encumbrance of record upon the terms and conditions it deems appropriate.

(b) The agency filing the lien shall release and discharge the lien:

(1) if it has been paid, discharged, or satisfied;

(2) if it has received reimbursement for the amounts secured by the lien, has entered into a binding and legally enforceable agreement under which it is reimbursed for the amount of the lien, or receives other collateral sufficient to secure payment of the lien;

(3) against some, but not all, of the property it describes upon the terms, conditions, and circumstances the agency deems appropriate;

(4) to the extent it cannot be lawfully enforced against the property it describes because of an error, omission, or other material defect in the legal description contained in the lien or a necessary prerequisite to enforcement of the lien; and

(5) if, in its discretion, it determines the filing or enforcement of the lien is contrary to the public interest.

(c) The agency executing the lien shall execute and file the release as provided for in section 514.993, subdivision 2.

Subd. 6. [LENGTH OF LIEN.] (a) A lien shall be a lien on the real property it describes for a period of ten years from the date it attaches according to subdivision 2, paragraph (a), except as otherwise provided for in sections 514.992 to 514.995. The agency filing the lien may renew the lien for one additional ten-year period from the date it would otherwise expire by recording or filing a certificate of renewal before the lien expires. The certificate of renewal shall be recorded or filed in the office of the county recorder or registrar of titles for the county in which the lien is recorded or filed. The certificate must refer to the recording or filing data for the lien it renews. The certificate need not be attested, certified, or acknowledged as a condition for recording or filing. The recorder or registrar of titles shall record, file, index, and return the certificate of renewal in the same manner provided for liens in section 514.993, subdivision 2.

(b) An alternative care lien is not enforceable against the real property of an estate to the extent there is a determination by a court of competent jurisdiction, or by an officer of the court designated for that purpose, that there are insufficient assets in the estate to satisfy the lien in whole or in part because of the homestead exemption under section 256B.15, subdivision 4, the rights of a surviving spouse or a minor child under section 524.2-403,

paragraphs (a) and (b), or claims with a priority under section 524.3-805, paragraph (a), clauses (1) to (4). For purposes of this section, the rights of the decedent's adult children to exempt property under section 524.2-403, paragraph (b), shall not be considered costs of administration under section 524.3-805, paragraph (a), clause (1).

[EFFECTIVE DATE.] This section is effective July 1, 2003, for services for persons first enrolling in the alternative care program on or after that date and on the first day of the first eligibility renewal period for persons enrolled in the alternative care program prior to July 1, 2003.

Sec. 55. [514.993] [LIEN; CONTENTS AND FILING.]

Subdivision 1. [CONTENTS.] A lien shall be dated and must contain:

(1) the recipient's full name, last known address, and social security number;

(2) a statement that benefits have been paid to or for the recipient's benefit;

(3) a statement that all of the recipient's interests in the in the real property described in the lien may be subject to or affected by the agency's right to reimbursement for benefits;

(4) a legal description of the real property subject to the lien and whether it is registered or abstract property;

(5) such other contents, if any, as the agency deems appropriate.

Subd. 2. [FILING.] Any lien, release, or other document required or permitted to be filed under sections 514.991 to 514.995 must be recorded or filed in the office of the county recorder or registrar of titles, as appropriate, in the county where the real property is located. Notwithstanding section 386.77, the agency shall pay the applicable filing fee for any documents filed under sections 514.991 to 514.995. An attestation, certification, or acknowledgment is not required as a condition of filing. If the property described in the lien is registered property, the registrar of titles shall record it on the certificate of title for each parcel of property described in the lien. If the property described in the lien is abstract property, the recorder shall file the lien in the county's grantor-grantee indexes and any tract indexes the county maintains for each parcel of property described in the lien. The recorder or registrar shall return the recorded or filed lien to the agency at no cost. If the agency provides a duplicate copy of the lien, the recorder or registrar of titles shall show the recording or filing data on the copy and return it to the agency at no cost. The agency is responsible for filing any lien, release, or other documents under sections 514.991 to 514.995.

[EFFECTIVE DATE.] This section is effective July 1, 2003, for services for persons first enrolling in the alternative care program on or after that date and on the first day of the first eligibility renewal period for persons enrolled in the alternative care program prior to July 1, 2003.

Sec. 56. [514.994] [ENFORCEMENT; OTHER REMEDIES.]

Subdivision 1. [FORECLOSURE OR ENFORCEMENT OF LIEN.] The agency may enforce or foreclose a lien filed under sections 514.991 to 514.995 in the manner provided for by law for enforcement of judgment liens against real estate or by a foreclosure by action under chapter 581. The lien shall remain enforceable as provided for in sections 514.991 to 514.995 notwithstanding any laws limiting the enforceability of judgments.

Subd. 2. [HOMESTEAD EXEMPTION.] The lien may not be enforced against the homestead property of the recipient or the spouse while they physically occupy it as their lawful residence.

Subd. 3. [AGENCY CLAIM OR REMEDY.] Sections 514.992 to 514.995 do not limit the agency's right to file a claim against the recipient's estate or the estate of the recipient's spouse, do not limit any other claims for reimbursement the agency may have, and do not limit the availability of any other remedy to the agency.

[EFFECTIVE DATE.] This section is effective July 1, 2003, for services for persons first enrolling in the alternative care program on or after that date and on the first day of the first eligibility renewal period for persons enrolled in the alternative care program prior to July 1, 2003.

Sec. 57. [514.995] [AMOUNTS RECEIVED TO SATISFY LIEN.]

Amounts the agency receives to satisfy the lien must be deposited in the state treasury and credited to the fund from which the benefits were paid.

[EFFECTIVE DATE.] This section is effective July 1, 2003, for services for persons first enrolling in the alternative care program on or after that date and on the first day of the first eligibility renewal period for persons enrolled in the alternative care program prior to July 1, 2003.

Sec. 58. Minnesota Statutes 2002, section 524.3-805, is amended to read:

524.3-805 [CLASSIFICATION OF CLAIMS.]

(a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

(1) costs and expenses of administration;

(2) reasonable funeral expenses;

(3) debts and taxes with preference under federal law;

(4) reasonable and necessary medical, hospital, or nursing home expenses of the last illness of the decedent, including compensation of persons attending the decedent, a claim filed under section 256B.15 for recovery of expenditures for alternative care for nonmedical assistance recipients under section 256B.0913, and including a claim filed pursuant to section 256B.15;

(5) reasonable and necessary medical, hospital, and nursing home expenses for the care of the decedent during the year immediately preceding death;

(6) debts with preference under other laws of this state, and state taxes;

(7) all other claims.

(b) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due, except that if claims for expenses of the last illness involve only claims filed under section 256B.15 for recovery of expenditures for alternative care for nonmedical assistance recipients under section 256B.0913, section 246.53 for costs of state hospital care and claims filed under section 256B.15, claims filed to recover expenditures for alternative care for nonmedical assistance recipients under section 256B.0913 shall have preference over claims filed under both sections 246.53 and other claims filed under section 256B.15, and claims filed under section 246.53 have preference over claims filed under section 256B.15 for recovery of amounts other than those for expenditures for alternative care for nonmedical assistance recipients under section 256B.0913.

[EFFECTIVE DATE.] This section is effective July 1, 2003, for decedents dying on or after that date.

Sec. 59. [IMPOSITION OF FEDERAL CERTIFICATION REMEDIES.]

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

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 60. [REPORT ON LONG-TERM CARE.]

The report on long-term care services required under Minnesota Statutes, section 144A.351, that is presented to the legislature by January 15, 2004, must also address the feasibility of offering government or private sector loans or lines of credit to individuals age 65 and over, for the purchase of long-term care services.

Sec. 61. [REPORTS; POTENTIAL SAVINGS TO STATE FROM CERTAIN LONG-TERM CARE INSURANCE PURCHASE INCENTIVES.]

Subdivision 1. [LONG-TERM CARE INSURANCE PARTNERSHIPS.] The commissioner of human services, in consultation with the commissioner of commerce, shall report to the legislature on the feasibility of Minnesota adopting a long-term care insurance partnership program similar to those adopted in other states. In such a program, the state would encourage purchase of private long-term care insurance by permitting the insured to retain assets in excess of those otherwise permitted for medical assistance eligibility, if the insured later exhausts the private long-term care insurance benefits. The report must include the feasibility of obtaining any necessary federal waiver. The report must comply with Minnesota Statutes, sections 3.195 and 3.197.

Subd. 2. [USE OF MEDICAL ASSISTANCE FUNDS TO SUBSIDIZE PURCHASE OF LONG-TERM CARE INSURANCE.] The commissioner of human services shall report to the legislature on the feasibility of using state medical assistance funds to subsidize the purchase of private long-term care insurance by individuals who would be unlikely to purchase it without a subsidy, in order to generate long-term savings of medical assistance expenditures. The report must comply with Minnesota Statutes, sections 3.195 and 3.197.

Subd. 3. [NURSING FACILITY BENEFITS IN MEDICARE SUPPLEMENT COVERAGE.] The commissioner of human services must study and quantify the cost or savings to the state if a nursing facility benefit were added to Medicare-related coverage, as defined in Minnesota Statutes, section 62Q.01, subdivision 6.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 62. [REVISOR'S INSTRUCTION.]

For sections in Minnesota Statutes and Minnesota Rules affected by the repealed sections in this article, the revisor shall delete internal cross-references where appropriate and make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning.

Sec. 63. [REPEALER.]

(a) Minnesota Statutes 2002, sections 256.973; 256.9772; 256B.0928; and 256B.437, subdivision 2, are repealed effective July 1, 2003.

(b) Minnesota Statutes 2002, sections 62J.66; 62J.68; 144A.071, subdivision 5; and 144A.35, are repealed.

(c) Laws 1998, chapter 407, article 4, section 63, is repealed.

(d) Minnesota Rules, parts 9505.3045; 9505.3050; 9505.3055; 9505.3060; 9505.3068; 9505.3070; 9505.3075; 9505.3080; 9505.3090; 9505.3095; 9505.3100; 9505.3105; 9505.3107; 9505.3110; 9505.3115; 9505.3120; 9505.3125; 9505.3130; 9505.3138; 9505.3139; 9505.3140; 9505.3680; 9505.3690; and 9505.3700, are repealed effective July 1, 2003.

ARTICLE 4

CONTINUING CARE FOR PERSONS WITH DISABILITIES

Section 1. Minnesota Statutes 2002, section 174.30, subdivision 1, is amended to read:

Subdivision 1. [APPLICABILITY.] (a) The operating standards for special transportation service adopted under this section do not apply to special transportation provided by:

(1) a common carrier operating on fixed routes and schedules;

(2) a volunteer driver using a private automobile;

(3) a school bus as defined in section 169.01, subdivision 6; or

(4) an emergency ambulance regulated under chapter 144.

(b) The operating standards adopted under this section only apply to providers of special transportation service who receive grants or other financial assistance from either the state or the federal government, or both, to provide or assist in providing that service; except that the operating standards adopted under this section do not apply to any nursing home licensed under section 144A.02, to any board and care facility licensed under section 144.50, or to any day training and habilitation services, day care, or group home facility licensed under sections 245A.01 to 245A.19 unless the facility or program provides transportation to nonresidents on a regular basis and the facility receives reimbursement, other than per diem payments, for that service under rules promulgated by the commissioner of human services.

(c) Notwithstanding paragraph (b), the operating standards adopted under this section do not apply to any vendor of services licensed under chapter 245B that provides transportation services to consumers or residents of other vendors licensed under chapter 245B.

Sec. 2. Minnesota Statutes 2002, section 245B.06, subdivision 8, is amended to read:

Subd. 8. [LEAVING THE RESIDENCE.] As specified in each consumer's individual service plan, each consumer requiring a 24-hour plan of care ~~must~~ may leave the residence to participate in regular education, employment, or community activities. License holders, providing services to consumers living in a licensed site, shall ensure that they are prepared to care for consumers whenever they are at the residence during the day because of illness, work schedules, or other reasons.

Sec. 3. Minnesota Statutes 2002, section 245B.07, subdivision 11, is amended to read:

Subd. 11. [TRAVEL TIME TO AND FROM A DAY TRAINING AND HABILITATION SITE.] Except in unusual circumstances, the license holder must not transport a consumer receiving services for longer than ~~one hour~~ 90 minutes per one-way trip. Nothing in this subdivision relieves the provider of the obligation to provide the number of program hours as identified in the individualized service plan.

Sec. 4. Minnesota Statutes 2002, section 246.54, is amended to read:

246.54 [LIABILITY OF COUNTY; REIMBURSEMENT.]

Subdivision 1. [COUNTY PORTION FOR COST OF CARE.] Except for chemical dependency services provided under sections 254B.01 to 254B.09, the client's county shall pay to the state of Minnesota a portion of the cost of care provided in a regional treatment center or a state nursing facility to a client legally settled in that county. A county's payment shall be made from the county's own sources of revenue and payments shall be paid as follows: payments to the state from the county shall equal ~~ten~~ 20 percent of the cost of care, as determined by the commissioner, for each day, or the portion thereof, that the client spends at a regional treatment center or a state nursing facility. If payments received by the state under sections 246.50 to 246.53 exceed ~~90~~ 80 percent of the cost of care, the county shall be responsible for paying the state only the remaining amount. The county shall not be entitled to reimbursement from the client, the client's estate, or from the client's relatives, except as provided in section 246.53. No such payments shall be made for any client who was last committed prior to July 1, 1947.

Subd. 2. [EXCEPTIONS.] Subdivision 1 does not apply to services provided at the Minnesota security hospital, the Minnesota sex offender program, or the Minnesota extended treatment options program. For services at these facilities, a county's payment shall be made from the county's own sources of revenue and payments shall be paid as follows: payments to the state from the county shall equal ten percent of the cost of care, as determined by the commissioner, for each day, or the portion thereof, that the client spends at the facility. If payments received by the state under sections 246.50 to 246.53 exceed 90 percent of the cost of care, the county shall be responsible for paying the state only the remaining amount. The county shall not be entitled to reimbursement from the client, the client's estate, or from the client's relatives, except as provided in section 246.53.

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

Sec. 5. Minnesota Statutes 2002, section 252.32, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM ESTABLISHED.] In accordance with state policy established in section 256F.01 that all children are entitled to live in families that offer safe, nurturing, permanent relationships, and that public services be directed toward preventing the unnecessary separation of children from their families, and because many families who have children with ~~mental retardation or related conditions~~ disabilities have special needs and expenses that other families do not have, the commissioner of human services shall establish a program to assist families who have ~~dependents~~ dependent children with ~~mental retardation or related conditions~~ disabilities living in their home. The program shall make support grants available to the families.

Sec. 6. Minnesota Statutes 2002, section 252.32, subdivision 1a, is amended to read:

Subd. 1a. [SUPPORT GRANTS.] (a) Provision of support grants must be limited to families who require support and whose dependents are under the age of ~~22~~ 21 ~~and who have mental retardation or who have a related condition~~ and who have been ~~determined by a screening team established~~ certified disabled under section ~~256B.092 to be at risk of institutionalization~~ 256B.055, subdivision 12, paragraphs (a), (b), (c), (d), and (e). Families who are receiving home and community-based waivered services for persons with mental retardation or related conditions are not eligible for support grants.

~~Families receiving grants who will be receiving home and community based waiver services for persons with mental retardation or a related condition for their family member within the grant year, and who have ongoing payments for environmental or vehicle modifications which have been approved by the county as a grant expense and would have qualified for payment under this waiver may receive a onetime grant payment from the commissioner to reduce or eliminate the principal of the remaining debt for the modifications, not to exceed the maximum amount allowable for the remaining years of eligibility for a family support grant. The commissioner is~~

~~authorized to use up to $20,000 annually from the grant appropriation for this purpose. Any amount unexpended at the end of the grant year shall be allocated by the commissioner in accordance with subdivision 3a, paragraph (b), clause (2).~~ Families whose annual adjusted gross income is $60,000 or more are not eligible for support grants except in cases where extreme hardship is demonstrated. Beginning in state fiscal year 1994, the commissioner shall adjust the income ceiling annually to reflect the projected change in the average value in the United States Department of Labor Bureau of Labor Statistics consumer price index (all urban) for that year.

(b) Support grants may be made available as monthly subsidy grants and lump sum grants.

(c) Support grants may be issued in the form of cash, voucher, and direct county payment to a vendor.

(d) Applications for the support grant shall be made by the legal guardian to the county social service agency. The application shall specify the needs of the families, the form of the grant requested by the families, and ~~that~~ the ~~families have agreed to use the support grant for~~ items and services ~~within the designated reimbursable expense categories and recommendations of the county~~ to be reimbursed.

~~(e) Families who were receiving subsidies on the date of implementation of the $60,000 income limit in paragraph (a) continue to be eligible for a family support grant until December 31, 1991, if all other eligibility criteria are met. After December 31, 1991, these families are eligible for a grant in the amount of one-half the grant they would otherwise receive, for as long as they remain eligible under other eligibility criteria.~~

Sec. 7. Minnesota Statutes 2002, section 252.32, subdivision 3, is amended to read:

Subd. 3. [AMOUNT OF SUPPORT GRANT; USE.] Support grant amounts shall be determined by the county social service agency. ~~Each service~~ Services and ~~item~~ items purchased with a support grant must:

(1) be over and above the normal costs of caring for the dependent if the dependent did not have a disability;

(2) be directly attributable to the dependent's disabling condition; and

(3) enable the family to delay or prevent the out-of-home placement of the dependent.

The design and delivery of services and items purchased under this section must suit the dependent's chronological age and be provided in the least restrictive environment possible, consistent with the needs identified in the individual service plan.

Items and services purchased with support grants must be those for which there are no other public or private funds available to the family. Fees assessed to parents for health or human services that are funded by federal, state, or county dollars are not reimbursable through this program.

In approving or denying applications, the county shall consider the following factors:

(1) the extent and areas of the functional limitations of the disabled child;

(2) the degree of need in the home environment for additional support; and

(3) the potential effectiveness of the grant to maintain and support the person in the family environment.

The maximum monthly grant amount shall be $250 per eligible dependent, or $3,000 per eligible dependent per state fiscal year, within the limits of available funds. The county social service agency may consider the dependent's supplemental security income in determining the amount of the support grant. ~~The county social service agency may exceed $3,000 per state fiscal year per eligible dependent for emergency circumstances in cases where exceptional resources of the family are required to meet the health, welfare-safety needs of the child.~~

~~County social service agencies shall continue to provide funds to families receiving state grants on June 30, 1997, if eligibility criteria continue to be met.~~ Any adjustments to their monthly grant amount must be based on the needs of the family and funding availability.

Sec. 8. Minnesota Statutes 2002, section 252.32, subdivision 3c, is amended to read:

Subd. 3c. [COUNTY BOARD RESPONSIBILITIES.] County boards receiving funds under this section shall:

(1) ~~determine the needs of families for services in accordance with section 256B.092 or 256E.08 and any rules adopted under those sections;~~ submit a plan to the department for the management of the family support grant program. The plan must include the projected number of families the county will serve and policies and procedures for:

(i) identifying potential families for the program;

(ii) grant distribution;

(iii) waiting list procedures; and

(iv) prioritization of families to receive grants;

(2) determine the eligibility of all persons proposed for program participation;

(3) approve a plan for items and services to be reimbursed and inform families of the county's approval decision;

(4) issue support grants directly to, or on behalf of, eligible families;

(5) inform recipients of their right to appeal under subdivision 3e;

(6) submit quarterly financial reports under subdivision 3b and indicate ~~on the screening documents~~ the annual grant level for each family, the families denied grants, and the families eligible but waiting for funding; and

(7) coordinate services with other programs offered by the county.

Sec. 9. Minnesota Statutes 2002, section 252.41, subdivision 3, is amended to read:

Subd. 3. [DAY TRAINING AND HABILITATION SERVICES FOR ADULTS WITH MENTAL RETARDATION, RELATED CONDITIONS.] "Day training and habilitation services for adults with mental retardation and related conditions" means services that:

(1) include supervision, training, assistance, and supported employment, work-related activities, or other community-integrated activities designed and implemented in accordance with the individual service and individual habilitation plans required under Minnesota Rules, parts 9525.0015 to 9525.0165, to help an adult reach and maintain the highest possible level of independence, productivity, and integration into the community; and

(2) are provided under contract with the county where the services are delivered by a vendor licensed under sections 245A.01 to 245A.16 and 252.28, subdivision 2, to provide day training and habilitation services~~; and~~

~~(3) are regularly provided to one or more adults with mental retardation or related conditions in a place other than the adult's own home or residence unless medically contraindicated~~.

Day training and habilitation services reimbursable under this section do not include special education and related services as defined in the Education of the Handicapped Act, United States Code, title 20, chapter 33, section 1401, clauses (6) and (17), or vocational services funded under section 110 of the Rehabilitation Act of 1973, United States Code, title 29, section 720, as amended.

Sec. 10. Minnesota Statutes 2002, section 252.46, subdivision 1, is amended to read:

Subdivision 1. [RATES.] (a) Payment rates to vendors, except regional centers, for county-funded day training and habilitation services and transportation provided to persons receiving day training and habilitation services established by a county board are governed by subdivisions 2 to 19. The commissioner shall approve the following three payment rates for services provided by a vendor:

(1) a full-day service rate for persons who receive at least six service hours a day, including the time it takes to transport the person to and from the service site;

(2) a partial-day service rate that must not exceed 75 percent of the full-day service rate for persons who receive less than a full day of service; and

(3) a transportation rate for providing, or arranging and paying for, transportation of a person to and from the person's residence to the service site.

~~(b) The commissioner may also approve an hourly job coach, follow-along rate for services provided by one employee at or en route to or from community locations to supervise, support, and assist one person receiving the vendor's services to learn job-related skills necessary to obtain or retain employment when and where no other persons receiving services are present and when all the following criteria are met:~~

~~(1) the vendor requests and the county recommends the optional rate;~~

~~(2) the service is prior authorized by the county on the Medicaid Management Information System for no more than 414 hours in a 12-month period and the daily per person charge to medical assistance does not exceed the vendor's approved full day plus transportation rates;~~

~~(3) separate full day, partial day, and transportation rates are not billed for the same person on the same day;~~

~~(4) the approved hourly rate does not exceed the sum of the vendor's current average hourly direct service wage, including fringe benefits and taxes, plus a component equal to the vendor's average hourly nondirect service wage expenses; and~~

~~(5) the actual revenue received for provision of hourly job coach, follow-along services is subtracted from the vendor's total expenses for the same time period and those adjusted expenses are used for determining recommended full day and transportation payment rates under subdivision 5 in accordance with the limitations in subdivision 3.~~

(b) Notwithstanding any law or rule to the contrary, the commissioner may authorize county participation in a voluntary individualized payment rate structure for day training and habilitation services to allow a county the flexibility to change, after consulting with providers, from a site-based payment rate structure to an individual payment rate structure for the providers of day training and habilitation services in the county. The commissioner shall seek input from providers and consumers in establishing procedures for determining the structure of voluntary individualized payment rates to ensure that there is no additional cost to the state or counties and that the rate structure is cost-neutral to providers of day training and habilitation services, on July 1, 2004, or on day one of the individual rate structure, whichever is later.

(c) Medical assistance rates for home and community-based service provided under section 256B.501, subdivision 4, by licensed vendors of day training and habilitation services must not be greater than the rates for the same services established by counties under sections 252.40 to 252.46. For very dependent persons with special needs the commissioner may approve an exception to the approved payment rate under section 256B.501, subdivision 4 or 8.

Sec. 11. Minnesota Statutes 2002, section 256.476, subdivision 3, is amended to read:

Subd. 3. [ELIGIBILITY TO APPLY FOR GRANTS.] (a) A person is eligible to apply for a consumer support grant if the person meets all of the following criteria:

(1) the person is eligible for and has been approved to receive services under medical assistance as determined under sections 256B.055 and 256B.056 or the person has been approved to receive a grant under the developmental disability family support program under section 252.32;

(2) the person is able to direct and purchase the person's own care and supports, or the person has a family member, legal representative, or other authorized representative who can purchase and arrange supports on the person's behalf;

(3) the person has functional limitations, requires ongoing supports to live in the community, and is at risk of or would continue institutionalization without such supports; and

(4) the person will live in a home. For the purpose of this section, "home" means the person's own home or home of a person's family member. These homes are natural home settings and are not licensed by the department of health or human services.

(b) Persons may not concurrently receive a consumer support grant if they are:

(1) receiving ~~home and community-based services under United States Code, title 42, section 1396h(c);~~ personal care attendant and home health aide services, or private duty nursing under section 256B.0625; a developmental disability family support grant; or alternative care services under section 256B.0913; or

(2) residing in an institutional or congregate care setting.

(c) A person or person's family receiving a consumer support grant shall not be charged a fee or premium by a local agency for participating in the program.

(d) ~~The commissioner may limit the participation of recipients of services from federal waiver programs in the consumer support grant program if the participation of these individuals will result in an increase in the cost to the state.~~ Individuals receiving home and community-based waivers under United States Code, title 42, section 1396h(c), are not eligible for the consumer support grant.

(e) The commissioner shall establish a budgeted appropriation each fiscal year for the consumer support grant program. The number of individuals participating in the program will be adjusted so the total amount allocated to counties does not exceed the amount of the budgeted appropriation. The budgeted appropriation will be adjusted annually to accommodate changes in demand for the consumer support grants.

Sec. 12. Minnesota Statutes 2002, section 256.476, subdivision 4, is amended to read:

Subd. 4. [SUPPORT GRANTS; CRITERIA AND LIMITATIONS.] (a) A county board may choose to participate in the consumer support grant program. If a county has not chosen to participate by July 1, 2002, the commissioner shall contract with another county or other entity to provide access to residents of the nonparticipating

county who choose the consumer support grant option. The commissioner shall notify the county board in a county that has declined to participate of the commissioner's intent to enter into a contract with another county or other entity at least 30 days in advance of entering into the contract. The local agency shall establish written procedures and criteria to determine the amount and use of support grants. These procedures must include, at least, the availability of respite care, assistance with daily living, and adaptive aids. The local agency may establish monthly or annual maximum amounts for grants and procedures where exceptional resources may be required to meet the health and safety needs of the person on a time-limited basis, however, the total amount awarded to each individual may not exceed the limits established in subdivision 11.

(b) Support grants to a person or a person's family will be provided through a monthly subsidy payment and be in the form of cash, voucher, or direct county payment to vendor. Support grant amounts must be determined by the local agency. Each service and item purchased with a support grant must meet all of the following criteria:

(1) it must be over and above the normal cost of caring for the person if the person did not have functional limitations;

(2) it must be directly attributable to the person's functional limitations;

(3) it must enable the person or the person's family to delay or prevent out-of-home placement of the person; and

(4) it must be consistent with the needs identified in the service ~~plan~~ agreement, when applicable.

(c) Items and services purchased with support grants must be those for which there are no other public or private funds available to the person or the person's family. Fees assessed to the person or the person's family for health and human services are not reimbursable through the grant.

(d) In approving or denying applications, the local agency shall consider the following factors:

(1) the extent and areas of the person's functional limitations;

(2) the degree of need in the home environment for additional support; and

(3) the potential effectiveness of the grant to maintain and support the person in the family environment or the person's own home.

(e) At the time of application to the program or screening for other services, the person or the person's family shall be provided sufficient information to ensure an informed choice of alternatives by the person, the person's legal representative, if any, or the person's family. The application shall be made to the local agency and shall specify the needs of the person and family, the form and amount of grant requested, the items and services to be reimbursed, and evidence of eligibility for medical assistance.

(f) Upon approval of an application by the local agency and agreement on a support plan for the person or person's family, the local agency shall make grants to the person or the person's family. The grant shall be in an amount for the direct costs of the services or supports outlined in the service agreement.

(g) Reimbursable costs shall not include costs for resources already available, such as special education classes, day training and habilitation, case management, other services to which the person is entitled, medical costs covered by insurance or other health programs, or other resources usually available at no cost to the person or the person's family.

(h) The state of Minnesota, the county boards participating in the consumer support grant program, or the agencies acting on behalf of the county boards in the implementation and administration of the consumer support grant program shall not be liable for damages, injuries, or liabilities sustained through the purchase of support by the individual, the individual's family, or the authorized representative under this section with funds received through the consumer support grant program. Liabilities include but are not limited to: workers' compensation liability, the Federal Insurance Contributions Act (FICA), or the Federal Unemployment Tax Act (FUTA). For purposes of this section, participating county boards and agencies acting on behalf of county boards are exempt from the provisions of section 268.04.

Sec. 13. Minnesota Statutes 2002, section 256.476, subdivision 5, is amended to read:

Subd. 5. [REIMBURSEMENT, ALLOCATIONS, AND REPORTING.] (a) For the purpose of transferring persons to the consumer support grant program from ~~specific programs or services, such as~~ the developmental disability family support program and personal care assistant services, home health aide services, or private duty nursing services, the amount of funds transferred by the commissioner between the developmental disability family support program account, the medical assistance account, or the consumer support grant account shall be based on each county's participation in transferring persons to the consumer support grant program from those programs and services.

(b) At the beginning of each fiscal year, county allocations for consumer support grants shall be based on:

(1) the number of persons to whom the county board expects to provide consumer supports grants;

(2) their eligibility for current program and services;

(3) the amount of nonfederal dollars allowed under subdivision 11; and

(4) projected dates when persons will start receiving grants. County allocations shall be adjusted periodically by the commissioner based on the actual transfer of persons or service openings, and the nonfederal dollars associated with those persons or service openings, to the consumer support grant program.

(c) The amount of funds transferred by the commissioner from the medical assistance account for an individual may be changed if it is determined by the county or its agent that the individual's need for support has changed.

(d) The authority to utilize funds transferred to the consumer support grant account for the purposes of implementing and administering the consumer support grant program will not be limited or constrained by the spending authority provided to the program of origination.

(e) The commissioner may use up to five percent of each county's allocation, as adjusted, for payments for administrative expenses, to be paid as a proportionate addition to reported direct service expenditures.

(f) The county allocation for each individual or individual's family cannot exceed the amount allowed under subdivision 11.

(g) The commissioner may recover, suspend, or withhold payments if the county board, local agency, or grantee does not comply with the requirements of this section.

(h) Grant funds unexpended by consumers shall return to the state once a year. The annual return of unexpended grant funds shall occur in the quarter following the end of the state fiscal year.

Sec. 14. Minnesota Statutes 2002, section 256.482, subdivision 8, is amended to read:

Subd. 8. [SUNSET.] Notwithstanding section 15.059, subdivision 5, the council on disability shall not sunset until June 30, ~~2003~~ 2007.

[EFFECTIVE DATE.] This section is effective May 30, 2003.

Sec. 15. Minnesota Statutes 2002, section 256B.0621, subdivision 4, is amended to read:

Subd. 4. [RELOCATION TARGETED CASE MANAGEMENT PROVIDER QUALIFICATIONS.] ~~The following qualifications and certification standards must be met by providers of relocation targeted case management:~~

~~(a) The commissioner must certify each provider of relocation targeted case management before enrollment. The certification process shall examine the provider's ability to meet the requirements in this subdivision and other federal and state requirements of this service. A certified relocation targeted case management provider may subcontract with another provider to deliver relocation targeted case management services. Subcontracted providers must demonstrate the ability to provide the services outlined in subdivision 6.~~

~~(b)~~ (a) A relocation targeted case management provider is an enrolled medical assistance provider who is determined by the commissioner to have all of the following characteristics:

(1) the legal authority to provide public welfare under sections 393.01, subdivision 7; and 393.07; or a federally recognized Indian tribe;

(2) the demonstrated capacity and experience to provide the components of case management to coordinate and link community resources needed by the eligible population;

(3) the administrative capacity and experience to serve the target population for whom it will provide services and ensure quality of services under state and federal requirements;

(4) the legal authority to provide complete investigative and protective services under section 626.556, subdivision 10; and child welfare and foster care services under section 393.07, subdivisions 1 and 2; or a federally recognized Indian tribe;

(5) a financial management system that provides accurate documentation of services and costs under state and federal requirements; and

(6) the capacity to document and maintain individual case records under state and federal requirements.

(b) A provider of targeted case management under section 256B.0625, subdivision 20, may be deemed a certified provider of relocation targeted case management.

(c) A relocation targeted case management provider may subcontract with another provider to deliver relocation targeted case management services. Subcontracted providers must demonstrate the ability to provide the services outlined in subdivision 6, and have a procedure in place that notifies the recipient and the recipient's legal representative of any conflict of interest if the contracted targeted case management provider also provides, or will provide, the recipient's services and supports. Contracted providers must provide information on all conflicts of interest and obtain the recipient's informed consent or provide the recipient with alternatives.

Sec. 16. [256B.0622] [INTENSIVE REHABILITATIVE MENTAL HEALTH SERVICES.]

Subdivision 1. [SCOPE.] Subject to federal approval, medical assistance covers medically necessary, intensive nonresidential and residential rehabilitative mental health services as defined in subdivision 2, for recipients as defined in subdivision 3, when the services are provided by an entity meeting the standards in this section.

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

(a) "Intensive nonresidential rehabilitative mental health services" means adult rehabilitative mental health services as defined in section 256B.0623, subdivision 2, paragraph (a), except that these services are provided by a multidisciplinary staff using a total team approach consistent with assertive community treatment and other evidence-based practices, and directed to recipients with a serious mental illness who require intensive services.

(b) "Intensive residential rehabilitative mental health services" means short-term, time-limited services provided in a residential setting to recipients who are in need of more restrictive settings and are at risk of significant functional deterioration if they do not receive these services. Services are designed to develop and enhance psychiatric stability, personal and emotional adjustment, self-sufficiency, and skills to live in a more independent setting. Services must be directed toward a targeted discharge date with specified client outcomes and must be consistent with evidence-based practices.

(c) "Evidence-based practices" are nationally recognized mental health services that are proven by substantial research to be effective in helping individuals with serious mental illness obtain specific treatment goals.

(d) "Overnight staff" means a member of the intensive residential rehabilitative mental health treatment team who is responsible during hours when recipients are typically asleep.

(e) "Treatment team" means all staff who provide services under this section to recipients. At a minimum, this includes the clinical supervisor, mental health professionals, mental health practitioners, and mental health rehabilitation workers.

Subd. 3. [ELIGIBILITY.] An eligible recipient is an individual who:

(1) is age 18 or older;

(2) is eligible for medical assistance;

(3) is diagnosed with a mental illness;

(4) because of a mental illness, has substantial disability and functional impairment in three or more of the areas listed in section 245.462, subdivision 11a, so that self-sufficiency is markedly reduced;

(5) has one or more of the following: a history of two or more inpatient hospitalizations in the past year, significant independent living instability, homelessness, or very frequent use of mental health and related services yielding poor outcomes; and

(6) in the written opinion of a licensed mental health professional, has the need for mental health services that cannot be met with other available community-based services, or is likely to experience a mental health crisis or require a more restrictive setting if intensive rehabilitative mental health services are not provided.

Subd. 4. [PROVIDER CERTIFICATION AND CONTRACT REQUIREMENTS.] (a) The intensive nonresidential rehabilitative mental health services provider must:

(1) have a contract with the host county to provide intensive adult rehabilitative mental health services; and

(2) be certified by the commissioner as being in compliance with this section and section 256B.0623.

(b) The intensive residential rehabilitative mental health services provider must:

(1) be licensed under Minnesota Rules, parts 9520.0500 to 9520.0670;

(2) not exceed 16 beds per site;

(3) comply with the additional standards in this section; and

(4) have a contract with the host county to provide these services.

(c) The commissioner shall develop procedures for counties and providers to submit contracts and other documentation as needed to allow the commissioner to determine whether the standards in this section are met.

Subd. 5. [STANDARDS APPLICABLE TO BOTH NONRESIDENTIAL AND RESIDENTIAL PROVIDERS.] (a) Services must be provided by qualified staff as defined in section 256B.0623, subdivision 5, who are trained and supervised according to section 256B.0623, subdivision 6, except that mental health rehabilitation workers acting as overnight staff are not required to comply with section 256B.0623, subdivision 5, clause (3)(iv).

(b) The clinical supervisor must be an active member of the treatment team. The treatment team must meet with the clinical supervisor at least weekly to discuss recipients' progress and make rapid adjustments to meet recipients' needs. The team meeting shall include recipient-specific case reviews and general treatment discussions among team members. Recipient-specific case reviews and planning must be documented in the individual recipient's treatment record.

(c) Treatment staff must have prompt access in person or by telephone to a mental health practitioner or mental health professional. The provider must have the capacity to promptly and appropriately respond to emergent needs and make any necessary staffing adjustments to assure the health and safety of recipients.

(d) The initial functional assessment must be completed within ten days of intake and updated at least every three months or prior to discharge from the service, whichever comes first.

(e) The initial individual treatment plan must be completed within ten days of intake and reviewed and updated at least monthly with the recipient.

Subd. 6. [ADDITIONAL STANDARDS APPLICABLE ONLY TO INTENSIVE RESIDENTIAL REHABILITATIVE MENTAL HEALTH SERVICES.] (a) The provider of intensive residential services must have sufficient staff to provide 24 hour per day coverage to deliver the rehabilitative services described in the treatment plan and to safely supervise and direct the activities of recipients given the recipient's level of behavioral and psychiatric stability, cultural needs, and vulnerability. The provider must have the capacity within the facility to provide integrated services for chemical dependency, illness management services, and family education when appropriate.

(b) At a minimum:

(1) staff must be available and provide direction and supervision whenever recipients are present in the facility;

(2) staff must remain awake during all work hours;

(3) there must be a staffing ratio of at least one to nine recipients for each day and evening shift. If more than nine recipients are present at the residential site, there must be a minimum of two staff during day and evening shifts, one of whom must be a mental health practitioner or mental health professional;

(4) if services are provided to recipients who need the services of a medical professional, the provider shall assure that these services are provided either by the provider's own medical staff or through referral to a medical professional; and

(5) the provider must employ or contract with a licensed registered nurse to ensure the effectiveness and safety of medication administration in the facility.

Subd. 7. [ADDITIONAL STANDARDS FOR NONRESIDENTIAL SERVICES.] The standards in this subdivision apply to intensive nonresidential rehabilitative mental health services.

(1) The treatment team must use team treatment, not an individual treatment model.

(2) The clinical supervisor must function as a practicing clinician at least on a part-time basis.

(3) The staffing ratio must not exceed ten recipients to one full-time equivalent treatment team position.

(4) Services must be available at times that meet client needs.

(5) The treatment team must actively and assertively engage and reach out to the recipient's family members and significant others, after obtaining the recipient's permission.

(6) The treatment team must establish ongoing communication and collaboration between the team, family, and significant others and educate the family and significant others about mental illness, symptom management, and the family's role in treatment.

(7) The treatment team must provide interventions to promote positive interpersonal relationships.

Subd. 8. [MEDICAL ASSISTANCE PAYMENT FOR INTENSIVE REHABILITATIVE MENTAL HEALTH SERVICES.] (a) Payment for residential and nonresidential services in this section shall be based on one daily rate per provider inclusive of the following services received by an eligible recipient in a given calendar day: all rehabilitative services under this section and crisis stabilization services under section 256B.0624.

(b) Except as indicated in paragraph (c), payment will not be made to more than one entity for each recipient for services provided under this section on a given day. If services under this section are provided by a team that includes staff from more than one entity, the team must determine how to distribute the payment among the members.

(c) The host county shall recommend to the commissioner one rate for each entity that will bill medical assistance for residential services under this section and two rates for each nonresidential provider. The first nonresidential rate is for recipients who are not receiving residential services. The second nonresidential rate is for

recipients who are temporarily receiving residential services and need continued contact with the nonresidential team to assure timely discharge from residential services. In developing these rates, the host county shall consider and document:

(1) the cost for similar services in the local trade area;

(2) actual costs incurred by entities providing the services;

(3) the intensity and frequency of services to be provided to each recipient;

(4) the degree to which recipients will receive services other than services under this section;

(5) the costs of other services, such as case management, that will be separately reimbursed; and

(6) input from the local planning process authorized by the adult mental health initiative under section 245.4661, regarding recipients' service needs.

(d) The rate for intensive rehabilitative mental health services must exclude room and board, as defined in section 256I.03, subdivision 6, and services not covered under this section, such as case management, partial hospitalization, home care, and inpatient services. Physician services that are not separately billed may be included in the rate to the extent that a psychiatrist is a member of the treatment team. The county's recommendation shall specify the period for which the rate will be applicable, not to exceed two years.

(e) When services under this section are provided by an assertive community team, case management functions must be an integral part of the team. The county must allocate costs which are reimbursable under this section versus costs which are reimbursable through case management or other reimbursement, so that payment is not duplicated.

(f) The rate for a provider must not exceed the rate charged by that provider for the same service to other payors.

(g) The commissioner shall approve or reject the county's rate recommendation, based on the commissioner's own analysis of the criteria in paragraph (c).

Subd. 9. [PROVIDER ENROLLMENT; RATE SETTING FOR COUNTY-OPERATED ENTITIES.] Counties that employ their own staff to provide services under this section shall apply directly to the commissioner for enrollment and rate setting. In this case, a county contract is not required and the commissioner shall perform the program review and rate setting duties which would otherwise be required of counties under this section.

Subd. 10. [PROVIDER ENROLLMENT; RATE SETTING FOR SPECIALIZED PROGRAM.] A provider proposing to serve a subpopulation of eligible recipients may bypass the county approval procedures in this section and receive approval for provider enrollment and rate setting directly from the commissioner under the following circumstances:

(1) the provider demonstrates that the subpopulation to be served requires a specialized program which is not available from county-approved entities; and

(2) the subpopulation to be served is of such a low incidence that it is not feasible to develop a program serving a single county or regional group of counties.

For providers meeting the criteria in clauses (1) and (2), the commissioner shall perform the program review and rate setting duties which would otherwise be required of counties under this section.

Sec. 17. Minnesota Statutes 2002, section 256B.0623, subdivision 2, is amended to read:

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

(a) "Adult rehabilitative mental health services" means mental health services which are rehabilitative and enable the recipient to develop and enhance psychiatric stability, social competencies, personal and emotional adjustment, and independent living and community skills, when these abilities are impaired by the symptoms of mental illness. Adult rehabilitative mental health services are also appropriate when provided to enable a recipient to retain stability and functioning, if the recipient would be at risk of significant functional decompensation or more restrictive service settings without these services.

(1) Adult rehabilitative mental health services instruct, assist, and support the recipient in areas such as: interpersonal communication skills, community resource utilization and integration skills, crisis assistance, relapse prevention skills, health care directives, budgeting and shopping skills, healthy lifestyle skills and practices, cooking and nutrition skills, transportation skills, medication education and monitoring, mental illness symptom management skills, household management skills, employment-related skills, and transition to community living services.

(2) These services shall be provided to the recipient on a one-to-one basis in the recipient's home or another community setting or in groups.

(b) "Medication education services" means services provided individually or in groups which focus on educating the recipient about mental illness and symptoms; the role and effects of medications in treating symptoms of mental illness; and the side effects of medications. Medication education is coordinated with medication management services and does not duplicate it. Medication education services are provided by physicians, pharmacists, physician's assistants, or registered nurses.

(c) "Transition to community living services" means services which maintain continuity of contact between the rehabilitation services provider and the recipient and which facilitate discharge from a hospital, residential treatment program under Minnesota Rules, chapter 9505, board and lodging facility, or nursing home. Transition to community living services are not intended to provide other areas of adult rehabilitative mental health services.

Sec. 18. Minnesota Statutes 2002, section 256B.0623, subdivision 4, is amended to read:

Subd. 4. [PROVIDER ENTITY STANDARDS.] (a) The provider entity must be~~:~~

~~(1) a county operated entity certified by the state; or~~

~~(2) a noncounty entity certified by the entity's host county~~ certified by the state following the certification process and procedures developed by the commissioner.

(b) The certification process is a determination as to whether the entity meets the standards in this subdivision. The certification must specify which adult rehabilitative mental health services the entity is qualified to provide.

(c) ~~If an entity seeks to provide services outside its host county, it~~ A noncounty provider entity must obtain additional certification from each county in which it will provide services. The additional certification must be based on the adequacy of the entity's knowledge of that county's local health and human service system, and the ability of the entity to coordinate its services with the other services available in that county. A county-operated entity must obtain this additional certification from any other county in which it will provide services.

(d) Recertification must occur at least every ~~two~~ three years.

(e) The commissioner may intervene at any time and decertify providers with cause. The decertification is subject to appeal to the state. A county board may recommend that the state decertify a provider for cause.

(f) The adult rehabilitative mental health services provider entity must meet the following standards:

(1) have capacity to recruit, hire, manage, and train mental health professionals, mental health practitioners, and mental health rehabilitation workers;

(2) have adequate administrative ability to ensure availability of services;

(3) ensure adequate preservice and inservice and ongoing training for staff;

(4) ensure that mental health professionals, mental health practitioners, and mental health rehabilitation workers are skilled in the delivery of the specific adult rehabilitative mental health services provided to the individual eligible recipient;

(5) ensure that staff is capable of implementing culturally specific services that are culturally competent and appropriate as determined by the recipient's culture, beliefs, values, and language as identified in the individual treatment plan;

(6) ensure enough flexibility in service delivery to respond to the changing and intermittent care needs of a recipient as identified by the recipient and the individual treatment plan;

(7) ensure that the mental health professional or mental health practitioner, who is under the clinical supervision of a mental health professional, involved in a recipient's services participates in the development of the individual treatment plan;

(8) assist the recipient in arranging needed crisis assessment, intervention, and stabilization services;

(9) ensure that services are coordinated with other recipient mental health services providers and the county mental health authority and the federally recognized American Indian authority and necessary others after obtaining the consent of the recipient. Services must also be coordinated with the recipient's case manager or care coordinator if the recipient is receiving case management or care coordination services;

(10) develop and maintain recipient files, individual treatment plans, and contact charting;

(11) develop and maintain staff training and personnel files;

(12) submit information as required by the state;

(13) establish and maintain a quality assurance plan to evaluate the outcome of services provided;

(14) keep all necessary records required by law;

(15) deliver services as required by section 245.461;

(16) comply with all applicable laws;

(17) be an enrolled Medicaid provider;

(18) maintain a quality assurance plan to determine specific service outcomes and the recipient's satisfaction with services; and

(19) develop and maintain written policies and procedures regarding service provision and administration of the provider entity.

~~(g) The commissioner shall develop statewide procedures for provider certification, including timelines for counties to certify qualified providers.~~

Sec. 19. Minnesota Statutes 2002, section 256B.0623, subdivision 5, is amended to read:

Subd. 5. [QUALIFICATIONS OF PROVIDER STAFF.] Adult rehabilitative mental health services must be provided by qualified individual provider staff of a certified provider entity. Individual provider staff must be qualified under one of the following criteria:

(1) a mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (5);

(2) a mental health practitioner as defined in section 245.462, subdivision 17. The mental health practitioner must work under the clinical supervision of a mental health professional; or

(3) a mental health rehabilitation worker. A mental health rehabilitation worker means a staff person working under the direction of a mental health practitioner or mental health professional and under the clinical supervision of a mental health professional in the implementation of rehabilitative mental health services as identified in the recipient's individual treatment plan who:

(i) is at least 21 years of age;

(ii) has a high school diploma or equivalent;

(iii) has successfully completed 30 hours of training during the past two years in all of the following areas: recipient rights, recipient-centered individual treatment planning, behavioral terminology, mental illness, co-occurring mental illness and substance abuse, psychotropic medications and side effects, functional assessment, local community resources, adult vulnerability, recipient confidentiality; and

(iv) meets the qualifications in subitem (A) or (B):

(A) has an associate of arts degree in one of the behavioral sciences or human services, or is a registered nurse without a bachelor's degree, or who within the previous ten years has:

(1) three years of personal life experience with serious and persistent mental illness;

(2) three years of life experience as a primary caregiver to an adult with a serious mental illness or traumatic brain injury; or

(3) 4,000 hours of supervised paid work experience in the delivery of mental health services to adults with a serious mental illness or traumatic brain injury; or

(B)(1) is fluent in the non-English language or competent in the culture of the ethnic group to which at least ~~50~~ 20 percent of the mental health rehabilitation worker's clients belong;

(2) receives during the first 2,000 hours of work, monthly documented individual clinical supervision by a mental health professional;

(3) has 18 hours of documented field supervision by a mental health professional or practitioner during the first 160 hours of contact work with recipients, and at least six hours of field supervision quarterly during the following year;

(4) has review and cosignature of charting of recipient contacts during field supervision by a mental health professional or practitioner; and

(5) has 40 hours of additional continuing education on mental health topics during the first year of employment.

Sec. 20. Minnesota Statutes 2002, section 256B.0623, subdivision 6, is amended to read:

Subd. 6. [REQUIRED TRAINING AND SUPERVISION.] (a) Mental health rehabilitation workers must receive ongoing continuing education training of at least 30 hours every two years in areas of mental illness and mental health services and other areas specific to the population being served. Mental health rehabilitation workers must also be subject to the ongoing direction and clinical supervision standards in paragraphs (c) and (d).

(b) Mental health practitioners must receive ongoing continuing education training as required by their professional license; or if the practitioner is not licensed, the practitioner must receive ongoing continuing education training of at least 30 hours every two years in areas of mental illness and mental health services. Mental health practitioners must meet the ongoing clinical supervision standards in paragraph (c).

(c) Clinical supervision may be provided by a full or part-time qualified professional employed by or under contract with the provider entity. Clinical supervision may be provided by interactive videoconferencing according to procedures developed by the commissioner. A mental health professional providing clinical supervision of staff delivering adult rehabilitative mental health services must provide the following guidance:

(1) review the information in the recipient's file;

(2) review and approve initial and updates of individual treatment plans;

(3) meet with mental health rehabilitation workers and practitioners, individually or in small groups, at least monthly to discuss treatment topics of interest to the workers and practitioners;

(4) meet with mental health rehabilitation workers and practitioners, individually or in small groups, at least monthly to discuss treatment plans of recipients, and approve by signature and document in the recipient's file any resulting plan updates;

(5) meet at least ~~twice a month~~ monthly with the directing mental health practitioner, if there is one, to review needs of the adult rehabilitative mental health services program, review staff on-site observations and evaluate mental health rehabilitation workers, plan staff training, review program evaluation and development, and consult with the directing practitioner; and

(6) be available for urgent consultation as the individual recipient needs or the situation necessitates~~; and~~

~~(7) provide clinical supervision by full- or part-time mental health professionals employed by or under contract with the provider entity~~.

(d) An adult rehabilitative mental health services provider entity must have a treatment director who is a mental health practitioner or mental health professional. The treatment director must ensure the following:

(1) while delivering direct services to recipients, a newly hired mental health rehabilitation worker must be directly observed delivering services to recipients by ~~the~~ a mental health practitioner or mental health professional for at least six hours per 40 hours worked during the first 160 hours that the mental health rehabilitation worker works;

(2) the mental health rehabilitation worker must receive ongoing on-site direct service observation by a mental health professional or mental health practitioner for at least six hours for every six months of employment;

(3) progress notes are reviewed from on-site service observation prepared by the mental health rehabilitation worker and mental health practitioner for accuracy and consistency with actual recipient contact and the individual treatment plan and goals;

(4) immediate availability by phone or in person for consultation by a mental health professional or a mental health practitioner to the mental health rehabilitation services worker during service provision;

(5) oversee the identification of changes in individual recipient treatment strategies, revise the plan, and communicate treatment instructions and methodologies as appropriate to ensure that treatment is implemented correctly;

(6) model service practices which: respect the recipient, include the recipient in planning and implementation of the individual treatment plan, recognize the recipient's strengths, collaborate and coordinate with other involved parties and providers;

(7) ensure that mental health practitioners and mental health rehabilitation workers are able to effectively communicate with the recipients, significant others, and providers; and

(8) oversee the record of the results of on-site observation and charting evaluation and corrective actions taken to modify the work of the mental health practitioners and mental health rehabilitation workers.

(e) A mental health practitioner who is providing treatment direction for a provider entity must receive supervision at least monthly from a mental health professional to:

(1) identify and plan for general needs of the recipient population served;

(2) identify and plan to address provider entity program needs and effectiveness;

(3) identify and plan provider entity staff training and personnel needs and issues; and

(4) plan, implement, and evaluate provider entity quality improvement programs.

Sec. 21. Minnesota Statutes 2002, section 256B.0623, subdivision 8, is amended to read:

Subd. 8. [DIAGNOSTIC ASSESSMENT.] Providers of adult rehabilitative mental health services must complete a diagnostic assessment as defined in section 245.462, subdivision 9, within five days after the recipient's second visit or within 30 days after intake, whichever occurs first. In cases where a diagnostic assessment is available that reflects the recipient's current status, and has been completed within 180 days preceding admission, an update must be completed. An update shall include a written summary by a mental health professional of the recipient's current mental health status and service needs. If the recipient's mental health status has changed

significantly since the adult's most recent diagnostic assessment, a new diagnostic assessment is required. For initial implementation of adult rehabilitative mental health services, until June 30, 2005, a diagnostic assessment that reflects the recipient's current status and has been completed within the past three years preceding admission is acceptable.

Sec. 22. Minnesota Statutes 2002, section 256B.0625, subdivision 19c, is amended to read:

Subd. 19c. [PERSONAL CARE.] Medical assistance covers personal care assistant services provided by an individual who is qualified to provide the services according to subdivision 19a and section 256B.0627, where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by the recipient or a qualified professional. "Qualified professional" means a mental health professional as defined in section 245.462, subdivision 18, or 245.4871, subdivision 27; or a registered nurse as defined in sections 148.171 to 148.285, or a licensed social worker as defined in section 148B.21. As part of the assessment, the county public health nurse will assist the recipient or responsible party to identify the most appropriate person to provide supervision of the personal care assistant. The qualified professional shall perform the duties described in Minnesota Rules, part 9505.0335, subpart 4.

Sec. 23. Minnesota Statutes 2002, section 256B.0627, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] (a) "Activities of daily living" includes eating, toileting, grooming, dressing, bathing, transferring, mobility, and positioning.

(b) "Assessment" means a review and evaluation of a recipient's need for home care services conducted in person. Assessments for private duty nursing shall be conducted by a registered private duty nurse. Assessments for home health agency services shall be conducted by a home health agency nurse. Assessments for personal care assistant services shall be conducted by the county public health nurse or a certified public health nurse under contract with the county. A face-to-face assessment must include: documentation of health status, determination of need, evaluation of service effectiveness, identification of appropriate services, service plan development or modification, coordination of services, referrals and follow-up to appropriate payers and community resources, completion of required reports, recommendation of service authorization, and consumer education. Once the need for personal care assistant services is determined under this section, the county public health nurse or certified public health nurse under contract with the county is responsible for communicating this recommendation to the commissioner and the recipient. A face-to-face assessment for personal care assistant services is conducted on those recipients who have never had a county public health nurse assessment. A face-to-face assessment must occur at least annually or when there is a significant change in the recipient's condition or when there is a change in the need for personal care assistant services. A service update may substitute for the annual face-to-face assessment when there is not a significant change in recipient condition or a change in the need for personal care assistant service. A service update or review for temporary increase includes a review of initial baseline data, evaluation of service effectiveness, redetermination of service need, modification of service plan and appropriate referrals, update of initial forms, obtaining service authorization, and on going consumer education. Assessments for medical assistance home care services for mental retardation or related conditions and alternative care services for developmentally disabled home and community-based waivered recipients may be conducted by the county public health nurse to ensure coordination and avoid duplication. Assessments must be completed on forms provided by the commissioner within 30 days of a request for home care services by a recipient or responsible party.

(c) "Care plan" means a written description of personal care assistant services developed by the qualified professional or the recipient's physician with the recipient or responsible party to be used by the personal care assistant with a copy provided to the recipient or responsible party.

(d) "Complex and regular private duty nursing care" means:

(1) complex care is private duty nursing provided to recipients who are ventilator dependent or for whom a physician has certified that were it not for private duty nursing the recipient would meet the criteria for inpatient hospital intensive care unit (ICU) level of care; and

(2) regular care is private duty nursing provided to all other recipients.

(e) "Health-related functions" means functions that can be delegated or assigned by a licensed health care professional under state law to be performed by a personal care attendant.

(f) "Home care services" means a health service, determined by the commissioner as medically necessary, that is ordered by a physician and documented in a service plan that is reviewed by the physician at least once every 60 days for the provision of home health services, or private duty nursing, or at least once every 365 days for personal care. Home care services are provided to the recipient at the recipient's residence that is a place other than a hospital or long-term care facility or as specified in section 256B.0625.

(g) "Instrumental activities of daily living" includes meal planning and preparation, managing finances, shopping for food, clothing, and other essential items, performing essential household chores, communication by telephone and other media, and getting around and participating in the community.

(h) "Medically necessary" has the meaning given in Minnesota Rules, parts 9505.0170 to 9505.0475.

(i) "Personal care assistant" means a person who:

(1) is at least 18 years old, except for persons 16 to 18 years of age who participated in a related school-based job training program or have completed a certified home health aide competency evaluation;

(2) is able to effectively communicate with the recipient and personal care provider organization;

(3) effective July 1, 1996, has completed one of the training requirements as specified in Minnesota Rules, part 9505.0335, subpart 3, items A to D;

(4) has the ability to, and provides covered personal care assistant services according to the recipient's care plan, responds appropriately to recipient needs, and reports changes in the recipient's condition to the supervising qualified professional or physician;

(5) is not a consumer of personal care assistant services; and

(6) is subject to criminal background checks and procedures specified in section 245A.04.

(j) "Personal care provider organization" means an organization enrolled to provide personal care assistant services under the medical assistance program that complies with the following: (1) owners who have a five percent interest or more, and managerial officials are subject to a background study as provided in section 245A.04. This applies to currently enrolled personal care provider organizations and those agencies seeking enrollment as a personal care provider organization. An organization will be barred from enrollment if an owner or managerial official of the organization has been convicted of a crime specified in section 245A.04, or a comparable crime in another jurisdiction, unless the owner or managerial official meets the reconsideration criteria specified in section 245A.04; (2) the organization must maintain a surety bond and liability insurance throughout the duration of enrollment and provides proof thereof. The insurer must notify the department of human services of the cancellation or lapse of policy; and (3) the organization must maintain documentation of services as specified in Minnesota Rules, part 9505.2175, subpart 7, as well as evidence of compliance with personal care assistant training requirements.

(k) "Responsible party" means an individual ~~residing with a recipient of personal care assistant services~~ who is capable of providing the ~~supportive care~~ support necessary to assist the recipient to live in the community, is at least 18 years old, actively participates in planning and directing of personal care assistant services, and is not ~~a~~ the personal care assistant. The responsible party must be accessible to the recipient and the personal care assistant when personal care services are being provided and monitor the services at least weekly according to the plan of care. The responsible party must be identified at the time of assessment and listed on the recipient's service agreement and care plan. Responsible parties ~~who are parents of minors or guardians of minors or incapacitated persons~~ may delegate the responsibility to another adult ~~during a temporary absence of at least 24 hours but not more than six months. The person delegated as a responsible party must be able to meet the definition of responsible party, except that the delegated responsible party is required to reside with the recipient only while serving as the responsible party~~ who is not the personal care assistant. The responsible party must assure that the delegate performs the functions of the responsible party, is identified at the time of the assessment, and is listed on the service agreement and the care plan. Foster care license holders may be designated the responsible party for residents of the foster care home if case management is provided as required in section 256B.0625, subdivision 19a. For persons who, as of April 1, 1992, are sharing personal care assistant services in order to obtain the availability of 24-hour coverage, an employee of the personal care provider organization may be designated as the responsible party if case management is provided as required in section 256B.0625, subdivision 19a.

(l) "Service plan" means a written description of the services needed based on the assessment developed by the nurse who conducts the assessment together with the recipient or responsible party. The service plan shall include a description of the covered home care services, frequency and duration of services, and expected outcomes and goals. The recipient and the provider chosen by the recipient or responsible party must be given a copy of the completed service plan within 30 calendar days of the request for home care services by the recipient or responsible party.

(m) "Skilled nurse visits" are provided in a recipient's residence under a plan of care or service plan that specifies a level of care which the nurse is qualified to provide. These services are:

(1) nursing services according to the written plan of care or service plan and accepted standards of medical and nursing practice in accordance with chapter 148;

(2) services which due to the recipient's medical condition may only be safely and effectively provided by a registered nurse or a licensed practical nurse;

(3) assessments performed only by a registered nurse; and

(4) teaching and training the recipient, the recipient's family, or other caregivers requiring the skills of a registered nurse or licensed practical nurse.

(n) "Telehomecare" means the use of telecommunications technology by a home health care professional to deliver home health care services, within the professional's scope of practice, to a patient located at a site other than the site where the practitioner is located.

Sec. 24. Minnesota Statutes 2002, section 256B.0627, subdivision 4, is amended to read:

Subd. 4. [PERSONAL CARE ASSISTANT SERVICES.] (a) The personal care assistant services that are eligible for payment are services and supports furnished to an individual, as needed, to assist in accomplishing activities of daily living; instrumental activities of daily living; health-related functions through hands-on assistance, supervision, and cuing; and redirection and intervention for behavior including observation and monitoring.

(b) Payment for services will be made within the limits approved using the prior authorized process established in subdivision 5.

(c) The amount and type of services authorized shall be based on an assessment of the recipient's needs in these areas:

(1) bowel and bladder care;

(2) skin care to maintain the health of the skin;

(3) repetitive maintenance range of motion, muscle strengthening exercises, and other tasks specific to maintaining a recipient's optimal level of function;

(4) respiratory assistance;

(5) transfers and ambulation;

(6) bathing, grooming, and hairwashing necessary for personal hygiene;

(7) turning and positioning;

(8) assistance with furnishing medication that is self-administered;

(9) application and maintenance of prosthetics and orthotics;

(10) cleaning medical equipment;

(11) dressing or undressing;

(12) assistance with eating and meal preparation and necessary grocery shopping;

(13) accompanying a recipient to obtain medical diagnosis or treatment;

(14) assisting, monitoring, or prompting the recipient to complete the services in clauses (1) to (13);

(15) redirection, monitoring, and observation that are medically necessary and an integral part of completing the personal care assistant services described in clauses (1) to (14);

(16) redirection and intervention for behavior, including observation and monitoring;

(17) interventions for seizure disorders, including monitoring and observation if the recipient has had a seizure that requires intervention within the past three months;

(18) tracheostomy suctioning using a clean procedure if the procedure is properly delegated by a registered nurse. Before this procedure can be delegated to a personal care assistant, a registered nurse must determine that the tracheostomy suctioning can be accomplished utilizing a clean rather than a sterile procedure and must ensure that the personal care assistant has been taught the proper procedure; and

(19) incidental household services that are an integral part of a personal care service described in clauses (1) to (18).

For purposes of this subdivision, monitoring and observation means watching for outward visible signs that are likely to occur and for which there is a covered personal care service or an appropriate personal care intervention. For purposes of this subdivision, a clean procedure refers to a procedure that reduces the numbers of microorganisms or prevents or reduces the transmission of microorganisms from one person or place to another. A clean procedure may be used beginning 14 days after insertion.

(d) The personal care assistant services that are not eligible for payment are the following:

(1) services not ordered by the physician;

(2) assessments by personal care assistant provider organizations or by independently enrolled registered nurses;

(3) services that are not in the service plan;

(4) services provided by the recipient's spouse, legal guardian for an adult or child recipient, or parent of a recipient under age 18;

(5) services provided by a foster care provider of a recipient who cannot direct the recipient's own care, unless monitored by a county or state case manager under section 256B.0625, subdivision 19a;

(6) services provided by the residential or program license holder in a residence for more than four persons;

(7) services that are the responsibility of a residential or program license holder under the terms of a service agreement and administrative rules;

(8) sterile procedures;

(9) injections of fluids into veins, muscles, or skin;

(10) ~~services provided by parents of adult recipients, adult children, or siblings of the recipient, unless these relatives meet one of the following hardship criteria and the commissioner waives this requirement:~~

~~(i) the relative resigns from a part-time or full-time job to provide personal care for the recipient;~~

~~(ii) the relative goes from a full-time to a part-time job with less compensation to provide personal care for the recipient;~~

~~(iii) the relative takes a leave of absence without pay to provide personal care for the recipient;~~

~~(iv) the relative incurs substantial expenses by providing personal care for the recipient; or~~

~~(v) because of labor conditions, special language needs, or intermittent hours of care needed, the relative is needed in order to provide an adequate number of qualified personal care assistants to meet the medical needs of the recipient;~~

~~(11)~~ homemaker services that are not an integral part of a personal care assistant services;

~~(12)~~ (11) home maintenance, or chore services;

~~(13)~~ (12) services not specified under paragraph (a); and

~~(14)~~ (13) services not authorized by the commissioner or the commissioner's designee.

(e) The recipient or responsible party may choose to supervise the personal care assistant or to have a qualified professional, as defined in section 256B.0625, subdivision 19c, provide the supervision. As required under section 256B.0625, subdivision 19c, the county public health nurse, as a part of the assessment, will assist the recipient or responsible party to identify the most appropriate person to provide supervision of the personal care assistant.

Health-related delegated tasks performed by the personal care assistant will be under the supervision of a qualified professional or the direction of the recipient's physician. If the recipient has a qualified professional, Minnesota Rules, part 9505.0335, subpart 4, applies.

Sec. 25. Minnesota Statutes 2002, section 256B.0627, subdivision 9, is amended to read:

Subd. 9. [FLEXIBLE USE OF PERSONAL CARE ASSISTANT HOURS.] (a) ~~The commissioner may allow for the flexible use of personal care assistant hours.~~ "Flexible use" means the scheduled use of authorized hours of personal care assistant services, which vary within the length of the service authorization in order to more effectively meet the needs and schedule of the recipient. Recipients may use their approved hours flexibly within the service authorization period for medically necessary covered services specified in the assessment required in subdivision 1. The flexible use of authorized hours does not increase the total amount of authorized hours available to a recipient as determined under subdivision 5. The commissioner shall not authorize additional personal care assistant services to supplement a service authorization that is exhausted before the end date under a flexible service use plan, unless the county public health nurse determines a change in condition and a need for increased services is established.

(b) ~~The recipient or responsible party, together with the county public health nurse, shall determine whether flexible use is an appropriate option based on the needs and preferences of the recipient or responsible party, and, if appropriate, must ensure that the allocation of hours covers the ongoing needs of the recipient over the entire service authorization period. As part of the assessment and service planning process, the recipient or responsible party must work with the county public health nurse to develop a written month-to-month plan of the projected use of personal care assistant services that is part of the service plan and ensures that the:~~

~~(1) health and safety needs of the recipient will be met;~~

~~(2) total annual authorization will not exceed before the end date; and~~

~~(3) how actual use of hours will be monitored.~~

~~(c) If the actual use of personal care assistant service varies significantly from the use projected in the plan, the written plan must be promptly updated by the recipient or responsible party and the county public health nurse.~~

~~(d)~~ The recipient or responsible party, together with the provider, must work to monitor and document the use of authorized hours and ensure that a recipient is able to manage services effectively throughout the authorized period. ~~The provider must ensure that the month-to-month plan is incorporated into the care plan.~~ Upon request of the recipient or responsible party, the provider must furnish regular updates to the recipient or responsible party on the amount of personal care assistant services used.

~~(e) The recipient or responsible party may revoke the authorization for flexible use of hours by notifying the provider and county public health nurse in writing.~~

~~(f) If the requirements in paragraphs (a) to (e) have not substantially been met, the commissioner shall deny, revoke, or suspend the authorization to use authorized hours flexibly. The recipient or responsible party may appeal the commissioner's action according to section 256.045. The denial, revocation, or suspension to use the flexible hours option shall not affect the recipient's authorized level of personal care assistant services as determined under subdivision 5.~~

Sec. 26. Minnesota Statutes 2002, section 256B.0911, subdivision 4d, is amended to read:

Subd. 4d. [PREADMISSION SCREENING OF INDIVIDUALS UNDER 65 YEARS OF AGE.] (a) It is the policy of the state of Minnesota to ensure that individuals with disabilities or chronic illness are served in the most integrated setting appropriate to their needs and have the necessary information to make informed choices about home and community-based service options.

(b) Individuals under 65 years of age who are admitted to a nursing facility from a hospital must be screened prior to admission as outlined in subdivisions 4a through 4c.

(c) Individuals under 65 years of age who are admitted to nursing facilities with only a telephone screening must receive a face-to-face assessment from the long-term care consultation team member of the county in which the facility is located or from the recipient's county case manager within ~~20 working~~ 40 calendar days of admission.

(d) Individuals under 65 years of age who are admitted to a nursing facility without preadmission screening according to the exemption described in subdivision 4b, paragraph (a), clause (3), and who remain in the facility longer than 30 days must receive a face-to-face assessment within 40 days of admission.

(e) At the face-to-face assessment, the long-term care consultation team member or county case manager must perform the activities required under subdivision 3b.

(f) For individuals under 21 years of age, a screening interview which recommends nursing facility admission must be face-to-face and approved by the commissioner before the individual is admitted to the nursing facility.

(g) In the event that an individual under 65 years of age is admitted to a nursing facility on an emergency basis, the county must be notified of the admission on the next working day, and a face-to-face assessment as described in paragraph (c) must be conducted within ~~20 working days~~ 40 calendar days of admission.

(h) At the face-to-face assessment, the long-term care consultation team member or the case manager must present information about home and community-based options so the individual can make informed choices. If the individual chooses home and community-based services, the long-term care consultation team member or case manager must complete a written relocation plan within 20 working days of the visit. The plan shall describe the services needed to move out of the facility and a time line for the move which is designed to ensure a smooth transition to the individual's home and community.

(i) An individual under 65 years of age residing in a nursing facility shall receive a face-to-face assessment at least every 12 months to review the person's service choices and available alternatives unless the individual indicates, in writing, that annual visits are not desired. In this case, the individual must receive a face-to-face assessment at least once every 36 months for the same purposes.

(j) Notwithstanding the provisions of subdivision 6, the commissioner may pay county agencies directly for face-to-face assessments for individuals under 65 years of age who are being considered for placement or residing in a nursing facility.

Sec. 27. Minnesota Statutes 2002, section 256B.0915, is amended by adding a subdivision to read:

Subd. 9. [TRIBAL MANAGEMENT OF ELDERLY WAIVER.] Notwithstanding contrary provisions of this section, or those in other state laws or rules, the commissioner and White Earth reservation may develop a model for tribal management of the elderly waiver program and implement this model through a contract between the state and White Earth reservation. The model shall include the provision of tribal waiver case management, assessment for personal care assistance, and administrative requirements otherwise carried out by counties but shall not include tribal financial eligibility determination for medical assistance.

Sec. 28. Minnesota Statutes 2002, section 256B.092, subdivision 1a, is amended to read:

Subd. 1a. [CASE MANAGEMENT ADMINISTRATION AND SERVICES.] (a) The administrative functions of case management provided to or arranged for a person include:

(1) ~~intake~~ review of eligibility for services;

(2) ~~diagnosis~~ screening;

(3) ~~screening~~ intake;

(4) ~~service authorization~~ diagnosis;

(5) ~~review of eligibility for services~~ the completion and authorization of services based upon an individualized service plan; and

(6) responding to requests for conciliation conferences and appeals according to section 256.045 made by the person, the person's legal guardian or conservator, or the parent if the person is a minor.

(b) Case management service activities provided to or arranged for a person include:

(1) development of the individual service plan~~;~~

(2) informing the individual or the individual's legal guardian or conservator, or parent if the person is a minor, of service options;

(3) consulting with relevant medical experts or service providers;

~~(3)~~ (4) assisting the person in the identification of potential providers;

~~(4)~~ (5) assisting the person to access services;

~~(5)~~ (6) coordination of services, if coordination is not provided by another service provider;

~~(6)~~ (7) evaluation and monitoring of the services identified in the plan; and

~~(7)~~ (8) annual reviews of service plans and services provided.

(c) Case management administration and service activities that are provided to the person with mental retardation or a related condition shall be provided directly by county agencies or under contract.

(d) Case managers are responsible for the administrative duties and service provisions listed in paragraphs (a) and (b). Case managers shall collaborate with consumers, families, legal representatives, and relevant medical experts and service providers in the development and annual review of the individualized service and habilitation plans.

(e) The department of human services shall offer ongoing education in case management to case managers. Case managers shall receive no less than ten hours of case management education and disability-related training each year.

Sec. 29. Minnesota Statutes 2002, section 256B.092, subdivision 5, is amended to read:

Subd. 5. [FEDERAL WAIVERS.] (a) The commissioner shall apply for any federal waivers necessary to secure, to the extent allowed by law, federal financial participation under United States Code, title 42, sections 1396 et seq., as amended, for the provision of services to persons who, in the absence of the services, would need the level of care provided in a regional treatment center or a community intermediate care facility for persons with mental retardation or related conditions. The commissioner may seek amendments to the waivers or apply for additional waivers under United States Code, title 42, sections 1396 et seq., as amended, to contain costs. The commissioner shall ensure that payment for the cost of providing home and community-based alternative services under the federal waiver plan shall not exceed the cost of intermediate care services including day training and habilitation services that would have been provided without the waivered services.

(b) The commissioner, in administering home and community-based waivers for persons with mental retardation and related conditions, shall ensure that day services for eligible persons are not provided by the person's residential service provider, unless the person or the person's legal representative is offered a choice of providers and agrees in writing to provision of day services by the residential service provider. The individual service plan for individuals who choose to have their residential service provider provide their day services must describe how health, safety, ~~and~~ protection, and habilitation needs will be met ~~by,~~ including how frequent and regular contact with persons other than the residential service provider will occur. The individualized service plan must address the provision of services during the day outside the residence on weekdays.

Sec. 30. Minnesota Statutes 2002, section 256B.095, is amended to read:

256B.095 [QUALITY ASSURANCE ~~PROJECT~~ SYSTEM ESTABLISHED.]

(a) Effective July 1, 1998, ~~an alternative~~ a quality assurance ~~licensing~~ system ~~project~~ for persons with developmental disabilities, which includes an alternative quality assurance licensing system for programs ~~for persons with developmental disabilities,~~ is established in Dodge, Fillmore, Freeborn, Goodhue, Houston, Mower, Olmsted, Rice, Steele, Wabasha, and Winona counties for the purpose of improving the quality of services provided to persons with developmental disabilities. A county, at its option, may choose to have all programs for persons with developmental disabilities located within the county licensed under chapter 245A using standards determined under the alternative quality assurance licensing system ~~project~~ or may continue regulation of these programs under the licensing system operated by the commissioner. The project expires on June 30, ~~2005~~ 2007.

(b) Effective July 1, 2003, a county not listed in paragraph (a) may apply to participate in the quality assurance system established under paragraph (a). The commission established under section 256B.0951 may, at its option, allow additional counties to participate in the system.

(c) Effective July 1, 2003, any county or group of counties not listed in paragraph (a) may establish a quality assurance system under this section. A new system established under this section shall have the same rights and duties as the system established under paragraph (a). A new system shall be governed by a commission under section 256B.0951. The commissioner shall appoint the initial commission members based on recommendations from advocates, families, service providers, and counties in the geographic area included in the new system. Counties that choose to participate in a new system shall have the duties assigned under section 256B.0952. The new system shall establish a quality assurance process under section 256B.0953. The provisions of section 256B.0954 shall apply to a new system established under this paragraph. The commissioner shall delegate authority to a new system established under this paragraph according to section 256B.0955.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 31. Minnesota Statutes 2002, section 256B.0951, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The ~~region 10~~ quality assurance commission is established. The commission consists of at least 14 but not more than 21 members as follows: at least three but not more than five members representing advocacy organizations; at least three but not more than five members representing consumers, families, and their legal representatives; at least three but not more than five members representing service providers; at least three but not more than five members representing counties; and the commissioner of human services or the commissioner's designee. ~~Initial membership of the commission shall be recruited and approved by the region 10 stakeholders group. Prior to approving the commission's membership, the stakeholders group shall provide to the commissioner a list of the membership in the stakeholders group, as of February 1, 1997, a brief summary of meetings held by the group since July 1, 1996, and copies of any materials prepared by the group for public distribution.~~ The first commission shall establish membership guidelines for the transition and recruitment of membership for the commission's ongoing existence. Members of the commission who do not receive a salary or wages from an employer for time spent on commission duties may receive a per diem payment when performing commission duties and functions. All members may be reimbursed for expenses related to commission activities. Notwithstanding the provisions of section 15.059, subdivision 5, the commission expires on June 30, ~~2005~~ 2007.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 32. Minnesota Statutes 2002, section 256B.0951, subdivision 2, is amended to read:

Subd. 2. [AUTHORITY TO HIRE STAFF; CHARGE FEES; PROVIDE TECHNICAL ASSISTANCE.] (a) The commission may hire staff to perform the duties assigned in this section.

(b) The commission may charge fees for its services.

(c) The commission may provide technical assistance to other counties, families, providers, and advocates interested in participating in a quality assurance system under section 256B.095, paragraph (b) or (c).

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 33. Minnesota Statutes 2002, section 256B.0951, subdivision 3, is amended to read:

Subd. 3. [COMMISSION DUTIES.] (a) By October 1, 1997, the commission, in cooperation with the commissioners of human services and health, shall do the following: (1) approve an alternative quality assurance licensing system based on the evaluation of outcomes; (2) approve measurable outcomes in the areas of health and safety, consumer evaluation, education and training, providers, and systems that shall be evaluated during the alternative licensing process; and (3) establish variable licensure periods not to exceed three years based on outcomes achieved. For purposes of this subdivision, "outcome" means the behavior, action, or status of a person that can be observed or measured and can be reliably and validly determined.

(b) By January 15, 1998, the commission shall approve, in cooperation with the commissioner of human services, a training program for members of the quality assurance teams established under section 256B.0952, subdivision 4.

(c) The commission and the commissioner shall establish an ongoing review process for the alternative quality assurance licensing system. The review shall take into account the comprehensive nature of the alternative system, which is designed to evaluate the broad spectrum of licensed and unlicensed entities that provide services to clients~~, as compared to the current licensing system~~.

(d) ~~The commission shall contract with an independent entity to conduct a financial review of the alternative quality assurance project. The review shall take into account the comprehensive nature of the alternative system, which is designed to evaluate the broad spectrum of licensed and unlicensed entities that provide services to clients, as compared to the current licensing system. The review shall include an evaluation of possible budgetary savings within the department of human services as a result of implementation of the alternative quality assurance project. If a federal waiver is approved under subdivision 7, the financial review shall also evaluate possible savings within the department of health. This review must be completed by December 15, 2000.~~

~~(e) The commission shall submit a report to the legislature by January 15, 2001, on the results of the review process for the alternative quality assurance project, a summary of the results of the independent financial review, and a recommendation on whether the project should be extended beyond June 30, 2001.~~

~~(f)~~ The ~~commissioner~~ commission, in consultation with the ~~commission~~ commissioner, shall ~~examine the feasibility of expanding~~ work cooperatively with other populations to expand the ~~project~~ system to ~~other~~ those populations ~~or geographic areas~~ and identify barriers to expansion. The commissioner shall report findings and recommendations to the legislature by December 15, 2004.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 34. Minnesota Statutes 2002, section 256B.0951, subdivision 5, is amended to read:

Subd. 5. [VARIANCE OF CERTAIN STANDARDS PROHIBITED.] The safety standards, rights, or procedural protections under sections 245.825; 245.91 to 245.97; 245A.04, subdivisions 3, 3a, 3b, and 3c; 245A.09, subdivision 2, paragraph (c), clauses (2) and (5); 245A.12; 245A.13; 252.41, subdivision 9; 256B.092, subdivisions 1b, clause (7), and 10; 626.556; 626.557, and procedures for the monitoring of psychotropic medications shall not be varied under the alternative ~~licensing~~ quality assurance licensing system ~~project~~. The commission may make recommendations to the commissioners of human services and health or to the legislature regarding alternatives to or modifications of the rules and procedures referenced in this subdivision.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 35. Minnesota Statutes 2002, section 256B.0951, subdivision 7, is amended to read:

Subd. 7. [WAIVER OF RULES.] If a federal waiver is approved under subdivision 8, the commissioner of health may exempt residents of intermediate care facilities for persons with mental retardation (ICFs/MR) who participate in the alternative quality assurance ~~project~~ system established in section 256B.095 from the requirements of Minnesota Rules, chapter 4665.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 36. Minnesota Statutes 2002, section 256B.0951, subdivision 9, is amended to read:

Subd. 9. [EVALUATION.] The commission, in consultation with the commissioner of human services, shall conduct an evaluation of the ~~alternative~~ quality assurance system, and present a report to the commissioner by June 30, 2004.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 37. Minnesota Statutes 2002, section 256B.0952, subdivision 1, is amended to read:

Subdivision 1. [NOTIFICATION.] ~~For each year of the project, region 10~~ Counties shall give notice to the commission and commissioners of human services and health ~~by March 15~~ of intent to join the ~~quality assurance~~ alternative quality assurance licensing system~~, effective July 1 of that year~~. A county choosing to participate in the alternative quality assurance licensing system commits to participate ~~until June 30, 2005. Counties participating in the quality assurance alternative licensing system as of January 1, 2001, shall notify the commission and the commissioners of human services and health by March 15, 2001, of intent to continue participation. Counties that elect to continue participation must participate in the alternative licensing system until June 30, 2005~~ for three years.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 38. Minnesota Statutes 2002, section 256B.0953, subdivision 2, is amended to read:

Subd. 2. [LICENSURE PERIODS.] (a) In order to be licensed under the alternative quality assurance ~~process~~ licensing system, a facility, program, or service must satisfy the health and safety outcomes approved for the ~~pilot project~~ alternative quality assurance licensing system.

(b) Licensure shall be approved for periods of one to three years for a facility, program, or service that satisfies the requirements of paragraph (a) and achieves the outcome measurements in the categories of consumer evaluation, education and training, providers, and systems.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 39. Minnesota Statutes 2002, section 256B.0955, is amended to read:

256B.0955 [DUTIES OF THE COMMISSIONER OF HUMAN SERVICES.]

(a) Effective July 1, 1998, the commissioner of human services shall delegate authority to perform licensing functions and activities, in accordance with section 245A.16, to counties participating in the alternative quality assurance licensing system. The commissioner shall not license or reimburse a facility, program, or service for persons with developmental disabilities in a county that participates in the alternative quality assurance licensing system if the commissioner has received from the appropriate county notification that the facility, program, or service has been reviewed by a quality assurance team and has failed to qualify for licensure.

(b) The commissioner may conduct random licensing inspections based on outcomes adopted under section 256B.0951 at facilities, programs, and services governed by the alternative quality assurance licensing system. The role of such random inspections shall be to verify that the alternative quality assurance licensing system protects the safety and well-being of consumers and maintains the availability of high-quality services for persons with developmental disabilities.

~~(c) The commissioner shall provide technical assistance and support or training to the alternative licensing system pilot project.~~

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 40. Minnesota Statutes 2002, section 256B.19, subdivision 1, is amended to read:

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

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

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

(3) beginning January 1, 2004, 90 percent state funds and 10 percent county funds for the costs of placements that have exceeded 90 days in intermediate care facilities for persons with mental retardation or a related condition that have seven or more beds. This provision includes pass-through payments made under section 256B.5015; and

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

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

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

Sec. 41. Minnesota Statutes 2002, section 256B.47, subdivision 2, is amended to read:

Subd. 2. [NOTICE TO RESIDENTS.] (a) No increase in nursing facility rates for private paying residents shall be effective unless the nursing facility notifies the resident or person responsible for payment of the increase in writing 30 days before the increase takes effect.

A nursing facility may adjust its rates without giving the notice required by this subdivision when the purpose of the rate adjustment is to reflect a ~~necessary~~ change in the ~~level of care provided to a~~ case-mix classification of the resident. If the state fails to set rates as required by section 256B.431, subdivision 1, the time required for giving notice is decreased by the number of days by which the state was late in setting the rates.

(b) If the state does not set rates by the date required in section 256B.431, subdivision 1, nursing facilities shall meet the requirement for advance notice by informing the resident or person responsible for payments, on or before the effective date of the increase, that a rate increase will be effective on that date. If the exact amount has not yet been determined, the nursing facility may raise the rates by the amount anticipated to be allowed. Any amounts collected from private pay residents in excess of the allowable rate must be repaid to private pay residents with interest at the rate used by the commissioner of revenue for the late payment of taxes and in effect on the date the rate increase is effective.

Sec. 42. [256B.492] [REGIONAL MANAGEMENT OF HOME AND COMMUNITY-BASED WAIVER SERVICES.]

Subdivision 1. [REGION.] For the purposes of this section, "region" means a county or a group of counties, with a population of 100,000 or more, that have formed a joint powers agreement to manage the home and community-based waiver services.

Subd. 2. [PURPOSE.] Counties may form joint powers agreements for the purpose of regionally managing the home and community-based waiver services under sections 256B.0916 and 256B.49. Counties with a population of less than 100,000 are encouraged to form joint powers agreements with other counties to regionally manage the home and community-based waiver services under sections 256B.0916 and 256B.49.

Subd. 3. [REGIONAL WAIVER AUTHORITY.] One of the parties to the joint powers agreement or a new regional waiver authority entity shall be designated the regional waiver authority and shall monitor regional authorizations and expenditures. The joint powers agreement shall specify how decisions are made on authorizations and expenditures from the home and community-based waiver allocation.

Subd. 4. [FISCAL MANAGEMENT.] A region may reserve up to two percent of its home and community-based allocation in a given fiscal year to meet unanticipated needs.

Subd. 5. [ALTERNATIVE METHOD.] When waiver resources are to be distributed to a group of counties that do not meet the criteria for a region or otherwise elect not to form a region, the commissioner may (1) require a joint powers agreement; (2) contract with a public or private agency; or (3) require both to administer the waiver program for that geographic area. The commissioner is responsible for assuring that funds are used properly within the amount allocated.

Sec. 43. [256B.493] [COST MANAGEMENT OF HOME AND COMMUNITY-BASED WAIVERED SERVICES.]

(a) The commissioner of human services shall efficiently allocate and manage limited home and community-based waiver services program resources to achieve the following outcomes:

(1) the establishment of feasible and viable alternatives for persons in institutional or hospital settings to relocate to home and community-based settings;

(2) the availability of timely assistance to persons at imminent risk of institutional or hospital placement or whose health and safety is at immediate risk; and

(3) the maximum provision of essential community supports to eligible persons in need of and waiting for home and community-based service alternatives.

(b) The commissioner shall monitor the costs of home and community-based services, and may adjust home and community-based service allocations, as necessary, to assure that program costs are managed within available funding. When making this determination, the commissioner shall give consideration to offsets that may occur in other programs as a result of the availability and use of home and community-based services.

(c) The commissioner shall allocate home and community-based resources to local/regional entities in a manner that considers:

(1) the historical costs of serving individuals in a county or region;

(2) the individualized service plans for current recipients and eligible individuals expected to enter the waiver during the fiscal year; and

(3) the need for crisis services or other short-term services required because of unforeseen circumstances.

(d) The commissioner may reallocate resources from one county or region to another if available funding in that county or region is not likely to be spent and the reallocation is necessary to achieve the outcomes specified in paragraph (a).

Sec. 44. Minnesota Statutes 2002, section 256B.501, subdivision 1, is amended to read:

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

(a) "Commissioner" means the commissioner of human services.

(b) "Facility" means a facility licensed as a mental retardation residential facility under section 252.28, licensed as a supervised living facility under chapter 144, and certified as an intermediate care facility for persons with mental retardation or related conditions. The term does not include a state regional treatment center.

(c) "Habilitation services" means health and social services directed toward increasing and maintaining the physical, intellectual, emotional, and social functioning of persons with mental retardation or related conditions. Habilitation services include therapeutic activities, assistance, training, supervision, and monitoring in the areas of self-care, sensory and motor development, interpersonal skills, communication, socialization, reduction or elimination of maladaptive behavior, community living and mobility, health care, leisure and recreation, money management, and household chores.

(d) "Services during the day" means services or supports provided to a person that enables the person to be fully integrated into the community. Services during the day must include habilitation services, and may include a variety of supports to enable the person to exercise choices for community integration and inclusion activities. Services during the day may include, but are not limited to: supported work, support during community activities, community volunteer opportunities, adult day care, recreational activities, and other individualized integrated supports.

(e) "Waivered service" means home or community-based service authorized under United States Code, title 42, section 1396n(c), as amended through December 31, 1987, and defined in the Minnesota state plan for the provision of medical assistance services. Waivered services include, at a minimum, case management, family training and support, developmental training homes, supervised living arrangements, semi-independent living services, respite care, and training and habilitation services.

Sec. 45. Minnesota Statutes 2002, section 256B.501, is amended by adding a subdivision to read:

Subd. 3m. [SERVICES DURING THE DAY.] When establishing a rate for services during the day, the commissioner shall ensure that these services comply with active treatment requirements for persons residing in an ICF/MR as defined under federal regulations and shall ensure that day services for eligible persons are not provided by the person's residential service provider, unless the person or the person's legal representative is offered a choice of providers and agrees in writing to provision of day services by the residential service provider, consistent with the individual service plan. The individual service plan for individuals who choose to have their residential service provider provide their day services must describe how health, safety, protection, and habilitation needs will be met, including how frequent and regular contact with persons other than the residential service provider will occur. The individualized service plan must address the provision of services during the day outside the residence.

Sec. 46. Minnesota Statutes 2002, section 256B.5013, subdivision 4, is amended to read:

Subd. 4. [~~TEMPORARY~~ RATE ADJUSTMENTS ~~TO ADDRESS OCCUPANCY AND ACCESS~~ FOR SHORT-TERM ADMISSIONS FOR CRISIS OR SPECIALIZED MEDICAL CARE.] Beginning July 1, ~~2002~~ 2003, the commissioner ~~shall adjust the total payment rate for up to 75 days for the remaining recipients for facilities in which the monthly occupancy rate of licensed beds is 75 percent or greater. This mechanism shall not be used to pay for hospital or therapeutic leave days beyond the maximums allowed~~ may designate up to 25 beds in ICF/MR facilities statewide for the purpose of providing short-term admissions due to crisis care needs or care for medically fragile individuals. The commissioner shall adjust the total payment rate for up to 75 days for the remaining recipients of the facility when the monthly rate of the crisis or respite bed is 50 percent or greater.

Sec. 47. Minnesota Statutes 2002, section 256B.5015, is amended to read:

256B.5015 [PASS-THROUGH OF ~~TRAINING AND HABILITATION~~ OTHER SERVICES COSTS.]

Subdivision 1. [DAY TRAINING AND HABILITATION SERVICES.] Day training and habilitation services costs shall be paid as a pass-through payment at the lowest rate paid for the comparable services at that site under sections 252.40 to 252.46. The pass-through payments for training and habilitation services shall be paid separately by the commissioner and shall not be included in the computation of the ICF/MR facility total payment rate.

Subd. 2. [SERVICES DURING THE DAY.] Services during the day, as defined in section 256B.501, but excluding day training and habilitation services, shall be paid as a pass-through payment no later than January 1, 2004. The commissioner shall establish rates for these services, other than day training and habilitation services, at levels that do not exceed 75 percent of a recipient's day training and habilitation service costs prior to the service change.

When establishing a rate for these services, the commissioner shall also consider an individual recipient's needs as identified in the individualized service plan and the person's need for active treatment as defined under federal regulations. The pass-through payments for services during the day shall be paid separately by the commissioner and may not be included in the computation of the ICF/MR facility total payment rate.

Sec. 48. Minnesota Statutes 2002, section 256B.82, is amended to read:

256B.82 [PREPAID PLANS AND MENTAL HEALTH REHABILITATIVE SERVICES.]

Medical assistance and MinnesotaCare prepaid health plans may include coverage for adult mental health rehabilitative services under section 256B.0623, intensive rehabilitative services under section 256B.0622, and adult mental health crisis response services under section 256B.0624, beginning January 1, ~~2004~~ 2005.

By January 15, ~~2003~~ 2004, the commissioner shall report to the legislature how these services should be included in prepaid plans. The commissioner shall consult with mental health advocates, health plans, and counties in developing this report. The report recommendations must include a plan to ensure coordination of these services between health plans and counties, assure recipient access to essential community providers, and monitor the health plans' delivery of services through utilization review and quality standards.

Sec. 49. [256I.08] [COUNTY SHARE FOR CERTAIN NURSING FACILITY STAYS.]

Beginning January 1, 2004, if group residential housing is used to pay for a nursing facility placement due to the facility's status as an Institution for Mental Diseases, the county is liable for 20 percent of the nonfederal share of costs for persons under the age of 65 that have exceeded 90 days.

Sec. 50. [HOME AND COMMUNITY-BASED WAIVERED SERVICE PRIORITIES.]

For the 2004-2005 biennium, the commissioner shall monitor all available home and community-based waiver resources to support the following priorities for service for eligible individuals:

(1) children or adults who cannot be maintained safely in their current living situation without waiver services;

(2) children or adults in unstable living situations due to significant needs, age, or incapacity of the primary caregiver; and

(3) other persons who have been screened and are eligible, including those living in an institution.

Sec. 51. [HOME AND COMMUNITY-BASED WAIVER FOR PERSONS WITH MENTAL RETARDATION OR A RELATED CONDITION; RESOURCE MANAGEMENT STATEWIDE.]

The commissioner shall manage MR/RC waiver resources during the 2004-2005 biennium to assure that all available funds are allocated to meet the service priority needs and maintain a reserve statewide of no more than three percent of available funds. In order to effectively manage available resources to meet service priorities, the commissioner shall enable counties to manage resources on a regional basis.

Sec. 52. [DENIAL, REDUCTION, OR TERMINATION OF WAIVER SERVICES.]

For the 2004-2005 biennium, when a county is evaluating individual denials, reductions, or terminations of home and community-based services under sections 256B.0916 and 256B.49 for an individual, the case manager shall offer to meet with the individual or the individual's guardian and prioritize service needs based on the individualized service plan. The reduction in the authorized services for an individual due to changes in funding for waivered services may not exceed the amount needed to assure medically necessary services to meet the individual's health, safety, and welfare.

Sec. 53. [DIRECTION TO THE COMMISSIONER; HOME AND COMMUNITY-BASED SERVICES RESOURCE ALLOCATION METHOD DEVELOPMENT.]

The commissioner shall consult with representatives of persons with disabilities, their families and guardians, counties, service providers, and advocacy organizations to develop recommendations for a statewide method of allocating resources sufficient to meet the identified needs of persons eligible for home and community-based waiver services under Minnesota Statutes, sections 256B.0916 and 256B.49. The recommendations shall include provisions that address the feasibility of (1) offering incentives to persons with less urgent service needs who are receiving services or on the waiting list to postpone their access to home and community-based service options, (2) providing case management services to individuals on the MR/RC waiting list, (3) analyzing the impact of allocating resources on rates, payments, and changes in services to people, (4) analyzing individual capitation, and (5) evaluating whether the parental fee structure should be modified to reflect service utilization differences. The recommendations shall be provided to the legislative committees with jurisdiction over health and human services issues by January 15, 2005. A status report shall be provided to the committee by January 15, 2004.

Sec. 54. [HOME AND COMMUNITY-BASED SERVICES FUNDING METHODOLOGY.]

Beginning July 1, 2003, before making significant administrative changes in the funding methodology for the home and community-based waiver for persons with mental retardation or a related condition, the commissioner shall consult with representatives of counties, service providers, and persons with disabilities and their families to provide specific information about the funding formula and funding changes and the opportunity to comment at least 90 days before the changes become effective.

Sec. 55. [CASE MANAGEMENT ACCESS FOR PERSONS SEEKING COMMUNITY-BASED SERVICES.]

For the 2004-2005 biennium, when a person requests case management services under Minnesota Statutes, section 256B.0621, 256B.092, or 256B.49, subdivision 13, the county must determine whether the person qualifies, begin the screening process, begin individualized service plan development, and provide mandated case management services or relocation service coordination to those eligible within a reasonable time. If a county is unable to provide case management services within the required time period under sections 256B.0621, subdivision 7; 256B.49, subdivision 13; and Minnesota Rules, parts 9525.0004 to 9525.0036, the county shall contract for case management services to meet the obligation.

Sec. 56. [CASE MANAGEMENT SERVICES REDESIGN.]

In consultation with representatives for consumers, consumer advocates, counties, and service providers, the commissioner shall develop proposed legislation for case management changes that will (1) streamline administration, (2) improve consumer access to case management services, (3) assess the feasibility of a comprehensive universal assessment protocol for persons seeking community supports, (4) provide recommendations to case managers on reasonable means to meet consumer needs given resource allocation methods, (5) establish accountability for funds and performance measures, (6) provide for consumer choice of the case management service vendor, and (7) evaluate whether case management services to individuals with mental retardation or a related condition under Minnesota Statutes, section 256B.092, not reimbursed as a waivered service should be paid by the state. The proposed legislation shall be provided to the legislative committees with jurisdiction over health and human services issues by January 15, 2005.

Sec. 57. [SEMI-INDEPENDENT LIVING SERVICES AND FAMILY SUPPORT GRANTS.]

The commissioner shall require a county contribution equal to 20 percent of the cost of the semi-independent living services and family support grant programs, by January 1, 2004.

Sec. 58. [VACANCY LISTINGS.]

The commissioner of human services shall work with interested stakeholders on how provider and industry specific Web sites can provide useful information to consumers on bed vacancies for group residential housing providers and intermediate care facilities for persons with mental retardation and related conditions. Providers and industry trade organizations are responsible for all costs related to maintaining Web sites listing bed vacancies.

Sec. 59. [HOMELESS SERVICES; STATE CONTRACTS.]

The commissioner of human services may contract directly with nonprofit organizations providing homeless services in two or more counties. No more than two percent of the Children's and Community Social Services Act funds may be set aside to provide for contracts under this section.

Sec. 60. [GOVERNOR'S COUNCIL ON DEVELOPMENTAL DISABILITY, OMBUDSMAN FOR MENTAL HEALTH AND MENTAL RETARDATION, AND COUNCIL ON DISABILITIES.]

The governor's council on developmental disability under Minnesota Statutes, section 16B.053, the ombudsman for mental health and mental retardation under Minnesota Statutes, section 245.92, the centers for independent living, and the council on disability under Minnesota Statutes, section 256.482, must study the feasibility of (1) space coordination, (2) shared use of technology, (3) coordination of resource priorities, and (4) consolidation and make recommendations to the house and senate committees with jurisdiction over these entities by January 15, 2004.

Sec. 61. [GOVERNOR'S COUNCIL ON DEVELOPMENTAL DISABILITY.]

The governor's council on developmental disability under Minnesota Statutes, section 16B.053, shall provide an annual report of its activities to the house and senate committees with jurisdiction over human services by February 1 of each year.

Sec. 62. [REVISOR'S INSTRUCTION.]

For sections in Minnesota Statutes and Minnesota Rules affected by the repealed sections in this article, the revisor shall delete internal cross-references where appropriate and make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning.

Sec. 63. [REPEALER.]

(a) Minnesota Statutes 2002, sections 252.32, subdivision 2; 256B.095; 256B.0951; 256B.0952; 256B.0953; 256B.0954; and 256B.0955, are repealed July 1, 2003.

(b) Minnesota Statutes 2002, section 245.4712, subdivision 2, is repealed July 1, 2005.

(c) Laws 2001, First Special Session chapter 9, article 13, section 24, is repealed July 1, 2003.

ARTICLE 5

CHILDREN'S SERVICES

Section 1. Minnesota Statutes 2002, section 256B.0625, subdivision 20, is amended to read:

Subd. 20. [MENTAL HEALTH CASE MANAGEMENT.] (a) To the extent authorized by rule of the state agency, medical assistance covers case management services to persons with serious and persistent mental illness and children with severe emotional disturbance. Services provided under this section must meet the relevant standards in sections 245.461 to 245.4888, the Comprehensive Adult and Children's Mental Health Acts, Minnesota Rules, parts 9520.0900 to 9520.0926, and 9505.0322, excluding subpart 10.

(b) Entities meeting program standards set out in rules governing family community support services as defined in section 245.4871, subdivision 17, are eligible for medical assistance reimbursement for case management services for children with severe emotional disturbance when these services meet the program standards in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, excluding subparts 6 and 10.

(c) Medical assistance and MinnesotaCare payment for mental health case management shall be made on a monthly basis. In order to receive payment for an eligible child, the provider must document at least a face-to-face contact with the child, the child's parents, or the child's legal representative. To receive payment for an eligible adult, the provider must document:

(1) at least a face-to-face contact with the adult or the adult's legal representative; or

(2) at least a telephone contact with the adult or the adult's legal representative and document a face-to-face contact with the adult or the adult's legal representative within the preceding two months.

(d) Payment for mental health case management provided by county or state staff shall be based on the monthly rate methodology under section 256B.094, subdivision 6, paragraph (b), with separate rates calculated for child welfare and mental health, and within mental health, separate rates for children and adults.

(e) Payment for mental health case management provided by Indian health services or by agencies operated by Indian tribes may be made according to this section or other relevant federally approved rate setting methodology.

(f) Payment for mental health case management provided by vendors who contract with a county or Indian tribe shall be based on a monthly rate negotiated by the host county or tribe. The negotiated rate must not exceed the rate charged by the vendor for the same service to other payers. If the service is provided by a team of contracted vendors, the county or tribe may negotiate a team rate with a vendor who is a member of the team. The team shall determine how to distribute the rate among its members. No reimbursement received by contracted vendors shall be returned to the county or tribe, except to reimburse the county or tribe for advance funding provided by the county or tribe to the vendor.

(g) If the service is provided by a team which includes contracted vendors, tribal staff, and county or state staff, the costs for county or state staff participation in the team shall be included in the rate for county-provided services. In this case, the contracted vendor, the tribal agency, and the county may each receive separate payment for services provided by each entity in the same month. In order to prevent duplication of services, each entity must document, in the recipient's file, the need for team case management and a description of the roles of the team members.

(h) The commissioner shall calculate the nonfederal share of actual medical assistance and general assistance medical care payments for each county, based on the higher of calendar year 1995 or 1996, by service date, project that amount forward to 1999, and transfer one-half of the result from medical assistance and general assistance medical care to each county's mental health grants under sections 245.4886 and 256E.12 for calendar year 1999. The annualized minimum amount added to each county's mental health grant shall be $3,000 per year for children and $5,000 per year for adults. The commissioner may reduce the statewide growth factor in order to fund these minimums. The annualized total amount transferred shall become part of the base for future mental health grants for each county.

(i) ~~Any net increase in revenue to the county or tribe as a result of the change in this section must be used to provide expanded mental health services as defined in sections 245.461 to 245.4888, the Comprehensive Adult and Children's Mental Health Acts, excluding inpatient and residential treatment. For adults, increased revenue may also be used for services and consumer supports which are part of adult mental health projects approved under Laws 1997, chapter 203, article 7, section 25. For children, increased revenue may also be used for respite care and nonresidential individualized rehabilitation services as defined in section 245.492, subdivisions 17 and 23. "Increased revenue" has the meaning given in Minnesota Rules, part 9520.0903, subpart 3.~~

~~(j)~~ Notwithstanding section 256B.19, subdivision 1, the nonfederal share of costs for mental health case management shall be provided by the recipient's county of responsibility, as defined in sections 256G.01 to 256G.12, from sources other than federal funds or funds used to match other federal funds. If the service is provided by a tribal agency, the nonfederal share, if any, shall be provided by the recipient's tribe.

~~(k)~~ (j) The commissioner may suspend, reduce, or terminate the reimbursement to a provider that does not meet the reporting or other requirements of this section. The county of responsibility, as defined in sections 256G.01 to 256G.12, or, if applicable, the tribal agency, is responsible for any federal disallowances. The county or tribe may share this responsibility with its contracted vendors.

~~(l)~~ (k) The commissioner shall set aside a portion of the federal funds earned under this section to repay the special revenue maximization account under section 256.01, subdivision 2, clause (15). The repayment is limited to:

(1) the costs of developing and implementing this section; and

(2) programming the information systems.

~~(m)~~ (l) Payments to counties and tribal agencies for case management expenditures under this section shall only be made from federal earnings from services provided under this section. Payments to county-contracted vendors shall include both the federal earnings and the county share.

~~(n)~~ (m) Notwithstanding section 256B.041, county payments for the cost of mental health case management services provided by county or state staff shall not be made to the state treasurer. For the purposes of mental health case management services provided by county or state staff under this section, the centralized disbursement of payments to counties under section 256B.041 consists only of federal earnings from services provided under this section.

~~(o)~~ (n) Case management services under this subdivision do not include therapy, treatment, legal, or outreach services.

~~(p)~~ (o) If the recipient is a resident of a nursing facility, intermediate care facility, or hospital, and the recipient's institutional care is paid by medical assistance, payment for case management services under this subdivision is limited to the last 180 days of the recipient's residency in that facility and may not exceed more than six months in a calendar year.

~~(q)~~ (p) Payment for case management services under this subdivision shall not duplicate payments made under other program authorities for the same purpose.

~~(r)~~ (q) By July 1, 2000, the commissioner shall evaluate the effectiveness of the changes required by this section, including changes in number of persons receiving mental health case management, changes in hours of service per person, and changes in caseload size.

~~(s)~~ (r) For each calendar year beginning with the calendar year 2001, the annualized amount of state funds for each county determined under paragraph (h) shall be adjusted by the county's percentage change in the average number of clients per month who received case management under this section during the fiscal year that ended six months prior to the calendar year in question, in comparison to the prior fiscal year.

~~(t)~~ (s) For counties receiving the minimum allocation of $3,000 or $5,000 described in paragraph (h), the adjustment in paragraph ~~(s)~~ (r) shall be determined so that the county receives the higher of the following amounts:

(1) a continuation of the minimum allocation in paragraph (h); or

(2) an amount based on that county's average number of clients per month who received case management under this section during the fiscal year that ended six months prior to the calendar year in question, times the average statewide grant per person per month for counties not receiving the minimum allocation.

~~(u)~~ (t) The adjustments in paragraphs ~~(s)~~ (r) and ~~(t)~~ (s) shall be calculated separately for children and adults.

Sec. 2. Minnesota Statutes 2002, section 256B.0625, subdivision 23, is amended to read:

Subd. 23. [DAY TREATMENT SERVICES.] Medical assistance covers day treatment services for adults as specified in ~~sections~~ section 245.462, subdivision 8, ~~and 245.4871, subdivision 10,~~ that are provided under contract with the county board. Notwithstanding Minnesota Rules, part 9505.0323, subpart 15, the commissioner may set authorization thresholds for day treatment according to section 256B.0625, subdivision 25. Medical assistance covers day treatment services for children as specified under section 256B.0943. Medical assistance coverage for day treatment for adults ends on June 30, 2005.

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

Sec. 3. Minnesota Statutes 2002, section 256B.0625, is amended by adding a subdivision to read:

Subd. 35a. [CHILDREN'S MENTAL HEALTH CRISIS RESPONSE SERVICES.] Medical assistance covers children's mental health crisis response services according to section 256B.0944.

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

Sec. 4. Minnesota Statutes 2002, section 256B.0625, is amended by adding a subdivision to read:

Subd. 35b. [CHILDREN'S THERAPEUTIC SERVICES AND SUPPORTS.] Medical assistance covers children's therapeutic services and supports according to section 256B.0943.

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

Sec. 5. Minnesota Statutes 2002, section 256B.0625, is amended by adding a subdivision to read:

Subd. 45. [SUBACUTE PSYCHIATRIC CARE FOR PERSONS UNDER 21 YEARS OF AGE.] Medical assistance covers subacute psychiatric care for person under 21 years of age when:

(1) the services meet the requirements of Code of Federal Regulations, title 42, section 440.160;

(2) the facility is accredited as a psychiatric treatment facility by the joint commission on accreditation of healthcare organizations, the commission on accreditation of rehabilitation facilities, or the council on accreditation; and

(3) the facility is licensed by the commissioner of health under section 144.50.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 6. [256B.0943] [CHILDREN'S THERAPEUTIC SERVICES AND SUPPORTS.]

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

(a) "Children's therapeutic services and supports" means the flexible package of mental health services for children who require varying therapeutic and rehabilitative levels of intervention. The services are time-limited interventions that are delivered using various treatment modalities and combinations of services designed to reach treatment outcomes identified in the individual treatment plan.

(b) "Clinical supervision" means the overall responsibility of the mental health professional for the control and direction of individualized treatment planning, service delivery, and treatment review for each client. A mental health professional who is an enrolled Minnesota health care program provider accepts full professional responsibility for a supervisee's actions and decisions, instructs the supervisee in the supervisee's work, and oversees or directs the supervisee's work.

(c) "County board" means the county board of commissioners or board established under sections 402.01 to 402.10 or 471.59.

(d) "Crisis assistance" has the meaning given in section 245.4871, subdivision 9a.

(e) "Culturally competent provider" means a provider who understands and can utilize to a client's benefit the client's culture when providing services to the client. A provider may be culturally competent because the provider is of the same cultural or ethnic group as the client or the provider has developed the knowledge and skills through training and experience to provide services to culturally diverse clients.

(f) "Day treatment program" for children means a site-based structured program consisting of group psychotherapy for more than three individuals and other intensive therapeutic services provided by a multidisciplinary team, under the clinical supervision of a mental health professional.

(g) "Diagnostic assessment" has the meaning given in section 245.4871, subdivision 11.

(h) "Direct service time" means the time that a mental health professional, mental health practitioner, or mental health behavioral aide spends face-to-face with a client and the client's family. Direct service time includes time in which the provider obtains a client's history or provides service components of children's therapeutic services and supports. Direct service time does not include time doing work before and after providing direct services, including scheduling, maintaining clinical records, consulting with others about the client's mental health status, preparing reports, receiving clinical supervision directly related to the client's psychotherapy session, and revising the client's individual treatment plan.

(i) "Direction of mental health behavioral aide" means the activities of a mental health professional or mental health practitioner in guiding the mental health behavioral aide in providing services to a client. The direction of a mental health behavioral aide must be based on the client's individualized treatment plan and meet the requirements in subdivision 6, paragraph (b), clause (5).

(j) "Emotional disturbance" has the meaning given in section 245.4871, subdivision 15. For persons at least age 18 but under age 21, mental illness has the meaning given in section 245.462, subdivision 20, paragraph (a).

(k) "Individual behavioral plan" means a plan of intervention, treatment, and services for a child written by a mental health professional or mental health practitioner, under the clinical supervision of a mental health professional, to guide the work of the mental health behavioral aide.

(l) "Individual treatment plan" has the meaning given in section 245.4871, subdivision 21.

(m) "Mental health professional" means an individual as defined in section 245.4871, subdivision 27, clauses (1) to (5), or tribal vendor as defined in section 256B.02, subdivision 7, paragraph (b).

(n) "Preschool program" means a day program licensed under Minnesota Rules, parts 9503.0005 to 9503.0175, and enrolled as a children's therapeutic services and supports provider to provide a structured treatment program to a child who is at least 33 months old but who has not yet attended the first day of kindergarten.

(o) "Skills training" means individual, family, or group training designed to improve the basic functioning of the child with emotional disturbance and the child's family in the activities of daily living and community living, and to improve the social functioning of the child and the child's family in areas important to the child's maintaining or reestablishing residency in the community. Individual, family, and group skills training must:

(1) consist of activities designed to promote skill development of the child and the child's family in the use of age-appropriate daily living skills, interpersonal and family relationships, and leisure and recreational services;

(2) consist of activities that will assist the family's understanding of normal child development and to use parenting skills that will help the child with emotional disturbance achieve the goals outlined in the child's individual treatment plan; and

(3) promote family preservation and unification, promote the family's integration with the community, and reduce the use of unnecessary out-of-home placement or institutionalization of children with emotional disturbance.

Subd. 2. [COVERED SERVICE COMPONENTS OF CHILDREN'S THERAPEUTIC SERVICES AND SUPPORTS.] (a) Subject to federal approval, medical assistance covers medically necessary children's therapeutic services and supports as defined in this section that an eligible provider entity under subdivisions 4 and 5 provides to a client eligible under subdivision 3.

(b) The service components of children's therapeutic services and supports are:

(1) individual, family, and group psychotherapy;

(2) individual, family, or group skills training provide by a mental health professional or mental health practitioner;

(3) crisis assistance;

(4) mental health behavioral aide services; and

(5) direction of a mental health behavioral aide.

(c) Service components may be combined to constitute therapeutic programs, including day treatment programs and preschool programs. Although day treatment and preschool programs have specific client and provider eligibility requirements, medical assistance only pays for the service components listed in paragraph (b).

Subd. 3. [DETERMINATION OF CLIENT ELIGIBILITY.] A client's eligibility to receive children's therapeutic services and supports under this section shall be determined based on a diagnostic assessment by a mental health professional that is performed within 180 days of the initial start of service. The diagnostic assessment must:

(1) include current diagnoses on all five axes of the client's current mental health status;

(2) determine whether a child under age 18 has a diagnosis of emotional disturbance or, if the person is between the ages of 18 and 21, whether the person has a mental illness;

(3) document children's therapeutic services and supports as medically necessary to address an identified disability, functional impairment, and the individual client's needs and goals;

(4) be used in the development of the individualized treatment plan; and

(5) be completed annually until age 18. For individuals between age 18 and 21, unless a client's mental health condition has changed markedly since the client's most recent diagnostic assessment, annual updating is necessary. For the purpose of this section, "updating" means a written summary, including current diagnoses on all five axes, by a mental health professional of the client's current mental health status and service needs.

Subd. 4. [PROVIDER ENTITY CERTIFICATION.] (a) Effective July 1, 2003, the commissioner shall establish an initial provider entity application and certification process and recertification process to determine whether a provider entity has an administrative and clinical infrastructure that meets the requirements in subdivisions 5 and 6. The commissioner shall recertify a provider entity at least every three years. The commissioner shall establish a

process for decertification of a provider entity that no longer meets the requirements in this section. The county, tribe, and the commissioner shall be mutually responsible and accountable for the county's, tribe's, and state's part of the certification, recertification, and decertification processes.

(b) For purposes of this section, a provider entity must be:

(1) an Indian health services facility or a facility owned and operated by a tribe or tribal organization operating as a 638 facility under Public Law 93-368 certified by the state;

(2) a county-operated entity certified by the state; or

(3) a noncounty entity recommended for certification by the provider's host county and certified by the state.

Subd. 5. [PROVIDER ENTITY ADMINISTRATIVE INFRASTRUCTURE REQUIREMENTS.] (a) To be an eligible provider entity under this section, a provider entity must have an administrative infrastructure that establishes authority and accountability for decision making and oversight of functions, including finance, personnel, system management, clinical practice, and performance measurement. The provider must have written policies and procedures that it reviews and updates every three years and distributes to staff initially and upon each subsequent update.

(b) The administrative infrastructure written policies and procedures must include:

(1) personnel procedures, including a process for: (i) recruiting, hiring, training, and retention of culturally and linguistically competent providers; (ii) conducting a criminal background check on all direct service providers and volunteers; (iii) investigating, reporting, and acting on violations of ethical conduct standards; (iv) investigating, reporting, and acting on violations of data privacy policies that are compliant with federal and state laws; (v) utilizing volunteers, including screening applicants, training and supervising volunteers, and providing liability coverage for volunteers; and (vi) documenting that a mental health professional, mental health practitioner, or mental health behavioral aide meets the applicable provider qualification criteria, training criteria under subdivision 8, and clinical supervision or direction of a mental health behavioral aide requirements under subdivision 6;

(2) fiscal procedures, including internal fiscal control practices and a process for collecting revenue that is compliant with federal and state laws;

(3) if a client is receiving services from a case manager or other provider entity, a service coordination process that ensures services are provided in the most appropriate manner to achieve maximum benefit to the client. The provider entity must ensure coordination and nonduplication of services consistent with county board coordination procedures established under section 245.4881, subdivision 5;

(4) a performance measurement system, including monitoring to determine cultural appropriateness of services identified in the individual treatment plan, as determined by the client's culture, beliefs, values, and language, and family-driven services; and

(5) a process to establish and maintain individual client records. The client's records must include: (i) the client's personal information; (ii) forms applicable to data privacy; (iii) the client's diagnostic assessment, updates, tests, individual treatment plan, and individual behavior plan, if necessary; (iv) documentation of service delivery as specified under subdivision 6; (v) telephone contacts; (vi) discharge plan; and (vii) if applicable, insurance information.

Subd. 6. [PROVIDER ENTITY CLINICAL INFRASTRUCTURE REQUIREMENTS.] (a) To be an eligible provider entity under this section, a provider entity must have a clinical infrastructure that utilizes diagnostic assessment, an individualized treatment plan, service delivery, and individual treatment plan review that are culturally competent, child-centered, and family-driven to achieve maximum benefit for the client. The provider entity must review and update the clinical policies and procedures every three years and must distribute the policies and procedures to staff initially and upon each subsequent update.

(b) The clinical infrastructure written policies and procedures must include policies and procedures for:

(1) providing or obtaining a client's diagnostic assessment that identifies acute and chronic clinical disorders, co-occurring medical conditions, sources of psychological and environmental problems, and a functional assessment. The functional assessment must clearly summarize the client's individual strengths and needs;

(2) developing an individual treatment plan that is: (i) based on the information in the client's diagnostic assessment; (ii) developed no later than the end of the first psychotherapy session after the completion of the client's diagnostic assessment by the mental health professional who provides the client's psychotherapy; (iii) developed through a child-centered, family-driven planning process that identifies service needs and individualized, planned, and culturally-appropriate interventions that contain specific treatment goals and objectives for the client and the client's family or foster family; (iv) reviewed at least once every 90 days and revised, if necessary; and (v) signed by the client or, if appropriate, by the client's parent or other person authorized by statute to consent to mental health services for the client;

(3) developing an individual behavior plan that documents services to be provided by the mental health behavioral aide. The individual behavior plan must include: (i) detailed instructions on the service to be provided; (ii) time allocated to each service; (iii) methods of documenting the child's behavior; (iv) methods of monitoring the child's progress in reaching objectives; and (v) goals to increase or decrease targeted behavior as identified in the individual treatment plan;

(4) clinical supervision of the mental health practitioner and mental health behavioral aide. A mental health professional must document the clinical supervision the professional provides by cosigning individual treatment plans and making entries in the client's record on supervisory activities. Clinical supervision does not include the authority to make or terminate court-ordered placements of the child. A clinical supervisor must be available for urgent consultation as required by the individual client's needs or the situation. Clinical supervision may occur individually or in a small group to discuss treatment and review progress toward goals. The focus of clinical supervision must be the client's treatment needs and progress and the mental health practitioner's or behavioral aide's ability to provide services;

(5) providing direction to a mental health behavioral aide. For entities that employ mental health behavioral aides, the clinical supervisor must be employed by the provider entity to ensure necessary and appropriate oversight for the client's treatment and continuity of care. The mental health professional or mental health practitioner giving direction must begin with the goals on the individualized treatment plan, and instruct the mental health behavioral aide on how to construct therapeutic activities and interventions that will lead to goal attainment. The professional or practitioner giving direction must also instruct the mental health behavioral aide about the client's diagnosis, functional status, and other characteristics that are likely to affect service delivery. Direction must also include determining that the mental health behavioral aide has the skills to interact with the client and the client's family in ways that convey personal and cultural respect and that the aide actively solicits information relevant to treatment from the family. The aide must be able to clearly explain the activities the aide is doing with the client and the activities' relationship to treatment goals. Direction is more didactic than is supervision and requires the professional or practitioner providing it to continuously evaluate the mental health behavioral aide's ability to carry out the activities of the individualized treatment plan and the individualized behavior plan. When providing

direction, the professional or practitioner must: (i) review progress notes prepared by the mental health behavioral aide for accuracy and consistency with diagnostic assessment, treatment plan, and behavior goals and the professional or practitioner must approve and sign the progress notes; (ii) identify changes in treatment strategies, revise the individual behavior plan, and communicate treatment instructions and methodologies as appropriate to ensure that treatment is implemented correctly; (iii) demonstrate family-friendly behaviors that support healthy collaboration among the child, the child's family, and providers as treatment is planned and implemented; (iv) ensure that the mental health behavioral aide is able to effectively communicate with the child, the child's family, and the provider; and (v) record the results of any evaluation and corrective actions taken to modify the work of the mental health behavioral aide;

(6) providing service delivery that implements the individual treatment plan and meets the requirements under subdivision 9; and

(7) individual treatment plan review. The review must determine the extent to which the services have met the goals and objectives in the previous treatment plan. The review must assess the client's progress and ensure that services and treatment goals continue to be necessary and appropriate to the client and the client's family or foster family. Revision of the individual treatment plan does not require a new diagnostic assessment unless the client's mental health status has changed markedly. The updated treatment plan must be signed by the client, if appropriate, and by the client's parent or other person authorized by statute to give consent to the mental health services for the child.

Subd. 7. [QUALIFICATIONS OF INDIVIDUAL AND TEAM PROVIDERS.] (a) An individual or team provider working within the scope of the provider's practice or qualifications may provide service components of children's therapeutic services and supports that are identified as medically necessary in a client's individual treatment plan.

(b) An individual provider and multidisciplinary team include:

(1) a mental health professional as defined in subdivision 1, paragraph (m);

(2) a mental health practitioner as defined in section 245.4871, subdivision 26. The mental health practitioner must work under the clinical supervision of a mental health professional;

(3) a mental health behavioral aide working under the direction of a mental health professional to implement the rehabilitative mental health services identified in the client's individual treatment plan. A level I mental health behavioral aide must: (i) be at least 18 years old; (ii) have a high school diploma or general equivalency diploma (GED) or two years of experience as a primary caregiver to a child with severe emotional disturbance within the previous ten years; and (iii) meet preservices and continuing education requirements under subdivision 8. A level II mental health behavioral aide must: (i) be at least 18 years old; (ii) have an associate or bachelor's degree or 4,000 hours of experience in delivering clinical services in the treatment of mental illness concerning children or adolescents; and (iii) meet preservice and continuing education requirements in subdivision 8;

(4) a preschool program multidisciplinary team that includes at least one mental health professional and one or more of the following individuals under the clinical supervision of a mental health professional: (i) a mental health practitioner; or (ii) a program person, including a teacher, assistant teacher, or aide, who meets the qualifications and training standards of a level I mental health behavioral aide; or

(5) a day treatment multidisciplinary team that includes at least one mental health professional and one mental health practitioner.

Subd. 8. [REQUIRED PRESERVICE AND CONTINUING EDUCATION.] (a) A provider entity shall establish a plan to provide preservice and continuing education for staff. The plan must clearly describe the type of training necessary to maintain current skills and obtain new skills, and that relates to the provider entity's goals and objectives for services offered.

(b) A provider that employs a mental health behavioral aide under this section must require the mental health behavioral aide to complete 30 hours of preservice training. The preservice training must include topics specified in Minnesota Rules, part 9535.4068, subparts 1 and 2, and parent team training. The preservice training must include 15 hours of in-person training of a mental health behavioral aide in mental health services delivery and eight hours of parent team training. Components of parent team training include:

(1) partnering with parents;

(2) fundamentals of family support;

(3) fundamentals of policy and decision making;

(4) defining equal partnership;

(5) complexities of the parent and service provider partnership in multiple service delivery systems due to system strengths and weaknesses;

(6) sibling impacts;

(7) support networks; and

(8) community resources.

(c) A provider entity that employs a mental health practitioner and a mental health behavioral aide to provide children's therapeutic services and supports under this section must require the mental health practitioner and mental health behavioral aide to complete 20 hours of continuing education every two calendar years. The continuing education must be related to serving the needs of a child with emotional disturbance in the child's home environment and the child's family. The topics covered in orientation and training must conform to Minnesota Rules, part 9535.4068.

(d) The provider entity must document the mental health practitioner's or mental health behavioral aide's annual completion of the required continuing education. The documentation must include the date, subject, and number of hours of the continuing education, and attendance records, as verified by the staff member's signature, job title, and the instructor's name. The provider entity must keep documentation for each employee, including records of attendance at professional workshops and conferences, at a central location and in the employee's personnel file.

Subd. 9. [SERVICE DELIVERY CRITERIA.] (a) In delivering services under this section, a certified provider entity must ensure that:

(1) each individual provider's caseload size permits the provider to deliver services to both clients with severe, complex needs and clients with less intensive needs. The provider's caseload size should reasonably enable the provider to play an active role in service planning, monitoring, and delivering services to meet the client's and client's family's needs, as specified in each client's individual treatment plan;

(2) site-based programs, including day treatment and preschool programs, provide staffing and facilities to ensure the client's health, safety, and protection of rights, and that the programs are able to implement each client's individual treatment plan;

(3) a day treatment program is provided to a group of clients by a multidisciplinary staff under the clinical supervision of a mental health professional. The day treatment program must be provided in and by: (i) an outpatient hospital accredited by the joint commission on accreditation of health organizations and licensed under sections 144.50 to 144.55; (ii) a community mental health center under section 245.62; and (iii) an entity that is under contract with the county board to operate a program that meets the requirements of sections 245.4712, subdivision 2, and 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475. The day treatment program must stabilize the client's mental health status while developing and improving the client's independent living and socialization skills. The goal of the day treatment program must be to reduce or relieve the effects of mental illness and provide training to enable the client to live in the community. The program must be available at least one day a week for a minimum three-hour time block. The three-hour time block must include at least one hour, but no more than two hours, of individual or group psychotherapy. The remainder of the three-hour time block may include recreation therapy, socialization therapy, or independent living skills therapy, but only if the therapies are included in the client's individual treatment plan. Day treatment programs are not part of inpatient or residential treatment services; and

(4) a preschool program is a structured treatment program offered to a child who is at least 33 months old, but who has not yet reached the first day of kindergarten, by a preschool multidisciplinary team in a day program licensed under Minnesota Rules, parts 9503.0005 to 9503.0175. The program must be available at least one day a week for a minimum two-hour time block. The structured treatment program may include individual or group psychotherapy and recreation therapy, socialization therapy, or independent living skills therapy, if included in the client's individual treatment plan.

(b) A provider entity must delivery the service components of children's therapeutic services and supports in compliance with the following requirements:

(1) individual, family, and group psychotherapy must be delivered as specified in Minnesota Rules, parts 9505.0523;

(2) individual, family, or group skills training must be provided by a mental health professional or a mental health practitioner who has a consulting relationship with a mental health professional who accepts full professional responsibility for the training;

(3) crisis assistance must be an intense, time-limited, and designed to resolve or stabilize crisis through arrangements for direct intervention and support services to the child and the child's family. Crisis assistance must utilize resources designed to address abrupt or substantial changes in the functioning of the child or the child's family as evidenced by a sudden change in behavior with negative consequences for well being, a loss of usual coping mechanisms, or the presentation of danger to self or others;

(4) medically necessary services that are provided by a mental health behavioral aide must be designed to improve the functioning of the child and support the family in activities of daily and community living. A mental health behavioral aide must document the delivery of services in written progress notes. The mental health behavioral aide must implement goals in the treatment plan for the child's emotional disturbance that allow the child to acquire developmentally and therapeutically appropriate daily living skills, social skills, and leisure and recreational skills through targeted activities. These activities may include:

(i) assisting a child as needed with skills development in dressing, eating, and toileting;

(ii) assisting, monitoring, and guiding the child to complete tasks, including facilitating the child's participation in medical appointments;

(iii) observing the child and intervening to redirect the child's inappropriate behavior;

(iv) assisting the child in using age-appropriate self-management skills as related to the child's emotional disorder or mental illness, including problem solving, decision making, communication, conflict resolution, anger management, social skills, and recreational skills;

(v) implementing deescalation techniques as recommended by the mental health professional;

(vi) implementing any other mental health service that the mental health professional has approved as being within the scope of the behavioral aide's duties; or

(vii) assisting the parents to develop and use parenting skills that help the child achieve the goals outlined in the child's individual treatment plan or individual behavioral plan. Parenting skills must be directed exclusively to the child's treatment; and

(5) direction of a mental health behavioral aide must include the following:

(i) a total of one hour of on-site observation by a mental health professional during the first 12 hours of service provided to a child;

(ii) ongoing on-site observation by a mental health professional or mental health practitioner for at least a total of one hour during every 40 hours of service provided to a child; and

(iii) immediate accessibility of the mental health professional or mental health practitioner to the mental health behavioral aide during service provision.

Subd. 10. [SERVICE AUTHORIZATION.] The commissioner shall publish in the State Register a list of health services that require prior authorization, as well as the criteria and standards used to select health services on the list. The list and the criteria and standards used to formulate the list are not subject to the requirements of sections 14.001 to 14.69. The commissioner's decision on whether prior authorization is required for a health service is not subject to administrative appeal.

Subd. 11. [DOCUMENTATION AND BILLING.] (a) A provider entity must document the services it provides under this section. The provider entity must ensure that the entity's documentation standards meet the requirements of federal and state laws. Services billed under this section that are not documented according to this subdivision shall be subject to monetary recovery by the commissioner.

(b) An individual mental health provider must promptly document the following in a client's record after providing services to the client:

(1) each occurrence of the client's mental health service, including the date, type, length, and scope of the service;

(2) the name of the person who gave the service;

(3) contact made with other persons interested in the client, including representatives of the courts, corrections systems, or schools. The provider must document the name and date of each contact;

(4) any contact made with the client's other mental health providers, case manager, family members, primary caregiver, legal representative, or the reason the provider did not contact the client's family members, primary caregiver, or legal representative, if applicable; and

(5) required clinical supervision, as appropriate.

Subd. 12. [EXCLUDED SERVICES.] The following services are not eligible for medical assistance payment as children's therapeutic services and supports:

(1) service components of children's therapeutic services and supports simultaneously provided by more than one provider entity unless prior authorization is obtained;

(2) children's therapeutic services and supports provided in violation of medical assistance policy in Minnesota Rules, part 9505.0220;

(3) mental health behavioral aide services provided by a personal care assistant who is not qualified as a mental health behavioral aide and employed by a certified children's therapeutic services and supports provider entity;

(4) services that are the responsibility of a residential or program license holder, including foster care providers under the terms of a service agreement or administrative rules governing licensure;

(5) up to 15 hours of children's therapeutic services and supports provided within a six-month period to a child with severe emotional disturbance who is residing in a hospital, a group home as defined in Minnesota Rules, part 9560.0520, subpart 4, a residential treatment facility licensed under Minnesota Rules, parts 9545.0900 to 9545.1090, a regional treatment center, or other institutional group setting or who is participating in a program of partial hospitalization are eligible for medical assistance payment if part of the discharge plan; and

(6) adjunctive activities that may be offered by a provider entity but are not otherwise covered by medical assistance, including:

(i) a service that is primarily recreation oriented or that is provided in a setting that is not medically supervised. This includes sports activities, exercise groups, activities such as craft hours, leisure time, social hours, meal or snack time, trips to community activities, and tours;

(ii) a social or educational service that does not have or cannot reasonably be expected to have a therapeutic outcome related to the client's emotional disturbance;

(iii) consultation with other providers or service agency staff about the care or progress of a client;

(iv) prevention or education programs provided to the community; and

(v) treatment for clients with primary diagnoses of alcohol or other drug abuse.

[EFFECTIVE DATE.] Unless otherwise specified, this section is effective July 1, 2004.

Sec. 7. [256B.0944] [COVERED SERVICES; CHILDREN'S MENTAL HEALTH CRISIS RESPONSE SERVICES.]

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

(a) "Mental health crisis" means a child's behavioral, emotional, or psychiatric situation that, but for the provision of crisis response services to the child, would likely result in significantly reduced levels of functioning in primary activities of daily living, an emergency situation, or the child's placement in a more restrictive setting, including, but not limited to, inpatient hospitalization.

(b) "Mental health emergency" means a child's behavioral, emotional, or psychiatric situation that causes an immediate need for mental health services and is consistent with section 62Q.55. A physician, mental health professional, or crisis mental health practitioner determines a mental health crisis or emergency for medical assistance reimbursement with input from the client and the client's family, if possible.

(c) "Mental health crisis assessment" means an immediate face-to-face assessment by a physician, mental health professional, or mental health practitioner under the clinical supervision of a mental health professional, following a screening that suggests the child may be experiencing a mental health crisis or mental health emergency situation.

(d) "Mental health mobile crisis intervention services" means face-to-face, short-term intensive mental health services initiated during a mental health crisis or mental health emergency. Mental health mobile crisis services must help the recipient cope with immediate stressors, identify and utilize available resources and strengths, and begin to return to the recipient's baseline level of functioning. Mental health mobile services must be provided on-site by a mobile crisis intervention team outside of an emergency room, urgent care, or an inpatient hospital setting.

(e) "Mental health crisis stabilization services" means individualized mental health services provided to a recipient following crisis intervention services that are designed to restore the recipient to the recipient's prior functional level. The individual treatment plan recommending mental health crisis stabilization must be completed by the intervention team or by staff after an inpatient or urgent care visit. Mental health crisis stabilization services may be provided in the recipient's home, the home of a family member or friend of the recipient, another community setting, or a short-term supervised, licensed residential program if the service is not included in the facility's cost pool or per diem. Mental health crisis stabilization is not reimbursable when provided as part of a partial hospitalization or day treatment program.

Subd. 2. [MEDICAL ASSISTANCE COVERAGE.] Medical assistance covers medically necessary children's mental health crisis response services, subject to federal approval, if provided to an eligible recipient under subdivision 3, by a qualified provider entity under subdivision 4 or a qualified individual provider working within the provider's scope of practice, and identified in the recipient's individual crisis treatment plan under subdivision 8.

Subd. 3. [ELIGIBILITY.] An eligible recipient is an individual who:

(1) is eligible for medical assistance;

(2) is under age 18 or between the ages of 18 and 21;

(3) is screened as possibly experiencing a mental health crisis or mental health emergency where a mental health crisis assessment is needed;

(4) is assessed as experiencing a mental health crisis or mental health emergency, and mental health mobile crisis intervention or mental health crisis stabilization services are determined to be medically necessary; and

(5) meets the criteria for emotional disturbance or mental illness.

Subd. 4. [PROVIDER ENTITY STANDARDS.] (a) A crisis intervention and crisis stabilization provider entity must meet the administrative and clinical standards specified in section 256B.0943, subdivisions 5 and 6, meet the standards listed in paragraph (b), and be:

(1) an Indian health service facility or facility owned and operated by a tribe or a tribal organization operating under Public Law 93-638 as a 638 facility;

(2) a county-board operated entity; or

(3) a provider entity that is under contract with the county board in the county where the potential crisis or emergency is occurring.

(b) The children's mental health crisis response services provider entity must:

(1) ensure that mental health crisis assessment and mobile crisis intervention services are available 24 hours a day, seven days a week;

(2) directly provide the services or, if services are subcontracted, the provider entity must maintain clinical responsibility for services and billing;

(3) ensure that crisis intervention services are provided in a manner consistent with sections 245.487 to 245.4888; and

(4) develop and maintain written policies and procedures regarding service provision that include safety of staff and recipients in high-risk situations.

Subd. 5. [MOBILE CRISIS INTERVENTION STAFF QUALIFICATIONS.] (a) To provide children's mental health mobile crisis intervention services, a mobile crisis intervention team must include:

(1) at least two mental health professionals as defined in section 256B.0943, subdivision 1, paragraph (m); or

(2) a combination of at least one mental health professional and one mental health practitioner as defined in section 245.4871, subdivision 26, with the required mental health crisis training and under the clinical supervision of a mental health professional on the team.

(b) The team must have at least two people with at least one member providing on-site crisis intervention services when needed. Team members must be experienced in mental health assessment, crisis intervention techniques, and clinical decision making under emergency conditions and have knowledge of local services and resources. The team must recommend and coordinate the team's services with appropriate local resources, including as the county social services agency, mental health service providers, and local law enforcement, if necessary.

Subd. 6. [INITIAL SCREENING, CRISIS ASSESSMENT, AND MOBILE INTERVENTION TREATMENT PLANNING.] (a) Before initiating mobile crisis intervention services, a screening of the potential crisis situation must be conducted. The screening may use the resources of crisis assistance and emergency services as defined in sections 245.4871, subdivision 14, and 245.4879, subdivisions 1 and 2. The screening must gather information, determine whether a crisis situation exists, identify the parties involved, and determine an appropriate response.

(b) If a crisis exists, a crisis assessment must be completed. A crisis assessment must evaluate any immediate needs for which emergency services are needed and, as time permits, the recipient's current life situation, sources of stress, mental health problems and symptoms, strengths, cultural considerations, support network, vulnerabilities, and current functioning.

(c) If the crisis assessment determines mobile crisis intervention services are needed, the intervention services must be provided promptly. As the opportunity presents itself during the intervention, at least two members of the mobile crisis intervention team must confer directly or by telephone about the assessment, treatment plan, and actions taken and needed. At least one of the team members must be on site providing crisis intervention services. If providing on-site crisis intervention services, a mental health practitioner must seek clinical supervision as required under subdivision 9.

(d) The mobile crisis intervention team must develop an initial, brief crisis treatment plan as soon as appropriate but no later than 24 hours after the initial face-to-face intervention. The plan must address the needs and problems noted in the crisis assessment and include measurable short-term goals, cultural considerations, and frequency and type of services to be provided to achieve the goals and reduce or eliminate the crisis. The crisis treatment plan must be updated as needed to reflect current goals and services. The team must involve the client and the client's family in developing and implementing the plan.

(e) The team must document in progress notes which short-term goals have been met and when no further crisis intervention services are required.

(f) If the client's crisis is stabilized, but the client needs a referral for mental health crisis stabilization services or to other services, the team must provide a referral to these services. If the recipient has a case manager, planning for other services must be coordinated with the case manager.

Subd. 7. [CRISIS STABILIZATION SERVICES.] (a) Crisis stabilization services must be provided by a mental health professional or a mental health practitioner who works under the clinical supervision of a mental health professional and for a crisis stabilization services provider entity, and must meet the following standards:

(1) a crisis stabilization treatment plan must be developed which meets the criteria in subdivision 8;

(2) services must be delivered according to the treatment plan and include face-to-face contact with the recipient by qualified staff for further assessment, help with referrals, updating the crisis stabilization treatment plan, supportive counseling, skills training, and collaboration with other service providers in the community; and

(3) mental health practitioners must have completed at least 30 hours of training in crisis intervention and stabilization during the past two years.

Subd. 8. [TREATMENT PLAN.] (a) The individual crisis stabilization treatment plan must include, at a minimum:

(1) a list of problems identified in the assessment;

(2) a list of the recipient's strengths and resources;

(3) concrete, measurable short-term goals and tasks to be achieved, including time frames for achievement of the goals;

(4) specific objectives directed toward the achievement of each goal;

(5) documentation of the participants involved in the service planning;

(6) planned frequency and type of services initiated;

(7) a crisis response action plan if a crisis should occur; and

(8) clear progress notes on the outcome of goals.

(b) The client, if clinically appropriate, must be a participant in the development of the crisis stabilization treatment plan. The client or the client's legal guardian must sign the service plan or documentation must be provided why this was not possible. A copy of the plan must be given to the client and the client's legal guardian. The plan should include services arranged, including specific providers where applicable.

(c) A treatment plan must be developed by a mental health professional or mental health practitioner under the clinical supervision of a mental health professional. A written plan must be completed within 24 hours of beginning services with the client.

Subd. 9. [SUPERVISION.] (a) A mental health practitioner may provide crisis assessment and mobile crisis intervention services if the following clinical supervision requirements are met:

(1) the mental health provider entity must accept full responsibility for the services provided;

(2) the mental health professional of the provider entity, who is an employee or under contract with the provider entity, must be immediately available by telephone or in person for clinical supervision;

(3) the mental health professional is consulted, in person or by telephone, during the first three hours when a mental health practitioner provides on-site service; and

(4) the mental health professional must review and approve the tentative crisis assessment and crisis treatment plan, document the consultation, and sign the crisis assessment and treatment plan within the next business day.

(b) If the mobile crisis intervention services continue into a second calendar day, a mental health professional must contact the client face-to-face on the second day to provide services and update the crisis treatment plan. The on-site observation must be documented in the client's record and signed by the mental health professional.

Subd. 10. [CLIENT RECORD.] The provider must maintain a file for each client that complies with the requirements under section 256B.0943, subdivision 11, and contains the following information:

(1) individual crisis treatment plans signed by the recipient, mental health professional, and mental health practitioner who developed the crisis treatment plan, or if the recipient refused to sign the plan, the date and reason stated by the recipient for not signing the plan;

(2) signed release of information forms;

(3) recipient health information and current medications;

(4) emergency contacts for the recipient;

(5) case records that document the date of service, place of service delivery, signature of the person providing the service, and the nature, extent, and units of service. Direct or telephone contact with the recipient's family or others should be documented;

(6) required clinical supervision by mental health professionals;

(7) summary of the recipient's case reviews by staff; and

(8) any written information by the recipient that the recipient wants in the file.

Subd. 11. [EXCLUDED SERVICES.] The following services are excluded from reimbursement under this section:

(1) room and board services;

(2) services delivered to a recipient while admitted to an inpatient hospital;

(3) transportation services under children's mental health crisis response service;

(4) services provided and billed by a provider who is not enrolled under medical assistance to provide children's mental health crisis response services;

(5) crisis response services provided by a residential treatment center to clients in their facility;

(6) services performed by volunteers;

(7) direct billing of time spent "on call" when not delivering services to a recipient;

(8) provider service time included in case management reimbursement;

(9) outreach services to potential recipients; and

(10) a mental health service that is not medically necessary.

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

Sec. 8. Minnesota Statutes 2002, section 256B.0945, subdivision 2, is amended to read:

Subd. 2. [COVERED SERVICES.] All services must be included in a child's individualized treatment or multiagency plan of care as defined in chapter 245.

~~(a) For facilities that are institutions for mental diseases according to statute and regulation or are not institutions for mental diseases but are approved by the commissioner to provide services under this paragraph, medical assistance covers the full contract rate, including room and board if the services meet the requirements of Code of Federal Regulations, title 42, section 440.160.~~

~~(b)~~ For facilities that are not institutions for mental diseases according to federal statute and regulation ~~and are not providing services under paragraph (a)~~, medical assistance covers mental health related services that are required to be provided by a residential facility under section 245.4882 and administrative rules promulgated thereunder, except for room and board.

Sec. 9. Minnesota Statutes 2002, section 256B.0945, subdivision 4, is amended to read:

Subd. 4. [PAYMENT RATES.] (a) Notwithstanding sections 256B.19 and 256B.041, payments to counties for residential services provided by a residential facility shall only be made of federal earnings for services provided under this section, and the nonfederal share of costs for services provided under this section shall be paid by the county from sources other than federal funds or funds used to match other federal funds. ~~Payment to counties for services provided according to subdivision 2, paragraph (a), shall be the federal share of the contract rate.~~ Payment to counties for services provided according to ~~subdivision 2, paragraph (b),~~ this section shall be a proportion of the per day contract rate that relates to rehabilitative mental health services and shall not include payment for costs or services that are billed to the IV-E program as room and board.

(b) The commissioner shall set aside a portion not to exceed five percent of the federal funds earned under this section to cover the state costs of administering this section. Any unexpended funds from the set-aside shall be distributed to the counties in proportion to their earnings under this section.

Sec. 10. Minnesota Statutes 2002, section 256F.10, subdivision 6, is amended to read:

Subd. 6. [DISTRIBUTION OF NEW FEDERAL REVENUE.] (a) Except for portion set aside in paragraph (b), the federal funds earned under this section and section 256B.094 by providers shall be paid to each provider based on its earnings~~, and must be used by each provider to expand preventive child welfare services~~.

If a county or tribal social services agency chooses to be a provider of child welfare targeted case management and if that county or tribal social services agency also joins a local children's mental health collaborative as authorized by the 1993 legislature, then the federal reimbursement received by the county or tribal social services agency for providing child welfare targeted case management services to children served by the local collaborative shall be transferred by the county or tribal social services agency to the integrated fund. The federal reimbursement transferred to the integrated fund by the county or tribal social services agency must not be used for residential care other than respite care described under subdivision 7, paragraph (d).

(b) The commissioner shall set aside a portion of the federal funds earned under this section to repay the special revenue maximization account under section 256.01, subdivision 2, clause (15). The repayment is limited to:

(1) the costs of developing and implementing this section and sections 256B.094 and 256J.48;

(2) programming the information systems; and

(3) the lost federal revenue for the central office claim directly caused by the implementation of these sections.

Any unexpended funds from the set aside under this paragraph shall be distributed to providers according to paragraph (a).

Sec. 11. Minnesota Statutes 2002, section 257.05, is amended to read:

257.05 [IMPORTATION.]

Subdivision 1. [NOTIFICATION AND DUTIES OF COMMISSIONER.] No person, except as provided by ~~subdivision~~ subdivisions 2 and 3, shall bring or send into the state any child for the purpose of placing the child out or procuring the child's adoption without first obtaining the consent of the commissioner of human services, and such person shall conform to all rules of the commissioner of human services and laws of the state of Minnesota relating to protection of children in foster care. Before any child shall be brought or sent into the state for the purpose of being placed in foster care, the person bringing or sending the child into the state shall first notify the commissioner of human services of the person's intention, and shall obtain from the commissioner of human services a certificate stating that the home in which the child is to be placed is, in the opinion of the commissioner of human services, a suitable adoptive home for the child if legal adoption is contemplated or that the home meets the commissioner's requirements for licensing of foster homes if legal adoption is not contemplated. The commissioner is responsible for protecting the child's interests so long as the child remains within the state and until the child reaches the age of 18 or is legally adopted. Notice to the commissioner shall state the name, age, and personal description of the child, and the name and address of the person with whom the child is to be placed, and such other information about the child and the foster home as may be required by the commissioner.

Subd. 2. [EXEMPT RELATIVES.] A parent, stepparent, grandparent, brother, sister and aunt or uncle in the first degree of the minor child who bring a child into the state for placement within their own home shall be exempt from the provisions of subdivision 1. This relationship may be by blood or marriage.

Subd. 3. [INTERNATIONAL ADOPTIONS.] Subject to state and federal laws and rules, adoption agencies licensed under chapter 245A and Minnesota Rules, parts 9545.0755 to 9545.0845, and county social services agencies are authorized to certify that the prospective adoptive home of a child brought into the state from another country for the purpose of adoption is a suitable home, or that the home meets the commissioner's requirements for licensing of foster homes if legal adoption is not contemplated.

Sec. 12. Minnesota Statutes 2002, section 259.67, subdivision 4, is amended to read:

Subd. 4. [ELIGIBILITY CONDITIONS.] (a) The placing agency shall use the AFDC requirements as specified in federal law as of July 16, 1996, when determining the child's eligibility for adoption assistance under title IV-E of the Social Security Act. If the child does not qualify, the placing agency shall certify a child as eligible for state funded adoption assistance only if the following criteria are met:

(1) Due to the child's characteristics or circumstances it would be difficult to provide the child an adoptive home without adoption assistance.

(2)(i) A placement agency has made reasonable efforts to place the child for adoption without adoption assistance, but has been unsuccessful; or

(ii) the child's licensed foster parents desire to adopt the child and it is determined by the placing agency that the adoption is in the best interest of the child.

(3) The child has been a ward of the commissioner ~~or~~, a Minnesota-licensed child-placing agency, or a tribal social service agency of Minnesota recognized by the Secretary of the Interior.

(b) For purposes of this subdivision, the characteristics or circumstances that may be considered in determining whether a child is a child with special needs under United States Code, title 42, chapter 7, subchapter IV, part E, or meets the requirements of paragraph (a), clause (1), are the following:

(1) The child is a member of a sibling group to be placed as one unit in which at least one sibling is older than 15 months of age or is described in clause (2) or (3).

(2) The child has documented physical, mental, emotional, or behavioral disabilities.

(3) The child has a high risk of developing physical, mental, emotional, or behavioral disabilities.

(4) The child is adopted according to tribal law without a termination of parental rights or relinquishment, provided that the tribe has documented the valid reason why the child cannot or should not be returned to the home of the child's parent.

(c) When a child's eligibility for adoption assistance is based upon the high risk of developing physical, mental, emotional, or behavioral disabilities, payments shall not be made under the adoption assistance agreement unless and until the potential disability manifests itself as documented by an appropriate health care professional.

Sec. 13. Minnesota Statutes 2002, section 260C.141, subdivision 2, is amended to read:

Subd. 2. [REVIEW OF FOSTER CARE STATUS.] The social services agency responsible for the placement of a child in a residential facility, as defined in section 260C.212, subdivision 1, pursuant to a voluntary release by the child's parent or parents must proceed in juvenile court to review the foster care status of the child in the manner provided in this section.

(a) Except for a child in placement due solely to the child's developmental disability or emotional disturbance, when a child continues in voluntary placement according to section 260C.212, subdivision 8, a petition shall be filed alleging the child to be in need of protection or services or seeking termination of parental rights or other permanent placement of the child away from the parent within 90 days of the date of the voluntary placement agreement. The petition shall state the reasons why the child is in placement, the progress on the out-of-home placement plan required under section 260C.212, subdivision 1, and the statutory basis for the petition under section 260C.007, subdivision 6, 260C.201, subdivision 11, or 260C.301.

(1) In the case of a petition alleging the child to be in need of protection or services filed under this paragraph, if all parties agree and the court finds it is in the best interests of the child, the court may find the petition states a prima facie case that:

(i) the child's needs are being met;

(ii) the placement of the child in foster care is in the best interests of the child;

(iii) reasonable efforts to reunify the child and the parent or guardian are being made; and

(iv) the child will be returned home in the next three months.

(2) If the court makes findings under paragraph (1), the court shall approve the voluntary arrangement and continue the matter for up to three more months to ensure the child returns to the parents' home. The responsible social services agency shall:

(i) report to the court when the child returns home and the progress made by the parent on the out-of-home placement plan required under section 260C.212, in which case the court shall dismiss jurisdiction;

(ii) report to the court that the child has not returned home, in which case the matter shall be returned to the court for further proceedings under section 260C.163; or

(iii) if any party does not agree to continue the matter under paragraph (1) and this paragraph, the matter shall proceed under section 260C.163.

(b) In the case of a child in voluntary placement due solely to the child's developmental disability or emotional disturbance according to section 260C.212, subdivision 9, the following procedures apply:

(1) [REPORT TO COURT.] (i) Unless the county attorney determines that a petition under subdivision 1 is appropriate, without filing a petition, a written report shall be forwarded to the court within 165 days of the date of the voluntary placement agreement. The written report shall contain necessary identifying information for the court to proceed, a copy of the out-of-home placement plan required under section 260C.212, subdivision 1, a written summary of the proceedings of any administrative review required under section 260C.212, subdivision 7, and any other information the responsible social services agency, parent or guardian, the child or the foster parent or other residential facility wants the court to consider.

(ii) The responsible social services agency, where appropriate, must advise the child, parent or guardian, the foster parent, or representative of the residential facility of the requirements of this section and of their right to submit information to the court. If the child, parent or guardian, foster parent, or representative of the residential facility wants to send information to the court, the responsible social services agency shall advise those persons of the reporting date and the identifying information necessary for the court administrator to accept the information and submit it to a judge with the agency's report. The responsible social services agency must also notify those persons that they have the right to be heard in person by the court and how to exercise that right. The responsible social services agency must also provide notice that an in-court hearing will not be held unless requested by a parent or guardian, foster parent, or the child.

(iii) After receiving the required report, the court has jurisdiction to make the following determinations and must do so within ten days of receiving the forwarded report: (A) whether or not the placement of the child is in the child's best interests; and (B) whether the parent and agency are appropriately planning for the child. Unless requested by a parent or guardian, foster parent, or child, no in-court hearing need be held in order for the court to make findings and issue an order under this paragraph.

(iv) If the court finds the placement is in the child's best interests and that the agency and parent are appropriately planning for the child, the court shall issue an order containing explicit, individualized findings to support its determination. The court shall send a copy of the order to the county attorney, the responsible social services agency, the parent or guardian, the child, and the foster parents. The court shall also send the parent or guardian, the child, and the foster parent notice of the required review under clause (2).

(v) If the court finds continuing the placement not to be in the child's best interests or that the agency or the parent or guardian is not appropriately planning for the child, the court shall notify the county attorney, the responsible social services agency, the parent or guardian, the foster parent, the child, and the county attorney of the court's determinations and the basis for the court's determinations.

(2) [PERMANENCY REVIEW BY PETITION.] If a child with a developmental disability or an emotional disturbance continues in out-of-home placement for 13 months from the date of a voluntary placement, a petition alleging the child to be in need of protection or services, for termination of parental rights, or for permanent placement of the child away from the parent under section 260C.201 shall be filed. The court shall conduct a permanency hearing on the petition no later than 14 months after the date of the voluntary placement. At the permanency hearing, the court shall determine the need for an order permanently placing the child away from the parent or determine whether there are compelling reasons that continued voluntary placement is in the child's best interests. A petition alleging the child to be in need of protection or services shall state the date of the voluntary placement agreement, the nature of the child's developmental disability or emotional disturbance, the plan for the ongoing care of the child, the parents' participation in the plan, the responsible social services agency's efforts to finalize a plan for the permanent placement of the child, and the statutory basis for the petition.

(i) If a petition alleging the child to be in need of protection or services is filed under this paragraph, the court may find, based on the contents of the sworn petition, and the agreement of all parties, including the child, where appropriate, that there are compelling reasons that the voluntary arrangement is in the best interests of the child and that the responsible social services agency has made reasonable efforts to finalize a plan for the permanent placement of the child, approve the continued voluntary placement, and continue the matter under the court's jurisdiction for the purpose of reviewing the child's placement as a continued voluntary arrangement every 12 months as long as the child continues in out-of-home placement. The matter must be returned to the court for further review every 12 months as long as the child remains in placement. The court shall give notice to the parent or guardian of the continued review requirements under this section. Nothing in this paragraph shall be construed to mean the court must order permanent placement for the child under section 260C.201, subdivision 11, as long as the court finds compelling reasons at the first review required under this section.

(ii) If a petition for termination of parental rights, for transfer of permanent legal and physical custody to a relative, for long-term foster care, or for foster care for a specified period of time is filed, the court must proceed under section 260C.201, subdivision 11.

(3) If any party, including the child, disagrees with the voluntary arrangement, the court shall proceed under section 260C.163.

Sec. 14. Minnesota Statutes 2002, section 626.559, subdivision 5, is amended to read:

Subd. 5. [REVENUE.] The commissioner of human services shall add the following funds to the funds appropriated under section 626.5591, subdivision 2, to develop and support training:

(a) The commissioner of human services shall submit claims for federal reimbursement earned through the activities and services supported through department of human services child protection or child welfare training funds. Federal revenue earned must be used to improve and expand training services by the department. The department expenditures eligible for federal reimbursement under this section must not be made from federal funds or funds used to match other federal funds.

(b) Each year, the commissioner of human services shall withhold from funds distributed to each county under Minnesota Rules, parts 9550.0300 to 9550.0370, an amount equivalent to 1.5 percent of each county's annual title XX allocation under section ~~256E.07~~ 256M.50. The commissioner must use these funds to ensure decentralization of training.

(c) The federal revenue under this subdivision is available for these purposes until the funds are expended.

Sec. 15. [TRANSITION TO CHILDREN'S THERAPEUTIC SERVICES AND SUPPORTS.]

Beginning July 1, 2003, the commissioner shall use the provider entity certification process under section 7 instead of the provider certification process required under Minnesota Rules, parts 9505.0324; 9505.0326; and 9505.0327.

Sec. 16. [CONFLICTS.]

The amendments to Minnesota Statutes 2002, section 256F.10, subdivision 6, in this article prevail over any conflicting law that amends or repeals it regardless of the order or date of enactment.

Sec. 17. [REVISOR'S INSTRUCTION.]

For sections in Minnesota Statutes and Minnesota Rules affected by the repealed sections in this article, the revisor shall delete internal cross-references where appropriate and make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning.

Sec. 18. [REPEALER.]

(a) Minnesota Statutes 2002, sections 256B.0945, subdivision 10; and 256F.10, subdivision 7, are repealed.

(b) Minnesota Statutes 2002, section 256B.0625, subdivisions 35 and 36, are repealed effective July 1, 2004.

(c) Minnesota Rules, parts 9505.0324; 9505.0326; and 9505.0327, are repealed effective July 1, 2004.

ARTICLE 6

COMMUNITY SERVICES ACT

Section 1. [256M.01] [CITATION.]

Sections 256M.01 to 256M.80 may be cited as the "Children and Community Services Act." This act establishes a fund to address the needs of children, adolescents, and adults within each county in accordance with a service plan entered into by the board of county commissioners of each county in consultation with stakeholders. The service plan shall specify the outcomes to be achieved, the general strategies to be employed, and the respective state and county roles. The service plan shall be reviewed and updated every two years, or sooner if both the state and the county deem it necessary. Nothing in this act is intended to limit the ability of counties to provide services to adults over age 25.

Sec. 2. [256M.10] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of sections 256M.01 to 256M.80, the terms defined in this section have the meanings given them.

Subd. 2. [CHILDREN AND COMMUNITY SERVICES.] (a) "Children and community services" means services provided or arranged for by county boards for children, adolescents and other individuals in transition from childhood to adulthood, and adults who experience dependency, abuse, neglect, poverty, disability, chronic health conditions, or other factors, including ethnicity and race, that may result in poor outcomes or disparities, as well as services for family members to support those individuals. These services may be provided by professionals or nonprofessionals, including the person's natural supports in the community.

(b) Children and community services do not include services under the public assistance programs known as the Minnesota family investment program, Minnesota supplemental aid, medical assistance, general assistance, general assistance medical care, MinnesotaCare, or community health services.

Subd. 3. [COMMISSIONER.] "Commissioner" means the commissioner of human services.

Subd. 4. [COUNTY BOARD.] "County board" means the board of county commissioners in each county.

Subd. 5. [FORMER CHILDREN'S SERVICES AND COMMUNITY SERVICE GRANTS.] "Former children's services and community service grants" means allocations for the following grants:

(1) community social service grants under sections 252.24, 256E.06, and 256E.14;

(2) family preservation grants under section 256F.05, subdivision 3;

(3) concurrent permanency planning grants under section 260C.213, subdivision 5;

(4) social service block grants (Title XX) under section 256E.07; and

(5) children's mental health grants under sections 245.4886 and 260.152.

Subd. 6. [HUMAN SERVICES BOARD.] "Human services board" means a board established under section 402.02; Laws 1974, chapter 293; or Laws 1976, chapter 340.

Sec. 3. [256M.20] [DUTIES OF COMMISSIONER OF HUMAN SERVICES.]

Subdivision 1. [GENERAL SUPERVISION.] Each year the commissioner shall allocate funds to each county according to section 256M.40 and service plans under section 256M.30. The funds shall be used to address the needs of children, adolescents, and adults. The commissioner, in consultation with counties, shall provide technical assistance and evaluate county performance in achieving outcomes.

Subd. 2. [ADDITIONAL DUTIES.] The commissioner shall:

(1) provide necessary information and assistance to each county for establishing baselines and desired improvements on safety, permanency, and well-being for children, adolescents, and adults;

(2) provide training, technical assistance, and other supports to each county board to assist in needs assessment, planning, implementation, and monitoring of outcomes and service quality;

(3) specify requirements for reports, including fiscal reports to account for funds distributed;

(4) request waivers from federal programs as necessary to implement this act; and

(5) have authority under sections 14.055 and 14.056 to grant a variance to existing state rules as needed to eliminate barriers to achieving desired outcomes.

Subd. 3. [SANCTIONS.] The commissioner shall establish and maintain a monitoring program designed to reduce the possibility of noncompliance with federal laws and federal regulations that may result in federal fiscal sanctions. If a county is not complying with federal law or federal regulation and the noncompliance may result in federal fiscal sanctions, the commissioner may withhold a portion of the county's share of state and federal funds for that program. The amount withheld must be equal to the percentage difference between the level of compliance maintained by the county and the level of compliance required by the federal regulations, multiplied by the county's share of state and federal funds for the program. The state and federal funds may be withheld until the county is found to be in compliance with all federal laws or federal regulations applicable to the program. If a county remains out of compliance for more than six consecutive months, the commissioner may reallocate the withheld funds to counties that are in compliance with the federal regulations.

Subd. 4. [CORRECTIVE ACTION PROCEDURE.] The commissioner must comply with the following procedures when reducing county funds under subdivision 3.

(a) The commissioner shall notify the county, by certified mail, of the statute, rule, federal law, or federal regulation with which the county has not complied.

(b) The commissioner shall give the county 30 days to demonstrate to the commissioner that the county is in compliance with the statute, rule, federal law, or federal regulation cited in the notice or to develop a corrective action plan to address the problem. Upon request from the county, the commissioner shall provide technical assistance to the county in developing a corrective action plan. The county shall have 30 days from the date the technical assistance is provided to develop the corrective action plan.

(c) The commissioner shall take no further action if the county demonstrates compliance with the statute, rule, federal law, or federal regulation cited in the notice.

(d) The commissioner shall review and approve or disapprove the corrective action plan within 30 days after the commissioner receives the corrective action plan.

(e) If the commissioner approves the corrective action plan submitted by the county, the county has 90 days after the date of approval to implement the corrective action plan.

(f) If the county fails to demonstrate compliance or fails to implement the corrective action plan approved by the commissioner, the commissioner may reduce the county's share of state or federal funds according to subdivision 3.

Sec. 4. [256M.30] [SERVICE PLAN.]

Subdivision 1. [SERVICE PLAN SUBMITTED TO COMMISSIONER.] Effective January 1, 2004, and each two-year period thereafter, each county must have a biennial service plan submitted to the commissioner in order to receive funds. Counties may submit multicounty or regional service plans.

Subd. 2. [CONTENTS.] The service plan shall be completed in a form prescribed by the commissioner. The plan must include:

(1) a statement of the needs of the children, adolescents, and adults who experience the conditions defined in section 256M.10, subdivision 2, paragraph (a), and strengths and resources available in the community to address those needs;

(2) strategies the county will pursue to achieve the performance targets. Strategies must include specification of how funds under this section and other community resources will be used to achieve desired performance targets; and

(3) description of the county's process to solicit public input and a summary of that input.

Subd. 3. [INFORMATION.] The commissioner shall provide each county with information and technical assistance needed to complete the service plan, including: information on child safety, permanency, and well-being in the county; comparisons with other counties; baseline performance on outcome measures; and promising program practices.

Subd. 4. [TIMELINES.] The preliminary service plan must be submitted to the commissioner by October 15, 2003, and October 15 of every two years thereafter.

Subd. 5. [PUBLIC COMMENT.] The county board must determine how citizens in the county will participate in the development of the service plan and provide opportunities for such participation. The county must allow a period of no less than 30 days prior to the submission of the plan to the commissioner to solicit comments from the public on the contents of the plan.

Sec. 5. [256M.40] [STATE CHILDREN AND COMMUNITY SERVICES GRANT ALLOCATION.]

Subdivision 1. [FORMULA.] The commissioner shall allocate state funds appropriated for children and community services grants to each county board on a calendar year basis in an amount determined according to the formula in paragraphs (a) to (c).

(a) For July 1, 2003, through December 31, 2003, the commissioner shall allocate funds to each county equal to that county's allocation for the grants under section 256M.10, subdivision 5, for calendar year 2003 less payments made on or before June 30, 2003.

(b) For calendar year 2004 and 2005, the commissioner shall allocate available funds to each county in proportion to that county's share of the calendar year 2003 allocations for the grants under section 256M.10, subdivision 5.

(c) For calendar year 2006 and each calendar year thereafter, the commissioner shall allocate available funds to each county in proportion to that county's share in the preceding calendar year.

Subd. 2. [PROJECT OF REGIONAL SIGNIFICANCE; STUDY.] The commissioner shall study whether and how to dedicate a portion of the allocated funds for projects of regional significance. The study shall include an analysis of the amount of annual funding to be dedicated for projects of regional significance and what efforts these projects must support. The commissioner shall submit a report to the chairs of the house and senate committees with jurisdiction over children and community services grants by January 15, 2005. The commissioner of finance, in preparing the proposed biennial budget for fiscal years 2006 and 2007, is instructed to include $25 million in funding for projects of regional significance under this chapter.

Subd. 3. [PAYMENTS.] Calendar year allocations under subdivision 1 shall be paid to counties on or before July 10 of each year.

Sec. 6. [256M.50] [FEDERAL CHILDREN AND COMMUNITY SERVICES GRANT ALLOCATION.]

In federal fiscal year 2004 and subsequent years, money for social services received from the federal government to reimburse counties for social service expenditures according to Title XX of the Social Security Act shall be allocated to each county according to section 256M.40, except for funds allocated for administrative purposes and migrant day care.

Sec. 7. [256M.60] [DUTIES OF COUNTY BOARDS.]

Subdivision 1. [RESPONSIBILITIES.] The county board of each county shall be responsible for administration and funding of children and community services as defined in section 256M.10, subdivisions 1 and 2. Each county board shall singly or in combination with other county boards use funds available to the county under this act to carry out these responsibilities. The county board shall coordinate and facilitate the effective use of formal and informal helping systems to best support and nurture children, adolescents, and adults within the county who experience dependency, abuse, neglect, poverty, disability, chronic health conditions, or other factors, including ethnicity and race, that may result in poor outcomes or disparities, as well as services for family members to support such individuals. This includes assisting individuals to function at the highest level of ability while maintaining family and community relationships to the greatest extent possible.

Subd. 2. [DAY TRAINING AND HABILITATION SERVICES; ALTERNATIVE HABILITATION SERVICES.] To the extent provided in the county service plan under section 256M.30, the county board of each county shall be responsible for providing day training and habilitation services or alternative habilitation services during the day for persons with developmental disabilities to the extent this is required by the person's individualized service plan.

Subd. 3. [REPORTS.] The county board shall provide necessary reports and data as required by the commissioner.

Subd. 4. [CONTRACTS FOR SERVICES.] The county board may contract with a human services board, a multicounty board established by a joint powers agreement, other political subdivisions, a children's mental health collaborative, a family services collaborative, or private organizations in discharging its duties.

Subd. 5. [EXEMPTION FROM LIABILITY.] The state of Minnesota, the county boards, or the agencies acting on behalf of the county boards in the implementation and administration of children and community services shall not be liable for damages, injuries, or liabilities sustained through the purchase of services by the individual, the individual's family, or the authorized representative under this section.

Subd. 6. [FEES FOR SERVICES.] The county board may establish a schedule of fees based upon clients' ability to pay to be charged to recipients of community social services. Payment, in whole or in part, for services may be accepted from any person except that no fee may be charged to persons or families whose adjusted gross household income is below the federal poverty level. When services are provided to any person, including a recipient of aids administered by the federal, state, or county government, payment of any charges due may be billed to and accepted from a public assistance agency or from any public or private corporation.

Sec. 8. [256M.70] [FISCAL LIMITATIONS.]

Subdivision 1. [DEMONSTRATION OF REASONABLE EFFORT.] The county shall make reasonable efforts to comply with all children and community services requirements. For the purposes of this section, a county is making reasonable efforts if the county has made efforts to comply with requirements within the limits of available funding, including efforts to identify and apply for commonly available state and federal funding for services.

Subd. 2. [IDENTIFICATION OF SERVICES TO BE PROVIDED.] If a county has made reasonable efforts to provide services according to the service plan under section 256M.30, but funds appropriated for purposes of sections 256M.01 to 256M.80 are insufficient, then the county may limit services according to the following criteria:

(1) whether the services are needed to protect individuals from maltreatment, abuse, and neglect;

(2) whether emergency and crisis services are needed to protect clients from physical, emotional, or psychological harm;

(3) the need for assessment of persons applying for services and referral to appropriate services when necessary;

(4) whether there is a need for public guardianship services;

(5) the need for case management for persons with developmental disabilities, children with serious emotional disturbances, and adults with serious and persistent mental illness;

(6) the need for day training and habilitation services or alternative habilitative services during the day for adults with developmental disabilities based on the individualized service plan;

(7) whether there is a need to fulfill licensing responsibilities delegated to the county by the commissioner under section 245A.16; and

(8) whether subacute detoxification services are needed.

Subd. 3. [DENIAL, REDUCTION, OR TERMINATION OF SERVICES DUE TO FISCAL LIMITATIONS.] Before a county denies, reduces, or terminates services to an individual due to fiscal limitations, the county must meet the requirements in this section. The county must notify the individual and the individual's guardian in writing of the reason for the denial, reduction, or termination of services and must inform the individual and the individual's guardian in writing that the county will, upon request, meet to discuss alternatives before services are terminated or reduced. No reduction in services for an individual may be greater than twice the amount of the county average reduction.

Subd. 4. [RIGHT TO PETITION FOR REVIEW.] Any individual who applies for or receives children and community services under this chapter, whose application is denied, or whose services are reduced or terminated may petition the commissioner to review the county's performance under the county service plan. The petition must be in writing and must be specific as to what action the individual believes is inconsistent with the county service plan, and what action the individual believes should be required. Upon receiving a petition, the commissioner shall

have 60 days in which to make a reply in writing as to its determination and any corrective action required. Notwithstanding any state law to the contrary, and subject to provisions of federal law, during this time period, the denial of eligibility or reduction or termination of services shall take effect, unless it is determined this would endanger the life or safety of the individual.

Sec. 9. [256M.80] [PROGRAM EVALUATION.]

Subdivision 1. [COUNTY EVALUATION.] Each county shall submit to the commissioner data from the past calendar year on the outcomes in the service plan. The commissioner shall prescribe standard methods to be used by the counties in providing the data. The data shall be submitted no later than March 1 of each year, beginning with March 1, 2005.

Subd. 2. [STATEWIDE EVALUATION.] Six months after the end of the first full calendar year and annually thereafter, the commissioner shall prepare a report on the counties' progress in improving the outcomes of children, adolescents, and adults related to safety, permanency, and well-being. This report shall be disseminated throughout the state.

Sec. 10. [256M.90] [GRANTS AND PURCHASE OF SERVICE CONTRACTS.]

Subdivision 1. [AUTHORITY.] The local agency may purchase community social services by grant or purchase of service contract from agencies or individuals approved as vendors.

Subd. 2. [DUTIES OF LOCAL AGENCY.] The local agency must:

(1) use a written grant or purchase of service contract when purchasing community social services. Every grant and purchase of service contract must be completed, signed, and approved by all parties to the agreement, including the county board, unless the county board has designated the local agency to sign on its behalf. No service shall be provided before the effective date of the grant or purchase of service contract;

(2) determine a client's eligibility for purchased services, or delegate the responsibility for making the preliminary determination to the approved vendor under the terms of the grant or purchase of service contract;

(3) ensure the development of an individual social service plan based on the client's needs;

(4) monitor purchased services and evaluate grants and contracts on the basis of client outcomes; and

(5) purchase only from approved vendors.

Subd. 3. [LOCAL AGENCY CRITERIA.] When the local agency chooses to purchase community social services from a vendor that is not subject to state licensing laws or department rules, the local agency must establish written criteria for vendor approval to ensure the health, safety, and well being of clients.

Subd. 4. [CASE RECORDS AND REPORTING REQUIREMENTS.] Case records and data reporting requirements for grants and purchased services are the same as case record and data reporting requirements for direct services.

Subd. 5. [FILES.] The local agency must keep an administrative file for each grant and contract.

Subd. 6. [CONTRACTING WITHIN AND ACROSS COUNTY LINES; LEAD COUNTY CONTRACTS.] Paragraphs (a) to (e) govern contracting within and across county lines and lead county contracts.

(a) Once a local agency and an approved vendor execute a contract that meets the requirements of this subdivision, the contract governs all other purchases of service from the vendor by all other local agencies for the term of the contract. The local agency that negotiated and entered into the contract becomes the lead county for the contract.

(b) When the local agency in the county where a vendor is located wants to purchase services from that vendor and the vendor has no contract with the local agency or any other county, the local agency must negotiate and execute a contract with the vendor.

(c) When a local agency in one county wants to purchase services from a vendor located in another county, it must notify the local agency in the county where the vendor is located. Within 30 days of being notified, the local agency in the vendor's county must:

(1) if it has a contract with the vendor, send a copy to the inquiring agency;

(2) if there is a contract with the vendor for which another local agency is the lead county, identify the lead county to the inquiring agency; or

(3) if no local agency has a contract with the vendor, inform the inquiring agency whether it will negotiate a contract and become the lead county. If the agency where the vendor is located will not negotiate a contract with the vendor because of concerns related to clients' health and safety, the agency must share those concerns with the inquiring agency.

(d) If the local agency in the county where the vendor is located declines to negotiate a contract with the vendor or fails to respond within 30 days of receiving the notification under paragraph (c), the inquiring agency is authorized to negotiate a contract and must notify the local agency that declined or failed to respond.

(e) When the inquiring county under paragraph (d) becomes the lead county for a contract and the contract expires and needs to be renegotiated, that county must again follow the requirements under paragraph (c) and notify the local agency where the vendor is located. The local agency where the vendor is located has the option of becoming the lead county for the new contract. If the local agency does not exercise the option, paragraph (d) applies.

(f) This subdivision does not affect the requirement to seek county concurrence under section 256B.092, subdivision 8a, when the services are to be purchased for a person with mental retardation or a related condition or under section 245.4711, subdivision 3, when the services to be purchased are for an adult with serious and persistent mental illness.

Subd. 7. [CONTRACTS WITH COMMUNITY MENTAL HEALTH BOARDS.] A local agency within the geographic area served by a community mental health board authorized by sections 245.61 to 245.69, may contract directly with the community mental health board. However, if a local agency outside of the geographic area served by a community mental health board wishes to purchase services from the board, the local agency must follow the requirements under subdivision 6.

Subd. 8. [PLACEMENT AGREEMENTS.] A placement agreement must be used for residential services. Placement agreements are valid when signed by authorized representatives of the facility and the county of financial responsibility. If the county of financial responsibility and the county where the approved vendor is located are not the same, the county of financial responsibility must, if requested, mail a copy of the placement agreement to the county where the approved vendor is providing the service and to the lead county within ten calendar days after the date on which the placement agreement is signed. The placement agreement must specify that the service will be provided in accordance with the individual service plan as required and must specify the unit cost, the date of placement, and the date for the review of the placement. A placement agreement may also be used for nonresidential services.

Sec. 11. [REVISOR'S INSTRUCTION.]

For sections in Minnesota Statutes and Minnesota Rules affected by the repealed sections in this article, the revisor shall delete internal cross-references where appropriate and make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning.

Sec. 12. [REPEALER.]

(a) Minnesota Statutes 2002, sections 245.478; 245.4886; 245.4888; 245.496; 254A.17; 256B.0945, subdivisions 6, 7, 8, 9, and 10; 256B.83; 256E.01; 256E.02; 256E.03; 256E.04; 256E.05; 256E.06; 256E.07; 256E.08; 256E.081; 256E.09; 256E.10; 256E.11; 256E.115; 256E.13; 256E.14; 256E.15; 256F.01; 256F.02; 256F.03; 256F.04; 256F.05; 256F.06; 256F.07; 256F.08; 256F.11; 256F.12; 256F.14; 257.075; 257.81; 260.152; and 626.562, are repealed.

(b) Minnesota Rules, parts 9550.0010; 9550.0020; 9550.0030; 9550.0040; 9550.0050; 9550.0060; 9550.0070; 9550.0080; 9550.0090; 9550.0091; 9550.0092; and 9550.0093, are repealed.

ARTICLE 7

HUMAN SERVICES LICENSING, COUNTY INITIATIVES, AND MISCELLANEOUS

Section 1. Minnesota Statutes 2002, section 69.021, subdivision 11, is amended to read:

Subd. 11. [EXCESS POLICE STATE-AID HOLDING ACCOUNT.] (a) The excess police state-aid holding account is established in the general fund. The excess police state-aid holding account must be administered by the commissioner.

(b) Excess police state aid determined according to subdivision 10, must be deposited in the excess police state-aid holding account.

(c) From the balance in the excess police state-aid holding account, ~~$1,000,000~~ $900,000 is appropriated to and must be transferred annually to the ambulance service personnel longevity award and incentive suspense account established by section 144E.42, subdivision 2.

(d) If a police officer stress reduction program is created by law and money is appropriated for that program, an amount equal to that appropriation must be transferred from the balance in the excess police state-aid holding account.

(e) On October 1, 1997, and annually on each subsequent October 1, one-half of the balance of the excess police state-aid holding account remaining after the deductions under paragraphs (c) and (d) is appropriated for additional amortization aid under section 423A.02, subdivision 1b.

(f) Annually, the remaining balance in the excess police state-aid holding account, after the deductions under paragraphs (c), (d), and (e), cancels to the general fund.

Sec. 2. Minnesota Statutes 2002, section 124D.23, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] (a) Each collaborative must:

(1) establish, with assistance from families and service providers, clear goals for addressing the health, developmental, educational, and family-related needs of children and youth and use outcome-based indicators to measure progress toward achieving those goals;

(2) establish a comprehensive planning process that involves all sectors of the community, identifies local needs, and surveys existing local programs;

(3) integrate service funding sources so that children and their families obtain services from providers best able to anticipate and meet their needs;

(4) coordinate families' services to avoid duplicative and overlapping assessment and intake procedures;

(5) focus primarily on family-centered services;

(6) encourage parents and volunteers to actively participate by using flexible scheduling and actively recruiting volunteers;

(7) provide services in locations that are readily accessible to children and families;

(8) use ~~new or reallocated~~ funds to ~~improve or enhance~~ provide services ~~provided~~ to children and their families;

(9) identify federal, state, and local institutional barriers to coordinating services and suggest ways to remove these barriers; and

(10) design and implement an integrated local service delivery system for children and their families that coordinates services across agencies and is client centered. The delivery system shall provide a continuum of services for children birth to age 18, or birth through age 21 for individuals with disabilities. The collaborative shall describe the community plan for serving pregnant women and children from birth to age six.

(b) The outcome-based indicators developed in paragraph (a), clause (1), may include the number of low birth weight babies, the infant mortality rate, the number of children who are adequately immunized and healthy, require out-of-home placement or long-term special education services, and the number of minor parents.

Sec. 3. Minnesota Statutes 2002, section 245.4932, subdivision 1, is amended to read:

Subdivision 1. [COLLABORATIVE RESPONSIBILITIES.] The children's mental health collaborative shall have the following authority and responsibilities regarding federal revenue enhancement:

(1) the collaborative must establish an integrated fund;

(2) the collaborative shall designate a lead county or other qualified entity as the fiscal agency for reporting, claiming, and receiving payments;

(3) the collaborative or lead county may enter into subcontracts with other counties, school districts, special education cooperatives, municipalities, and other public and nonprofit entities for purposes of identifying and claiming eligible expenditures to enhance federal reimbursement;

(4) the collaborative shall use any enhanced revenue attributable to the activities of the collaborative, including administrative and service revenue, ~~solely~~ to provide mental health services or to expand the operational target population~~. The lead county or other qualified entity may not use enhanced federal revenue for any other purpose~~;

(5) ~~the members of the collaborative must continue the base level of expenditures, as defined in section 245.492, subdivision 2, for services for children with emotional or behavioral disturbances and their families from any state, county, federal, or other public or private funding source which, in the absence of the new federal reimbursement earned under sections 245.491 to 245.496, would have been available for those services. The base year for purposes of this subdivision shall be the accounting period closest to state fiscal year 1993;~~

~~(6)~~ the collaborative or lead county must develop and maintain an accounting and financial management system adequate to support all claims for federal reimbursement, including a clear audit trail and any provisions specified in the contract with the commissioner of human services;

~~(7)~~ (6) the collaborative or its members may elect to pay the nonfederal share of the medical assistance costs for services designated by the collaborative; and

~~(8)~~ (7) the lead county or other qualified entity may not use federal funds or local funds designated as matching for other federal funds to provide the nonfederal share of medical assistance.

Sec. 4. Minnesota Statutes 2002, section 245A.035, subdivision 3, is amended to read:

Subd. 3. [REQUIREMENTS FOR EMERGENCY LICENSE.] Before an emergency license may be issued, the following requirements must be met:

(1) the county agency must conduct an initial inspection of the premises where the foster care is to be provided to ensure the health and safety of any child placed in the home. The county agency shall conduct the inspection using a form developed by the commissioner;

(2) at the time of the inspection or placement, whichever is earlier, the relative being considered for an emergency license shall receive an application form for a child foster care license;

(3) whenever possible, prior to placing the child in the relative's home, the relative being considered for an emergency license shall provide the information required by section 245A.04, subdivision 3, paragraph ~~(b)~~ (k); and

(4) if the county determines, prior to the issuance of an emergency license, that anyone requiring a background study may be disqualified under section 245A.04, and the disqualification is one which the commissioner cannot set aside, an emergency license shall not be issued.

Sec. 5. Minnesota Statutes 2002, section 245A.04, subdivision 3, is amended to read:

Subd. 3. [BACKGROUND STUDY OF THE APPLICANT; DEFINITIONS.] (a) Individuals and organizations that are required in statute to initiate background studies under this section shall comply with the following requirements:

(1) Applicants for licensure, license holders, and other entities as provided in this section must submit completed background study forms to the commissioner before individuals specified in paragraph (c), clauses (1) to (4), (6), and (7), begin positions allowing direct contact in any licensed program.

(2) Applicants and license holders under the jurisdiction of other state agencies who are required in other statutory sections to initiate background studies under this section must submit completed background study forms to the commissioner prior to the background study subject beginning in a position allowing direct contact in the licensed program, or where applicable, prior to being employed.

(3) Organizations required to initiate background studies under section 256B.0627 for individuals described in paragraph (c), clause (5), must submit a completed background study form to the commissioner before those individuals begin a position allowing direct contact with persons served by the organization. The commissioner shall recover the cost of these background studies through a fee of no more than $12 per study charged to the organization responsible for submitting the background study form. The fees collected under this paragraph are appropriated to the commissioner for the purpose of conducting background studies.

Upon receipt of the background study forms from the entities in clauses (1) to (3), the commissioner shall complete the background study as specified under this section and provide notices required in subdivision 3a. Unless otherwise specified, the subject of a background study may have direct contact with persons served by a program after the background study form is mailed or submitted to the commissioner pending notification of the study results under subdivision 3a. A county agency may accept a background study completed by the commissioner under this section in place of the background study required under section 245A.16, subdivision 3, in programs with joint licensure as home and community-based services and adult foster care for people with developmental disabilities when the license holder does not reside in the foster care residence and the subject of the study has been continuously affiliated with the license holder since the date of the commissioner's study.

(b) The definitions in this paragraph apply only to subdivisions 3 to 3e.

(1) "Background study" means the review of records conducted by the commissioner to determine whether a subject is disqualified from direct contact with persons served by a program, and where specifically provided in statutes, whether a subject is disqualified from having access to persons served by a program.

(2) "Continuous, direct supervision" means an individual is within sight or hearing of the supervising person to the extent that supervising person is capable at all times of intervening to protect the health and safety of the persons served by the program.

(3) "Contractor" means any person, regardless of employer, who is providing program services for hire under the control of the provider.

(4) "Direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by the program.

(5) "Reasonable cause" means information or circumstances exist which provide the commissioner with articulable suspicion that further pertinent information may exist concerning a subject. The commissioner has reasonable cause when, but not limited to, the commissioner has received a report from the subject, the license holder, or a third party indicating that the subject has a history that would disqualify the person or that may pose a risk to the health or safety of persons receiving services.

(6) "Subject of a background study" means an individual on whom a background study is required or completed.

(c) The applicant, license holder, registrant under section 144A.71, subdivision 1, bureau of criminal apprehension, commissioner of health, and county agencies, after written notice to the individual who is the subject of the study, shall help with the study by giving the commissioner criminal conviction data and reports about the maltreatment of adults substantiated under section 626.557 and the maltreatment of minors in licensed programs substantiated under section 626.556. If a background study is initiated by an applicant or license holder and the applicant or license holder receives information about the possible criminal or maltreatment history of an individual who is the subject of the background study, the applicant or license holder must immediately provide the information to the commissioner. The individuals to be studied shall include:

(1) the applicant;

(2) persons age 13 and over living in the household where the licensed program will be provided;

(3) current employees or contractors of the applicant who will have direct contact with persons served by the facility, agency, or program;

(4) volunteers or student volunteers who have direct contact with persons served by the program to provide program services, if the contact is not under the continuous, direct supervision by an individual listed in clause (1) or (3);

(5) any person required under section 256B.0627 to have a background study completed under this section;

(6) persons ages 10 to 12 living in the household where the licensed services will be provided when the commissioner has reasonable cause; and

(7) persons who, without providing direct contact services at a licensed program, may have unsupervised access to children or vulnerable adults receiving services from the program licensed to provide family child care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home when the commissioner has reasonable cause.

(d) According to paragraph (c), clauses (2) and (6), the commissioner shall review records from the juvenile courts. For persons under paragraph (c), clauses (1), (3), (4), (5), and (7), who are ages 13 to 17, the commissioner shall review records from the juvenile courts when the commissioner has reasonable cause. The juvenile courts shall help with the study by giving the commissioner existing juvenile court records on individuals described in paragraph (c), clauses (2), (6), and (7), relating to delinquency proceedings held within either the five years immediately preceding the background study or the five years immediately preceding the individual's 18th birthday, whichever time period is longer. The commissioner shall destroy juvenile records obtained pursuant to this subdivision when the subject of the records reaches age 23.

(e) Beginning August 1, 2001, the commissioner shall conduct all background studies required under this chapter and initiated by supplemental nursing services agencies registered under section 144A.71, subdivision 1. Studies for the agencies must be initiated annually by each agency. The commissioner shall conduct the background studies according to this chapter. The commissioner shall recover the cost of the background studies through a fee of no more than $8 per study, charged to the supplemental nursing services agency. The fees collected under this paragraph are appropriated to the commissioner for the purpose of conducting background studies.

(f) For purposes of this section, a finding that a delinquency petition is proven in juvenile court shall be considered a conviction in state district court.

(g) A study of an individual in paragraph (c), clauses (1) to (7), shall be conducted at least upon application for initial license for all license types or registration under section 144A.71, subdivision 1, and at reapplication for a license for family child care, child foster care, and adult foster care. The commissioner is not required to conduct a study of an individual at the time of reapplication for a license or if the individual has been continuously affiliated with a foster care provider licensed by the commissioner of human services and registered under chapter 144D, other than a family day care or foster care license, if: (i) a study of the individual was conducted either at the time of initial licensure or when the individual became affiliated with the license holder; (ii) the individual has been continuously affiliated with the license holder since the last study was conducted; and (iii) the procedure described in paragraph (j) has been implemented and was in effect continuously since the last study was conducted. For the purposes of this section, a physician licensed under chapter 147 is considered to be continuously affiliated upon the license holder's receipt from the commissioner of health or human services of the physician's background study results. For individuals who are required to have background studies under paragraph (c) and who have been continuously affiliated with a foster care provider that is licensed in more than one county, criminal conviction data may be shared among those counties in which the foster care programs are licensed. A county agency's receipt of criminal conviction data from another county agency shall meet the criminal data background study requirements of this section.

(h) The commissioner may also conduct studies on individuals specified in paragraph (c), clauses (3) and (4), when the studies are initiated by:

(i) personnel pool agencies;

(ii) temporary personnel agencies;

(iii) educational programs that train persons by providing direct contact services in licensed programs; and

(iv) professional services agencies that are not licensed and which contract with licensed programs to provide direct contact services or individuals who provide direct contact services.

(i) Studies on individuals in paragraph (h), items (i) to (iv), must be initiated annually by these agencies, programs, and individuals. Except as provided in paragraph (a), clause (3), no applicant, license holder, or individual who is the subject of the study shall pay any fees required to conduct the study.

(1) At the option of the licensed facility, rather than initiating another background study on an individual required to be studied who has indicated to the licensed facility that a background study by the commissioner was previously completed, the facility may make a request to the commissioner for documentation of the individual's background study status, provided that:

(i) the facility makes this request using a form provided by the commissioner;

(ii) in making the request the facility informs the commissioner that either:

(A) the individual has been continuously affiliated with a licensed facility since the individual's previous background study was completed, or since October 1, 1995, whichever is shorter; or

(B) the individual is affiliated only with a personnel pool agency, a temporary personnel agency, an educational program that trains persons by providing direct contact services in licensed programs, or a professional services agency that is not licensed and which contracts with licensed programs to provide direct contact services or individuals who provide direct contact services; and

(iii) the facility provides notices to the individual as required in paragraphs (a) to (j), and that the facility is requesting written notification of the individual's background study status from the commissioner.

(2) The commissioner shall respond to each request under paragraph (1) with a written or electronic notice to the facility and the study subject. If the commissioner determines that a background study is necessary, the study shall be completed without further request from a licensed agency or notifications to the study subject.

(3) When a background study is being initiated by a licensed facility or a foster care provider that is also registered under chapter 144D, a study subject affiliated with multiple licensed facilities may attach to the background study form a cover letter indicating the additional facilities' names, addresses, and background study identification numbers. When the commissioner receives such notices, each facility identified by the background study subject shall be notified of the study results. The background study notice sent to the subsequent agencies shall satisfy those facilities' responsibilities for initiating a background study on that individual.

(j) If an individual who is affiliated with a program or facility regulated by the department of human services or department of health or who is affiliated with any type of home care agency or provider of personal care assistance services, is convicted of a crime constituting a disqualification under subdivision 3d, the probation officer or corrections agent shall notify the commissioner of the conviction. For the purpose of this paragraph, "conviction"

has the meaning given it in section 609.02, subdivision 5. The commissioner, in consultation with the commissioner of corrections, shall develop forms and information necessary to implement this paragraph and shall provide the forms and information to the commissioner of corrections for distribution to local probation officers and corrections agents. The commissioner shall inform individuals subject to a background study that criminal convictions for disqualifying crimes will be reported to the commissioner by the corrections system. A probation officer, corrections agent, or corrections agency is not civilly or criminally liable for disclosing or failing to disclose the information required by this paragraph. Upon receipt of disqualifying information, the commissioner shall provide the notifications required in subdivision 3a, as appropriate to agencies on record as having initiated a background study or making a request for documentation of the background study status of the individual. This paragraph does not apply to family day care and child foster care programs.

(k) The individual who is the subject of the study must provide the applicant or license holder with sufficient information to ensure an accurate study including the individual's first, middle, and last name and all other names by which the individual has been known; home address, city, county, and state of residence for the past five years; zip code; sex; date of birth; and driver's license number or state identification number. The applicant or license holder shall provide this information about an individual in paragraph (c), clauses (1) to (7), on forms prescribed by the commissioner. By January 1, 2000, for background studies conducted by the department of human services, the commissioner shall implement a system for the electronic transmission of: (1) background study information to the commissioner; and (2) background study results to the license holder. The commissioner may request additional information of the individual, which shall be optional for the individual to provide, such as the individual's social security number or race.

(l) For programs directly licensed by the commissioner, a study must include information related to names of substantiated perpetrators of maltreatment of vulnerable adults that has been received by the commissioner as required under section 626.557, subdivision 9c, paragraph (i), and the commissioner's records relating to the maltreatment of minors in licensed programs, information from juvenile courts as required in paragraph (c) for persons listed in paragraph (c), clauses (2), (6), and (7), and information from the bureau of criminal apprehension. For child foster care, adult foster care, and family day care homes, the study must include information from the county agency's record of substantiated maltreatment of adults, and the maltreatment of minors, information from juvenile courts as required in paragraph (c) for persons listed in paragraph (c), clauses (2), (6), and (7), and information from the bureau of criminal apprehension. The commissioner may also review arrest and investigative information from the bureau of criminal apprehension, the commissioner of health, a county attorney, county sheriff, county agency, local chief of police, other states, the courts, or the Federal Bureau of Investigation if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual listed in paragraph (c), clauses (1) to (7). The commissioner is not required to conduct more than one review of a subject's records from the Federal Bureau of Investigation if a review of the subject's criminal history with the Federal Bureau of Investigation has already been completed by the commissioner and there has been no break in the subject's affiliation with the license holder who initiated the background study.

(m) For any background study completed under this section, when the commissioner has reasonable cause to believe that further pertinent information may exist on the subject, the subject shall provide a set of classifiable fingerprints obtained from an authorized law enforcement agency. For purposes of requiring fingerprints, the commissioner shall be considered to have reasonable cause under, but not limited to, the following circumstances:

(1) information from the bureau of criminal apprehension indicates that the subject is a multistate offender;

(2) information from the bureau of criminal apprehension indicates that multistate offender status is undetermined; or

(3) the commissioner has received a report from the subject or a third party indicating that the subject has a criminal history in a jurisdiction other than Minnesota.

(n) The failure or refusal of an applicant, license holder, or registrant under section 144A.71, subdivision 1, to cooperate with the commissioner is reasonable cause to disqualify a subject, deny a license application or immediately suspend, suspend, or revoke a license or registration. Failure or refusal of an individual to cooperate with the study is just cause for denying or terminating employment of the individual if the individual's failure or refusal to cooperate could cause the applicant's application to be denied or the license holder's license to be immediately suspended, suspended, or revoked.

(o) The commissioner shall not consider an application to be complete until all of the information required to be provided under this subdivision has been received.

(p) No person in paragraph (c), clauses (1) to (7), who is disqualified as a result of this section may be retained by the agency in a position involving direct contact with persons served by the program and no person in paragraph (c), clauses (2), (6), and (7), or as provided elsewhere in statute who is disqualified as a result of this section may be allowed access to persons served by the program, unless the commissioner has provided written notice to the agency stating that:

(1) the individual may remain in direct contact during the period in which the individual may request reconsideration as provided in subdivision 3a, paragraph (b), clause (2) or (3);

(2) the individual's disqualification has been set aside for that agency as provided in subdivision 3b, paragraph (b); or

(3) the license holder has been granted a variance for the disqualified individual under subdivision 3e.

(q) Termination of affiliation with persons in paragraph (c), clauses (1) to (7), made in good faith reliance on a notice of disqualification provided by the commissioner shall not subject the applicant or license holder to civil liability.

(r) The commissioner may establish records to fulfill the requirements of this section.

(s) The commissioner may not disqualify an individual subject to a study under this section because that person has, or has had, a mental illness as defined in section 245.462, subdivision 20.

(t) An individual subject to disqualification under this subdivision has the applicable rights in subdivision 3a, 3b, or 3c.

(u) For the purposes of background studies completed by tribal organizations performing licensing activities otherwise required of the commissioner under this chapter, after obtaining consent from the background study subject, tribal licensing agencies shall have access to criminal history data in the same manner as county licensing agencies and private licensing agencies under this chapter.

(v) County agencies shall have access to the criminal history data in the same manner as county licensing agencies under this chapter for purposes of background studies completed by county agencies on legal nonlicensed child care providers to determine eligibility for child care funds under chapter 119B.

Sec. 6. Minnesota Statutes 2002, section 245A.04, subdivision 3b, is amended to read:

Subd. 3b. [RECONSIDERATION OF DISQUALIFICATION.] (a) The individual who is the subject of the disqualification may request a reconsideration of the disqualification.

The individual must submit the request for reconsideration to the commissioner in writing. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (1) or (2), must be submitted within 30 calendar days of the disqualified individual's receipt of the notice of disqualification. Upon showing that the information in clause (1) or (2) cannot be obtained within 30 days, the disqualified individual may request additional time, not to exceed 30 days, to obtain that information. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (3), must be submitted within 15 calendar days of the disqualified individual's receipt of the notice of disqualification. An individual who was determined to have maltreated a child under section 626.556 or a vulnerable adult under section 626.557, and who was disqualified under this section on the basis of serious or recurring maltreatment, may request reconsideration of both the maltreatment and the disqualification determinations. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification. Removal of a disqualified individual from direct contact shall be ordered if the individual does not request reconsideration within the prescribed time, and for an individual who submits a timely request for reconsideration, if the disqualification is not set aside. The individual must present information showing that:

(1) the information the commissioner relied upon in determining that the underlying conduct giving rise to the disqualification occurred, and for maltreatment, that the maltreatment was serious or recurring, is incorrect; or

(2) the subject of the study does not pose a risk of harm to any person served by the applicant, license holder, or registrant under section 144A.71, subdivision 1.

(b) The commissioner shall rescind the disqualification if the commissioner finds that the information relied on to disqualify the subject is incorrect. The commissioner may set aside the disqualification under this section if the commissioner finds that the individual does not pose a risk of harm to any person served by the applicant, license holder, or registrant under section 144A.71, subdivision 1. In determining that an individual does not pose a risk of harm, the commissioner shall consider the nature, severity, and consequences of the event or events that lead to disqualification, whether there is more than one disqualifying event, the age and vulnerability of the victim at the time of the event, the harm suffered by the victim, the similarity between the victim and persons served by the program, the time elapsed without a repeat of the same or similar event, documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event, and any other information relevant to reconsideration. In reviewing a disqualification under this section, the commissioner shall give preeminent weight to the safety of each person to be served by the license holder, applicant, or registrant under section 144A.71, subdivision 1, over the interests of the license holder, applicant, or registrant under section 144A.71, subdivision 1. If the commissioner sets aside a disqualification under this section, the disqualified individual remains disqualified, but may hold a license and have direct contact with or access to persons receiving services. The commissioner's set aside of a disqualification is limited solely to the licensed program, applicant, or agency specified in the set aside notice, unless otherwise specified in the notice. The commissioner may rescind a previous set aside of a disqualification under this section based on new information that indicates the individual may pose a risk of harm to persons served by the applicant, license holder, or registrant. If the commissioner rescinds a set aside of a disqualification under this paragraph, the appeal rights under paragraphs (a) and (e) shall apply.

(c) Unless the information the commissioner relied on in disqualifying an individual is incorrect, the commissioner may not set aside the disqualification of an individual in connection with a license to provide family day care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home if:

(1) less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has been convicted of a violation of any offense listed in sections 609.165 (felon ineligible to possess firearm), criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury), 609.215 (aiding suicide or aiding attempted suicide), felony violations under 609.223 or 609.2231 (assault in the third or fourth degree),

609.713 (terroristic threats), 609.235 (use of drugs to injure or to facilitate crime), 609.24 (simple robbery), 609.255 (false imprisonment), 609.562 (arson in the second degree), 609.71 (riot), 609.498, subdivision 1 or ~~1a~~ 1b (aggravated first degree or first degree tampering with a witness), burglary in the first or second degree under 609.582 (burglary), 609.66 (dangerous weapon), 609.665 (spring guns), 609.67 (machine guns and short-barreled shotguns), 609.749, subdivision 2 (gross misdemeanor harassment; stalking), 152.021 or 152.022 (controlled substance crime in the first or second degree), 152.023, subdivision 1, clause (3) or (4), or subdivision 2, clause (4) (controlled substance crime in the third degree), 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree), 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult), 609.23 (mistreatment of persons confined), 609.231 (mistreatment of residents or patients), 609.2325 (criminal abuse of a vulnerable adult), 609.233 (criminal neglect of a vulnerable adult), 609.2335 (financial exploitation of a vulnerable adult), 609.234 (failure to report), 609.265 (abduction), 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree), 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree), 609.268 (injury or death of an unborn child in the commission of a crime), 617.293 (disseminating or displaying harmful material to minors), a felony level conviction involving alcohol or drug use, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts), a gross misdemeanor offense under 609.378 (neglect or endangerment of a child), a gross misdemeanor offense under 609.377 (malicious punishment of a child), 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state, the elements of which are substantially similar to the elements of any of the foregoing offenses;

(2) regardless of how much time has passed since the involuntary termination of parental rights under section 260C.301 or the discharge of the sentence imposed for the offense, the individual was convicted of a violation of any offense listed in sections 609.185 to 609.195 (murder in the first, second, or third degree), 609.20 (manslaughter in the first degree), 609.205 (manslaughter in the second degree), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.561 (arson in the first degree), 609.749, subdivision 3, 4, or 5 (felony-level harassment; stalking), 609.228 (great bodily harm caused by distribution of drugs), 609.221 or 609.222 (assault in the first or second degree), 609.66, subdivision 1e (drive-by shooting), 609.855, subdivision 5 (shooting in or at a public transit vehicle or facility), 609.2661 to 609.2663 (murder of an unborn child in the first, second, or third degree), a felony offense under 609.377 (malicious punishment of a child), a felony offense under 609.324, subdivision 1 (other prohibited acts), a felony offense under 609.378 (neglect or endangerment of a child), 609.322 (solicitation, inducement, and promotion of prostitution), 609.342 to 609.345 (criminal sexual conduct in the first, second, third, or fourth degree), 609.352 (solicitation of children to engage in sexual conduct), 617.246 (use of minors in a sexual performance), 617.247 (possession of pictorial representations of a minor), 609.365 (incest), a felony offense under sections 609.2242 and 609.2243 (domestic assault), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime against children, or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state, the elements of which are substantially similar to any of the foregoing offenses;

(3) within the seven years preceding the study, the individual committed an act that constitutes maltreatment of a child under section 626.556, subdivision 10e, and that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence; or

(4) within the seven years preceding the study, the individual was determined under section 626.557 to be the perpetrator of a substantiated incident of maltreatment of a vulnerable adult that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence.

In the case of any ground for disqualification under clauses (1) to (4), if the act was committed by an individual other than the applicant, license holder, or registrant under section 144A.71, subdivision 1, residing in the applicant's or license holder's home, or the home of a registrant under section 144A.71, subdivision 1, the applicant, license holder, or registrant under section 144A.71, subdivision 1, may seek reconsideration when the individual who committed the act no longer resides in the home.

The disqualification periods provided under clauses (1), (3), and (4) are the minimum applicable disqualification periods. The commissioner may determine that an individual should continue to be disqualified from licensure or registration under section 144A.71, subdivision 1, because the license holder, applicant, or registrant under section 144A.71, subdivision 1, poses a risk of harm to a person served by that individual after the minimum disqualification period has passed.

(d) The commissioner shall respond in writing or by electronic transmission to all reconsideration requests for which the basis for the request is that the information relied upon by the commissioner to disqualify is incorrect or inaccurate within 30 working days of receipt of a request and all relevant information. If the basis for the request is that the individual does not pose a risk of harm, the commissioner shall respond to the request within 15 working days after receiving the request for reconsideration and all relevant information. If the request is based on both the correctness or accuracy of the information relied on to disqualify the individual and the risk of harm, the commissioner shall respond to the request within 45 working days after receiving the request for reconsideration and all relevant information. If the disqualification is set aside, the commissioner shall notify the applicant or license holder in writing or by electronic transmission of the decision.

(e) Except as provided in subdivision 3c, if a disqualification for which reconsideration was requested is not set aside or is not rescinded, an individual who was disqualified on the basis of a preponderance of evidence that the individual committed an act or acts that meet the definition of any of the crimes listed in subdivision 3d, paragraph (a), clauses (1) to (4); for a determination under section 626.556 or 626.557 of substantiated maltreatment that was serious or recurring under subdivision 3d, paragraph (a), clause (4); or for failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, pursuant to subdivision 3d, paragraph (a), clause (4), may request a fair hearing under section 256.045. Except as provided under subdivision 3c, the fair hearing is the only administrative appeal of the final agency determination for purposes of appeal by the disqualified individual, specifically, including a challenge to the accuracy and completeness of data under section 13.04. If the individual was disqualified based on a conviction or admission to any crimes listed in subdivision 3d, paragraph (a), clauses (1) to (4), the reconsideration decision under this subdivision is the final agency determination for purposes of appeal by the disqualified individual and is not subject to a hearing under section 256.045.

(f) Except as provided under subdivision 3c, if an individual was disqualified on the basis of a determination of maltreatment under section 626.556 or 626.557, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, and also requested reconsideration of the disqualification under this subdivision, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. For maltreatment and disqualification determinations made by county agencies, the consolidated reconsideration shall be conducted by the county agency. If the county agency has disqualified an individual on multiple bases, one of which is a county maltreatment determination for which the individual has a right to request reconsideration, the county shall conduct the reconsideration of all disqualifications. Except as provided under subdivision 3c, if an individual who was disqualified on the basis of serious or recurring maltreatment requests a fair hearing on the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, and requests a fair hearing on the disqualification, which has not been set aside or rescinded under this subdivision, the scope of the fair hearing under section 256.045 shall include the maltreatment determination and the disqualification. Except as provided under subdivision 3c, a fair hearing is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

(g) In the notice from the commissioner that a disqualification has been set aside, the license holder must be informed that information about the nature of the disqualification and which factors under paragraph (b) were the bases of the decision to set aside the disqualification is available to the license holder upon request without consent of the background study subject. With the written consent of a background study subject, the commissioner may release to the license holder copies of all information related to the background study subject's disqualification and the commissioner's decision to set aside the disqualification as specified in the written consent.

Sec. 7. Minnesota Statutes 2002, section 245A.04, subdivision 3d, is amended to read:

Subd. 3d. [DISQUALIFICATION.] (a) Upon receipt of information showing, or when a background study completed under subdivision 3 shows any of the following: a conviction of one or more crimes listed in clauses (1) to (4); the individual has admitted to or a preponderance of the evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in clauses (1) to (4); or an investigation results in an administrative determination listed under clause (4), the individual shall be disqualified from any position allowing direct contact with persons receiving services from the license holder, entity identified in subdivision 3, paragraph (a), or registrant under section 144A.71, subdivision 1, and for individuals studied under section 245A.04, subdivision 3, paragraph (c), clauses (2), (6), and (7), the individual shall also be disqualified from access to a person receiving services from the license holder:

(1) regardless of how much time has passed since the involuntary termination of parental rights under section 260C.301 or the discharge of the sentence imposed for the offense, and unless otherwise specified, regardless of the level of the conviction, the individual was convicted of any of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.221 or 609.222 (assault in the first or second degree); 609.228 (great bodily harm caused by distribution of drugs); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.561 (arson in the first degree); 609.749, subdivision 3, 4, or 5 (felony-level harassment; stalking); 609.66, subdivision 1e (drive-by shooting); 609.855, subdivision 5 (shooting at or in a public transit vehicle or facility); 609.322 (solicitation, inducement, and promotion of prostitution); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); felony offense under 609.377 (malicious punishment of a child); a felony offense under 609.378 (neglect or endangerment of a child); a felony offense under 609.324, subdivision 1 (other prohibited acts); 617.246 (use of minors in sexual performance prohibited); 617.247 (possession of pictorial representations of minors); a felony offense under sections 609.2242 and 609.2243 (domestic assault), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime against children; or attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state or country, where the elements are substantially similar to any of the offenses listed in this clause;

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

as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses in this clause. If the individual studied is convicted of one of the felonies listed in this clause, but the sentence is a gross misdemeanor or misdemeanor disposition, the lookback period for the conviction is the period applicable to the disposition, that is the period for gross misdemeanors or misdemeanors;

(3) if less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has received a gross misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 and 609.2243 (domestic assault); violation of an order for protection under 518B.01, subdivision 14; 609.3451 (criminal sexual conduct in the fifth degree); repeat offenses under 609.746 (interference with privacy); repeat offenses under 617.23 (indecent exposure); 617.241 (obscene materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful materials; dissemination and display to minors prohibited); 609.71 (riot); 609.66 (dangerous weapons); 609.749, subdivision 2 (harassment; stalking); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); 609.265 (abduction); 609.378 (neglect or endangerment of a child); 609.377 (malicious punishment of a child); 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); 609.52 (theft); 609.582 (burglary); 609.631 (check forgery; offering a forged check); 609.275 (attempt to coerce); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in this clause. If the defendant is convicted of one of the gross misdemeanors listed in this clause, but the sentence is a misdemeanor disposition, the lookback period for the conviction is the period applicable to misdemeanors; or

(4) if less than seven years have passed since the discharge of the sentence imposed for the offense; and the individual has received a misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 (domestic assault); violation of an order for protection under 518B.01 (Domestic Abuse Act); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.746 (interference with privacy); 609.79 (obscene or harassing phone calls); 609.795 (letter, telegram, or package; opening; harassment); 617.23 (indecent exposure; penalties); 609.2672 (assault of an unborn child in the third degree); 617.293 (harmful materials; dissemination and display to minors prohibited); 609.66 (dangerous weapons); 609.665 (spring guns); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.52 (theft); 609.27 (coercion); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in this clause; a determination or disposition of failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or a determination or disposition of substantiated serious or recurring maltreatment of a minor under section 626.556 or of a vulnerable adult under section 626.557 for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment.

For the purposes of this section, "serious maltreatment" means sexual abuse; maltreatment resulting in death; or maltreatment resulting in serious injury which reasonably requires the care of a physician whether or not the care of a physician was sought; or abuse resulting in serious injury. For purposes of this section, "abuse resulting in serious injury" means: bruises, bites, skin laceration or tissue damage; fractures; dislocations; evidence of internal injuries; head injuries with loss of consciousness; extensive second-degree or third-degree burns and other burns for which complications are present; extensive second-degree or third-degree frostbite, and others for which complications are present; irreversible mobility or avulsion of teeth; injuries to the eyeball; ingestion of foreign substances and objects

that are harmful; near drowning; and heat exhaustion or sunstroke. For purposes of this section, "care of a physician" is treatment received or ordered by a physician, but does not include diagnostic testing, assessment, or observation. For the purposes of this section, "recurring maltreatment" means more than one incident of maltreatment for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment. For purposes of this section, "access" means physical access to an individual receiving services or the individual's personal property without continuous, direct supervision as defined in section 245A.04, subdivision 3.

(b) Except for background studies related to child foster care, adult foster care, or family child care licensure, when the subject of a background study is regulated by a health-related licensing board as defined in chapter 214, and the regulated person has been determined to have been responsible for substantiated maltreatment under section 626.556 or 626.557, instead of the commissioner making a decision regarding disqualification, the board shall make a determination whether to impose disciplinary or corrective action under chapter 214.

(1) The commissioner shall notify the health-related licensing board:

(i) upon completion of a background study that produces a record showing that the individual was determined to have been responsible for substantiated maltreatment;

(ii) upon the commissioner's completion of an investigation that determined the individual was responsible for substantiated maltreatment; or

(iii) upon receipt from another agency of a finding of substantiated maltreatment for which the individual was responsible.

(2) The commissioner's notice shall indicate whether the individual would have been disqualified by the commissioner for the substantiated maltreatment if the individual were not regulated by the board. The commissioner shall concurrently send this notice to the individual.

(3) Notwithstanding the exclusion from this subdivision for individuals who provide child foster care, adult foster care, or family child care, when the commissioner or a local agency has reason to believe that the direct contact services provided by the individual may fall within the jurisdiction of a health-related licensing board, a referral shall be made to the board as provided in this section.

(4) If, upon review of the information provided by the commissioner, a health-related licensing board informs the commissioner that the board does not have jurisdiction to take disciplinary or corrective action, the commissioner shall make the appropriate disqualification decision regarding the individual as otherwise provided in this chapter.

(5) The commissioner has the authority to monitor the facility's compliance with any requirements that the health-related licensing board places on regulated persons practicing in a facility either during the period pending a final decision on a disciplinary or corrective action or as a result of a disciplinary or corrective action. The commissioner has the authority to order the immediate removal of a regulated person from direct contact or access when a board issues an order of temporary suspension based on a determination that the regulated person poses an immediate risk of harm to persons receiving services in a licensed facility.

(6) A facility that allows a regulated person to provide direct contact services while not complying with the requirements imposed by the health-related licensing board is subject to action by the commissioner as specified under sections 245A.06 and 245A.07.

(7) The commissioner shall notify a health-related licensing board immediately upon receipt of knowledge of noncompliance with requirements placed on a facility or upon a person regulated by the board.

Sec. 8. Minnesota Statutes 2002, section 245A.09, subdivision 7, is amended to read:

Subd. 7. [REGULATORY METHODS.] (a) Where appropriate and feasible the commissioner shall identify and implement alternative methods of regulation and enforcement to the extent authorized in this subdivision. These methods shall include:

(1) expansion of the types and categories of licenses that may be granted;

(2) when the standards of another state or federal governmental agency or an independent accreditation body have been shown to ~~predict compliance with the rules~~ require the same standards, methods, or alternative methods to achieve substantially the same intended outcomes as the licensing standards, the commissioner shall consider compliance with the governmental or accreditation standards to be equivalent to partial compliance with the ~~rules~~ licensing standards; and

(3) use of an abbreviated inspection that employs key standards that have been shown to predict full compliance with the rules.

(b) If the commissioner accepts accreditation as documentation of compliance with a licensing standard under paragraph (a), the commissioner shall continue to investigate complaints related to noncompliance with all licensing standards. The commissioner may take a licensing action for noncompliance under this chapter and shall recognize all existing appeal rights regarding any licensing actions taken under this chapter.

(c) The commissioner shall work with the commissioners of health, public safety, administration, and children, families, and learning in consolidating duplicative licensing and certification rules and standards if the commissioner determines that consolidation is administratively feasible, would significantly reduce the cost of licensing, and would not reduce the protection given to persons receiving services in licensed programs. Where administratively feasible and appropriate, the commissioner shall work with the commissioners of health, public safety, administration, and children, families, and learning in conducting joint agency inspections of programs.

~~(c)~~ (d) The commissioner shall work with the commissioners of health, public safety, administration, and children, families, and learning in establishing a single point of application for applicants who are required to obtain concurrent licensure from more than one of the commissioners listed in this clause.

~~(d)~~ (e) Unless otherwise specified in statute, the commissioner may ~~specify in rule periods of licensure up to two years~~ conduct routine inspections biennially.

Sec. 9. Minnesota Statutes 2002, section 245A.10, is amended to read:

245A.10 [FEES.]

Subdivision 1. [APPLICATION OR LICENSE FEE REQUIRED, PROGRAMS EXEMPT FROM FEE.] (a) Unless exempt under paragraph (b), the commissioner shall charge a fee for evaluation of applications and inspection of programs~~, other than family day care and foster care,~~ which are licensed under this chapter. ~~The commissioner may charge a fee for the licensing of school age child care programs, in an amount sufficient to cover the cost to the state agency of processing the license.~~

(b) Notwithstanding paragraph (a), no application or license fee shall be charged for child foster care, adult foster care, or state-operated programs, unless the state-operated program is an intermediate care facility for persons with mental retardation or related conditions (ICF/MR).

Subd. 2. [COUNTY FEES FOR BACKGROUND STUDIES AND LICENSING INSPECTIONS IN FAMILY AND GROUP FAMILY CHILD CARE.] (a) For purposes of family and group family child care licensing under this chapter, a county agency may charge a fee to an applicant or license holder to recover the actual cost of background studies, but in any case not to exceed $100 annually. A county agency may also charge a fee to an applicant or license holder to recover the actual cost of licensing inspections, but in any case not to exceed $150 annually.

(b) Pursuant to section 119B.125, a county agency may charge a onetime fee to a legal nonlicensed child care provider or applicant equal to the actual cost of conducting a criminal background check, up to a maximum of $100.

(c) Counties may elect to reduce or waive the fees in paragraph (a):

(1) in cases of financial hardship; and

(2) if the county has a shortage of providers in the county's area.

(d) Counties may allow providers to pay the applicant fees in paragraph (a) or (b) on an installment basis for up to one year. If the provider is receiving child care assistance payments from the state, the provider may have the fees under paragraph (a) or (b) deducted from the child care assistance payments for up to one year and the state shall reimburse the county for the county fees collected in this manner.

Subd. 3. [APPLICATION FEE FOR INITIAL LICENSE OR CERTIFICATION.] (a) For fees required under subdivision 1, an applicant for an initial license or certification issued by the commissioner shall submit a $500 application fee with each new application required under this subdivision. The application fee shall not be prorated, is nonrefundable, and is in lieu of the annual license or certification fee that expires on December 31. The commissioner shall not process an application until the application fee is paid.

(b) Except as provided in clauses (1) to (3), an applicant shall apply for a license to provide services at a specific location.

(1) For a license to provide waivered services to persons with developmental disabilities or related conditions, an applicant shall submit an application for each county in which the waivered services will be provided.

(2) For a license to provide semi-independent living services to persons with developmental disabilities or related conditions, an applicant shall submit a single application to provide services statewide.

(3) For a license to provide independent living assistance for youth under section 245A.22, an applicant shall submit a single application to provide services statewide.

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

Licensed Capacity	Child Care Center License Fee	Residential Program License Fee
1 to 24 persons	$300	$400

25 to 49 persons	$450	$600
50 to 74 persons	$600	$800
75 to 99 persons	$750	$1,000
100 to 124 persons	$900	$1,200
125 to 149 persons	$1,200	$1,400
150 to 174 persons	$1,400	$1,600
175 to 199 persons	$1,600	$1,800
200 to 224 persons	$1,800	$2,000
225 or more persons	$2,000	$2,500

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

Subd. 5. [ANNUAL LICENSE OR CERTIFICATION FEE FOR PROGRAMS WITHOUT A LICENSED CAPACITY.] (a) Except as provided in paragraph (b), a program without a stated licensed capacity shall pay a license or certification fee of $400.

(b) A mental health center or mental health clinic requesting certification for purposes of insurance and subscriber contract reimbursement under Minnesota Rules, parts 9520.0750 to 9520.0870 shall pay a certification fee of $1,000 per year. If the mental health center or mental health clinic provides services at a primary location with satellite facilities, the satellite facilities shall be certified with the primary location without an additional charge.

Subd. 6. [LICENSE NOT ISSUED UNTIL LICENSE OR CERTIFICATION FEE IS PAID.] The commissioner shall not issue a license or certification until the license or certification fee is paid. The commissioner shall send a bill for the license or certification fee to the billing address identified by the license holder. If the license holder does not submit the license or certification fee payment by the due date, the commissioner shall send the license holder a past due notice. If the license holder fails to pay the license or certification fee by the due date on the past due notice, the commissioner shall send a final notice to the license holder informing the license holder that the program license will expire on December 31 unless the license fee is paid before December 31. If a license expires, the program is no longer licensed and, unless exempt from licensure under section 245A.03, subdivision 2, must not operate after the expiration date. After a license expires, if the former license holder wishes to provide licensed services, the former license holder must submit a new license application and application fee under subdivision 3.

Sec. 10. Minnesota Statutes 2002, section 245A.11, subdivision 2a, is amended to read:

Subd. 2a. [ADULT FOSTER CARE LICENSE CAPACITY.] (a) An adult foster care license holder may have a maximum license capacity of five if all persons in care are age 55 or over and do not have a serious and persistent mental illness or a developmental disability.

(b) The commissioner may grant variances to paragraph (a) to allow a foster care provider with a licensed capacity of five persons to admit an individual under the age of 55 if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed foster care provider is located.

(c) The commissioner may grant variances to paragraph (a) to allow the use of a fifth bed for emergency crisis services for a person with serious and persistent mental illness or a developmental disability, regardless of age, if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed foster care provider is located.

(d) Notwithstanding paragraph (a), the commissioner may issue an adult foster care license with a capacity of five or six adults when the capacity is recommended by the county licensing agency of the county in which the facility is located and if the recommendation verifies that:

(1) the facility meets the physical environment requirements in the adult foster care licensing rule;

(2) the five- or six-bed living arrangement is specified for each resident in the resident's (i) individualized plan of care; (ii) individual service plan under section 256B.092, subdivision 1b, if required; or (iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required;

(3) the license holder obtains written and signed informed consent from each resident or resident's legal representative documenting the resident's informed choice to living in the home and that the resident's refusal to consent would not have resulted in service termination; and

(4) the facility was licensed for adult foster care before March 1, 2003.

(e) The commissioner shall not issue a new adult foster care license under paragraph (d) after June 30, 2005. The commissioner shall allow a facility with an adult foster care license issued under paragraph (d) before June 30, 2005, to continue with a capacity of five or six adults if the license holder continues to comply with the requirements in paragraph (d).

Sec. 11. Minnesota Statutes 2002, section 245A.11, subdivision 2b, is amended to read:

Subd. 2b. [ADULT FOSTER CARE; FAMILY ADULT DAY CARE.] An adult foster care license holder licensed under the conditions in subdivision 2a may also provide family adult day care for adults age 55 or over if no persons in the adult foster or adult family day care program have a serious and persistent mental illness or a developmental disability. The maximum combined capacity for adult foster care and family adult day care is five adults, except that the commissioner may grant a variance for a family adult day care provider to admit up to seven individuals for day care services and one individual for respite care services, if all of the following requirements are met: (1) the variance complies with section 245A.04, subdivision 9; (2) a second caregiver is present whenever six or more clients are being served; and (3) the variance is recommended by the county social service agency in the county where the provider is located. A separate license is not required to provide family adult day care under this subdivision. Adult foster care homes providing services to five adults under this section shall not be subject to licensure by the commissioner of health under the provisions of chapter 144, 144A, 157, or any other law requiring facility licensure by the commissioner of health.

Sec. 12. Minnesota Statutes 2002, section 245A.11, is amended by adding a subdivision to read:

Subd. 7. [ADULT FOSTER CARE; VARIANCE FOR ALTERNATE OVERNIGHT SUPERVISION.] (a) The commissioner may grant a variance under section 245A.04, subdivision 9, to rule parts requiring a caregiver to be present in an adult foster care home during normal sleeping hours to allow for alternative methods of overnight supervision. The commissioner may grant the variance if the local county licensing agency recommends the variance and the county recommendation includes documentation verifying that:

(1) the county has approved the license holder's plan for alternative methods of providing overnight supervision and determined the plan protects the residents' health, safety, and rights;

(2) the license holder has obtained written and signed informed consent from each resident or each resident's legal representative documenting the resident's or legal representative's agreement with the alternative method of overnight supervision; and

(3) the alternative method of providing overnight supervision is specified for each resident in the resident's: (i) individualized plan of care; (ii) individual service plan under section 256B.092, subdivision 1b, if required; or (iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required.

(b) To be eligible for a variance under paragraph (a), the adult foster care license holder must not have had a licensing action under section 245A.06 or 245A.07 during the prior 24 months based on failure to provide adequate supervision, health care services, or resident safety in the adult foster care home.

Sec. 13. Minnesota Statutes 2002, section 245B.03, subdivision 2, is amended to read:

Subd. 2. [RELATIONSHIP TO OTHER STANDARDS GOVERNING SERVICES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.] (a) ICFs/MR are exempt from:

(1) section 245B.04;

(2) section 245B.06, subdivisions 4 and 6; and

(3) section 245B.07, subdivisions 4, paragraphs (b) and (c); 7; and 8, paragraphs (1), clause (iv), and (2).

(b) License holders also licensed under chapter 144 as a supervised living facility are exempt from section 45B.04.

(c) Residential service sites controlled by license holders licensed under chapter 245B for home and community-based waivered services for four or fewer adults are exempt from compliance with Minnesota Rules, parts 9543.0040, subpart 2, item C; 9555.5505; 9555.5515, items B and G; 9555.5605; 9555.5705; 9555.6125, subparts 3, item C, subitem (2), and 4 to 6; 9555.6185; 9555.6225, subpart 8; 9555.6245; 9555.6255; and 9555.6265; and as provided under section 245B.06, subdivision 2, the license holder is exempt from the program abuse prevention plans and individual abuse prevention plans otherwise required under sections 245A.65, subdivision 2, and 626.557, subdivision 14. The commissioner may approve alternative methods of providing overnight supervision using the process and criteria for granting a variance in section 245A.04, subdivision 9. This chapter does not apply to foster care homes that do not provide residential habilitation services funded under the home and community-based waiver programs defined in section 256B.092.

(d) Residential service sites controlled by license holders licensed under this chapter for home and community-based waivered services for four or fewer children are exempt from compliance with Minnesota Rules, parts 9545.0130; 9545.0140; 9545.0150; 9545.0170; 9545.0220, subparts 1, items C, F, and I, and 3; and 9545.0230.

(e) The commissioner may exempt license holders from applicable standards of this chapter when the license holder meets the standards under section 245A.09, subdivision 7. License holders that are accredited by an independent accreditation body shall continue to be licensed under this chapter.

~~(e)~~ (f) License holders governed by sections 245B.02 to 245B.07 must also meet the licensure requirements in chapter 245A.

~~(f)~~ (g) Nothing in this chapter prohibits license holders from concurrently serving consumers with and without mental retardation or related conditions provided this chapter's standards are met as well as other relevant standards.

~~(g)~~ (h) The documentation that sections 245B.02 to 245B.07 require of the license holder meets the individual program plan required in section 256B.092 or successor provisions.

Sec. 14. Minnesota Statutes 2002, section 245B.03, is amended by adding a subdivision to read:

Subd. 3. [CONTINUITY OF CARE.] (a) When a consumer changes service to the same type of service provided under a different license held by the same license holder and the policies and procedures under section 245B.07, subdivision 8, are substantially similar, the license holder is exempt from the requirements in sections 245B.06, subdivisions 2, paragraphs (e) and (f), and 4; and 245B.07, subdivision 9, clause (2).

(b) When a direct service staff person begins providing direct service under one or more licenses other than the license for which the staff person initially received the staff orientation requirements under section 245B.07, subdivision 5, the license holder is exempt from all staff orientation requirements under section 245B.07, subdivision 5, except that:

(1) if the service provision location changes, the staff person must receive orientation regarding any policies or procedures under section 245B.07, subdivision 8, that are specific to the service provision location; and

(2) if the staff person provides direct service to one or more consumers for whom the staff person has not previously provided direct service, the staff person must review each consumer's: (i) service plans and risk management plan in accordance with section 245B.07, subdivision 5, paragraph (b), clause (1); and (ii) medication administration in accordance with section 245B.07, subdivision 5, paragraph (b), clause (6).

Sec. 15. Minnesota Statutes 2002, section 245B.04, subdivision 2, is amended to read:

Subd. 2. [SERVICE-RELATED RIGHTS.] A consumer's service-related rights include the right to:

(1) refuse or terminate services and be informed of the consequences of refusing or terminating services;

(2) know, in advance, limits to the services available from the license holder;

(3) know conditions and terms governing the provision of services, including those related to initiation and termination;

(4) know what the charges are for services, regardless of who will be paying for the services, and be notified upon request of changes in those charges;

(5) know, in advance, whether services are covered by insurance, government funding, or other sources, and be told of any charges the consumer or other private party may have to pay; and

(6) receive licensed services from individuals who are competent and trained, who have professional certification or licensure, as required, and who meet additional qualifications identified in the individual service plan.

Sec. 16. Minnesota Statutes 2002, section 245B.06, subdivision 2, is amended to read:

Subd. 2. [RISK MANAGEMENT PLAN.] (a) The license holder must develop ~~and,~~ document in writing, and implement a risk management plan that ~~incorporates the individual abuse prevention plan as required in section 245A.65~~ meets the requirements of this subdivision. License holders licensed under this chapter are exempt from sections 245A.65, subdivision 2, and 626.557, subdivision 14, if the requirements of this subdivision are met.

(b) The risk management plan must identify areas in which the consumer is vulnerable, based on an assessment, at a minimum, of the following areas:

(1) an adult consumer's susceptibility to physical, emotional, and sexual abuse as defined in section 626.5572, subdivision 2, and financial exploitation as defined in section 626.5572, subdivision 9; a minor consumer's susceptibility to sexual and physical abuse as defined in section 626.556, subdivision 2; and a consumer's susceptibility to self-abuse, regardless of age;

(2) the consumer's health needs, considering the consumer's physical disabilities; allergies; sensory impairments; seizures; diet; need for medications; and ability to obtain medical treatment;

(3) the consumer's safety needs, considering the consumer's ability to take reasonable safety precautions; community survival skills; water survival skills; ability to seek assistance or provide medical care; and access to toxic substances or dangerous items;

(4) environmental issues, considering the program's location in a particular neighborhood or community; the type of grounds and terrain surrounding the building; and the consumer's ability to respond to weather-related conditions, open locked doors, and remain alone in any environment; and

(5) the consumer's behavior, including behaviors that may increase the likelihood of physical aggression between consumers or sexual activity between consumers involving force or coercion, as defined under section 245B.02, subdivision 10, clauses (6) and (7).

(c) When assessing a consumer's vulnerability, the license holder must consider only the consumer's skills and abilities, independent of staffing patterns, supervision plans, the environment, or other situational elements.

(d) License holders jointly providing services to a consumer shall coordinate and use the resulting assessment of risk areas for the development of ~~this~~ each license holder's risk management or the shared risk management plan. ~~Upon initiation of services, the license holder will have in place an initial risk management plan that identifies areas in which the consumer is vulnerable, including health, safety, and environmental issues and the supports the provider will have in place to protect the consumer and to minimize these risks. The plan must be changed based on the needs of the individual consumer and reviewed at least annually.~~ The license holder's plan must include the specific actions a staff person will take to protect the consumer and minimize risks for the identified vulnerability areas. The specific actions must include the proactive measures being taken, training being provided, or a detailed description of actions a staff person will take when intervention is needed.

(e) Prior to or upon initiating services, a license holder must develop an initial risk management plan that is, at a minimum, verbally approved by the consumer or consumer's legal representative and case manager. The license holder must document the date the license holder receives the consumer's or consumer's legal representative's and case manager's verbal approval of the initial plan.

(f) As part of the meeting held within 45 days of initiating service, as required under section 245B.06, subdivision 4, the license holder must review the initial risk management plan for accuracy and revise the plan if necessary. The license holder must give the consumer or consumer's legal representative and case manager an opportunity to participate in this plan review. If the license holder revises the plan, or if the consumer or consumer's legal representative and case manager have not previously signed and dated the plan, the license holder must obtain dated signatures to document the plan's approval.

(g) After plan approval, the license holder must review the plan at least annually and update the plan based on the individual consumer's needs and changes to the environment. The license holder must give the consumer or consumer's legal representative and case manager an opportunity to participate in the ongoing plan development. The license holder shall obtain dated signatures from the consumer or consumer's legal representative and case manager to document completion of the annual review and approval of plan changes.

Sec. 17. Minnesota Statutes 2002, section 245B.06, subdivision 5, is amended to read:

Subd. 5. [PROGRESS REVIEWS.] The license holder must participate in progress review meetings following stated time lines established in the consumer's individual service plan or as requested in writing by the consumer, the consumer's legal representative, or the case manager, at a minimum of once a year. The license holder must summarize the progress toward achieving the desired outcomes and make recommendations in a written report sent to the consumer or the consumer's legal representative and case manager prior to the review meeting. ~~For consumers under public guardianship, the license holder is required to provide quarterly written progress review reports to the consumer, designated family member, and case manager.~~

Sec. 18. Minnesota Statutes 2002, section 245B.07, subdivision 6, is amended to read:

Subd. 6. [STAFF TRAINING.] (a) The license holder shall ensure that direct service staff annually complete hours of training equal to two percent of the number of hours the staff person worked or one percent for license holders providing semi-independent living services. Direct service staff who have worked for the license holder for an average of at least 30 hours per week for 24 or more months must annually complete hours of training equal to one percent of the number of hours the staff person worked. If direct service staff has received training from a license holder licensed under a program rule identified in this chapter or completed course work regarding disability-related issues from a post-secondary educational institute, that training may also count toward training requirements for other services and for other license holders.

(b) The license holder must document the training completed by each employee.

(c) Training shall address staff competencies necessary to address the consumer needs as identified in the consumer's individual service plan and ensure consumer health, safety, and protection of rights. Training may also include other areas identified by the license holder.

(d) For consumers requiring a 24-hour plan of care, the license holder shall provide training in cardiopulmonary resuscitation, from a qualified source determined by the commissioner, if the consumer's health needs as determined by the consumer's physician indicate trained staff would be necessary to the consumer.

Sec. 19. Minnesota Statutes 2002, section 245B.07, subdivision 9, is amended to read:

Subd. 9. [AVAILABILITY OF CURRENT WRITTEN POLICIES AND PROCEDURES.] The license holder shall:

(1) review and update, as needed, the written policies and procedures in this chapter ~~and inform all consumers or the consumer's legal representatives, case managers, and employees of the revised policies and procedures when they affect the service provision~~;

(2) inform consumers or the consumer's legal representatives of the written policies and procedures in this chapter upon service initiation. Copies must be available to consumers or the consumer's legal representatives, case managers, the county where services are located, and the commissioner upon request; ~~and~~

(3) provide all consumers or the consumers' legal representatives and case managers a copy and explanation of revisions to policies and procedures that affect consumers' service-related or protection-related rights under section 245B.04. Unless there is reasonable cause, the license holder must provide this notice at least 30 days before implementing the revised policy and procedure. The license holder must document the reason for not providing the notice at least 30 days before implementing the revisions;

(4) annually notify all consumers or the consumers' legal representatives and case managers of any revised policies and procedures under this chapter, other than those in clause (3). Upon request, the license holder must provide the consumer or consumer's legal representative and case manager copies of the revised policies and procedures;

(5) before implementing revisions to policies and procedures under this chapter, inform all employees of the revised policies and procedures; and

(6) document and maintain relevant information related to the policies and procedures in this chapter.

Sec. 20. Minnesota Statutes 2002, section 245B.08, subdivision 1, is amended to read:

Subdivision 1. [ALTERNATIVE METHODS OF DETERMINING COMPLIANCE.] (a) In addition to methods specified in chapter 245A, the commissioner may use alternative methods and new regulatory strategies to determine compliance with this section. The commissioner may use sampling techniques to ensure compliance with this section. Notwithstanding section 245A.09, subdivision 7, paragraph ~~(d)~~ (e), the commissioner may also extend periods of licensure, not to exceed five years, for license holders who have demonstrated substantial and consistent compliance with sections 245B.02 to 245B.07 and have consistently maintained the health and safety of consumers and have demonstrated by alternative methods in paragraph (b) that they meet or exceed the requirements of this section. For purposes of this section, "substantial and consistent compliance" means that during the current licensing period:

(1) the license holder's license has not been made conditional, suspended, or revoked;

(2) there have been no substantiated allegations of maltreatment against the license holder;

(3) there have been no program deficiencies that have been identified that would jeopardize the health or safety of consumers being served; and

(4) the license holder is in substantial compliance with the other requirements of chapter 245A and other applicable laws and rules.

(b) To determine the length of a license, the commissioner shall consider:

(1) information from affected consumers, and the license holder's responsiveness to consumers' concerns and recommendations;

(2) self assessments and peer reviews of the standards of this section, corrective actions taken by the license holder, and sharing the results of the inspections with consumers, the consumers' families, and others, as requested;

(3) length of accreditation by an independent accreditation body, if applicable;

(4) information from the county where the license holder is located; and

(5) information from the license holder demonstrating performance that meets or exceeds the minimum standards of this chapter.

(c) The commissioner may reduce the length of the license if the license holder fails to meet the criteria in paragraph (a) and the conditions specified in paragraph (b).

Sec. 21. Minnesota Statutes 2002, section 252.27, subdivision 2a, is amended to read:

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

(b) For households with adjusted gross income equal to or greater than 100 percent of federal poverty guidelines, the parental contribution shall be ~~the greater of a minimum monthly fee of $25 for households with adjusted gross income of $30,000 and over, or an amount to be~~ computed by applying the following schedule of rates to the adjusted gross income of the natural or adoptive parents ~~that exceeds 150 percent of the federal poverty guidelines for the applicable household size, the following schedule of rates~~:

(1) ~~on the amount of adjusted gross income over 150 percent of poverty, but not over $50,000, ten percent~~ if the adjusted gross income is equal to or greater than 100 percent of federal poverty guidelines and less than 175 percent of federal poverty guidelines, the parental contribution is $4 per month;

(2) ~~on~~ if the ~~amount of~~ adjusted gross income ~~over 150 percent of poverty and over $50,000 but not over $60,000, 12 percent~~ is equal to or greater than 175 percent of federal poverty guidelines and less than or equal to 975 percent of federal poverty guidelines, the parental contribution shall be determined using a sliding fee scale established by the commissioner of human services which begins at one percent of adjusted gross income at 175 percent of federal poverty guidelines and increases to 16 percent of adjusted gross income for those with adjusted gross income up to 975 percent of federal poverty guidelines;

~~(3) on the amount of adjusted gross income over 150 percent of poverty, and over $60,000 but not over $75,000, 14 percent; and~~

~~(4) on all adjusted gross income amounts over 150 percent of poverty, and over $75,000, 15 percent.~~

(3) if the adjusted gross income is equal to or greater than 975 percent of federal poverty guidelines, the parental contribution shall be 16 percent of adjusted gross income.

If the child lives with the parent, the ~~parental contribution~~ annual adjusted gross income is reduced by ~~$200, except that the parent must pay the minimum monthly $25 fee under this paragraph~~ $4,800 prior to calculating the parental contribution. If the child resides in an institution specified in section 256B.35, the parent is responsible for the personal needs allowance specified under that section in addition to the parental contribution determined under this section. The parental contribution is reduced by any amount required to be paid directly to the child pursuant to a court order, but only if actually paid.

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

(d) For purposes of paragraph (b), "income" means the adjusted gross income of the natural or adoptive parents determined according to the previous year's federal tax form.

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

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

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

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

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

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

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

(2) the insurer denied insurance;

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

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

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

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

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 22. Minnesota Statutes 2002, section 253B.04, subdivision 1, is amended to read:

Subdivision 1. [VOLUNTARY ADMISSION AND TREATMENT.] (a) Voluntary admission is preferred over involuntary commitment and treatment. Any person 16 years of age or older may request to be admitted to a treatment facility as a voluntary patient for observation, evaluation, diagnosis, care and treatment without making formal written application. Any person under the age of 16 years may be admitted as a patient with the consent of a parent or legal guardian if it is determined by independent examination that there is reasonable evidence that (1) the proposed patient has a mental illness, or is mentally retarded or chemically dependent; and (2) the proposed patient is suitable for treatment. The head of the treatment facility shall not arbitrarily refuse any person seeking admission as a voluntary patient. In making decisions regarding admissions, the facility shall use clinical admission criteria consistent with the current applicable inpatient admission standards established by the American Psychiatric Association or the American Academy of Child and Adolescent Psychiatry. These criteria must be no more restrictive than, and must be consistent with, the requirements of section 62Q.53. The facility may not refuse to admit a person voluntarily solely because the person does not meet the criteria for involuntary holds under section 253B.05 or the definition of mental illness under section 253B.02, subdivision 13.

(b) In addition to the consent provisions of paragraph (a), a person who is 16 or 17 years of age who refuses to consent personally to admission may be admitted as a patient for mental illness or chemical dependency treatment with the consent of a parent or legal guardian if it is determined by an independent examination that there is reasonable evidence that the proposed patient is chemically dependent or has a mental illness and is suitable for treatment. The person conducting the examination shall notify the proposed patient and the parent or legal guardian of this determination.

(c) A person who is voluntarily participating in treatment for a mental illness is not subject to civil commitment under this chapter if the person:

(1) has given informed consent or, if lacking capacity, is a person for whom legally valid substitute consent has been given; and

(2) is participating in a medically appropriate course of treatment, including clinically appropriate and lawful use of neuroleptic medication and electroconvulsive therapy.

Notwithstanding this paragraph, the court may commit the person if the court finds that, based on the person's recent history, it is unlikely the person will remain in and cooperate with treatment absent commitment. This paragraph does not apply to a person for whom commitment proceedings are initiated pursuant to rule 20.01 or 20.02 of the Rules of Criminal Procedure, or a person found by the court to meet the requirements under section 253B.02, subdivision 17.

Legally valid substitute consent may be provided by a proxy under a health care directive, a guardian or conservator with authority to consent to mental health treatment, or consent to admission under subdivision 1a or 1b.

Sec. 23. Minnesota Statutes 2002, section 253B.05, subdivision 3, is amended to read:

Subd. 3. [DURATION OF HOLD.] (a) Any person held pursuant to this section may be held up to 72 hours, exclusive of Saturdays, Sundays, and legal holidays after admission. If a petition for the commitment of the person is filed in the district court in the county of the person's residence or of the county in which the treatment facility is located, the court may issue a judicial hold order pursuant to section 253B.07, subdivision 2b.

(b) During the 72-hour hold period, a court may not release a person held under this section unless the court has received a written petition for release and held a summary hearing regarding the release. The petition must include the name of the person being held, the basis for and location of the hold, and a statement as to why the hold is improper. The petition also must include copies of any written documentation under subdivision 1 or 2 in support of the hold, unless the person holding the petitioner refuses to supply the documentation. The hearing must be held as soon as practicable and may be conducted by means of a telephone conference call or similar method by which the participants are able to simultaneously hear each other. If the court decides to release the person, the court shall direct the release and shall issue written findings supporting the decision. The release may not be delayed pending the written order. Before deciding to release the person, the court shall make every reasonable effort to provide notice of the proposed release to:

(1) any specific individuals identified in a statement under subdivision 1 or 2 or individuals identified in the record who might be endangered if the person was not held;

(2) the examiner whose written statement was a basis for a hold under subdivision 1; and

(3) the peace or health officer who applied for a hold under subdivision 2.

(c) If a person is intoxicated in public and held under this section for detoxification, a treatment facility may release the person without providing notice under paragraph (d) as soon as the treatment facility determines the person is no longer intoxicated.

~~(c)~~ (d) If a treatment facility releases a person during the 72-hour hold period, the head of the treatment facility shall immediately notify the agency which employs the peace or health officer who transported the person to the treatment facility under this section.

(e) A person held under a 72-hour emergency hold must be released by the facility within 72 hours unless a court order to hold the person is obtained. A consecutive emergency hold order under this section may not be issued.

Sec. 24. Minnesota Statutes 2002, section 256.012, is amended to read:

256.012 [MINNESOTA MERIT SYSTEM.]

Subdivision 1. [PERSONNEL STANDARDS.] The commissioner of human services shall promulgate by rule personnel standards on a merit basis in accordance with federal standards for a merit system of personnel administration for all employees of county boards engaged in the administration of community social services or income maintenance programs, all employees of human services boards that have adopted the rules of the Minnesota merit system, and all employees of local social services agencies.

Excluded from the rules are employees of institutions and hospitals under the jurisdiction of the aforementioned boards and agencies; employees of county personnel systems otherwise provided for by law that meet federal merit system requirements; duly appointed or elected members of the aforementioned boards and agencies; and the director of community social services and employees in positions that, upon the request of the appointing authority, the commissioner chooses to exempt, provided the exemption accords with the federal standards for a merit system of personnel administration.

Subd. 2. [PAYMENT FOR SERVICES PROVIDED.] (a) The cost of merit system operations shall be paid by counties and other entities that utilize merit system services. Total costs shall be determined by the commissioner annually and must be set at a level that neither significantly over-recovers nor under-recovers the costs of providing the service. The costs of merit system services shall be prorated among participating counties in accordance with an agreement between the commissioner and these counties. Participating counties will be billed quarterly in advance and shall pay their share of the costs upon receipt of the billing.

(b) This subdivision does not apply to counties with personnel systems otherwise provided by law that meet federal merit system requirements. A county that applies to withdraw from the merit system must notify the commissioner of the county's intent to develop its own personnel system. This notice must be provided in writing by December 31 of the year preceding the year of final participation in the merit system. The county may withdraw after the commissioner has certified that its personnel system meets federal merit system requirements.

(c) A county merit system operations account is established in the special revenue fund. Payments received by the commissioner for merit system costs must be deposited in the merit system operations account and must be used for the purpose of providing the services and administering the merit system.

(d) County payment of merit system costs is effective July 1, 2003, however payment for the period from July 1, 2003 through December 31, 2003, shall be made no later than January 31, 2004.

Subd. 3. [PARTICIPATING COUNTY CONSULTATION.] The commissioner shall ensure that participating counties are consulted regularly and offered the opportunity to provide input on the management of the merit system to ensure effective use of resources and to monitor system performance.

Sec. 25. Minnesota Statutes 2002, section 256.935, subdivision 1, is amended to read:

Subdivision 1. [~~FUNERAL~~ BURIAL OR CREMATION EXPENSES.] On the death of any person receiving public assistance through MFIP, the county agency shall pay an amount for ~~funeral~~ burial or cremation expenses not exceeding the amount paid for comparable services under section 261.035 plus actual cemetery charges. The county agency may pay for cremation instead of burial expenses being respectful of cultural and religious preferences of the decedent or the decedent's next of kin. No ~~funeral~~ burial or cremation expenses shall be paid if the estate of the deceased is sufficient to pay such expenses or if the spouse, who was legally responsible for the support of the deceased while living, is able to pay such expenses~~; provided, that the additional payment or donation of the cost of cemetery lot, interment, religious service, or for the transportation of the body into or out of the community in which the deceased resided, shall not limit payment by the county agency as herein authorized. Freedom of choice in the selection of a funeral director shall be granted to persons lawfully authorized to make arrangements for the burial of any such deceased recipient~~. In determining the sufficiency of such estate, due regard shall be had for the nature and marketability of the assets of the estate. The county agency may grant ~~funeral~~ burial or cremation expenses where the sale would cause undue loss to the estate. Any amount paid for ~~funeral~~ burial or cremation expenses shall be a prior claim against the estate, as provided in section 524.3-805, and any amount recovered shall be reimbursed to the agency which paid the expenses. ~~The commissioner shall specify requirements for reports, including fiscal reports, according to section 256.01, subdivision 2, paragraph (17). The state share shall pay the entire amount of county agency expenditures.~~ Benefits shall be issued to recipients by the ~~state or~~ county subject to provisions of section 256.017.

Sec. 26. Minnesota Statutes 2002, section 256B.0911, subdivision 3, is amended to read:

Subd. 3. [LONG-TERM CARE CONSULTATION TEAM.] ~~(a)~~ A long-term care consultation team shall be established by the county board of commissioners. Each local consultation team shall consist of at least one social worker and at least one public health nurse from their respective county agencies. The board may designate public health or social services as the lead agency for long-term care consultation services. If a county does not have a public health nurse available, it may request approval from the commissioner to assign a county registered nurse with at least one year experience in home care to participate on the team. Two or more counties may collaborate to establish a joint local consultation team or teams.

~~(b) The team is responsible for providing long-term care consultation services to all persons located in the county who request the services, regardless of eligibility for Minnesota health care programs.~~

Sec. 27. Minnesota Statutes 2002, section 256F.13, subdivision 1, is amended to read:

Subdivision 1. [FEDERAL REVENUE ENHANCEMENT.] (a) [DUTIES OF COMMISSIONER OF HUMAN SERVICES.] The commissioner of human services may enter into an agreement with one or more family services collaboratives to enhance federal reimbursement under Title IV-E of the Social Security Act and federal administrative reimbursement under Title XIX of the Social Security Act. The commissioner may contract with the department of children, families, and learning for purposes of transferring the federal reimbursement to the commissioner of children, families, and learning to be distributed to the collaboratives according to clause (2). The commissioner shall have the following authority and responsibilities regarding family services collaboratives:

(1) the commissioner shall submit amendments to state plans and seek waivers as necessary to implement the provisions of this section;

(2) the commissioner shall pay the federal reimbursement earned under this subdivision to each collaborative based on their earnings. Payments to collaboratives for expenditures under this subdivision will only be made of federal earnings from services provided by the collaborative;

(3) the commissioner shall review expenditures of family services collaboratives using reports specified in the agreement with the collaborative to ensure ~~that the base level of expenditures is continued and~~ new federal reimbursement is used to ~~expand~~ fund education, social, health, or health-related services to young children and their families;

(4) ~~the commissioner may reduce, suspend, or eliminate a family services collaborative's obligations to continue the base level of expenditures or expansion of services if the commissioner determines that one or more of the following conditions apply:~~

~~(i) imposition of levy limits that significantly reduce available funds for social, health, or health related services to families and children;~~

~~(ii) reduction in the net tax capacity of the taxable property eligible to be taxed by the lead county or subcontractor that significantly reduces available funds for education, social, health, or health-related services to families and children;~~

~~(iii) reduction in the number of children under age 19 in the county, collaborative service delivery area, subcontractor's district, or catchment area when compared to the number in the base year using the most recent data provided by the state demographer's office; or~~

~~(iv) termination of the federal revenue earned under the family services collaborative agreement;~~

~~(5)~~ the commissioner shall not use the federal reimbursement earned under this subdivision in determining the allocation or distribution of other funds to counties or collaboratives;

~~(6)~~ (5) the commissioner may suspend, reduce, or terminate the federal reimbursement to a provider that does not meet the reporting or other requirements of this subdivision;

~~(7)~~ (6) the commissioner shall recover from the family services collaborative any federal fiscal disallowances or sanctions for audit exceptions directly attributable to the family services collaborative's actions in the integrated fund, or the proportional share if federal fiscal disallowances or sanctions are based on a statewide random sample; and

~~(8)~~ (7) the commissioner shall establish criteria for the family services collaborative for the accounting and financial management system that will support claims for federal reimbursement.

(b) [FAMILY SERVICES COLLABORATIVE RESPONSIBILITIES.] The family services collaborative shall have the following authority and responsibilities regarding federal revenue enhancement:

(1) the family services collaborative shall be the party with which the commissioner contracts. A lead county shall be designated as the fiscal agency for reporting, claiming, and receiving payments;

(2) the family services collaboratives may enter into subcontracts with other counties, school districts, special education cooperatives, municipalities, and other public and nonprofit entities for purposes of identifying and claiming eligible expenditures to enhance federal reimbursement, or to expand education, social, health, or health-related services to families and children;

(3) ~~the family services collaborative must continue the base level of expenditures for education, social, health, or health-related services to families and children from any state, county, federal, or other public or private funding source which, in the absence of the new federal reimbursement earned under this subdivision, would have been available for those services, except as provided in subdivision 1, paragraph (a), clause (4). The base year for purposes of this subdivision shall be the four quarter calendar year ending at least two calendar quarters before the first calendar quarter in which the new federal reimbursement is earned;~~

(4) the family services collaborative must use all new federal reimbursement resulting from federal revenue enhancement to ~~expand~~ make expenditures for education, social, health, or health-related services to families and children ~~beyond the base level, except as provided in subdivision 1, paragraph (a), clause (4)~~;

(5) the family services collaborative must ensure that expenditures submitted for federal reimbursement are not made from federal funds or funds used to match other federal funds. Notwithstanding section 256B.19, subdivision 1, for the purposes of family services collaborative expenditures under agreement with the department, the nonfederal share of costs shall be provided by the family services collaborative from sources other than federal funds or funds used to match other federal funds;

(6) the family services collaborative must develop and maintain an accounting and financial management system adequate to support all claims for federal reimbursement, including a clear audit trail and any provisions specified in the agreement; and

(7) the family services collaborative shall submit an annual report to the commissioner as specified in the agreement.

Sec. 28. Minnesota Statutes 2002, section 256F.13, subdivision 2, is amended to read:

Subd. 2. [AGREEMENTS WITH FAMILY SERVICES COLLABORATIVES.] At a minimum, the agreement between the commissioner and the family services collaborative shall include the following provisions:

(1) specific documentation of the expenditures eligible for federal reimbursement;

(2) the process for developing and submitting claims to the commissioner;

(3) specific identification of the education, social, health, or health-related services to families and children which are ~~to be expanded~~ funded with the federal reimbursement;

(4) reporting and review procedures ~~ensuring that the family services collaborative must continue the base level of expenditures for the education, social, health, or health-related services for families and children as specified in subdivision 2, clause (3)~~ that emphasize the minimum number of data elements necessary;

(5) reporting and review procedures to ensure that federal revenue earned under this section is spent specifically to ~~expand~~ fund education, social, health, or health-related services for families and children as specified in subdivision 2, clause (4);

(6) the period of time, not to exceed three years, governing the terms of the agreement and provisions for amendments to, and renewal of the agreement; and

(7) an annual report prepared by the family services collaborative.

Sec. 29. Minnesota Statutes 2002, section 261.035, is amended to read:

261.035 [~~FUNERALS~~ BURIAL AT EXPENSE OF COUNTY.]

When a person dies in any county without apparent means to provide for that person's ~~funeral or final disposition~~ burial or cremation, the county board shall first investigate to determine whether that person had contracted for any prepaid funeral arrangements. If arrangements have been made, the county shall authorize arrangements to be implemented in accord with the instructions of the deceased. If it is determined that the person did not leave sufficient means to defray the necessary expenses of a ~~funeral and final disposition~~ burial or cremation, nor any spouse of sufficient ability to procure the burial or cremation, the county board shall provide for a ~~funeral and final disposition~~ burial or cremation, being respectful of cultural and religious preferences, of the person's remains to be made at the expense of the county. Any ~~funeral and final disposition~~ burial or cremation provided at the expense of the county shall be in accordance with religious and moral beliefs of the decedent ~~or the decedent's spouse or the decedent's next of kin~~. If the wishes of the decedent are not known and the county has no information about the existence of or location of any next of kin, the county may determine the method of final disposition.

Sec. 30. Minnesota Statutes 2002, section 393.07, subdivision 1, is amended to read:

Subdivision 1. [PUBLIC CHILD WELFARE PROGRAM.] (a) To assist in carrying out the child protection, delinquency prevention and family assistance responsibilities of the state, the local social services agency shall administer a program of social services and financial assistance to be known as the public child welfare program. The public child welfare program shall be supervised by the commissioner of human services and administered by the local social services agency in accordance with law and with rules of the commissioner.

(b) The purpose of the public child welfare program is to assure protection for and financial assistance to children who are confronted with social, physical, or emotional problems requiring protection and assistance. These problems include, but are not limited to the following:

(1) mental, emotional, or physical handicap;

(2) birth of a child to a mother who was not married to the child's father when the child was conceived nor when the child was born, including but not limited to costs of prenatal care, confinement and other care necessary for the protection of a child born to a mother who was not married to the child's father at the time of the child's conception nor at the birth;

(3) dependency, neglect;

(4) delinquency;

(5) abuse or rejection of a child by its parents;

(6) absence of a parent or guardian able and willing to provide needed care and supervision;

(7) need of parents for assistance with child rearing problems, or in placing the child in foster care.

(c) A local social services agency shall make the services of its public child welfare program available as required by law, by the commissioner, or by the courts and shall cooperate with other agencies, public or private, dealing with the problems of children and their parents as provided in this subdivision.

~~The public child welfare program shall be available in divorce cases for investigations of children and home conditions and for supervision of children when directed by the court hearing the divorce.~~

(d) A local social services agency may rent, lease, or purchase property, or in any other way approved by the commissioner, contract with individuals or agencies to provide needed facilities for foster care of children. It may purchase services or child care from duly authorized individuals, agencies or institutions when in its judgment the needs of a child or the child's family can best be met in this way.

Sec. 31. Minnesota Statutes 2002, section 393.07, subdivision 5, is amended to read:

Subd. 5. [COMPLIANCE WITH FEDERAL SOCIAL SECURITY ACT; MERIT SYSTEM.] The commissioner of human services shall have authority to require such methods of administration as are necessary for compliance with requirements of the federal Social Security Act, as amended, and for the proper and efficient operation of all welfare programs. This authority to require methods of administration includes methods relating to the establishment and maintenance of personnel standards on a merit basis as concerns all employees of local social services agencies except those employed in an institution, sanitarium, or hospital. The commissioner of human services shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods. The adoption of methods relating to the establishment and maintenance of personnel standards on a merit basis of all such employees of the local social services agencies and the examination thereof, and the administration thereof shall be directed and controlled exclusively by the commissioner of human services.

Notwithstanding the provisions of any other law to the contrary, every employee of every local social services agency who occupies a position which requires as prerequisite to eligibility therefor graduation from an accredited four year college or a certificate of registration as a registered nurse under section 148.231, must be employed in such position under the merit system established under authority of this subdivision. Every such employee now

employed by a local social services agency and who is not under said merit system is transferred, as of January 1, 1962, to a position of comparable classification in the merit system with the same status therein as the employee had in the county of employment prior thereto and every such employee shall be subject to and have the benefit of the merit system, including seniority within the local social services agency, as though the employee had served thereunder from the date of entry into the service of the local social services agency.

~~By March 1, 1996, the commissioner of human services shall report to the chair of the senate health care and family services finance division and the chair of the house health and human services finance division on options for the delivery of merit-based employment services by entities other than the department of human services in order to reduce the administrative costs to the state while maintaining compliance with applicable federal regulations.~~

Sec. 32. Minnesota Statutes 2002, section 518.167, subdivision 1, is amended to read:

Subdivision 1. [COURT ORDER.] In contested custody proceedings, and in other custody proceedings if a parent or the child's custodian requests, the court may order an investigation and report concerning custodial arrangements for the child. If the county elects to conduct an investigation, the county may charge a fee. The investigation and report may be made by the county welfare agency or department of court services or a private vendor.

Sec. 33. Minnesota Statutes 2002, section 518.551, subdivision 7, is amended to read:

Subd. 7. [~~SERVICE FEE~~ FEES AND COST RECOVERY FEES FOR IV-D SERVICES.] ~~When the public agency responsible for child support enforcement provides child support collection services either to a public assistance recipient or to a party who does not receive public assistance, the public agency may upon written notice to the obligor charge a monthly collection fee equivalent to the full monthly cost to the county of providing collection services, in addition to the amount of the child support which was ordered by the court. The fee shall be deposited in the county general fund. The service fee assessed is limited to ten percent of the monthly court ordered child support and shall not be assessed to obligors who are current in payment of the monthly court ordered child support.~~ (a) When a recipient of IV-D services is no longer receiving assistance under the state's title IV-A, IV-E foster care, medical assistance, or MinnesotaCare programs, the public authority responsible for child support enforcement must notify the recipient, within five working days of the notification of ineligibility, that IV-D services will be continued unless the public authority is notified to the contrary by the recipient. The notice must include the implications of continuing to receive IV-D services, including the available services and fees, cost recovery fees, and distribution policies relating to fees.

(b) An application fee of $25 shall be paid by the person who applies for child support and maintenance collection services, except persons who are receiving public assistance as defined in section 256.741 and, if enacted, the diversionary work program under section 256J.95, persons who transfer from public assistance to nonpublic assistance status, and minor parents and parents enrolled in a public secondary school, area learning center, or alternative learning program approved by the commissioner of children, families, and learning.

(c) When the public authority provides full IV-D services to an obligee who has applied for those services, upon written notice to the obligee, the public authority must charge a cost recovery fee of two percent of the amount collected. This fee must be deducted from the amount of the child support and maintenance collected and not assigned under section 256.741, before disbursement to the obligee. This fee does not apply to an obligee who:

(1) is currently receiving assistance under the state's title IV-A, IV-E foster care, medical assistance, or MinnesotaCare programs; or

(2) has received assistance under the state's title IV-A or IV-E foster care programs, until the person has not received this assistance for 24 consecutive months.

(d) When the public authority provides full IV-D services to an obligor who has applied for such services, upon written notice to the obligor, the public authority must charge a cost recovery fee of two percent of the monthly court ordered child support and maintenance obligation. The fee may be collected through income withholding, as well as by any other enforcement remedy available to the public authority responsible for child support enforcement.

(e) Fees assessed by state and federal tax agencies for collection of overdue support owed to or on behalf of a person not receiving public assistance must be imposed on the person for whom these services are provided. The public authority upon written notice to the obligee shall assess a fee of $25 to the person not receiving public assistance for each successful federal tax interception. The fee must be withheld prior to the release of the funds received from each interception and deposited in the general fund.

(f) Cost recovery fees collected under paragraphs (c) and (d) shall be considered child support program income according to Code of Federal Regulations, title 45, section 304.50, and shall be deposited in the cost recovery fee account established under paragraph (h). The commissioner of human services must elect to recover costs based on either actual or standardized costs.

~~However,~~ (g) The limitations of this subdivision on the assessment of fees shall not apply to the extent inconsistent with the requirements of federal law for receiving funds for the programs under Title IV-A and Title IV-D of the Social Security Act, United States Code, title 42, sections 601 to 613 and United States Code, title 42, sections 651 to 662.

(h) The commissioner of human services is authorized to establish a special revenue fund account to receive child support cost recovery fees. A portion of the nonfederal share of these fees may be retained for expenditures necessary to administer the fee, and must be transferred to the child support system special revenue account. The remaining nonfederal share of the cost recovery fee must be retained by the commissioner and dedicated to the child support general fund county performance based grant account authorized under sections 256.979 and 256.9791.

[EFFECTIVE DATE.] This section is effective July 1, 2004, except paragraph (d) is effective July 1, 2005.

Sec. 34. Minnesota Statutes 2002, section 518.6111, subdivision 2, is amended to read:

Subd. 2. [APPLICATION.] This section applies to all support orders issued by a court or an administrative tribunal and orders for or notices of withholding issued by the public authority ~~according to section 518.5513, subdivision 5, paragraph (a), clause (5)~~.

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

Sec. 35. Minnesota Statutes 2002, section 518.6111, subdivision 3, is amended to read:

Subd. 3. [ORDER.] Every support order must address income withholding. Whenever a support order is initially entered or modified, the full amount of the support order must be ~~withheld~~ subject to income withholding from the income of the obligor. If the obligee or obligor applies for either full IV-D services or for income withholding only services from the public authority responsible for child support enforcement, the full amount of the support order must be withheld from the income of the obligor and forwarded to the public authority. Every order for support or maintenance shall provide for a conspicuous notice of the provisions of this section that complies with section 518.68, subdivision 2. An order without this notice remains subject to this section. This section applies regardless of the source of income of the person obligated to pay the support or maintenance.

A payor of funds shall implement income withholding according to this section upon receipt of an order for or notice of withholding. The notice of withholding shall be on a form provided by the commissioner of human services.

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

Sec. 36. Minnesota Statutes 2002, section 518.6111, subdivision 4, is amended to read:

Subd. 4. [COLLECTION SERVICES.] (a) The commissioner of human services shall prepare and make available to the courts a notice of services that explains child support and maintenance collection services available through the public authority, including income withholding, and the fees for such services. Upon receiving a petition for dissolution of marriage or legal separation, the court administrator shall promptly send the notice of services to the petitioner and respondent at the addresses stated in the petition.

(b) Either the obligee or obligor may at any time apply to the public authority for either full IV-D services or for income withholding only services.

~~Upon receipt of a support order requiring income withholding, a petitioner or respondent, who is not a recipient of public assistance and does not receive child support services from the public authority, shall apply to the public authority for either full child support collection services or for income withholding only services.~~

(c) For those persons applying for income withholding only services, a monthly service fee of $15 must be charged to the obligor. This fee is in addition to the amount of the support order and shall be withheld through income withholding. The public authority shall explain the service options in this section to the affected parties and encourage the application for full child support collection services.

(d) If the obligee is not a current recipient of public assistance as defined in section 256.741, the person who applied for services may at any time choose to terminate either full IV-D services or income withholding only services regardless of whether income withholding is currently in place. The obligee or obligor may reapply for either full IV-D services or income withholding only services at any time. Unless the applicant is a recipient of public assistance as defined in section 256.741, a $25 application fee shall be charged at the time of each application.

(e) When a person terminates IV-D services, if an arrearage for public assistance as defined in section 256.741 exists, the public authority may continue income withholding, as well as use any other enforcement remedy for the collection of child support, until all public assistance arrears are paid in full. Income withholding shall be in an amount equal to 20 percent of the support order in effect at the time the services terminated.

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

Sec. 37. Minnesota Statutes 2002, section 518.6111, subdivision 16, is amended to read:

Subd. 16. [WAIVER.] (a) If the public authority is providing child support and maintenance enforcement services and child support or maintenance is not assigned under section 256.741, the court may waive the requirements of this section if ~~the court finds there is no arrearage in child support and maintenance as of the date of the hearing and~~:

(1) one party demonstrates and the court ~~finds~~ determines there is good cause to waive the requirements of this section or to terminate an order for or notice of income withholding previously entered under this section. The court must make written findings to include the reasons income withholding would not be in the best interests of the child. In cases involving a modification of support, the court must also make a finding that support payments have been timely made; or

(2) ~~all parties reach an~~ the obligee and obligor sign a written agreement ~~and the agreement~~ providing for an alternative payment arrangement which is ~~approved~~ reviewed and entered in the record by the court ~~after a finding that the agreement is likely to result in regular and timely payments. The court's findings waiving the requirements of this paragraph shall include a written explanation of the reasons why income withholding would not be in the best interests of the child~~.

~~In addition to the other requirements in this subdivision, if the case involves a modification of support, the court shall make a finding that support has been timely made.~~

(b) If the public authority is not providing child support and maintenance enforcement services and child support or maintenance is not assigned under section 256.741, the court may waive the requirements of this section if the parties sign a written agreement.

(c) If the court waives income withholding, the obligee or obligor may at any time request income withholding under subdivision 7.

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

Sec. 38. [MANDATE IDENTIFICATION; REPORT TO LEGISLATURE.]

The commissioners of health and human services must identify required state services or programs in law or rule that are under each agency's respective jurisdictions, the administration or provision of which the state has delegated to the counties. For each state-mandated service or program, the commissioner must describe:

(1) the year enacted and the scope of the service or program;

(2) the funding sources for the service or program; and

(3) related federal requirements and support.

The commissioners must seek the advice of the county officials knowledgeable about the state-mandated services and programs, county associations, consumer representatives, and service or program providers. Each commissioner must submit a report to the house and senate committees with jurisdiction over the budget of departments of health and human services by January 15, 2004.

[EFFECTIVE DATE; EXPIRATION DATE.] This section is effective the day following final enactment and expires June 30, 2005.

Sec. 39. [STATE-OPERATED SERVICES STUDY.]

(a) Before restructuring state-operated services, redesigning the mental health safety net, or reducing reliance on large institutions, the commissioner shall review and study the President's New Freedom Commission on Mental Health final report. The commissioner shall report on whether the commissioner's plan to restructure state-operated services is consistent with the recommendations in the final report and how the state can implement the recommendations in the final report.

(b) The commissioner of human services shall study alternate methods of providing services to persons with developmental disabilities served by state-operated community services (SOCS) and other providers, including, but not limited to, the needs of the persons served, the cost effectiveness of the services provided, whether alternate populations can be served in SOCS, and if the services could be privatized. The commissioner shall also study the Minnesota extended treatment options, including an analysis of the population served by the program and the effectiveness of the program. The commissioner shall report on the results of the study under this section to the chairs of the house and senate committees with jurisdiction over state-operated services by January 15, 2004.

Sec. 40. [REDUCING DUPLICATIVE HEALTH AND HUMAN SERVICES LICENSING ACTIVITIES; REPORT TO LEGISLATURE.]

(a) The commissioners of health and human services shall submit a report to the chairs of the house and senate committees with jurisdiction over health and human services licensing by December 15, 2003, regarding how to reduce duplicative licensing activities by the departments of health and human services.

(b) The report must include draft legislation providing for:

(1) the licensure of intermediate care facilities for persons with mental retardation or related conditions or ICFs/MR by either the commissioner of health or human services. In developing the draft legislation, the commissioners, in consultation with provider and advocacy organizations, shall review:

(i) current state regulations enforced by the commissioner of human services under Minnesota Statutes, chapter 245B; the psychotropic medication use checklist under Minnesota Statutes, section 245B.02, subdivision 19; and Minnesota Rules, parts 9525.2700 to 9525.2810, governing the use of aversive and deprivation procedures; and

(ii) current state regulations enforced by the commissioner of health under Minnesota Statutes, chapter 144, and Minnesota Rules, chapter 4665.

The draft legislation must codify the regulations and provisions listed in items (i) and (ii) in Minnesota Statutes, chapter 144 or 245B, depending upon which commissioner is recommended to license ICFs/MR. The draft legislation also must repeal all rules made obsolete by the proposed codification of the regulations; and

(2) the licensure of residential adult mental illness treatment programs and chemical dependency treatment programs by the commissioner of human services. The commissioners, in consultation with provider and advocacy organizations, shall review current regulations enforced by the commissioner of health in nonhospital-based residential adult mental illness and chemical dependency treatment programs to determine whether the commissioner of human services should enforce the regulations. If the commissioners determine that the commissioner of human services should enforce the regulations, the draft legislation must address how the provisions in the regulations should be codified in Minnesota Statutes, chapter 245A.

(c) The report also must include an analysis of:

(1) whether the international fire and building codes, effective in calendar year 2003, provide comparable and adequate physical plant safeguards when compared to the supervised living facility class B licensing standards. The commissioner must analyze whether a board and lodging license combined with a human services program license will maintain at least the current safety levels in supervised living facility class B facilities. If the commissioners determine that there is likely no adverse effect on the health and safety of persons receiving services from the adult mental illness or chemical dependency programs or ICFs/MR, the draft legislation must repeal the supervised living facility regulations and require board and lodging licensure for these programs; and

(2) the funding implications for any proposed change to the commissioners' responsibilities for licensing activities, including the impact on the general fund and the state government special revenue fund.

Sec. 41. [REVISOR'S INSTRUCTION.]

For sections in Minnesota Statutes and Minnesota Rules affected by the repealed sections in this article, the revisor shall delete internal cross-references where appropriate and make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning.

Sec. 42. [REPEALER.]

(a) Minnesota Statutes 2002, sections 145A.17, subdivision 9; 245.478; 245.4888; 245.714; 256B.0945, subdivisions 6, 7, 8, and 10; 256B.83; and 256F.10, subdivision 7, are repealed.

(b) Minnesota Rules, parts 9545.2000; 9545.2010; 9545.2020; 9545.2030; and 9545.2040, are repealed.

ARTICLE 8

HEALTH DEPARTMENT MISCELLANEOUS

Section 1. Minnesota Statutes 2002, section 62A.65, subdivision 7, is amended to read:

Subd. 7. [SHORT-TERM COVERAGE.] (a) For purposes of this section, "short-term coverage" means an individual health plan that:

(1) is issued to provide coverage for a period of 185 days or less, except that the health plan may permit coverage to continue until the end of a period of hospitalization for a condition for which the covered person was hospitalized on the day that coverage would otherwise have ended;

(2) is nonrenewable, provided that the health carrier may provide coverage for one or more subsequent periods that satisfy clause (1), if the total of the periods of coverage do not exceed a total of ~~185~~ 555 days out of any ~~365-day~~ 730-day period, plus any additional days covered as a result of hospitalization on the day that a period of coverage would otherwise have ended;

(3) does not cover any preexisting conditions, including ones that originated during a previous identical policy or contract with the same health carrier where coverage was continuous between the previous and the current policy or contract; and

(4) is available with an immediate effective date without underwriting upon receipt of a completed application indicating eligibility under the health carrier's eligibility requirements, provided that coverage that includes optional benefits may be offered on a basis that does not meet this requirement.

(b) Short-term coverage is not subject to subdivisions 2 and 5. Short-term coverage may exclude as a preexisting condition any injury, illness, or condition for which the covered person had medical treatment, symptoms, or any manifestations before the effective date of the coverage, but dependent children born or placed for adoption during the policy period must not be subject to this provision.

(c) Notwithstanding subdivision 3, and section 62A.021, a health carrier may combine short-term coverage with its most commonly sold individual qualified plan, as defined in section 62E.02, other than short-term coverage, for purposes of complying with the loss ratio requirement.

(d) The ~~185~~ 555 day coverage limitation provided in paragraph (a) applies to the total number of days of short-term coverage that covers a person, regardless of the number of policies, contracts, or health carriers that provide the coverage. A written application for short-term coverage must ask the applicant whether the applicant has been covered by short-term coverage by any health carrier within the ~~365~~ 730 days immediately preceding the effective date of the coverage being applied for. Short-term coverage issued in violation of the ~~185-day~~ 555-day limitation is valid until the end of its term and does not lose its status as short-term coverage, in spite of the violation. A health carrier that knowingly issues short-term coverage in violation of the ~~185-day~~ 555-day limitation is subject to the administrative penalties otherwise available to the commissioner of commerce or the commissioner of health, as appropriate.

(e) Time spent under short-term coverage counts as time spent under a preexisting condition limitation for purposes of group or individual health plans, other than short-term coverage, subsequently issued to that person, or to cover that person, by any health carrier, if the person maintains continuous coverage as defined in section 62L.02. Short-term coverage is a health plan and is qualifying coverage as defined in section 62L.02. Notwithstanding any other law to the contrary, a health carrier is not required under any circumstances to provide a person covered by short-term coverage the right to obtain coverage on a guaranteed issue basis under another health plan offered by the health carrier, as a result of the person's enrollment in short-term coverage.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to policies issued on or after that date.

Sec. 2. Minnesota Statutes 2002, section 62D.095, subdivision 2, is amended to read:

Subd. 2. [CO-PAYMENTS.] (a) A health maintenance contract may impose a co-payment as authorized under Minnesota Rules, part 4685.0801, or under this section.

(b) A health maintenance contract may impose a flat fee co-payment on outpatient office visits and prescription drugs not to exceed 50 percent of the median provider's charges for similar services or goods received by enrollees as calculated under Minnesota Rules, part 4685.0801, subparts 3 and 4.

(c) If a health maintenance contract is permitted to impose a co-payment for preexisting health status under sections 62D.01 to 62D.30, these provisions may vary with respect to length of enrollment in the health plan.

Sec. 3. Minnesota Statutes 2002, section 62D.095, is amended by adding a subdivision to read:

Subd. 6. [PUBLIC PROGRAMS.] This section does not apply to the prepaid medical assistance program, the MinnesotaCare program, the prepaid general assistance program, the federal Medicare program, or the health plans provided through any of those programs.

Sec. 4. Minnesota Statutes 2002, section 62J.692, subdivision 4, is amended to read:

Subd. 4. [DISTRIBUTION OF FUNDS.] (a) The commissioner shall annually distribute medical education funds to all qualifying applicants based on the following criteria:

(1) total medical education funds available for distribution;

(2) total number of eligible trainee FTEs in each clinical medical education program; and

(3) the statewide average cost per trainee as determined by the application information provided in the first year of the biennium, by type of trainee, in each clinical medical education program.

(b) Funds distributed shall not be used to displace current funding appropriations from federal or state sources.

(c) Funds shall be distributed to the sponsoring institutions indicating the amount to be distributed to each of the sponsor's clinical medical education programs based on the criteria in this subdivision and in accordance with the commissioner's approval letter. Each clinical medical education program must distribute funds to the training sites as specified in the commissioner's approval letter. Sponsoring institutions, which are accredited through an organization recognized by the department of education or the Centers for Medicare and Medicaid Services, may contract directly with training sites to provide clinical training. To ensure the quality of clinical training, those accredited sponsoring institutions must:

(1) develop contracts specifying the terms, expectations, and outcomes of the clinical training conducted at sites; and

(2) take necessary action if the contract requirements are not met. Action may include the withholding of payments under this section or the removal of students from the site.

(d) Any funds not distributed in accordance with the commissioner's approval letter must be returned to the medical education and research fund within 30 days of receiving notice from the commissioner. The commissioner shall distribute returned funds to the appropriate training sites in accordance with the commissioner's approval letter.

(e) The commissioner shall distribute by June 30 of each year an amount equal to the funds transferred under ~~section 62J.694, subdivision 2a, paragraph (b)~~ subdivision 10, plus five percent interest to the University of Minnesota board of regents for the ~~costs of the academic health center as specified under section 62J.694, subdivision 2a, paragraph (a).~~ instructional costs of health professional programs at the academic health center and for interdisciplinary academic initiatives within the academic health center.

(f) A maximum of $150,000 of the funds dedicated to the commissioner under section 297F.10, subdivision 1, paragraph (b), clause (2), may be used by the commissioner for administrative expenses associated with implementing this section.

Sec. 5. Minnesota Statutes 2002, section 62J.692, is amended by adding a subdivision to read:

Subd. 10. [TRANSFERS FROM UNIVERSITY OF MINNESOTA.] Of the funds dedicated to the academic health center under section 297F.10, subdivision 1, paragraph (b), clause (1), $4,850,000 shall be transferred annually to the commissioner of health no later than April 15 of each year for distribution under subdivision 4, paragraph (e).

Sec. 6. Minnesota Statutes 2002, section 62Q.19, subdivision 1, is amended to read:

Subdivision 1. [DESIGNATION.] (a) The commissioner shall designate essential community providers. The criteria for essential community provider designation shall be the following:

(1) a demonstrated ability to integrate applicable supportive and stabilizing services with medical care for uninsured persons and high-risk and special needs populations, underserved, and other special needs populations; and

(2) a commitment to serve low-income and underserved populations by meeting the following requirements:

(i) has nonprofit status in accordance with chapter 317A;

(ii) has tax exempt status in accordance with the Internal Revenue Service Code, section 501(c)(3);

(iii) charges for services on a sliding fee schedule based on current poverty income guidelines; and

(iv) does not restrict access or services because of a client's financial limitation;

(3) status as a local government unit as defined in section 62D.02, subdivision 11, a hospital district created or reorganized under sections 447.31 to 447.37, an Indian tribal government, an Indian health service unit, or a community health board as defined in chapter 145A;

(4) a former state hospital that specializes in the treatment of cerebral palsy, spina bifida, epilepsy, closed head injuries, specialized orthopedic problems, and other disabling conditions; or

(5) ~~a rural hospital that has qualified for~~ a sole community hospital ~~financial assistance grant in the past three years under section 144.1484, subdivision 1~~. For these rural hospitals, the essential community provider designation applies to all health services provided, including both inpatient and outpatient services. For purposes of this section, "sole community hospital" means a rural hospital that:

(i) is eligible to be classified as a sole community hospital according to Code of Federal Regulations, title 42, section 412.92, or is located in a community with a population of less than 5,000 and located more than 25 miles from a like hospital currently providing acute short-term services;

(ii) has experienced net operating income losses in two of the previous three most recent consecutive hospital fiscal years for which audited financial information is available; and

(iii) consists of 40 or fewer licensed beds.

(b) Prior to designation, the commissioner shall publish the names of all applicants in the State Register. The public shall have 30 days from the date of publication to submit written comments to the commissioner on the application. No designation shall be made by the commissioner until the 30-day period has expired.

(c) The commissioner may designate an eligible provider as an essential community provider for all the services offered by that provider or for specific services designated by the commissioner.

(d) For the purpose of this subdivision, supportive and stabilizing services include at a minimum, transportation, child care, cultural, and linguistic services where appropriate.

Sec. 7. Minnesota Statutes 2002, section 144.1222, is amended by adding a subdivision to read:

Subd. 1a. [FEES.] All plans and specifications for public swimming pool and spa construction, installation, or alteration or requests for a variance that are submitted to the commissioner according to Minnesota Rules, part 4717.3975, shall be accompanied by the appropriate fees. If the commissioner determines, upon review of the plans, that inadequate fees were paid, the necessary additional fees shall be paid before plan approval. For purposes of determining fees, a project is defined as a proposal to construct or install a public pool, spa, special purpose pool, or wading pool and all associated water treatment equipment and drains, gutters, decks, water recreation features, spray pads, and those design and safety features that are within five feet of any pool or spa. The commissioner shall charge the following fees for plan review and inspection of public pools and spas and for requests for variance from the public pool and spa rules:

(1) each spa pool, $500;

(2) projects valued at $250,000 or less, a minimum of $800 per pool plus:

(i) for each slide, an additional $400; and

(ii) for each spa pool, an additional $500;

(3) projects valued at $250,000 or more, 0.5 percent of documented estimated project cost to a maximum fee of $10,000;

(4) alterations to an existing pool without changing the size or configuration of the pool, $400;

(5) removal or replacement of pool disinfection equipment only, $75; and

(6) request for variance from the public pool and spa rules, $500.

Sec. 8. Minnesota Statutes 2002, section 144.125, is amended to read:

144.125 [TESTS OF INFANTS FOR ~~INBORN METABOLIC ERRORS~~ HERITABLE AND CONGENITAL DISORDERS.]

Subdivision 1. [DUTY TO PERFORM TESTING.] It is the duty of (1) the administrative officer or other person in charge of each institution caring for infants 28 days or less of age, (2) the person required in pursuance of the provisions of section 144.215, to register the birth of a child, or (3) the nurse midwife or midwife in attendance at the birth, to arrange to have administered to every infant or child in its care tests for ~~inborn errors of metabolism in accordance with~~ heritable and congenital disorders according to subdivision 2 and rules prescribed by the state commissioner of health. ~~In determining which tests must be administered, the commissioner shall take into consideration the adequacy of laboratory methods to detect the inborn metabolic error, the ability to treat or prevent medical conditions caused by the inborn metabolic error, and the severity of the medical conditions caused by the inborn metabolic error.~~ Testing and the recording and reporting of test results shall be performed at the times and in the manner prescribed by the commissioner of health. The commissioner shall charge laboratory service fees so that the total of fees collected will approximate the costs of conducting the tests and implementing and maintaining a system to follow-up infants with ~~inborn metabolic errors~~ heritable or congenital disorders. The laboratory service fee is $61 per specimen. Costs associated with capital expenditures and the development of new procedures may be prorated over a three-year period when calculating the amount of the fees.

Subd. 2. [DETERMINATION OF TESTS TO BE ADMINISTERED.] The commissioner shall periodically revise the list of tests to be administered for determining the presence of a heritable or congenital disorder. Revisions to the list shall reflect advances in medical science, new and improved testing methods, or other factors that will improve the public health. In determining whether a test must be administered, the commissioner shall take into consideration the adequacy of laboratory methods to detect the heritable or congenital disorder, the ability to treat or prevent medical conditions caused by the heritable or congenital disorder, and the severity of the medical conditions caused by the heritable or congenital disorder. The list of tests to be performed may be revised if the changes are recommended by the advisory committee established under section 144.1255, approved by the commissioner, and published in the State Register. The revision is exempt from the rulemaking requirements in chapter 14 and sections 14.385 and 14.386 do not apply.

Subd. 3. [OBJECTION OF PARENTS TO TEST.] Persons with a duty to perform testing under subdivision 1 shall advise parents of infants that the blood or tissue samples used to perform testing thereunder as well as the results of such testing may be retained by the department of health. If the parents of an infant object in writing to testing for heritable and congenital disorders, the objection shall be recorded on a form that is signed by a parent or legal guardian and made part of the infant's medical record. A written objection exempts an infant from the requirements of this section and section 144.128.

Sec. 9. [144.1255] [ADVISORY COMMITTEE ON HERITABLE AND CONGENITAL DISORDERS.]

Subdivision 1. [CREATION AND MEMBERSHIP.] (a) By July 1, 2003, the commissioner of health shall appoint an advisory committee to provide advice and recommendations to the commissioner concerning tests and treatments for heritable and congenital disorders found in newborn children. Membership of the committee shall include, but not be limited to, at least one member from each of the following representative groups:

(1) parents and other consumers;

(2) primary care providers;

(3) clinicians and researchers specializing in newborn diseases and disorders;

(4) genetic counselors;

(5) birth hospital representatives;

(6) newborn screening laboratory professionals;

(7) nutritionists; and

(8) other experts as needed representing related fields such as emerging technologies and health insurance.

(b) The terms and removal of members are governed by section 15.059. Members shall not receive per diems but shall be compensated for expenses. Notwithstanding section 15.059, subdivision 5, the advisory committee does not expire.

Subd. 2. [FUNCTION AND OBJECTIVES.] The committee's activities include, but are not limited to:

(1) collection of information on the efficacy and reliability of various tests for heritable and congenital disorders;

(2) collection of information on the availability and efficacy of treatments for heritable and congenital disorders;

(3) collection of information on the severity of medical conditions caused by heritable and congenital disorders;

(4) discussion and assessment of the benefits of performing tests for heritable or congenital disorders as compared to the costs, treatment limitations, or other potential disadvantages of requiring the tests;

(5) discussion and assessment of ethical considerations surrounding the testing, treatment, and handling of data and specimens generated by the testing requirements of sections 144.125 to 144.128; and

(6) providing advice and recommendations to the commissioner concerning tests and treatments for heritable and congenital disorders found in newborn children.

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

Sec. 10. Minnesota Statutes 2002, section 144.128, is amended to read:

144.128 [~~TREATMENT FOR POSITIVE DIAGNOSIS, REGISTRY OF CASES~~ COMMISSIONER'S DUTIES.]

The commissioner shall:

(1) make ~~arrangements~~ referrals for the necessary treatment of diagnosed cases of ~~hemoglobinopathy, phenylketonuria, and other inborn errors of metabolism~~ heritable or congenital disorders when treatment is indicated ~~and the family is uninsured and, because of a lack of available income, is unable to pay the cost of the treatment~~;

(2) maintain a registry of the cases of ~~hemoglobinopathy, phenylketonuria, and other inborn errors of metabolism~~ heritable and congenital disorders detected by the screening program for the purpose of follow-up services; and

(3) adopt rules to carry out ~~section 144.126 and this section~~ sections 144.125 to 144.128.

Sec. 11. Minnesota Statutes 2002, section 144.1483, is amended to read:

144.1483 [RURAL HEALTH INITIATIVES.]

The commissioner of health, through the office of rural health, and consulting as necessary with the commissioner of human services, the commissioner of commerce, the higher education services office, and other state agencies, shall:

(1) develop a detailed plan regarding the feasibility of coordinating rural health care services by organizing individual medical providers and smaller hospitals and clinics into referral networks with larger rural hospitals and clinics that provide a broader array of services;

(2) develop and implement a program to assist rural communities in establishing community health centers, as required by section 144.1486;

(3) ~~administer the program of financial assistance established under section 144.1484 for rural hospitals in isolated areas of the state that are in danger of closing without financial assistance, and that have exhausted local sources of support;~~

~~(4)~~ develop recommendations regarding health education and training programs in rural areas, including but not limited to a physician assistants' training program, continuing education programs for rural health care providers, and rural outreach programs for nurse practitioners within existing training programs;

~~(5)~~ (4) develop a statewide, coordinated recruitment strategy for health care personnel and maintain a database on health care personnel as required under section 144.1485;

~~(6)~~ (5) develop and administer technical assistance programs to assist rural communities in: (i) planning and coordinating the delivery of local health care services; and (ii) hiring physicians, nurse practitioners, public health nurses, physician assistants, and other health personnel;

~~(7)~~ (6) study and recommend changes in the regulation of health care personnel, such as nurse practitioners and physician assistants, related to scope of practice, the amount of on-site physician supervision, and dispensing of medication, to address rural health personnel shortages;

~~(8)~~ (7) support efforts to ensure continued funding for medical and nursing education programs that will increase the number of health professionals serving in rural areas;

~~(9)~~ (8) support efforts to secure higher reimbursement for rural health care providers from the Medicare and medical assistance programs;

~~(10)~~ (9) coordinate the development of a statewide plan for emergency medical services, in cooperation with the emergency medical services advisory council;

~~(11)~~ (10) establish a Medicare rural hospital flexibility program pursuant to section 1820 of the federal Social Security Act, United States Code, title 42, section 1395i-4, by developing a state rural health plan and designating, consistent with the rural health plan, rural nonprofit or public hospitals in the state as critical access hospitals. Critical access hospitals shall include facilities that are certified by the state as necessary providers of health care services to residents in the area. Necessary providers of health care services are designated as critical access hospitals on the basis of being more than 20 miles, defined as official mileage as reported by the Minnesota department of transportation, from the next nearest hospital, being the sole hospital in the county, being a hospital located in a county with a designated medically underserved area or health professional shortage area, or being a

hospital located in a county contiguous to a county with a medically underserved area or health professional shortage area. A critical access hospital located in a county with a designated medically underserved area or a health professional shortage area or in a county contiguous to a county with a medically underserved area or health professional shortage area shall continue to be recognized as a critical access hospital in the event the medically underserved area or health professional shortage area designation is subsequently withdrawn; and

~~(12)~~ (11) carry out other activities necessary to address rural health problems.

Sec. 12. Minnesota Statutes 2002, section 144.1488, subdivision 4, is amended to read:

Subd. 4. [ELIGIBLE HEALTH PROFESSIONALS.] (a) To be eligible to apply to the commissioner for the loan repayment program, health professionals must be citizens or nationals of the United States, must not have any unserved obligations for service to a federal, state, or local government, or other entity, must have a current and unrestricted Minnesota license to practice, and must be ready to begin full-time clinical practice upon signing a contract for obligated service.

(b) Eligible providers are those specified by the federal Bureau of ~~Primary Health Care~~ Health Professions in the policy information notice for the state's current federal grant application. A health professional selected for participation is not eligible for loan repayment until the health professional has an employment agreement or contract with an eligible loan repayment site and has signed a contract for obligated service with the commissioner.

Sec. 13. Minnesota Statutes 2002, section 144.1491, subdivision 1, is amended to read:

Subdivision 1. [PENALTIES FOR BREACH OF CONTRACT.] A program participant who fails to complete ~~two~~ the required years of obligated service shall repay the amount paid, as well as a financial penalty ~~based upon the length of the service obligation not fulfilled. If the participant has served at least one year, the financial penalty is the number of unserved months multiplied by $1,000. If the participant has served less than one year, the financial penalty is the total number of obligated months multiplied by $1,000~~ specified by the federal Bureau of Health Professions in the policy information notice for the state's current federal grant application. The commissioner shall report to the appropriate health-related licensing board a participant who fails to complete the service obligation and fails to repay the amount paid or fails to pay any financial penalty owed under this subdivision.

Sec. 14. [144.1501] [HEALTH PROFESSIONAL EDUCATION LOAN FORGIVENESS PROGRAM.]

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

(b) "Designated rural area" means:

(1) an area in Minnesota outside the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, excluding the cities of Duluth, Mankato, Moorhead, Rochester, and St. Cloud; or

(2) a municipal corporation, as defined under section 471.634, that is physically located, in whole or in part, in an area defined as a designated rural area under clause (1).

(c) "Emergency circumstances" means those conditions that make it impossible for the participant to fulfill the service commitment, including death, total and permanent disability, or temporary disability lasting more than two years.

(d) "Medical resident" means an individual participating in a medical residency in family practice, internal medicine, obstetrics and gynecology, pediatrics, or psychiatry.

(e) "Midlevel practitioner" means a nurse practitioner, nurse-midwife, nurse anesthetist, advanced clinical nurse specialist, or physician assistant.

(f) "Nurse" means an individual who has completed training and received all licensing or certification necessary to perform duties as a licensed practical nurse or registered nurse.

(g) "Nurse-midwife" means a registered nurse who has graduated from a program of study designed to prepare registered nurses for advanced practice as nurse-midwives.

(h) "Nurse practitioner" means a registered nurse who has graduated from a program of study designed to prepare registered nurses for advanced practice as nurse practitioners.

(i) "Physician" means an individual who is licensed to practice medicine in the areas of family practice, internal medicine, obstetrics and gynecology, pediatrics, or psychiatry.

(j) "Physician assistant" means a person registered under chapter 147A.

(k) "Qualified educational loan" means a government, commercial, or foundation loan for actual costs paid for tuition, reasonable education expenses, and reasonable living expenses related to the graduate or undergraduate education of a health care professional.

(l) "Underserved urban community" means a Minnesota urban area or population included in the list of designated primary medical care health professional shortage areas (HPSAs), medically underserved areas (MUAs), or medically underserved populations (MUPs) maintained and updated by the United States Department of Health and Human Services.

Subd. 2. [CREATION OF ACCOUNT.] A health professional education loan forgiveness program account is established. The commissioner of health shall use money from the account to establish a loan forgiveness program for medical residents agreeing to practice in designated rural areas or underserved urban communities, for midlevel practitioners agreeing to practice in designated rural areas, and for nurses who agree to practice in a Minnesota nursing home or intermediate care facility for persons with mental retardation or related conditions. Appropriations made to the account do not cancel and are available until expended, except that at the end of each biennium, any remaining balance in the account that is not committed by contract and not needed to fulfill existing commitments shall cancel to the fund.

Subd. 3. [ELIGIBILITY.] (a) To be eligible to participate in the loan forgiveness program, an individual must:

(1) be a medical resident or be enrolled in a midlevel practitioner, registered nurse, or a licensed practical nurse training program; and

(2) submit an application to the commissioner of health.

(b) An applicant selected to participate must sign a contract to agree to serve a minimum three-year full-time service obligation according to subdivision 2, which shall begin no later than March 31 following completion of required training.

Subd. 4. [LOAN FORGIVENESS.] The commissioner of health may select applicants each year for participation in the loan forgiveness program, within the limits of available funding. The commissioner shall distribute available funds for loan forgiveness proportionally among the eligible professions according to the vacancy rate for each profession in the required geographic area or facility type specified in subdivision 2. The

commissioner shall allocate funds for physician loan forgiveness so that 75 percent of the funds available are used for rural physician loan forgiveness and 25 percent of the funds available are used for underserved urban communities loan forgiveness. If the commissioner does not receive enough qualified applicants each year to use the entire allocation of funds for urban underserved communities, the remaining funds may be allocated for rural physician loan forgiveness. Applicants are responsible for securing their own qualified educational loans. The commissioner shall select participants based on their suitability for practice serving the required geographic area or facility type specified in subdivision 2, as indicated by experience or training. The commissioner shall give preference to applicants closest to completing their training. For each year that a participant meets the service obligation required under subdivision 3, up to a maximum of four years, the commissioner shall make annual disbursements directly to the participant equivalent to 15 percent of the average educational debt for indebted graduates in their profession in the year closest to the applicant's selection for which information is available, not to exceed the balance of the participant's qualifying educational loans. Before receiving loan repayment disbursements and as requested, the participant must complete and return to the commissioner an affidavit of practice form provided by the commissioner verifying that the participant is practicing as required under subdivisions 2 and 3. The participant must provide the commissioner with verification that the full amount of loan repayment disbursement received by the participant has been applied toward the designated loans. After each disbursement, verification must be received by the commissioner and approved before the next loan repayment disbursement is made. Participants who move their practice remain eligible for loan repayment as long as they practice as required under subdivision 2.

Subd. 5. [PENALTY FOR NONFULFILLMENT.] If a participant does not fulfill the required minimum commitment of service according to subdivision 3, the commissioner of health shall collect from the participant the total amount paid to the participant under the loan forgiveness program plus interest at a rate established according to section 270.75. The commissioner shall deposit the money collected in the health care access fund to be credited to the health professional education loan forgiveness program account established in subdivision 2. The commissioner shall allow waivers of all or part of the money owed the commissioner as a result of a nonfulfillment penalty if emergency circumstances prevented fulfillment of the minimum service commitment.

Subd. 6. [RULES.] The commissioner may adopt rules to implement this section.

Sec. 15. Minnesota Statutes 2002, section 144.1502, subdivision 4, is amended to read:

Subd. 4. [LOAN FORGIVENESS.] The commissioner of health may accept ~~up to 14~~ applicants ~~per~~ each year for participation in the loan forgiveness program, within the limits of available funding. Applicants are responsible for securing their own loans. The commissioner shall select participants based on their suitability for practice serving public program patients, as indicated by experience or training. The commissioner shall give preference to applicants who have attended a Minnesota dentistry educational institution and to applicants closest to completing their training. For each year that a participant meets the service obligation required under subdivision 3, up to a maximum of four years, the commissioner shall make annual disbursements directly to the participant equivalent to ~~$10,000 per year of service, not to exceed $40,000~~ 15 percent of the average educational debt for indebted dental school graduates in the year closest to the applicant's selection for which information is available or the balance of the qualifying educational loans, whichever is less. Before receiving loan repayment disbursements and as requested, the participant must complete and return to the commissioner an affidavit of practice form provided by the commissioner verifying that the participant is practicing as required under subdivision 3. The participant must provide the commissioner with verification that the full amount of loan repayment disbursement received by the participant has been applied toward the designated loans. After each disbursement, verification must be received by the commissioner and approved before the next loan repayment disbursement is made. Participants who move their practice remain eligible for loan repayment as long as they practice as required under subdivision 3.

Sec. 16. Minnesota Statutes 2002, section 144.551, subdivision 1, is amended to read:

Subdivision 1. [RESTRICTED CONSTRUCTION OR MODIFICATION.] (a) The following construction or modification may not be commenced:

(1) any erection, building, alteration, reconstruction, modernization, improvement, extension, lease, or other acquisition by or on behalf of a hospital that increases the bed capacity of a hospital, relocates hospital beds from one physical facility, complex, or site to another, or otherwise results in an increase or redistribution of hospital beds within the state; and

(2) the establishment of a new hospital.

(b) This section does not apply to:

(1) construction or relocation within a county by a hospital, clinic, or other health care facility that is a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its patients from outside the state of Minnesota;

(2) a project for construction or modification for which a health care facility held an approved certificate of need on May 1, 1984, regardless of the date of expiration of the certificate;

(3) a project for which a certificate of need was denied before July 1, 1990, if a timely appeal results in an order reversing the denial;

(4) a project exempted from certificate of need requirements by Laws 1981, chapter 200, section 2;

(5) a project involving consolidation of pediatric specialty hospital services within the Minneapolis-St. Paul metropolitan area that would not result in a net increase in the number of pediatric specialty hospital beds among the hospitals being consolidated;

(6) a project involving the temporary relocation of pediatric-orthopedic hospital beds to an existing licensed hospital that will allow for the reconstruction of a new philanthropic, pediatric-orthopedic hospital on an existing site and that will not result in a net increase in the number of hospital beds. Upon completion of the reconstruction, the licenses of both hospitals must be reinstated at the capacity that existed on each site before the relocation;

(7) the relocation or redistribution of hospital beds within a hospital building or identifiable complex of buildings provided the relocation or redistribution does not result in: (i) an increase in the overall bed capacity at that site; (ii) relocation of hospital beds from one physical site or complex to another; or (iii) redistribution of hospital beds within the state or a region of the state;

(8) relocation or redistribution of hospital beds within a hospital corporate system that involves the transfer of beds from a closed facility site or complex to an existing site or complex provided that: (i) no more than 50 percent of the capacity of the closed facility is transferred; (ii) the capacity of the site or complex to which the beds are transferred does not increase by more than 50 percent; (iii) the beds are not transferred outside of a federal health systems agency boundary in place on July 1, 1983; and (iv) the relocation or redistribution does not involve the construction of a new hospital building;

(9) a construction project involving up to 35 new beds in a psychiatric hospital in Rice county that primarily serves adolescents and that receives more than 70 percent of its patients from outside the state of Minnesota;

(10) a project to replace a hospital or hospitals with a combined licensed capacity of 130 beds or less if: (i) the new hospital site is located within five miles of the current site; and (ii) the total licensed capacity of the replacement hospital, either at the time of construction of the initial building or as the result of future expansion, will not exceed 70 licensed hospital beds, or the combined licensed capacity of the hospitals, whichever is less;

(11) the relocation of licensed hospital beds from an existing state facility operated by the commissioner of human services to a new or existing facility, building, or complex operated by the commissioner of human services; from one regional treatment center site to another; or from one building or site to a new or existing building or site on the same campus;

(12) the construction or relocation of hospital beds operated by a hospital having a statutory obligation to provide hospital and medical services for the indigent that does not result in a net increase in the number of hospital beds;

(13) a construction project involving the addition of up to 31 new beds in an existing nonfederal hospital in Beltrami county; ~~or~~

(14) a construction project involving the addition of up to eight new beds in an existing nonfederal hospital in Otter Tail county with 100 licensed acute care beds;

(15) a construction project involving the addition of 20 new hospital beds used for rehabilitation services in an existing hospital in Carver county serving the southwest suburban metropolitan area; or

(16) a project for the construction or relocation of up to 20 hospital beds for the operation of up to two psychiatric facilities or units for children provided that the operation of the facilities or units have received the approval of the commissioner of human services.

Sec. 17. [144.706] [CITATION.]

Sections 144.706 to 144.7069 may be cited as the Minnesota Adverse Health Care Events Reporting Act of 2003.

[EFFECTIVE DATE.] This section is effective July 1, 2005, contingent upon obtaining independent funding.

Sec. 18. [144.7063] [DEFINITIONS.]

Subdivision 1. [SCOPE.] Unless the context clearly indicates otherwise, for the purposes of sections 144.706 to 144.7069, the terms defined in this section have the meanings given them.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of health.

Subd. 3. [FACILITY.] "Facility" means a hospital licensed under sections 144.50 to 144.58.

Subd. 4. [SERIOUS DISABILITY.] "Serious disability" means (1) a physical or mental impairment that substantially limits one or more of the major life activities of an individual or a loss of bodily function, if the impairment or loss lasts more than seven days or is still present at the time of discharge from an inpatient health care facility or (2) loss of a body part.

Subd. 5. [SURGERY.] "Surgery" means the treatment of disease, injury, or deformity by manual or operative methods. Surgery includes endoscopies and other invasive procedures.

[EFFECTIVE DATE.] This section is effective July 1, 2005, contingent upon obtaining independent funding.

Sec. 19. [144.7065] [FACILITY REQUIREMENTS TO REPORT, ANALYZE, AND CORRECT.]

Subdivision 1. [REPORTS OF ADVERSE HEALTH CARE EVENTS REQUIRED.] Each facility shall report to the commissioner the occurrence of any of the adverse health care events described in subdivisions 2 to 7 as soon as is reasonably and practically possible, but no later than 15 working days after discovery of the event. The report shall be filed in a format specified by the commissioner and shall identify the facility but shall not identify any of the health care professionals, facility employees, or patients involved. The report shall not contain the name, address, social security number, date of birth, telephone number, federal patient identification number, subscriber number, medical record number, or any other identifying information of the patient involved. The report shall not contain the name, social security number, federal provider identification number, license number, or other identifying information of the health care professionals involved. The report shall not contain the name, employee number, social security number, or any other identifying information of the facility employee involved. The commissioner may consult with experts and organizations familiar with patient safety when developing the format for reporting and in further defining events in order to be consistent with industry standards.

Subd. 2. [SURGICAL EVENTS.] Events reportable under this subdivision are:

(1) surgery performed on a wrong body part that is not consistent with the documented informed consent for that patient. Reportable events under this clause do not include situations requiring prompt action that occur in the course of surgery or situations whose urgency precludes obtaining informed consent;

(2) surgery performed on the wrong patient;

(3) the wrong surgical procedure performed on a patient that is not consistent with the documented informed consent for that patient. Reportable events under this clause do not include situations requiring prompt action that occur in the course of surgery or situations whose urgency precludes obtaining informed consent;

(4) retention of a foreign object in a patient after surgery or other procedure, excluding objects intentionally implanted as part of a planned intervention and objects present prior to surgery that are intentionally retained; and

(5) death during or immediately after surgery of a normal, healthy patient who has no organic, physiologic, biochemical, or psychiatric disturbance and for whom the pathologic processes for which the operation is to be performed are localized and do not entail a systemic disturbance.

Subd. 3. [PRODUCT OR DEVICE EVENTS.] Events reportable under this subdivision are:

(1) patient death or serious disability associated with the use of contaminated drugs, devices, or biologics provided by the facility when the contamination is the result of generally detectable contaminants in drugs, devices, or biologics regardless of the source of the contamination or the product;

(2) patient death or serious disability associated with the use or function of a device in patient care in which the device is used or functions other than as intended. "Device" includes, but is not limited to, catheters, drains, and other specialized tubes, infusion pumps, and ventilators; and

(3) patient death or serious disability associated with intravascular air embolism that occurs while being cared for in a facility, excluding deaths associated with neurosurgical procedures known to present a high risk of intravascular air embolism.

Subd. 4. [PATIENT PROTECTION EVENTS.] Events reportable under this subdivision are:

(1) an infant discharged to the wrong person;

(2) patient death or serious disability associated with patient disappearance for more than four hours, excluding events involving adults who have decision making capacity; and

(3) patient suicide or attempted suicide resulting in serious disability while being cared for in a facility due to patient actions after admission to the facility, excluding deaths resulting from self-inflicted injuries that were the reason for admission to the facility.

Subd. 5. [CARE MANAGEMENT EVENTS.] Events reportable under this subdivision are:

(1) patient death or serious disability associated with a medication error, including, but not limited to, errors involving the wrong drug, the wrong dose, the wrong patient, the wrong time, the wrong rate, the wrong preparation, or the wrong route of administration, excluding reasonable differences in clinical judgment on drug selection and dose;

(2) patient death or serious disability associated with a hemolytic reaction due to the administration of ABO-incompatible blood or blood products;

(3) maternal death or serious disability associated with labor or delivery in a low-risk pregnancy while being cared for in a facility, including events that occur within 42 days postdelivery and excluding deaths from pulmonary or amniotic fluid embolism, acute fatty liver of pregnancy, or cardiomyopathy;

(4) patient death or serious disability directly related to hypoglycemia, the onset of which occurs while the patient is being cared for in a facility;

(5) death or serious disability, including kernicterus, associated with failure to identify and treat hyperbilirubinemia in neonates during the first 28 days of life. "Hyperbilirubinemia" means bilirubin levels greater than 30 milligrams per deciliter;

(6) stage 3 or 4 ulcers acquired after admission to a facility, excluding progression from stage 2 to stage 3 if stage 2 was recognized upon admission; and

(7) patient death or serious disability due to spinal manipulative therapy.

Subd. 6. [ENVIRONMENTAL EVENTS.] Events reportable under this subdivision are:

(1) patient death or serious disability associated with an electric shock while being cared for in a facility, excluding events involving planned treatments such as electric countershock;

(2) any incident in which a line designated for oxygen or other gas to be delivered to a patient contains the wrong gas or is contaminated by toxic substances;

(3) patient death or serious disability associated with a burn incurred from any source while being cared for in a facility;

(4) patient death associated with a fall while being cared for in a facility; and

(5) patient death or serious disability associated with the use or lack of restraints or bedrails while being cared for in a facility.

Subd. 7. [CRIMINAL EVENTS.] Events reportable under this subdivision are:

(1) any instance of care ordered by or provided by someone impersonating a physician, nurse, pharmacist, or other licensed health care provider;

(2) abduction of a patient of any age;

(3) sexual assault on a patient within or on the grounds of a facility; and

(4) death or significant injury of a patient or staff member resulting from a physical assault that occurs within or on the grounds of a facility.

Subd. 8. [ROOT CAUSE ANALYSIS; CORRECTIVE ACTION PLAN.] Following the occurrence of an adverse health care event, the facility must conduct a root cause analysis of the event. Following the analysis, the facility must: (1) implement a corrective action plan to implement the findings of the analysis, or (2) report to the commissioner any reasons for not taking corrective action. If the root cause analysis and the implementation of a corrective action plan are complete at the time an event must be reported, the findings of the analysis and the corrective action plan must be included in the report of the event. The findings of the root cause analysis and a copy of the corrective action plan must otherwise be filed with the commissioner within 60 days of the event.

Subd. 9. [ELECTRONIC REPORTING.] The commissioner must design the reporting system so that a facility may file by electronic means the reports required under this section. The commissioner shall encourage a facility to use the electronic filing option when that option is feasible for the facility.

Subd. 10. [RELATION TO OTHER LAW.] (a) Adverse health events described in subdivisions 2 to 6 do not constitute "maltreatment" or "a physical injury that is not reasonably explained" under section 626.557 and are excluded from the reporting requirements of section 626.557, provided the facility makes a determination within 24 hours of the discovery of the event that this section is applicable and the facility files the reports required under this section in a timely fashion.

(b) A facility that has determined that an event described in subdivisions 2 to 6 has occurred must inform persons who are mandated reporters under section 626.5572, subdivision 16, of that determination. A mandated reporter otherwise required to report under section 626.557, subdivision 3, paragraph (e), is relieved of the duty to report an event that the facility determines under paragraph (a) to be reportable under subdivisions 2 to 6.

(c) The protections and immunities applicable to voluntary reports under section 626.557 are not affected by this section.

(d) Notwithstanding section 626.557, a lead agency under section 626.5572, subdivision 13, is not required to conduct an investigation of an event described in subdivisions 2 to 6.

[EFFECTIVE DATE.] This section is effective July 1, 2005, contingent upon obtaining independent funding.

Sec. 20. [144.7067] [COMMISSIONER DUTIES AND RESPONSIBILITIES.]

Subdivision 1. [ESTABLISHMENT OF REPORTING SYSTEM.] (a) The commissioner shall establish an adverse health event reporting system designed to facilitate quality improvement in the health care system. The reporting system shall not be designed to punish errors by health care practitioners or health care facility employees.

(b) The reporting system shall consist of:

(1) mandatory reporting by facilities of 27 adverse health care events;

(2) mandatory completion of a root cause analysis and a corrective action plan by the facility and reporting of the findings of the analysis and the plan to the commissioner or reporting of reasons for not taking corrective action;

(3) analysis of reported information by the commissioner to determine patterns of systemic failure in the health care system and successful methods to correct these failures;

(4) sanctions against facilities for failure to comply with reporting system requirements; and

(5) communication from the commissioner to facilities, health care purchasers, and the public to maximize the use of the reporting system to improve health care quality.

(c) Reports, analyses, and corrective action plans submitted under section 144.7065, subdivisions 1 and 8, shall be considered aggregate data as contemplated by section 145.64, subdivision 1, paragraph (b), and afforded the protections and immunities provided in section 145.64.

(d) Nothing in this section shall authorize the commissioner to select from or between competing alternative medical practices.

Subd. 2. [DUTY TO ANALYZE REPORTS; COMMUNICATE FINDINGS.] The commissioner shall:

(1) analyze adverse event reports, corrective action plans, and the findings of the root cause analyses, to determine patterns of systemic failure in the health care system and successful methods to correct these failures;

(2) communicate to individual facilities the commissioner's conclusions, if any, regarding an adverse event reported by the facility;

(3) communicate with relevant health care facilities any recommendations for corrective action resulting from the commissioner's analysis of submissions from facilities; and

(4) publish an annual report:

(i) describing, by institution, adverse events reported;

(ii) outlining, in aggregate, corrective action plans, and the findings of the root cause analyses; and

(iii) making recommendations for modifications of state health care operations.

Subd. 3. [SANCTIONS.] (a) The commissioner shall take steps necessary to determine if adverse event reports, the findings of the root cause analyses, and corrective action plans are filed in a timely manner. The commissioner may sanction a facility for:

(1) failure to file a timely adverse event report under section 144.7065, subdivision 1; or

(2) failure to conduct a root cause analysis, to implement a corrective action plan, or to provide the findings of a root cause analysis or corrective action plan in a timely fashion under section 144.7065, subdivision 8.

(b) If a facility fails to develop and implement a corrective action plan or report to the commissioner why corrective action is not needed, the commissioner may suspend, revoke, fail to renew, or place conditions on the license under which the facility operates.

[EFFECTIVE DATE.] This section is effective July 1, 2005, contingent upon obtaining independent funding.

Sec. 21. [144.7069] [INTERSTATE COORDINATION; REPORTS.]

The commissioner shall report the definitions and the list of reportable events adopted in this act to the National Quality Forum and, working in coordination with the National Quality Forum, to the other states. The commissioner shall monitor discussions by the National Quality Forum of amendments to the forum's list of reportable events and shall report to the legislature whenever the list is modified. The commissioner shall also monitor implementation efforts in other states to establish a list of reportable events and shall make recommendations to the legislature as necessary for modifications in the Minnesota list or in the other components of the Minnesota reporting system to keep the system as nearly uniform as possible with similar systems in other states.

Sec. 22. Minnesota Statutes 2002, section 147A.08, is amended to read:

147A.08 [EXEMPTIONS.]

(a) This chapter does not apply to, control, prevent, or restrict the practice, service, or activities of persons listed in section 147.09, clauses (1) to (6) and (8) to (13), persons regulated under section 214.01, subdivision 2, or persons defined in section ~~144.1495~~ 144.1501, subdivision 1, paragraphs ~~(a) to (d)~~ (e), (g), and (h).

(b) Nothing in this chapter shall be construed to require registration of:

(1) a physician assistant student enrolled in a physician assistant or surgeon assistant educational program accredited by the Committee on Allied Health Education and Accreditation or by its successor agency approved by the board;

(2) a physician assistant employed in the service of the federal government while performing duties incident to that employment; or

(3) technicians, other assistants, or employees of physicians who perform delegated tasks in the office of a physician but who do not identify themselves as a physician assistant.

Sec. 23. Minnesota Statutes 2002, section 148.5194, subdivision 1, is amended to read:

Subdivision 1. [FEE PRORATION.] The commissioner shall prorate the registration fee for clinical fellowship, temporary, and first time registrants according to the number of months that have elapsed between the date registration is issued and the date registration expires or must be renewed under section 148.5191, subdivision 4.

Sec. 24. Minnesota Statutes 2002, section 148.5194, subdivision 2, is amended to read:

Subd. 2. [BIENNIAL REGISTRATION FEE.] The fee for initial registration and biennial registration, clinical fellowship registration, temporary registration, or renewal is $200.

Sec. 25. Minnesota Statutes 2002, section 148.5194, subdivision 3, is amended to read:

Subd. 3. [BIENNIAL REGISTRATION FEE FOR DUAL REGISTRATION.] The fee for initial registration and biennial registration, clinical fellowship registration, temporary registration, or renewal is $200.

Sec. 26. Minnesota Statutes 2002, section 148.5194, is amended by adding a subdivision to read:

Subd. 6. [VERIFICATION OF CREDENTIAL.] The fee for written verification of credentialed status is $25.

Sec. 27. Minnesota Statutes 2002, section 148.6445, subdivision 7, is amended to read:

Subd. 7. [~~CERTIFICATION~~ VERIFICATION TO OTHER STATES.] The fee for ~~certification~~ verification of licensure to other states is $25.

Sec. 28. [148C.12] [FEES.]

Subdivision 1. [APPLICATION.] The application fee for a license to practice alcohol and drug counseling is $295.

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

Subd. 3. [TEMPORARY PRACTICE STATUS.] The initial fee for applicants under section 148C.04, subdivision 6, paragraph (a), clause (1), item (i), is $100. The initial fee for applicants under section 148C.04, subdivision 6, paragraph (a), clause (1), item (ii) or (iii), is the license application fee under subdivision 1. The fee for annual renewal of temporary practice status is $100.

Subd. 4. [EXAMINATION.] The examination fee is $95 for the written examination and $200 for the oral examination.

Subd. 5. [INACTIVE RENEWAL.] The inactive renewal fee is $150.

Subd. 6. [LATE FEE.] The late fee is 25 percent of the biennial renewal fee, the inactive renewal fee, or the annual fee for renewal of temporary practice status.

Subd. 7. [RENEWAL AFTER EXPIRATION.] The fee for renewal of a license that has expired is the total of the biennial renewal fee, the late fee, and a fee of $100 for review and approval of the continuing education report.

Subd. 8. [LICENSE VERIFICATION.] The fee for license verification to institutions and other jurisdictions is $25.

Subd. 9. [SURCHARGE.] Notwithstanding section 16A.1285, subdivision 2, a surcharge of $172 shall be paid at the time of application for or renewal of an alcohol and drug counseling license until June 30, 2009.

Subd. 10. [NONREFUNDABLE FEES.] All fees are nonrefundable.

Sec. 29. Minnesota Statutes 2002, section 153A.17, is amended to read:

153A.17 [EXPENSES; FEES.]

The expenses for administering the certification requirements including the complaint handling system for hearing aid dispensers in sections 153A.14 and 153A.15 and the consumer information center under section 153A.18 must be paid from initial application and examination fees, renewal fees, penalties, and fines. All fees are nonrefundable. The certificate application fee is ~~$165 for audiologists registered under section 148.511 and $490 for all others~~ $350, the examination fee is ~~$200~~ $250 for the written portion and ~~$200~~ $250 for the practical portion each time one or the other is taken, and the trainee application fee is ~~$100~~ $200. ~~Notwithstanding the policy set forth in section 16A.1285, subdivision 2, a surcharge of $165 for audiologists registered under section 148.511 and $330 for all others shall be paid at the time of application or renewal until June 30, 2003, to recover the commissioner's accumulated direct expenditures for administering the requirements of this chapter.~~ The penalty fee for late submission of a renewal application is $200. The fee for verification of certification to other jurisdictions or entities is $25. All fees, penalties, and fines received must be deposited in the state government special revenue fund. The commissioner may prorate the certification fee for new applicants based on the number of quarters remaining in the annual certification period.

Sec. 30. Minnesota Statutes 2002, section 179A.03, subdivision 7, is amended to read:

Subd. 7. [ESSENTIAL EMPLOYEE.] "Essential employee" means firefighters, peace officers subject to licensure under sections 626.84 to 626.863, 911 system and police and fire department public safety dispatchers, guards at correctional facilities, confidential employees, supervisory employees, assistant county attorneys, assistant city attorneys, principals, and assistant principals. However, for state employees, "essential employee" means all employees in law enforcement, health care professionals, health care nonprofessionals, correctional guards, professional engineering, and supervisory collective bargaining units, irrespective of severance, and no other employees. For University of Minnesota employees, "essential employee" means all employees in law enforcement, nursing professional and supervisory units, irrespective of severance, and no other employees. "Firefighters" means salaried employees of a fire department whose duties include, directly or indirectly, controlling, extinguishing, preventing, detecting, or investigating fires. Employees for whom the state court administrator is the negotiating employer are not essential employees.

Sec. 31. Minnesota Statutes 2002, section 256B.195, subdivision 1, is amended to read:

Subdivision 1. [FEDERAL APPROVAL REQUIRED.] ~~Sections 145.9268,~~ Section 256.969, subdivision 26, and this section are contingent on federal approval of the intergovernmental transfers and payments to safety net hospitals ~~and community clinics~~ authorized under this section. These sections are also contingent on current payment, by the government entities, of intergovernmental transfers under section 256B.19 and this section.

Sec. 32. Minnesota Statutes 2002, section 256B.195, subdivision 3, is amended to read:

Subd. 3. [PAYMENTS TO CERTAIN SAFETY NET PROVIDERS.] (a) Effective July 15, 2001, the commissioner shall make the following payments to the hospitals indicated after noon on the 15th of each month:

(1) to Hennepin County Medical Center, any federal matching funds available to match the payments received by the medical center under subdivision 2, to increase payments for medical assistance admissions and to recognize higher medical assistance costs in institutions that provide high levels of charity care; and

(2) to Regions hospital, any federal matching funds available to match the payments received by the hospital under subdivision 2, to increase payments for medical assistance admissions and to recognize higher medical assistance costs in institutions that provide high levels of charity care.

(b) ~~Effective~~ During the fiscal years beginning July 15, 2001 and July 1, 2002, the following percentages of the transfers under subdivision 2 shall be retained by the commissioner for deposit each month into the general fund:

(1) 18 percent, plus any federal matching funds, shall be allocated for the following purposes:

(i) during the fiscal year beginning July 1, 2001, of the amount available under this clause, 39.7 percent shall be allocated to make increased hospital payments under section 256.969, subdivision 26; 34.2 percent shall be allocated to fund the amounts due from small rural hospitals, as defined in section 144.148, for overpayments under section 256.969, subdivision 5a, resulting from a determination that medical assistance and general assistance payments exceeded the charge limit during the period from 1994 to 1997; and 26.1 percent shall be allocated to the commissioner of health for rural hospital capital improvement grants under section 144.148; and

(ii) during the fiscal ~~years~~ year beginning ~~on or after~~ July 1, 2002, of the amount available under this clause, 55 percent shall be allocated to make increased hospital payments under section 256.969, subdivision 26, and 45 percent shall be allocated to the commissioner of health for rural hospital capital improvement grants under section 144.148; and

(2) 11 percent shall be allocated to the commissioner of health to fund community clinic grants under section 145.9268.

(c) Effective July 15, 2003, 29 percent of the transfers under subdivision 2 shall be retained by the commissioner for deposit each month into the general fund. Of the amount in this paragraph, 9.9 percent of the transfers shall be allocated to make increased hospital payments under section 256.969, subdivision 26.

(d) This subdivision shall apply to fee-for-service payments only and shall not increase capitation payments or payments made based on average rates.

~~(d)~~ (e) Medical assistance rate or payment changes, including those required to obtain federal financial participation under section 62J.692, subdivision 8, shall precede the determination of intergovernmental transfer amounts determined in this subdivision. Participation in the intergovernmental transfer program shall not result in the offset of any health care provider's receipt of medical assistance payment increases other than limits resulting from hospital-specific charge limits and limits on disproportionate share hospital payments.

Sec. 33. Minnesota Statutes 2002, section 256B.195, subdivision 5, is amended to read:

Subd. 5. [INCLUSION OF FAIRVIEW UNIVERSITY MEDICAL CENTER.] (a) Upon federal approval of the inclusion of Fairview University Medical Center in the ~~nonstate government~~ nongovernment category, the commissioner shall establish an intergovernmental transfer with the University of Minnesota in an amount determined by the commissioner based on the increase in the Medicare upper payment limit due solely to the inclusion of Fairview University Medical Center as a ~~nonstate government~~ nongovernment hospital and limited by hospital-specific charge limits and the amount available under the hospital-specific disproportionate share limit.

(b) The commissioner shall increase payments for medical assistance admissions at Fairview University Medical Center by 71 percent of the transfer plus any federal matching payments on that amount, to increase payments for medical assistance admissions and to recognize higher medical assistance costs in institutions that provide high levels of charity care. From this payment, Fairview University Medical Center shall pay to the University of Minnesota the cost of the transfer, on the same day the payment is received. Eighteen percent of the transfer plus any federal matching payments shall be used as specified in subdivision 3, paragraph (b), clause (1). Payments under section 256.969, subdivision 26, may be increased above the 90 percent level specified in that subdivision within the limits of additional funding available under this subdivision. ~~Eleven percent of the transfer shall be used to increase the grants under section 145.9268.~~

Sec. 34. Minnesota Statutes 2002, section 256B.69, subdivision 5c, is amended to read:

Subd. 5c. [MEDICAL EDUCATION AND RESEARCH FUND.] (a) The commissioner of human services shall transfer each year to the medical education and research fund established under section 62J.692, the following:

(1) an amount equal to the reduction in the prepaid medical assistance and prepaid general assistance medical care payments as specified in this clause. Until January 1, 2002, the county medical assistance and general assistance medical care capitation base rate prior to plan specific adjustments and after the regional rate adjustments under section 256B.69, subdivision 5b, is reduced 6.3 percent for Hennepin county, two percent for the remaining metropolitan counties, and no reduction for nonmetropolitan Minnesota counties; and after January 1, 2002, the county medical assistance and general assistance medical care capitation base rate prior to plan specific adjustments is reduced 6.3 percent for Hennepin county, two percent for the remaining metropolitan counties, and 1.6 percent for nonmetropolitan Minnesota counties. Nursing facility and elderly waiver payments and demonstration project payments operating under subdivision 23 are excluded from this reduction. The amount calculated under this clause shall not be adjusted for periods already paid due to subsequent changes to the capitation payments;

(2) beginning July 1, 2001, ~~$2,537,000~~ $2,157,000 from the capitation rates paid under this section plus any federal matching funds on this amount;

(3) beginning July 1, 2002, an additional $12,700,000 from the capitation rates paid under this section; and

(4) beginning July 1, 2003, an additional $4,700,000 from the capitation rates paid under this section.

(b) This subdivision shall be effective upon approval of a federal waiver which allows federal financial participation in the medical education and research fund.

Sec. 35. Minnesota Statutes 2002, section 295.55, subdivision 2, is amended to read:

Subd. 2. [ESTIMATED TAX; HOSPITALS; SURGICAL CENTERS.] (a) Each hospital or surgical center must make estimated payments of the taxes for the calendar year in monthly installments to the commissioner within 15 days after the end of the month.

(b) Estimated tax payments are not required of hospitals or surgical centers if: (1) the tax for the current calendar year is less than $500; or (2) the tax for the previous calendar year is less than $500, if the taxpayer had a tax liability and was doing business the entire year~~; or (3) if a hospital has been allowed a grant under section 144.1484, subdivision 2, for the year~~.

(c) Underpayment of estimated installments bear interest at the rate specified in section 270.75, from the due date of the payment until paid or until the due date of the annual return whichever comes first. An underpayment of an estimated installment is the difference between the amount paid and the lesser of (1) 90 percent of one-twelfth of the tax for the calendar year or (2) one-twelfth of the total tax for the previous calendar year if the taxpayer had a tax liability and was doing business the entire year.

Sec. 36. Minnesota Statutes 2002, section 326.42, is amended to read:

326.42 [APPLICATIONS, FEES.]

Subdivision 1. [APPLICATION.] Applications for plumber's license shall be made to the state commissioner of health, with fee. Unless the applicant is entitled to a renewal, the applicant shall be licensed by the state commissioner of health only after passing a satisfactory examination by the examiners showing fitness. Examination fees for both journeyman and master plumbers shall be in an amount prescribed by the state

commissioner of health pursuant to section 144.122. Upon being notified that of having successfully passed the examination for original license the applicant shall submit an application, with the license fee herein provided. License fees shall be in an amount prescribed by the state commissioner of health pursuant to section 144.122. Licenses shall expire and be renewed as prescribed by the commissioner pursuant to section 144.122.

Subd. 2. [FEES.] Plumbing system plans and specifications that are submitted to the commissioner for review shall be accompanied by the appropriate plan examination fees. If the commissioner determines, upon review of the plans, that inadequate fees were paid, the necessary additional fees shall be paid prior to plan approval. The commissioner shall charge the following fees for plan reviews and audits of plumbing installations for public, commercial, and industrial buildings:

(1) systems with both water distribution and drain, waste, and vent systems and having:

(i) 25 or fewer drainage fixture units, $150;

(ii) 26 to 50 drainage fixture units, $250;

(iii) 51 to 150 drainage fixture units, $350;

(iv) 151 to 249 drainage fixture units, $500;

(v) 250 or more drainage fixture units, $3 per drainage fixture unit to a maximum of $4,000; and

(vi) interceptors, separators, or catch basins, $70 per interceptor, separator, or catch basin;

(2) building sewer service only, $150;

(3) building water service only, $150;

(4) building water distribution system only, no drainage system, $5 per supply fixture unit or $150, whichever is greater;

(5) storm drainage system, a minimum fee of $150 or:

(i) $50 per drain opening, up to a maximum of $500; and

(ii) $70 per interceptor, separator, or catch basin;

(6) manufactured home park or campground, 1 to 25 sites, $300;

(7) manufactured home park or campground, 26 to 50 sites, $350;

(8) manufactured home park or campground, 51 to 125 sites, $400;

(9) manufactured home park or campground, more than 125 sites, $500;

(10) accelerated review, double the regular fee, one-half to be refunded if no response from the commissioner within 15 business days; and

(11) revision to previously reviewed or incomplete plans:

(i) review of plans for which commissioner has issued two or more requests for additional information, per review, $100 or ten percent of the original fee, whichever is greater;

(ii) proposer-requested revision with no increase in project scope, $50 or ten percent of original fee, whichever is greater; and

(iii) proposer-requested revision with an increase in project scope, $50 plus the difference between the original project fee and the revised project fee.

Sec. 37. [AUTHORITY TO COLLECT CERTAIN FEES SUSPENDED.]

(a) The commissioner's authority to collect the certificate application fee from hearing instrument dispensers under Minnesota Statutes, section 153A.17, is suspended for certified hearing instrument dispensers renewing certification in fiscal year 2004.

(b) The commissioner's authority to collect the license renewal fee from occupational therapy practitioners under Minnesota Statutes, section 148.6445, subdivision 2, is suspended for fiscal years 2004 and 2005.

Sec. 38. [TRANSITION PERIOD.]

From July 1, 2003, through June 30, 2005, facilities are required to report any adverse health care events as defined in Minnesota Statutes, section 144.7067, to the incident reporting system currently maintained by the Minnesota Hospital Association. The commissioner of health will work with the Minnesota Hospital Association to obtain access to, or receive reports of, adverse health care events by category only. The commissioner will not receive any identifying information from such access or reports. The commissioner will work with organizations and experts familiar with patient safety to review reporting categories in Minnesota Statutes, section 144.7067, and will monitor discussions of the National Quality Forum, other states and the federal government in the area of patient safety. The commissioner of health will submit reports to the legislature by January 15, 2004, and January 15, 2005, including a listing of the number of reported events by type and recommendations, if any, of additional categories of events that should be included. From July 1, 2003, through June 30, 2005, the department of health shall not make a final disposition as defined in Minnesota Statutes, section 626.5572, subdivision 8, for investigations conducted in licensed hospitals under the provisions of Minnesota Statutes, section 626.557. The department of health's findings in these cases shall identify noncompliance with federal certification or state licensure rules or laws. From July 1, 2003, through June 30, 2005, the commissioner will solicit funds to provide for full implementation of the Minnesota Adverse Health Care Reporting Act of 2003 on a pilot or demonstration basis. If funds are available, the commissioner will advise the legislature and recommend full implementation of the Act on an earlier date.

[EFFECTIVE DATE.] This section is effective to the extent independent funds are obtained.

Sec. 39. [HOSPITAL MORATORIUM STUDY.]

(a) Utilizing existing resources, the commissioner of health, working with the Minnesota Hospital Association and other affected parties, shall study and report to the legislature by January 1, 2005, on the moratorium on hospital beds. The study and report shall:

(1) evaluate the moratorium's impact on access, cost, and quality of care;

(2) recommend appropriate criteria to be considered by the legislature in judging applications for moratorium exceptions;

(3) assess the impact of "niche" and ambulatory services on a system of controlling capacity;

(4) identify demographic and health care delivery changes that have occurred since the inception of the moratorium, projected future trends in technology, and their impact on future inpatient hospitals' utilization and future demand for inpatient services; and

(5) include a comprehensive national survey of inpatient and outpatient capacity controls.

(b) As an outcome of the study, the commissioner shall recommend:

(1) criteria for judging exception requests;

(2) processes to be used in considering exception requests; and

(3) other changes in the moratorium law needed to work with future trends and demographic changes.

(c) A progress report shall be presented to the legislature by March 15, 2004.

Sec. 40. [REVISOR'S INSTRUCTION.]

(a) The revisor of statutes shall delete the reference to "144.1495" in Minnesota Statutes, section 62Q.145, and insert "144.1501."

(b) For sections in Minnesota Statutes and Minnesota Rules affected by the repealed sections in this article, the revisor shall delete internal cross-references where appropriate and make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning.

Sec. 41. [REPEALER; EXPENDITURE REPORTING.]

Minnesota Statutes 2002, sections 16A.151, subdivision 5, and 62J.17, are repealed effective the day following final enactment.

Sec. 42. [REPEALER.]

(a) Minnesota Statutes 2002, sections 16A.87; 62J.694; 144.126; 144.1484; 144.1494; 144.1495; 144.1496; 144.1497; 144.395; 144.396; 144A.36; 144A.38; 148.5194, subdivision 3a; and 148.6445, subdivision 9, are repealed.

(b) Minnesota Rules, parts 4763.0100; 4763.0110; 4763.0125; 4763.0135; 4763.0140; 4763.0150; 4763.0160; 4763.0170; 4763.0180; 4763.0190; 4763.0205; 4763.0215; 4763.0220; 4763.0230; 4763.0240; 4763.0250; 4763.0260; 4763.0270; 4763.0285; 4763.0295; and 4763.0300, are repealed.

ARTICLE 9

LOCAL PUBLIC HEALTH GRANTS

Section 1. Minnesota Statutes 2002, section 144E.11, subdivision 6, is amended to read:

Subd. 6. [REVIEW CRITERIA.] When reviewing an application for licensure, the board and administrative law judge shall consider the following factors:

(1) ~~the relationship of the proposed service or expansion in primary service area to the current community health plan as approved by the commissioner of health under section 145A.12, subdivision 4;~~

~~(2)~~ the recommendations or comments of the governing bodies of the counties, municipalities, community health boards as defined under section 145A.09, subdivision 2, and regional emergency medical services system designated under section 144E.50 in which the service would be provided;

~~(3)~~ (2) the deleterious effects on the public health from duplication, if any, of ambulance services that would result from granting the license;

~~(4)~~ (3) the estimated effect of the proposed service or expansion in primary service area on the public health; and

~~(5)~~ (4) whether any benefit accruing to the public health would outweigh the costs associated with the proposed service or expansion in primary service area. The administrative law judge shall recommend that the board either grant or deny a license or recommend that a modified license be granted. The reasons for the recommendation shall be set forth in detail. The administrative law judge shall make the recommendations and reasons available to any individual requesting them.

Sec. 2. Minnesota Statutes 2002, section 145.88, is amended to read:

145.88 [PURPOSE.]

~~The legislature finds that it is in the public interest to assure:~~

~~(a) statewide planning and coordination of maternal and child health services through the acquisition and analysis of population-based health data, provision of technical support and training, and coordination of the various public and private maternal and child health efforts; and~~

~~(b) support for targeted maternal and child health services in communities with significant populations of high risk, low income families through a grants process.~~

Federal money received by the Minnesota department of health, pursuant to United States Code, title 42, sections 701 to 709, shall be expended to:

(1) assure access to quality maternal and child health services for mothers and children, especially those of low income and with limited availability to health services and those children at risk of physical, neurological, emotional, and developmental problems arising from chemical abuse by a mother during pregnancy;

(2) reduce infant mortality and the incidence of preventable diseases and handicapping conditions among children;

(3) reduce the need for inpatient and long-term care services and to otherwise promote the health of mothers and children, especially by providing preventive and primary care services for low-income mothers and children and prenatal, delivery and postpartum care for low-income mothers;

(4) provide rehabilitative services for blind and disabled children under age 16 receiving benefits under title XVI of the Social Security Act; and

(5) provide and locate medical, surgical, corrective and other service for children who are crippled or who are suffering from conditions that lead to crippling.

Sec. 3. Minnesota Statutes 2002, section 145.881, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] The advisory task force shall meet on a regular basis to perform the following duties:

(a) review and report on the health care needs of mothers and children throughout the state of Minnesota;

(b) review and report on the type, frequency and impact of maternal and child health care services provided to mothers and children under existing maternal and child health care programs, including programs administered by the commissioner of health;

(c) establish, review, and report to the commissioner a list of program guidelines and criteria which the advisory task force considers essential to providing an effective maternal and child health care program to low income populations and high risk persons and fulfilling the purposes defined in section 145.88;

(d) ~~review staff recommendations of the department of health regarding maternal and child health grant awards before the awards are made;~~

~~(e)~~ make recommendations to the commissioner for the use of other federal and state funds available to meet maternal and child health needs;

~~(f)~~ (e) make recommendations to the commissioner of health on priorities for funding the following maternal and child health services: (1) prenatal, delivery and postpartum care, (2) comprehensive health care for children, especially from birth through five years of age, (3) adolescent health services, (4) family planning services, (5) preventive dental care, (6) special services for chronically ill and handicapped children and (7) any other services which promote the health of mothers and children; and

~~(g) make recommendations to the commissioner of health on the process to distribute, award and administer the maternal and child health block grant funds; and~~

~~(h) review the measures that are used to define the variables of the funding distribution formula in section 145.882, subdivision 4, every two years and make recommendations to the commissioner of health for changes based upon principles established by the advisory task force for this purpose.~~

(f) establish, in consultation with the commissioner and the state community health advisory committee established under section 145A.10, subdivision 10, paragraph (a), statewide outcomes that will improve the health status of mothers and children as required in section 145A.12, subdivision 7.

Sec. 4. Minnesota Statutes 2002, section 145.882, subdivision 1, is amended to read:

Subdivision 1. [FUNDING ~~LEVELS AND ADVISORY TASK FORCE REVIEW~~.] Any decrease in the amount of federal funding to the state for the maternal and child health block grant must be apportioned to reflect a proportional decrease for each recipient. Any increase in the amount of federal funding to the state must be distributed under subdivisions 2~~,~~ and 3~~, and 4~~.

~~The advisory task force shall review and recommend the proportion of maternal and child health block grant funds to be expended for indirect costs, direct services and special projects.~~

Sec. 5. Minnesota Statutes 2002, section 145.882, subdivision 2, is amended to read:

Subd. 2. [ALLOCATION TO THE COMMISSIONER OF HEALTH.] Beginning January 1, 1986, up to one-third of the total maternal and child health block grant money may be retained by the commissioner of health ~~for administrative and technical assistance services, projects of regional or statewide significance, direct services to children with handicaps, and other activities of the commissioner.~~ to:

(1) meet federal maternal and child block grant requirements of a statewide needs assessment every five years and prepare the annual federal block grant application and report;

(2) collect and disseminate statewide data on the health status of mothers and children within one year of the end of the year;

(3) provide technical assistance to community health boards in meeting statewide outcomes under section 145A.12, subdivision 7;

(4) evaluate the impact of maternal and child health activities on the health status of mothers and children;

(5) provide services to children under age 16 receiving benefits under title XVI of the Social Security Act; and

(6) perform other maternal and child health activities listed in section 145.88 and as deemed necessary by the commissioner.

Sec. 6. Minnesota Statutes 2002, section 145.882, subdivision 3, is amended to read:

Subd. 3. [ALLOCATION TO COMMUNITY HEALTH ~~SERVICES AREAS~~ BOARDS.] ~~(a)~~ The maternal and child health block grant money remaining after distributions made under subdivision 2 must be allocated according to the formula in ~~subdivision 4 to community health services areas~~ section 145A.131, subdivision 2, for distribution ~~by~~ to community health boards. ~~as defined in section 145A.02, subdivision 5, to qualified programs that provide essential services within the community health services area as long as:~~

~~(1) the Minneapolis community health service area is allocated at least $1,626,215 per year;~~

~~(2) the St. Paul community health service area is allocated at least $822,931 per year; and~~

~~(3) all other community health service areas are allocated at least $30,000 per county per year or their 1988-1989 funding cycle award, whichever is less.~~

~~(b) Notwithstanding paragraph (a), if the total amount of maternal and child health block grant funding decreases, the decrease must be apportioned to reflect a proportional decrease for each recipient, including recipients who would otherwise receive a guaranteed minimum allocation under paragraph (a).~~

Sec. 7. Minnesota Statutes 2002, section 145.882, is amended by adding a subdivision to read:

Subd. 5a. [NONPARTICIPATING COMMUNITY HEALTH BOARDS.] If a community health board decides not to participate in maternal and child health block grant activities under subdivision 3 or the commissioner determines under section 145A.131, subdivision 7, not to fund the community health board, the commissioner is responsible for directing maternal and child health block grant activities in that community health board's geographic area. The commissioner may elect to directly provide public health activities to meet the statewide outcomes or to contract with other governmental units or nonprofit organizations.

Sec. 8. Minnesota Statutes 2002, section 145.882, subdivision 7, is amended to read:

Subd. 7. [USE OF BLOCK GRANT MONEY.] ~~(a)~~ Maternal and child health block grant money allocated to a community health board ~~or community health services area~~ under this section must be used for qualified programs for high risk and low-income individuals. Block grant money must be used for programs that:

(1) specifically address the highest risk populations, particularly low-income and minority groups with a high rate of infant mortality and children with low birth weight, by providing services, including prepregnancy family planning services, calculated to produce measurable decreases in infant mortality rates, instances of children with low birth weight, and medical complications associated with pregnancy and childbirth, including infant mortality, low birth rates, and medical complications arising from chemical abuse by a mother during pregnancy;

(2) specifically target pregnant women whose age, medical condition, maternal history, or chemical abuse substantially increases the likelihood of complications associated with pregnancy and childbirth or the birth of a child with an illness, disability, or special medical needs;

(3) specifically address the health needs of young children who have or are likely to have a chronic disease or disability or special medical needs, including physical, neurological, emotional, and developmental problems that arise from chemical abuse by a mother during pregnancy;

(4) provide family planning and preventive medical care for specifically identified target populations, such as minority and low-income teenagers, in a manner calculated to decrease the occurrence of inappropriate pregnancy and minimize the risk of complications associated with pregnancy and childbirth; ~~or~~

(5) specifically address the frequency and severity of childhood and adolescent health issues, including injuries in high risk target populations by providing services calculated to produce measurable decreases in mortality and morbidity~~.~~; ~~However, money may be used for this purpose only if the community health board's application includes program components for the purposes in clauses (1) to (4) in the proposed geographic service area and the total expenditure for injury related programs under this clause does not exceed ten percent of the total allocation under subdivision 3.~~

~~(b) Maternal and child health block grant money may be used for purposes other than the purposes listed in this subdivision only under the following conditions:~~

~~(1) the community health board or community health services area can demonstrate that existing programs fully address the needs of the highest risk target populations described in this subdivision; or~~

~~(2) the money is used to continue projects that received funding before creation of the maternal and child health block grant in 1981.~~

~~(c) Projects that received funding before creation of the maternal and child health block grant in 1981, must be allocated at least the amount of maternal and child health special project grant funds received in 1989, unless (1) the local board of health provides equivalent alternative funding for the project from another source; or (2) the local board of health demonstrates that the need for the specific services provided by the project has significantly decreased as a result of changes in the demographic characteristics of the population, or other factors that have a major impact on the demand for services. If the amount of federal funding to the state for the maternal and child health block grant is decreased, these projects must receive a proportional decrease as required in subdivision 1. Increases in allocation amounts to local boards of health under subdivision 4 may be used to increase funding levels for these projects.~~

(6) specifically address preventing child abuse and neglect, reducing juvenile delinquency, promoting positive parenting and resiliency in children, and promoting family health and economic sufficiency through public health nurse home visits under section 145A.17; or

(7) specifically address nutritional issues of women, infants, and young children through WIC clinic services.

Sec. 9. [145.8821] [ACCOUNTABILITY.]

(a) Coordinating with the statewide outcomes established under section 145A.12, subdivision 7, and with accountability measures outlined in section 145A.131, subdivision 7, each community health board that receives money under section 145.882, subdivision 3, shall select by February 1, 2005, and every five years thereafter, up to two statewide maternal and child health outcomes.

(b) For the period January 1, 2004, to December 31, 2005, each community health board must work toward the Healthy People 2010 goal to reduce the state's percentage of low birth weight infants.

(c) The commissioner shall monitor and evaluate whether each community health board has made sufficient progress toward the selected outcomes established in paragraph (b) and under section 145A.12, subdivision 7.

(d) Community health boards shall provide the commissioner with annual information necessary to evaluate progress toward selected statewide outcomes and to meet federal reporting requirements.

Sec. 10. Minnesota Statutes 2002, section 145.883, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] For purposes of sections 145.881 to ~~145.888~~ 145.883, the terms defined in this section shall have the meanings given them.

Sec. 11. Minnesota Statutes 2002, section 145.883, subdivision 9, is amended to read:

Subd. 9. [COMMUNITY HEALTH ~~SERVICES AREA~~ BOARD.] "Community health ~~services area~~ board" means ~~a city, county, or multicounty area that is organized as a community health board under section 145A.09 and for which a state subsidy is received under sections 145A.09 to 145A.13~~ a board of health established, operating, and eligible for a local public health grant under sections 145A.09 to 145A.131.

Sec. 12. Minnesota Statutes 2002, section 145A.02, subdivision 5, is amended to read:

Subd. 5. [COMMUNITY HEALTH BOARD.] "Community health board" means a board of health established, operating, and eligible for a ~~subsidy~~ local public health grant under sections 145A.09 to ~~145A.13~~ 145A.131.

Sec. 13. Minnesota Statutes 2002, section 145A.02, subdivision 6, is amended to read:

Subd. 6. [COMMUNITY HEALTH SERVICES.] "Community health services" means activities designed to protect and promote the health of the general population within a community health service area by emphasizing the prevention of disease, injury, disability, and preventable death through the promotion of effective coordination and use of community resources, and by extending health services into the community. ~~Program categories of community health services include disease prevention and control, emergency medical care, environmental health, family health, health promotion, and home health care.~~

Sec. 14. Minnesota Statutes 2002, section 145A.02, subdivision 7, is amended to read:

Subd. 7. [COMMUNITY HEALTH SERVICE AREA.] "Community health service area" means a city, county, or multicounty area that is organized as a community health board under section 145A.09 and for which a ~~subsidy~~ local public health grant is received under sections 145A.09 to ~~145A.13~~ 145A.131.

Sec. 15. Minnesota Statutes 2002, section 145A.06, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] In addition to other powers and duties provided by law, the commissioner has the powers listed in subdivisions 2 to ~~4~~ 5.

Sec. 16. Minnesota Statutes 2002, section 145A.09, subdivision 2, is amended to read:

Subd. 2. [COMMUNITY HEALTH BOARD; ELIGIBILITY.] A board of health that meets the requirements of sections 145A.09 to ~~145A.13~~ 145A.131 is a community health board and is eligible for a ~~community health subsidy~~ local public health grant under section ~~145A.13~~ 145A.131.

Sec. 17. Minnesota Statutes 2002, section 145A.09, subdivision 4, is amended to read:

Subd. 4. [CITIES.] A city that received a subsidy under section 145A.13 and that meets the requirements of sections 145A.09 to ~~145A.13~~ 145A.131 is eligible for a ~~community health subsidy~~ local public health grant under section ~~145A.13~~ 145A.131.

Sec. 18. Minnesota Statutes 2002, section 145A.09, subdivision 7, is amended to read:

Subd. 7. [WITHDRAWAL.] (a) A county or city that has established or joined a community health board may withdraw from the ~~subsidy~~ local public health grant program authorized by sections 145A.09 to ~~145A.13~~ 145A.131 by resolution of its governing body in accordance with section 145A.03, subdivision 3, and this subdivision.

(b) A county or city may not withdraw from a joint powers community health board during the first two calendar years following that county's or city's initial adoption of the joint powers agreement.

(c) The withdrawal of a county or city from a community health board does not affect the eligibility for the ~~community health subsidy~~ local public health grant of any remaining county or city for one calendar year following the effective date of withdrawal.

(d) ~~The amount of additional annual payment for calendar year 1985 made pursuant to Minnesota Statutes 1984, section 145.921, subdivision 4, must be subtracted from the subsidy for a county that, due to withdrawal from a community health board, ceases to meet the terms and conditions under which that additional annual payment was made~~ The local public health grant for a county that chooses to withdraw from a multicounty community health board shall be reduced by the amount of the local partnership incentive under section 145A.131, subdivision 2, paragraph (c).

Sec. 19. Minnesota Statutes 2002, section 145A.10, subdivision 2, is amended to read:

Subd. 2. [PREEMPTION.] (a) Not later than 365 days after the ~~approval of a community health plan by the commissioner~~ formation of a community health board, any other board of health within the community health service area for which the plan has been prepared must cease operation, except as authorized in a joint powers agreement under section 145A.03, subdivision 2, or delegation agreement under section 145A.07, subdivision 2, or as otherwise allowed by this subdivision.

(b) This subdivision does not preempt or otherwise change the powers and duties of any city or county eligible for ~~subsidy~~ a local public health grant under section 145A.09.

(c) This subdivision does not preempt the authority to operate a community health services program of any city of the first or second class operating an existing program of community health services located within a county with a population of 300,000 or more persons until the city council takes action to allow the county to preempt the city's powers and duties.

Sec. 20. Minnesota Statutes 2002, section 145A.10, is amended by adding a subdivision to read:

Subd. 5a. [DUTIES.] (a) Consistent with the guidelines and standards established under section 145A.12, and with input from the community, the community health board shall:

(1) establish local public health priorities based on an assessment of community health needs and assets; and

(2) determine the mechanisms by which the community health board will address the local public health priorities established under clause (1) and achieve the statewide outcomes established under sections 145.8821 and 145A.12, subdivision 7, within the limits of available funding. In determining the mechanisms to address local public health priorities and achieve statewide outcomes, the community health board shall seek public input or consider the recommendations of the community health advisory committee and the following essential public health services:

(i) monitor health status to identify community health problems;

(ii) diagnose and investigate problems and health hazards in the community;

(iii) inform, educate, and empower people about health issues;

(iv) mobilize community partnerships to identify and solve health problems;

(v) develop policies and plans that support individual and community health efforts;

(vi) enforce laws and regulations that protect health and ensure safety;

(vii) link people to needed personal health care services;

(viii) ensure a competent public health and personal health care workforce;

(ix) evaluate effectiveness, accessibility, and quality of personal and population-based health services; and

(x) research for new insights and innovative solutions to health problems.

(b) By February 1, 2005, and every five years thereafter, each community health board that receives a local public health grant under section 145A.131 shall notify the commissioner in writing of the statewide outcomes established under sections 145.8821 and 145A.12, subdivision 7, that the board will address and the local priorities established under paragraph (a) that the board will address.

(c) Each community health board receiving a local public health grant under section 145A.131 must submit an annual report to the commissioner documenting progress towards the achievement of statewide outcomes established under sections 145.8821 and 145A.12, subdivision 7, and the local public health priorities established under paragraph (a), using reporting standards and procedures established by the commissioner and in compliance with all applicable federal requirements. If a community health board has identified additional local priorities for use of the local public health grant since the last notification of outcomes and priorities under paragraph (b), the community health board shall notify the commissioner of the additional local public health priorities in the annual report.

Sec. 21. Minnesota Statutes 2002, section 145A.10, subdivision 10, is amended to read:

Subd. 10. [STATE AND LOCAL ADVISORY COMMITTEES.] (a) A state community health advisory committee is established to advise, consult with, and make recommendations to the commissioner on the development, maintenance, funding, and evaluation of community health services. Each community health board may appoint a member to serve on the committee. The committee must meet at least quarterly, and special meetings may be called by the committee chair or a majority of the members. Members or their alternates may ~~receive a per diem and must~~ be reimbursed for travel and other necessary expenses while engaged in their official duties.

(b) The city councils or county boards that have established or are members of a community health board ~~must~~ may appoint a community health advisory committee to advise, consult with, and make recommendations to the community health board on ~~matters relating to the development, maintenance, funding, and evaluation of community health services. The committee must consist of at least five members and must be generally representative of the population and health care providers of the community health service area. The committee must meet at least three times a year and at the call of the chair or a majority of the members. Members may receive a per diem and reimbursement for travel and other necessary expenses while engaged in their official duties.~~

~~(c) State and local advisory committees must adopt bylaws or operating procedures that specify the length of terms of membership, procedures for assuring that no more than half of these terms expire during the same year, and other matters relating to the conduct of committee business. Bylaws or operating procedures may allow one alternate to be appointed for each member of a state or local advisory committee. Alternates may be given full or partial powers and duties of members~~ the duties under subdivision 5a.

Sec. 22. Minnesota Statutes 2002, section 145A.11, subdivision 2, is amended to read:

Subd. 2. [CONSIDERATION OF ~~COMMUNITY HEALTH PLAN~~ LOCAL PUBLIC HEALTH PRIORITIES AND STATEWIDE OUTCOMES IN TAX LEVY.] In levying taxes authorized under section 145A.08, subdivision 3, a city council or county board that has formed or is a member of a community health board must consider the income and expenditures required to meet ~~the objectives of the community health plan for its area~~ local public health priorities established under section 145A.10, subdivision 5a, and statewide outcomes established under section 145A.12, subdivision 7.

Sec. 23. Minnesota Statutes 2002, section 145A.11, subdivision 4, is amended to read:

Subd. 4. [ORDINANCES RELATING TO COMMUNITY HEALTH SERVICES.] A city council or county board that has established or is a member of a community health board may by ordinance adopt and enforce minimum standards for services provided according to sections 145A.02 and 145A.10~~, subdivision 5~~. An ordinance must not conflict with state law or with more stringent standards established either by rule of an agency of state government or by the provisions of the charter or ordinances of any city organized under section 145A.09, subdivision 4.

Sec. 24. Minnesota Statutes 2002, section 145A.12, subdivision 1, is amended to read:

Subdivision 1. [ADMINISTRATIVE AND PROGRAM SUPPORT.] The commissioner must assist community health boards in the development, administration, and implementation of community health services. This assistance may consist of but is not limited to:

(1) informational resources, consultation, and training to help community health boards plan, develop, integrate, provide and evaluate community health services; and

(2) administrative and program guidelines and standards, developed with the advice of the state community health advisory committee. ~~Adoption of these guidelines by a community health board is not a prerequisite for plan approval as prescribed in subdivision 4.~~

Sec. 25. Minnesota Statutes 2002, section 145A.12, subdivision 2, is amended to read:

Subd. 2. [PERSONNEL STANDARDS.] In accordance with chapter 14, and in consultation with the state community health advisory committee, the commissioner may adopt rules to set standards for administrative and program personnel to ensure competence in administration and planning ~~and in each program area defined in section 145A.02~~.

Sec. 26. Minnesota Statutes 2002, section 145A.12, is amended by adding a subdivision to read:

Subd. 7. [STATEWIDE OUTCOMES.] (a) The commissioner, in consultation with the state community health advisory committee established under section 145A.10, subdivision 10, paragraph (a), shall establish statewide outcomes for local public health grant funds allocated to community health boards between January 1, 2004, and December 31, 2005.

(b) At least one statewide outcome must be established in each of the following public health areas:

(1) preventing diseases;

(2) protecting against environmental hazards;

(3) preventing injuries;

(4) promoting healthy behavior;

(5) responding to disasters; and

(6) ensuring access to health services.

(c) The commissioner shall use Minnesota's public health goals established under section 62J.212 and the essential public health services under section 145A.10, subdivision 5a, as a basis for the development of statewide outcomes.

(d) The statewide maternal and child health outcomes established under section 145.8821 shall be included as statewide outcomes under this section.

(e) By December 31, 2004, and every five years thereafter, the commissioner, in consultation with the state community health advisory committee established under section 145A.10, subdivision 10, paragraph (a), and the maternal and child health advisory task force established under section 145.881, shall develop statewide outcomes for the local public health grant established under section 145A.131, based on state and local assessment data regarding the health of Minnesota residents, the essential public health services under section 145A.10, and current Minnesota public health goals established under section 62J.212.

Sec. 27. Minnesota Statutes 2002, section 145A.13, is amended by adding a subdivision to read:

Subd. 4. [EXPIRATION.] This section expires January 1, 2004.

Sec. 28. [145A.131] [LOCAL PUBLIC HEALTH GRANT.]

Subdivision 1. [FUNDING FORMULA FOR COMMUNITY HEALTH BOARDS] (a) The state community health advisory committee shall recommend a formula to the commissioner to use in distributing state and federal funds to community health boards organized and operating under sections 145A.09 to 145A.131 to achieve locally identified priorities under section 145A.10, subdivision 5a, and selected statewide outcomes under section 145A.12, subdivision 7, by July 1, 2004, for use of distributing funds to community health boards beginning January 1, 2006, and thereafter.

(b) This paragraph and paragraph (c) create base funding for the local public health grant formula. A community health board eligible for a local public health grant under section 145A.09, subdivision 2, shall receive no less for any calendar year than 50 percent of the board's 2002-2003 fiscal year allocations, prior to unallotment in fiscal year 2003, of the following awards: community health services subsidy; maternal and child health special projects grants; and state allocations of women, infants, and children.

(c) A community health board eligible for a local public health grant under section 145A.09, subdivision 2, shall receive no less for any calendar year than a combination of 50 percent of the board's 2002-2003 fiscal year award for family home visiting and 50 percent of the board's anticipated 2004-2005 fiscal year award for family home visiting.

(d) Base funding for a community health board eligible for a local public health grant under section 145A.09, subdivision 2, shall be reduced or increased equally among all community health boards.

(e) Multicounty community health boards shall receive a local partnership base of up to $15,000 per year for each county included in the community health board. The multicounty base will be limited in fiscal years 2004 and 2005 so as not to exceed a community health board's allocations as defined in paragraphs (b) and (c).

Subd. 2. [LOCAL MATCH.] (a) A community health board that receives a local public health grant shall provide a 50 percent match for the local public health grant funds described in paragraph (b), subject to paragraphs (b) to (e).

(b) Eligible funds must be used to meet match requirements. Eligible funds include funds from local property taxes, reimbursements from third parties, fees, other state funds, and donations or nonfederal grants that are used for community health services described in section 145A.02, subdivision 6.

(c) Community health boards must provide documentation that the 50 percent match for funds received under United States Code, title 42, sections 701 to 709, is used for maternal and child health activities as described in section 145.882, subdivision 7.

(d) When the amount of local matching funds for a community health board is less than the amount required under paragraph (a), the local public health grant provided for that community health board under this section shall be reduced proportionally.

(e) A city organized under the provision of sections 145A.09 to 145A.131 that levies a tax for provision of community health services is exempt from any county levy for the same services to the extent of the levy imposed by the city.

Subd. 3. [ADDITIONAL FUNDS.] Additional state or federal funds distributed to community health boards to achieve specific outcomes shall be distributed as part of the local public health grant established in subdivision 1. Additional outcomes for these funds, if not specified by federal or state law, shall be developed by the commissioner in consultation with the state community health advisory committee established under section 145A.10, subdivision 10, and the maternal and child health advisory task force established under section 145.881.

Subd. 4. [SPECIAL PROJECT GRANTS.] Notwithstanding other requirements of this section, the commissioner in consultation with the state community health advisory committee may choose to fund noncompetitive special project grants for projects by select community health boards, according to state or federal law. These special project grant funds shall be distributed as a part of a community health board's local public health grant established in subdivision 1.

Subd. 5. [RESPONSIBILITY OF COMMISSIONER TO ENSURE A STATEWIDE PUBLIC HEALTH SYSTEM.] If a county withdraws from a community health board and operates as a board of health or if a community health board elects not to accept the local public health grant, the commissioner may retain the amount of funding that would have been allocated to the community health board using the formula described in subdivision 1 and assume responsibility for public health activities to meet the statewide outcomes in the geographic area served by the board of health or community health board. The commissioner may elect to directly provide public health activities to meet the statewide outcomes or contract with other units of government or with community-based organizations. If a city that is currently a community health board withdraws from a community health board or elects not to accept the local public health grant, the local public health grant funds that would have been allocated to that city shall be distributed to the county in which the city is located, if the county is part of a community health board.

Subd. 6. [ACCOUNTABILITY.] (a) Community health boards accepting local public health grants must document progress towards the selected statewide outcomes established in section 145A.12, subdivision 7, to maintain eligibility to receive the local public health grant.

(b) If the commissioner determines that a community health board has not by the applicable deadline documented progress in one or more of the statewide outcomes established under section 145.8821 or 145A.12, subdivision 7, then the commissioner may determine not to distribute future funds to the community health board under subdivision 1. If the commissioner determines not to distribute future funds, the commissioner must give the community health board written notice of this determination. In determining whether or not to distribute future funds to the community health board, the commissioner shall consider the following factors with respect to the statewide outcomes for which the community health board did not demonstrate sufficient progress:

(1) the difficulty of meeting the statewide outcome;

(2) the effort put forth by the community health board to meet the statewide outcome;

(3) the number of statewide outcomes that the community health board did not meet;

(4) whether the community health board has previously failed to meet statewide outcomes under this section;

(5) the amount of funding received by the community health board to address the statewide outcomes; and

(6) other factors as justice may require, if the commissioner specifically identifies the additional factors in the commissioner's written notice of determination.

(c) If a community health board does not document progress towards the selected statewide outcomes, the commissioner may retain local public health grant funds and assume responsibility for directly carrying out activities to meet the statewide outcomes or contract with other units of government or community-based organizations to assume responsibility for the statewide outcomes. If the community health board that does not document progress towards the selected statewide outcomes is a city, the commissioner shall distribute the local public health grant funds that would have been allocated to that city to the county in which the city is located, if the county is part of a community health board.

(d) The commissioner shall establish a reporting system for community health boards to report their progress. The system shall be developed in consultation with the state community health advisory committee established under section 145A.10, subdivision 10, paragraph (a), and the maternal and child health advisory task force established under section 145.881.

Subd. 7. [LOCAL PUBLIC HEALTH PRIORITIES.] Community health boards may use their local public health grant to address local public health priorities identified under section 145A.10, subdivision 5a.

Sec. 29. Minnesota Statutes 2002, section 145A.14, subdivision 2, is amended to read:

Subd. 2. [INDIAN HEALTH GRANTS.] (a) The commissioner may make special grants to ~~community health boards to~~ establish, operate, or subsidize clinic facilities and services to furnish health services for American Indians who reside off reservations.

(b) ~~To qualify for a grant under this subdivision the community health plan submitted by the community health board must contain a proposal for the delivery of the services and documentation that representatives of the Indian community affected by the plan were involved in its development.~~

~~(c)~~ Applicants must submit for approval a plan and budget for the use of the funds in the form and detail specified by the commissioner.

~~(d)~~ (c) Applicants must keep records, including records of expenditures to be audited, as the commissioner specifies.

Sec. 30. Minnesota Statutes 2002, section 145A.14, is amended by adding a subdivision to read:

Subd. 2a. [TRIBAL GOVERNMENTS.] (a) Of the funding available for local public health grants, $2,000,000 per year is available to tribal governments for:

(1) maternal and child health activities under section 145.882, subdivision 7;

(2) activities to reduce health disparities under section 145.928, subdivision 10; and

(3) emergency preparedness.

(b) The commissioner, in consultation with tribal governments, shall establish a formula for distributing the funds and developing the outcomes to be measured.

Sec. 31. [REVISOR'S INSTRUCTION.]

(a) The revisor of statutes shall delete "145A.13" and insert "145A.131" in Minnesota Statutes, sections 145A.03, subdivision 1; 145A.04, subdivision 4; 145A.10, subdivision 1; 256E.03, subdivision 2; 383B.221, subdivision 2; and 402.02, subdivision 2.

(b) For sections in Minnesota Statutes and Minnesota Rules affected by the repealed sections in this article, the revisor shall delete internal cross-references where appropriate and make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning.

Sec. 32. [REPEALER.]

(a) Minnesota Statutes 2002, sections 144.401; 144.9507, subdivision 3; 145.56, subdivision 2; 145.882, subdivisions 4, 5, 6, and 8; 145.883, subdivisions 4 and 7; 145.884; 145.885; 145.886; 145.888; 145.889; 145.890; 145.9266, subdivisions 2, 4, 5, 6, and 7; 145.928, subdivision 9; 145A.02, subdivisions 9, 10, 11, 12, 13, and 14; 145A.09, subdivision 6; 145A.10, subdivisions 5, 6, and 8; 145A.11, subdivision 3; 145A.12, subdivisions 3, 4, and 5; 145A.14, subdivisions 3 and 4; and 145A.17, subdivision 2, are repealed.

(b) Minnesota Rules, parts 4736.0010; 4736.0020; 4736.0030; 4736.0040; 4736.0050; 4736.0060; 4736.0070; 4736.0080; 4736.0090; 4736.0120; and 4736.0130, are repealed effective January 1, 2004.

(c) Minnesota Rules, parts 4705.0100; 4705.0200; 4705.0300; 4705.0400; 4705.0500; 4705.0600; 4705.0700; 4705.0800; 4705.0900; 4705.1000; 4705.1100; 4705.1200; 4705.1300; 4705.1400; 4705.1500; and 4705.1600, are repealed effective June 30, 2004.

ARTICLE 10

CHILD CARE AND MISCELLANEOUS PROVISIONS

Section 1. Minnesota Statutes 2002, section 119B.011, subdivision 5, is amended to read:

Subd. 5. [CHILD CARE.] "Child care" means the care of a child by someone other than a parent ~~or~~, stepparent, legal guardian, eligible relative caregiver, or the spouses of any of the foregoing in or outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

Sec. 2. Minnesota Statutes 2002, section 119B.011, subdivision 6, is amended to read:

Subd. 6. [CHILD CARE FUND.] "Child care fund" means a program under this chapter providing:

(1) financial assistance for child care to parents engaged in employment, job search, or education and training leading to employment~~, or an at-home infant care subsidy~~; and

(2) grants to develop, expand, and improve the access and availability of child care services statewide.

Sec. 3. Minnesota Statutes 2002, section 119B.011, subdivision 15, is amended to read:

Subd. 15. [INCOME.] "Income" means earned or unearned income received by all family members, including public assistance cash benefits ~~and at-home infant care subsidy payments~~, unless specifically excluded and child support and maintenance distributed to the family under section 256.741, subdivision 15. The following are excluded from income: funds used to pay for health insurance premiums for family members, Supplemental Security Income, scholarships, work-study income, and grants that cover costs or reimbursement for tuition, fees, books, and educational supplies; student loans for tuition, fees, books, supplies, and living expenses; state and federal earned income tax credits; assistance specifically excluded as income by law; in-kind income such as food stamps, energy assistance, foster care assistance, medical assistance, child care assistance, and housing subsidies; earned income of full-time or part-time students up to the age of 19, who have not earned a high school diploma or GED high school equivalency diploma including earnings from summer employment; grant awards under the family subsidy program; nonrecurring lump sum income only to the extent that it is earmarked and used for the purpose for which it is paid; and any income assigned to the public authority according to section 256.741.

Sec. 4. Minnesota Statutes 2002, section 119B.011, subdivision 19, is amended to read:

Subd. 19. [PROVIDER.] "Provider" means: (1) an individual or child care center or facility, either licensed or unlicensed, providing legal child care services as defined under section 245A.03; or (2) an individual or child care center or facility holding a valid child care license issued by another state or a tribe and providing child care services in the licensing state or in the area under the licensing tribe's jurisdiction. A legally unlicensed ~~registered~~ family child care provider must be at least 18 years of age, and not a member of the MFIP assistance unit or a member of the family receiving child care assistance to be authorized under this chapter.

Sec. 5. Minnesota Statutes 2002, section 119B.011, is amended by adding a subdivision to read:

Subd. 19a. [REGISTRATION.] "Registration" means the process used by a county to determine whether the provider selected by a family applying for or receiving child care assistance to care for that family's children meets the requirements necessary for payment of child care assistance for care provided by that provider.

Sec. 6. Minnesota Statutes 2002, section 119B.011, subdivision 21, is amended to read:

Subd. 21. [RECOUPMENT OF OVERPAYMENTS.] "Recoupment of overpayments" means the reduction of child care assistance payments to an eligible family or a child care provider in order to correct an overpayment ~~to the family even when the overpayment is due to agency error or other circumstances outside the responsibility or control of the family~~ of child care assistance.

Sec. 7. Minnesota Statutes 2002, section 119B.011, is amended by adding a subdivision to read:

Subd. 23. [FEDERAL POVERTY GUIDELINES.] "Federal poverty guidelines" means the annual poverty guidelines for a family of four, adjusted for family size, published annually by the United States Department of Health and Human Services in the Federal Register.

Sec. 8. Minnesota Statutes 2002, section 119B.02, subdivision 1, is amended to read:

Subdivision 1. [CHILD CARE SERVICES.] The commissioner shall develop standards for county and human services boards to provide child care services to enable eligible families to participate in employment, training, or education programs. Within the limits of available appropriations, the commissioner shall distribute money to counties to reduce the costs of child care for eligible families. The commissioner shall adopt rules to govern the program in accordance with this section. The rules must establish a sliding schedule of fees for parents receiving child care services. The rules shall provide that funds received as a lump sum payment of child support arrearages shall not be counted as income to a family in the month received but shall be prorated over the 12 months following receipt and added to the family income during those months. ~~In the rules adopted under this section, county and human services boards shall be authorized to establish policies for payment of child care spaces for absent children, when the payment is required by the child's regular provider. The rules shall not set a maximum number of days for which absence payments can be made, but instead shall direct the county agency to set limits and pay for absences according to the prevailing market practice in the county. County policies for payment of absences shall be subject to the approval of the commissioner.~~ The commissioner shall maximize the use of federal money under title I and title IV of Public Law Number 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and other programs that provide federal or state reimbursement for child care services for low-income families who are in education, training, job search, or other activities allowed under those programs. Money appropriated under this section must be coordinated with the programs that provide federal reimbursement for child care services to accomplish this purpose. Federal reimbursement obtained must be allocated to the county that spent money for child care that is federally reimbursable under programs that provide federal reimbursement for child care services. The counties shall use the federal money to expand child care services. The commissioner may adopt rules under chapter 14 to implement and coordinate federal program requirements.

Sec. 9. [119B.025] [DUTIES OF COUNTIES.]

Subdivision 1. [FACTORS WHICH MUST BE VERIFIED.] (a) The county shall verify the following at all initial child care applications and all recertifications using the universal application:

(1) identity of adults;

(2) presence of the minor child in the home, if questionable;

(3) relationship of minor child to caregivers;

(4) age;

(5) immigration status, if related to eligibility;

(6) social security number, if given;

(7) income;

(8) spousal support and child support payments made to persons outside the household;

(9) residence;

(10) inconsistent information, if related to eligibility; and

(11) any other information the county deems necessary to determine eligibility.

(b) Each county shall develop a recertification form to redetermine eligibility that minimizes paperwork for the county and the participant.

Subd. 2. [SOCIAL SECURITY NUMBERS.] The county must request social security numbers from all applicants for child care assistance under this chapter. A county may not deny child care assistance solely on the basis of failure of an applicant to report a social security number.

Sec. 10. Minnesota Statutes 2002, section 119B.03, subdivision 9, is amended to read:

Subd. 9. [PORTABILITY POOL.] (a) The commissioner shall establish a pool of up to five percent of the annual appropriation for the basic sliding fee program to provide continuous child care assistance for eligible families who move between Minnesota counties. At the end of each allocation period, any unspent funds in the portability pool must be used for assistance under the basic sliding fee program. If expenditures from the portability pool exceed the amount of money available, the reallocation pool must be reduced to cover these shortages.

(b) To be eligible for portable basic sliding fee assistance, a family that has moved from a county in which it was receiving basic sliding fee assistance to a county with a waiting list for the basic sliding fee program must:

(1) meet the income and eligibility guidelines for the basic sliding fee program; and

(2) notify the new county of residence within ~~30~~ 60 days of moving and ~~apply for basic sliding fee assistance in~~ submit information to the new county of residence to verify eligibility for the basic sliding fee program.

(c) The receiving county must:

(1) accept administrative responsibility for applicants for portable basic sliding fee assistance at the end of the two months of assistance under the Unitary Residency Act;

(2) continue basic sliding fee assistance for the lesser of six months or until the family is able to receive assistance under the county's regular basic sliding program; and

(3) notify the commissioner through the quarterly reporting process of any family that meets the criteria of the portable basic sliding fee assistance pool.

Sec. 11. Minnesota Statutes 2002, section 119B.05, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBLE PARTICIPANTS.] Families eligible for child care assistance under the MFIP child care program are:

(1) MFIP participants who are employed or in job search and meet the requirements of section 119B.10;

(2) persons who are members of transition year families under section 119B.011, subdivision 20, and meet the requirements of section 119B.10;

(3) families who are participating in employment orientation or job search, or other employment or training activities that are included in an approved employability development plan under chapter 256K;

(4) MFIP families who are participating in work job search, job support, employment, or training activities as required in their job search support or employment plan, or in appeals, hearings, assessments, or orientations according to chapter 256J;

(5) MFIP families who are participating in social services activities under chapter 256J or 256K as required in their employment plan approved according to chapter 256J or 256K; and

(6) families who are participating in programs as required in tribal contracts under section 119B.02, subdivision 2, or 256.01, subdivision 2.

Sec. 12. Minnesota Statutes 2002, section 119B.08, subdivision 3, is amended to read:

Subd. 3. [CHILD CARE FUND PLAN.] The county and designated administering agency shall submit a biennial child care fund plan to the commissioner ~~an annual child care fund plan in its biennial community social services plan~~. The commissioner shall establish the dates by which the county must submit the plans. The plan shall include:

(1) ~~a narrative of the total program for child care services, including all policies and procedures that affect eligible families and are used to administer the child care funds;~~

~~(2) the methods used by the county to inform eligible families of the availability of child care assistance and related services;~~

~~(3) the provider rates paid for all children with special needs by provider type;~~

~~(4) the county prioritization policy for all eligible families under the basic sliding fee program; and~~

~~(5) other~~ a description of strategies to coordinate and maximize public and private community resources, including school districts, health care facilities, government agencies, neighborhood organizations, and other resources knowledgeable in early childhood development, in particular to coordinate child care assistance with existing community-based programs and service providers including child care resource and referral programs, early childhood family education, school readiness, Head Start, local interagency early intervention committees, special education services, early childhood screening, and other early childhood care and education services and programs to the extent possible, to foster collaboration among agencies and other community-based programs that provide flexible, family-focused services to families with young children and to facilitate transition into kindergarten. The county must describe a method by which to share information, responsibility, and accountability among service and program providers;

(2) a description of procedures and methods to be used to make copies of the proposed state plan reasonably available to the public, including members of the public particularly interested in child care policies such as parents, child care providers, culturally specific service organizations, child care resource and referral programs, interagency early intervention committees, potential collaborative partners and agencies involved in the provision of care and education to young children, and allowing sufficient time for public review and comment; and

(3) information as requested by the department to ensure compliance with the child care fund statutes and rules promulgated by the commissioner.

The commissioner shall notify counties within ~~60~~ 90 days of the date the plan is submitted whether the plan is approved or the corrections or information needed to approve the plan. The commissioner shall withhold a county's allocation until it has an approved plan. Plans not approved by the end of the second quarter after the plan is due may result in a 25 percent reduction in allocation. Plans not approved by the end of the third quarter after the plan is due may result in a 100 percent reduction in the allocation to the county. Counties are to maintain services despite any reduction in their allocation due to plans not being approved.

Sec. 13. Minnesota Statutes 2002, section 119B.09, subdivision 1, is amended to read:

Subdivision 1. [GENERAL ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS FOR CHILD CARE ASSISTANCE.] (a) Child care services must be available to families who need child care to find or keep employment or to obtain the training or education necessary to find employment and who:

(1) meet the requirements of section 119B.05; receive MFIP assistance; and are participating in employment and training services under chapter 256J or 256K;

(2) have household income below the eligibility levels for MFIP; or

(3) have household income ~~within a range established by the commissioner~~ no greater than 250 percent of the federal poverty guidelines, adjusted for family size.

(b) Child care services must be made available as in-kind services.

(c) All applicants for child care assistance and families currently receiving child care assistance must be assisted and required to cooperate in establishment of paternity and enforcement of child support obligations for all children in the family as a condition of program eligibility. For purposes of this section, a family is considered to meet the requirement for cooperation when the family complies with the requirements of section 256.741.

Sec. 14. Minnesota Statutes 2002, section 119B.09, subdivision 2, is amended to read:

Subd. 2. [SLIDING FEE.] Child care services to families ~~with incomes in the commissioner's established range~~ must be made available on a sliding fee basis. ~~The upper limit of the range must be neither less than 70 percent nor more than 90 percent of the state median income for a family of four, adjusted for family size.~~

Sec. 15. Minnesota Statutes 2002, section 119B.09, subdivision 7, is amended to read:

Subd. 7. [DATE OF ELIGIBILITY FOR ASSISTANCE.] (a) The date of eligibility for child care assistance under this chapter is the later of the date the application was signed; the beginning date of employment, education, or training; or the date a determination has been made that the applicant is a participant in employment and training services under Minnesota Rules, part 3400.0080, subpart 2a, or chapter 256J or 256K. ~~The date of eligibility for the basic sliding fee at-home infant child care program is the later of the date the infant is born or, in a county with a basic sliding fee waiting list, the date the family applies for at-home infant child care.~~

(b) ~~Payment ceases for a family under the at-home infant child care program when a family has used a total of 12 months of assistance as specified under section 119B.061.~~ Payment of child care assistance for employed persons on MFIP is effective the date of employment or the date of MFIP eligibility, whichever is later. Payment of child care assistance for MFIP or work first participants in employment and training services is effective the date of commencement of the services or the date of MFIP or work first eligibility, whichever is later. Payment of child care assistance for transition year child care must be made retroactive to the date of eligibility for transition year child care.

Sec. 16. Minnesota Statutes 2002, section 119B.09, is amended by adding a subdivision to read:

Subd. 9. [LICENSED AND LEGAL NONLICENSED FAMILY CHILD CARE PROVIDERS; ASSISTANCE.] Licensed and legal nonlicensed family child care providers are not eligible to receive child care assistance subsidies under this chapter for their own children or children in their custody.

Sec. 17. Minnesota Statutes 2002, section 119B.09, is amended by adding a subdivision to read:

Subd. 10. [PAYMENT OF FUNDS.] All federal, state, and local child care funds must be paid directly to the parent when a provider cares for children in the children's own home. In all other cases, all federal, state, and local child care funds must be paid directly to the child care provider, either licensed or legal nonlicensed, on behalf of the eligible family.

Sec. 18. Minnesota Statutes 2002, section 119B.11, subdivision 2a, is amended to read:

Subd. 2a. [RECOVERY OF OVERPAYMENTS.] (a) An amount of child care assistance paid to a recipient in excess of the payment due is recoverable by the county agency under paragraphs (b) and (c), even when the overpayment was caused by agency error or circumstances outside the responsibility and control of the family or provider.

(b) An overpayment must be recouped or recovered from the family if the overpayment benefited the family by causing the family to pay less for child care expenses than the family otherwise would have been required to pay under child care assistance program requirements. If the family remains eligible for child care assistance, the overpayment must be recovered through recoupment as identified in Minnesota Rules, part ~~3400.0140, subpart 19~~ 3400.0187, except that the overpayments must be calculated and collected on a service period basis. If the family no longer remains eligible for child care assistance, the county may choose to initiate efforts to recover overpayments from the family for overpayment less than $50. If the overpayment is greater than or equal to $50, the county shall seek voluntary repayment of the overpayment from the family. If the county is unable to recoup the overpayment

through voluntary repayment, the county shall initiate civil court proceedings to recover the overpayment unless the county's costs to recover the overpayment will exceed the amount of the overpayment. A family with an outstanding debt under this subdivision is not eligible for child care assistance until: (1) the debt is paid in full; or (2) satisfactory arrangements are made with the county to retire the debt consistent with the requirements of this chapter and Minnesota Rules, chapter 3400, and the family is in compliance with the arrangements.

(c) The county must recover an overpayment from a provider if the overpayment did not benefit the family by causing it to receive more child care assistance or to pay less for child care expenses than the family otherwise would have been eligible to receive or required to pay under child care assistance program requirements, and benefited the provider by causing the provider to receive more child care assistance than otherwise would have been paid on the family's behalf under child care assistance program requirements. If the provider continues to care for children receiving child care assistance, the overpayment must be recovered through reductions in child care assistance payments for services as described in an agreement with the county. The provider may not charge families using that provider more to cover the cost of recouping the overpayment. If the provider no longer cares for children receiving child care assistance, the county may choose to initiate efforts to recover overpayments of less than $50 from the provider. If the overpayment is greater than or equal to $50, the county shall seek voluntary repayment of the overpayment from the provider. If the county is unable to recoup the overpayment through voluntary repayment, the county shall initiate civil court proceedings to recover the overpayment unless the county's costs to recover the overpayment will exceed the amount of the overpayment. A provider with an outstanding debt under this subdivision is not eligible to care for children receiving child care assistance until: (1) the debt is paid in full; or (2) satisfactory arrangements are made with the county to retire the debt consistent with the requirements of this chapter and Minnesota Rules, chapter 3400, and the provider is in compliance with the arrangements.

(d) When both the family and the provider acted together to intentionally cause the overpayment, both the family and the provider are jointly liable for the overpayment regardless of who benefited from the overpayment. The county must recover the overpayment as provided in paragraphs (b) and (c). When the family or the provider is in compliance with a repayment agreement, the party in compliance is eligible to receive child care assistance or to care for children receiving child care assistance despite the other party's noncompliance with repayment arrangements.

Sec. 19. Minnesota Statutes 2002, section 119B.12, subdivision 2, is amended to read:

Subd. 2. [PARENT FEE.] A family must be assessed a parent fee for each service period. A family's ~~monthly~~ parent fee must be a fixed percentage of its annual gross income. Parent fees must apply to families eligible for child care assistance under sections 119B.03 and 119B.05. Income must be as defined in section 119B.011, subdivision 15. The fixed percent is based on the relationship of the family's annual gross income to ~~100~~ 250 percent of ~~state median income~~ the federal poverty guidelines. ~~Beginning January 1, 1998, parent fees must begin at 75 percent of the poverty level. The minimum parent fees for families between 75 percent and 100 percent of poverty level must be $5 per month.~~ Parent fees must be established in rule and must provide for graduated movement to full payment.

Sec. 20. [119B.125] [PROVIDER REQUIREMENTS.]

Subdivision 1. [AUTHORIZATION.] Except as provided in subdivision 5, a county must authorize a provider to receive child care assistance payments before the county makes payment for care provided by that provider. The commissioner must establish the requirements necessary for authorization of providers.

Subd. 2. [PERSONS WHO CANNOT BE AUTHORIZED.] (a) A person who meets any of the conditions under paragraphs (b) to (n) must not be authorized as a legal nonlicensed family child care provider. For purposes of this subdivision, a finding that a delinquency petition is proven in juvenile court must be considered a conviction in state district court.

(b) The person has been convicted of one of the following offenses or has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of one of the following offenses: sections 609.185 to 609.195, murder in the first, second, or third degree; 609.2661 to 609.2663, murder of an unborn child in the first, second, or third degree; 609.322, solicitation, inducement, or promotion of prostitution; 609.323, receiving profit from prostitution; 609.342 to 609.345, criminal sexual conduct in the first, second, third, or fourth degree; 609.352, solicitation of children to engage in sexual conduct; 609.365, incest; 609.377, felony malicious punishment of a child; 617.246, use of minors in sexual performance; 617.247, possession of pictorial representation of a minor; 609.2242 to 609.2243, felony domestic assault; a felony offense of spousal abuse; a felony offense of child abuse or neglect; a felony offense of a crime against children; or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(c) Less than 15 years have passed since the discharge of the sentence imposed for the offense and the person has received a felony conviction for one of the following offenses, or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a felony conviction for one of the following offenses: sections 609.20 to 609.205, manslaughter in the first or second degree; 609.21, criminal vehicular homicide; 609.215, aiding suicide or aiding attempted suicide; 609.221 to 609.2231, assault in the first, second, third, or fourth degree; 609.224, repeat offenses of fifth degree assault; 609.228, great bodily harm caused by distribution of drugs; 609.2325, criminal abuse of a vulnerable adult; 609.2335, financial exploitation of a vulnerable adult; 609.235, use of drugs to injure or facilitate a crime; 609.24, simple robbery; 617.241, repeat offenses of obscene materials and performances; 609.245, aggravated robbery; 609.25, kidnapping; 609.255, false imprisonment; 609.2664 to 609.2665, manslaughter of an unborn child in the first or second degree; 609.267 to 609.2672, assault of an unborn child in the first, second, or third degree; 609.268, injury or death of an unborn child in the commission of a crime; 609.27, coercion; 609.275, attempt to coerce; 609.324, subdivision 1, other prohibited acts, minor engaged in prostitution; 609.3451, repeat offenses of criminal sexual conduct in the fifth degree; 609.378, neglect or endangerment of a child; 609.52, theft; 609.521, possession of shoplifting gear; 609.561 to 609.563, arson in the first, second, or third degree; 609.582, burglary in the first, second, third, or fourth degree; 609.625, aggravated forgery; 609.63, forgery; 609.631, check forgery, offering a forged check; 609.635, obtaining signature by false pretenses; 609.66, dangerous weapon; 609.665, setting a spring gun; 609.67, unlawfully owning, possessing, or operating a machine gun; 609.687, adulteration; 609.71, riot; 609.713, terrorist threats; 609.749, harassment, stalking; 260.221, grounds for termination of parental rights; 152.021 to 152.022, controlled substance crime in the first or second degree; 152.023, subdivision 1, clause (3) or (4), or 152.023, subdivision 2, clause (4), controlled substance crime in third degree; 152.024, subdivision 1, clause (2), (3), or (4), controlled substance crime in fourth degree; 617.23, repeat offenses of indecent exposure; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(d) Less than ten years have passed since the discharge of the sentence imposed for the offense and the person has received a gross misdemeanor conviction for one of the following offenses or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a gross misdemeanor conviction for one of the following offenses: sections 609.224, fifth degree assault; 609.2242 to 609.2243, domestic assault; 518B.01, subdivision 14, violation of an order for protection; 609.3451, fifth degree criminal sexual conduct; 609.746, repeat offenses of interference with privacy; 617.23, repeat offenses of indecent exposure; 617.241, obscene materials and performances; 617.243, indecent literature, distribution; 617.293, disseminating or displaying harmful material to minors; 609.71, riot; 609.66, dangerous weapons; 609.749, harassment, stalking; 609.224, subdivision 2, paragraph (c), fifth degree assault against a vulnerable adult by a caregiver; 609.23, mistreatment of persons confined; 609.231, mistreatment of residents or patients; 609.2325, criminal abuse of a vulnerable adult; 609.2335, financial exploitation of a vulnerable adult; 609.233, criminal neglect of a vulnerable adult; 609.234, failure to report maltreatment of a vulnerable adult; 609.72, subdivision 3, disorderly conduct against a vulnerable adult; 609.265, abduction; 609.378, neglect or

endangerment of a child; 609.377, malicious punishment of a child; 609.324, subdivision 1a, other prohibited acts, minor engaged in prostitution; 609.33, disorderly house; 609.52, theft; 609.582, burglary in the first, second, third, or fourth degree; 609.631, check forgery, offering a forged check; 609.275, attempt to coerce; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(e) Less than seven years have passed since the discharge of the sentence imposed for the offense and the person has received a misdemeanor conviction for one of the following offenses or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a misdemeanor conviction for one of the following offenses: sections 609.224, fifth degree assault; 609.2242, domestic assault; 518B.01, violation of an order for protection; 609.3232, violation of an order for protection; 609.746, interference with privacy; 609.79, obscene or harassing telephone calls; 609.795, letter, telegram, or package, opening, harassment; 617.23, indecent exposure; 609.2672, assault of an unborn child, third degree; 617.293, dissemination and display of harmful materials to minors; 609.66, dangerous weapons; 609.665, spring guns; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(f) The person has been identified by the county's child protection agency or by the statewide child protection database as the person allegedly responsible for physical or sexual abuse of a child within the last seven years.

(g) The person has been identified by the county's adult protection agency or by the statewide adult protection database as the person responsible for abuse or neglect of a vulnerable adult within the last seven years.

(h) The person has refused to give written consent for disclosure of criminal history records.

(i) The person has been denied a family child care license or has received a fine or a sanction as a licensed child care provider that has not been reversed on appeal.

(j) The person has a family child care licensing disqualification that has not been set aside.

(k) The person has admitted or a county has found that there is a preponderance of evidence that fraudulent information was given to the county for application purposes or was used in submitting bills for payment.

(l) The person has been convicted or there is a preponderance of evidence of the crime of theft by wrongfully obtaining public assistance.

(m) The person has a household member age 13 or older who has access to children during the hours that care is provided and who meets one of the conditions listed in paragraphs (b) to (l).

(n) The person has a household member ages ten to 12 who has access to children during the hours that care is provided; information or circumstances exist which provide the county with articulable suspicion that further pertinent information may exist showing the household member meets one of the conditions listed in paragraphs (b) to (l); and the household member actually meets one of the conditions listed in paragraphs (b) to (l).

Subd. 3. [AUTHORIZATION EXCEPTION.] When a county denies a person authorization as a legal nonlicensed family child care provider under subdivision 2, the county later may authorize that person as a provider if the following conditions are met:

(1) after receiving notice of the denial of the authorization, the person applies for and obtains a valid child care license issued under chapter 245A, issued by a tribe, or issued by another state;

(2) the person maintains the valid child care license; and

(3) the person is providing child care in the state of licensure or in the area under the jurisdiction of the licensing tribe.

Subd. 4. [UNSAFE CARE.] A county may deny authorization as a child care provider to any applicant or rescind authorization of any provider when the county knows or has reason to believe that the provider is unsafe or that the circumstances of the chosen child care arrangement are unsafe, even when the grounds supporting this determination are not listed in subdivision 2. The county must include in the county's child care fund plan under section 119B.08, subdivision 3, the standards used to determine whether a provider or care arrangement is unsafe.

Subd. 5. [RETROACTIVE PAYMENT.] Once a provider receives county authorization, the county may issue retroactive payment to the provider for child care services provided during the time between the county's receipt of the completed application and final authorization of the provider.

Subd. 6. [RECORD KEEPING REQUIREMENT.] All providers must keep daily attendance records for children receiving child care assistance and must make those records available immediately to the county upon request. The daily attendance records must be retained for six years after the date of service. A county may deny authorization as a child care provider to any applicant or rescind authorization of any provider when the county knows or has reason to believe that the provider has not complied with the record keeping requirement in this subdivision.

Sec. 21. Minnesota Statutes 2002, section 119B.13, subdivision 1, is amended to read:

Subdivision 1. [SUBSIDY RESTRICTIONS.] The maximum rate paid for child care assistance under the child care fund may not exceed the ~~75th~~ 60th percentile rate for like-care arrangements in the county as surveyed by the commissioner. A rate which includes a provider bonus paid under subdivision 2 or a special needs rate paid under subdivision 3 may be in excess of the maximum rate allowed under this subdivision. The department shall monitor the effect of this paragraph on provider rates. The county shall pay the provider's full charges for every child in care up to the maximum established. The commissioner shall determine the maximum rate for each type of care on an hourly, full-day, and weekly basis, including special needs and handicapped care. Not less than once every two years, the commissioner shall evaluate market practices for payment of absences and shall establish policies for payment of absent days that reflect current market practice.

When the provider charge is greater than the maximum provider rate allowed, the parent ~~is responsible for payment of the difference in the rates in addition to~~ must pay any family copayment fee but the provider cannot require the parent to pay the difference between the maximum rate allowed and the provider charge.

Sec. 22. Minnesota Statutes 2002, section 119B.13, is amended by adding a subdivision to read:

Subd. 1a. [CHILD CARE PROVIDERS; HOURLY RATES.] When a family receiving child care assistance is authorized to receive seven hours of care or less per day, child care assistance payments for that care must be made on an hourly basis but may not exceed the maximum full-day rate.

Sec. 23. Minnesota Statutes 2002, section 119B.13, is amended by adding a subdivision to read:

Subd. 1b. [LEGAL NONLICENSED FAMILY CHILD CARE PROVIDER RATES.] (a) Legal nonlicensed family child care providers receiving reimbursement under this chapter must be paid on an hourly basis for care provided to families receiving assistance.

(b) The maximum rate paid to legal nonlicensed family child care providers must be 90 percent of the county maximum hourly rate for licensed family child care providers. In counties where the maximum hourly rate for licensed family child care providers is higher than the maximum weekly rate for those providers divided by 50, the maximum hourly rate that may be paid to legal nonlicensed family child care providers is the rate equal to the maximum weekly rate for licensed family child care providers divided by 50 and then multiplied by 0.90.

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

(d) Legal nonlicensed family child care providers receiving reimbursement under this chapter may not be paid registration fees for families receiving assistance.

Sec. 24. Minnesota Statutes 2002, section 119B.13, subdivision 2, is amended to read:

Subd. 2. [PROVIDER RATE BONUS FOR ACCREDITATION.] A family child care provider or child care center shall be paid a ~~ten~~ five percent bonus above the maximum rate established in subdivision 1, 1a, or 1b, if the provider or center holds a current early childhood development credential approved by the commissioner, up to the actual provider rate.

Sec. 25. Minnesota Statutes 2002, section 119B.13, subdivision 6, is amended to read:

Subd. 6. [PROVIDER PAYMENTS.] (a) Counties or the state shall make vendor payments to the child care provider ~~or pay the parent directly~~ for eligible child care expenses, except when a provider cares for children in the children's own home. When a provider cares for children in the children's own home, the county or the state shall make child care assistance payments directly to the parent.

(b) If ~~payments for child care assistance are made to providers,~~ the child care facility is a center and has the ability to bill electronically or keeps a detailed sign in/sign out log, then the parent or guardian is not required to sign the bill. If the provider does not keep detailed log sheets, both the parent or guardian and the provider must sign the bill for services rendered before payment is issued. For licensed family child care and legal nonlicensed child care providers, both the parent or guardian and the provider must sign the bill. The provider shall bill the county for services provided within ten days of the end of the ~~month of~~ service period. If bills are submitted ~~in accordance with the provisions of this subdivision~~ within ten days of the end of the service period, a county or the state shall issue payment to the provider of child care under the child care fund within 30 days of receiving ~~an invoice~~ a bill from the provider. Counties or the state may establish policies that make payments on a more frequent basis.

(c) All bills must be submitted within 90 days of the last date of service on the bill. A county may pay a bill submitted more than 90 days after the last date of service if the provider shows good cause why the bill was not submitted within 90 days. Good cause must be defined in the county's child care fund plan under section 119B.08, subdivision 3, and the definition of good cause must include county error. A county may not pay any bill submitted more than one year after the last date of service on the bill, unless the delay in payment is due to county error.

(d) A county may stop payment issued to a provider or may refuse to pay a bill submitted by a provider if:

(1) the provider admits to intentionally providing the county with false information on the provider's billing forms; or

(2) a county finds by a preponderance of the evidence that the provider intentionally gave the county false information on the provider's billing forms.

(e) A county's payment policies must be included in the county's child care plan under section 119B.08, subdivision 3. If payments are made by the state, in addition to being in compliance with this subdivision, the payments must be made in compliance with section 16A.124.

Sec. 26. Minnesota Statutes 2002, section 119B.16, is amended by adding a subdivision to read:

Subd. 1a. [FAIR HEARING ALLOWED FOR PROVIDERS.] (a) This subdivision applies to providers caring for children receiving child care assistance.

(b) A provider to whom a county agency has assigned responsibility for an overpayment may request a fair hearing in accordance with section 256.045 for the limited purpose of challenging the assignment of responsibility for the overpayment and the amount of the overpayment. The scope of the fair hearing does not include the issues of whether the provider wrongfully obtained public assistance in violation of section 256.98 or was properly disqualified under section 256.98, subdivision 8, paragraph (c), unless the fair hearing has been combined with an administrative disqualification hearing brought against the provider under section 256.046.

Sec. 27. Minnesota Statutes 2002, section 119B.16, is amended by adding a subdivision to read:

Subd. 1b. [JOINT FAIR HEARINGS.] When a provider requests a fair hearing under subdivision 1a, the family in whose case the overpayment was created must be made a party to the fair hearing. All other issues raised by the family must be resolved in the same proceeding. When a family requests a fair hearing and claims that the county should have assigned responsibility for an overpayment to a provider, the provider must be made a party to the fair hearing. The referee assigned to a fair hearing may join a family or a provider as a party to the fair hearing whenever joinder of that party is necessary to fully and fairly resolve overpayment issues raised in the appeal.

Sec. 28. Minnesota Statutes 2002, section 119B.16, subdivision 2, is amended to read:

Subd. 2. [INFORMAL CONFERENCE.] The county agency shall offer an informal conference to applicants and recipients adversely affected by an agency action to attempt to resolve the dispute. The county agency shall offer an informal conference to providers to whom the county agency has assigned responsibility for an overpayment in an attempt to resolve the dispute. The county agency or the provider may ask the family in whose case the overpayment arose to participate in the informal conference, but the family may refuse to do so. The county agency shall advise adversely affected applicants ~~and~~, recipients, and providers that a request for a conference with the agency is optional and does not delay or replace the right to a fair hearing.

Sec. 29. Minnesota Statutes 2002, section 119B.19, subdivision 7, is amended to read:

Subd. 7. [CHILD CARE RESOURCE AND REFERRAL PROGRAMS.] Within each region, a child care resource and referral program must:

(1) maintain one database of all existing child care resources and services and one database of family referrals;

(2) provide a child care referral service for families;

(3) develop resources to meet the child care service needs of families;

(4) increase the capacity to provide culturally responsive child care services;

(5) coordinate professional development opportunities for child care and school-age care providers;

(6) administer and award child care services grants;

(7) administer and provide loans for child development education and training; ~~and~~

(8) cooperate with the Minnesota Child Care Resource and Referral Network and its member programs to develop effective child care services and child care resources; and

(9) assist in fostering coordination, collaboration, and planning among child care programs and community programs such as school readiness, Head Start, early childhood family education, local interagency early intervention committees, early childhood screening, special education services, and other early childhood care and education services and programs that provide flexible, family-focused services to families with young children to the extent possible.

Sec. 30. Minnesota Statutes 2002, section 119B.21, subdivision 11, is amended to read:

Subd. 11. [STATEWIDE ADVISORY TASK FORCE.] The commissioner may convene a statewide advisory task force to advise the commissioner on statewide grants or other child care issues. The following groups must be represented: family child care providers, child care center programs, school-age care providers, parents who use child care services, health services, social services, Head Start, public schools, school-based early childhood programs, special education programs, employers, and other citizens with demonstrated interest in child care issues. Additional members may be appointed by the commissioner. The commissioner may compensate members for their travel, child care, and child care provider substitute expenses for attending task force meetings. The commissioner may also pay a stipend to parent representatives for participating in task force meetings.

Sec. 31. Minnesota Statutes 2002, section 119B.23, subdivision 3, is amended to read:

Subd. 3. [BIENNIAL PLAN.] The county board shall biennially develop a plan for the distribution of money for child care services as part of the ~~community social services plan described in section 256E.09~~ child care fund plan under section 119B.08. All licensed child care programs shall be given written notice concerning the availability of money and the application process.

Sec. 32. Minnesota Statutes 2002, section 256.046, subdivision 1, is amended to read:

Subdivision 1. [HEARING AUTHORITY.] A local agency must initiate an administrative fraud disqualification hearing for individuals, including child care providers caring for children receiving child care assistance, accused of wrongfully obtaining assistance or intentional program violations, in lieu of a criminal action when it has not been pursued, in the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, MFIP, child care assistance programs, general assistance, family general assistance program formerly codified in section 256D.05, subdivision 1, clause (15), Minnesota supplemental aid, medical care, or food stamp programs. The hearing is subject to the requirements of section 256.045 and the requirements in Code of Federal Regulations, title 7, section 273.16, for the food stamp program and title 45, section 235.112, as of September 30, 1995, for the cash grant ~~and,~~ medical care programs, and child care assistance under chapter 119B.

Sec. 33. Minnesota Statutes 2002, section 256.0471, subdivision 1, is amended to read:

Subdivision 1. [QUALIFYING OVERPAYMENT.] Any overpayment for assistance granted under ~~section 119B.05~~ chapter 119B, the MFIP program formerly codified under sections 256.031 to 256.0361, and the AFDC program formerly codified under sections 256.72 to 256.871; chapters 256B, 256D, 256I, 256J, and 256K; and the food stamp program, except agency error claims, become a judgment by operation of law 90 days after the notice of overpayment is personally served upon the recipient in a manner that is sufficient under rule 4.03(a) of the Rules of Civil Procedure for district courts, or by certified mail, return receipt requested. This judgment shall be entitled to full faith and credit in this and any other state.

Sec. 34. Minnesota Statutes 2002, section 256.98, subdivision 8, is amended to read:

Subd. 8. [DISQUALIFICATION FROM PROGRAM.] (a) Any person found to be guilty of wrongfully obtaining assistance by a federal or state court or by an administrative hearing determination, or waiver thereof, through a disqualification consent agreement, or as part of any approved diversion plan under section 401.065, or any court-ordered stay which carries with it any probationary or other conditions, in the Minnesota family investment program, the food stamp program, the general assistance program, the group residential housing program, or the Minnesota supplemental aid program shall be disqualified from that program. In addition, any person disqualified from the Minnesota family investment program shall also be disqualified from the food stamp program. The needs of that individual shall not be taken into consideration in determining the grant level for that assistance unit:

(1) for one year after the first offense;

(2) for two years after the second offense; and

(3) permanently after the third or subsequent offense.

The period of program disqualification shall begin on the date stipulated on the advance notice of disqualification without possibility of postponement for administrative stay or administrative hearing and shall continue through completion unless and until the findings upon which the sanctions were imposed are reversed by a court of competent jurisdiction. The period for which sanctions are imposed is not subject to review. The sanctions provided under this subdivision are in addition to, and not in substitution for, any other sanctions that may be provided for by law for the offense involved. A disqualification established through hearing or waiver shall result in the disqualification period beginning immediately unless the person has become otherwise ineligible for assistance. If the person is ineligible for assistance, the disqualification period begins when the person again meets the eligibility criteria of the program from which they were disqualified and makes application for that program.

(b) A family receiving assistance through child care assistance programs under chapter 119B with a family member who is found to be guilty of wrongfully obtaining child care assistance by a federal court, state court, or an administrative hearing determination or waiver, through a disqualification consent agreement, as part of an approved diversion plan under section 401.065, or a court-ordered stay with probationary or other conditions, is disqualified from child care assistance programs. The disqualifications must be for periods of three months, six months, and two years for the first, second, and third offenses respectively. Subsequent violations must result in permanent disqualification. During the disqualification period, disqualification from any child care program must extend to all child care programs and must be immediately applied.

(c) A provider caring for children receiving assistance through child care assistance programs under chapter 119B is disqualified from receiving payment for child care services from the child care assistance program under chapter 119B when the provider is found to have wrongfully obtained child care assistance by a federal court, state court, or an administrative hearing determination or waiver under section 256.046, through a disqualification consent agreement, as part of an approved diversion plan under section 401.065, or a court-ordered stay with probationary or other conditions. The disqualifications must be for periods of one year and two years for the first and second offenses respectively. Any subsequent violation must result in permanent disqualification. The disqualification period must be imposed immediately after a determination is made under this paragraph. During the disqualification period, the provider is disqualified from receiving payment from any child care assistance program under chapter 119B.

Sec. 35. Minnesota Statutes 2002, section 466.03, subdivision 6d, is amended to read:

Subd. 6d. [LICENSING AND AUTHORIZATION OF PROVIDERS.] A claim against a municipality based on the failure of a provider to meet the standards needed for a license to operate a day care facility under chapter 245A for children~~, unless the municipality had actual knowledge of a failure to meet licensing standards that resulted in a dangerous condition that foreseeably threatened the plaintiff~~ or to meet the standards needed for authorization as a provider for the child care assistance program under chapter 119B. A municipality shall be immune from liability for a claim arising out of a provider's use of a swimming pool located at a family day care or group family day care home under section 245A.14, subdivision 10, unless the municipality had actual knowledge of a provider's failure to meet the licensing standards under section 245A.14, subdivision 10, paragraph (a), clauses (1) to (3), that resulted in a dangerous condition that foreseeably threatened the plaintiff.

Sec. 36. [DIRECTION TO COMMISSIONER; PROVIDER RATES.]

The provider rates determined under Minnesota Statutes, section 119B.13, for fiscal years 2003-2004 and implemented on July 1, 2003, are to be continued in effect through June 30, 2005. The commissioner of human services is directed to evaluate the costs of child care in Minnesota, to examine the differences in the cost of child care in rural and metropolitan areas, and to make recommendations to the legislature for containing future cost increases in the child care program under Minnesota Statutes, chapter 119B, in a manner that complies with federal child care and development block grant requirements for promoting parental choice and permits the department to track the effect of rate changes on child care assistance program costs, the availability of different types of care throughout the state, the length of waiting lists, and the care options available to program participants. The commissioner shall also examine the allocation formula under Minnesota Statutes, section 119B.03, and make recommendations to the legislature in order to create a more equitable formula. The commissioner shall consider the impact any recommendations might have on work incentives for low and middle income families and possible changes to MFIP child care, basic sliding fee child care, and the dependent care tax credit. The commissioner shall make recommendations to the legislature by January 15, 2004.

Sec. 37. [CHILD CARE WAITING LIST.]

Notwithstanding Minnesota Statutes, section 119B.03, subdivision 6, the commissioner may manage the child care assistance waiting list under Minnesota Statutes, section 119B.03, subdivision 2, on a regional or statewide basis in order to ensure that families listed under higher priority categories, as determined by Minnesota Statutes, section 119B.03, subdivision 4, are served before families listed under lower priority categories.

Sec. 38. [CHILD CARE ASSISTANCE PARENT FEE SCHEDULE.]

Notwithstanding Minnesota Rules, part 3400.0100, subpart 4, the parent fee schedule is as follows:

Income Range (as a percentage of the federal poverty guidelines)	Co-payment (as a percentage of adjusted gross income)
0-74.99%	$15/month
75.00-99.99%	$25/month
100.00-104.99%	2.50%
105.00-109.99%	2.60%

110.00-114.99%	3.30%
115.00-119.99%	5.10%
120.00-124.99%	7.50%
125.00-139.99%	7.70%
140.00-144.99%	10.20%
145.00-149.99%	10.40%
150.00-154.99%	10.60%
155.00-159.99%	10.80%
160.00-164.99%	11.00%
165.00-169.99%	12.00%
170.00-174.99%	12.20%
175.00-179.99%	12.40%
180.00-184.99%	12.50%
185.00-189.99%	12.70%
190.00-194.99%	12.90%
195.00-199.99%	13.10%
200.00-209.99%	13.20%
210.00-224.99%	13.30%
225.00-229.99%	13.40%
230.00-234.99%	13.70%
235.00-239.99%	14.10%
240.00-244.99%	14.20%
245.00-249.99%	15.40%
250%	ineligible

Sec. 39. [REPEALER.]

(a) Minnesota Statutes 2002, section 119B.061, is repealed.

(b) Laws 2001, First Special Session chapter 3, article 1, section 16, is repealed.

ARTICLE 11A

HEALTH AND HUMAN SERVICES FORECAST ADJUSTMENTS

Section 1. [HEALTH AND HUMAN SERVICES APPROPRIATIONS.]

The dollar amounts shown in the columns marked "APPROPRIATIONS" are added to or, if shown in parentheses, are subtracted from the appropriations in Laws 2001, First Special Session chapter 9, as amended by Laws 2002, chapter 220, and Laws 2002, chapter 374, and are appropriated from the general fund, or any other fund named, to the agencies and for the purposes specified in this article, to be available for the fiscal year indicated for each purpose. The figure "2003" used in this article means that the appropriation or appropriations listed under them are available for the fiscal year ending June 30, 2003.

SUMMARY BY FUND

	2003
General	$103,756,000
Health Care Access	(1,492,000)
Federal TANF	20,419,000

	APPROPRIATIONS Available for the Year Ending June 30, 2003
Sec. 2. COMMISSIONER OF HUMAN SERVICES	
Subdivision 1. Total Appropriation	$128,203,000
Summary by Fund	
General	109,276,000
Health Care Access	(1,492,000)
Federal TANF	20,419,000
Subd. 2. Administrative Reimbursement/Pass-through	1,180,000

	APPROPRIATIONS Available for the Year Ending June 30, 2003
Subd. 3. Basic Health Care Grants	
General	59,364,000
Health Care Access	(1,492,000)
The amounts that may be spent from this appropriation for each purpose are as follows:	
(a) MinnesotaCare Grants	
Health Care Access	(1,492,000)
(b) MA Basic Health Care Grants - Families and Children	
General	14,708,000
(c) MA Basic Health Care Grants - Elderly and Disabled	
General	15,137,000
(d) General Assistance Medical Care Grants	
General	29,519,000
Subd. 4. Continuing Care Grants	
General	56,615,000
The amounts that may be spent from this appropriation for each purpose are as follows:	
(a) Medical Assistance Long-Term Care Waivers and Home Care Grants	
General	57,388,000
(b) Medical Assistance Long-Term Care Facilities Grants	
General	678,000
(c) Group Residential Housing Grants	
General	(1,451,000)

APPROPRIATIONS
Available for the Year
Ending June 30, 2003

Subd. 5. Economic Support Grants

General (6,703,000)

Federal TANF 19,239,000

The amounts that may be spent from the appropriation for each purpose are as follows:

(a) Assistance to Families Grants

General (9,306,000)

Federal TANF 19,239,000

(b) General Assistance Grants

General 3,491,000

(c) Minnesota Supplemental Aid Grants

General (888,000)

Sec. 3. COMMISSIONER OF HEALTH

Subdivision 1. Total Appropriation (5,520,000)

Summary by Fund

General (5,520,000)

Subd. 2. Access and Quality Improvement (5,520,000)

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective the day following final enactment.

ARTICLE 11B

DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING FORECAST ADJUSTMENT

Section 1. The dollar amounts shown are added to or, if shown in parentheses, are subtracted from the appropriations in Laws 2001, First Special Session chapter 6, as amended by Laws 2002, chapter 220, and Laws 2002, chapter 374, or other law, and are appropriated from the general fund to the department of children, families,

and learning for the purposes specified in this article, to be available for the fiscal year indicated for each purpose. The figure "2003" used in this article means that the appropriation or appropriations listed are available for the fiscal year ending June 30, 2003.

	2003 APPROPRIATION CHANGE
Sec. 2. APPROPRIATIONS; EARLY CHILDHOOD AND FAMILY EDUCATION	
MFIP Child Care	6,817,000

ARTICLE 11C

APPROPRIATIONS

Section 1. [HEALTH AND HUMAN SERVICES APPROPRIATIONS.]

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

SUMMARY BY FUND

	2004	2005	BIENNIAL TOTAL
General	$3,623,751,000	$3,535,232,000	$7,158,983,000
State Government Special Revenue	45,162,000	44,899,000	90,061,000
Health Care Access	262,386,000	328,686,000	591,072,000
Federal TANF	267,349,000	267,037,000	534,386,000
Lottery Prize Fund	1,306,000	1,306,000	2,612,000
TOTAL	$4,199,954,000	$4,177,160,000	$8,377,114,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Sec. 2. COMMISSIONER OF HUMAN SERVICES		
Subdivision 1. Total Appropriation	$4,071,623,000	$4,059,850,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Summary by Fund		
General	3,552,321,000	3,474,560,000
State Government Special Revenue	534,000	534,000
Health Care Access	256,113,000	322,413,000
Federal TANF	261,349,000	261,037,000
Lottery Cash Flow	1,306,000	1,306,000

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

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

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

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

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

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

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

(1) MFIP cash, diversionary work program, and food assistance benefits under Minnesota Statutes, chapter 256J;

(2) the child care assistance programs under Minnesota Statutes, sections 119B.03 and 119B.05, and county child care administrative costs under Minnesota Statutes, section 119B.15;

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) Notwithstanding section 14, paragraph (a), clauses (1) to (5), and paragraphs (b) to (j) expire June 30, 2007.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

[SHIFT COUNTY PAYMENT.] The commissioner shall make up to 100 percent of the calendar year 2005 payments to counties for developmental disabilities semi-independent living services grants, developmental disabilities family support grants, and adult mental health grants from fiscal year 2006 appropriations. This is a onetime payment shift. Calendar year 2006 and future payments for these grants are not affected by this shift. This provision expires June 30, 2006.

[CAPITATION RATE INCREASE.] Of the health care access fund appropriations to the University of Minnesota in the higher education omnibus appropriation bill, $2,157,000 in fiscal year 2004 and $2,157,000 in fiscal year 2005 are to be used to increase the capitation payments under Minnesota Statutes, section 256B.69. Notwithstanding the provisions of section 14, this provision shall not expire.

Subd. 2. Agency Management

Summary by Fund		
General	41,534,000	27,868,000
State Government Special Revenue	415,000	415,000
Health Care Access	3,673,000	3,673,000
Federal TANF	320,000	320,000

The amounts that may be spent from the appropriation for each purpose are as follows:

(a) Financial Operations

General	8,751,000	9,056,000
Health Care Access	828,000	828,000
Federal TANF	220,000	220,000

(b) Legal and Regulation Operations

General	7,957,000	8,168,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

[CHILD CARE CENTER LICENSING.] $300,000 in fiscal year 2004 and $300,000 in fiscal year 2005 are appropriated from the general fund to ease the burden on child care centers and other licensed child care facilities during the implementation of the department of health's new child care license fee increases.

State Government		
Special Revenue	415,000	415,000
Health Care Access	244,000	244,000
Federal TANF	100,000	100,000
(c) Management Operations		
General	17,373,000	3,076,000
Health Care Access	1,623,000	1,623,000
(d) Information Technology Operations		
General	7,453,000	7,568,000
Health Care Access	978,000	978,000
Subd. 3. Revenue and Pass-Through		
Federal TANF	54,845,000	51,221,000

[TANF TRANSFER TO SOCIAL SERVICES BLOCK GRANT.] $6,000,000 in fiscal year 2004 and $9,272,000 in fiscal year 2005 are appropriated to the commissioner for the purposes of providing services for families with children whose incomes are at or below 200 percent of the federal poverty guidelines. The commissioner shall authorize a sufficient transfer of funds from the state's federal TANF block grant to the state's federal social services block grant to meet this appropriation. The funds shall be distributed to counties for the children and community services grant according to the formula for the state appropriations in Minnesota Statutes, chapter 256M.

[TANF FUNDS FOR FISCAL YEAR 2006 AND FISCAL YEAR 2007 REFINANCING.] $16,724,000 in fiscal year 2006 and $16,827,000 in fiscal year 2007 in TANF funds are available to the commissioner to replace general funds in the amount of

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

$16,724,000 in fiscal year 2006 and $16,827,000 in fiscal year 2007 in expenditures that may be counted toward TANF maintenance of effort requirements or as an allowable TANF expenditure.

[REDUCTION IN TANF TRANSFER TO CHILD CARE AND DEVELOPMENT FUND.] Transfers of TANF to the child care development fund for the purposes of MFIP child care assistance shall be reduced by $1,126,000 in fiscal year 2004 and $118,000 in fiscal year 2005.

Subd. 4. Children's Services Grants

	Summary by Fund	
General	105,760,000	92,165,000
Federal TANF	6,000,000	9,272,000

[ADOPTION ASSISTANCE INCENTIVE GRANTS.] Federal funds available during fiscal year 2004 and fiscal year 2005, for adoption incentive grants are appropriated to the commissioner for these purposes.

[ADOPTION ASSISTANCE AND RELATIVE CUSTODY ASSISTANCE.] The commissioner may transfer unencumbered appropriation balances for adoption assistance and relative custody assistance between fiscal years and between programs.

Subd. 5. Children's Services Management

General	5,221,000	5,283,000

Subd. 6. Basic Health Care Grants

	Summary by Fund	
General	1,501,432,000	1,457,549,000
Health Care Access	236,638,000	303,184,000

[UPDATING FEDERAL POVERTY GUIDELINES.] Annual updates to the federal poverty guidelines are effective each July 1, following publication by the United States Department of Health and Human Services for health care programs under Minnesota Statutes, chapters 256, 256B, 256D, and 256L.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) MinnesotaCare Grants

Health Care Access	232,634,000	299,083,000

[MINNESOTACARE FEDERAL RECEIPTS.] Receipts received as a result of federal participation pertaining to administrative costs of the Minnesota health care reform waiver shall be deposited as nondedicated revenue in the health care access fund. Receipts received as a result of federal participation pertaining to grants shall be deposited in the federal fund and shall offset health care access funds for payments to providers.

[MINNESOTACARE FUNDING.] The commissioner may expend money appropriated from the health care access fund for MinnesotaCare in either fiscal year of the biennium.

[MINNESOTACARE NOT AN ENTITLEMENT.] The MinnesotaCare program is not an entitlement. Enrollment in the program, eligibility criteria, and covered services are subject to the availability of funding, and may be modified by the commissioner of human services to maintain program expenditures within the level of funding. Notwithstanding section 14, this provision does not expire.

(b) MA Basic Health Care Grants - Families and Children

General	560,143,000	575,614,000

(c) MA Basic Health Care Grants - Elderly and Disabled

General	696,413,000	750,033,000

[DELAY MA FEE FOR SERVICE - ACUTE CARE.] The last payment in fiscal year 2005 from the Medicaid Management Information System that would otherwise have been made to providers for medical assistance and general assistance medical care services shall be delayed and included in the first payment in fiscal year 2006. This payment delay shall not include payments to skilled nursing facilities, intermediate care facilities for mental retardation, prepaid health plans, home health agencies, personal care nursing providers, and providers of only waiver services. The provisions of Minnesota Statutes, section 16A.124, shall not apply to these delayed payments. Notwithstanding section 14, this provision shall not expire.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
(d) General Assistance Medical Care Grants		
General	232,650,000	119,904,000
(e) Health Care Grants - Other Assistance		
General	2,660,000	2,472,000
Health Care Access	4,004,000	4,101,000
(f) Prescription Drug Program		
General	9,566,000	9,526,000

[TRANSFER FOR THE PRESCRIPTION DRUG ASSISTANCE PROGRAM.] Of the appropriation from the general fund for the prescription drug program under Minnesota Statutes, section 256.955, for the biennium beginning July 1, 2003 $1,739,000 is for the commissioner of human services to establish and administer the prescription drug assistance program through the Minnesota board on aging.

[MINNESOTA PRESCRIPTION DRUG DEDICATED FUND.] Of this appropriation, $7,200,000 is appropriated from the health care access fund to the commissioner of human services for the fiscal year beginning July 1, 2003, for the Minnesota prescription drug dedicated fund established under the prescription drug discount program. This is a onetime appropriation.

Subd. 7. Health Care Management

	Summary by Fund	
General	24,452,000	24,517,000
Health Care Access	14,453,000	14,207,000

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Health Care Policy Administration		
General	4,222,000	5,466,000
Health Care Access	846,000	846,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

[MINNESOTACARE OUTREACH REIMBURSEMENT.] Federal administrative reimbursement resulting from MinnesotaCare outreach is appropriated to the commissioner for this activity.

[MINNESOTA SENIOR HEALTH OPTIONS REIMBURSEMENT.] Federal administrative reimbursement resulting from the Minnesota senior health options project is appropriated to the commissioner for this activity.

[UTILIZATION REVIEW.] Federal administrative reimbursement resulting from prior authorization and inpatient admission certification by a professional review organization shall be dedicated to the commissioner for these purposes. A portion of these funds must be used for activities to decrease unnecessary pharmaceutical costs in medical assistance.

(b) Health Care Options

General	20,230,000	20,051,000
Health Care Access	13,607,000	13,361,000

[PREPAID MEDICAL PROGRAMS.] For all counties in which the PMAP program has been operating for 12 or more months, state funding for the nonfederal share of prepaid medical assistance program administration costs for county managed care advocacy and enrollment operations is eliminated. State funding will continue for these activities for counties and tribes establishing new PMAP programs for a maximum of 16 months (four months prior to beginning PMAP enrollment and through the first 12 months of their PMAP program operation). Those counties operating PMAP programs for less than 12 months can continue to receive state funding for advocacy and enrollment activities through their first year of operation.

Subd. 8. State-operated Services

General	195,062,000	186,775,000

[MITIGATION RELATED TO STATE-OPERATED SERVICES RESTRUCTURING.] Money appropriated to finance mitigation expenses related to restructuring state-operated services programs and administrative services may be transferred between fiscal years within the biennium.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

[STATE-OPERATED SERVICES RESTRUCTURING.] For purposes of restructuring state-operated services, any state-operated services employee whose position is to be eliminated shall be afforded the options provided in applicable collective bargaining agreements. All salary and mitigation allocations from fiscal year 2004 shall be carried forward into fiscal year 2005. Provided there is no conflict with any collective bargaining agreement, any state-operated services position reduction must only be accomplished through mitigation, attrition, transfer, and other measures as provided in state or applicable collective bargaining agreements and in Minnesota Statutes, section 252.50, subdivision 11, and not through layoff.

[REPAIRS AND BETTERMENTS.] The commissioner may transfer unencumbered appropriation balances between fiscal years within the biennium for the state residential facilities repairs and betterments account and special equipment.

Subd. 9. Continuing Care Grants

Summary by Fund		
General	1,504,983,000	1,503,331,000
Lottery Prize Fund	1,158,000	1,158,000

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Aging and Adult Service Grant

General	12,259,000	13,212,000

[LONG-TERM CARE PROGRAM REDUCTIONS.] For the biennium ending June 30, 2005, state funding for the following state long-term care programs is reduced by 15 percent from the level of state funding provided on June 30, 2003: SAIL project grants under Minnesota Statutes, section 256B.0917; independent living demonstration project for persons with epilepsy established under Laws 1988, chapter 689, article 2, section 251; the congregate meals portion of senior nutrition programs under Minnesota Statutes, section 256.9752; foster grandparents program under Minnesota Statutes, section 256.976; retired senior volunteer program under Minnesota Statutes, section 256.9753; and the senior companion program under Minnesota Statutes, section 256.977.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

(b) Deaf and Hard-of-hearing Service Grants

General	1,725,000	1,498,000

(c) Mental Health Grants

General	53,744,000	34,955,000
Lottery Prize Fund	1,158,000	1,158,000

[RESTRUCTURING OF ADULT MENTAL HEALTH SERVICES.] The commissioner may make budget neutral transfers to effectively implement the restructuring of adult mental health services. "Budget neutral transfers" means transfers which do not increase the state share of costs.

(d) Community Support Grants

General	13,022,000	10,091,000

(e) Medical Assistance Long-Term Care Waivers and Home Care Grants

General	666,828,000	729,808,000

[REDUCE GROWTH IN MR/RC WAIVER.] The commissioner shall reduce the growth in the MR/RC waiver by not allocating the 300 additional diversion allocations that are included in the February 2003 forecast for the fiscal years that begin on July 1, 2003, and July 1, 2004.

[MANAGE THE GROWTH IN THE TBI WAIVER.] During the fiscal years beginning on July 1, 2003, and July 1, 2004, the commissioner shall allocate money for this program in such a way so that the caseload growth for this program does not exceed 150 in each year of the biennium. Priorities for the allocation of funds shall be for individuals anticipated to be discharged from institutional settings or who are at imminent risk of a placement in an institutional setting.

[TARGETED CASE MANAGEMENT FOR HOME CARE RECIPIENTS.] Implementation of the targeted case management benefit for home care recipients, according to Minnesota Statutes, section 256B.0621, subdivisions 2, 3, 5, 6, 7, 9, and 10, will be delayed until July 1, 2005.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

[COMMON SERVICE MENU.] Implementation of the common service menu option within the home and community-based waivers, according to Minnesota Statutes, section 256B.49, subdivision 16, will be delayed until July 1, 2005.

(f) Medical Assistance Long-term Care Facilities Grants

General	540,712,000	521,251,000

(g) Alternative Care Grants

General	71,382,000	59,885,000

[ALTERNATIVE CARE TRANSFER.] Any money allocated to the alternative care program that is not spent for the purposes indicated does not cancel but shall be transferred to the medical assistance account.

[ALTERNATIVE CARE APPROPRIATION.] The commissioner may expend the money appropriated for the alternative care program for that purpose in either year of the biennium.

[ALTERNATIVE CARE IMPLEMENTATION OF CHANGES TO PREMIUMS AND ELIGIBILITY.] Changes to Minnesota Statutes, section 256B.0913, subdivision 4, paragraph (d), and subdivision 12, are effective July 1, 2003, for all persons found eligible for the alternative care program on or after July 1, 2003. All recipients of alternative care funding as of June 30, 2003, shall be subject to Minnesota Statutes, section 256B.0913, subdivision 4, paragraph (d), and subdivision 12, on the annual reassessment and review of their eligibility after July 1, 2003, but no later than January 1, 2004.

(h) Group Residential Housing Grants

General	94,583,000	80,728,000

[GROUP RESIDENTIAL HOUSING COSTS REFINANCED.] Effective July 1, 2004, the commissioner shall increase the home and community-based service rates and county allocations provided to programs established under section 1915(c) of the Social Security Act to the extent that these programs will be paying for the costs above the rate established in Minnesota Statutes, section 256I.05, subdivision 1.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
(i) Chemical Dependency Entitlement Grants		
General	49,673,000	50,848,000
(j) Chemical Dependency Nonentitlement Grants		
General	1,055,000	1,055,000

Subd. 10. Continuing Care Management

Summary by Fund		
General	21,427,000	21,258,000
State Government Special Revenue	119,000	119,000
Lottery Prize Fund	148,000	148,000

Subd. 11. Economic Support Grants

Summary by Fund		
General	113,422,000	116,511,000
Federal TANF	199,816,000	199,856,000

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Minnesota Family Investment Program		
General	50,947,000	38,938,000
Federal TANF	104,756,000	98,170,000
(b) Work Grants		
General	666,000	14,678,000
Federal TANF	94,800,000	101,426,000

[MFIP SUPPORT SERVICES COUNTY AND TRIBAL ALLOCATION.] When determining the funds available for the consolidated MFIP support services grant in the 18-month period

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

ending December 31, 2004, the commissioner shall apportion the funds appropriated for fiscal year 2005 in such manner as necessary to provide $14,000,000 more to counties and tribes for the period ending December 31, 2004, than would have been available had the funds been evenly divided within the fiscal year between the period before December 31, 2004, and the period after December 31, 2004.

For allocations for the calendar years starting January 1, 2005, the commissioner shall apportion the funds appropriated for each fiscal year in such manner as necessary to provide $14,000,000 more to counties and tribes for the period ending December 31 of that year than would have been available had the funds been evenly divided within the fiscal year between the period before December 31 and the period after December 31.

(c) Economic Support Grants - Other Assistance

General	3,358,000	3,463,000

(d) Child Support Enforcement Grants

General	3,571,000	3,503,000
Federal TANF	260,000	260,000

(e) General Assistance Grants

General	24,651,000	24,482,000

[GENERAL ASSISTANCE STANDARD.] The commissioner shall set the monthly standard of assistance for general assistance units consisting of an adult recipient who is childless and unmarried or living apart from parents or a legal guardian at $203. The commissioner may reduce this amount according to Laws 1997, chapter 85, article 3, section 54.

[EMERGENCY GENERAL ASSISTANCE.] The amount appropriated for emergency general assistance funds is limited to no more than $7,889,812 in each fiscal year of 2004 and 2005. Funds to counties shall be allocated by the commissioner using the allocation method specified in Minnesota Statutes, section 256D.06.

(f) Minnesota Supplemental Aid Grants

General	30,229,000	31,447,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

[EMERGENCY MINNESOTA SUPPLEMENTAL AID FUNDS.] The amount appropriated for emergency Minnesota supplemental aid funds is limited to no more than $1,138,707 in fiscal year 2004 and $1,017,000 in fiscal year 2005. Funds to counties shall be allocated by the commissioner using the allocation method specified in Minnesota Statutes, section 256D.46.

Subd. 12. Economic Support Management

Summary by Fund		
General	39,028,000	39,303,000
Health Care Access	1,349,000	1,349,000
Federal TANF	368,000	368,000

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Economic Support Policy Administration

General	5,360,000	5,587,000
Federal TANF	368,000	368,000

(b) Economic Support Operations

General	33,668,000	33,716,000
Health Care Access	1,349,000	1,349,000

[CHILD SUPPORT PAYMENT CENTER.] Payments to the commissioner from other governmental units, private enterprises, and individuals for services performed by the child support payment center must be deposited in the state systems account authorized under Minnesota Statutes, section 256.014. These payments are appropriated to the commissioner for the operation of the child support payment center or system, according to Minnesota Statutes, section 256.014.

[CHILD SUPPORT COST RECOVERY FEES.] The commissioner shall transfer $247,000 of child support cost recovery fees collected in fiscal year 2005 to the PRISM special revenue account to offset PRISM system costs of implementing the fee.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

[FINANCIAL INSTITUTION DATA MATCH AND PAYMENT OF FEES.] The commissioner is authorized to allocate up to $310,000 each year in fiscal year 2004 and fiscal year 2005 from the PRISM special revenue account to make payments to financial institutions in exchange for performing data matches between account information held by financial institutions and the public authority's database of child support obligors as authorized by Minnesota Statutes, section 13B.06, subdivision 7.

Sec. 3. COMMISSIONER OF HEALTH

Subdivision 1. Total Appropriation	103,880,000	103,292,000
Summary by Fund		
General	58,727,000	58,402,000
State Government Special Revenue	32,880,000	32,617,000
Health Care Access	6,273,000	6,273,000
Federal TANF	6,000,000	6,000,000
Subd. 2. Health Improvement		
Summary by Fund		
General	42,584,000	42,178,000
State Government Special Revenue	1,987,000	1,987,000
Health Care Access	3,510,000	3,510,000
Federal TANF	6,000,000	6,000,000

[TOBACCO PREVENTION ENDOWMENT FUND TRANSFERS.] (a) On July 1, 2003, the commissioner of finance shall transfer $4,000,000 from the tobacco use prevention and local public health endowment expendable trust fund to the general fund.

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Ending June 30
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(b) Notwithstanding Minnesota Statutes, section 16A.62, any remaining unexpended balance in the fund after the transfer in paragraph (a) shall be transferred to the miscellaneous special revenue fund and dedicated to the commissioner of health for a youth tobacco prevention program. These funds are available until expended.

[TANF APPROPRIATIONS.] TANF funds appropriated to the commissioner are available for home visiting and nutritional activities listed under Minnesota Statutes, section 145.882, subdivision 7, clauses (6) and (7), and eliminating health disparities activities under Minnesota Statutes, section 145.928, subdivision 10. Funding shall be distributed to community health boards and tribal governments based on the formula in Minnesota Statutes, section 145A.131, subdivisions 1 and 2.

[TANF CARRYFORWARD.] Any unexpended balance of the TANF appropriation in the first year of the biennium does not cancel but is available for the second year.

[FAMILY PLANNING GRANTS.] Family planning grants are reduced by $2,166,000 in fiscal year 2004 and $2,312,000 in fiscal year 2005. These reductions are subtracted from base level appropriations.

Subd. 3. Health Quality and Access

Summary by Fund

General	1,173,000	1,114,000
State Government Special Revenue	8,888,000	8,888,000
Health Care Access	2,763,000	2,763,000

[STATE GOVERNMENT SPECIAL REVENUE FUND TRANSFERS.] On July 1, 2003, the commissioner of finance shall transfer $4,000,000 from the state government special revenue fund to the general fund.

[NURSING PROVIDERS WORK GROUP.] Notwithstanding the provisions of Minnesota Statutes, section 144A.10, during the next biennium, the commissioner of health shall not conduct surveys under the provisions of Minnesota Rules, chapter 4655, and

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chapter 4658, parts 4658.0010 to 4658.2090 in nursing homes or boarding care homes that are certified for participation in the federal Medicaid or Medicare program. During the next biennium, the commissioner of health shall establish a working group consisting of nursing home and boarding care home providers, representatives of nursing home residents, and other health care providers to review current licensure provisions and evaluate the continued appropriateness of these provisions. The commissioner shall present recommendations to the legislature by January 1, 2005.

[MEDICAL EDUCATION ENDOWMENT FUND TRANSFERS.] Notwithstanding Minnesota Statutes, section 16A.62, any remaining unexpended balances in the medical education expendable trust fund shall be transferred to the miscellaneous special revenue fund and dedicated to the commissioner for the purposes identified in Minnesota Statutes, section 62J.692. These funds are available until expended.

[MEDICAL EDUCATION AND RESEARCH COSTS.] $8,660,000 in fiscal year 2004 and $8,616,000 in fiscal year 2005 are appropriated from the medical education and research costs special account for medical education and research funding.

Subd. 4. Health Protection

Summary by Fund

General	8,855,000	8,855,000
State Government Special Revenue	22,005,000	21,742,000

Subd. 5. Management and Support Services

General	5,249,000	5,243,000

Sec. 4. VETERANS HOME BOARD

General	30,030,000	30,030,000

[VETERANS HOMES SPECIAL REVENUE ACCOUNT.] The general fund appropriations made to the board may be transferred to a veterans homes special revenue account in the special revenue fund in the same manner as other receipts are deposited according to Minnesota Statutes, section 198.34, and are appropriated to the board for the operation of board facilities and programs.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Sec. 5. HEALTH-RELATED BOARDS		
Subdivision 1. Total Appropriation	11,266,000	11,266,000

[STATE GOVERNMENT SPECIAL REVENUE FUND.] The appropriations in this section are from the state government special revenue fund, except where noted.

[NO SPENDING IN EXCESS OF REVENUES.] The commissioner of finance shall not permit the allotment, encumbrance, or expenditure of money appropriated in this section in excess of the anticipated biennial revenues or accumulated surplus revenues from fees collected by the boards. Neither this provision nor Minnesota Statutes, section 214.06, applies to transfers from the general contingent account.

[STATE GOVERNMENT SPECIAL REVENUE FUND TRANSFERS.] On July 1, 2003, the commissioner of finance shall transfer $7,500,000 from the state government special revenue fund to the general fund.

Subd. 2. Board of Chiropractic Examiners	384,000	384,000
Subd. 3. Board of Dentistry		
State Government Special Revenue Fund	858,000	858,000
Health Care Access Fund	64,000	64,000
Subd. 4. Board of Dietetic and Nutrition Practice	101,000	101,000
Subd. 5. Board of Marriage and Family Therapy	118,000	118,000
Subd. 6. Board of Medical Practice	3,498,000	3,498,000
Subd. 7. Board of Nursing	2,405,000	2,405,000
Subd. 8. Board of Nursing Home Administrators	198,000	198,000
Subd. 9. Board of Optometry	96,000	96,000
Subd. 10. Board of Pharmacy	1,386,000	1,386,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
[ADMINISTRATIVE SERVICES UNIT.] Of this appropriation, $359,000 the first year and $359,000 the second year are for the health boards administrative services unit. The administrative services unit may receive and expend reimbursements for services performed for other agencies.		
Subd. 11. Board of Physical Therapy	197,000	197,000
Subd. 12. Board of Podiatry	45,000	45,000
Subd. 13. Board of Psychology	680,000	680,000
Subd. 14. Board of Social Work	1,073,000	1,073,000
Subd. 15. Board of Veterinary Medicine	163,000	163,000
Sec. 6. EMERGENCY MEDICAL SERVICES BOARD		
Subdivision 1. Total Appropriation	2,850,000	2,850,000

Summary by Fund

General	2,304,000	2,304,000
State Government Special Revenue	546,000	546,000

[HEALTH PROFESSIONAL SERVICES ACTIVITY.] $546,000 each year from the state government special revenue fund is for the health professional services activity.

Sec. 7. COUNCIL ON DISABILITY		
General	500,000	500,000
Sec. 8. OMBUDSMAN FOR MENTAL HEALTH AND MENTAL RETARDATION		
General	1,243,000	1,242,000
Sec. 9. OMBUDSMAN FOR FAMILIES		
General	170,000	170,000
Sec. 10. DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING		
Subdivision 1. Total Appropriation	$127,638,000	$119,813,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Summary by Fund		
General	100,114,000	97,992,000
Federal TANF	24,002,000	20,525,000
State Special Revenue	3,340,000	3,340,000

Subd. 2. Child Care

[BASIC SLIDING FEE CHILD CARE.] Of this appropriation, $25,407,000 in fiscal year 2004, and $20,821,000 in fiscal year 2005 are for child care assistance according to Minnesota Statutes, section 119B.03. These appropriations are available to be spent either year.

[MFIP CHILD CARE.] Of this appropriation, $69,589,000 in fiscal year 2004, and $70,253,000 in fiscal year 2005 are for MFIP child care.

[CHILD CARE PROGRAM INTEGRITY.] Of this appropriation, $425,000 in fiscal year 2004, and $376,000 in fiscal year 2005 are for the administrative costs of program integrity and fraud prevention for child care assistance under Minnesota Statutes, chapter 119B.

[CHILD CARE DEVELOPMENT.] Of this appropriation, $1,115,000 in fiscal year 2004, and $1,164,000 in fiscal year 2005 are for child care development grants according to Minnesota Statutes, section 119B.21.

[STATE SPECIAL REVENUE FUND TRANSFER-CHILD SUPPORT CARE CHILD ASSISTANCE.] On July 1, 2003, the commissioner of finance shall transfer $1,800,000 from the special revenue fund to the general fund.

[MINNESOTA ECONOMIC OPPORTUNITY GRANTS.] Of this appropriation, $4,000,000 in fiscal year 2004, and $4,000,000 in fiscal year 2005 are for Minnesota economic opportunity grants.

[FOOD SHELF PROGRAMS.] Of this appropriation, $1,278,000 in fiscal year 2004, and $1,278,000 in fiscal year 2005 are for food shelf programs under Minnesota Statutes, section 119A.44.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

[LEAD ABATEMENT.] Of this appropriation, $100,000 in fiscal year 2004, and $100,000 in fiscal year 2005 are for lead abatement according to Minnesota Statutes, section 119A.46. Any balance in the first year does not cancel but is available in the second year.

Subd. 3. Child Support

Child Support Special Revenue Account	3,340,000	3,340,000

[CHILD CARE ASSISTANCE.] Of this appropriation, $3,340,000 in fiscal year 2004, and $3,340,000 in fiscal year 2005 are for child care assistance according to Minnesota Statutes, section 119B.03.

Subd. 4. Basic Sliding Fee and Child Care Development

[FEDERAL TANF TRANSFERS.] The sums indicated in this section are transferred from the federal TANF fund to the child care and development fund and are appropriated to the department of children, families, and learning for the fiscal years indicated. The commissioner shall ensure that all transferred funds are expended according to the child care and development fund regulations and that maximum allowable transferred funds are used for the following programs:

(a) For basic sliding fee child care, $17,686,000 in fiscal year 2004 and $17,700,000 in fiscal year 2005, are for child care assistance under Minnesota Statutes, section 119B.03.

(b) For MFIP/TY, $6,302,000 in fiscal year 2004 and $2,825,000 in fiscal year 2005 are for child care assistance under Minnesota Statutes, section 119B.05.

(c) For child care development grants under Minnesota Statutes, section 119B.21, $14,000 is available in fiscal year 2004.

Sec. 11. [TRANSFERS.]

Subdivision 1. [GRANTS.] The commissioner of human services, with the approval of the commissioner of finance, and after notification of the chair of the senate health, human services and corrections budget division and the chair of the house health and human services finance committee, may transfer unencumbered appropriation balances for the biennium ending June 30, 2005, within fiscal years among the MFIP, general assistance, general assistance medical care, medical assistance, Minnesota supplemental aid, and group residential housing programs, and the entitlement portion of the chemical dependency consolidated treatment fund, and between fiscal years of the biennium.

Subd. 2. [ADMINISTRATION.] Positions, salary money, and nonsalary administrative money may be transferred within the departments of human services and health and within the programs operated by the veterans nursing homes board as the commissioners and the board consider necessary, with the advance approval of the commissioner of finance. The commissioner or the board shall inform the chairs of the house health and human services finance committee and the senate health, human services and corrections budget division quarterly about transfers made under this provision.

Subd. 3. [PROHIBITED TRANSFERS.] Grant money shall not be transferred to operations within the departments of human services and health and within the programs operated by the veterans nursing homes board without the approval of the legislature.

Sec. 12. [INDIRECT COSTS NOT TO FUND PROGRAMS.]

The commissioners of health and of human services shall not use indirect cost allocations to pay for the operational costs of any program for which they are responsible.

Sec. 13. [CARRYOVER LIMITATION.]

The appropriations in this article which are allowed to be carried forward from fiscal year 2004 to fiscal year 2005 shall not become part of the base level funding for the 2006-2007 biennial budget, unless specifically directed by the legislature.

Sec. 14. [SUNSET OF UNCODIFIED LANGUAGE.]

All uncodified language contained in this article expires on June 30, 2005, unless a different expiration date is explicit.

Sec. 15. [REPEALER.]

Laws 2002, chapter 374, article 9, section 8, is repealed effective upon final enactment.

Sec. 16. [EFFECTIVE DATE.]

The provisions in this article are effective July 1, 2003, unless a different effective date is specified."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Westrom from the Committee on Regulated Industries to which was referred:

H. F. No. 622, A bill for an act relating to public safety; modifying emergency 911 telephone system provisions to require multiline telephone systems to provide caller location; providing for special levies for county and city governments and school districts to fund this requirement; amending Minnesota Statutes 2002, sections 126C.44; 275.70, subdivision 5; 403.01, subdivision 6; 403.02, by adding subdivisions; 403.07, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 403.

Reported the same back with the following amendments:

Pages 1 to 5, delete sections 1 and 2

Page 6, line 26, after the second "system" insert "installed after June 30, 2003,"

Page 7, delete section 9

Page 7, line 31, delete "After June 30, 2004,"

Page 7, line 36, delete "By June 30, 2005,"

Page 8, lines 9 and 10, delete "By June 30, 2005,"

Page 8, lines 15 and 16, delete "By June 30, 2005,"

Page 9, line 20, delete "9" and insert "6"

Renumber the sections in sequence

Amend the title as follows:

Page 1, delete lines 5 and 6

Page 1, line 7, delete "requirement;"

Page 1, line 8, delete "126C.44; 275.70, subdivision 5;"

Page 1, lines 9 and 10, delete "403.07, subdivision 5;"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

Kuisle from the Committee on Transportation Finance to which was referred:

H. F. No. 627, A bill for an act relating to appropriations; appropriating money for transportation and other purposes; providing for fees, accounts, transfers, and expenditures; authorizing administrative powers, penalties, and remedies for public safety purposes; making technical and clarifying changes; amending Minnesota Statutes 2002, sections 115A.908, subdivision 2; 161.20, subdivision 3; 168.12, subdivision 5; 168.54, subdivision 4; 168A.29,

subdivision 1; 297B.09, subdivision 1; 299A.465, subdivisions 4, 5; Laws 1999, chapter 238, article 1, section 2, subdivision 2; Laws 2001, First Special Session chapter 8, article 1, section 2, subdivision 2; Laws 2002, chapter 374, article 11, section 10, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 299A; repealing Minnesota Statutes 2002, section 16A.88, subdivision 3; Minnesota Rules, part 7403.1300.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS
TRANSPORTATION AND OTHER AGENCIES

Section 1. [TRANSPORTATION AND OTHER AGENCIES APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another named fund, to the agencies and for the purposes specified in this article, to be available for the fiscal years indicated for each purpose. The figures "2004" and "2005," where used in this article, mean that the appropriations listed under them are available for the year ending June 30, 2004, or June 30, 2005, respectively. If the figures are not used, the appropriations are available for the year ending June 30, 2004, or June 30, 2005, respectively. The term "first year" means the year ending June 30, 2004, and the term "second year" means the year ending June 30, 2005.

SUMMARY BY FUND

	2004	2005	TOTAL
General	$78,949,000	$79,805,000	$158,794,000
Airports	19,558,000	19,558,000	39,116,000
C.S.A.H.	425,687,000	443,298,000	868,985,000
M.S.A.S.	112,186,000	114,557,000	226,743,000
Special Revenue	994,000	994,000	1,988,000
Highway User	12,336,000	12,336,000	24,672,000
Trunk Highway	1,191,962,000	1,262,396,000	2,454,358,000
TOTAL	$1,841,702,000	$1,922,944,000	$3,764,586,000

	APPROPRIATIONS Available for the Year Ending June 30	
	2004	2005
Sec. 2. TRANSPORTATION		
Subdivision 1. Total Appropriation	$1,670,825,000	$1,751,242,000

The appropriations in this section are from the trunk highway fund, except when another fund is named.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

Summary by Fund

	2004	2005
General	16,220,000	16,221,000
Airports	19,508,000	19,508,000
C.S.A.H.	425,687,000	433,298,000
M.S.A.S.	112,186,000	114,557,000
Trunk Highway	1,097,224,000	1,167,658,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Multimodal Systems	41,648,000	41,649,000

Summary by Fund

Airports	19,483,000	19,483,000
General	16,155,000	16,156,000
Trunk Highway	6,010,000	6,010,000

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Aeronautics

20,495,000	20,495,000

Summary by Fund

Airports	19,483,000	19,483,000
Trunk Highway	1,012,000	1,012,000

Except as otherwise provided, the appropriations in this subdivision are from the state airports fund.

	APPROPRIATIONS Available for the Year Ending June 30	
	2004	2005

(1) Airport Development and Assistance

14,298,000	14,298,000

These appropriations must be spent according to Minnesota Statutes, section 360.305, subdivision 4.

Notwithstanding Minnesota Statutes, section 16A.28, subdivision 6, funds are available for five years after appropriation.

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

(2) Aviation Support and Services

	Summary by Fund	
Airports	5,185,000	5,185,000
Trunk Highway	1,012,000	1,012,000

$165,000 the first year and $165,000 the second year are for the civil air patrol.

(b) Transit

15,957,000	15,958,000

	Summary by Fund	
General	15,809,000	15,810,000
Trunk Highway	148,000	148,000

(c) Freight

1,569,000	1,569,000

	Summary by Fund	
General	220,000	220,000
Trunk Highway	1,349,000	1,349,000

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Notwithstanding Minnesota Statutes, section 222.49, after July 1, 2003, and before June 30, 2004, the commissioner of finance shall transfer $3,200,000 from the rail service improvement account in the special revenue fund to the debt service fund.

Notwithstanding Minnesota Statutes, section 222.49, after July 1, 2004, and before June 30, 2005, the commissioner of finance shall transfer $3,200,000 from the rail service improvement account in the special revenue fund to the debt service fund.

(d) Commercial Vehicles

3,627,000 3,627,000

Summary by Fund

General	126,000	126,000
Trunk Highway	3,501,000	3,501,000

Subd. 3. State Roads 1,039,324,000 1,109,758,000

Summary by Fund

General	9,000	9,000
Trunk Highway	1,039,315,000	1,109,749,000

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Infrastructure Investment and Planning

836,593,000 907,027,000

$266,000 the first year and $266,000 the second year are available for grants to metropolitan planning organizations outside the seven-county metropolitan area.

$75,000 the first year and $75,000 the second year are for a transportation research contingent account to finance research projects that are reimbursable from the federal government or from other sources. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

APPROPRIATIONS
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$600,000 the first year and $600,000 the second year are available for grants for transportation studies outside the metropolitan area to identify critical concerns, problems, and issues. These grants are available (1) to regional development commissions, and (2) in regions where no regional development commission is functioning, to joint powers boards established under agreement of two or more political subdivisions in the region to exercise the planning functions of a regional development commission, and (3) in regions where no regional development commission or joint powers board is functioning, to the department's district office for that region.

(1) State Road Construction

635,457,000 685,450,000

It is estimated that these appropriations will be funded as follows:

Federal Highway Aid

325,000,000 375,000,000

Highway User Taxes

310,457,000 310,457,000

The commissioner of transportation shall notify the chair of the transportation budget division of the senate and the chair of the transportation finance committee of the house of representatives of any significant events that should cause these estimates to change.

This appropriation is for the actual construction, reconstruction, and improvement of trunk highways including consultant usage to support these activities. This includes the cost of actual payment to landowners for lands acquired for highway rights-of-way, payment to lessees, interest subsidies, and relocation expenses.

The commissioner may transfer up to $15,000,000 each year to the transportation revolving loan fund.

The commissioner may receive money covering other shares of the cost of partnership projects. These receipts are appropriated to the commissioner for these projects.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
(2) Highway Debt Service		
	40,149,000	60,583,000
$33,640,000 the first year and $54,012,000 the second year are for transfer to the state bond fund. If this appropriation is insufficient to make all transfers required in the year for which it is made, the commissioner of finance shall notify the committee on state government finance of the senate and the committee on ways and means of the house of representatives of the amount of the deficiency and shall then transfer that amount under the statutory open appropriation. Any excess appropriation cancels to the trunk highway fund.		
(b) Infrastructure Operations and Maintenance		
	197,741,000	197,741,000
(c) Electronic Communications		
	4,990,000	4,990,000
Summary by Fund		
General	9,000	9,000
Trunk Highway	4,981,000	4,981,000
$9,000 the first year and $9,000 the second year are from the general fund for equipment and operation of the Roosevelt signal tower for Lake of the Woods weather broadcasting.		
Subd. 4. Local Roads	537,873,000	547,855,000
Summary by Fund		
C.S.A.H.	425,687,000	433,298,000
M.S.A.S.	112,186,000	114,557,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

The amounts that may be spent from this appropriation for each activity are as follows:

(a) County State Aids

425,687,000	433,298,000

This appropriation is from the county state-aid highway fund and is available until spent.

(b) Municipal State Aids

112,186,000	114,557,000

This appropriation is from the municipal state-aid street fund and is available until spent.

If an appropriation for either county state aids or municipal state aids does not exhaust the balance in the fund from which it is made in the year for which it is made, the commissioner of finance, upon request of the commissioner of transportation, shall notify the chair of the transportation finance committee of the house of representatives and the chair of the transportation budget division of the senate of the amount of the remainder and shall then add that amount to the appropriation. The amount added is appropriated for the purposes of county state aids or municipal state aids, as appropriate.

Subd. 5. General Support and Services	51,980,000	51,980,000

Summary by Fund

General	56,000	56,000
Airports	25,000	25,000
Trunk Highway	51,899,000	51,899,000

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Department Support

38,653,000	38,653,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Summary by Fund		
Airports	25,000	25,000
Trunk Highway	38,628,000	38,628,000
(b) Buildings		
	13,327,000	13,327,000
Summary by Fund		
General	56,000	56,000
Trunk Highway	13,271,000	13,271,000

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Subd. 6. Transfers

(a) With the approval of the commissioner of finance, the commissioner of transportation may transfer unencumbered balances among the appropriations from the trunk highway fund and the state airports fund made in this section. No transfer may be made from the appropriation for state road construction. No transfer may be made from the appropriations for debt service to any other appropriation. Transfers under this paragraph may not be made between funds. Transfers between programs must be reported immediately to the chair of the transportation budget division of the senate and the chair of the transportation finance committee of the house of representatives.

(b) The commissioner of finance shall transfer from the flexible account in the county state-aid highway fund $14,400,000 the first year and $8,300,000 the second year to the municipal turnback account in the municipal state-aid street fund, and the remainder in each year to the county turnback account in the county state-aid highway fund.

Subd. 7. Use of State Road Construction Appropriations

Any money appropriated to the commissioner of transportation for state road construction for any fiscal year before fiscal year 2003 is available to the commissioner during fiscal years 2004 and 2005 to

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

the extent that the commissioner spends the money on the state road construction project for which the money was originally encumbered during the fiscal year for which it was appropriated. The commissioner of transportation shall report to the commissioner of finance by August 1, 2003, and August 1, 2004, on a form the commissioner of finance provides, on expenditures made during the previous fiscal year that are authorized by this subdivision.

Subd. 8. Contingent Appropriation

The commissioner of transportation, with the approval of the governor after review by the legislative advisory commission under Minnesota Statutes, section 3.30, may transfer all or part of the unappropriated balance in the trunk highway fund to an appropriation (1) for trunk highway design, construction, or inspection in order to take advantage of an unanticipated receipt of income to the trunk highway fund or to take advantage of Federal Advanced Construction funding, (2) for trunk highway maintenance in order to meet an emergency, or (3) to pay tort or environmental claims. Any transfer as a result of the use of Federal Advanced Construction funding must include an analysis of the effects on the long-term trunk highway fund balance. The amount transferred is appropriated for the purpose of the account to which it is transferred.

Sec. 3. METROPOLITAN COUNCIL TRANSIT	55,693,000	56,573,000

(a) The agency's budget base for fiscal year 2006 is $56,693,000 and for fiscal year 2007 is $57,693,000.

(b) Bus Transit

53,453,000	53,453,000

This appropriation is for bus system operations.

(c) Rail Operations

2,240,000	3,120,000

This appropriation is for operations of the Hiawatha LRT line. The base for rail operations for fiscal year 2006 is $3,240,000 and for fiscal year 2007 is $4,240,000.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

This appropriation is for paying 40 percent of operating costs for the Hiawatha light rail transit line after operating revenue and federal funds used for light rail transit operations. The remaining costs are to be paid as follows:

(1) 40 percent by the Hennepin county regional rail authority from its reserves; and

(2) 20 percent by the cities of Minneapolis and Bloomington in proportion to the miles of the line located in each city and in operation.

Sec. 4. PUBLIC SAFETY

Subdivision 1. Total Appropriation	114,149,000	114,154,000
Summary by Fund		
General	7,006,000	7,011,000
Trunk Highway	93,938,000	93,938,000
Highway User	12,211,000	12,211,000
Special Revenue	994,000	994,000
Subd. 2. Administration and Related Services	9,684,000	9,689,000
Summary by Fund		
General	2,361,000	2,366,000
Trunk Highway	5,938,000	5,938,000
Highway User	1,385,000	1,385,000
(a) Office of Communications		
	385,000	385,000
Summary by Fund		
General	39,000	39,000
Trunk Highway	346,000	346,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
(b) Public Safety Support		
	6,845,000	6,850,000
	Summary by Fund	
General	2,231,000	2,236,000
Trunk Highway	3,248,000	3,248,000
Highway User	1,366,000	1,366,000

$365,000 the first year and $370,000 the second year are for payment of public safety officer survivor benefits under Minnesota Statutes, section 299A.44. If the appropriation for either year is insufficient, the appropriation for the other year is available for it. The base for fiscal year 2006 is $375,000 and for fiscal year 2007 is $380,000.

$314,000 the first year and $314,000 the second year are to be deposited in the public safety officer's benefit account. This money is available for reimbursements under Minnesota Statutes, section 299A.465.

$508,000 the first year and $508,000 the second year are for soft body armor reimbursements under Minnesota Statutes, section 299A.38.

$792,000 the first year and $792,000 the second year are appropriated from the general fund for transfer by the commissioner of finance to the trunk highway fund on December 31, 2003, and December 31, 2004, respectively, in order to reimburse the trunk highway fund for expenses not related to the fund. These represent amounts appropriated out of the trunk highway fund for general fund purposes in the administration and related services program.

$610,000 the first year and $610,000 the second year are appropriated from the highway user tax distribution fund for transfer by the commissioner of finance to the trunk highway fund on December 31, 2003, and December 31, 2004, respectively, in order to reimburse the trunk highway fund for expenses not related to the fund. These represent amounts appropriated out of the trunk highway fund for highway user tax distribution fund purposes in the administration and related services program.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

$716,000 the first year and $716,000 the second year are appropriated from the highway user tax distribution fund for transfer by the commissioner of finance to the general fund on December 31, 2001, and December 31, 2002, respectively, in order to reimburse the general fund for expenses not related to the fund. These represent amounts appropriated out of the general fund for operation of the criminal justice data network related to driver and motor vehicle licensing.

(c) Technical Support Services

2,454,000 2,454,000

Summary by Fund

General	91,000	91,000
Trunk Highway	2,344,000	2,344,000
Highway User	19,000	19,000

Subd. 3. State Patrol 66,332,000 66,332,000

Summary by Fund

General	2,871,000	2,871,000
Trunk Highway	63,369,000	63,369,000
Highway User	92,000	92,000

(a) Patrolling Highways

57,024,000 57,024,000

Summary by Fund

General	37,000	37,000
Trunk Highway	56,895,000	56,895,000
Highway User	92,000	92,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
(b) Commercial Vehicle Enforcement		
	6,474,000	6,474,000
This appropriation is from the trunk highway fund.		
(c) Capitol Security		
	2,834,000	2,834,000
Subd. 4. Driver and Vehicle Services		
	36,815,000	36,815,000
	Summary by Fund	
General	1,774,000	1,774,000
Trunk Highway	24,307,000	24,307,000
Highway User	10,734,000	10,734,000
(a) Vehicle Services		
	12,452,000	12,452,000
	Summary by Fund	
General	1,718,000	1,718,000
Highway User	10,734,000	10,734,000
(b) Driver Services		
	24,363,000	24,363,000
	Summary by Fund	
General	56,000	56,000
Trunk Highway	24,307,000	24,307,000
Subd. 5. Traffic Safety	324,000	324,000
This appropriation is from the trunk highway fund.		

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
The commissioners of public safety and transportation shall jointly report annually to the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over transportation and public safety finance issues on the expenditure of any federal funds available under the repeat offender transfer program, Public Law 105-206, section 164.		
Subd. 6. Pipeline Safety	994,000	994,000
This appropriation is from the pipeline safety account in the special revenue fund.		
Sec. 5. GENERAL CONTINGENT ACCOUNTS	375,000	375,000

Summary by Fund

Trunk Highway	200,000	200,000
Highway User	125,000	125,000
Airports	50,000	50,000

The appropriations in this section may only be spent with the approval of the governor after consultation with the legislative advisory commission pursuant to Minnesota Statutes, section 3.30.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

Sec. 6. TORT CLAIMS	600,000	600,000

To be spent by the commissioner of finance.

This appropriation is from the trunk highway fund.

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

ARTICLE 2

OTHER CHANGES RELATED TO TRANSPORTATION AND PUBLIC SAFETY

Section 1. Minnesota Statutes 2002, section 13.44, subdivision 3, is amended to read:

Subd. 3. [REAL PROPERTY; APPRAISAL DATA.] (a) [CONFIDENTIAL OR PROTECTED NONPUBLIC DATA.] Estimated or appraised values of individual parcels of real property which are made by personnel of the state, its agencies and departments, or a political subdivision or by independent appraisers acting for the state, its agencies and departments, or a political subdivision for the purpose of selling or acquiring land through purchase or condemnation are classified as confidential data on individuals or protected nonpublic data.

(b) [PUBLIC DATA.] The data made confidential or protected nonpublic by the provisions of paragraph (a) shall become public upon the occurrence of any of the following:

(1) the negotiating parties exchange appraisals;

(2) the data are submitted to a court appointed condemnation commissioner;

(3) the data are presented in court in condemnation proceedings; ~~or~~

(4) the negotiating parties enter into an agreement for the purchase and sale of the property; or

(5) the data are submitted to the owner under section 117.036.

Sec. 2. Minnesota Statutes 2002, section 16C.10, subdivision 7, is amended to read:

Subd. 7. [REVERSE AUCTION.] (a) For the purpose of this subdivision, "reverse auction" means a purchasing process in which vendors compete to provide goods or services at the lowest selling price in an open and interactive environment.

(b) The provisions of section 16C.06, subdivisions 2 and 3, do not apply when the commissioner determines that a reverse auction is the appropriate purchasing process.

(c) Notwithstanding any other law, the commissioner of transportation may not award contracts for highway construction or engineering services using a reverse auction process.

Sec. 3. Minnesota Statutes 2002, section 103G.222, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENTS.] (a) Wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value under a replacement plan approved as provided in section 103G.2242, a replacement plan under a local governmental unit's comprehensive wetland protection and management plan approved by the board under section 103G.2243, or, if a permit to mine is required under section 93.481, under a mining reclamation plan approved by the commissioner under the permit to mine. Mining reclamation plans shall apply the same principles and standards for replacing wetlands by restoration or creation of wetland areas that are applicable to mitigation plans approved as provided in section 103G.2242. Public value must be determined in accordance with section 103B.3355 or a comprehensive wetland protection and management plan established under section 103G.2243. Sections 103G.221 to 103G.2372 also apply to excavation in permanently and semipermanently flooded areas of types 3, 4, and 5 wetlands.

(b) Replacement must be guided by the following principles in descending order of priority:

(1) avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;

(2) minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;

(3) rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;

(4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity;

(5) compensating for the impact by restoring a wetland; and

(6) compensating for the impact by replacing or providing substitute wetland resources or environments.

For a project involving the draining or filling of wetlands in an amount not exceeding 10,000 square feet more than the applicable amount in section 103G.2241, subdivision 9, paragraph (a), the local government unit may make an on-site sequencing determination without a written alternatives analysis from the applicant.

(c) If a wetland is located in a cultivated field, then replacement must be accomplished through restoration only without regard to the priority order in paragraph (b), provided that a deed restriction is placed on the altered wetland prohibiting nonagricultural use for at least ten years.

(d) Restoration and replacement of wetlands must be accomplished in accordance with the ecology of the landscape area affected.

(e) Except as provided in paragraph (f), for a wetland or public waters wetland located on nonagricultural land, replacement must be in the ratio of two acres of replaced wetland for each acre of drained or filled wetland.

(f) For a wetland or public waters wetland located on agricultural land or in a greater than 80 percent area, replacement must be in the ratio of one acre of replaced wetland for each acre of drained or filled wetland.

(g) For a wetland or public waters wetland impacted by a public transportation project located in a 50 to 80 percent area, the replacement must be in a ratio of 1-1/2 acres of replaced wetland for each acre of drained or filled wetland.

(h) Wetlands that are restored or created as a result of an approved replacement plan are subject to the provisions of this section for any subsequent drainage or filling.

~~(h)~~ (i) Except in a greater than 80 percent area, only wetlands that have been restored from previously drained or filled wetlands, wetlands created by excavation in nonwetlands, wetlands created by dikes or dams along public or private drainage ditches, or wetlands created by dikes or dams associated with the restoration of previously drained or filled wetlands may be used in a statewide banking program established in rules adopted under section 103G.2242, subdivision 1. Modification or conversion of nondegraded naturally occurring wetlands from one type to another are not eligible for enrollment in a statewide wetlands bank.

~~(i)~~ (j) The technical evaluation panel established under section 103G.2242, subdivision 2, shall ensure that sufficient time has occurred for the wetland to develop wetland characteristics of soils, vegetation, and hydrology before recommending that the wetland be deposited in the statewide wetland bank. If the technical evaluation panel has reason to believe that the wetland characteristics may change substantially, the panel shall postpone its recommendation until the wetland has stabilized.

~~(j)~~ (k) This section and sections 103G.223 to 103G.2242, 103G.2364, and 103G.2365 apply to the state and its departments and agencies.

~~(k)~~ (l) For projects involving draining or filling of wetlands associated with a new public transportation project ~~in a greater than 80 percent area~~, public transportation authorities~~, other than the state department of transportation, may purchase credits from the state wetland bank established with proceeds from Laws 1994, chapter 643, section 26, subdivision 3, paragraph (c). Wetland banking credits may be purchased at the least of the following, but in no~~

~~case shall the purchase price be less than $400 per acre: (1) the cost to the state to establish the credits; (2) the average estimated market value of agricultural land in the township where the road project is located, as determined by the commissioner of revenue; or (3) the average value of the land in the immediate vicinity of the road project as determined by the county assessor. Public transportation authorities in a less than 80 percent area~~ may purchase credits from the state at the cost to the state to establish credits.

~~(l)~~ (m) A replacement plan for wetlands is not required for individual projects that result in the filling or draining of wetlands for the repair, rehabilitation, reconstruction, or replacement of a currently serviceable existing state, city, county, or town public road necessary, as determined by the public transportation authority, to meet state or federal design or safety standards or requirements, excluding new roads ~~or roads expanded solely for additional traffic capacity lanes~~. This paragraph only applies to authorities for public transportation projects that:

(1) minimize the amount of wetland filling or draining associated with the project and consider mitigating important site-specific wetland functions on-site;

(2) except as provided in clause (3), submit project-specific reports to the board, the technical evaluation panel, the commissioner of natural resources, and members of the public requesting a copy at least 30 days prior to construction that indicate the location, amount, and type of wetlands to be filled or drained by the project or, alternatively, convene an annual meeting of the parties required to receive notice to review projects to be commenced during the upcoming year; and

(3) for minor and emergency maintenance work impacting less than 10,000 square feet, submit project-specific reports, within 30 days of commencing the activity, to the board that indicate the location, amount, and type of wetlands that have been filled or drained.

Those required to receive notice of public transportation projects may appeal minimization, delineation, and on-site mitigation decisions made by the public transportation authority to the board according to the provisions of section 103G.2242, subdivision 9. The technical evaluation panel shall review minimization and delineation decisions made by the public transportation authority and provide recommendations regarding on-site mitigation if requested to do so by the local government unit, a contiguous landowner, or a member of the technical evaluation panel.

Except for state public transportation projects, for which the state department of transportation is responsible, the board must replace the wetlands, and wetland areas of public waters if authorized by the commissioner or a delegated authority, drained or filled by public transportation projects on existing roads, except for those that are exempt under section 103G.2241, subdivisions 5 and 9, paragraph (a), clause (5). The department of transportation may enter into an agreement with the board to replace wetlands according to this paragraph.

Public transportation authorities at their discretion may deviate from federal and state design standards on existing road projects when practical and reasonable to avoid wetland filling or draining, provided that public safety is not unreasonably compromised. The local road authority and its officers and employees are exempt from liability for any tort claim for injury to persons or property arising from travel on the highway and related to the deviation from the design standards for construction or reconstruction under this paragraph. This paragraph does not preclude an action for damages arising from negligence in construction or maintenance on a highway.

~~(m)~~ (n) If a landowner seeks approval of a replacement plan after the proposed project has already affected the wetland, the local government unit may require the landowner to replace the affected wetland at a ratio not to exceed twice the replacement ratio otherwise required.

~~(n)~~ (o) A local government unit may request the board to reclassify a county or watershed on the basis of its percentage of presettlement wetlands remaining. After receipt of satisfactory documentation from the local government, the board shall change the classification of a county or watershed. If requested by the local government unit, the board must assist in developing the documentation. Within 30 days of its action to approve a change of wetland classifications, the board shall publish a notice of the change in the Environmental Quality Board Monitor.

~~(o)~~ (p) One hundred citizens who reside within the jurisdiction of the local government unit may request the local government unit to reclassify a county or watershed on the basis of its percentage of presettlement wetlands remaining. In support of their petition, the citizens shall provide satisfactory documentation to the local government unit. The local government unit shall consider the petition and forward the request to the board under paragraph ~~(n)~~ (o) or provide a reason why the petition is denied.

Sec. 4. Minnesota Statutes 2002, section 103G.222, subdivision 3, is amended to read:

Subd. 3. [WETLAND REPLACEMENT SITING.] (a) Siting wetland replacement must follow this priority order:

(1) on site or in the same minor watershed as the affected wetland;

(2) in the same watershed as the affected wetland;

(3) in the same county as the affected wetland;

(4) in an adjacent watershed or county to the affected wetland; and

(5) statewide, only for wetlands affected in greater than 80 percent areas and for public transportation projects, except that wetlands affected in less than 50 percent areas must be replaced in less than 50 percent areas, and wetlands affected in the seven-county metropolitan area must be replaced in the ~~affected county or, if no restoration opportunities exist in the county, in another~~ area comprised of the major watersheds that drain into the seven-county metropolitan area county.

(b) The exception in paragraph (a), clause (5), does not apply to replacement completed using wetland banking credits established by a person who submitted a complete wetland banking application to a local government unit by April 1, 1996.

(c) When reasonable, practicable, and environmentally beneficial replacement opportunities are not available in siting priorities listed in paragraph (a), the applicant may seek opportunities at the next level.

(d) For the purposes of this section, "reasonable, practicable, and environmentally beneficial replacement opportunities" are defined as opportunities that:

(1) take advantage of naturally occurring hydrogeomorphological conditions and require minimal landscape alteration;

(2) have a high likelihood of becoming a functional wetland that will continue in perpetuity;

(3) do not adversely affect other habitat types or ecological communities that are important in maintaining the overall biological diversity of the area; and

(4) are available and capable of being done after taking into consideration cost, existing technology, and logistics consistent with overall project purposes.

(e) Regulatory agencies, local government units, and other entities involved in wetland restoration shall collaborate to identify potential replacement opportunities within their jurisdictional areas.

Sec. 5. [117.036] [APPRAISAL AND NEGOTIATION REQUIREMENTS APPLICABLE TO ACQUISITION OF PROPERTY FOR TRANSPORTATION PURPOSES.]

Subdivision 1. [APPLICATION.] This section applies to the acquisition of property for public highways, streets, roads, alleys, airports, mass transit facilities, or for other transportation facilities or purposes.

Subd. 2. [APPRAISAL.] (a) Before commencing an eminent domain proceeding under this chapter, the acquiring authority must obtain at least one appraisal for the property proposed to be acquired. In making the appraisal, the appraiser must confer with one or more of the owners of the property, if reasonably possible. At least 20 days before presenting a petition under section 117.055, the acquiring authority must provide the owner with a copy of the appraisal and inform the owner of the owner's right to obtain an appraisal under this section.

(b) The owner may obtain an appraisal by a qualified appraiser of the property proposed to be acquired. The owner is entitled to reimbursement for the reasonable costs of the appraisal from the acquiring authority up to a maximum of $1,500 at the time the owner submits the appraisal to the acquiring authority, provided that the owner does so within 60 days after the owner receives the appraisal from the authority under paragraph (a).

Sec. 6. Minnesota Statutes 2002, section 138.40, subdivision 2, is amended to read:

Subd. 2. [COMPLIANCE, ENFORCEMENT, PRESERVATION.] State and other governmental agencies shall comply with and aid in the enforcement of provisions of sections 138.31 to 138.42. Conservation officers and other enforcement officers of the department of natural resources shall enforce the provisions of sections 138.31 to 138.42 and report violations to the director of the society. When archaeological or historic sites are known or based on investigations or are suspected to exist on public lands or waters, or in the case of a public highway project undertaken by a road authority are known or based on scientific investigations are predicted to exist, the agency or department controlling said lands or waters shall use the professional services of archaeologists from the University of Minnesota, Minnesota historical society, or other qualified professional archaeologists, to preserve these sites. In the event that archaeological excavation is required to protect or preserve these sites, state and other governmental agencies may use their funds for such activities.

Sec. 7. Minnesota Statutes 2002, section 138.40, subdivision 3, is amended to read:

Subd. 3. [REVIEW OF PLANS.] When significant archaeological or historic sites are known or suspected to exist on public lands or waters, or in the case of a public highway project undertaken by a road authority are known or based on scientific investigations are predicted to exist, the agency or department controlling said lands or waters shall submit construction or development plans to the state archaeologist and the director of the society for review prior to the time bids are advertised. The state archaeologist and the society shall promptly review such plans and within 30 days of receiving the plans shall make recommendations for the preservation of archaeological or historic sites which may be endangered by construction or development activities. When archaeological or historic sites are related to Indian history or religion, the state archaeologist shall submit the plans to the Indian affairs council for the council's review and recommend action.

Sec. 8. Minnesota Statutes 2002, section 160.28, is amended by adding a subdivision to read:

Subd. 3. [REST AREA LEASE AGREEMENTS.] (a) Except as provided in paragraph (e), notwithstanding any other law the commissioner may enter into lease agreements, through negotiations or best value, with private entities relating to the use of highway rest areas.

(b) A lease under this subdivision may:

(1) prescribe a term of up to 20 years, with the approval of the commissioner of administration, and may be renewable for additional terms;

(2) provide for corporate or business sponsorship of a rest area for a fee to be determined by the commissioner;

(3) allow the lessee to offer for sale products or service that the commissioner deems appropriate for sale in a highway rest area; and

(4) allow the lessee to add leasehold improvements to the site.

(c) A lease agreement for a rest area is subject to section 160.282 and must allow the commissioner to negotiate maintenance service agreements that promote and encourage the employment of needy elderly persons.

(d) Revenues from leases or sponsorships authorized under this subdivision must be deposited in a highway rest area lease account in the special revenue fund. Money in the account is appropriated to the commissioner for administration of the rest area program.

(e) Nothing in this subdivision affects existing contracts under section 248.07 or their renewal.

(f) The commissioner shall take no action under this subdivision that would result in the loss of federal highway funds or require the payment of highway funds to the federal government.

Sec. 9. [160.93] [USER FEES; HIGH-OCCUPANCY VEHICLE LANES.]

Subdivision 1. [FEES AUTHORIZED.] To improve efficiency and provide more options to individuals traveling in a trunk highway corridor, the commissioner of transportation may charge user fees to owners of single-occupant vehicles using designated high-occupancy vehicle lanes. The fees may be collected using electronic or other toll-collection methods and may vary in amount with the time of day and level of traffic congestion within the corridor. The commissioner shall consult with the metropolitan council and obtain necessary federal authorizations before implementing user fees on a high-occupancy vehicle lane. Fees under this section are not subject to section 16A.1283.

Subd. 2. [DEPOSIT OF REVENUES; APPROPRIATION.] Money collected from fees authorized under subdivision 1 must be deposited in a high-occupancy vehicle lane user fee account in the special revenue fund. A separate account must be established for each trunk highway corridor. Money in the account is appropriated to the commissioner. From this appropriation the commissioner shall pay all costs of implementing and administering the fee collection system for that corridor. The commissioner shall spend remaining money in the account as follows:

(1) one-half must be spent for transportation capital improvements within the corridor; and

(2) one-half must be transferred to the metropolitan council for expansion and improvement of bus transit services within the corridor beyond the level of service provided on January 1, 2003.

Subd. 3. [EXEMPTIONS.] With respect to this section, the commissioner is exempt from statutory rulemaking requirements and from sections 160.84 to 160.92 and 161.162 to 161.167.

Sec. 10. Minnesota Statutes 2002, section 161.08, is amended to read:

161.08 [~~BOOKS OF ACCOUNT~~ RECORDS AND REPORTS.]

Subdivision 1. [BOOKS OF ACCOUNT.] (a) The commissioner shall keep accurate and complete books of account as may be prescribed by the commissioner of finance, the same to show in detail itemized receipts and disbursements of the trunk highway fund. The books of account shall show the following facts, among others:

(1) the expenses of maintaining the transportation department, including the salaries and expenses of the individual members thereof;

(2) the amounts of money expended in each county of the state for the construction of trunk highways, and when, where, and upon what job or portion of road expended so that the cost per mile of such construction can be easily ascertained;

(3) any other money expended by the state in connection with any roads other than trunk highways and when, where, and upon what portion of road so expended; and

(4) the amount of road equipment and materials purchased, and when, where, and from whom purchased, and the price paid for each item.

(b) The original invoices shall form a part of the permanent files and records in the department of transportation and be open to public inspection.

Subd. 2. [BIENNIAL REPORT.] No later than October 15 of each odd-numbered year, the commissioner shall report to the legislature the total expenditures from the trunk highway fund during the previous biennium in each of the following categories: road construction; planning; professional and technical contracts; design and engineering; labor; compliance with environmental requirements; acquisition of right-of-way; litigation costs, including payment of claims, settlements, and judgments; maintenance; and road operations.

Sec. 11. Minnesota Statutes 2002, section 161.20, subdivision 3, is amended to read:

Subd. 3. [TRUNK HIGHWAY FUND APPROPRIATIONS.] The commissioner may expend trunk highway funds only for trunk highway purposes. Payment of expenses related to ~~sales tax,~~ bureau of criminal apprehension laboratory, office of tourism kiosks, Minnesota safety council, tort claims, driver education programs, emergency medical services board, and Mississippi River parkway commission do not further a highway purpose and do not aid in the construction, improvement, or maintenance of the highway system.

Sec. 12. Minnesota Statutes 2002, section 164.12, is amended to read:

164.12 [ROAD ON TOWN LINE.]

Subdivision 1. [PROPOSAL TO ESTABLISH; MAINTAIN.] When adjoining towns propose to establish, alter, ~~or~~ vacate, or maintain a road on or along the line between such towns they shall proceed as hereinafter provided.

Subd. 2. [DIVISION OF RESPONSIBILITIES.] The town boards shall divide the length of the road proposed to be established, altered, ~~or~~ vacated, or maintained into two parts. When it is proposed to establish or alter a road, the division shall be made so as to divide as nearly equal as possible the cost of right-of-way, construction, and maintenance of the entire road. If the proposal is to vacate a road, the division shall be made so as to divide as nearly equal as possible any damages that may be occasioned thereby.

Subd. 3. [AGREEMENT.] After the division the boards shall enter into an agreement specifying which part shall be vacated, or opened, constructed, and maintained by each. Thereafter, each board shall proceed in the manner and subject to the same review as provided in section 164.06 or section 164.07.

Subd. 4. [JOINT CONTRACT.] When a town line road is established ~~or~~, altered, or maintained as provided herein, the boards may jointly let a contract covering all or part of the work to be performed on the road. If a joint contract is not let each town board shall open and construct its portion thereof as expeditiously as possible.

Subd. 5. [PORTION OF ROAD TAKEN BY STATE OR COUNTY.] If a portion of a town line road is taken over by the state as a trunk highway, or by a county as a county state-aid highway or county highway, the town boards concerned shall divide the portions of the town line road not taken over by the state or county, so that the cost of construction, reconstruction, and maintenance thereof will be apportioned as nearly equal as possible. After such division the boards shall enter into an agreement specifying which part shall be constructed and maintained by each.

Subd. 6. [FAILURE TO AGREE.] (a) When the town boards cannot agree upon a division as provided in subdivision 2 or subdivision 5, or upon the petition of either town board when a division previously agreed upon has proved to be inequitable, the county board, or where the road is on a county line the county boards of the counties concerned, shall determine the proper division of responsibility. In making such division the county board or boards shall follow the procedure provided for in subdivision 2 or 5. Where deemed necessary the services of the county engineer may be used.

(b) When for any reason an agreement under paragraph (a) cannot be reached, the town board of either or both towns may request to have the matter determined through mediation, arbitration, mediation-arbitration (med-arb), or other form of alternative dispute resolution as described in Rule 114.02 of the General Rules of Practice for the District Courts. The parties may select a neutral who does not qualify under Rule 114.02. Mediated settlement agreements must be in accordance with the Minnesota Civil Mediation Act, sections 572.31 to 572.40. Arbitrated agreements and med-arb agreements must be final and binding.

Sec. 13. Minnesota Statutes 2002, section 168.12, subdivision 5, is amended to read:

Subd. 5. [ADDITIONAL FEE.] (a) In addition to any fee otherwise authorized or any tax otherwise imposed upon any motor vehicle, the payment of which is required as a condition to the issuance of any number license plate or plates, the commissioner of public safety ~~may~~ shall impose ~~a~~ the fee specified in paragraph (b) that is calculated to cover the cost of manufacturing and issuing the license plate or plates, except for license plates issued to disabled veterans as defined in section 168.031 and license plates issued pursuant to section 168.124, 168.125, or 168.27, subdivisions 16 and 17, for passenger automobiles. Graphic design license plates shall only be issued for vehicles registered pursuant to section 168.017 and recreational vehicles registered pursuant to section 168.013, subdivision 1g.

(b) Unless otherwise specified or exempted by statute, the following plate and validation sticker fees apply for the original, duplicate, or replacement issuance of a plate in a plate year:

Sequential Double Plate	$4.25
Sequential Special Plate-Double	$7.00
Sequential Single Plate	$3.00
Sequential Special Plate-Single	$5.50
Self-Adhesive Plate	$2.50

Nonsequential Double Plate	$14.00
Nonsequential Single Plate	$10.00
Duplicate Sticker	$1.00

(c) Fees collected under this subdivision must be paid into the state treasury and credited to the highway user tax distribution fund.

Sec. 14. Minnesota Statutes 2002, section 168.54, subdivision 4, is amended to read:

Subd. 4. [TRANSFER FEE.] A fee of ~~$2~~ $3 is imposed upon every transfer of ownership by the commissioner of public safety of any motor vehicle for which a registration certificate has heretofore been issued under this chapter, except vehicles sold for the purposes of salvage or dismantling or permanent removal from the state.

Sec. 15. Minnesota Statutes 2002, section 168A.29, subdivision 1, is amended to read:

Subdivision 1. [AMOUNTS.] (a) The department shall be paid the following fees:

(1) for filing an application for and the issuance of an original certificate of title, the sum of ~~$2~~ $3;

(2) for each security interest when first noted upon a certificate of title, including the concurrent notation of any assignment thereof and its subsequent release or satisfaction, the sum of $2, except that no fee is due for a security interest filed by a public authority under section 168A.05, subdivision 8;

(3) for the transfer of the interest of an owner and the issuance of a new certificate of title, the sum of ~~$2~~ $3;

(4) for each assignment of a security interest when first noted on a certificate of title, unless noted concurrently with the security interest, the sum of $1;

(5) for issuing a duplicate certificate of title, the sum of $4.

(b) After June 30, 1994, in addition to each of the fees required under paragraph (a), clauses (1) and (3), the department shall be paid $3.50. The additional fee collected under this paragraph must be deposited in the special revenue fund and credited to the public safety motor vehicle account established in section 299A.70.

Sec. 16. Minnesota Statutes 2002, section 169.14, is amended by adding a subdivision to read:

Subd. 2a. [SPEED LIMIT ON INTERSTATE HIGHWAY 35E.] The commissioner shall designate the speed limit on marked interstate highway 35E from West Seventh Street to marked interstate highway 94 in St. Paul as 55 miles per hour, unless the commissioner designates a different speed limit on that highway after conducting an engineering and traffic investigation under subdivision 4 and determining on the basis of the investigation that a different speed limit is reasonable and safe. Any speed in excess of a speed limit designated under this section is unlawful.

[EFFECTIVE DATE.] This section is effective August 1, 2003.

Sec. 17. Minnesota Statutes 2002, section 169.791, subdivision 1, is amended to read:

Subdivision 1. [TERMS DEFINED.] (a) For purposes of this section and sections 169.792 to ~~169.799~~ 169.798, the following terms have the meanings given.

(b) "Commissioner" means the commissioner of public safety.

(c) "District court administrator" or "court administrator" means the district court administrator or a deputy district court administrator of the district court that has jurisdiction of a violation of this section.

(d) "Insurance identification card" means a card issued by an obligor to an insured stating that security as required by section 65B.48 has been provided for the insured's vehicle.

(e) "Law enforcement agency" means the law enforcement agency that employed the peace officer who demanded proof of insurance under this section or section 169.792.

(f) "Peace officer" or "officer" means an employee of a political subdivision or state law enforcement agency, including the Minnesota state patrol, who is licensed by the Minnesota board of peace officer standards and training and is authorized to make arrests for violations of traffic laws.

(g) "Proof of insurance" means an insurance identification card, written statement, or insurance policy as defined by section 65B.14, subdivision 2.

(h) "Vehicle" means a motor vehicle as defined in section 65B.43, subdivision 2, or a motorcycle as defined in section 65B.43, subdivision 13.

(i) "Written statement" means a written statement by a licensed insurance agent stating the name and address of the insured, the vehicle identification number of the insured's vehicle, that a plan of reparation security as required by section 65B.48 has been provided for the insured's vehicle, and the dates of the coverage.

(j) The definitions in section 65B.43 apply to sections 169.792 to ~~169.799~~ 169.798.

Sec. 18. Minnesota Statutes 2002, section 169.796, is amended by adding a subdivision to read:

Subd. 3. [SAMPLING TO VERIFY INSURANCE COVERAGE.] (a) The commissioner of public safety may implement a monthly sampling program to verify insurance coverage. The sample must annually include at least two percent of all drivers who own motor vehicles, as defined in section 168.011, licensed in the state, one-half of whom during the previous year have been convicted of at least one vehicle insurance law violation, have had a driver's license revoked or suspended due to habitual violation of traffic laws, have had no insurance in effect at the time of a reportable crash, or have been convicted of an alcohol-related motor vehicle offense. No sample may be selected based on race, religion, physical or mental disability, economic status, or geographic location.

(b) The commissioner shall request each vehicle owner included in the sample to furnish insurance coverage information to the commissioner within 30 days. The request must require the owner to state whether or not all motor vehicles owned by that person were insured on the verification date stated in the commissioner's request. The request may require, but is not limited to, a signed statement by the owner that the information is true and correct, the names and addresses of insurers, policy numbers, and expiration or renewal dates of insurance coverage.

(c) The commissioner shall conduct a verification of the response by transmitting necessary information to the insurance companies named in the owner's response.

(d) The insurance companies shall electronically notify the commissioner, within 30 days of the commissioner's request, of any false statements regarding coverage.

(e) The commissioner shall suspend, without preliminary hearing, the driver's license, if any, of a vehicle owner who falsely claims coverage, who indicates that coverage was not in effect at the time specified in the request, or who fails to respond to the commissioner's request to furnish proof of insurance. The commissioner shall comply with the notice requirement of section 171.18, subdivision 2.

(f) Before reinstatement of the driver's license, there must be filed with the commissioner of public safety the written certificate of an insurance carrier authorized to do business in the state stating that security has been provided as required by section 65B.48. The commissioner of public safety may require the certificate of insurance provided to satisfy this subdivision to be certified by the insurance carrier for a period not to exceed one year. The commissioner of public safety may also require a certificate of insurance to be filed with respect to all vehicles required to be insured under section 65B.48 and owned by any person whose driving privileges have been suspended as provided in this section before reinstating the person's driver's license.

Sec. 19. Minnesota Statutes 2002, section 169.797, subdivision 4a, is amended to read:

Subd. 4a. [REGISTRATION REVOCATION AND LICENSE SUSPENSION.] The commissioner of public safety shall revoke the registration of any vehicle and ~~may~~ shall suspend the driver's license of any operator, without preliminary hearing upon a showing by department records, including accident reports required to be submitted by section 169.09, or other sufficient evidence that security required by section 65B.48 has not been provided and maintained. Before reinstatement of the registration, there shall be filed with the commissioner of public safety the written certificate of an insurance carrier authorized to do business in the state stating that security has been provided as required by section 65B.48. The commissioner of public safety may require the certificate of insurance provided to satisfy this subdivision to be certified by the insurance carrier to be noncancelable for a period not to exceed one year. The commissioner of public safety may also require a certificate of insurance to be filed with respect to all vehicles required to be insured under section 65B.48 and owned by any person whose driving privileges have been suspended or revoked as provided in this section before reinstating the person's driver's license.

Sec. 20. Minnesota Statutes 2002, section 169.798, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY.] The commissioner of public safety shall have the power and perform the duties imposed by this section and sections 65B.41 to 65B.71~~, this section,~~ and ~~sections~~ 169.797 ~~and 169.799,~~ and may adopt rules to implement and provide effective administration of the provisions requiring security and governing termination of security.

Sec. 21. Minnesota Statutes 2002, section 169.798, is amended by adding a subdivision to read:

Subd. 4. [ATTESTATION OF INSURANCE REQUIRED.] Every owner, when applying for motor vehicle or motorcycle registration, reregistration, or transfer of ownership, must attest that the motor vehicle or motorcycle is covered by an insurance policy.

Sec. 22. Minnesota Statutes 2002, section 171.20, subdivision 4, is amended to read:

Subd. 4. [REINSTATEMENT FEE.] (a) Before the license is reinstated, (1) a person whose driver's license has been suspended under section 171.16, subdivision 2; 171.18, except subdivision 1, clause (10); or 171.182, or who has been disqualified from holding a commercial driver's license under section 171.165, and (2) a person whose driver's license has been suspended under section 171.186 and who is not exempt from such a fee, must pay a fee of $20.

(b) Before the license is reinstated, a person whose license has been suspended or revoked under sections 169.791 to 169.798 must pay a $30 reinstatement fee.

(c) When fees are collected by a licensing agent appointed under section 171.061, a handling charge is imposed in the amount specified under section 171.061, subdivision 4. The reinstatement fee and surcharge must be deposited in an approved state depository as directed under section 171.061, subdivision 4.

(d) A suspension may be rescinded without fee for good cause.

Sec. 23. Minnesota Statutes 2002, section 171.29, subdivision 2, is amended to read:

Subd. 2. [REINSTATEMENT FEES AND SURCHARGES, ALLOCATION.] (a) A person whose driver's license has been revoked as provided in subdivision 1, except under section 169A.52, 169A.54, or 609.21, shall pay a $30 fee before the driver's license is reinstated.

(b) A person whose driver's license has been revoked as provided in subdivision 1 under section 169A.52, 169A.54, or 609.21, shall pay a ~~$250~~ $300 fee plus a $40 surcharge before the driver's license is reinstated. Beginning July 1, 2002, the surcharge is $145. Beginning July 1, 2003, the surcharge is $380. The ~~$250~~ $300 fee is to be credited as follows:

(1) Twenty percent must be credited to the trunk highway fund.

(2) ~~Sixty-seven~~ Fifty-six percent must be credited to the general fund.

(3) Eight percent must be credited to a separate account to be known as the bureau of criminal apprehension account. Money in this account may be appropriated to the commissioner of public safety and the appropriated amount must be apportioned 80 percent for laboratory costs and 20 percent for carrying out the provisions of section 299C.065.

(4) ~~Five~~ Sixteen percent must be credited to a separate account to be known as the traumatic brain injury and spinal cord injury account. The money in the account is annually appropriated to the commissioner of health to be used as follows: ~~35~~ 83 percent for a contract with a qualified community-based organization to provide information, resources, and support to assist persons with traumatic brain injury and their families to access services, and ~~65~~ 17 percent to maintain the traumatic brain injury and spinal cord injury registry created in section 144.662. For the purposes of this clause, a "qualified community-based organization" is a private, not-for-profit organization of consumers of traumatic brain injury services and their family members. The organization must be registered with the United States Internal Revenue Service under section 501(c)(3) as a tax-exempt organization and must have as its purposes:

(i) the promotion of public, family, survivor, and professional awareness of the incidence and consequences of traumatic brain injury;

(ii) the provision of a network of support for persons with traumatic brain injury, their families, and friends;

(iii) the development and support of programs and services to prevent traumatic brain injury;

(iv) the establishment of education programs for persons with traumatic brain injury; and

(v) the empowerment of persons with traumatic brain injury through participation in its governance.

No patient's name, identifying information, or identifiable medical data will be disclosed to the organization without the informed voluntary written consent of the patient or patient's guardian or, if the patient is a minor, of the parent or guardian of the patient.

(c) The surcharge must be credited to a separate account to be known as the remote electronic alcohol-monitoring program account. The commissioner shall transfer the balance of this account to the commissioner of finance on a monthly basis for deposit in the general fund.

(d) When these fees are collected by a licensing agent, appointed under section 171.061, a handling charge is imposed in the amount specified under section 171.061, subdivision 4. The reinstatement fees and surcharge must be deposited in an approved state depository as directed under section 171.061, subdivision 4.

Sec. 24. Minnesota Statutes 2002, section 174.55, subdivision 2, is amended to read:

Subd. 2. [COMPOSITION.] The major transportation projects commission is composed of the governor or the governor's designee; four citizen members appointed by the governor and serving at the pleasure of the governor; seven senators appointed by the subcommittee on committees of the committee on rules and administration, three of whom must not be members of the senate majority party; and seven members of the house of representatives appointed by the speaker, three of whom must not be members of the house majority party. The commissioner of transportation shall serve as a nonvoting member unless the commissioner is the governor's designee. The commission shall elect a chair from among its members. Nongovernment members of the commission shall receive compensation in accordance with section 15.059, subdivision 3. The commission expires June 30, 2004.

Sec. 25. Minnesota Statutes 2002, section 179A.03, subdivision 7, is amended to read:

Subd. 7. [ESSENTIAL EMPLOYEE.] "Essential employee" means firefighters, peace officers subject to licensure under sections 626.84 to 626.863, 911 system and police and fire department public safety dispatchers, guards at correctional facilities, confidential employees, supervisory employees, assistant county attorneys, assistant city attorneys, principals, and assistant principals. However, for state employees, "essential employee" means all employees in law enforcement, public safety radio communications operators, health care professionals, correctional guards, professional engineering, and supervisory collective bargaining units, irrespective of severance, and no other employees. For University of Minnesota employees, "essential employee" means all employees in law enforcement, nursing professional and supervisory units, irrespective of severance, and no other employees. "Firefighters" means salaried employees of a fire department whose duties include, directly or indirectly, controlling, extinguishing, preventing, detecting, or investigating fires. Employees for whom the state court administrator is the negotiating employer are not essential employees.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 26. Minnesota Statutes 2002, section 179A.10, subdivision 2, is amended to read:

Subd. 2. [STATE EMPLOYEES.] Unclassified employees, unless otherwise excluded, are included within the units which include the classifications to which they are assigned for purposes of compensation. Supervisory employees shall only be assigned to units 12 and 16. The following are the appropriate units of executive branch state employees:

(1) law enforcement unit;

(2) craft, maintenance, and labor unit;

(3) service unit;

(4) health care nonprofessional unit;

(5) health care professional unit;

(6) clerical and office unit;

(7) technical unit;

(8) correctional guards unit;

(9) state university instructional unit;

(10) state college instructional unit;

(11) state university administrative unit;

(12) professional engineering unit;

(13) health treatment unit;

(14) general professional unit;

(15) professional state residential instructional unit; ~~and~~

(16) supervisory employees unit; and

(17) public safety radio communications operator unit.

Each unit consists of the classifications or positions assigned to it in the schedule of state employee job classification and positions maintained by the commissioner. The commissioner may only make changes in the schedule in existence on the day prior to August 1, 1984, as required by law or as provided in subdivision 4.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 27. Minnesota Statutes 2002, section 297B.09, subdivision 1, is amended to read:

Subdivision 1. [DEPOSIT OF REVENUES.] (a) Money collected and received under this chapter must be deposited as provided in this subdivision.

(b) ~~From July 1, 2001, to June 30, 2002, 30.86 percent of the money collected and received must be deposited in the highway user tax distribution fund, and the remaining money must be deposited in the general fund.~~

~~(c)~~ On and after July 1, 2002, 32 percent of the money collected and received must be deposited in the highway user tax distribution fund, ~~20.5 percent must be deposited in the metropolitan area transit fund under section 16A.88,~~ and 1.25 percent must be deposited in the greater Minnesota transit fund under section 16A.88. ~~In fiscal year 2004 and thereafter, two percent of the money collected and received must be deposited in the metropolitan area transit appropriation account under section 16A.88.~~ Of the money collected and received, $125,583,000 in each of fiscal years 2004 and 2005, and 20.5 percent thereafter, must be deposited in the metropolitan area transit fund under section 16A.88. The remaining money must be deposited in the general fund.

Sec. 28. Minnesota Statutes 2002, section 299A.465, subdivision 4, is amended to read:

Subd. 4. [PUBLIC EMPLOYER REIMBURSEMENT.] A public employer subject to this section may annually apply by August 1 for the preceding fiscal year to the commissioner of public safety for reimbursement to help defray a portion of its costs of complying with this section. The commissioner shall provide ~~reimbursement~~ an equal pro rata share to the public employer out of the public safety officer's benefit account based on the availability of funds for each eligible officer, firefighter, and qualifying dependents. Individual shares must not exceed the actual costs of providing coverage under this section by a public employer.

Sec. 29. [299A.80] [ADMINISTRATIVE POWERS AND PENALTIES; GENERAL.]

Subdivision 1. [DEFINITIONS.] (a) For purposes of sections 299A.80 to 299A.802, the terms defined in this subdivision have the meanings given them.

(b) "Administrative agent" means a person or entity licensed by or granted authority by the commissioner of public safety under:

(1) section 168.33 as a deputy registrar;

(2) section 168C.11 as a deputy registrar of bicycles; or

(3) section 171.061 as a driver's license agent.

(c) "Other authority" means licenses, orders, stipulation agreements, settlements, or compliance agreements adopted or issued by the commissioner of public safety.

(d) "Commissioner" means the commissioner of public safety.

(e) "License" means a license, permit, registration, appointment, or certificate issued or granted to an administrative agent by the commissioner of public safety.

Subd. 2. [APPLICABILITY.] Sections 299A.80 to 299A.802 apply to administrative agents licensed by or subject to other authority of the commissioner.

Subd. 3. [CUMULATIVE REMEDY.] The authority of the commissioner to issue a corrective order or assess an administrative penalty under sections 299A.80 to 299A.802 is in addition to other remedies available under statutory or common law, except that the state may not seek a civil penalty under any other law for a violation covered by an administrative penalty order. The payment of a penalty does not preclude the use of other enforcement provisions, under which civil fines are not assessed, in connection with the violation for which the penalty was assessed.

Subd. 4. [ACCESS TO INFORMATION AND PROPERTY.] The commissioner, an employee, or an agent authorized by the commissioner, upon presentation of credentials, may:

(1) examine and copy any books, papers, records, memoranda, or data of an administrative agent; and

(2) enter upon any property where an administrative agent conducts its place of business to take actions authorized under statute, rule, or other authority, including (i) obtaining information from an administrative agent who has a duty to provide information under statute, rule, or other authority, (ii) taking steps to remedy violations, or (iii) conducting surveys or investigations.

Subd. 5. [FALSE INFORMATION.] (a) An administrative agent may not:

(1) make a false material statement, representation, or certification in a required document;

(2) omit material information from a required document; or

(3) alter, conceal, or fail to file or maintain a required document.

(b) In this section, "required document" means a notice, application, record, report, plan, or other document required under statute, rule, or other authority.

Subd. 6. [ENFORCEMENT.] (a) The attorney general may proceed on behalf of the state to enforce administrative penalties that are due and payable under section 299A.802 in any manner provided by law for the collection of debts.

(b) The attorney general may petition the district court to file a final administrative penalty order as an order of the court. At any court hearing to enforce a final administrative penalty order, the only issues the parties may contest are procedural and notice issues. Once entered, the administrative penalty order may be enforced in the same manner as a final judgment of the district court. This paragraph does not preclude district court review of the merits of an administrative penalty order if the order is appealed by the administrative agent under section 299A.802, subdivision 5.

(c) If an administrative agent fails to pay an administrative penalty, the attorney general may bring a civil action in district court seeking payment of the penalty, injunctive relief, or other appropriate relief including monetary damages, attorney fees, costs, and interest.

Subd. 7. [RECOVERY OF REASONABLE COSTS AND ATTORNEY FEES.] (a) In any judicial action brought by the attorney general for civil penalties, injunctive relief, or an action to compel performance pursuant to this section, if the state finally prevails, and if the proven violation was willful, the state, in addition to other penalties provided by law, may be allowed an amount determined by the court to be the reasonable value of all or part of the costs and attorney fees incurred by the state or the prevailing party. In determining the amount of the reasonable costs and attorney fees to be allowed, the court must give consideration to the economic circumstances of the defendant.

(b) However, if a defendant prevails, the court may award the reasonable value of all or part of the reasonable costs and attorney fees incurred by the defendant.

Subd. 8. [EDUCATION AND COMPLIANCE ACCOUNT; MONEY ALLOCATED.] An education and compliance account is created for the deposit of administrative penalty order receipts. Of the funds deposited in this account, the commissioner is authorized to expend up to $5,000 per fiscal year for education and compliance activities related to the regulated parties affected by this chapter. At the end of each biennium, all money not expended lapses to the general fund.

Subd. 9. [PLAN FOR USING ADMINISTRATIVE PENALTIES AND CEASE AND DESIST AUTHORITY.] The commissioner shall prepare a plan for using the administrative penalty order and cease and desist authority in this section. The commissioner shall provide a 30-day period for public comment on the plan. The plan must be finalized by July 1, 2004, and may be modified as necessary upon subsequent notice and opportunity for comment.

Sec. 30. [299A.801] [CORRECTIVE ORDERS AND INJUNCTIONS.]

Subdivision 1. [CORRECTIVE ORDERS.] (a) Before seeking an administrative penalty order under section 299A.802, the commissioner must issue a corrective order that requires the administrative agent to correct the violation of statute, rule, or other authority. The corrective order must state the deficiencies that constitute the violation of the specific statute, rule, or other authority, and the time by which the violation must be corrected. In addition to service by certified mail on the administrative agent, a copy of the corrective order must be given to the county auditor in the county where the administrative agent is located.

(b) The administrative agent to whom the corrective order was issued shall provide information to the commissioner, by the due date stated in the corrective order, demonstrating that the violation has been corrected or that the administrative agent has developed a corrective plan acceptable to the commissioner. The commissioner must determine whether the violation has been corrected and notify the administrative agent subject to the order of the commissioner's determination.

(c) If the administrative agent believes that the information contained in the commissioner's corrective order is in error, the administrative agent may ask the commissioner to reconsider the parts of the corrective order that are alleged to be in error. The request must:

(1) be in writing;

(2) be delivered to the commissioner by certified mail within seven calendar days after receipt of the corrective order;

(3) specify which parts of the corrective order are alleged to be in error and explain why they are in error; and

(4) provide documentation to support the allegation of error.

(d) The commissioner shall respond to requests made under paragraph (c) within 15 calendar days after receiving a request. A request for reconsideration does not stay the corrective order; however, after reviewing the request for reconsideration, the commissioner may provide additional time to comply with the order if necessary. The commissioner's disposition of a request for reconsideration of a corrective order is final.

Subd. 2. [CEASE AND DESIST ORDER.] The commissioner, or an employee of the department designated by the commissioner, may issue an order to cease an activity otherwise authorized by statute, rule, or other authority if continuation of the activity would result in an immediate risk to public safety. A cease and desist order issued under this subdivision is effective for a maximum of 72 hours. In conjunction with issuing the cease and desist order, the commissioner may post a sign to cease an activity until the cease and desist order is lifted and the sign is removed by the commissioner. To restrain activities for a period beyond 72 hours, the commissioner must seek an injunction or take other administrative action authorized by law. The issuance of a cease and desist order does not preclude the commissioner from pursuing any other enforcement action available to the commissioner.

Subd. 3. [ACTION FOR INJUNCTIVE RELIEF.] In addition to any other remedy provided by law, the commissioner may bring an action for injunctive relief in the district court in Ramsey county or, at the commissioner's discretion, in the district court in the county in which a violation of a statute, rule, or other authority has occurred to enjoin the violation.

Sec. 31. [299A.802] [ADMINISTRATIVE PENALTY ORDERS.]

Subdivision 1. [GENERAL.] The commissioner may issue an administrative penalty order for a violation of statute, rule, or other authority if an administrative agent has failed to comply with a corrective order issued under section 299A.801 related to that violation. The maximum amount of an administrative penalty order is $10,000 for each administrative agent for all violations identified in an inspection or review of compliance. In addition to service by certified mail on the administrative agent, a copy of the administrative penalty order must be given to the county auditor in the county where the administrative agent is located.

Subd. 2. [AMOUNT OF PENALTY; CONSIDERATIONS.] (a) In determining the amount of a penalty to be assessed under this section, the commissioner may consider:

(1) the willfulness of the violation;

(2) the gravity of the violation, including damage to consumers or the state;

(3) the history of past violations;

(4) the number of violations;

(5) the economic benefit gained by the administrative agent by allowing or committing the violation; and

(6) other factors as justice may require, if the commissioner specifically identifies the additional factors in the commissioner's order.

(b) If an administrative agent violates a corrective order after a violation of a previous corrective order, the commissioner, in determining the amount of a penalty, must consider the factors in paragraph (a) and the following factors:

(1) similarity of the most recent previous violation of a corrective order and the violation to be penalized;

(2) time elapsed since the last violation of a corrective order;

(3) number of previous violations; and

(4) response of the administrative agent to the most recent previous violation identified.

Subd. 3. [CONTENTS OF ORDER.] An administrative penalty order under this section must include:

(1) a concise statement of the facts alleged to constitute a violation;

(2) a reference to the portion of the statute, rule, variance, order, or stipulation agreement or the term or condition of a permit that has been violated;

(3) a description of the violation of the corrective order that forms the basis for issuance of the administrative penalty order;

(4) a statement of the amount of the administrative penalty to be imposed and the factors upon which the penalty is based; and

(5) a statement of the administrative agent's right to review and appeal of the administrative penalty order.

Subd. 4. [DUE DATE.] (a) Unless the administrative agent requests review of the administrative penalty order under subdivision 5 before the penalty is due, the penalty in the order is due and payable on the 31st day after the administrative penalty order was received, if the administrative agent subject to the order fails to provide information to the commissioner showing that the violation has been corrected or that appropriate steps have been taken toward correcting the violation. These requirements may be waived or extended by the commissioner.

(b) Interest at the rate established in section 549.09 begins to accrue on penalties under this subdivision on the 31st day after the order with the penalty was received, unless waived by the commissioner.

Subd. 5. [EXPEDITED ADMINISTRATIVE HEARING.] (a) Within 30 days after receiving an administrative penalty order, the administrative agent subject to an order under this section may request an expedited hearing, using the procedures of Minnesota Rules, parts 1400.8510 to 1400.8612, or their successor rules, to review the commissioner's action. The hearing request must specifically state the reasons for seeking review of the administrative penalty order. The administrative agent to whom the administrative penalty order is directed and the commissioner are the parties to the expedited hearing. At least 15 days before the hearing, the commissioner shall notify the administrative agent to whom the administrative penalty order is directed of the time and place of the hearing. The expedited hearing must be held within 30 days after a request for hearing has been filed with the commissioner unless the parties agree to a later date.

(b) All written arguments must be submitted within ten days following the close of the hearing. The hearing must be conducted under Minnesota Rules, parts 1400.8510 to 1400.8612, or their successor rules, as modified by this subdivision. The office of administrative hearings, in consultation with the agency, may adopt rules specifically applicable to cases under this section.

(c) Within 30 days following the close of the record, the administrative law judge shall issue a report making recommendations about the commissioner's action to the commissioner. The administrative law judge may not recommend a change in the amount of the proposed administrative penalty unless the administrative law judge determines that, based on the factors in subdivision 1, the amount of the administrative penalty is unreasonable.

(d) If the administrative law judge makes a finding that the hearing was requested solely for purposes of delay or that the hearing request was frivolous, the commissioner may add to the amount of the administrative penalty the costs charged to the agency by the office of administrative hearings for the hearing.

(e) If a hearing has been held, the commissioner may not issue a final order until at least five days after receipt of the report of the administrative law judge. Within those five days, the administrative agent to whom an administrative penalty order is issued may comment to the commissioner on the recommendations and the commissioner shall consider the comments. The final administrative penalty order may be appealed to the district court for a de novo review of the order.

(f) If a hearing has been held and a final administrative penalty order issued by the commissioner, the administrative penalty must be paid by 30 days after the date the final order is received unless it is appealed to the district court. If an appeal is not taken or the administrative penalty order is upheld on appeal, the amount due is the administrative penalty, together with interest accruing from 31 days after the original order was received, at the rate established in section 549.09.

Subd. 6. [MEDIATION.] In addition to review under subdivision 5, the commissioner may enter into mediation concerning an order issued under this section if the commissioner and the administrative agent to whom the order is issued both agree to mediation.

Sec. 32. Minnesota Statutes 2002, section 299E.03, subdivision 3, is amended to read:

Subd. 3. [EXPIRATION AND COMPENSATION.] ~~Notwithstanding section 15.059,~~ The oversight committee ~~does not expire~~ expires June 30, 2004. Committee members may not receive compensation for serving, but may receive expense reimbursements as provided in section 15.059.

Sec. 33. [331A.12] [WEB SITE PUBLICATION OF LOCAL TRANSPORTATION RFP.]

Subdivision 1. [DEFINITIONS.] (a) The terms defined in this subdivision and section 331A.01 apply to this section.

(b) "Web site" means a specific, addressable location provided on a server connected to the Internet and hosting World Wide Web pages and other files that are generally accessible on the Internet all or most of the day.

Subd. 2. [DESIGNATION.] At the meeting of the governing body of the local public corporation at which the governing body must designate its official newspaper for the year, the governing body may designate in the same manner publication of transportation projects on the local public corporation's Web site. Publication on the Web site may be used in place of or in addition to any other required form of publication. Each year after designating publication on the Web site for transportation projects, the local public corporation must publish in a qualified newspaper in the jurisdiction and on the Web site, notice that the local public corporation will publish any advertisements for bids on its Web site.

Subd. 3. [FORM, TIME FOR PUBLICATION SAME.] A local public corporation that publishes on its Web site under this section must post the information in substantially the same format and for the same period of time as required for publication in an official newspaper or another other print publication.

Subd. 4. [RECORD RETENTION.] A local public corporation that publishes notice on its Web site under this section must ensure that a permanent record of publication is maintained in a form accessible by the public.

Sec. 34. [373.29] [EXEMPTION FROM PERMIT REQUIREMENTS.]

Notwithstanding any statute or rule that requires a county to obtain a permit to reconstruct or maintain a highway, a county that reconstructs or maintains a county or county state-aid highway within the right-of-way of an existing county or county state-aid highway is exempt from all permits. This exemption does not relieve any county from any substantive requirement imposed by law or rule other than a requirement to obtain a permit.

Sec. 35. [414.038] [EFFECT OF ANNEXATION OF TOWNSHIP ROADS.]

Whenever a municipality annexes property abutting one side of a township road, the segment of road abutting the annexed property must be treated as a line road and is subject to section 164.14. Whenever a municipality annexes the property on both sides of a township road, that portion of road abutting the annexed property ceases to be a town road and becomes the obligation of the annexing municipality. This section does not prohibit the annexing municipality from contracting with the township for continued maintenance of the road. Any portion of a township road that ceases to be a township road pursuant to this section may still be counted as a township road for the road-and-bridge account revenues for the year in which the annexation occurs.

Sec. 36. [414.039] [EFFECT OF ANNEXATION ON EASEMENTS.]

If a municipality annexes property in which the affected township holds any easement for the benefit of the public, the township's easement interest continues unless otherwise agreed to by the township.

Sec. 37. Minnesota Statutes 2002, section 471.345, subdivision 14, is amended to read:

Subd. 14. [DAMAGE AWARDS.] In any action brought challenging the validity of a municipal contract under this section, the court shall not award~~,~~ damages as any part of its judgment, ~~damages, or attorney's fees,~~ but may award an unsuccessful bidder the costs of preparing an unsuccessful bid. If the court finds that the municipality has engaged in unlawful bidding practices and invalidates the award of the bid, the court may award reasonable attorney fees and costs to the protester. If the court finds that the municipality did not violate the law, and the award is not invalidated, the court may award reasonable attorney fees and costs to the municipality if the court makes the further finding that the protest was filed without substantial basis in fact or law.

Sec. 38. [473.92] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The terms in sections 473.92 to 473.94 have the meanings given them in this section.

Subd. 2. [CAPITAL IMPROVEMENT PROJECT.] "Capital improvement project" means any of the following types of projects for which the council has authority under law to acquire easements by eminent domain: construction, expansion, or improvement of public transit facilities, including exclusive transit ways, park-and-ride facilities, passenger hubs, and vehicle maintenance facilities.

Subd. 3. [FINAL LAYOUT.] (a) "Final layout" means geometric layouts and supplemental drawings that show the location, character, dimensions, access, property or right-of-way limits, easements acquired, and explanatory information about a capital improvement project.

(b) In the case of public transit facilities, final layout includes any improvements to roadways, bridges, intersections, and approaches that are an essential element of the project.

Subd. 4. [CITY.] "City" means a home rule charter or statutory city within the metropolitan area.

Subd. 5. [GOVERNING BODY.] "Governing body" means the city council of a city.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 39. [473.93] [APPROVAL OF FINAL LAYOUT.]

Subdivision 1. [SUBMISSION OF FINAL LAYOUT.] Before proceeding with the construction of a capital improvement project lying within a city, the council shall submit to its governing body a final layout of the project. The final layout must be submitted as part of a report containing any supporting data that the council deems helpful to the governing body in reviewing the final layout submitted. The supporting data must include a detailed description of all easements that the council determines will be or may be taken by eminent domain.

Subd. 2. [GOVERNING BODY ACTION.] (a) Within 15 days of receiving a final layout from the council, the governing body shall schedule a public hearing on the final layout. The governing body shall, within 60 days of receiving a final layout from the council, conduct a public hearing at which the council shall present the final layout for the project. The governing body shall give at least 30 days' notice of the public hearing.

(b) Within 90 days from the date of the public hearing, the governing body shall approve or disapprove the final layout in writing, as provided in clause (1), (2), or (3):

(1) if the governing body approves the final layout or does not disapprove the final layout in writing within 90 days, in which case the final layout is deemed to be approved, the council may continue the project development;

(2) if the final construction plans for a project contain significant changes in acquisition of easements from the final layout approved by the governing body, the council shall resubmit the portion of the final construction plans where changes were made to the governing body. The governing body must approve or disapprove the changes, in writing, within 60 days from the date the council submits them;

(3) if the governing body disapproves the final layout, the council may make modifications requested by the municipality, decide not to proceed with the project, or refer the final layout to an appeal board.

(c) The appeal board shall consist of one member appointed by the chair of the council, one member appointed by the governing body, and a third member agreed upon by both the council chair and the governing body. If the council chair and the governing body cannot agree upon the third member, the chief justice of the supreme court shall appoint a third member within 14 days of the request of the council to appoint the third member.

Subd. 3. [APPEAL BOARD.] Within 30 days after referral of the final layout, the appeal board shall hold a hearing at which the council and the governing body may present the case for or against approval of the final layout referred. Not later than 60 days after the hearing, the appeal board shall recommend approval, approval with modifications, or disapproval of the final layout, making additional recommendations consistent with state and federal requirements as it considers appropriate. It shall submit a written report containing its findings and recommendations to the council and the governing body.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 40. [473.94] [COUNCIL ACTION.]

Subdivision 1. [ACTION ON APPROVED FINAL LAYOUT.] If the appeal board recommends approval of the final layout or does not submit its findings or recommendations within 60 days of the hearing, in which case the final layout is deemed approved, the council may prepare substantially similar final construction plans and proceed with the project. If the final construction plans contain significant changes in the acquisition of easements from the final layout approved by the appeal board, the council shall submit the portion of the final construction plan that shows the changes to the governing body for its approval or disapproval under section 473.93, subdivision 2.

Subd. 2. [ACTION ON FINAL LAYOUT APPROVED WITH CHANGES.] (a) If the appeal board approves the final layout with modifications, the council may:

(1) prepare final construction plans including the modifications, notify the governing body, and proceed with the project;

(2) decide not to proceed with the project; or

(3) prepare a new final layout and resubmit it to the governing body for approval or disapproval under section 473.93, subdivision 2.

(b) If the final construction plans contain significant changes in acquisition of easements from the final layout approved by the appeal board or the governing body, the council shall resubmit the portion of the final construction plans that shows the changes to the governing body for its approval or disapproval under section 473.93, subdivision 2.

Subd. 3. [ACTION ON DISAPPROVED FINAL LAYOUT.] If the appeal board disapproves the final layout, the council may:

(1) decide not to proceed with the project; or

(2) prepare a new final layout and submit it to the governing body for approval or disapproval under section 473.93, subdivision 2.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 41. Laws 1999, chapter 238, article 1, section 2, subdivision 2, is amended to read:

Subd. 2. Aeronautics	19,327,000	19,410,000

Summary by Fund

Airports	19,266,000	19,349,000
General	50,000	50,000
Trunk Highway	11,000	11,000

Except as otherwise provided, the appropriations in this subdivision are from the state airports fund.

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Airport Development and Assistance

2000	2001
13,948,000	13,948,000

$12,846,000 the first year and $12,846,000 the second year are for navigational aids, construction grants, and maintenance grants. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

These appropriations must be spent in accordance with Minnesota Statutes, section 360.305, subdivision 4.

Notwithstanding Minnesota Statutes, section 16A.28, subdivision 6, funds are available for five years after appropriation.

(b) Aviation Support

5,247,000 5,329,000

$65,000 the first year and $65,000 the second year are for the civil air patrol.

(c) Air Transportation Services

132,000 133,000

Summary by Fund

Airports	71,000	72,000
General	50,000	50,000
Trunk Highway	11,000	11,000

Sec. 42. Laws 2001, First Special Session chapter 8, article 1, section 2, subdivision 2, is amended to read:

Subd. 2. Aeronautics 20,748,000 20,489,000

Summary by Fund

Airports	20,687,000	20,428,000
General	50,000	50,000
Trunk Highway	11,000	11,000

Except as otherwise provided, the appropriations in this subdivision are from the state airports fund.

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Airport Development and Assistance

14,298,000 14,298,000

These appropriations must be spent according to Minnesota Statutes, section 360.305, subdivision 4.

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Notwithstanding Minnesota Statutes, section 16A.28, subdivision 6, funds are available for five years after appropriation.

(b) Aviation Support

6,315,000 6,053,000

$65,000 the first year and $65,000 the second year are for the civil air patrol.

$600,000 each year is for GPS navigation systems. Of this amount, $250,000 each year adds to the agency's budget base.

$400,000 the first year and $50,000 the second year are for the development of on-line aircraft registration capabilities.

(c) Air Transportation Services

135,000 138,000

Summary by Fund

Airports	74,000	77,000
General	50,000	50,000
Trunk Highway	11,000	11,000

The commissioner shall take all feasible actions to seek a waiver from the appropriate federal authorities that would allow the commissioner to sell the airplane described in Laws 1997, chapter 159, article 1, section 2, subdivision 2, clause (c). Any proceeds from the sale of the airplane must be deposited in the general fund.

Sec. 43. [TRANSFER FROM LOAN FUND.]

The commissioner of finance shall transfer to the general fund $8,200,000 of the money appropriated to the transportation revolving loan fund under Laws 2000, chapter 479, article 1, section 6, subdivision 2. This transfer must be made at the rate of $4,100,000 each year of the 2004-2005 biennium.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 44. [FEDERAL FUNDS ALLOCATION.]

The transportation advisory board of the metropolitan council must allocate federal congestion mitigation and air quality funds each year so that at least one-half of those funds are allocated to highway projects.

Sec. 45. [STUDY.]

The commissioner of transportation shall convene a panel consisting of highway users, motor carriers, current suppliers of goods and services to or for highway rest areas, and other persons directly affected by the department of transportation's highway rest area program. The panel shall consider:

(1) financing and partnership opportunities at highway rest areas;

(2) impact of changes in rest area operations on the blind and on low-income senior citizens; and

(3) impact of those changes on the safety of the traveling public and on motor carriers. The panel shall also evaluate the impact of these changes on the supply of parking for commercial vehicles and make recommendations on ways to preserve needed spaces and meet further demand.

By January 15, 2004, the commissioner shall report to the legislative committees having jurisdiction over transportation policy and finance on the findings and recommendations of the panel.

Sec. 46. [REPORT.]

The commissioner shall, to the maximum feasible extent, enter into lease agreements under section 160.28, subdivision 3. By January 15, 2005, the commissioner shall report to the legislative committees having jurisdiction over transportation policy and finance on existing lease agreements, revenues collected and projected, and the impact of the lease agreements and revenues on the highway rest area program.

Sec. 47. [RESTORATION OF STATE AIRPORTS FUND CASH BALANCE.]

Any money transferred from the state airports fund to the general fund during the fiscal year ending June 30, 2003, must be restored to the state airports fund by law effective July 1, 2007.

Sec. 48. [TRANSITION.]

Subdivision 1. [ASSIGNMENT OF JOB CLASSIFICATION TO UNIT.] The commissioner of the bureau of mediation services shall assign the job classifications and positions of employees working as public safety radio communications operators to state employee bargaining unit 17.

Subd. 2. [TERMS AND CONDITIONS OF EMPLOYMENT.] The terms and conditions of the collective bargaining agreement, memoranda of understanding, or other salary and benefit provisions covering public safety radio communications operators immediately before the effective date of this section remain in effect until a successor agreement between the commissioner of employee relations and the exclusive representative of bargaining unit 17 becomes effective, subject to Minnesota Statutes, section 179A.20, subdivision 6.

Subd. 3. [EXCLUSIVE REPRESENTATIVE.] The employee organization that is the exclusive representative of employees assigned to bargaining unit 17 on the day before the effective date of this section must be certified by the commissioner of the bureau of mediation services as the exclusive representative of newly created bargaining unit 17, subject to future changes as provided in Minnesota Statutes, section 179A.12. For employees assigned to bargaining unit 17, the exclusive representative retains all rights and obligations under the contract governing these employees immediately before the effective date of this section, so long as that contract continues to apply to those employees.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 49. [BUS RAPID TRANSIT STUDY.]

Subdivision 1. [STUDY REQUIRED.] The department of transportation shall conduct a study on the feasibility of implementing a bus rapid transit (BRT) system in the I-35W corridor from downtown Minneapolis through south Minneapolis and the cities of Richfield, Bloomington, Burnsville, and Lakeville. Bus rapid transit systems are those systems that provide for significantly faster operating bus speeds, integrated service, greater service reliability, and increased convenience through investments in bus infrastructure, equipment, technology, and operational improvements.

Subd. 2. [STUDY REQUIREMENTS.] The study must, at a minimum, include an analysis of the benefits and costs of implementing a bus rapid transit system that includes the following:

(1) frequent operation of buses on exclusive or near-exclusive right-of-way on marked interstate highway 35W;

(2) changes in bus or platform design and fare collection that provide for faster convenient boarding;

(3) station locations that are adjacent to, or easily accessible from, the exclusive right-of-way;

(4) traffic management improvements and traffic signal preemption on local streets within the I-35W corridor; and

(5) changes to existing transit services to provide for timely connections and transfers.

Subd. 3. [STUDY RECOMMENDATIONS.] The study must recommend:

(1) options for implementing bus rapid transit in the I-35W corridor;

(2) the associated cost of each option; and

(3) the anticipated benefits in terms of reduced travel times, increased ridership, increased mobility, and impacts on congestion levels within the corridor.

The study must be submitted by December 10, 2004, to the house of representatives and senate committees with jurisdiction over transportation policy and finance.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 50. [TRANSIT CENTER IN BROOKLYN CENTER.]

The metropolitan council must construct and maintain a transit center in Brooklyn Center to service the area. The center must include adequate bathroom facilities, must be climate controlled, and must be off the street. The center must be located north of Bass Lake Road, east of Shingle Creek Parkway, and west of marked trunk highway 100 and must be completed and operational by June 1, 2004.

Sec. 51. [STUDY; USE OF CENTERLINE RUMBLE STRIPS.]

The commissioner of transportation shall study the feasibility and practicability of:

(1) including milled-in rumble strips on the centerline of the highway in all projects for the construction, reconstruction, or resurfacing of two-lane trunk highways; and

(2) requiring that all projects for the construction, reconstruction, or resurfacing of two-lane county state-aid highways include milled-in rumble strips on the centerline of the highway.

Sec. 52. [SOUTHWEST CORRIDOR RAIL TRANSIT; PROHIBITIONS.]

Subdivision 1. [DEFINITION.] For purposes of this section, "southwest transit way corridor" means the southwest transit way corridor between Minneapolis and Eden Prairie as identified by the Hennepin county regional rail authority in its southwest corridor rail transit study.

Subd. 2. [PROHIBITIONS.] Neither the commissioner of transportation, the metropolitan council, nor the Hennepin county regional rail authority may take any action or spend any money for preliminary engineering, final design, or construction for light rail or commuter rail transit in the southwest transit way corridor.

Sec. 53. [MUNICIPAL CONSENT LAW AND CROSSTOWN HIGHWAY PROJECT.]

For purposes of obtaining municipal approval under Minnesota Statutes, sections 161.162 to 161.167, the entire marked interstate highway 35W/marked trunk highway 62 interchange improvement project is deemed to be entirely within the interstate highway system. On marked interstate highway 35W, the project limits are from 66th Street in the city of Richfield to 42nd Street in the city of Minneapolis. On marked trunk highway 62, the project limits are from the first interchange west of the commons area at Penn Avenue to the first interchange east of the commons section at Portland Avenue.

Sec. 54. [PLANTING REQUIREMENTS; RESTRICTIONS.]

(a) No state agency or soil and water conservation district may require the planting of native grass seeds or native wildflowers as a condition for the issuance of a permit to any local governmental unit.

(b) Paragraph (a) does not apply to grasses or flowers planted within replacement wetland acres.

Sec. 55. [REPEALER.]

(a) Minnesota Statutes 2002, section 16A.88, subdivision 3, is repealed.

(b) Minnesota Statutes 2002, section 169.794, is repealed.

(c) Minnesota Statutes 2002, section 169.799, is repealed.

(d) Minnesota Rules, part 7403.1300, is repealed.

(e) Minnesota Rules, part 7413.0400, is repealed.

(f) Minnesota Rules, part 7413.0500, is repealed.

Sec. 56. [EFFECTIVE DATE.]

This article is effective the day following final enactment, unless otherwise specified.

ARTICLE 3

TRUNK HIGHWAY BONDING

Section 1. [HIGHWAY AND TRANSIT APPROPRIATIONS.]

Subdivision 1. [TRUNK HIGHWAY PROJECTS FINANCED BY STATE BONDS.] (a) $550,000,000 is appropriated from the bond proceeds account in the trunk highway fund to the commissioner of transportation for trunk highway improvements. This appropriation is for:

(1) trunk highway improvements within the seven-county metropolitan area primarily for improving traffic flow and expanding highway capacity by eliminating traffic bottlenecks and improving segments of at-risk interregional corridors within the seven-county area; and

(2) trunk highway improvements on at-risk interregional corridors located outside the seven-county metropolitan area.

These appropriations include the cost of actual payment to landowners for lands acquired for highway right-of-way, payment to lessees, interest subsidies, and relocation expenses. Within each category in clauses (1) and (2), the commissioner shall spend not less than $25,000,000 on highway safety and capacity improvement projects including but not limited to the addition of lanes on trunk highway corridors with known safety problems.

(b) The commissioner of transportation may use up to $93,500,000 of this appropriation for program delivery.

(c) The commissioner shall use $50,000,000 of this appropriation for accelerating transit capital improvements on trunk highways such as shoulder bus lanes, bus park-and-ride facilities, and ramp meter-bypass facilities.

Subd. 2. [REPORT.] The commissioner shall report to the committees having jurisdiction over transportation finance in the house of representatives and senate, no later than January 15, 2004, on projects selected to be funded by this appropriation. The report must include the geographic distribution of the selected projects and their adherence to the criteria listed in subdivision 1.

Subd. 3. [PROHIBITION.] The commissioner shall not award a construction contract with the proceeds from this section until 30 days after the submission of the report required in subdivision 2.

Subd. 4. [BOND SALE EXPENSES.] $550,000 is appropriated from the bond proceeds account in the trunk highway fund to the commissioner of finance for bond sale expenses under Minnesota Statutes, section 16A.641, subdivision 8.

Subd. 5. [ANTILAPSE.] Notwithstanding other law to the contrary, the appropriations in this section do not cancel until February 1, 2013.

Sec. 2. [BOND SALE.]

To provide the money appropriated in section 1, subdivisions 1 and 4, from the bond proceeds account in the trunk highway fund, the commissioner of finance shall sell and issue bonds of the state in an amount up to $550,550,000 in the manner, on the terms, and with the effect prescribed by Minnesota Statutes, sections 167.50 to 167.52, and by the Minnesota Constitution, article XIV, section 11, at the times and in the amounts requested by the commissioner of transportation. The proceeds of the bonds, except accrued interest and any premium received from the sale of the bonds, must be deposited in the bond proceeds account in the trunk highway fund.

Sec. 3. [ADVANCE CONSTRUCTION.]

(a) Through June 30, 2009, the commissioner of transportation may spend up to $550,000,000 on trunk highway improvements from funds approved for expenditure by the Federal Highway Administration and designated as advance construction funds.

(b) Any additional advance construction expenditures by the commissioner approved by the Federal Highway Administration through June 30, 2009, may be added to the amount in paragraph (a).

Sec. 4. [GREATER MINNESOTA TRANSIT.]

The commissioner of transportation may spend up to $5,000,000 through June 30, 2008, in federal transit funds for capital assistance to public transit systems under Minnesota Statutes, section 174.24. This amount is in addition to any appropriations made by law for this purpose.

Sec. 5. [REPORT.]

The commissioner shall report by January 15 of each year of the 2004-2005 biennium to the chairs of the legislative committees with jurisdiction over transportation policy and finance on (1) how the department is spending the appropriations in this article for trunk highway improvements, and (2) the department's plans to implement trunk highway improvements funded under this article with current department staffing, and an analysis of the need for additional staffing and consultant services.

Sec. 6. [EFFECTIVE DATE.]

Sections 1 to 4 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to appropriations; appropriating money for transportation and other purposes; authorizing issuance of state bonds; modifying provisions relating to reverse auctions, wetland replacement, land appraisal, archaeological or historic sites, high-occupancy vehicle lanes, town line roads and easements, major transportation projects commission, advertisements for bids, city transit capital improvement projects in metropolitan area, bus rapid transit and other transit, local government permits, and other transportation-related activities; providing for fees, accounts, transfers, fund allocations, and expenditures; modifying provisions regulating speed limits, vehicle insurance requirements, essential employee status, the capitol complex security oversight committee, and other activities related to public safety; authorizing administrative powers, penalties, and remedies for public safety purposes; requiring studies and reports; making technical and clarifying changes; amending Minnesota Statutes 2002, sections 13.44, subdivision 3; 16C.10, subdivision 7; 103G.222, subdivisions 1, 3; 138.40, subdivisions 2, 3; 160.28, by adding a subdivision; 161.08; 161.20, subdivision 3; 164.12; 168.12, subdivision 5; 168.54, subdivision 4; 168A.29, subdivision 1; 169.14, by adding a subdivision; 169.791, subdivision 1; 169.796, by adding a subdivision; 169.797, subdivision 4a; 169.798, subdivision 1, by adding a subdivision; 171.20, subdivision 4; 171.29, subdivision 2; 174.55, subdivision 2; 179A.03, subdivision 7; 179A.10, subdivision 2; 297B.09, subdivision 1; 299A.465, subdivision 4; 299E.03, subdivision 3; 471.345, subdivision 14; Laws 1999, chapter 238, article 1, section 2, subdivision 2; Laws 2001, First Special Session chapter 8, article 1, section 2, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 117; 160; 299A; 331A; 373; 414; 473; repealing Minnesota Statutes 2002, sections 16A.88, subdivision 3; 169.794; 169.799; Minnesota Rules, parts 7403.1300; 7413.0400; 7413.0500."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Capital Investment.

The report was adopted.

Gunther from the Committee on Jobs and Economic Development Finance to which was referred:

H. F. No. 748, A bill for an act relating to state government; appropriating money for economic development, housing, and certain agencies of state government; modifying programs; regulating activities and practices; modifying penalty provisions; changing terms; authorizing a registration fee; modifying displaced homemaker provisions; increasing the petroleum inspection fee; amending Minnesota Statutes 2002, sections 79.56, subdivisions 1, 3; 124D.68, subdivision 2; 175.16, subdivision 1; 177.26, subdivisions 1, 2; 178.01; 178.03, subdivisions 1, 2; 181.9435, subdivision 1; 181.9436; 239.10, subdivision 3; 239.101, subdivision 3; 256D.05, subdivision 1; 256J.49, subdivision 13; 268.0111, subdivision 4; 268.665, subdivision 2; 354D.02, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 178; repealing Minnesota Statutes 2002, sections 138.91; 177.26, subdivision 3; 178.11; 268.96.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS
ECONOMIC DEVELOPMENT

Section 1. [ECONOMIC DEVELOPMENT; APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another named fund, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "2004" and "2005," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 2004, or June 30, 2005, respectively. The term "first year" means the fiscal year ending June 30, 2004, and the term "second year" means the fiscal year ending June 30, 2005.

SUMMARY BY FUND

	2004	2005	TOTAL
General	$164,598,000	$157,178,000	$321,776,000
Petroleum Tank Cleanup	1,834,000	1,084,000	2,918,000
Environmental Fund	700,000	700,000	1,400,000
Workers' Compensation	21,905,000	21,600,000	43,505,000
Workforce Development Fund	7,720,000	7,720,000	15,440,000
TANF Block Grant	1,250,000	1,250,000	2,500,000
TOTAL	$198,007,000	$189,532,000	$387,539,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Sec. 2. TRADE AND ECONOMIC DEVELOPMENT		
Subdivision 1. Total Appropriation	$68,823,000	$63,673,000
Summary by Fund		
General	59,653,000	55,253,000
Petroleum Tank Cleanup	750,000	-0-
Environmental Fund	700,000	700,000
Workforce Development Fund	7,720,000	7,720,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Business and Community Development	12,489,000	7,734,000
Summary by Fund		
General	11,039,000	7,034,000
Petroleum Tank Cleanup	750,000	-0-
Environmental Fund	700,000	700,000

$2,203,000 the first year and $2,203,000 the second year are for Minnesota investment fund grants.

$150,000 the first year and $150,000 the second year are for grants to the rural policy and development center at Minnesota State University, Mankato. The grant shall be used for research and policy analysis on emerging economic and social issues in rural Minnesota, to serve as a policy resource center for rural Minnesota communities, to encourage collaboration across higher education institutions to provide interdisciplinary team approaches to research and problem solving in rural communities, and to administer overall operations of the center.

The grant shall be provided upon the condition that each state-appropriated dollar be matched with a nonstate-appropriated dollar. Acceptable matching funds are nonstate-appropriated contributions that the center has received and have not been used to match previous state grants. The funds not spent the first year are available the second.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

$2,375,000 the first year is to the Minnesota investment fund to make grants to local units of government for locally administered grants or loan programs, including buyouts, for businesses directly and adversely affected by flooding in the area included in DR-1419. Criteria and requirements must be locally established with the approval of the commissioner. For the purposes of this appropriation, Minnesota Statutes, sections 116J.8731, subdivisions 3, 4, 5, and 7; 116J.993; 116J.994; and 116J.995, are waived. Businesses that receive grants or loans from this appropriation must set goals for jobs retained and wages paid within the area included in DR-1419.

This is a onetime appropriation and is available until expended.

Notwithstanding Minnesota Statutes, section 115C.08, subdivision 4, $750,000 the first year is for grants to local units of government in the area included in DR-1419 to safely rehabilitate buildings if a portion of the rehabilitation costs is attributable to petroleum contamination or to buy out property substantially damaged by a petroleum tank release. This appropriation is not subject to the limitations of Minnesota Statutes, section 115C.09, subdivision 3i.

This is a onetime appropriation from the petroleum tank release cleanup fund and is available until expended.

$1,125,000 the first year to the public facilities authority for grants to local units of government to assist with the cost of rehabilitation and replacement of publicly owned infrastructure, including storm sewers, wastewater and municipal utility service, drinking water systems, and other infrastructure damaged by flooding in the area included in DR-1419. This is a onetime appropriation and is available until expended.

$500,000 the first year is for a grant to the city of Roseau for engineering and design plans to relocate the flood damaged city hall, auditorium, library, museum, and police department out of the Roseau river floodway as a result of flooding as declared in DR-1419. This is a onetime appropriation and is available until expended.

Subd. 3. Minnesota Trade Office	2,187,000	2,187,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Subd. 4. Workforce Development	7,435,000	7,435,000

$7,435,000 the first year and $7,435,000 the second year are for the job skills partnership and pathways programs. If the appropriation for either year is insufficient, the appropriation for the other year is available. This appropriation does not cancel.

Subd. 5. Office of Tourism	8,391,000	8,384,000

To develop maximum private sector involvement in tourism, $3,500,000 the first year and $3,500,000 the second year of the amounts appropriated for marketing activities are contingent on receipt of an equal contribution from nonstate sources that have been certified by the commissioner. Up to one-half of the match may be given in in-kind contributions.

In order to maximize marketing grant benefits, the commissioner must give priority for joint venture marketing grants to organizations with year-round sustained tourism activities. For programs and projects submitted, the commissioner must give priority to those that encompass two or more areas or that attract nonresident travelers to the state.

If an appropriation for either year for grants is not sufficient, the appropriation for the other year is available for it.

The commissioner may use grant dollars or the value of in-kind services to provide the state contribution for the partnership program.

Any unexpended money from general fund appropriations made under this subdivision does not cancel but must be placed in a special advertising account for use by the office of tourism to purchase additional media.

Of this amount, $50,000 the first year is for a onetime grant to the Mississippi River parkway commission to support the increased promotion of tourism along the Great River Road. This appropriation is available until June 30, 2005.

Subd. 6. Administration	4,992,000	4,604,000
Subd. 7. Workforce Services	7,123,000	7,123,000

			APPROPRIATIONS Available for the Year Ending June 30 2004	2005
		Summary by Fund		
General	6,348,000	6,348,000		
Workforce Development Fund	775,000	775,000		

$1,257,000 the first year and $1,257,000 the second year are for the youth intervention programs under Minnesota Statutes, section 268.30. The base funding in the fiscal year 2006-2007 biennium is $1,446,000 each year.

Subd. 8. Rehabilitation Services			21,758,000	21,758,000
		Summary by Fund		
General	14,813,000	14,813,000		
Workforce Development Fund	6,945,000	6,945,000		

$1,325,000 the first year and $1,325,000 the second year are for grants to fund the eight centers for independent living. The base funding in the fiscal year 2006-2007 biennium is $1,690,000 each year.

Subd. 9. State Services for the Blind			4,448,000	4,448,000
Sec. 3. MINNESOTA TECHNOLOGY, INC.			2,000,000	-0-

$2,000,000 the first year is for transfer from the general fund to the Minnesota Technology, Inc. fund. This is a onetime appropriation and no base funding is provided for any future year.

Sec. 4. HOUSING FINANCE AGENCY

Subdivision 1. Total Appropriation			35,360,000	34,860,000
		Summary by Fund		
General	34,735,000	34,235,000		

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
TANF Block Grant	625,000	625,000

This appropriation is for transfer to the housing development fund. Except as otherwise indicated, this transfer is part of the agency's permanent budget base.

Subd. 2. Roseau Flood Assistance

$500,000 the first year is for a onetime grant for the city of Roseau to buy out flood damaged residential properties as provided below. The agency is authorized to provide assistance for the city of Roseau to acquire properties within the area included in DR-1419 that meet the following criteria:

(1) the owner agrees to voluntarily sell the property;

(2) the property to be acquired was the principal residence of the owner prior to the flooding described in DR-1419; and

(3) the cost of restoring the property to its predamage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred, or the property has been declared uninhabitable by a state or local official in accordance with current codes or ordinances.

Property owners may receive assistance from the city in amounts up to the preflood fair market value of their property. The city must reduce the assistance provided to a property owner by any duplication of benefits from other sources. If the property owner is selling the structure which served as the principal residence but not the real property on which the structure is located, the assistance must be reduced by the preflood fair market value of the real property. If the city sells the real property it has acquired with the assistance provided under this subdivision, it will repay to the agency any funds obtained from the sale of the real property.

Subd. 3. Affordable Rental Investment Fund

$9,273,000 the first year and $9,273,000 the second year are for the affordable rental investment fund program under Minnesota Statutes, section 462A.21, subdivision 8b. These amounts are to finance the acquisition, rehabilitation, and debt restructuring of federally assisted rental property and for making equity take-out loans under Minnesota Statutes, section 462A.05, subdivision 39. The owner of the federally assisted rental property must agree to

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

participate in the applicable federally assisted housing program and to extend any existing low-income affordability restrictions on the housing for the maximum term permitted. The owner must also enter into an agreement that gives local units of government, housing and redevelopment authorities, and nonprofit housing organizations the right of first refusal if the rental property is offered for sale. Priority must be given among comparable properties to properties with the longest remaining term under an agreement for federal rental assistance. Priority must also be given among comparable rental housing developments to developments that are or will be owned by local government units, a housing and redevelopment authority, or a nonprofit housing organization.

Subd. 4. Family Homeless Prevention

Summary by Fund

General	3,065,000	3,065,000
TANF Block Grant	625,000	625,000

$3,065,000 the first year and $3,065,000 the second year are for family homeless prevention and assistance programs under Minnesota Statutes, section 462A.204. Any balance in the first year does not cancel but is available in the second year. The general fund base funding to this program for the 2006-2007 biennium is $3,565,000 each year.

$1,250,000 of the TANF block grant appropriation to the pathways program in Laws 1999, chapter 223, article 1, section 2, subdivision 2, is canceled. Of the amount canceled, $625,000 the first year and $625,000 the second year are appropriated to the family homeless prevention and assistance programs under Minnesota Statutes, section 462A.204. Any balance in the first year does not cancel but is available in the second year. This is a onetime appropriation.

Sec. 5. COMMERCE

Subdivision 1. Total Appropriation	26,088,000	25,761,000

Summary by Fund

General	24,169,000	23,842,000

			APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Petroleum Cleanup	1,084,000	1,084,000		
Workers' Compensation	835,000	835,000		
The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.				
Subd. 2. Financial Examinations			5,997,000	5,994,000
Subd. 3. Petroleum Tank Release Cleanup Board			1,084,000	1,084,000
This appropriation is from the petroleum tank release cleanup fund.				
Subd. 4. Administrative Services			5,518,000	5,518,000
Subd. 5. Market Assurance			6,442,000	6,117,000
	Summary by Fund			
General	5,607,000	5,282,000		
Workers' Compensation	835,000	835,000		
Subd. 6. Energy and Telecommunications			3,941,000	3,941,000
Subd. 7. Weights and Measurement			3,106,000	3,107,000
Sec. 6. BOARD OF ACCOUNTANCY			577,000	577,000
Sec. 7. BOARD OF ARCHITECTURE, ENGINEERING, LAND SURVEYING, LANDSCAPE ARCHITECTURE, GEOSCIENCE, AND INTERIOR DESIGN			881,000	881,000
Sec. 8. BOARD OF BARBER EXAMINERS			172,000	172,000
Sec. 9. LABOR AND INDUSTRY				
Subdivision 1. Total Appropriation			22,357,000	21,986,000
	Summary by Fund			
General	2,905,000	2,839,000		
Workers' Compensation	19,452,000	19,147,000		
The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.				

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Subd. 2. Workers' Compensation	10,221,000	10,221,000
This appropriation is from the workers' compensation fund.		
Subd. 3. Workplace Services	6,544,000	6,478,000
$345,000 the first year and $345,000 the second year is for boiler inspections under Minnesota Statutes, section 183.38, subdivision 1. This is a onetime appropriation and is not added to the department's base.		

Summary by Fund

General	2,905,000	2,839,000
Workers' Compensation	3,639,000	3,639,000

Subd. 4. General Support	5,592,000	5,287,000
This appropriation is from the workers' compensation fund.		
Sec. 10. BUREAU OF MEDIATION SERVICES	1,673,000	1,673,000
Sec. 11. WORKERS' COMPENSATION COURT OF APPEALS	1,618,000	1,618,000
This appropriation is from the workers' compensation fund.		
Sec. 12. PUBLIC UTILITIES COMMISSION	4,163,000	4,163,000
Sec. 13. MINNESOTA HISTORICAL SOCIETY		
Subdivision 1. Total Appropriation	21,957,000	21,830,000
The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.		
Budget reductions must first be made by reducing administrative expenses. Reductions in services may be considered only after available administrative savings have been realized.		
Before closing any historic site, the society must consult with, and must fully consider proposals from, interested community groups or individuals who are willing to provide financial or in-kind support in order to continue operation of the site.		

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Subd. 2. Education and Outreach	12,124,000	12,124,000
Subd. 3. Preservation and Access	9,579,000	9,579,000
Subd. 4. Fiscal Agent	254,000	127,000

(a) Minnesota International Center

43,000 42,000

(b) Minnesota Air National Guard Museum

16,000 -0-

(c) Minnesota Military Museum

67,000 -0-

(d) Farmamerica

128,000 85,000

Notwithstanding any other law, this appropriation may be used for operations.

(e) Balances Forward

Any unencumbered balance remaining in this subdivision the first year does not cancel but is available for the second year of the biennium.

Subd. 5. Fund Transfer

The society may reallocate funds appropriated in and between subdivisions 2 and 3 for any program purposes.

Sec. 14. COUNCIL ON BLACK MINNESOTANS	282,000	282,000
Sec. 15. COUNCIL ON CHICANO-LATINO AFFAIRS	275,000	275,000
Sec. 16. COUNCIL ON ASIAN-PACIFIC MINNESOTANS	243,000	243,000
Sec. 17. INDIAN AFFAIRS COUNCIL	482,000	482,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Sec. 18. BOARD OF THE ARTS		
Subdivision 1. Total Appropriation	8,593,000	8,593,000
Subd. 2. Operations and Services	404,000	404,000
Subd. 3. Grants Programs	5,767,000	5,767,000
Subd. 4. Regional Arts Councils	2,422,000	2,422,000
Sec. 19. DEPARTMENT OF EDUCATION		
Subdivision 1. Total Appropriation	2,463,000	2,463,000

Summary by Fund

General	1,838,000	1,838,000
TANF Block Grant	625,000	625,000

Subd. 2. Emergency Services	350,000	350,000

Any balance in the first year does not cancel but is available in the second year.

Subd. 3. Transitional Housing	2,113,000	2,113,000

Summary by Fund

General	1,488,000	1,488,000
TANF Block Grant	625,000	625,000

$1,488,000 the first year and $1,488,000 the second year are for transitional housing programs according to Minnesota Statutes, section 119A.43. Any balance in the first year does not cancel but is available in the second year. The general fund base funding to this program for the 2006-2007 biennium is $1,988,000 each year.

$450,000 of the TANF block grant appropriation to the pathways program in Laws 1999, chapter 223, article 1, section 2, subdivision 2, is canceled. This $450,000 is appropriated to the transitional housing programs according to Minnesota Statutes, section 119A.43. Any balance in the first year does not cancel but is available in the second year. This is a onetime appropriation.

	APPROPRIATIONS Available for the Year Ending June 30	
	2004	2005
$800,000 of the TANF block grant appropriation to the health care and human services worker training and retention program in Laws 2001, First Special Session chapter 4, article 1, section 2, subdivision 4, is canceled. Of the amount canceled, $175,000 the first year and $625,000 the second year are appropriated to the transitional housing programs according to Minnesota Statutes, section 119A.43. Any balance in the first year does not cancel but is available in the second year. This is a onetime appropriation.		

Sec. 20. [CANCELLATIONS AND TRANSFERS.]

(a) The unexpended balance as of July 1, 2003, from all appropriations to the capital access program established under Minnesota Statutes, section 116J.8761, is canceled to the general fund.

(b) The unexpended balance as of July 1, 2003, in the nongame wildlife tourism program in the department of trade and economic development is canceled to the general fund.

(c) Of the unexpended balance as of July 1, 2003, in the Indian business loan program account established under Minnesota Statutes, section 116J.64, subdivision 6, $800,000 is transferred to the general fund. Notwithstanding the provisions of that subdivision, during fiscal years 2004 and 2005, any tax revenue that would otherwise be deposited in the Indian business loan program account shall be deposited in the general fund. On July 10, 2005, the commissioner of finance shall transfer $500,000 from the general fund to the Indian business loan program account.

(d) Of the money appropriated for fair housing education under Laws 2001, chapter 208, section 28, $800,000 is canceled and transferred to the general fund.

(e) Of the unexpended balance in the consumer education account established under Minnesota Statutes, section 58.10, subdivision 3, $90,000 is transferred to the general fund.

(f) Of the money appropriated for education regarding mortgage flipping by Laws 1999, chapter 223, article 1, section 6, subdivision 3, $15,000 is canceled and transferred to the general fund.

(g) Of the appropriation made to the department of trade and economic development in Laws 1997, chapter 200, article 1, section 2, subdivision 2, $361,000 is canceled to the general fund.

(h) Of the appropriation made to the public facilities authority in Laws 2000, chapter 492, article 1, section 22, subdivision 3, $700,000 is canceled to the general fund.

(i) After July 1, 2003, but before September 30, 2003, the commissioner of finance shall transfer $800,000 of the unexpended balance in the tourism loan account established under Minnesota Statutes, section 116J.617, subdivision 5, to the general fund.

(j) Minnesota Statutes, section 116J.617, is repealed. Any repayments of principal and any interest earned on money previously in the tourism loan account shall be deposited in the general fund.

(k) On or before June 30 of each fiscal year of the 2004-2005 biennium, the commissioner of finance shall transfer $1,000,000 from the workforce development fund to the general fund.

(l) After 1, 2003, but before September 30, 2003, the commissioner of finance shall transfer $2,500,000 of the unexpended balance in the contractor's recovery fund established under Minnesota Statutes, section 326.975, subdivision 1, to the general fund.

(m) Of the unexpended balance in the liquefied petroleum gas account established under Minnesota Statutes, section 239.785, $500,000 is transferred to the general fund.

ARTICLE 2

DEPARTMENT OF COMMERCE
POLICY PROVISIONS

Section 1. [60A.035] [GOVERNMENT CONTROLLED OR OWNED COMPANY PROHIBITED FROM TRANSACTING BUSINESS.]

(a) No insurance company the voting control or ownership of which is held in whole or substantial part by any government or governmental agency or entity having a tax exemption under section 501(c)(27)(B) or 115 of the Internal Revenue Code of 1986 or which is operated for or by any such government or agency or entity having a tax exemption under section 501(c)(27)(B) or 115 of the Internal Revenue Code of 1986 is authorized to transact insurance in this state. Membership in a mutual company, subscribership in a reciprocal insurer, ownership of stock of an insurer by the alien property custodian or similar official of the United States, or supervision of an insurer by public insurance supervisory authority is not considered to be an ownership, control, or operation of the insurer for the purposes of this section.

(b) This section does not apply to an insurance company if its sole insurance business in this state is providing workers' compensation insurance and associated employers' liability coverage to an employer principally located in the insurer's state of domicile whose employee may receive benefits under section 176.041, subdivision 4, provided the operations of the employer are for fewer than 30 consecutive days in this state and provided the employer has no other significant contacts with this state.

(c) This section does not apply to a fund established under section 16B.85, subdivision 2.

Sec. 2. Minnesota Statutes 2002, section 60A.14, subdivision 1, is amended to read:

Subdivision 1. [FEES OTHER THAN EXAMINATION FEES.] In addition to the fees and charges provided for examinations, the following fees must be paid to the commissioner for deposit in the general fund:

(a) by township mutual fire insurance companies;

(1) for filing certificate of incorporation $25 and amendments thereto, $10;

(2) for filing annual statements, $15;

(3) for each annual certificate of authority, $15;

(4) for filing bylaws $25 and amendments thereto, $10;

(b) by other domestic and foreign companies including fraternals and reciprocal exchanges;

(1) for filing certified copy of certificate of articles of incorporation, $100;

(2) for filing annual statement, $225;

(3) for filing certified copy of amendment to certificate or articles of incorporation, $100;

(4) for filing bylaws, $75 or amendments thereto, $75;

(5) for each company's certificate of authority, $575, annually;

(c) the following general fees apply:

(1) for each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, $25;

(2) for each copy of paper on file in the commissioner's office 50 cents per page, and $2.50 for certifying the same;

(3) for license to procure insurance in unadmitted foreign companies, $575;

(4) for valuing the policies of life insurance companies, one cent per $1,000 of insurance so valued, provided that the fee shall not exceed $13,000 per year for any company. The commissioner may, in lieu of a valuation of the policies of any foreign life insurance company admitted, or applying for admission, to do business in this state, accept a certificate of valuation from the company's own actuary or from the commissioner of insurance of the state or territory in which the company is domiciled;

(5) for receiving and filing certificates of policies by the company's actuary, or by the commissioner of insurance of any other state or territory, $50;

(6) for each appointment of an agent filed with the commissioner, $10;

(7) for filing forms and rates, ~~$75~~ $110 per filing, which may be paid on a quarterly basis in response to an invoice. Billing and payment may be made electronically;

(8) for annual renewal of surplus lines insurer license, $300~~;~~

~~(9) $250 filing fee for a large risk alternative rating option plan that meets the $250,000 threshold requirement~~.

The commissioner shall adopt rules to define filings that are subject to a fee.

Sec. 3. Minnesota Statutes 2002, section 79.56, subdivision 1, is amended to read:

Subdivision 1. [PREFILING OF RATES.] (a) Each insurer shall file with the commissioner a complete copy of its rates and rating plan, and all changes and amendments thereto, and such supporting data and information that the commissioner may by rule require, at least 60 days prior to its effective date. The commissioner shall advise an insurer within 30 days of the filing if its submission is not accompanied with such supporting data and information that the commissioner by rule may require. The commissioner may extend the filing review period and effective date for an additional 30 days if an insurer, after having been advised of what supporting data and information is

necessary to complete its filing, does not provide such information within 15 days of having been so notified. If any rate or rating plan filing or amendment thereto is not disapproved by the commissioner within the filing review period, the insurer may implement it. For the period August 1, 1995, to December 31, 1995, the filing shall be made at least 90 days prior to the effective date and the department shall advise an insurer within 60 days of such filing if the filing is insufficient under this section.

(b) A rating plan or rates are not subject to the requirements of paragraph (a), where the insurer files a certification verifying that it will use the rating plan or rates only to write a specific employer that generates $250,000 in annual written workers' compensation premiums before the application of any large deductible rating plan. The $250,000 threshold includes premiums generated in any state. The designation and certification shall be submitted in substantially the following form:

Name and address of insurer:.....

Name and address of insured employer:.....

Effective date of filing:.....

I certify that the employer named above generates $250,000 or more in annual written workers' compensation premiums before the application of any large deductible rating plan. This certification authorizes the use of this rate or rating plan only for the named employer.

Name of responsible officer:.....

Title:.....

Signature: .....

Sec. 4. Minnesota Statutes 2002, section 79.56, subdivision 3, is amended to read:

Subd. 3. [PENALTIES.] ~~(a)~~ Any insurer using a rate or a rating plan which has not been filed under subdivision 1 shall be subject to a fine of up to $100 for each day the failure to file continues. The commissioner may, after a hearing on the record, find that the failure is willful. A willful failure to meet filing requirements shall be punishable by a fine of up to $500 for each day during which a willful failure continues. These penalties shall be in addition to any other penalties provided by law.

~~(b) Notwithstanding this subdivision, an employer that generates $250,000 in annual written workers' compensation premium under the rates and rating plan of an insurer before the application of any large deductible rating plans, may be written by that insurer using rates or rating plans that are not subject to disapproval but which have been filed. For the purposes of this paragraph, written workers' compensation premiums generated from states other than Minnesota are included in calculating the $250,000 threshold for large risk alternative rating option plans.~~

Sec. 5. Minnesota Statutes 2002, section 239.10, subdivision 3, is amended to read:

Subd. 3. [OTHER WEIGHTS AND MEASURES.] The director shall inspect all weights and measures, except those specified in subdivisions 1 and 2, annually, or as often as deemed possible within budget and staff limitations, except that the director shall not inspect liquid petroleum gas measuring equipment and shall not charge a fee related to any such inspections.

Sec. 6. Minnesota Statutes 2002, section 239.101, subdivision 3, is amended to read:

Subd. 3. [PETROLEUM INSPECTION FEE.] (a) An inspection fee is imposed (1) on petroleum products when received by the first licensed distributor, and (2) on petroleum products received and held for sale or use by any person when the petroleum products have not previously been received by a licensed distributor. The petroleum inspection fee is ~~85 cents~~ $1 for every 1,000 gallons received. The commissioner of revenue shall collect the fee. The revenue from the fee must first be applied to cover the amounts ~~appropriated for petroleum product quality inspection expenses, for the inspection and testing of petroleum product measuring equipment, and for petroleum supply monitoring under chapter~~ necessary to enforce the appropriate provisions of chapters 216C, 239, 325D, and 325E. These functions shall be performed by departmental staff.

(b) The commissioner of revenue shall credit a person for inspection fees previously paid in error or for any material exported or sold for export from the state upon filing of a report as prescribed by the commissioner of revenue.

(c) The commissioner of revenue may collect the inspection fee along with any taxes due under chapter 296A.

Sec. 7. Minnesota Statutes 2002, section 354D.02, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY.] Eligible employees are:

(1) any supervisory or professional employee of the state arts board; or

~~(2) any supervisory or professional employee of the Minnesota humanities commission; or~~

~~(3)~~ (2) any employee of the Minnesota historical society.

Sec. 8. [SUSPENSION OF MORTGAGE CREDIT CERTIFICATE AID.]

Notwithstanding Minnesota Statutes, section 462C.15, during the fiscal years 2004 and 2005, no applications or reports shall be made pursuant to subdivision 1 of that section, no aid shall be provided pursuant to subdivision 3 of that section, and no money is appropriated pursuant to subdivision 4 of that section.

Sec. 9. [AMBULANCE SERVICE LIABILITY INSURANCE STUDY.]

The commissioner of commerce shall study the availability and cost to ambulance services of vehicle and malpractice insurance and the factors influencing cost increases. The commissioner shall report the results of this study and recommendations on means to ensure continued availability of affordable insurance to the legislature by January 10, 2004.

Sec. 10. [UNCLAIMED PROPERTY.]

The department shall, after July 1, 2003, and before June 30, 2005, sell the unclaimed property identified by the legislative auditor in Finding 1 of its management letter dated March 20, 2003. To the degree this property has not been held for the three-year period required by law prior to sale, that three-year requirement is waived as to this property, and the department shall sell the property.

Sec. 11. [GATS REVIEW AND REPORT.]

The commissioner of commerce shall analyze and report to the legislature on the negative and positive impacts of the new round of talks under the World Trade Organization called the General Agreement on Trade and Services (GATS), especially those rules that would interfere with small businesses regulation, regulation of financial institutions and insurance, licensing of professional trades, and report back to the chairs of commerce and jobs and economic development by January 1, 2004.

Sec. 12. [REPEALER.]

Minnesota Statutes 2002, section 138.91, is repealed.

ARTICLE 3

DEPARTMENT OF LABOR AND INDUSTRY
POLICY PROVISIONS

Section 1. Minnesota Statutes 2002, section 175.16, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHED.] The department of labor and industry shall consist of the following divisions: division of workers' compensation, division of boiler inspection, division of occupational safety and health, division of statistics, division of steamfitting standards, ~~division of voluntary apprenticeship,~~ division of labor standards and apprenticeship, and such other divisions as the commissioner of the department of labor and industry may deem necessary and establish. Each division of the department and persons in charge thereof shall be subject to the supervision of the commissioner of the department of labor and industry and, in addition to such duties as are or may be imposed on them by statute, shall perform such other duties as may be assigned to them by ~~said~~ the commissioner. Notwithstanding any other law to the contrary, the commissioner is the administrator and supervisor of all of the department's dispute resolution functions and personnel and may delegate authority to compensation judges and others to make determinations under sections 176.106, 176.238, and 176.239 and to approve settlement of claims under section 176.521.

Sec. 2. Minnesota Statutes 2002, section 177.26, subdivision 1, is amended to read:

Subdivision 1. [CREATION.] The division of labor standards and apprenticeship in the department of labor and industry is supervised and controlled by the commissioner of labor and industry.

Sec. 3. Minnesota Statutes 2002, section 177.26, subdivision 2, is amended to read:

Subd. 2. [POWERS AND DUTIES.] ~~The powers, duties, and functions given to the department's division of women and children by this chapter, and other applicable laws relating to wages, hours, and working conditions, are transferred to the division of labor standards.~~ The division of labor standards and apprenticeship shall administer ~~sections 177.21 to 177.35 and chapter~~ chapters 177, 178, 181, 181A, and 184. ~~The division shall perform duties under sections 181.9435 and 181.9436.~~

Sec. 4. Minnesota Statutes 2002, section 178.01, is amended to read:

178.01 [PURPOSES.]

The purposes of this chapter are: to open to young people regardless of race, sex, creed, color or national origin, the opportunity to obtain training that will equip them for profitable employment and citizenship; to establish as a means to this end, a program of voluntary apprenticeship under approved apprentice agreements providing facilities

for their training and guidance in the arts, skills, and crafts of industry and trade, with concurrent, supplementary instruction in related subjects; to promote employment opportunities under conditions providing adequate training and reasonable earnings; to relate the supply of skilled workers to employment demands; to establish standards for apprentice training; to establish an apprenticeship advisory council and apprenticeship committees to assist in effectuating the purposes of this chapter; to provide for a division of ~~voluntary~~ labor standards and apprenticeship within the department of labor and industry; to provide for reports to the legislature regarding the status of apprentice training in the state; to establish a procedure for the determination of apprentice agreement controversies; and to accomplish related ends.

Sec. 5. Minnesota Statutes 2002, section 178.03, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT OF DIVISION.] There is ~~hereby~~ established a division of ~~voluntary~~ labor standards and apprenticeship in the department of labor and industry. This division shall be administered by a director, and be under the supervision of the commissioner of labor and industry, hereinafter referred to as the commissioner.

Sec. 6. Minnesota Statutes 2002, section 178.03, subdivision 2, is amended to read:

Subd. 2. [DIRECTOR OF ~~VOLUNTARY~~ LABOR STANDARDS AND APPRENTICESHIP.] The commissioner shall appoint a director of the division of ~~voluntary~~ labor standards and apprenticeship, hereinafter referred to as the director, and may appoint and employ such clerical, technical, and professional help as is necessary to accomplish the purposes of this chapter. The director and division staff shall be appointed and shall serve in the classified service pursuant to civil service law and rules.

Sec. 7. [178.12] [REGISTRATION FEE.]

The apprenticeship registration account is established in the special revenue fund of the state treasury. An annual registration fee will be charged to each sponsor for each apprentice registered in the program. The fee is established at $50 per apprentice. Subsequent adjustments to this fee will be made pursuant to Minnesota Statutes, sections 16A.1283 and 16A.1285, subdivision 2. The fees collected and any interest earned are appropriated to the commissioner for purposes of this chapter.

Sec. 8. Minnesota Statutes 2002, section 181.9435, subdivision 1, is amended to read:

Subdivision 1. [INVESTIGATION.] The division of labor standards and apprenticeship shall receive complaints of employees against employers relating to sections 181.940 to 181.9436 and investigate informally whether an employer may be in violation of sections 181.940 to 181.9436. The division shall attempt to resolve employee complaints by informing employees and employers of the provisions of the law and directing employers to comply with the law.

Sec. 9. Minnesota Statutes 2002, section 181.9436, is amended to read:

181.9436 [POSTING OF LAW.]

The division of labor standards and apprenticeship shall develop, with the assistance of interested business and community organizations, an educational poster stating employees' rights under sections 181.940 to 181.9436. The department shall make the poster available, upon request, to employers for posting on the employer's premises.

Sec. 10. [BOILER INSPECTION AND LICENSE FEE SURCHARGE.]

The commissioner of labor and industry shall impose a surcharge of $5 on each of the fees authorized under Minnesota Statutes, section 183.545, subdivisions 2, 3, and 4, for the period starting July 1, 2003, and ending June 30, 2005.

Sec. 11. [REPEALER.]

Minnesota Statutes 2002, sections 177.26, subdivision 3; and 178.11, are repealed.

Sec. 12. [EFFECTIVE DATE.]

Section 10 is effective July 1, 2003.

ARTICLE 4

DEPARTMENT OF ECONOMIC SECURITY
POLICY PROVISIONS

Section 1. Minnesota Statutes 2002, section 248.10, is amended to read:

248.10 [REHABILITATION COUNCIL FOR THE BLIND.]

(a) The commissioner shall establish a rehabilitation council for the blind consistent with the federal Rehabilitation Act of 1973, Public Law Number 93-112, as amended. Council members shall be compensated as provided in section 15.059, subdivision 3. The council shall advise the commissioner about programs of the division of state services for the blind.

(b) Notwithstanding section 13D.01, the rehabilitation council for the blind may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the council participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the council can hear all discussion and testimony and all votes of members of the council;

(3) at least one member of the council is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

(c) Each member of the council participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

(d) If telephone or another electronic means is used to conduct a meeting, the council to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The council may require the person making such a connection to pay for documented marginal costs that the council incurs as a result of the additional connection.

(e) If telephone or another electronic means is used to conduct a regular, special, or emergency meeting, the council shall provide notice of the regular meeting location, of the fact that some members may participate by electronic means, and of the provisions of paragraph (d). The timing and method of providing notice is governed by section 13D.04.

Sec. 2. Minnesota Statutes 2002, section 268.022, subdivision 1, is amended to read:

Subdivision 1. [DETERMINATION AND COLLECTION OF SPECIAL ASSESSMENT.] (a) In addition to all other taxes, assessments, and payment obligations under chapter 268, each employer, except an employer making payments in lieu of taxes is liable for a special assessment levied ~~at the rate of one-tenth of one percent per year until June 30, 2000, and seven hundredths of one percent per year on and after July 1, 2000,~~ on all taxable wages, as defined in section 268.035, subdivision 24. The assessment shall become due and be paid by each employer to the department on the same schedule and in the same manner as other taxes. The assessment shall be at the rate specified in paragraph (b).

(b) On or before October 1 of each year, the commissioner shall determine the special assessment rate for the following calendar year, which shall be either 5/100 of one percent, 7/100 of one percent, or one-tenth of one percent of taxable wages. In determining the rate, the commissioner shall consider the balance in the workforce development fund, available state and local unemployment statistics, and any appropriate information regarding the state's overall economic outlook.

The special assessment levied under this section shall not affect the computation of any other taxes, assessments, or payment obligations due under this chapter.

Sec. 3. Minnesota Statutes 2002, section 268A.02, is amended by adding a subdivision to read:

Subd. 3. [MEETINGS.] (a) Notwithstanding section 13D.01, the state rehabilitation council and state independent living council may conduct meetings of their members by telephone or other electronic means as long as the following conditions are met:

(1) all members of the council participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the council can hear all discussion and testimony and all votes of members of the council;

(3) at least one member of the council is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

(b) Each member of the council participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

(c) If telephone or another electronic means is used to conduct a meeting, the council to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The council may require the person making such a connection to pay for documented marginal costs that the council incurs as a result of the additional connection.

(d) If telephone or another electronic means is used to conduct a regular, special, or emergency meeting, the council shall provide notice of the regular meeting location, of the fact that some members may participate by electronic means, and of the provisions of paragraph (c). The timing and method of providing notice is governed by section 13D.04.

Sec. 4. [PLAN TO REDUCE NUMBER OF WORKFORCE SERVICE AREAS.]

The governor's workforce development council shall, in consultation with representatives of the local workforce councils and local elected officials, study the current configuration of workforce service areas in Minnesota and whether the efficiency or quality of service delivery could be improved by changing the boundaries of workforce service areas or reducing the number of areas. The council shall report to the legislature by January 1, 2004.

ARTICLE 5

PETROFUND

Section 1. Minnesota Statutes 2002, section 115C.02, subdivision 14, is amended to read:

Subd. 14. [TANK.] "Tank" means any one or a combination of containers, vessels, and enclosures, including structures and appurtenances connected to them, that is, or has been, used to contain ~~or,~~ dispense, store, or transport petroleum.

"Tank" does not include:

~~(1) a mobile storage tank used to transport petroleum from one location to another, except a mobile storage tank with a capacity of 500 gallons or less used only to transport home heating fuel on private property; or~~

~~(2)~~ pipeline facilities, including gathering lines, regulated under the Natural Gas Pipeline Safety Act of 1968, United States Code, title 49, chapter 24, or the Hazardous Liquid Pipeline Safety Act of 1979, United States Code, title 49, chapter 29.

Sec. 2. Minnesota Statutes 2002, section 115C.08, subdivision 4, is amended to read:

Subd. 4. [EXPENDITURES.] (a) Money in the fund may only be spent:

(1) to administer the petroleum tank release cleanup program established in this chapter;

(2) for agency administrative costs under sections 116.46 to 116.50, sections 115C.03 to 115C.06, and costs of corrective action taken by the agency under section 115C.03, including investigations;

(3) for costs of recovering expenses of corrective actions under section 115C.04;

(4) for training, certification, and rulemaking under sections 116.46 to 116.50;

(5) for agency administrative costs of enforcing rules governing the construction, installation, operation, and closure of aboveground and underground petroleum storage tanks;

(6) for reimbursement of the environmental response, compensation, and compliance account under subdivision 5 and section 115B.26, subdivision 4;

(7) for administrative and staff costs as set by the board to administer the petroleum tank release program established in this chapter;

(8) for corrective action performance audits under section 115C.093; and

(9) for contamination cleanup grants, as provided in paragraph (c); and

(10) to assess and remove abandoned underground storage tanks under section 115C.094 and, if a release is discovered, to pay for the specific consultant and contractor services costs necessary to complete the tank removal project, including, but not limited to, excavation soil sampling, groundwater sampling, soil disposal, and completion of an excavation report.

(b) Except as provided in paragraph (c), money in the fund is appropriated to the board to make reimbursements or payments under this section.

(c) $6,200,000 is annually appropriated from the fund to the commissioner of trade and economic development for contamination cleanup grants under section 116J.554. Of this amount, the commissioner may spend up to $120,000 annually for administration of the contamination cleanup grant program. The appropriation does not cancel and is available until expended. The appropriation shall not be withdrawn from the fund nor the fund balance reduced until the funds are requested by the commissioner of trade and economic development. The commissioner shall schedule requests for withdrawals from the fund to minimize the necessity to impose the fee authorized by subdivision 2. Unless otherwise provided, the appropriation in this paragraph may be used for:

(1) project costs at a qualifying site if a portion of the cleanup costs are attributable to petroleum contamination; and

(2) the costs of performing contamination investigation if there is a reasonable basis to suspect the contamination is attributable to petroleum.

Sec. 3. Minnesota Statutes 2002, section 115C.09, subdivision 3, is amended to read:

Subd. 3. [REIMBURSEMENTS; SUBROGATION; APPROPRIATION.] (a) The board shall reimburse an eligible applicant from the fund for 90 percent of the total reimbursable costs incurred at the site, except that the board may reimburse an eligible applicant from the fund for greater than 90 percent of the total reimbursable costs, if the applicant previously qualified for a higher reimbursement rate. For costs associated with a release from a tank in transport, the board may reimburse 90 percent of costs over $10,000, with the maximum reimbursement not to exceed $100,000.

Not more than $1,000,000 may be reimbursed for costs associated with a single release, regardless of the number of persons eligible for reimbursement, and not more than $2,000,000 may be reimbursed for costs associated with a single tank facility.

(b) A reimbursement may not be made from the fund under this chapter until the board has determined that the costs for which reimbursement is requested were actually incurred and were reasonable.

(c) When an applicant has obtained responsible competitive bids or proposals according to rules promulgated under this chapter prior to June 1, 1995, the eligible costs for the tasks, procedures, services, materials, equipment, and tests of the low bid or proposal are presumed to be reasonable by the board, unless the costs of the low bid or proposal are substantially in excess of the average costs charged for similar tasks, procedures, services, materials, equipment, and tests in the same geographical area during the same time period.

(d) When an applicant has obtained a minimum of two responsible competitive bids or proposals on forms prescribed by the board and where the rules promulgated under this chapter after June 1, 1995, designate maximum costs for specific tasks, procedures, services, materials, equipment and tests, the eligible costs of the low bid or proposal are deemed reasonable if the costs are at or below the maximums set forth in the rules.

(e) Costs incurred for change orders executed as prescribed in rules promulgated under this chapter after June 1, 1995, are presumed reasonable if the costs are at or below the maximums set forth in the rules, unless the costs in the change order are above those in the original bid or proposal or are unsubstantiated and inconsistent with the process and standards required by the rules.

(f) A reimbursement may not be made from the fund in response to either an initial or supplemental application for costs incurred after June 4, 1987, that are payable under an applicable insurance policy, except that if the board finds that the applicant has made reasonable efforts to collect from an insurer and failed, the board shall reimburse the applicant.

(g) If the board reimburses an applicant for costs for which the applicant has insurance coverage, the board is subrogated to the rights of the applicant with respect to that insurance coverage, to the extent of the reimbursement by the board. The board may request the attorney general to bring an action in district court against the insurer to enforce the board's subrogation rights. Acceptance by an applicant of reimbursement constitutes an assignment by the applicant to the board of any rights of the applicant with respect to any insurance coverage applicable to the costs that are reimbursed. Notwithstanding this paragraph, the board may instead request a return of the reimbursement under subdivision 5 and may employ against the applicant the remedies provided in that subdivision, except where the board has knowingly provided reimbursement because the applicant was denied coverage by the insurer.

(h) Money in the fund is appropriated to the board to make reimbursements under this chapter. A reimbursement to a state agency must be credited to the appropriation account or accounts from which the reimbursed costs were paid.

(i) The board may reduce the amount of reimbursement to be made under this chapter if it finds that the applicant has not complied with a provision of this chapter, a rule or order issued under this chapter, or one or more of the following requirements:

(1) the agency was given notice of the release as required by section 115.061;

(2) the applicant, to the extent possible, fully cooperated with the agency in responding to the release;

(3) the state rules applicable after December 22, 1993, to operating an underground storage tank and appurtenances without leak detection;

(4) the state rules applicable after December 22, 1998, to operating an underground storage tank and appurtenances without corrosion protection or spill and overfill protection; and

(5) the state rule applicable after November 1, 1998, to operating an aboveground tank without a dike or other structure that would contain a spill at the aboveground tank site.

(j) The reimbursement may be reduced as much as 100 percent for failure by the applicant to comply with the requirements in paragraph (i), clauses (1) to (5). In determining the amount of the reimbursement reduction, the board shall consider:

(1) the reasonable determination by the agency that the noncompliance poses a threat to the environment;

(2) whether the noncompliance was negligent, knowing, or willful;

(3) the deterrent effect of the award reduction on other tank owners and operators;

(4) the amount of reimbursement reduction recommended by the commissioner; and

(5) the documentation of noncompliance provided by the commissioner.

(k) An applicant may ~~assign the right to receive reimbursement to~~ request that the board issue a multiparty check that includes each lender who advanced funds to pay the costs of the corrective action or to each contractor or consultant who provided corrective action services. ~~An assignment~~ This request must be made by filing with the board a document, in a form prescribed by the board, indicating the identity of the applicant, the identity of the ~~assignee~~ lender, contractor, or consultant, the dollar amount ~~of the assignment~~, and the location of the corrective action. ~~An assignment signed by the applicant is valid unless terminated by filing a termination with the board, in a form prescribed by the board, which must include the written concurrence of the assignee. The board shall maintain an index of assignments filed under this paragraph. The board shall pay the reimbursement to the applicant and to one or more assignees by a multiparty check.~~ The applicant must submit a request for the issuance of a multiparty check for each application submitted to the board. Payment under this paragraph does not constitute the assignment of the applicant's right to reimbursement to the consultant, contractor, or lender. The board has no liability to an applicant for a payment ~~under an assignment meeting~~ issued as a multiparty check that meets the requirements of this paragraph.

Sec. 4. Minnesota Statutes 2002, section 115C.09, is amended by adding a subdivision to read:

Subd. 3i. [REIMBURSEMENT; NATURAL DISASTER AREA.] (a) As used in this subdivision, "natural disaster area" means a geographical area that has been declared a disaster by the governor and President of the United States.

(b) Notwithstanding subdivision 3, paragraph (a), and Minnesota Rules, chapter 2890, with the exception of Minnesota Rules, parts 2890.0010 to 2890.0065, and 2890.0090 to 2890.0130, the board may reimburse:

(1) up to 50 percent of an applicant' pre-natural-disaster estimated building market value as recorded by the county assessor; or

(2) if the applicant conveys title of the real estate to local or state government, up to 50 percent of the pre-natural-disaster estimated total market value, not to exceed one acre, as recorded by the county assessor.

(c) Paragraph (b) applies only if the applicant documents that:

(1) the natural disaster area has been declared eligible for state or federal emergency aid;

(2) the building is declared uninhabitable by the commissioner because of damage caused by the release of petroleum from a petroleum storage tank; and

(3) the applicant has submitted a claim under any applicable insurance policies and has been denied benefits under those policies.

(d) In determining the percentage for reimbursement, the board shall consider the applicant's eligibility to receive other state or federal financial assistance and determine a lesser reimbursement rate to the extent that the applicant is eligible to receive financial assistance that exceeds 50 percent of the applicant's pre-natural-disaster estimated building market value or total market value.

Sec. 5. [115C.094] [ABANDONED UNDERGROUND STORAGE TANKS.]

(a) As used in this section, an abandoned underground petroleum storage tank means an underground petroleum storage tank that was:

(1) taken out of service prior to December 22, 1988; or

(2) taken out of service on or after December 22, 1988, if the current property owner did not know of the existence of the underground petroleum storage tank and cannot reasonably be expected to have known of the tank's existence.

(b) The board may contract for:

(1) a statewide assessment in order to determine the quantity, location, cost, and feasibility of removing abandoned underground petroleum storage tanks;

(2) the removal of an abandoned underground petroleum storage tank; and

(3) the removal and disposal of petroleum-contaminated soil if the removal is required by the commissioner at the time of tank removal.

(c) Before the board may contract for removal of an abandoned petroleum storage tank, the tank owner must provide the board with written access to the property and release the board from any potential liability for the work performed.

(d) Money in the fund is appropriated to the board for the purposes of this section.

Sec. 6. Minnesota Statutes 2002, section 115C.11, subdivision 1, is amended to read:

Subdivision 1. [REGISTRATION.] (a) All consultants and contractors who perform corrective action services must register with the board. In order to register, consultants must meet and demonstrate compliance with the following criteria:

(1) provide a signed statement to the board verifying agreement to abide by this chapter and the rules adopted under it and to include a signed statement with each claim that all costs claimed by the consultant are a true and accurate account of services performed;

(2) provide a signed statement that the consultant shall make available for inspection any records requested by the board for field or financial audits under the scope of this chapter;

(3) certify knowledge of the requirements of this chapter and the rules adopted under it;

(4) obtain and maintain professional liability coverage, including pollution impairment liability; and

(5) agree to submit to the board a certificate or certificates verifying the existence of the required insurance coverage.

(b) The board must maintain a list of all registered consultants and a list of all registered contractors.

(c) All corrective action services must be performed by registered consultants and contractors.

(d) Reimbursement for corrective action services performed by an unregistered consultant or contractor is subject to reduction under section 115C.09, subdivision 3, paragraph (i).

(e) Corrective action services performed by a consultant or contractor prior to being removed from the registration list may be reimbursed without reduction by the board.

(f) If the information in an application for registration becomes inaccurate or incomplete in any material respect, the registered consultant or contractor must promptly file a corrected application with the board.

(g) Registration is effective 30 days after a complete application is received by the board. The board may reimburse without reduction the cost of work performed by an unregistered contractor if the contractor performed the work within 60 days of the effective date of registration.

(h) Registration for consultants under this section remains in force until the expiration date of the professional liability coverage, including pollution impairment liability, required under paragraph (a), clause (4), or until voluntarily terminated by the registrant, or until suspended or revoked by the commissioner of commerce. Registration for contractors under this section expires each year on the anniversary of the effective date of the contractor's most recent registration and must be renewed on or before expiration. Prior to its annual expiration, a registration remains in force until voluntarily terminated by the registrant, or until suspended or revoked by the commissioner of commerce. All registrants must comply with registration criteria under this section.

(i) The board may deny a consultant or contractor registration or request for renewal under this section if the consultant or contractor:

(1) does not intend to or is not in good faith carrying on the business of an environmental consultant or contractor;

(2) has filed an application for registration that is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, contains any misrepresentation, or is false, misleading, or fraudulent;

(3) has engaged in any fraudulent, coercive, deceptive, or dishonest act or practice whether or not such act or practice involves the business of environmental consulting or contracting;

(4) has forged another's name to any document whether or not the document relates to a document approved by the board;

(5) has plead guilty, with or without explicitly admitting guilt; plead nolo contendere; or been convicted of a felony, gross misdemeanor, or misdemeanor involving moral turpitude, including, but not limited to, assault, harassment, or similar conduct;

(6) has been subject to disciplinary action in another state or jurisdiction; or

(7) has not paid subcontractors hired by the consultant or contractor after they have been paid in full by the applicant.

Sec. 7. Minnesota Statutes 2002, section 115C.13, is amended to read:

115C.13 [REPEALER.]

Sections 115C.01, 115C.02, 115C.021, 115C.03, 115C.04, 115C.045, 115C.05, 115C.06, 115C.065, 115C.07, 115C.08, 115C.09, 115C.093, 115C.094, 115C.10, 115C.11, 115C.111, 115C.112, 115C.113, 115C.12, and 115C.13, are repealed effective June 30, ~~2005~~ 2007.

ARTICLE 6

DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT POLICY PROVISIONS

Section 1. Minnesota Statutes 2002, section 17.101, subdivision 1, is amended to read:

Subdivision 1. [DEPARTMENTAL DUTIES.] For the purposes of expanding, improving, and developing production and marketing of products of Minnesota agriculture, the commissioner shall encourage and promote the production and marketing of these products by means of:

(a) advertising Minnesota agricultural products;

(b) assisting state agricultural commodity organizations;

(c) developing methods to increase processing and marketing of agricultural commodities including commodities not being produced in Minnesota on a commercial scale, but which may have economic potential in national and international markets;

(d) investigating and identifying new marketing technology and methods to enhance the competitive position of Minnesota agricultural products;

(e) evaluating livestock marketing opportunities;

(f) assessing and developing national and international markets for Minnesota agricultural products;

(g) studying the conversion of raw agricultural products to manufactured products including ethanol;

(h) hosting the visits of foreign trade teams to Minnesota and defraying the teams' expenses;

(i) assisting Minnesota agricultural businesses desiring to sell their products;

(j) conducting research to eliminate or reduce specific production or technological barriers to market development and trade; and

(k) other activities the commissioner deems appropriate to promote Minnesota agricultural products, provided that the activities do not duplicate programs or services provided by the Minnesota trade division ~~or the Minnesota world trade center~~.

Sec. 2. Minnesota Statutes 2002, section 41A.036, subdivision 2, is amended to read:

Subd. 2. [SMALL BUSINESS DEVELOPMENT LOANS; PREFERENCES.] The following eligible small businesses have preference among all business applicants for small business development loans:

(1) businesses located in rural areas of the state that are experiencing the most severe unemployment rates in the state;

(2) businesses that are likely to expand and provide additional permanent employment in rural areas of the state, or enhance the quality of existing jobs in those areas;

(3) businesses located in border communities that experience a competitive disadvantage due to location;

(4) businesses that have been unable to obtain traditional financial assistance due to a disadvantageous location, minority ownership, or other factors rather than due to the business having been considered a poor financial risk;

(5) businesses that utilize state resources and reduce state dependence on outside resources, and that produce products or services consistent with the long-term social and economic needs of the state; and

(6) businesses located in designated enterprise zones, as described in section 469.168.

Sec. 3. Minnesota Statutes 2002, section 115C.08, subdivision 4, is amended to read:

Subd. 4. [EXPENDITURES.] (a) Money in the fund may only be spent:

(1) to administer the petroleum tank release cleanup program established in this chapter;

(2) for agency administrative costs under sections 116.46 to 116.50, sections 115C.03 to 115C.06, and costs of corrective action taken by the agency under section 115C.03, including investigations;

(3) for costs of recovering expenses of corrective actions under section 115C.04;

(4) for training, certification, and rulemaking under sections 116.46 to 116.50;

(5) for agency administrative costs of enforcing rules governing the construction, installation, operation, and closure of aboveground and underground petroleum storage tanks;

(6) for reimbursement of the environmental response, compensation, and compliance account under subdivision 5 and section 115B.26, subdivision 4;

(7) for administrative and staff costs as set by the board to administer the petroleum tank release program established in this chapter;

(8) for corrective action performance audits under section 115C.093; and

(9) for contamination cleanup grants, as provided in paragraph (c).

(b) Except as provided in paragraph (c), money in the fund is appropriated to the board to make reimbursements or payments under this section.

(c) $6,200,000 is annually appropriated from the fund to the commissioner of trade and economic development for contamination cleanup grants under section 116J.554. Of this amount, the commissioner may spend up to ~~$120,000~~ $180,000 annually for administration of the contamination cleanup grant program. The appropriation does not cancel and is available until expended. The appropriation shall not be withdrawn from the fund nor the fund balance reduced until the funds are requested by the commissioner of trade and economic development. The commissioner shall schedule requests for withdrawals from the fund to minimize the necessity to impose the fee authorized by subdivision 2. Unless otherwise provided, the appropriation in this paragraph may be used for:

(1) project costs at a qualifying site if a portion of the cleanup costs are attributable to petroleum contamination; and

(2) the costs of performing contamination investigation if there is a reasonable basis to suspect the contamination is attributable to petroleum.

[EFFECTIVE DATE.] This section is effective June 30, 2003.

Sec. 4. Minnesota Statutes 2002, section 116J.011, is amended to read:

116J.011 [MISSION.]

The mission of the department of trade and economic development is to employ all of the available state government resources to facilitate an economic environment that produces net new job growth in excess of the national average, to improve the quality of existing jobs, and to increase nonresident and resident tourism revenues. It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

(1) prevent the waste or unnecessary spending of public money;

(2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;

(3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;

(4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;

(5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;

(6) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1; and

(7) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department.

Sec. 5. Minnesota Statutes 2002, section 116J.411, is amended by adding a subdivision to read:

Subd. 2a. [JOB ENHANCEMENT.] "Job enhancement" means an increase in wages; and

(1) an increase in the responsibility or skill level of job duties; or

(2) the provision of additional training or education for employees in existing jobs.

Sec. 6. Minnesota Statutes 2002, section 116J.415, subdivision 1, is amended to read:

Subdivision 1. [ORGANIZATION.] The commissioner shall make challenge grants to regional organizations, for the purpose of providing financial assistance to encourage private investment, to provide jobs or job enhancement for low-income persons, and to promote economic development in the rural areas of the state.

Sec. 7. Minnesota Statutes 2002, section 116J.415, subdivision 2, is amended to read:

Subd. 2. [FUNDING REGIONS.] The commissioner shall divide the state outside of the metropolitan area as defined in section 473.121, subdivision 2, into six regions. A region's boundaries must be coterminous with the boundaries of one or more of the development regions established under section 462.385. The commissioner shall ~~designate up to $1,000,000 for each region, to be awarded over a period of three years~~ allocate all funds remaining in each regional subaccount of the rural rehabilitation account, as established under section 166J.955, to each respective regional organization. The money designated to each region must be used for ~~revolving loans~~ assistance authorized in this section.

Sec. 8. Minnesota Statutes 2002, section 116J.415, subdivision 4, is amended to read:

Subd. 4. [REVOLVING ~~LOAN~~ FUND.] A regional organization shall establish a commissioner certified revolving ~~loan~~ fund ~~to provide loans to new and expanding businesses in rural Minnesota~~ to promote economic development in rural Minnesota. ~~Eligible business enterprises include technologically innovative industries, value-added manufacturing, agriprocessing, information industries, and agricultural marketing. Loan applications given preliminary approval by the organization must be forwarded to the commissioner for final approval. The amount of state money allocated for each loan is appropriated from the rural rehabilitation account established in section 116J.955 to the organization's regional revolving loan fund when the commissioner gives final approval for each loan. The amount of money appropriated from the rural rehabilitation account may not exceed 50 percent for each loan. The amount of nonpublic money must equal at least 50 percent for each loan.~~ Funds may be used to provide loans, loan guarantees, interest buy-downs, and other forms of participation with private sources of financing, provided that the financial assistance must be for a principal amount that does not exceed one-half of the cost of the project for which financing is sought.

Sec. 9. Minnesota Statutes 2002, section 116J.415, subdivision 5, is amended to read:

Subd. 5. [~~LOAN~~ ASSISTANCE CRITERIA.] ~~The following criteria apply to loans made under~~ Projects supported through the challenge grant program must be used principally to benefit low-income persons by:

~~(1) loans must be made to businesses that are not likely to undertake a project for which loans are sought without assistance from the challenge grant program;~~

~~(2) a loan must be used for a project designed principally to benefit low-income persons through the creation of job or business opportunities for them;~~

~~(3) the minimum loan is $5,000 and the maximum is $200,000;~~

~~(4) a loan may not exceed 50 percent of the total cost of an individual project;~~

~~(5) a loan may not be used for a retail development project; and~~

~~(6) a business applying for a loan, except a microenterprise loan under subdivision 6, must be sponsored by a resolution of the governing body of the local governmental unit within whose jurisdiction the project is located.~~

(1) creating new jobs or retaining existing jobs;

(2) increasing the local tax base;

(3) demonstrating that investment of public dollars induces private funds;

(4) providing higher wage levels to the community or adding value to current workforce skills;

(5) retaining existing business; or

(6) attracting out-of-state business.

Sec. 10. Minnesota Statutes 2002, section 116J.415, subdivision 7, is amended to read:

Subd. 7. [REVOLVING FUND ADMINISTRATION.] ~~(a) The commissioner shall establish a minimum interest rate for loans to ensure that necessary management costs are covered.~~

~~(b) Loan~~ Repayment amounts ~~equal to one-half of the principal and interest must be deposited in the rural rehabilitation revolving fund for challenge grants to the region from which the money was originally designated. The remaining amount of the loan repayment may~~ must be deposited in the regional revolving ~~loan~~ fund for further distribution by the regional organization, consistent with the loan criteria specified in subdivisions 4 and 5.

~~(c) The first $1,000,000 of revolving loans for each region must be matched by nonstate sources. The matching requirement does not apply to loans made under paragraph (b).~~

~~(d) Administrative expenses of each organization may be paid out of the interest earned on loans and on interest earned on money invested by the state board of investment under section 116J.413, subdivision 2.~~

Sec. 11. Minnesota Statutes 2002, section 116J.415, subdivision 11, is amended to read:

Subd. 11. [REPORTING REQUIREMENTS.] An organization that receives a challenge grant shall:

(1) submit an annual report to the commissioner by ~~February 15 of each~~ August 30 for the preceding fiscal year that includes ~~a description of projects supported by the challenge grant program,~~ an account of loans made, written off, and fully paid during the calendar year, the source and amount of money collected and distributed by the ~~challenge grant program~~ regional revolving fund, and the ~~program's assets and liabilities, and an explanation of administrative expenses~~ funds' cash balance and loans receivable; and

(2) provide for an independent annual audit to be performed in accordance with generally accepted accounting practices and auditing standards and submit a copy of each annual audit report to the commissioner.

Sec. 12. Minnesota Statutes 2002, section 116J.553, subdivision 2, is amended to read:

Subd. 2. [REQUIRED CONTENT.] (a) The commissioner shall prescribe and provide the application form. The application must include at least the following information:

(1) identification of the site;

(2) an approved response action plan for the site, including the results of engineering and other tests showing the nature and extent of the release or threatened release of contaminants at the site;

(3) a detailed estimate, along with necessary supporting evidence, of the total cleanup costs for the site;

(4) an appraisal of the current market value of the property, separately taking into account the effect of the contaminants on the market value, prepared by a qualified independent appraiser licensed under chapter 82B using accepted appraisal methodology or, the estimated market value of the property for the latest year shown on the most recent valuation notice used under section 273.121;

(5) an assessment of the development potential or likely use of the site after completion of the response action plan, including any specific commitments from third parties to construct improvements on the site;

(6) the manner in which the municipality will meet the local match requirement; and

(7) any additional information or material that the commissioner prescribes.

(b) A response action plan is not required as a condition to receive a grant under section 116J.554, subdivision 1, paragraph (c).

Sec. 13. Minnesota Statutes 2002, section 116J.554, subdivision 2, is amended to read:

Subd. 2. [QUALIFYING SITES.] A site qualifies for a grant under this section, if the following criteria are met:

(1) the site is not scheduled for funding during the current or next fiscal year under the Comprehensive Environmental Response, Compensation, and Liability Act, United States Code, title 42, section 9601, et seq. or under the Environmental Response, and Liability Act under sections 115B.01 to 115B.24;

(2) the appraised value of the site after adjusting for the effect on the value of the presence or possible presence of contaminants using accepted appraisal methodology, or the current market value of the site as issued under section 273.121, separately taking into account the effect of the contaminants on the market value, (i) is less than 75 percent of the estimated project costs for the site or (ii) is less than or equal to the estimated cleanup costs for the site and the cleanup costs equal or exceed $3 per square foot for the site; and

(3) if the proposed cleanup is completed, it is expected that the site will be improved with buildings or other improvements and these improvements will provide a substantial increase in the property tax base within a reasonable period of time or the site will be used for an important publicly owned or tax-exempt facility.

Sec. 14. Minnesota Statutes 2002, section 116J.8731, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE.] The Minnesota investment fund is created to provide financial assistance, through partnership with communities, for the creation of new employment or to maintain existing employment, and for business start-up, expansions, and retention. It shall accomplish these goals by the following means:

(1) creation or retention of permanent private-sector jobs in order to create above-average economic growth consistent with environmental protection, which includes investments in technology and equipment that increase productivity and provide for a higher wage;

(2) stimulation or leverage of private investment to ensure economic renewal and competitiveness;

(3) increasing the local tax base, based on demonstrated measurable outcomes, to guarantee a diversified industry mix;

(4) improving the quality of existing jobs, based on increases in wages or improvements in the job duties, training, or education associated with those jobs;

(5) improvement of employment and economic opportunity for citizens in the region to create a reasonable standard of living, consistent with federal and state guidelines on low- to moderate-income persons; and

~~(5)~~ (6) stimulation of productivity growth through improved manufacturing or new technologies, including cold weather testing.

Sec. 15. Minnesota Statutes 2002, section 116J.8731, subdivision 4, is amended to read:

Subd. 4. [ELIGIBLE PROJECTS.] Assistance must be evaluated on the existence of the following conditions:

(1) creation of new jobs ~~or~~, retention of existing jobs, or improvements in the quality of existing jobs as measured by the wages, skills, or education associated with those jobs;

(2) increase in the tax base;

(3) the project can demonstrate that investment of public dollars induces private funds;

(4) the project can demonstrate an excessive public infrastructure or improvement cost beyond the means of the affected community and private participants in the project;

(5) the project provides higher wage levels to the community or will add value to current workforce skills;

(6) whether assistance is necessary to retain existing business; and

(7) whether assistance is necessary to attract out-of-state business.

A grant or loan cannot be made based solely on a finding that the conditions in clause (6) or (7) exist. A finding must be made that a condition in clause (1), (2), (3), (4), or (5) also exists.

Applications recommended for funding shall be submitted to the commissioner.

Sec. 16. Minnesota Statutes 2002, section 116J.8731, subdivision 5, is amended to read:

Subd. 5. [GRANT LIMITS.] A Minnesota investment fund grant may not be approved for an amount in excess of ~~$500,000~~ $1,000,000. This limit covers all money paid to complete the same project, whether paid to one or more grant recipients and whether paid in one or more fiscal years. The portion of a Minnesota investment fund grant that exceeds $100,000 must be repaid to the state when it is repaid to the local community or recognized Indian tribal government by the person or entity to which it was loaned by the local community or Indian tribal government. Money repaid to the state must be credited to the general fund. A grant or loan may not be made to a person or entity for the operation or expansion of a casino or a store which is used solely or principally for retail sales. Persons or entities receiving grants or loans must pay each employee total compensation, including benefits not mandated by law, that on an annualized basis is equal to at least 110 percent of the federal poverty level for a family of four.

Sec. 17. Minnesota Statutes 2002, section 116J.8731, subdivision 7, is amended to read:

Subd. 7. [CONTRACTUAL OBLIGATION.] A business receiving Minnesota investment fund grants must demonstrate why the grant is necessary for a project and enter into an agreement with the local grantor. The agreement, among other things, must obligate the recipient to pay the minimum compensation set by this section and meet job creation or job enhancement goals. A recipient that breaches the agreement must repay the grant directly to the commissioner. Repayments under this subdivision must be deposited in the general fund. If the commissioner determines, during the repayment period of a Minnesota investment fund loan, that the project for which the loan was made is in imminent danger of ceasing operations due to financial difficulties, the commissioner may elect to delay loan payments due on the loan for a period of no more than two years. In making a determination about whether a recipient qualifies for possible delay in payments, the commissioner must consider all available information regarding the health of the affected business and the industry in which it operates, the potential for displacement of workers in the event that operations cease, and the likelihood that a delay of payments will provide the business with a reasonable ability to improve its financial condition.

Sec. 18. Minnesota Statutes 2002, section 116J.8764, is amended by adding a subdivision to read:

Subd. 2a. [ENROLLMENT OF LOANS WITHOUT COMMISSIONER'S FULL PREMIUM PAYMENT.] The commissioner may continue to accept loans for enrollment into the program even if the amount of funds contained in the account is zero or an amount less than the full amount that is required to be transferred under section 116J.8765, subdivision 2, paragraph (a), (b), or (c).

Sec. 19. Minnesota Statutes 2002, section 116J.955, subdivision 2, is amended to read:

Subd. 2. [EXPENDITURE OF ACCOUNT.] The commissioner may use the rural rehabilitation account for the purposes that are allowed under the Minnesota rural rehabilitation corporation's charter and agreement ~~with,~~ as may be amended or modified by, the United States Secretary of Agriculture as provided in Public Law Number 499, 81st Congress, enacted May 3, 1950 and as allowed under Laws 1987, chapter 386, article 1. Not more than three percent of the combined book value of the Minnesota rural rehabilitation ~~corporation's assets~~ account and the regional revolving funds may be used for administrative purposes in a year without approval of the United States Secretary of Agriculture. Any funds used for administrative purposes may only be drawn from money remaining in the Minnesota rural rehabilitation account.

Sec. 20. Minnesota Statutes 2002, section 116J.966, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] (a) The commissioner shall promote, develop, and facilitate trade and foreign investment in Minnesota. In furtherance of these goals, and in addition to the powers granted by section 116J.035, the commissioner may:

(1) locate, develop, and promote international markets for Minnesota products and services;

(2) arrange and lead trade missions to countries with promising international markets for Minnesota goods, technology, services, and agricultural products;

(3) promote Minnesota products and services at domestic and international trade shows;

(4) organize, promote, and present domestic and international trade shows featuring Minnesota products and services;

(5) host trade delegations and assist foreign traders in contacting appropriate Minnesota businesses and investments;

(6) develop contacts with Minnesota businesses and gather and provide information to assist them in locating and communicating with international trading or joint venture counterparts;

(7) provide information, education, and counseling services to Minnesota businesses regarding the economic, commercial, legal, and cultural contexts of international trade;

(8) provide Minnesota businesses with international trade leads and information about the availability and sources of services relating to international trade, such as export financing, licensing, freight forwarding, international advertising, translation, and custom brokering;

(9) locate, attract, and promote foreign direct investment and business development in Minnesota to enhance employment opportunities in Minnesota;

(10) provide foreign businesses and investors desiring to locate facilities in Minnesota information regarding sources of governmental, legal, real estate, financial, and business services;

(11) enter into contracts or other agreements with private persons and public entities, including agreements to establish and maintain offices and other types of representation in foreign countries, to carry out the purposes of promoting international trade and attracting investment from foreign countries to Minnesota and to carry out this section, without regard to section 16C.06; and

(12) market trade-related materials to businesses and organizations, and the proceeds of which must be placed in a special revolving account and are appropriated to the commissioner to prepare and distribute trade-related materials.

(b) The commissioner may expend money to carry out this section. Promotional expenses include, but are not limited to, expenses for the food, lodging, and travel of consultants and speakers, and publications and other forms of advertising.

(c) The programs and activities of the commissioner of trade and economic development and the Minnesota trade division may not duplicate programs and activities of the commissioner of agriculture ~~or the Minnesota world trade center~~.

~~(c)~~ (d) The commissioner shall notify the chairs of the senate finance and house appropriations committees of each agreement under this subdivision to establish and maintain an office or other type of representation in a foreign country.

Sec. 21. Minnesota Statutes 2002, section 116J.994, subdivision 4, is amended to read:

Subd. 4. [WAGE AND JOB GOALS.] The subsidy agreement, in addition to any other goals, must include: (1) goals for the number of jobs created, which may include separate goals for the number of part-time or full-time jobs, or, in cases where job loss is specific and demonstrable, goals for the number of jobs retained; ~~and~~ (2) wage goals for ~~the~~ any jobs created or retained; and (3) wage goals for any jobs to be enhanced through increased wages. After a public hearing, if the creation or retention of jobs is determined not to be a goal, the wage and job goals may be set at zero.

In addition to other specific goal time frames, the wage and job goals must contain specific goals to be attained within two years of the benefit date.

Sec. 22. Minnesota Statutes 2002, section 116J.995, is amended to read:

116J.995 [ECONOMIC GRANTS.]

An appropriation rider in an appropriation to the department of trade and economic development that specifies that the appropriation be granted to a particular business or class of businesses must contain a statement of the expected benefits associated with the grant. At a minimum, the statement must include goals for the number of jobs created or enhanced, wages paid, and the tax revenue increases due to the grant. The wage and job goals must contain specific goals to be attained within two years of the benefit date. The statement must specify the recipient's obligation if the recipient does not attain the goals. At a minimum, the statement must require a recipient failing to meet the job and wage goals to pay back the assistance plus interest to the department of trade and economic development provided that repayment may be prorated to reflect partial fulfillment of goals. The interest rate must be set at no less than the implicit price deflator as defined under section 116J.994, subdivision 6. The legislature, after a public hearing, may extend for up to one year the period for meeting the goals provided in the statement.

Sec. 23. Minnesota Statutes 2002, section 116L.02, is amended to read:

116L.02 [JOB SKILLS PARTNERSHIP PROGRAM.]

(a) The Minnesota job skills partnership program is created to act as a catalyst to bring together employers with specific training needs with educational or other nonprofit institutions which can design programs to fill those needs. The partnership shall work closely with employers to prepare, train and place prospective or incumbent workers in identifiable positions as well as assisting educational or other nonprofit institutions in developing training programs that coincide with current and future employer requirements. The partnership shall provide grants to educational or other nonprofit institutions for the purpose of training workers. A participating business must match the grant-in-aid made by the Minnesota job skills partnership. The match may be in the form of funding, equipment, or faculty.

(b) The partnership program shall administer the health care and human services worker training and retention program under sections 116L.10 to 116L.15.

(c) The partnership program is authorized to use funds to pay for training for individuals who have incomes at or below 200 percent of the federal poverty line. The board may grant funds to eligible recipients to pay for board-certified training. Eligible recipients of grants may include public, private, or nonprofit entities that provide employment services to low-income individuals.

Sec. 24. Minnesota Statutes 2002, section 116L.04, subdivision 1, is amended to read:

Subdivision 1. [PARTNERSHIP PROGRAM.] (a) The partnership program may provide grants-in-aid to educational or other nonprofit educational institutions using the following guidelines:

(1) the educational or other nonprofit educational institution is a provider of training within the state in either the public or private sector;

(2) the program involves skills training that is an area of employment need; and

(3) preference will be given to educational or other nonprofit training institutions which serve economically disadvantaged people, minorities, or those who are victims of economic dislocation and to businesses located in rural areas.

(b) A single grant to any one institution shall not exceed $400,000. Up to 25 percent of a grant may be used for preemployment training.

Sec. 25. Minnesota Statutes 2002, section 116L.04, subdivision 1a, is amended to read:

Subd. 1a. [PATHWAYS PROGRAM.] The pathways program may provide grants-in-aid for developing programs which assist in the transition of persons from welfare to work and assist individuals at or below 200 percent of the federal poverty guidelines. The program is to be operated by the board. The board shall consult and coordinate with program administrators at the department of economic security to design and provide services for temporary assistance for needy families recipients.

Pathways grants-in-aid may be awarded to educational or other nonprofit training institutions for education and training programs and services supporting education and training programs that serve eligible recipients.

Preference shall be given to projects that:

(1) provide employment with benefits paid to employees;

(2) provide employment where there are defined career paths for trainees;

(3) pilot the development of an educational pathway that can be used on a continuing basis for transitioning persons from welfare to work; and

(4) demonstrate the active participation of department of economic security workforce centers, Minnesota state college and university institutions and other educational institutions, and local welfare agencies.

Pathways projects must demonstrate the active involvement and financial commitment of private business. Pathways projects must be matched with cash or in-kind contributions on at least a one-to-one ratio by participating private business.

A single grant to any one institution shall not exceed $400,000.

~~The board shall annually, by March 31, report to the commissioners of economic security and trade and economic development on pathways programs, including the number of recipients participating in the program, the number of participants placed in employment, the salary and benefits they receive, and the state program costs per participant.~~

Sec. 26. Minnesota Statutes 2002, section 116L.12, subdivision 4, is amended to read:

Subd. 4. [GRANTS.] Within the limits of available appropriations, the board shall make grants not to exceed $400,000 each to qualifying consortia to operate local, regional, or statewide training and retention programs. Grants may be made from TANF funds, general fund appropriations, and any other funding sources available to the board, provided the requirements of those funding sources are satisfied. Up to 25 percent of a grant may be used for preemployment training. Grant awards must establish specific, measurable outcomes and timelines for achieving those outcomes.

Sec. 27. Minnesota Statutes 2002, section 116L.17, subdivision 2, is amended to read:

Subd. 2. [GRANTS.] The board shall make grants to workforce service areas or other eligible organizations to provide services to dislocated workers. The board shall allocate funds available for the purposes of this section in its discretion to respond to large layoffs. The board shall regularly allocate funds to provide services to individual dislocated workers or small groups. The allocation for this purpose must be no less than 35 percent and no more than 50 percent of the ~~projected~~ actual collections, interest and other earnings of the workforce development fund during the period for which the allocation is made, less any collection costs paid out of the fund and any amounts appropriated by the legislature from the workforce development fund for programs other than the state dislocated worker program. The board shall consider the need for services to individual workers and workers in small layoffs in comparison to those in large layoffs relative to the needs in previous years when making this allocation. The board may, in its discretion, allocate funds carried forward from previous years under subdivision 9 for large, small, or individual layoffs.

Sec. 28. Minnesota Statutes 2002, section 116L.17, subdivision 3, is amended to read:

Subd. 3. [ALLOCATION OF FUNDS.] The board, in consultation with local workforce councils and local elected officials, shall develop a method of distributing funds to provide services for dislocated workers who are dislocated as a result of small or individual layoffs. The board shall consider current requests for services and the likelihood of future layoffs when making this allocation. The board shall consider factors for determining the allocation amounts that include, but are not limited to, the previous year's obligations and projected layoffs. After the first quarter of the program year, the board shall evaluate the obligations by workforce service areas for the

purpose of reallocating funds to workforce service areas with increased demand for services. Periodically throughout the program year, the board shall consider making additional allocations to the workforce service areas with a demonstrated need for increased funding. The board shall make an initial determination regarding allocations under this subdivision by July 15, 2001, and in subsequent years shall make a determination by ~~April~~ June 15.

Sec. 29. Minnesota Statutes 2002, section 116L.17, subdivision 8, is amended to read:

Subd. 8. [ADMINISTRATIVE COSTS.] No more than ~~three~~ five percent of the funds appropriated to the board for the purposes of this section may be spent by the board for its administrative costs.

Sec. 30. Minnesota Statutes 2002, section 116L.17, is amended by adding a subdivision to read:

Subd. 9. [RAPID RESPONSE ACTIVITIES.] The commissioner shall be responsible for implementing the following rapid response activities:

(1) establishing on-site contact with employer and employee representatives within a short period of time after becoming aware of a current or projected plant closing or substantial layoff in order to:

(i) provide information on and facilitate access to available public programs and services; and

(ii) provide emergency assistance adapted to the particular closure or layoff;

(2) promoting the formation of a employee-management committee by providing:

(i) immediate assistance in the establishment of the employee-management committee;

(ii) technical advice and information on sources of assistance and liaison with other public and private services and programs; and

(iii) assistance in the selection of worker representatives in the event no union is present;

(3) collecting and disseminating information related to economic dislocation, including potential closings or layoffs, and all available resources with the state for dislocated workers;

(4) providing or obtaining appropriate financial and technical advice and liaison with economic development agencies and other organizations to assist in efforts to avert dislocation;

(5) disseminating information throughout the state on the availability of services and activities carried out by the dislocated worker unit; and

(6) assisting the local community in developing its own coordinated response to a plant closing or substantial layoff and access to state economic development assistance.

Sec. 31. Minnesota Statutes 2002, section 116M.14, subdivision 4, is amended to read:

Subd. 4. [LOW-INCOME AREA.] "Low-income area" means Minneapolis, St. Paul, and those cities in the metropolitan area as defined in section 473.121, subdivision 2, that have an average income that is below ~~60~~ 80 percent of the median income for a four-person family as of the latest report by the United States Census Bureau.

Sec. 32. [NAFTA AND FTAA REVIEW AND REPORT.]

The commissioner of trade and economic development shall analyze and report to the legislature on the negative and positive impacts of the North American Free Trade Agreement (NAFTA) and its pending expansion to 34 more countries in South and Central America under the pending Free Trade Areas of the Americas (FTAA). The analysis shall include but not be limited to:

(1) the number of manufacturing jobs in Minnesota lost or gained to foreign competition and the sectors expected to experience job losses;

(2) the restrictions on public subsidies for economic development, job creation and job training including tax free zones, enterprise zones, tourism promotion, bio-research promotion;

(3) the treatment of foreign investors as compared to domestic investors;

(4) subsidies for housing; and

(5) other trade agreement rules that potentially conflict with state or local law-making authority and opportunities to promote economic development in Minnesota.

The commissioner shall report preliminary findings to the chairs of the house jobs and economic development and commerce committees and the senate jobs and economic development and commerce committees by July 15, 2003. The commissioner shall make a final report by January 1, 2004, in order to allow the Minnesota legislature and governor the option to join with other states who are expressing their concerns about potential loss or gains of state and local governing authority to the United States Trade Representative, who is currently engaged in private negotiations in which the state and the governor have no representative to protect state and local sovereignty.

Sec. 33. [REPEALER.]

Minnesota Statutes 2002, sections 13.598, subdivision 2; 116J.411, subdivision 3; 116J.415, subdivisions 6, 9, and 10; 116J.693; 116J.9665; and 116L.03, subdivision 7, are repealed.

ARTICLE 7

VAPOR RECOVERY

Section 1. Minnesota Statutes 2002, section 115C.09, is amended by adding a subdivision to read:

Subd. 3j. [RETAIL LOCATIONS AND TRANSPORT VEHICLES.] (a) As used in this subdivision, "retail location" means a facility located in the metropolitan area as defined in section 473.121, subdivision 2, where gasoline is offered for sale to the general public for use in automobiles and trucks. "Transport vehicle" means a liquid fuel cargo tank used to deliver gasoline into underground storage tanks during 2002 at a retail location.

(b) Notwithstanding any other provision in this chapter, and any rules adopted under this chapter, the board shall reimburse 90 percent of an applicant's cost for retrofits of retail locations and transport vehicles completed between January 1, 2001, and January 1, 2006, to comply with section 116.49, subdivisions 3 and 4, provided that the board determines the costs were incurred and reasonable. The reimbursement may not exceed $3,000 per retail location and $3,000 per transport vehicle.

Sec. 2. Minnesota Statutes 2002, section 116.073, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY TO ISSUE.] (a) Pollution control agency staff designated by the commissioner and department of natural resources conservation officers may issue citations to a person who:

(1) disposes of solid waste as defined in section 116.06, subdivision 22, at a location not authorized by law for the disposal of solid waste without permission of the owner of the property;

(2) fails to report or recover discharges as required under section 115.061; ~~or~~

(3) fails to take discharge preventive or preparedness measures required under chapter 115E; or

(4) fails to install or use vapor recovery equipment during the transfer of gasoline from a transport delivery vehicle to an underground storage tank as required in section 116.49, subdivisions 3 and 4.

(b) In addition, pollution control agency staff designated by the commissioner may issue citations to owners and operators of facilities dispensing petroleum products who violate sections 116.46 to 116.50 and Minnesota Rules, chapters 7150 and 7151 and parts 7001.4200 to 7001.4300. A citation issued under this subdivision must include a requirement that the person cited remove and properly dispose of or otherwise manage the waste or discharged oil or hazardous substance, reimburse any government agency that has disposed of the waste or discharged oil or hazardous substance and contaminated debris for the reasonable costs of disposal, or correct any storage tank violations.

(c) Until June 1, 2004, citations for violation of sections 115E.045 and 116.46 to 116.50 and Minnesota Rules, chapters 7150 and 7151, may be issued only after the owners and operators have had a 90-day period to correct violations stated in writing by pollution control agency staff, unless there is a discharge associated with the violation or the violation is of Minnesota Rules, part 7151.6400, subpart 1, item B, or 7151.6500.

Sec. 3. Minnesota Statutes 2002, section 116.073, subdivision 2, is amended to read:

Subd. 2. [PENALTY AMOUNT.] The citation must impose the following penalty amounts:

(1) $100 per major appliance, as defined in section 115A.03, subdivision 17a, up to a maximum of $2,000;

(2) $25 per waste tire, as defined in section 115A.90, subdivision 11, up to a maximum of $2,000;

(3) $25 per lead acid battery governed by section 115A.915, up to a maximum of $2,000;

(4) $1 per pound of other solid waste or $20 per cubic foot up to a maximum of $2,000;

(5) up to $200 for any amount of waste that escapes from a vehicle used for the transportation of solid waste if, after receiving actual notice that waste has escaped the vehicle, the person or company transporting the waste fails to immediately collect the waste;

(6) $50 per violation of rules adopted under section 116.49, relating to underground storage tank system design, construction, installation, and notification requirements, up to a maximum of $2,000;

(7) $250 per violation of rules adopted under section 116.49, relating to upgrading of existing underground storage tank systems, up to a maximum of $2,000;

(8) $100 per violation of rules adopted under section 116.49, relating to underground storage tank system general operating requirements, up to a maximum of $2,000;

(9) $250 per violation of rules adopted under section 116.49, relating to underground storage tank system release detection requirements, up to a maximum of $2,000;

(10) $50 per violation of rules adopted under section 116.49, relating to out-of-service underground storage tank systems and closure, up to a maximum of $2,000;

(11) $50 per violation of sections 116.48 to 116.491 relating to underground storage tank system notification, monitoring, environmental protection, and tank installers training and certification requirements, up to a maximum of $2,000;

(12) $25 per gallon of oil or hazardous substance discharged which is not reported or recovered under section 115.061, up to a maximum of $2,000;

(13) $1 per gallon of oil or hazardous substance being stored, transported, or otherwise handled without the prevention or preparedness measures required under chapter 115E, up to a maximum of $2,000; ~~and~~

(14) $250 per violation of Minnesota Rules, parts 7001.4200 to 7001.4300 or chapter 7151, related to aboveground storage tank systems, up to a maximum of $2,000; and

(15) $250 per delivery made in violation of section 116.49, subdivision 3 or 4, levied against:

(i) the retail location if vapor recovery equipment is not installed or maintained properly;

(ii) the carrier if the transport delivery vehicle is not equipped with vapor recovery equipment; or

(iii) the driver for failure to use supplied vapor recovery equipment.

Sec. 4. Minnesota Statutes 2002, section 116.46, is amended by adding a subdivision to read:

Subd. 7a. [RETAIL LOCATION.] "Retail location" means a facility located in the metropolitan area as defined in section 473.121, subdivision 2, where gasoline is offered for sale to the general public for use in automobiles and trucks.

Sec. 5. Minnesota Statutes 2002, section 116.46, is amended by adding a subdivision to read:

Subd. 7b. [TRANSPORT DELIVERY VEHICLE.] "Transport delivery vehicle" means a liquid fuel cargo tank used to deliver gasoline into underground storage tanks.

Sec. 6. Minnesota Statutes 2002, section 116.46, is amended by adding a subdivision to read:

Subd. 9. [VAPOR RECOVERY SYSTEM.] "Vapor recovery system" means a system which transfers vapors from underground storage tanks during the filling operation to the storage compartment of the transport vehicle delivering gasoline.

Sec. 7. Minnesota Statutes 2002, section 116.49, is amended by adding a subdivision to read:

Subd. 3. [VAPOR RECOVERY SYSTEM.] Every underground gasoline storage tank at a retail location must be fitted with vapor recovery equipment by January 1, 2006. The equipment must be certified by the manufacturer

as capable of collecting 95 percent of hydrocarbons emitted during gasoline transfers from a transport delivery vehicle to an underground storage tank. Product delivery and vapor recovery access points must be on the same side of the transport vehicle when the transport vehicle is positioned for delivery into the underground tank. After January 1, 2006, no gasoline may be delivered to a retail location that is not equipped with a vapor recovery system.

Sec. 8. Minnesota Statutes 2002, section 116.49, is amended by adding a subdivision to read:

Subd. 4. [VAPOR RECOVERY ON TRANSPORTS.] All transport delivery vehicles that deliver gasoline into underground storage tanks in the metropolitan area as defined in section 473.121, subdivision 2, must be fitted with vapor recovery equipment. The equipment must recover and manage 95 percent of hydrocarbons emitted during the transfer of gasoline from the underground storage tank and the transport delivery vehicle by January 1, 2006. After January 1, 2006, no gasoline may be delivered to a retail location by a transport vehicle that is not fitted with vapor recovery equipment.

Sec. 9. Minnesota Statutes 2002, section 116.50, is amended to read:

116.50 [PREEMPTION.]

Sections 116.46 to 116.49 preempt conflicting local and municipal rules or ordinances requiring notification or establishing environmental protection requirements for underground storage tanks. A state agency or local unit of government may not adopt rules or ordinances establishing or requiring vapor recovery for underground storage tanks.

ARTICLE 8

MISCELLANEOUS

Section 1. Minnesota Statutes 2002, section 13.462, subdivision 2, is amended to read:

Subd. 2. [PUBLIC DATA.] The names and addresses of applicants for and recipients of benefits, aid, or assistance through programs administered by any political subdivision, state agency, or statewide system that are intended to assist with the purchase ~~of,~~ rehabilitation, or other purposes related to housing or other real property are classified as public data on individuals. If an applicant or recipient is a corporation, the names and addresses of the officers of the corporation are public data on individuals. If an applicant or recipient is a partnership, the names and addresses of the partners are public data on individuals. The amount or value of benefits, aid, or assistance received is public data.

Sec. 2. Minnesota Statutes 2002, section 16B.35, subdivision 1, is amended to read:

Subdivision 1. [PERCENT OF APPROPRIATIONS FOR ART.] An appropriation for the construction or alteration of any state building may contain an amount not to exceed the lesser of $100,000 or one percent of the total appropriation for the building for the acquisition of works of art, excluding landscaping, which may be an integral part of the building or its grounds, attached to the building or grounds or capable of being displayed in other state buildings. Money used for this purpose is available only for the acquisition of works of art to be exhibited in areas of a building or its grounds accessible, on a regular basis, to members of the public. No more than ten percent of the total amount available each fiscal year under this subdivision may be used for administrative expenses, either by the commissioner of administration or by any other entity to whom the commissioner delegates administrative authority. For the purposes of this section "state building" means a building the construction or alteration of which is paid for wholly or in part by the state.

Sec. 3. Minnesota Statutes 2002, section 43A.24, subdivision 2, is amended to read:

Subd. 2. [OTHER ELIGIBLE PERSONS.] The following persons are eligible for state paid life insurance and hospital, medical, and dental benefits as determined in applicable collective bargaining agreements or by the commissioner or by plans pursuant to section 43A.18, subdivision 6, or by the board of regents for employees of the University of Minnesota not covered by collective bargaining agreements. Coverages made available, including optional coverages, are as contained in the plan established pursuant to section 43A.18, subdivision 2:

(a) a member of the state legislature, provided that changes in benefits resulting in increased costs to the state shall not be effective until expiration of the term of the members of the existing house of representatives. An eligible member of the state legislature may decline to be enrolled for state paid coverages by filing a written waiver with the commissioner. The waiver shall not prohibit the member from enrolling the member or dependents for optional coverages, without cost to the state, as provided for in section 43A.26. A member of the state legislature who returns from a leave of absence to a position previously occupied in the civil service shall be eligible to receive the life insurance and hospital, medical, and dental benefits to which the position is entitled;

(b) an employee of the legislature or an employee of a permanent study or interim committee or commission or a state employee on leave of absence to work for the legislature, during a regular or special legislative session, as determined by the legislative coordinating commission;

(c) a judge of the appellate courts or an officer or employee of these courts; a judge of the district court, a judge of county court, or a judge of county municipal court; a district court referee, judicial officer, court reporter, or law clerk; a district administrator; an employee of the office of the district administrator that is not in the second or fourth judicial district; a court administrator or employee of the court administrator in a judicial district under section 480.181, subdivision 1, paragraph (b), and a guardian ad litem program employee;

(d) a salaried employee of the public employees retirement association;

(e) a full-time military or civilian officer or employee in the unclassified service of the department of military affairs whose salary is paid from state funds;

(f) a salaried employee of the Minnesota historical society, whether paid from state funds or otherwise, who is not a member of the governing board;

(g) an employee of the regents of the University of Minnesota;

(h) notwithstanding section 43A.27, subdivision 3, an employee of the state of Minnesota or the regents of the University of Minnesota who is at least 60 and not yet 65 years of age on July 1, 1982, who is otherwise eligible for employee and dependent insurance and benefits pursuant to section 43A.18 or other law, who has at least 20 years of service and retires, earlier than required, within 60 days of March 23, 1982; or an employee who is at least 60 and not yet 65 years of age on July 1, 1982, who has at least 20 years of state service and retires, earlier than required, from employment at Rochester state hospital after July 1, 1981; or an employee who is at least 55 and not yet 65 years of age on July 1, 1982, and is covered by the Minnesota state retirement system correctional employee retirement plan or the state patrol retirement fund, who has at least 20 years of state service and retires, earlier than required, within 60 days of March 23, 1982. For purposes of this clause, a person retires when the person terminates active employment in state or University of Minnesota service and applies for a retirement annuity. Eligibility shall cease when the retired employee attains the age of 65, or when the employee chooses not to receive the annuity that the employee has applied for. The retired employee shall be eligible for coverages to which the employee was entitled at the time of retirement, subject to any changes in coverage through collective bargaining or plans established pursuant to section 43A.18, for employees in positions equivalent to that from which retired, provided that the retired employee shall not be eligible for state-paid life insurance. Coverages shall be coordinated with relevant health insurance benefits provided through the federally sponsored Medicare program;

(i) an employee of an agency of the state of Minnesota identified through the process provided in this paragraph who is eligible to retire prior to age 65. The commissioner and the exclusive representative of state employees shall enter into agreements under section 179A.22 to identify employees whose positions are in programs that are being permanently eliminated or reduced due to federal or state policies or practices. Failure to reach agreement identifying these employees is not subject to impasse procedures provided in chapter 179A. The commissioner must prepare a plan identifying eligible employees not covered by a collective bargaining agreement in accordance with the process outlined in section 43A.18, subdivisions 2 and 3. For purposes of this paragraph, a person retires when the person terminates active employment in state service and applies for a retirement annuity. Eligibility ends as provided in the agreement or plan, but must cease at the end of the month in which the retired employee chooses not to receive an annuity, or the employee is eligible for employer-paid health insurance from a new employer. The retired employees shall be eligible for coverages to which they were entitled at the time of retirement, subject to any changes in coverage through collective bargaining or plans established under section 43A.18 for employees in positions equivalent to that from which they retired, provided that the retired employees shall not be eligible for state-paid life insurance;

(j) employees of the state board of public defense, with eligibility determined by the state board of public defense in consultation with the commissioner of employee relations; ~~and~~

(k) employees of the health data institute under section 62J.451, subdivision 12, as paid for by the health data institute;

(l) employees of supporting organizations of Minnesota Technology, Inc., established after July 1, 2003, under section 116O.05, subdivision 4, as paid for by the supporting organization; and

(m) employees of Minnesota Project Innovation, as paid for by Minnesota Project Innovation.

Sec. 4. Minnesota Statutes 2002, section 116O.03, subdivision 2, is amended to read:

Subd. 2. [BOARD OF DIRECTORS.] The corporation is governed by a board of ~~15~~ directors. The selection, membership terms, compensation, removal, and filling of vacancies of ~~public~~ members of the board are as provided in ~~section 15.0575~~ the corporation's bylaws. ~~Membership of the board consists of the following:~~

~~(1) a person from the private sector, appointed by the governor, who shall act as chair and serve as chief science advisor to the governor and the legislature;~~

~~(2) the dean of the institute of technology of the University of Minnesota;~~

~~(3) the dean of the graduate school of the University of Minnesota;~~

~~(4) the commissioner of the department of trade and economic development;~~

~~(5) the commissioner of administration;~~

~~(6) six members appointed by the governor, at least one of whom must be a person from a public post-secondary system other than the University of Minnesota; and~~

~~(7) one member who is not a member of the legislature appointed by each of the following: the speaker of the house of representatives, the house of representatives minority leader, the senate majority leader, and the senate minority leader.~~

~~At least 50 percent of the members described in clauses (6) and (7) must live outside the metropolitan area as defined in section 473.121, subdivision 2, and must have experience in manufacturing, the technology industry, or research and development.~~

Sec. 5. Minnesota Statutes 2002, section 116O.091, subdivision 7, is amended to read:

Subd. 7. [ADVISORY COMMITTEES.] An advisory committee is created to assist in selecting vendors and evaluating the corporation's project outreach activities. The advisory committee shall include the president of the University of Minnesota or the president's designee, the commissioner of trade and economic development or the commissioner's designee, the chair of the Minnesota Technology, Inc., board of directors or the chair's designee, a member of the state senate appointed by the subcommittee on committees of the senate rules and administration committee, a member of the house of representatives appointed by the speaker, and at least five users of project outreach services appointed by the named members. The advisory committee expires June 30, 2004.

Sec. 6. Minnesota Statutes 2002, section 116O.12, is amended to read:

116O.12 [MINNESOTA TECHNOLOGY ACCOUNT.]

~~(a)~~ The Minnesota technology account is in the special revenue fund. Money in the account not needed for the immediate purposes of the corporation may be invested by the state board of investment in any way authorized by section 11A.24. Money in the account is appropriated to the corporation to be used as provided in this chapter.

~~(b) The account consists of:~~

~~(1) money appropriated and transferred from other state funds;~~

~~(2) fees and charges collected by the corporation;~~

~~(3) income from investments and purchases;~~

~~(4) revenue from loans, rentals, royalties, dividends, and other proceeds collected in connection with lawful corporate purposes;~~

~~(5) gifts, donations, and bequests made to the corporation; and~~

~~(6) other income credited to the account by law.~~

Sec. 7. Minnesota Statutes 2002, section 154.18, is amended to read:

154.18 [FEES.]

(a) The fees collected, as required in this chapter, chapter 214, and the rules of the board, shall be paid in advance to the executive secretary of the board. The executive secretary shall deposit the fees in the state treasury, to be disbursed by the executive secretary on the order of the chair in payment of expenses lawfully incurred by the board.

(b) The board shall charge the following fees:

(1) examination and certificate, registered barber, $65;

(2) examination and certificate apprentice, $60;

(3) examination, instructor, $160;

(4) certificate, instructor, $45;

(5) temporary teacher or apprentice permit, $50;

(6) renewal of license, registered barber, $50;

(7) renewal of license, apprentice, $45;

(8) renewal of license, instructor, $60;

(9) renewal of temporary teacher permit, $35;

(10) student permit, $25;

(11) initial shop registration, $60;

(12) initial school registration, $1,010;

(13) renewal shop registration, $60;

(14) renewal school registration, $260;

(15) restoration of registered barber license, $75;

(16) restoration of apprentice license, $70;

(17) restoration of shop registration, $85;

(18) change of ownership or location, $35;

(19) duplicate license, $20; and

(20) home study course, $75.

Sec. 8. Minnesota Statutes 2002, section 216A.03, subdivision 1, is amended to read:

Subdivision 1. [MEMBERS.] The public utilities commission shall consist of five members. The terms of members shall be six years and until their successors have been appointed and qualified. Each commissioner shall be appointed by the governor by and with the advice and consent of the senate. Not more than three commissioners shall belong to the same political party. At least ~~one commissioner~~ two commissioners must ~~have been~~ be domiciled at the time of appointment outside the seven-county metropolitan area. Of these two commissioners, at least one must be domiciled outside a city of the first or second class, as defined in section 410.01, at the time of initial appointment. If the membership of the commission after ~~July 31, 1986~~ August 1, 2003, does not consist of at least ~~one member~~ two members domiciled at the time of appointment outside the seven-county metropolitan area, the membership shall conform to this requirement following normal attrition of the present commissioners. The governor when selecting commissioners shall give consideration to persons learned in the law or persons who have engaged in the profession of engineering, public accounting, property and utility valuation, finance, physical or natural sciences, production agriculture, or natural resources as well as being representative of the general public.

For purposes of this subdivision, "seven-county metropolitan area" means Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties.

Sec. 9. Minnesota Statutes 2002, section 326.105, is amended to read:

326.105 [FEES.]

The fee for licensure or renewal of licensure as an architect, professional engineer, land surveyor, landscape architect, or geoscience professional is ~~$120~~ $132 per biennium. The fee for certification as a certified interior designer or for renewal of the certificate is ~~$120~~ $132 per biennium. The fee for an architect applying for original certification as a certified interior designer is $50 per biennium. The initial license or certification fee for all professions is ~~$120~~ $132. The renewal fee shall be paid biennially on or before June 30 of each even-numbered year. The renewal fee, when paid by mail, is not timely paid unless it is postmarked on or before June 30 of each even-numbered year. The application fee is $25 for in-training applicants and $75 for professional license applicants.

The fee for monitoring licensing examinations for applicants is $25, payable by the applicant.

Sec. 10. Minnesota Statutes 2002, section 461.12, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATIVE PENALTIES; LICENSEES.] (a) If a licensee or employee of a licensee sells tobacco to a person under the age of 18 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of ~~$75~~ up to $500. An administrative penalty of ~~$200~~ up to a maximum of $1,000 must be imposed for a second violation at the same location within 24 months after the initial violation. An administrative penalty of up to a maximum of $5,000 may be imposed for a third violation at the same location within 24 months after the initial violation. For a ~~third~~ subsequent violation at the same location within 24 months after the initial violation, both of the following may be imposed:

(1) an administrative penalty of ~~$250 must be imposed, and~~ up to $5,000; and

(2) the licensee's authority to sell tobacco at that location ~~must~~ may be suspended for ~~not less than~~ up to a maximum of seven days.

(b) The licensing authority may suspend or revoke a tobacco license if the licensee fails to act on any of the following:

(1) imposition of disciplinary sanctions of an employee with multiple noncompliant sales to a minor;

(2) failure to effectively train or retrain any employee on applicable laws and how to prevent sales of tobacco to minors; or

(3) failure to adopt and enforce a written employee policy to prevent the sale of tobacco to minors.

(c) No suspension or penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing.

(d) In determining the amount of a penalty and the length of a license suspension, the local licensing authority shall take into consideration as mitigating circumstances evidence provided by a licensee of a licensee's adoption and enforcement of a written employee policy to prevent the sale of tobacco to minors, a licensee's training program to instruct employees on applicable laws and how to prevent sales of tobacco to minors, a licensee's adoption and imposition of disciplinary sanctions for employee noncompliance with the licensee's policies, a licensee's policy of conducting voluntary internal compliance checks to test compliance with section 609.685, and whether a licensee or a licensee's employee verified the age of the customer during the transaction in question and reasonably relied on the age verification to complete the sale. A decision that a violation has occurred must be in writing and must include a summary of the mitigating circumstances considered by the local licensing authority in assessing a penalty or a license suspension.

Sec. 11. Minnesota Statutes 2002, section 461.19, is amended to read:

461.19 [EFFECT ON LOCAL ORDINANCE; NOTICE.]

Sections 461.12 to 461.18 do not preempt a local ordinance that provides for more restrictive regulation of tobacco sales, except that on and after the effective date of this act, a licensing authority shall not assess or impose a penalty on a licensee or an employee of a licensee that is greater than the administrative penalties set forth in section 461.12, subdivisions 2 and 3. A governing body shall give notice of its intention to consider adoption or substantial amendment of any local ordinance required under section 461.12 or permitted under this section. The governing body shall take reasonable steps to send notice by mail at least 30 days prior to the meeting to the last known address of each licensee or person required to hold a license under section 461.12. The notice shall state the time, place, and date of the meeting and the subject matter of the proposed ordinance.

Sec. 12. Minnesota Statutes 2002, section 624.20, subdivision 1, is amended to read:

Subdivision 1. (a) As used in sections 624.20 to 624.25, the term "fireworks" means any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and includes blank cartridges, toy cannons, and toy canes in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, sparklers other than those specified in paragraph (c), or other fireworks of like construction, and any fireworks containing any explosive or inflammable compound, or any tablets or other device containing any explosive substance and commonly used as fireworks.

(b) The term "fireworks" shall not include toy pistols, toy guns, in which paper caps containing 25/100 grains or less of explosive compound are used and toy pistol caps which contain less than 20/100 grains of explosive mixture.

(c) The term also does not include wire or wood sparklers of not more than 100 grams of mixture per item, other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical mixture per tube or a total of 200 grams or less for multiple tubes, snakes and glow worms, smoke devices, or trick noisemakers which include paper streamers, party poppers, string poppers, snappers, and drop pops, each consisting of not more than twenty-five hundredths grains of explosive mixture. The use of items listed in this paragraph is not permitted on public property. This paragraph does not authorize the purchase of items listed in it by persons younger than 18 years of age. The age of a purchaser of items listed in this paragraph must be verified by photographic identification.

(d) A local unit of government may impose an annual license fee for the retail sale of items authorized under paragraph (c). The annual license fee of each retail seller that is in the business of selling only the items authorized under paragraph (c) may not exceed $350, and the annual license of each other retail seller may not exceed $100. A local unit of government may not:

(1) impose any fee or charge, other than the fee authorized by this paragraph, on the retail sale of items authorized under paragraph (c);

(2) prohibit or restrict the display of items for retail sale authorized under paragraph (c); or

(3) impose on a retail seller any financial guarantee requirements, including bonding or insurance provisions, containing restrictions or conditions not imposed on the same basis on all other business licensees.

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

Sec. 13. [UTILITY REGULATORY REVIEW; RURAL CONCERNS.]

(a) The chair of the public utilities commission and the commissioner of commerce shall jointly review the organizational structure and regulatory procedures by which energy and telecommunications service providers are regulated by the state. By January 15, 2004, the chair and the commissioner shall issue a report on that review to the chairs of the house and senate committees with jurisdiction over utility regulation, and shall include recommendations for executive and legislative action to ensure the state has the most representative, cost-effective, and efficient utility regulatory system possible.

(b) A primary focus of this review must be to consider and make recommendations for actions that could be taken to ensure the utility regulatory structure and process takes into account the issues and concerns of rural and center city service providers, residents, and businesses. Items for consideration must include:

(1) requiring the commission to hold hearings in rural Minnesota, both on a regular basis and when an issue of special concern to rural Minnesota is before the commission; and

(2) the establishment of a screening process for applicants for the public utilities commission to demonstrate their understanding and experience with regard to rural and center city utility service issues.

Sec. 14. [REPEALER.]

(a) Minnesota Statutes, section 155A.03, subdivisions 14 and 15; and 155A.07, subdivision 9, are repealed.

(b) Minnesota Rules, part 2100.9300, subpart 1, is repealed.

Sec. 15. [EFFECTIVE DATE.]

(a) Sections 10 and 11 are effective the day following final enactment and apply to administrative penalties imposed on or after that date.

(b) Sections 7, 13, and 14 are effective July 1, 2003.

(c) Section 8 is effective June 30, 2004."

Delete the title and insert:

"A bill for an act relating to state government; appropriating money for economic development, housing, and certain agencies of state government; modifying programs; regulating activities and practices; modifying penalty provisions; changing terms; authorizing a registration fee; modifying displaced homemaker provisions; increasing the petroleum inspection fee; requiring uniform mandatory penalties against license holders and a licensee's employees for sales to minors; providing for mitigating circumstances in assessing penalties; amending Minnesota Statutes 2002, sections 13.462, subdivision 2; 16B.35, subdivision 1; 17.101, subdivision 1; 41A.036, subdivision 2; 43A.24, subdivision 2; 60A.14, subdivision 1; 79.56, subdivisions 1, 3; 115C.02, subdivision 14; 115C.08, subdivision 4; 115C.09, subdivision 3, by adding subdivisions; 115C.11, subdivision 1; 115C.13; 116.073, subdivisions 1, 2; 116.46, by adding subdivisions; 116.49, by adding subdivisions; 116.50; 116J.011; 116J.411, by adding a subdivision; 116J.415, subdivisions 1, 2, 4, 5, 7, 11; 116J.553, subdivision 2; 116J.554, subdivision 2; 116J.8731, subdivisions 1, 4, 5, 7; 116J.8764, by adding a subdivision; 116J.955, subdivision 2; 116J.966, subdivision 1; 116J.994, subdivision 4; 116J.995; 116L.02; 116L.04, subdivisions 1, 1a; 116L.12, subdivision 4; 116L.17, subdivisions 2, 3, 8, by adding a subdivision; 116M.14, subdivision 4; 116O.03, subdivision 2; 116O.091, subdivision 7; 116O.12; 154.18; 175.16, subdivision 1; 177.26, subdivisions 1, 2; 178.01; 178.03, subdivisions 1, 2; 181.9435, subdivision 1; 181.9436; 216A.03, subdivision 1; 239.10, subdivision 3; 239.101, subdivision 3; 248.10;

268.022, subdivision 1; 268A.02, by adding a subdivision; 326.105; 354D.02, subdivision 2; 461.12, subdivision 2; 461.19; 624.20, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 60A; 115C; 178; repealing Minnesota Statutes 2002, sections 13.598, subdivision 2; 116J.411, subdivision 3; 116J.415, subdivisions 6, 9, 10; 116J.693; 116J.9665; 116L.03, subdivision 7; 138.91; 155A.03, subdivisions 14, 15; 155A.07, subdivision 9; 177.26, subdivision 3; 178.11; Minnesota Rules, part 2100.9300, subpart 1."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Haas from the Committee on State Government Finance to which was referred:

H. F. No. 749, A bill for an act relating to state government; appropriating money for the general legislative and administrative expenses of state government; modifying provisions related to state government operations; requiring licensure of certain gambling equipment salespersons; modifying fee provisions and providing for disposition of various fees and other revenue; modifying provisions of various state boards and commissions; appropriating money; amending Minnesota Statutes 2002, sections 10A.02, by adding subdivisions; 10A.09, subdivision 6, by adding a subdivision; 10A.31, subdivision 4; 15.50, subdivision 1; 16A.17, by adding a subdivision; 16A.40; 16E.09, subdivision 1; 197.608; 240.03; 240.10; 240.15, subdivision 6; 240.155, subdivision 1; 240A.03, subdivisions 10, 15; 240A.04; 240A.06, subdivision 1; 270.052; 270.44; 270.45; 270A.07, subdivision 1; 349.12, subdivision 25, by adding a subdivision; 349.151, subdivisions 4, 4b; 349.155, subdivision 3; 349.16, subdivision 6; 349.161, subdivisions 1, 4, 5; 349.162, subdivision 1; 349.163, subdivisions 2, 6; 349.164, subdivision 4; 349.165, subdivision 3; 349.166, subdivisions 1, 2; 349A.08, subdivision 5; 474A.21; Laws 1998, chapter 366, section 80, as amended; proposing coding for new law in Minnesota Statutes, chapters 10A, 16A; repealing Minnesota Statutes 2002, section 16A.87; Minnesota Rules, part 1950.1070.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [STATE GOVERNMENT APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another named fund, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "2004" and "2005," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 2004, or June 30, 2005, respectively. The term "first year" means the fiscal year ending June 30, 2004, and the term "second year" means the fiscal year ending June 30, 2005.

SUMMARY BY FUND

	2004	2005	TOTAL
General	$261,933,000	$258,258,000	$520,191,000

Health Care Access	1,782,000	1,782,000	3,564,000
State Government Special Revenue	24,653,000	28,033,000	52,686,000
Environmental	332,000	248,000	580,000
Solid Waste	672,000	672,000	1,344,000
Special Revenue	2,947,000	2,947,000	5,894,000
Highway User Tax Distribution	2,097,000	2,097,000	4,194,000
Workers' Compensation	7,286,000	7,349,000	14,635,000
TOTAL	$301,702,000	$301,386,000	$603,088,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Sec. 2. LEGISLATURE		
Subdivision 1. Total Appropriation	$56,426,000	$56,427,000

Summary by Fund

General	56,298,000	56,299,000
Health Care Access	128,000	128,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Senate	19,107,000	19,107,000
Subd. 3. House of Representatives	26,135,000	26,136,000
Subd. 4. Legislative Coordinating Commission	11,184,000	11,184,000

Summary by Fund

General	11,056,000	11,056,000
Health Care Access	128,000	128,000

During the biennium ending June 30, 2005, the legislative coordinating commission, the office of the legislative auditor, and the office of the revisor of statutes are not subject to the limitations in uses of funds provided under Minnesota Statutes, section 16A.281.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
During the biennium ending June 30, 2005, a legislative commission or subcommittee of the legislative coordinating commission may by resolution adopt per diem payments for members attending commission meetings that are less than the payments permitted by rules of the house of representatives and the senate.		
Sec. 3. GOVERNOR AND LIEUTENANT GOVERNOR	3,586,000	3,586,000
This appropriation is to fund the office of the governor and lieutenant governor.		
$19,000 the first year and $19,000 the second year are for necessary expenses in the normal performance of the governor's and lieutenant governor's duties for which no other reimbursement is provided.		
Sec. 4. ATTORNEY GENERAL	21,816,000	21,795,000

Summary by Fund

General	20,059,000	20,059,000
State Government Special Revenue	1,612,000	1,591,000
Environmental	145,000	145,000
Solid Waste	484,000	484,000

Sec. 5. STATE AUDITOR	8,376,000	8,376,000
Sec. 6. SECRETARY OF STATE	5,912,000	6,032,000
Sec. 7. CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD	712,000	712,000
Sec. 8. INVESTMENT BOARD	2,167,000	2,167,000
Sec. 9. ADMINISTRATIVE HEARINGS	7,186,000	7,249,000
This appropriation is from the workers' compensation fund.		
Fee rates charged during fiscal years 2004 and 2005 by the Administrative Law Division of the Office of Administrative Hearings must be reduced by ten percent from fiscal year 2003 levels.		

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Sec. 10. OFFICE OF STRATEGIC AND LONG-RANGE PLANNING	3,264,000	3,264,000
Sec. 11. ADMINISTRATION		
Subdivision 1. Total Appropriation	44,553,000	47,454,000

Summary by Fund

General	21,912,000	21,412,000
State Government Special Revenue	22,641,000	26,042,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Operations Management

2,669,000	2,669,000

Subd. 3. Office of Technology

2,479,000	2,479,000

Subd. 4. Intertechnologies Group

22,641,000	26,042,000

This appropriation is from the state government special revenue fund for recurring costs of 911 emergency telephone service.

Subd. 5. Facilities Management

11,803,000	11,303,000

$7,888,000 the first year and $7,888,000 the second year are for office space costs of the legislature and veterans organizations, for ceremonial space, and for statutorily free space.

$500,000 the first year is for onetime funding of agency relocation expenses.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

$262,000 the first year and $262,000 the second year are for administration of the Capitol Area Architectural and Planning Board.

$1,225,000 in the first year and $1,225,000 in the second year of the balance in the facility repair and replacement account in the state government special revenue fund is canceled to the general fund. This amount is in addition to amounts transferred under Minnesota Statutes, section 16B.24, subdivision 5.

Subd. 6. Management Services

2,830,000 2,830,000

$196,000 the first year and $196,000 the second year are for the office of the state archaeologist.

$74,000 the first year and $74,000 the second year are for the developmental disabilities council.

Subd. 7. Public Broadcasting

2,131,000 2,131,000

$1,378,000 the first year and $1,378,000 the second year are for public television.

$423,000 the first year and $423,000 the second year are for grants and contracts with the senate and house of representatives for public information television, Internet, Intranet, and other transmission of legislative activities. At least one-half must go for programming to be broadcast and transmitted to rural Minnesota.

$17,000 the first year and $17,000 the second year are for grants to the Twin Cities regional cable channel.

$313,000 the first year and $313,000 the second year are for grants to public educational radio stations affiliated with the Association of Minnesota Public Educational Radio Stations.

Sec. 12. FINANCE

Subdivision 1. Total Appropriation	15,216,000	15,216,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Subd. 2. State Financial Management		
8,711,000	8,711,000	
Subd. 3. Information and Management Services		
6,505,000	6,505,000	
Sec. 13. EMPLOYEE RELATIONS		
Subdivision 1. Total Appropriation	6,118,000	6,118,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Employee Insurance		
63,000	63,000	
Subd. 3. Human Resources Management		
6,055,000	6,055,000	
Sec. 14. REVENUE		
Subdivision 1. Total Appropriation	90,942,000	92,658,000

Summary by Fund

General	86,816,000	88,616,000
Health Care Access	1,654,000	1,654,000
Highway User Tax Distribution	2,097,000	2,097,000
Environmental	187,000	103,000
Solid Waste	188,000	188,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Subd. 2. Tax System Management		
	77,038,000	78,254,000
Summary by Fund		
General	72,912,000	74,212,000
Health Care Access	1,654,000	1,654,000
Highway User Tax Distribution	2,097,000	2,097,000
Environmental	187,000	103,000
Solid Waste	188,000	188,000

$938,000 the first year and $2,238,000 the second year are for additional activities to identify and collect tax liabilities from individuals and businesses that currently do not pay all taxes owed. This initiative is expected to result in new general fund revenues of $32,400,000 for the biennium ending June 30, 2005.

The department must report to the chairs of the house ways and means and senate finance committees by March 1, 2004, and January 15, 2005, on the following performance indicators:

(1) the number of corporations noncompliant with the corporate tax system each year and the percentage and dollar amounts of valid tax liabilities collected;

(2) the number of businesses noncompliant with the sales and use tax system and the percentage and dollar amounts of the valid tax liabilities collected; and

(3) the number of individual noncompliant cases resolved and the percentage and dollar amounts of valid tax liabilities collected.

The reports must also identify base level expenditures and staff positions related to compliance and audit activities, including baseline information as of January 1, 2002. The information must be provided at the budget activity level.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Subd. 3. Accounts Receivable Management		
	13,904,000	14,404,000

$862,000 the first year and $1,362,000 the second year are for additional activities to identify and collect tax liabilities from individuals and businesses that currently do not pay all taxes owed.

Sec. 15. MILITARY AFFAIRS

Subdivision 1. Total Appropriation	12,279,000	12,279,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Maintenance of Training Facilities		
	5,590,000	5,590,000
Subd. 3. General Support		
	1,757,000	1,757,000
Subd. 4. Enlistment Incentives		
	4,857,000	4,857,000

If appropriations for either year of the biennium are insufficient, the appropriation from the other year is available. The appropriations for enlistment incentives are available until expended.

Subd. 5. Emergency Services		
	75,000	75,000

These appropriations are for expenses of military forces ordered to active duty under Minnesota Statutes, chapter 192. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Sec. 16. VETERANS AFFAIRS	3,988,000	3,988,000
Sec. 17. VETERANS OF FOREIGN WARS	55,000	55,000

For carrying out the provisions of Laws 1945, chapter 455.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Sec. 18. MILITARY ORDER OF THE PURPLE HEART	20,000	20,000
Sec. 19. DISABLED AMERICAN VETERANS	13,000	13,000

For carrying out the provisions of Laws 1941, chapter 425.

Sec. 20. GAMBLING CONTROL	2,728,000	2,526,000

Summary by Fund

General	202,000	-0-
Special Revenue	2,526,000	2,526,000

The general fund appropriation in fiscal year 2004 is intended to assist with the transition to fee-based funding. The commissioner of finance must approve the use of this onetime appropriation and may require that it be reimbursed to the general fund if sufficient resources are available in the special revenue fund.

The special revenue fund appropriation is made from the lawful gambling regulation account.

Sec. 21. RACING COMMISSION	525,000	421,000

Summary by Fund

General	104,000	-0-
Special Revenue	421,000	421,000

The general fund appropriation in fiscal year 2004 is intended to assist with the transition to fee-based funding. The commissioner of finance must approve the use of this onetime appropriation and may require that it be reimbursed to the general fund if sufficient resources are available in the special revenue fund.

The special revenue fund appropriation is made from the racing and card playing regulation account.

Sec. 22. TORT CLAIMS	161,000	161,000

To be spent by the commissioner of finance.

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Sec. 23. MINNESOTA STATE RETIREMENT SYSTEM	2,518,000	2,727,000

The amounts estimated to be needed for each program are as follows:

(a) Legislators

2,150,000 2,300,000

(b) Constitutional Officers

368,000 427,000

Sec. 24. MINNEAPOLIS EMPLOYEES RETIREMENT FUND	6,632,000	6,632,000
Sec. 25. AMATEUR SPORTS COMMISSION	525,000	525,000

The appropriations in this section may only be spent up to the amount of offsetting fee revenue generated by the commission under Minnesota Statutes, section 240A.03.

Sec. 26. GENERAL CONTINGENT ACCOUNTS	5,500,000	500,000

Summary by Fund

General	5,000,000	-0-
State Government Special Revenue	400,000	400,000
Workers' Compensation	100,000	100,000

The appropriations in this section may only be spent with the approval of the governor in accordance with the rules of the legislative advisory commission pursuant to Minnesota Statutes, section 3.30.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

Sec. 27. [GOVERNMENT EFFICIENCIES.]

Subdivision 1. [TELECOMMUNICATION DEVICES.] The commissioner of administration, in consultation with heads of other executive agencies and with the chancellor of the Minnesota state colleges and universities, must issue policies to reduce telecommunication device usage and expenditures by executive agencies and by the Minnesota state colleges and universities.

Subd. 2. [VEHICLES.] (a) The commissioner of administration, in consultation with heads of other executive agencies and with the chancellor of the Minnesota state colleges and universities, must issue policies to reduce ownership and use of passenger vehicles and light duty trucks by executive agencies and by the Minnesota state colleges and universities.

(b) The commissioner may sell vehicles owned by the state motor pool and may order the sale of passenger vehicles and light duty trucks owned by other executive agencies. The net proceeds of these sales must be deposited in the general fund, unless provided otherwise by the commissioner of finance.

Subd. 3. [TRANSFERS.] The commissioner of finance may authorize the transfer to and deposit in the general fund of money saved under subdivisions 1 and 2 from funds other than the general fund.

Subd. 4. [SAVINGS.] (a) It is anticipated that the efficiencies and deposits under subdivisions 1 to 3 will result in general fund savings or revenues of at least $10,000,000 during the biennium ending June 30, 2005. General fund savings and revenues that are achieved through actions taken under section 28 may be applied to the savings requirements estimated to be achieved under this section. The commissioner of finance, in consultation with the commissioner of administration, must reduce general fund appropriations to executive agencies and to the Minnesota state colleges and universities by the amount of savings estimated to be achieved under this section.

(b) If the commissioner of finance, in consultation with the commissioner of administration, estimates that the efficiencies and deposits achieved under this section will result in general fund savings and revenues totaling less than $10,000,000 during the biennium ending June 30, 2005, the commissioner of finance must report to the legislature by January 15, 2004, with proposed allocations of the amount of the difference as reductions to general fund operating budgets of executive agencies and the Minnesota state colleges and universities for fiscal year 2005. The commissioner must implement the proposed fiscal year 2005 executive agency operating budget reductions unless the 2004 legislature enacts a law providing otherwise.

Sec. 28. [PURCHASING SAVINGS.]

Subdivision 1. [POLICIES AND PROCEDURES.] The commissioner of administration, in consultation with heads of other executive agencies and with the chancellor of the Minnesota state colleges and universities, must implement policies and procedures to reduce expenditures on purchases of goods and services by executive agencies and by the Minnesota state colleges and universities. These policies and procedures may include increased use of reverse auctions and other electronic purchasing initiatives and use of authority under Minnesota Statutes, section 16E.09, to pay initial costs associated with certain initiatives, and may include reductions in specified categories of purchases.

Subd. 2. [TRANSFERS.] The commissioner of finance may authorize the transfer to and deposit in the general fund of money saved under subdivision 1 from funds other than the general fund.

Subd. 3. [SAVINGS.] (a) It is anticipated that actions taken under subdivisions 1 and 2 will result in general fund savings or revenues of at least $4,000,000 during the biennium ending June 30, 2005. General fund savings and revenues that are achieved through actions taken under section 27 may be applied to the savings requirements estimated to be achieved under this section. The commissioner of finance, in consultation with the commissioner of administration, must reduce general fund appropriations to executive agencies and to the Minnesota state colleges and universities by the amount of savings estimated to be achieved under this section.

(b) If the commissioner of finance, in consultation with the commissioner of administration, estimates that the actions taken under this section will result in general fund savings and revenues totaling less than $4,000,000 during the biennium ending June 30, 2005, the commissioner of finance must report to the legislature by January 15, 2004,

with proposed allocations of the amount of the difference as reductions to general fund operating budgets of executive agencies and the Minnesota state colleges and universities for fiscal year 2005. The commissioner must implement the proposed fiscal year 2005 executive agency operating budget reductions unless the 2004 legislature enacts a law providing otherwise.

Sec. 29. [PROCUREMENT EFFICIENCY REVOLVING LOAN FUND.]

$4,000,000 is appropriated as a loan from the general fund in fiscal year 2004 to the commissioner of administration for purposes of making investments related to achieving efficiencies in purchases of state goods and services. This appropriation is available only: (1) to the extent the necessary funds are not available from the technology enterprise fund created in Minnesota Statutes, section 16E.09; and (2) if the commissioners of finance and administration determine that the loan can be repaid to the general fund before June 30, 2005, through savings in state purchases of goods and services, and the reductions in general fund expenditures associated with these savings as required by section 28.

Sec. 30. [INSURANCE.]

Subdivision 1. [CONTRIBUTION LIMIT.] Total employer contributions for medical and dental coverage for eligible state employees and dependents and for constitutional officers, legislators, and dependents in each year of the biennium ending June 30, 2005, shall not exceed the total amount contributed by the state for that purpose in the fiscal year ending June 30, 2003.

Subd. 2. [SAVINGS.] It is anticipated that entities in the executive, legislative, and judicial branches of state government, including the Minnesota state colleges and universities, will realize general fund operational savings of at least $50,500,000 during the biennium ending June 30, 2005, as a result of the insurance contribution freeze in subdivision 1. The commissioner of finance must reduce general fund appropriations to executive, legislative, and judicial entities and to the Minnesota state colleges and universities for the biennium ending June 30, 2005, by a proportional amount of the $50,500,000 general fund savings.

Sec. 31. [SALE OF STATE LAND.]

Subdivision 1. [STATE LAND SALES.] The commissioner of administration shall coordinate with the head of each department or agency having control of state-owned land to identify and sell at least $3,430,000 of state-owned land. Sales should be completed according to law and as provided in this section as soon as practicable but no later than June 30, 2005. Notwithstanding Minnesota Statutes, sections 94.09 and 94.10, or any other law to the contrary, the commissioner may offer land for public sale without providing notice of lands or an offer of sale of lands to state departments or agencies, the University of Minnesota, cities, counties, towns, school districts, or other public entities.

Subd. 2. [ANTICIPATED SAVINGS.] Notwithstanding Minnesota Statutes, section 94.16, subdivision 3, the amount of the proceeds from the sale of land under this section that exceeds the actual expenses of selling the land must be deposited in the general fund, except as otherwise provided by the commissioner of finance. Notwithstanding Minnesota Statutes, section 94.11, the commissioner of finance may establish the timing of payments for land purchased under this section. If the total of all money deposited into the general fund from the proceeds of the sale of land under this section is anticipated to be less than $3,430,000, the governor must allocate the amount of the difference as reductions to general fund operating expenditures for other executive agencies for the biennium ending June 30, 2005.

Sec. 32. [SECRETARY OF STATE APPROPRIATION.]

$369,000 is appropriated in fiscal year 2003 from the general fund to the secretary of state for payment of the attorney fees awarded by court order in Zachman et al. vs. Kiffmeyer et al. This is a onetime appropriation and is not added to the secretary of state's base budget.

Sec. 33. [REAL ESTATE FILING SURCHARGE.]

All funds collected during the fiscal year ending June 30, 2004, and funds collected in the fiscal year ending June 30, 2003, that carry forward into the fiscal year ending June 30, 2004, pursuant to the additional 50 cent surcharges imposed by Laws 2001, First Special Session chapter 10, article 2, section 77, and Laws 2002, chapter 365, are appropriated to the legislative coordinating commission for the real estate task force established by Laws 2000, chapter 391, for the purposes set forth in Laws 2001, First Special Session chapter 10, article 2, sections 98 to 101. $25,000 from those funds are to be retained by the legislative coordinating commission for the services described in Laws 2001, First Special Session chapter 10, article 2, section 99.

Sec. 34. [EFFECTIVE DATE.]

Sections 26 and 32 are effective the day following final enactment.

ARTICLE 2

STATE GOVERNMENT OPERATIONS

Section 1. Minnesota Statutes 2002, section 3.099, subdivision 3, is amended to read:

Subd. 3. [LEADERS.] ~~The senate committee on rules and administration for the senate and the house committee on rules and legislative administration for the house may each designate for their respective body up to three leadership positions to receive up to 140 percent of the compensation of other members.~~

At the commencement of each biennial legislative session, each house of the legislature shall adopt a resolution designating its majority and minority leader.

The majority leader is the person elected by the caucus of members in each house which is its largest political affiliation. The minority leader is the person elected by the caucus which is its second largest political affiliation.

Sec. 2. Minnesota Statutes 2002, section 3.885, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The legislative commission on planning and fiscal policy consists of ~~18~~ nine members of the senate appointed by the subcommittee on committees of the committee on rules and administration and nine members of the house of representatives appointed by the ~~legislative coordinating commission~~ speaker. Vacancies on the commission are filled in the same manner as original appointments. The commission shall elect a chair and a vice-chair from among its members. The chair alternates between a member of the senate and a member of the house in January of each odd-numbered year.

Sec. 3. Minnesota Statutes 2002, section 3.971, subdivision 2, is amended to read:

Subd. 2. [STAFF; COMPENSATION.] The legislative auditor shall establish a financial audits division and a program evaluation division to fulfill the duties prescribed in this section. Each division ~~must~~ may be supervised by a deputy auditor, appointed by the legislative auditor, with the approval of the commission, for a term coterminous with the legislative auditor's term. The deputy auditors may be removed before the expiration of their terms only for

cause. The legislative auditor and deputy auditors may each appoint a confidential secretary to serve at pleasure. The salaries and benefits of the legislative auditor, deputy auditors and confidential secretaries shall be determined by the compensation plan approved by the legislative coordinating commission. The deputy auditors may perform and exercise the powers, duties and responsibilities imposed by law on the legislative auditor when authorized by the legislative auditor. The deputy auditors and the confidential secretaries serve in the unclassified civil service, but all other employees of the legislative auditor are in the classified civil service. While in office, a person appointed deputy for the financial audit division must hold an active license as a certified public accountant.

Sec. 4. [3A.115]

The amount necessary to fund the retirement allowance granted under this chapter to a former legislator upon retirement is appropriated from the general fund to the director to pay pension obligations due to the retiree. Retirement allowances payable to retired legislators and their survivors under this chapter must be adjusted in the same manner, at the same times, and in the same amounts as are benefits payable from the Minnesota postretirement investment fund to retirees of a participating public pension fund.

Sec. 5. Minnesota Statutes 2002, section 6.48, is amended to read:

6.48 [EXAMINATION OF COUNTIES; COST, FEES.]

All the powers and duties conferred and imposed upon the state auditor shall be exercised and performed by the state auditor in respect to the offices, institutions, public property, and improvements of several counties of the state. At least once in each year, if funds and personnel permit, the state auditor ~~shall~~ may visit, without previous notice, each county and make a thorough examination of all accounts and records relating to the receipt and disbursement of the public funds and the custody of the public funds and other property. If the audit is performed by a private certified public accountant, the state auditor may require specific additional information from the private certified public accountant to resolve the specified issues or questions. The state auditor may accept the audit or make additional examinations as the state auditor deems to be in the public interest. The state auditor shall prescribe and install systems of accounts and financial reports that shall be uniform, so far as practicable, for the same class of offices. A copy of the report of such examination shall be filed and be subject to public inspection in the office of the state auditor and another copy in the office of the auditor of the county thus examined. The state auditor may accept the records and audit, or any part thereof, of the department of human services in lieu of examination of the county social welfare funds, if such audit has been made within any period covered by the state auditor's audit of the other records of the county. If any such examination shall disclose malfeasance, misfeasance, or nonfeasance in any office of such county, such report shall be filed with the county attorney of the county, and the county attorney shall institute such civil and criminal proceedings as the law and the protection of the public interests shall require.

The county receiving ~~such~~ any examination shall pay to the state general fund, notwithstanding the provisions of section 16A.125, the total cost and expenses of such examinations, including the salaries paid to the examiners while actually engaged in making such examination. The state auditor on deeming it advisable may bill counties, having a population of 200,000 or over, monthly for services rendered and the officials responsible for approving and paying claims shall cause said bill to be promptly paid. The general fund shall be credited with all collections made for any such examinations.

Sec. 6. Minnesota Statutes 2002, section 6.49, is amended to read:

6.49 [CITIES OF FIRST CLASS.]

All powers and duties conferred and imposed upon the state auditor with respect to state and county officers, institutions, property, and improvements are hereby extended to cities of the first class. Copies of the written report of the state auditor on the financial condition and accounts of such city shall be filed in the state auditor's office,

with the mayor, city council, and city comptroller thereof, and with the city commissioners, if such city have such officers. If such report disclose malfeasance, misfeasance, or nonfeasance in office, copies thereof shall be filed with the city attorney thereof and with the county attorney of the county in which such city is located, and these officials of the law shall institute such proceedings, civil or criminal, as the law and the public interest require.

The state auditor ~~may~~ shall bill said cities monthly for services rendered, including any examination, and the officials responsible for approving and paying claims shall cause said bill to be promptly paid.

Sec. 7. Minnesota Statutes 2002, section 6.54, is amended to read:

6.54 [EXAMINATION OF COUNTY AND MUNICIPAL RECORDS PURSUANT TO PETITION.]

The registered voters in a county or home rule charter or statutory city or the electors at an annual or special town meeting of a town may petition the state auditor to examine the books, records, accounts, and affairs of the county, home rule charter or statutory city, town, or of any organizational unit, activity, project, enterprise, or fund thereof; and the scope of the examination may be limited by the petition, but the examination shall cover, at least, all cash received and disbursed and the transactions relating thereto, provided that the state auditor shall not examine more than the six latest years preceding the circulation of the petition, unless it appears to the state auditor during the examination that the audit period should be extended to permit a full recovery under bonds furnished by public officers or employees, and may if it appears to the auditor in the public interest confine the period or the scope of audit or both period and scope of audit, to less than that requested by the petition. In the case of a county or home rule charter or statutory city, the petition shall be signed by a number of registered voters at least equal to 20 percent of those voting in the last presidential election. The eligible voters of any school district may petition the state auditor, who shall be subject to the same restrictions regarding the scope and period of audit, provided that the petition shall be signed by at least ten eligible voters for each 50 resident pupils in average daily membership during the preceding school year as shown on the records in the office of the commissioner of children, families, and learning. In the case of school districts, the petition shall be signed by at least ten eligible voters. At the time it is circulated, every petition shall contain a statement that the cost of the audit will be borne by the county, city, or school district as provided by law. Thirty days before the petition is delivered to the state auditor it shall be presented to the appropriate city or school district clerk and the county auditor. The county auditor shall determine and certify whether the petition is signed by the required number of registered voters or eligible voters as the case may be. The certificate shall be conclusive evidence thereof in any action or proceeding for the recovery of the costs, charges, and expenses of any examination made pursuant to the petition.

Sec. 8. Minnesota Statutes 2002, section 6.55, is amended to read:

6.55 [EXAMINATION OF RECORDS PURSUANT TO RESOLUTION OF GOVERNING BODY.]

The governing body of any city, town, county or school district, by appropriate resolution may ask the state auditor to examine the books, records, accounts and affairs of their government, or of any organizational unit, activity, project, enterprise, or fund thereof; and the state auditor shall examine the same upon receiving, pursuant to said resolution, a written request signed by a majority of the members of the governing body; and the governing body of any public utility commission, or of any public corporation having a body politic and corporate, or of any instrumentality joint or several of any city, town, county, or school district, may request an audit of its books, records, accounts and affairs in the same manner; provided that the scope of the examination may be limited by the request, but such examination shall cover, at least, all cash received and disbursed and the transactions relating thereto. Such written request shall be presented to the clerk, or recording officer of such city, town, county, school district, public utility commission, public corporation, or instrumentality, before being presented to the state auditor, who shall determine whether the same is signed by a majority of the members of such governing body and, if found to be so signed, shall certify such fact, and the fact that such resolution was passed, which certificate shall be conclusive evidence thereof in any action or proceedings for the recovery of the costs, charges and expenses of any

examination made pursuant to such request. Nothing contained in any of the laws of the state relating to the state auditor, shall be so construed as to prevent any county, city, town, or school district from employing a certified public accountant to examine its books, records, accounts, and affairs. For the purposes of this section, the governing body of a town is the town board.

Sec. 9. Minnesota Statutes 2002, section 6.64, is amended to read:

6.64 [COOPERATION WITH PUBLIC ACCOUNTANTS; PUBLIC ACCOUNTANT DEFINED.]

There shall be mutual cooperation between the state auditor and public accountants in the performance of auditing, accounting, and other related services for counties, cities, towns, school districts, and other public corporations. For the purposes of sections 6.64 to 6.71 the term public accountant shall have the meaning ascribed to it in section 412.222.

Sec. 10. Minnesota Statutes 2002, section 6.65, is amended to read:

6.65 [MINIMUM PROCEDURES FOR AUDITORS, PRESCRIBED.]

The state auditor shall prescribe minimum procedures and the audit scope for auditing the books, records, accounts, and affairs of counties and local governments in Minnesota. The minimum scope for audits of all local governments must include financial and legal compliance audits. Audits of all school districts must include a determination of compliance with uniform financial accounting and reporting standards. The state auditor shall promulgate an audit guide for legal compliance audits, in consultation with representatives of the state auditor, the attorney general, towns, cities, counties, school districts, and private sector public accountants.

Sec. 11. Minnesota Statutes 2002, section 6.66, is amended to read:

6.66 [CERTAIN PRACTICES OF PUBLIC ACCOUNTANTS AUTHORIZED.]

Any public accountant may engage in the practice of auditing the books, records, accounts, and affairs of counties, cities, towns, school districts, and other public corporations which are not otherwise required by law to be audited exclusively by the state auditor.

Sec. 12. Minnesota Statutes 2002, section 6.67, is amended to read:

6.67 [PUBLIC ACCOUNTANTS; REPORT OF EVIDENCE POINTING TO MISCONDUCT.]

Whenever a public accountant in the course of auditing the books and affairs of a county, city, town, school district, or other public corporations, shall discover evidence pointing to nonfeasance, misfeasance, or malfeasance, on the part of an officer or employee in the conduct of duties and affairs, the public accountant shall promptly make a report of such discovery to the state auditor and the county attorney of the county in which the governmental unit is situated and the public accountant shall also furnish a copy of the report of audit upon completion to said officers. The county attorney shall act on such report in the same manner as required by law for reports made to the county attorney by the state auditor.

Sec. 13. Minnesota Statutes 2002, section 6.68, subdivision 1, is amended to read:

Subdivision 1. [REQUEST TO GOVERNING BODY.] If in an audit of a county, city, town, school district, or other public corporation, a public accountant has need of the assistance of the state auditor, the accountant may obtain such assistance by requesting the governing body of the governmental unit being examined to request the state auditor to perform such auditing or investigative services, or both, as the matter and the public interest require.

Sec. 14. Minnesota Statutes 2002, section 6.70, is amended to read:

6.70 [ACCESS TO REPORTS.]

The state auditor and the public accountants shall have reasonable access to each other's audit reports, working papers, and audit programs concerning audits made by each of counties, cities, towns, school districts, and other public corporations.

Sec. 15. Minnesota Statutes 2002, section 6.71, is amended to read:

6.71 [SCOPE OF AUDITOR'S INVESTIGATION.]

Whenever the governing body of a county, city, town, or school district shall have requested a public accountant to make an audit of its books and affairs, and such audit is in progress or has been completed, and ~~freeholders~~ registered voters or electors petition or the governing body requests or both the state auditor to make an examination covering the same, or part of the same, period, the state auditor may, in the public interest, limit the scope of the examination to less than that specified in section 6.54, but the scope shall cover, at least, an investigation of those complaints which are within the state auditor's powers and duties to investigate.

Sec. 16. Minnesota Statutes 2002, section 6.74, is amended to read:

6.74 [INFORMATION COLLECTED FROM LOCAL GOVERNMENTS.]

The state auditor, or a designated agent, shall collect annually from all city, county, and other local units of government, information as to the assessment of property, collection of taxes, receipts from licenses and other sources, the expenditure of public funds for all purposes, borrowing, debts, principal and interest payments on debts, and such other information as may be needful. The data shall be supplied upon ~~blanks~~ forms prescribed by the state auditor, and all public officials so called upon shall fill out properly and return promptly all ~~blanks~~ forms so transmitted. The state auditor or assistants, may examine local records in order to complete or verify the information.

Sec. 17. [6.78] [BEST PRACTICES REVIEWS.]

The state auditor shall conduct best practices reviews that examine the procedures and practices used to deliver local government services, determine the methods of local government service delivery, identify variations in cost and effectiveness, and identify practices to save money or provide more effective service delivery. The state auditor shall recommend to local governments service delivery methods and practices to improve the cost-effectiveness of services. The state auditor shall determine the local government services to be reviewed in consultation with representatives of the Association of Minnesota Counties, the League of Minnesota Cities, the Association of Metropolitan Municipalities, the Minnesota Association of Townships, and the Minnesota Association of School Administrators.

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

Sec. 18. [6.79] [EQUITABLE COMPENSATION COMPLIANCE.]

The state auditor may adopt rules under the Administrative Procedure Act to ensure compliance with sections 471.991 to 471.999.

Sec. 19. Minnesota Statutes 2002, section 8.06, is amended to read:

8.06 [ATTORNEY FOR STATE OFFICERS, BOARDS, OR COMMISSIONS; EMPLOY COUNSEL.]

The attorney general shall act as the attorney for all state officers and all boards or commissions created by law in all matters pertaining to their official duties. When requested by the attorney general, it shall be the duty of any county attorney of the state to appear within the county and act as attorney for any such board, commission, or officer in any court of such county. The attorney general may, upon request in writing, employ, and fix the compensation of, a special attorney for any such board, commission, or officer when, in the attorney general's judgment, the public welfare will be promoted thereby. Such special attorney's fees or salary shall be paid from the appropriation made for such board, commission, or officer. Except as herein provided, no board, commission, or officer shall hereafter employ any attorney at the expense of the state.

Whenever the attorney general, the governor, ~~and~~ or the chief justice of the supreme court shall certify, in writing, filed in the office of the secretary of state, that it is necessary, in the proper conduct of the legal business of the state, either civil or criminal, that the state employ additional counsel, the attorney general, the governor, or the chief justice of the supreme court shall thereupon ~~be authorized to employ~~ authorize the employment of such counsel and~~, with the governor and the chief justice,~~ fix the additional counsel's compensation. Except as herein stated, no additional counsel shall be employed and the legal business of the state shall be performed exclusively by the attorney general and the attorney general's assistants.

Sec. 20. Minnesota Statutes 2002, section 10A.02, is amended by adding a subdivision to read:

Subd. 15. [DISPOSITION OF FEES.] The board must deposit all fees collected under this chapter into the general fund in the state treasury.

Sec. 21. Minnesota Statutes 2002, section 10A.02, is amended by adding a subdivision to read:

Subd. 16. [PROPOSED FEE CHANGES.] As part of its submission of its biennial budget request, the board must propose changes to the fees required in this chapter that will be sufficient to recover the direct appropriation to the board. The board must include in its recovery calculation seven percent of the amounts designated by individuals for the state elections campaign fund under section 10A.31, subdivision 4.

Sec. 22. Minnesota Statutes 2002, section 10A.04, subdivision 2, is amended to read:

Subd. 2. [TIME OF REPORTS.] Each report must cover the time from the last day of the period covered by the last report to 15 days before the current filing date. The reports must be filed with the board by the following dates:

(1) January 15; and

(2) ~~April 15; and~~

~~(3) July 15~~ May 30.

Sec. 23. Minnesota Statutes 2002, section 10A.04, subdivision 4, is amended to read:

Subd. 4. [CONTENT.] (a) A report under this section must include information the board requires from the registration form and the information required by this subdivision for the reporting period.

(b) A lobbyist must report the lobbyist's total disbursements on lobbying, separately listing lobbying to influence legislative action, lobbying to influence administrative action, and lobbying to influence the official actions of a metropolitan governmental unit, and a breakdown of disbursements for each of those kinds of lobbying into categories specified by the board, including but not limited to the cost of publication and distribution of each publication used in lobbying; other printing; media, including the cost of production; postage; travel; fees, including allowances; entertainment; telephone and telegraph; and other expenses.

(c) A lobbyist must report the amount and nature of each gift, item, or benefit, excluding contributions to a candidate, equal in value to $5 or more, given or paid to any official, as defined in section 10A.071, subdivision 1, by the lobbyist or an employer or employee of the lobbyist. The list must include the name and address of each official to whom the gift, item, or benefit was given or paid and the date it was given or paid.

(d) A lobbyist must report each original source of money in excess of $500 in any year used for the purpose of lobbying to influence legislative action, administrative action, or the official action of a metropolitan governmental unit. The list must include the name, address, and employer, or, if self-employed, the occupation and principal place of business, of each payer of money in excess of $500.

(e) On the report due ~~April 15~~ May 30, the lobbyist must provide a general description of the subjects lobbied in the previous 12 months.

Sec. 24. Minnesota Statutes 2002, section 10A.04, is amended by adding a subdivision to read:

Subd. 9. [ELECTRONIC REPORTS.] Effective January 1, 2005, a lobbyist may file a report required under this section electronically with the board.

Sec. 25. [10A.045] [LOBBYIST AND PRINCIPAL REPORT FEES.]

Subdivision 1. [PURPOSE.] The purpose of this section is to pay for the cost of administering sections 10A.03 to 10A.06 with fees collected from lobbyists to be used only for that purpose.

Subd. 2. [FEE; USE; PROHIBITION.] Each lobbyist and principal must pay a biennial fee of $225 by January 15 of every odd-numbered year. Authorized unpaid volunteers of an organization recognized as a 501(c)(3) charity by the Internal Revenue Service are not required to pay this fee. The fees collected under this section must not be more than the amount necessary to administer the lobbyist registration and regulation provisions of this chapter. A person who has not paid the fee required by this section is prohibited from acting as a lobbyist.

Sec. 26. Minnesota Statutes 2002, section 10A.09, subdivision 6, is amended to read:

Subd. 6. [SUPPLEMENTARY STATEMENT.] Each individual who is required to file a statement of economic interest must file a supplementary statement on April 15 of each year that the individual remains in office ~~if information on the most recently filed statement has changed~~. The supplementary statement~~, if required,~~ must include the amount of each honorarium in excess of $50 received since the previous statement and the name and address of the source of the honorarium. The board must maintain a statement of economic interest submitted by an officeholder in the same file with the statement submitted as a candidate.

Sec. 27. Minnesota Statutes 2002, section 10A.09, is amended by adding a subdivision to read:

Subd. 9. [FILING FEE.] A public official required to file a statement of economic interest or an annual supplementary statement with the board under this section must accompany the statement with a $60 filing fee. A public official listed in section 10A.01, subdivision 35, clause (2), is not required to pay this fee.

Sec. 28. [10A.145] [REGISTRATION FEES.]

Subdivision 1. [REQUIREMENT.] (a) Each principal campaign committee must pay to the board a registration fee when it originally registers with the board and each time a nonjudicial candidate for whom a committee is registered files for office. The office with which the candidate files must collect the fee when the candidate files and must deposit it into the general fund in the state treasury.

(b) Each political committee, political fund, and party unit must pay a registration fee to the board when it originally registers with the board and by January 31 of each odd-numbered year thereafter.

Subd. 2. [AMOUNT OF FEE.] The registration fees are as follows:

(1) principal campaign committee for candidate for nonjudicial statewide office, $1,000;

(2) principal campaign committee for candidate for state senate, $500;

(3) principal campaign committee for candidate for state house of representatives, $350;

(4) principal campaign committee for judicial candidate, $250;

(5) political committee or political fund, two percent of total expenditures, disbursements, and contributions made during the prior two years; and

(6) party unit, 1-1/2 percent of total expenditures, disbursements, and contributions made during the prior two years.

Subd. 3. [PROHIBITION.] A political committee, political fund, or party unit may not accept a contribution or make an expenditure, disbursement, or contribution unless the fee required by this section has been paid.

Subd. 4. [TRANSITION.] Lobbyists, principals, principal campaign committees, political committees, political funds, and party units that are registered on the effective date of this section must pay the fee for initial registration required by this section or section 10A.045 within 60 days after the effective date of this section. This subdivision expires August 1, 2004.

Sec. 29. Minnesota Statutes 2002, section 10A.31, subdivision 1, is amended to read:

Subdivision 1. [DESIGNATION.] An individual resident of this state who files an income tax return or a renter and homeowner property tax refund return with the commissioner of revenue may designate on their original return that ~~$5~~ up to $25 be paid from the general fund of the state into the state elections campaign fund. If a husband and wife file a joint return, each spouse may designate that ~~$5~~ up to $25 be paid. The total designated amount is added to the amount due from the filer or subtracted from the refund due the filer. No individual is allowed to designate ~~$5~~ $25 more than once in any year. The taxpayer may designate that the amount be paid into the account of a political party or into the general account.

Sec. 30. Minnesota Statutes 2002, section 10A.31, subdivision 3, is amended to read:

Subd. 3. [FORM.] The commissioner of revenue must provide on the first page of the income tax form and the renter and homeowner property tax refund return a space for the individual to indicate a wish to pay ~~$5~~ up to an additional $25 (~~$10~~ up to an additional $50 if filing a joint return) ~~from the general fund of the state~~ to finance election campaigns. The form must also contain language prepared by the commissioner that permits the individual to direct the state to pay the ~~$5~~ additional up to $25 (or ~~$10~~ additional up to $50 if filing a joint return) to: (1) one of

the major political parties; (2) any minor political party that qualifies under subdivision 3a; or (3) all qualifying candidates as provided by subdivision 7. The renter and homeowner property tax refund return must include instructions that the individual filing the return may designate ~~$5~~ up to $25 on the return only if the individual has not designated ~~$5~~ up to $25 on the income tax return.

Sec. 31. Minnesota Statutes 2002, section 10A.31, subdivision 4, is amended to read:

Subd. 4. [APPROPRIATION.] ~~(a)~~ The amounts designated by individuals for the state elections campaign fund, less ~~three~~ ten percent, are appropriated from the general fund, must be transferred and credited to the appropriate account in the state elections campaign fund, and are annually appropriated for distribution as set forth in subdivisions 5, 5a, 6, and 7. The remaining ~~three~~ ten percent must be kept in the general fund for administrative costs.

~~(b) In addition to the amounts in paragraph (a), $1,500,000 for each general election is appropriated from the general fund for transfer to the general account of the state elections campaign fund.~~

Sec. 32. Minnesota Statutes 2002, section 14.48, is amended by adding a subdivision to read:

Subd. 4. [MANDATORY RETIREMENT.] An administrative law judge and compensation judge must retire upon attaining age 70. The chief administrative law judge may appoint a retired administrative law judge or compensation judge to hear any proceeding that is properly assignable to an administrative law judge or compensation judge. When a retired administrative law judge or compensation judge undertakes this service, the retired judge shall receive pay and expenses in the amount payable to temporary administrative law judges or compensation judges serving under section 14.49.

[EFFECTIVE DATE.] This section is effective June 30, 2003. An administrative law judge or compensation judge who has attained the age of 70 on or before that date must retire by June 30, 2003.

Sec. 33. Minnesota Statutes 2002, section 15.50, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE, MEMBERS, OFFICERS.] (a) The legislature finds that the purposes of the board are to (1) preserve and enhance the dignity, beauty and architectural integrity of the capitol, the buildings immediately adjacent to it, the capitol grounds, and the capitol area; (2) protect, enhance, and increase the open spaces within the capitol area when deemed necessary and desirable for the improvement of the public enjoyment thereof; (3) develop proper approaches to the capitol area for pedestrian movement, the highway system, and mass transit system so that the area achieves its maximum importance and accessibility; and (4) establish a flexible framework for growth of the capitol buildings which will be in keeping with the spirit of the original design.

(b) The capitol area architectural and planning board, herein referred to as the board, is established within the department of administration. The board consists of ten members. The lieutenant governor shall be a member of the board. Four members shall be appointed by the governor; three members, one of whom shall be a resident of the district planning council area containing the capitol area, shall be appointed by the mayor of the city of Saint Paul, with the advice and consent of the city council. The speaker of the house shall appoint a member of the house of representatives and the president of the senate shall appoint one senator to be members of the board. Each person appointed to the board shall qualify by taking the oath of office.

(c) The lieutenant governor is the chair of the board. The attorney general is the legal advisor to the board. The board may elect a vice-chair who may preside at meetings in the absence of the lieutenant governor and such other officers as it may deem necessary to carry out its duties.

(d) The commissioner of administration, after consulting with the board, shall ~~select~~ appoint an executive secretary to serve the board. ~~It~~ The commissioner may employ such other officers and employees as ~~it~~ the commissioner may deem necessary, all of whom shall be in the classified service of the state civil service. The board may contract for professional and other similar service on such terms as it may deem desirable. The commissioner must provide administrative support to the board.

Sec. 34. [15A.23] [POLITICAL SUBDIVISION COMPENSATION LIMIT.]

(a) The salary and the value of all other forms of compensation of a person employed by a political subdivision of this state excluding a school district, or employed under section 422A.03, may not exceed 95 percent of the salary of the governor as set under section 15A.082, except as provided in this section. For purposes of this subdivision, "political subdivision of this state" includes a statutory or home rule charter city, county, town, metropolitan or regional agency, or other political subdivision, but does not include a hospital, clinic, or health maintenance organization owned by such a governmental unit.

(b) Deferred compensation and payroll allocations to purchase an individual annuity contract for an employee are included in determining the employee's salary. Other forms of compensation which shall be included to determine an employee's total compensation are all other direct and indirect items of compensation which are not specifically excluded by this section. Other forms of compensation which shall not be included in a determination of an employee's total compensation for the purposes of this section are:

(1) employee benefits that are also provided for the majority of all other full-time employees of the political subdivision, vacation and sick leave allowances, health and dental insurance, disability insurance, term life insurance, and pension benefits or like benefits the cost of which is borne by the employee or which is not subject to tax as income under the Internal Revenue Code of 1986;

(2) dues paid to organizations that are of a civic, professional, educational, or governmental nature; and

(3) reimbursement for actual expenses incurred by the employee which the governing body determines to be directly related to the performance of job responsibilities, including any relocation expenses paid during the initial year of employment.

The value of other forms of compensation shall be the annual cost to the political subdivision for the provision of the compensation.

(c) The salary of a medical doctor or doctor of osteopathy occupying a position that the governing body of the political subdivision has determined requires an M.D. or D.O. degree is excluded from the limitation in this section.

(d) The state auditor may increase the limitation in this section for a position that the state auditor has determined requires special expertise necessitating a higher salary to attract or retain a qualified person. The state auditor shall review each proposed increase giving due consideration to salary rates paid to other persons with similar responsibilities in the state and nation.

Before granting an increase in the limitation, the state auditor must submit the proposed increase to the legislative coordinating commission for its review and recommendation. The recommendation is advisory only. If the commission fails to make a recommendation with 30 days from its receipt of the proposal, it is deemed to have made no recommendation. The state auditor may charge and collect, pursuant to section 6.56, a fee from political subdivisions proposing a limitation increase to cover the cost incurred by the state auditor under this subdivision.

Sec. 35. Minnesota Statutes 2002, section 16A.11, subdivision 3, is amended to read:

Subd. 3. [PART TWO: DETAILED BUDGET.] (a) Part two of the budget, the detailed budget estimates both of expenditures and revenues, must contain any statements on the financial plan which the governor believes desirable or which may be required by the legislature. The detailed estimates shall include the governor's budget arranged in tabular form.

(b) The detailed estimates must include a separate line listing ~~the total number of professional or technical service contracts and~~ the total cost of ~~those~~ professional and technical service contracts for the prior biennium and the projected ~~number of professional or technical service contracts and the projected~~ costs of those contracts for the current and upcoming biennium. They must also include a summary of the personnel employed by the agency, reflected as full-time equivalent positions~~, and the number of professional or technical service consultants for the current biennium~~.

(c) The detailed estimates for internal service funds must include the number of full-time equivalents by program; detail on any loans from the general fund, including dollar amounts by program; proposed investments in technology or equipment of $100,000 or more; an explanation of any operating losses or increases in retained earnings; and a history of the rates that have been charged, with an explanation of any rate changes and the impact of the rate changes on affected agencies.

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

Sec. 36. Minnesota Statutes 2002, section 16A.17, is amended by adding a subdivision to read:

Subd. 10. [DIRECT DEPOSIT.] Notwithstanding section 177.23, the commissioner may require direct deposit for all state employees that are being paid by the state payroll system.

Sec. 37. Minnesota Statutes 2002, section 16A.40, is amended to read:

16A.40 [WARRANTS AND ELECTRONIC FUND TRANSFERS.]

Money must not be paid out of the state treasury except upon the warrant of the commissioner or an electronic fund transfer approved by the commissioner. Warrants must be drawn on printed blanks that are in numerical order. The commissioner shall enter, in numerical order in a warrant register, the number, amount, date, and payee for every warrant issued.

The commissioner may require payees ~~receiving more than ten payments or $10,000 per year must~~ to supply ~~the commissioner with~~ their bank routing information to enable the payments to be made through an electronic fund transfer.

Sec. 38. Minnesota Statutes 2002, section 16A.501, is amended to read:

16A.501 [REPORT ON EXPENDITURE OF BOND PROCEEDS.]

The commissioner of finance must report annually to the legislature on the degree to which entities receiving appropriations for capital projects in previous omnibus capital improvement acts have encumbered or expended that money. The report must be submitted to the chairs of the house of representatives ways and means committee and the senate finance committee by ~~February~~ January 1 of each year.

Sec. 39. Minnesota Statutes 2002, section 16A.642, subdivision 1, is amended to read:

Subdivision 1. [REPORTS.] (a) The commissioner of finance shall report to the chairs of the senate committee on finance and the house of representatives committees on ways and means and on capital investment by ~~February~~ January 1 of each odd-numbered year on the following:

(1) all laws authorizing the issuance of state bonds or appropriating general fund money for state or local government capital investment projects enacted more than four years before ~~February~~ January 1 of that odd-numbered year; the projects authorized to be acquired and constructed for which less than 100 percent of the authorized total cost has been expended, encumbered, or otherwise obligated; the cost of contracts to be let in accordance with existing plans and specifications shall be considered expended for this report; and the amount of general fund money appropriated but not spent or otherwise obligated, and the amount of bonds not issued and bond proceeds held but not previously expended, encumbered, or otherwise obligated for these projects; and

(2) all laws authorizing the issuance of state bonds or appropriating general fund money for state or local government capital programs or projects other than those described in clause (1), enacted more than four years before ~~February~~ January 1 of that odd-numbered year; and the amount of general fund money appropriated but not spent or otherwise obligated, and the amount of bonds not issued and bond proceeds held but not previously expended, encumbered, or otherwise obligated for these programs and projects.

(b) The commissioner shall also report on general fund appropriations for capital projects, bond authorizations or bond proceed balances that may be canceled because projects have been canceled, completed, or otherwise concluded, or because the purposes for which the money was appropriated or bonds were authorized or issued have been canceled, completed, or otherwise concluded. The general fund appropriations, bond authorizations or bond proceed balances that are unencumbered or otherwise not obligated that are reported by the commissioner under this subdivision are canceled, effective July 1 of the year of the report, unless specifically reauthorized by act of the legislature.

Sec. 40. Minnesota Statutes 2002, section 16B.24, subdivision 5, is amended to read:

Subd. 5. [RENTING OUT STATE PROPERTY.] (a) [AUTHORITY.] The commissioner may rent out state property, real or personal, that is not needed for public use, if the rental is not otherwise provided for or prohibited by law. The property may not be rented out for more than five years at a time without the approval of the state executive council and may never be rented out for more than 25 years. A rental agreement may provide that the state will reimburse a tenant for a portion of capital improvements that the tenant makes to state real property if the state does not permit the tenant to renew the lease at the end of the rental agreement.

(b) [RESTRICTIONS.] Paragraph (a) does not apply to state trust fund lands, other state lands under the jurisdiction of the department of natural resources, lands forfeited for delinquent taxes, lands acquired under section 298.22, or lands acquired under section 41.56 which are under the jurisdiction of the department of agriculture.

(c) [FORT SNELLING CHAPEL; RENTAL.] The Fort Snelling Chapel, located within the boundaries of Fort Snelling State Park, is available for use only on payment of a rental fee. The commissioner shall establish rental fees for both public and private use. The rental fee for private use by an organization or individual must reflect the reasonable value of equivalent rental space. Rental fees collected under this section must be deposited in the general fund.

(d) [RENTAL OF LIVING ACCOMMODATIONS.] The commissioner shall establish rental rates for all living accommodations provided by the state for its employees. Money collected as rent by state agencies pursuant to this paragraph must be deposited in the state treasury and credited to the general fund.

(e) [LEASE OF SPACE IN CERTAIN STATE BUILDINGS TO STATE AGENCIES.] The commissioner may lease portions of the state-owned buildings in the capitol complex, the capitol square building, the health building, the Duluth government center, and the building at 1246 University Avenue, St. Paul, Minnesota, to state agencies and the court administrator on behalf of the judicial branch of state government and charge rent on the basis of space occupied. Notwithstanding any law to the contrary, all money collected as rent pursuant to the terms of this section shall be deposited in the state treasury. Money collected as rent to recover the bond interest costs of a building funded from the state bond proceeds fund shall be credited to the general fund. Money collected as rent to recover the depreciation costs of a building funded from the state bond proceeds fund and money collected as rent to recover capital expenditures from capital asset preservation and replacement appropriations and statewide building access appropriations shall be credited to a segregated account in a special revenue fund. Fifty percent of the money credited to the account each fiscal year must be transferred to the general fund. The remaining money in the account is appropriated to the commissioner to be expended for asset preservation projects as determined by the commissioner. Money collected as rent to recover the depreciation and interest costs of a building built with other state dedicated funds shall be credited to the dedicated fund which funded the original acquisition or construction. All other money received shall be credited to the general services revolving fund.

Sec. 41. Minnesota Statutes 2002, section 16B.35, subdivision 1, is amended to read:

Subdivision 1. [PERCENT OF APPROPRIATIONS FOR ART.] An appropriation for the construction or alteration of any state building may contain an amount not to exceed the lesser of $100,000 or one percent of the total appropriation for the building for the acquisition of works of art, excluding landscaping, which may be an integral part of the building or its grounds, attached to the building or grounds or capable of being displayed in other state buildings. If the appropriation for works of art is limited by the $100,000 cap in this section, the appropriation for the construction or alteration of the building must be reduced to reflect the reduced amount that will be spent on works of art. Money used for this purpose is available only for the acquisition of works of art to be exhibited in areas of a building or its grounds accessible, on a regular basis, to members of the public. No more than ten percent of the total amount available each fiscal year under this subdivision may be used for administrative expenses, either by the commissioner of administration or by any other entity to whom the commissioner delegates administrative authority. For the purposes of this section "state building" means a building the construction or alteration of which is paid for wholly or in part by the state.

Sec. 42. Minnesota Statutes 2002, section 16B.465, subdivision 1a, is amended to read:

Subd. 1a. [CREATION.] Except as provided in subdivision 4, the commissioner, through the state information infrastructure, shall arrange for the provision of voice, data, video, and other telecommunications transmission services to state agencies. The state information infrastructure may also serve educational institutions, including public schools as defined in section 120A.05, subdivisions 9, 11, 13, and 17, nonpublic, church or religious organization schools that provide instruction in compliance with sections 120A.22, 120A.24, and 120A.41, and private colleges; public corporations; Indian tribal governments; ~~and~~ state political subdivisions; and public noncommercial educational television broadcast stations as defined in section 129D.12, subdivision 2. It is not a telephone company for purposes of chapter 237. The commissioner may purchase, own, or lease any telecommunications network facilities or equipment after first seeking bids or proposals and having determined that the private sector cannot, will not, or is unable to provide these services, facilities, or equipment as bid or proposed in a reasonable or timely fashion consistent with policy set forth in this section. The commissioner shall not resell or sublease any services or facilities to nonpublic entities except to serve private schools and colleges. The commissioner has the responsibility for planning, development, and operations of the state information infrastructure in order to provide cost-effective telecommunications transmission services to state information infrastructure users consistent with the policy set forth in this section.

Sec. 43. Minnesota Statutes 2002, section 16B.465, subdivision 7, is amended to read:

Subd. 7. [EXEMPTION.] The system is exempt from the five-year limitation on contracts set by sections 16C.05, subdivision 2, paragraph ~~(a), clause (5)~~ (b), 16C.08, subdivision 3, clause ~~(7)~~ (5), and 16C.09, clause ~~(6)~~ (5).

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

Sec. 44. Minnesota Statutes 2002, section 16B.47, is amended to read:

16B.47 [MICROGRAPHICS.]

The commissioner ~~shall~~ may provide micrographics services and products to meet agency needs. Within available resources, the commissioner may also provide micrographic services to political subdivisions. Agency plans and programs for micrographics must be submitted to and receive the approval of the commissioner prior to implementation. Upon the commissioner's approval, subsidiary or independent microfilm operations may be implemented in other state agencies. The commissioner may direct that copies of official state documents be distributed to official state depositories on microfilm.

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

Sec. 45. Minnesota Statutes 2002, section 16B.48, subdivision 2, is amended to read:

Subd. 2. [PURPOSE OF FUNDS.] Money in the state treasury credited to the general services revolving fund and money that is deposited in the fund is appropriated annually to the commissioner for the following purposes:

(1) to operate a central store and equipment service;

(2) ~~to operate a central duplication and printing service;~~

~~(3)~~ to operate the central mailing service, including purchasing postage and related items and refunding postage deposits;

~~(4)~~ (3) to operate a documents service as prescribed by section 16B.51;

~~(5)~~ (4) to provide services for the maintenance, operation, and upkeep of buildings and grounds managed by the commissioner of administration;

~~(6)~~ (5) to operate a materials handling service, including interagency mail and product delivery, solid waste removal, courier service, equipment rental, and vehicle and equipment maintenance;

~~(7)~~ (6) to provide analytical, statistical, and organizational development services to state agencies, local units of government, metropolitan and regional agencies, and school districts;

~~(8)~~ (7) to operate a records center and provide micrographics products and services; and

~~(9)~~ (8) to perform services for any other agency. Money may be expended for this purpose only when directed by the governor. The agency receiving the services shall reimburse the fund for their cost, and the commissioner shall make the appropriate transfers when requested. The term "services" as used in this clause means compensation paid officers and employees of the state government; supplies, materials, equipment, and other articles and things used by or furnished to an agency; and utility services and other services for the maintenance, operation, and upkeep of buildings and offices of the state government.

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

Sec. 46. Minnesota Statutes 2002, section 16B.49, is amended to read:

16B.49 [CENTRAL MAILING SYSTEM.]

The commissioner ~~shall~~ may maintain and operate for state agencies, departments, institutions, and offices a central mail handling unit. Official, outgoing mail for units in St. Paul ~~must~~ may be required to be delivered unstamped to the unit. The unit ~~shall~~ may also operate an interoffice mail distribution system. The department may add personnel and acquire equipment that may be necessary to operate the unit efficiently and cost-effectively. Account must be kept of the postage required on that mail, which is then a proper charge against the agency delivering the mail. To provide funds for the payment of postage, each agency ~~shall~~ may be required to make advance payments to the commissioner sufficient to cover its postage obligations for at least 60 days. For purposes of this section, the Minnesota state colleges and universities is a state agency.

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

Sec. 47. Minnesota Statutes 2002, section 16B.58, is amended by adding a subdivision to read:

Subd. 6a. [PARKING RESTRICTIONS.] Notwithstanding any law to the contrary:

(1) parking is prohibited in the terraces adjacent to the carriage entrance on the south side of the capitol building;

(2) the ten parking spaces on Aurora Avenue closest to the main entrance of the capitol building must be reserved for parking by physically disabled persons displaying a certificate issued under section 169.345; and

(3) the remainder of the parking spaces on Aurora Avenue must be reserved for the general public during legislative session.

Sec. 48. [16C.045] [REPORTING OF VIOLATIONS]

A state employee who discovers evidence of violation of laws or rules governing state contracts is encouraged to report the violation or suspected violation to the employee's supervisor, the commissioner or the commissioner's designee, or the legislative auditor. The legislative auditor must report to the legislative coordinating commission if there are multiple complaints about the same agency. The auditor's report to the legislative coordinating commission under this section must disclose only the number and type of violations alleged. An employee making a good faith report under this section is covered by section 181.932, prohibiting the employer from discriminating against the employee.

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

Sec. 49. Minnesota Statutes 2002, section 16C.05, subdivision 2, is amended to read:

Subd. 2. [CREATION AND VALIDITY OF CONTRACTS.] (a) A contract is not valid and the state is not bound by it and no agency, without the prior written approval of the commissioner, may authorize work to begin on it unless:

(1) it has first been executed by the head of the agency or a delegate who is a party to the contract;

(2) it has been approved by the commissioner; and

(3) ~~it has been approved by the attorney general or a delegate as to form and execution;~~

~~(4)~~ the accounting system shows an ~~obligation in an expense budget or~~ encumbrance for the amount of the contract liability~~; and~~.

~~(5)~~ (b) The combined contract and amendments ~~shall~~ must not exceed five years without specific, written approval by the commissioner according to established policy, procedures, and standards, or unless otherwise provided for by law. The term of the original contract must not exceed two years unless the commissioner determines that a longer duration is in the best interest of the state. Before approving a contract amendment or extension, the commissioner must determine that: (1) the goods or services to be obtained under the amendment or extension are substantially similar to those in the original contract; and (2) the contracting agency has demonstrated that the benefits to the agency of full and open competition do not justify the time and expense of a separate solicitation for the goods or services included in the contract amendment or extension. When the commissioner approves a contract amendment or extension, the commissioner must post a summary of the approval on the department's Web site for at least 60 days. The summary must include the contract number, agency name, vendor, and the dollar amount of the contract amendment or extension.

~~(b)~~ (c) Grants, interagency agreements, purchase orders, work orders, and annual plans need not, in the discretion of the commissioner and attorney general, require the signature of the commissioner and/or the attorney general. A signature is not required for work orders and amendments to work orders related to department of transportation contracts. Bond purchase agreements by the Minnesota public facilities authority do not require the approval of the commissioner.

~~(c)~~ (d) A fully executed copy of every contract, amendments to the contract, and performance evaluations relating to the contract must be kept on file at the contracting agency for a time equal to that specified for contract vendors and other parties in subdivision 5.

(e) No action may be maintained by a contractor against an employee or agency who discloses information about a current or former contractor in a performance evaluation, including performance evaluations required under section 16C.08, subdivision 4a, unless the contractor demonstrates by clear and convincing evidence that:

(1) the information was false and defamatory;

(2) the employee or agency knew or should have known the information was false and acted with malicious intent to injure the current or former contractor; and

(3) the information was acted upon in a manner that caused harm to the current or former contractor.

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

Sec. 50. Minnesota Statutes 2002, section 16C.08, subdivision 2, is amended to read:

Subd. 2. [DUTIES OF CONTRACTING AGENCY.] (a) Before an agency may seek approval of a professional or technical services contract valued in excess of $5,000, it must ~~certify to the commissioner that~~ provide the following:

(1) a description of how the proposed contract or amendment is necessary and reasonable to advance the statutory mission of the agency;

(2) a description of the agency's plan to notify firms or individuals who may be available to perform the services called for in the solicitation; and

(3) a description of the performance measures or other tools that will be used to monitor and evaluate contract performance.

(b) In addition to the information in paragraph (a), clauses (1) to (3), the agency must certify that:

(1) ~~no current state employee is able and available to perform the services called for by the contract;~~

~~(2)~~ the normal competitive bidding mechanisms will not provide for adequate performance of the services;

~~(3) the contractor has certified that the product of the services will be original in character;~~

~~(4)~~ (2) reasonable efforts ~~were~~ will be made to publicize the availability of the contract to the public;

~~(5) the agency has received, reviewed, and accepted a detailed work plan from the contractor for performance under the contract, if applicable;~~

~~(6)~~ (3) the agency ~~has developed,~~ will develop and ~~fully intends to~~ implement~~,~~ a written plan providing for the assignment of specific agency personnel to a monitoring and liaison function, the periodic review of interim reports or other indications of past performance, and the ultimate utilization of the final product of the services; ~~and~~

~~(7)~~ (4) the agency will not allow the contractor to begin work before the contract is fully executed unless an exception has been approved by the commissioner and funds are fully encumbered~~.~~;

(5) the contract will not establish an employment relationship between the state or the agency and any persons performing under the contract; and

(6) in the event the results of the contract work will be carried out or continued by state employees upon completion of the contract, the contractor is required to include state employees in development and training, to the extent necessary to ensure that after completion of the contract, state employees can perform any ongoing work related to the same function.

(c) A contract establishes an employment relationship for purposes of paragraph (b), clause (5), if, under federal laws governing the distinction between an employee and an independent contractor, a person would be considered an employee.

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

Sec. 51. Minnesota Statutes 2002, section 16C.08, subdivision 3, is amended to read:

Subd. 3. [PROCEDURE FOR PROFESSIONAL OR TECHNICAL SERVICES CONTRACTS.] Before approving a proposed contract for professional or technical services, the commissioner must determine, at least, that:

(1) all provisions of subdivision 2 and section 16C.16 have been verified or complied with;

(2) the agency has demonstrated that the work to be performed under the contract is necessary to the agency's achievement of its statutory responsibilities and there is statutory authority to enter into the contract;

(3) ~~the contract will not establish an employment relationship between the state or the agency and any persons performing under the contract;~~

~~(4)~~ the contractor and agents are not employees of the state;

~~(5) no agency has previously performed or contracted for the performance of tasks which would be substantially duplicated under the proposed contract;~~

~~(6)~~ (4) the contracting agency has specified a satisfactory method of evaluating and using the results of the work to be performed; and

~~(7)~~ (5) the combined contract and amendments will not exceed five years, unless otherwise provided for by law. The term of the original contract must not exceed two years unless the commissioner determines that a longer duration is in the best interest of the state.

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

Sec. 52. Minnesota Statutes 2002, section 16C.08, subdivision 4, is amended to read:

Subd. 4. [REPORTS.] (a) The commissioner shall submit to the governor, the chairs of the house ways and means and senate finance committees, and the legislative reference library a yearly listing of all contracts for professional or technical services executed. The report must identify the contractor, contract amount, duration, and services to be provided. The commissioner shall also issue yearly reports summarizing the contract review activities of the department by fiscal year.

(b) The fiscal year report must be submitted by September 1 of each year and must:

(1) be sorted by agency and by contractor;

(2) show the aggregate value of contracts issued by each agency and issued to each contractor;

(3) distinguish between contracts that are being issued for the first time and contracts that are being extended;

(4) state the termination date of each contract; and

(5) identify services by commodity code, including topics such as contracts for training, contracts for research and opinions, and contracts for computer systems.

(c) Within 30 days of final completion of a contract over ~~$40,000~~ $50,000 covered by this subdivision, the head of the agency entering into the contract must submit a one-page report to the commissioner who must submit a copy to the legislative reference library. The report must:

(1) summarize the purpose of the contract, including why it was necessary to enter into a contract;

(2) state the amount spent on the contract; and

(3) ~~explain why this amount was a cost-effective way to enable the agency to provide its services or products better or more efficiently~~ be accompanied by the performance evaluation prepared in accordance with subdivision 4a.

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

Sec. 53. Minnesota Statutes 2002, section 16C.08, is amended by adding a subdivision to read:

Subd. 4a. [PERFORMANCE EVALUATION.] Upon completion of a professional or technical services contract, an agency entering into the contract must complete a written performance evaluation of the work done under the contract. The evaluation must include an appraisal of the contractor's timeliness, quality, cost, and overall

performance in meeting the terms and objectives of the contract, and evaluate the extent to which the contract was a cost-effective way to enable the agency to provide its services or products better or more efficiently. Contractors may request copies of evaluations prepared under this subdivision and may respond in writing. Contractor responses must be maintained with the contract file.

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

Sec. 54. Minnesota Statutes 2002, section 16C.09, is amended to read:

16C.09 [PROCEDURE FOR SERVICE CONTRACTS.]

~~(a)~~ Before entering into or approving a service contract, the commissioner must determine, at least, that:

(1) ~~no current state employee is able and available to perform the services called for by the contract;~~

~~(2)~~ the work to be performed under the contract is necessary to the agency's achievement of its statutory responsibilities and there is statutory authority to enter into the contract;

~~(3)~~ (2) the contract will not establish an employment relationship between the state or the agency and any persons performing under the contract;

~~(4)~~ (3) the contractor and agents are not employees of the state;

~~(5)~~ (4) the contracting agency has specified a satisfactory method of evaluating and using the results of the work to be performed; and

~~(6)~~ (5) the combined contract and amendments will not exceed five years without specific, written approval by the commissioner according to established policy, procedures, and standards, or unless otherwise provided for by law. The term of the original contract must not exceed two years, unless the commissioner determines that a longer duration is in the best interest of the state.

~~(b) For purposes of paragraph (a), clause (1), employees are available if qualified and:~~

~~(1) are already doing the work in question; or~~

~~(2) are on layoff status in classes that can do the work in question.~~

~~An employee is not available if the employee is doing other work, is retired, or has decided not to do the work in question.~~

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

Sec. 55. Minnesota Statutes 2002, section 16C.10, subdivision 7, is amended to read:

Subd. 7. [REVERSE AUCTION.] (a) For the purpose of this subdivision, "reverse auction" means a purchasing process in which vendors compete to provide goods or services at the lowest selling price in an open and interactive environment.

(b) The provisions of section 16C.06, subdivisions 2 and 3, do not apply when the commissioner determines that a reverse auction is the appropriate purchasing process. Notwithstanding any contrary provision of sections 16C.26 to 16C.28, reverse auctions are competitive bids and bid responses to reverse auctions may be accepted instead of sealed bids, when the commissioner determines that a reverse auction is the appropriate purchasing process.

Sec. 56. Minnesota Statutes 2002, section 16E.01, subdivision 3, is amended to read:

Subd. 3. [DUTIES.] (a) The office shall:

(1) coordinate the efficient and effective use of available federal, state, local, and private resources to develop statewide information and communications technology and its infrastructure;

(2) review state agency and intergovernmental information and communications systems development efforts involving state or intergovernmental funding, including federal funding, provide information to the legislature regarding projects reviewed, and recommend projects for inclusion in the governor's budget under section 16A.11;

(3) encourage cooperation and collaboration among state and local governments in developing intergovernmental communication and information systems, and define the structure and responsibilities of the information policy council;

(4) cooperate and collaborate with the legislative and judicial branches in the development of information and communications systems in those branches;

(5) continue the development of North Star, the state's official comprehensive online service and information initiative;

(6) promote and collaborate with the state's agencies in the state's transition to an effectively competitive telecommunications market;

(7) collaborate with entities carrying out education and lifelong learning initiatives to assist Minnesotans in developing technical literacy and obtaining access to ongoing learning resources;

(8) promote and coordinate public information access and network initiatives, consistent with chapter 13, to connect Minnesota's citizens and communities to each other, to their governments, and to the world;

(9) promote and coordinate electronic commerce initiatives to ensure that Minnesota businesses and citizens can successfully compete in the global economy;

(10) promote and coordinate the regular and periodic reinvestment in the core information and communications technology infrastructure so that state and local government agencies can effectively and efficiently serve their customers;

(11) facilitate the cooperative development of standards for information systems, electronic data practices and privacy, and electronic commerce among international, national, state, and local public and private organizations; and

(12) work with others to avoid unnecessary duplication of existing services provided by other public and private organizations while building on the existing governmental, educational, business, health care, and economic development infrastructures.

(b) The commissioner of administration in consultation with the commissioner of finance may determine that it is cost-effective for agencies to develop and use shared information and communications technology systems for the delivery of electronic government services. This determination may be made if an agency proposes a new system that duplicates an existing system, a system in development, or a system being proposed by another agency. The commissioner of administration shall establish reimbursement rates in cooperation with the commissioner of finance to be billed to agencies and other governmental entities sufficient to cover the actual development, operating, maintenance, and administrative costs of the shared systems. The methodology for billing may include depositing such funds in the technology enterprise fund, the use of interagency agreements, or other means as allowed by law.

Sec. 57. Minnesota Statutes 2002, section 16E.07, subdivision 9, is amended to read:

Subd. 9. [AGGREGATION OF SERVICE DEMAND.] The office shall identify opportunities to aggregate demand for technical services required by government units for online activities and may contract with governmental or nongovernmental entities to provide services. These contracts are not subject to the requirements of chapters 16B and 16C, except sections 16C.04, ~~16C.07,~~ 16C.08, and 16C.09.

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

Sec. 58. Minnesota Statutes 2002, section 16E.09, subdivision 1, is amended to read:

Subdivision 1. [FUND ESTABLISHED.] A technology enterprise fund is established. Money deposited in the fund is appropriated to the commissioner of administration for the purpose of funding technology projects among government entities that promote cooperation, innovation, and shared use of technology and technology standards, and electronic government services. Savings generated by information technology and communications projects or purchases, including rebates, refunds, discounts, or other savings generated from aggregated purchases of software, services, or technology products, may be deposited in the fund upon agreement by the commissioner of administration and the executive of the government entity generating the funds. The commissioner of administration may apply for and accept grants, contributions, or other gifts from the federal government and other public or private sources for deposit into the fund. The commissioner may accept paid advertising for departmental publications, media productions, state Web pages, and other informational materials. Unless otherwise provided in statute, advertising revenues received shall first be used to defray costs associated with production and promotion of advertising activities and the remaining balance shall be deposited into the fund. The commissioner may not accept paid advertising from an elected official or candidate for elected office. The transfer of funds between state agencies is subject to the approval of the commissioner of finance. The commissioner of finance shall notify the chairs of the committees funding the affected state agencies of the transfers. Funds are available until June 30, 2005.

Sec. 59. [43A.311] [DRUG PURCHASING PROGRAM.]

The commissioner of employee relations, in conjunction with other state agencies, shall evaluate whether participation in a multistate or multiagency drug purchasing program can reduce costs or improve the operations of the drug benefit programs administered by the department and other state agencies. The commissioner and other state agencies must enter into a contract with a vendor or other states for purposes of participating in a multistate or multiagency drug purchasing program.

Sec. 60. Minnesota Statutes 2002, section 69.772, subdivision 2, is amended to read:

Subd. 2. [DETERMINATION OF ACCRUED LIABILITY.] Each firefighters' relief association which pays a service pension when a retiring firefighter meets the minimum requirements for entitlement to a service pension specified in section 424A.02 and which in its articles of incorporation or bylaws requires service credit for a period of service of at least 20 years of active service for a totally nonforfeitable service pension shall determine the accrued liability of the special fund of the firefighters' relief association relative to each active ~~or deferred~~ member of the relief association, calculated individually using the following table:

Cumulative Year	Accrued Liability
.....	.....
1	$60
2	124

3		190	
4		260	
5		334	
6		410	
7		492	
8		576	
9		666	
10		760	
11		858	
12		962	
13		1070	
14		1184	
15		1304	
16		1428	
17		1560	
18		1698	
19		1844	
20		2000	
21	and thereafter	100	additional per year

As set forth in the table the accrued liability for each member ~~or deferred member~~ of the relief association corresponds to the cumulative years of active service to the credit of the member. The accrued liability of the special fund for each active ~~or deferred~~ member is determined by multiplying the accrued liability from the chart by the ratio of the lump sum service pension amount currently provided for in the bylaws of the relief association to a service pension of $100 per year of service. If a member has fractional service as of December 31, the figure for service credit to be used for the determination of accrued liability pursuant to this section shall be rounded to the nearest full year of service credit. The total accrued liability of the special fund as of December 31 shall be the sum of the accrued liability attributable to each active ~~or deferred~~ member of the relief association.

To the extent that the state auditor considers it to be necessary or practical, the state auditor may specify and issue procedures, forms, or mathematical tables for use in performing the calculations of the accrued liability for deferred members pursuant to this subdivision.

Sec. 61. Minnesota Statutes 2002, section 115A.929, is amended to read:

115A.929 [FEES; ACCOUNTING.]

Each political subdivision that provides for solid waste management shall account for all revenue collected from waste management fees, together with interest earned on revenue from the fees, separately from other revenue collected by the political subdivision and shall report revenue collected from the fees and use of the revenue separately from other revenue and use of revenue in any required financial report or audit. Each political subdivision must file with the director, on or before June 30 annually, the separate report of all revenue collected from waste management fees, together with interest on revenue from the fees, for the previous year. For the purposes of this section, "waste management fees" means:

(1) all fees, charges, and surcharges collected under sections 115A.919, 115A.921, and 115A.923;

(2) all tipping fees collected at waste management facilities owned or operated by the political subdivision;

(3) all charges imposed by the political subdivision for waste collection and management services; and

(4) any other fees, charges, or surcharges imposed on waste or for the purpose of waste management, whether collected directly from generators or indirectly through property taxes or as part of utility or other charges for services provided by the political subdivision.

Sec. 62. Minnesota Statutes 2002, section 116J.8771, is amended to read:

116J.8771 [WAIVER.]

The capital access program is exempt from section 16C.05, subdivision 2, paragraph ~~(a), clause (5)~~ (b).

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

Sec. 63. Minnesota Statutes 2002, section 136F.77, subdivision 3, is amended to read:

Subd. 3. [NO ABROGATION.] Nothing in this section shall abrogate the provisions of ~~sections 43A.047 and~~ section 136F.581.

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

Sec. 64. Minnesota Statutes 2002, section 179A.03, subdivision 7, is amended to read:

Subd. 7. [ESSENTIAL EMPLOYEE.] "Essential employee" means firefighters, peace officers subject to licensure under sections 626.84 to 626.863, 911 system and police and fire department public safety dispatchers, guards at correctional facilities, confidential employees, supervisory employees, assistant county attorneys, assistant city attorneys, principals, and assistant principals. However, for state employees, "essential employee" means all employees in law enforcement, health care professionals, health care nonprofessionals, correctional guards, professional engineering, and supervisory collective bargaining units, irrespective of severance, and no other employees. For University of Minnesota employees, "essential employee" means all employees in law enforcement, nursing professional and supervisory units, irrespective of severance, and no other employees. "Firefighters" means salaried employees of a fire department whose duties include, directly or indirectly, controlling, extinguishing, preventing, detecting, or investigating fires. Employees for whom the state court administrator is the negotiating employer are not essential employees.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 65. Minnesota Statutes 2002, section 192.501, subdivision 2, is amended to read:

Subd. 2. [TUITION AND TEXTBOOK REIMBURSEMENT GRANT PROGRAM.] (a) The adjutant general shall establish a program to provide tuition and textbook reimbursement grants to eligible members of the Minnesota national guard within the limitations of this subdivision.

(b) Eligibility is limited to a member of the national guard who:

(1) is serving satisfactorily as defined by the adjutant general;

(2) is attending a post-secondary educational institution, as defined by section 136A.15, subdivision 6, including a vocational or technical school operated or regulated by this state or another state or province; and

(3) provides proof of satisfactory completion of coursework, as defined by the adjutant general.

In addition, if a member of the Minnesota national guard is killed in the line of state active service or federally funded state active service, as defined in section 190.05, subdivisions 5a and 5b, the member's surviving spouse, and any surviving dependent who has not yet reached 24 years of age, is eligible for a tuition and textbook reimbursement grant.

The adjutant general may, within the limitations of this paragraph and other applicable laws, determine additional eligibility criteria for the grant, and must specify the criteria in department regulations and publish changes as necessary.

(c) The amount of a tuition and textbook reimbursement grant must be specified on a schedule as determined and published in department regulations by the adjutant general, but is limited to a maximum of an amount equal to the greater of:

(1) 80 percent of the cost of tuition for lower division programs in the college of liberal arts at the twin cities campus of the University of Minnesota in the most recent academic year; or

(2) 80 percent of the cost of tuition for the program in which the person is enrolled at that Minnesota public institution, or if that public institution is outside the state of Minnesota, for the cost of a comparable program at the University of Minnesota, except that in the case of a survivor as defined in paragraph (b), the amount of the tuition and textbook reimbursement grant for coursework satisfactorily completed by the person is limited to 100 percent of the cost of tuition for post-secondary courses at a Minnesota public educational institution.

Paragraph (b) notwithstanding, a person is no longer eligible for a grant under this subdivision once the person has received grants under this subdivision for the equivalent of 208 quarter credits or 144 semester credits of coursework.

(d) Tuition and textbook reimbursement grants received under this subdivision may not be considered by the Minnesota higher education services office or by any other state board, commission, or entity in determining a person's eligibility for a scholarship or grant-in-aid under sections 136A.095 to 136A.1311.

(e) If a member fails to complete a term of enlistment during which a tuition and textbook reimbursement grant was paid, the adjutant general may seek to recoup a prorated amount as determined by the adjutant general.

~~(f) The adjutant general shall maintain records and report any findings to the legislature by March 1, 2003, on the impact of increasing the reimbursement amounts under paragraph (c) during the period July 1, 2001, through December 31, 2002.~~

~~(g) This paragraph, paragraph (f), and the amendments made by Laws 2001, First Special Session chapter 10 to paragraph (c) expire June 30, 2003.~~

Sec. 66. Minnesota Statutes 2002, section 197.608, is amended to read:

197.608 [VETERANS SERVICE OFFICE GRANT PROGRAM.]

Subdivision 1. [GRANT PROGRAM.] A veterans service office grant program is established to be administered by the commissioner of veterans affairs consisting of grants to counties to enable them to enhance the effectiveness of their veterans service offices.

Subd. 2. [RULE DEVELOPMENT.] The commissioner ~~of veterans affairs~~ shall consult with the Minnesota association of county veterans service officers in formulating rules to implement the grant program.

Subd. 2a. [GRANT CYCLE.] Counties may become eligible to receive grants on a three-year rotating basis according to a schedule to be developed and announced in advance by the commissioner. The schedule must list no more than one-third of the counties in each year of the three-year cycle. A county may be considered for a grant only in the year of its listing in the schedule.

Subd. 3. [ELIGIBILITY.] (a) To be eligible for a grant under this program, a county must~~:~~

~~(1)~~ employ a county veterans service officer as authorized by sections 197.60 and 197.606, who is certified to serve in this position by the commissioner ~~of veterans affairs;~~.

~~(2) submit a written plan for the proposed expenditures to enhance the functioning of the county veterans service office in accordance with the program rules; and~~

~~(3) apply for the grant according to procedures to be established for this program by the commissioner and receive written approval from the commissioner for the grant in advance of making the proposed expenditures.~~

(b) A county that employs a newly hired county veterans service officer who is serving an initial probationary period and who has not been certified by the commissioner is eligible to receive a grant under subdivision 2a.

(c) Except for the situation described in paragraph (b), a county whose veterans service officer does not receive certification during any year of the three-year cycle is not eligible to receive a grant during the remainder of that cycle or the next three-year cycle.

Subd. 4. [GRANT ~~APPLICATION~~ PROCESS.] (a) ~~A grant application must be submitted to the department of veterans affairs according to procedures to be established by the commissioner. The grant application must include a specific description of the plan for enhancing the operation of the county veterans service office.~~ The commissioner shall determine the process for awarding grants. A grant may be used only for the purpose of enhancing the operations of the county veterans service office.

(b) The commissioner shall provide a list of qualifying uses for grant expenditures as developed in subdivision 5 and shall approve a grant ~~application~~ only ~~if it meets the criteria for eligibility as established and announced by the commissioner~~ for a qualifying use and if there are sufficient funds remaining in the grant program to cover the full amount of the grant. ~~The commissioner may request modification of a plan. If the commissioner rejects a grant application, written reasons for the rejection must be provided to the applicant county and the county may modify the application and resubmit it.~~

Subd. 5. [QUALIFYING USES.] The commissioner ~~of veterans affairs~~ shall ~~determine whether the plan specified in the grant application will enable the applicant county to enhance the effectiveness of its county veterans office.~~

~~Notwithstanding subdivision 3, clause (1), a county may apply for and use a grant for the training and education required by the commissioner for a newly employed county veterans service officer's certificate, or for the continuing education of other staff~~ consult with the Minnesota association of county veterans service officers in developing a list of qualifying uses for grants awarded under this program.

Subd. 6. [GRANT AMOUNT.] The amount of each grant must be determined by the commissioner ~~of veterans affairs~~, and may not exceed ~~the lesser of:~~

~~(1) the amount specified in the grant application to be expended on the plan for enhancing the effectiveness of the county veterans service office; or~~

~~(2) the county's share of the total funds available under the program, determined in the following manner:~~

(i) $1,400, if the county's veteran population is less than 1,000~~, the county's grant share shall be $2,000~~;

(ii) $2,800, if the county's veteran population is 1,000 or more but less than 3,000~~, the county's grant share shall be $4,000~~;

(iii) $4,200, if the county's veteran population is 3,000 or more but less then 10,000~~, the county's grant share shall be $6,000~~; or

(iv) $5,600, if the county's veteran population is 10,000 or more~~, the county's grant share shall be $8,000~~.

~~In any year, only one half of the counties in each of the four veteran population categories (i) to (iv) may be awarded grants. Grants shall be awarded on a first-come first-served basis to counties submitting applications which meet the commissioner's criteria as established in the rules. Any county not receiving a grant in any given year shall receive priority consideration for a grant the following year.~~

~~In any year, after a period of time to be determined by the commissioner, any amounts remaining from undistributed county grant shares may be reallocated to the other counties which have submitted qualifying application.~~

The veteran population of each county shall be determined by the figure supplied by the United States Department of Veterans Affairs, as adopted by the commissioner.

Subd. 7. [RECAPTURE.] If a county fails to use the grant for the qualified use approved by the commissioner, the commissioner shall seek recovery of the grant from the county and the county must repay the grant amount.

Sec. 67. Minnesota Statutes 2002, section 240.03, is amended to read:

240.03 [COMMISSION POWERS AND DUTIES.]

The commission has the following powers and duties:

(1) to regulate horse racing in Minnesota to ensure that it is conducted in the public interest;

(2) to issue licenses as provided in this chapter;

(3) to enforce all laws and rules governing horse racing;

(4) to collect and distribute all taxes provided for in this chapter;

(5) to conduct necessary investigations and inquiries and compel the submission of information, documents, and records it deems necessary to carry out its duties;

(6) to supervise the conduct of pari-mutuel betting on horse racing;

(7) to employ and supervise personnel under this chapter;

(8) to determine the number of racing days to be held in the state and at each licensed racetrack; ~~and~~

(9) to take all necessary steps to ensure the integrity of racing in Minnesota~~.~~; and

(10) to impose fees on the racing and card playing industries sufficient to recover the operating costs of the commission with the approval of the legislature according to section 16A.1283. Notwithstanding section 16A.1283, when the legislature is not in session, the commissioner of finance may grant interim approval for any new fees or adjustments to existing fees that are not statutorily specified, until such time as the legislature reconvenes and acts upon the new fees or adjustments. As part of its biennial budget request, the commission must propose changes to its fees that will be sufficient to recover the operating costs of the commission.

Sec. 68. Minnesota Statutes 2002, section 240.10, is amended to read:

240.10 [LICENSE FEES.]

The fee for a class A license is $10,000 per year. The fee for a class B license is $100 for each assigned racing day on which racing is actually conducted, and $50 for each day on which simulcasting is authorized and actually takes place, plus $10,000 per year if the class B license includes authorization to operate a card club. The fee for a class D license is $50 for each assigned racing day on which racing is actually conducted. Fees imposed on class B and class D licenses must be paid to the commission at a time and in a manner as provided by rule of the commission.

The commission shall by rule establish an annual license fee for each occupation it licenses under section 240.08 but no annual fee for a class C license may exceed $100.

~~License fee payments received must be paid by the commission to the state treasurer for deposit in the general fund.~~

Sec. 69. Minnesota Statutes 2002, section 240.15, subdivision 6, is amended to read:

Subd. 6. [DISPOSITION OF PROCEEDS; ACCOUNT.] The commission shall distribute all money received under this section, and all money received from license fees and fines it collects, ~~as follows:~~ according to this subdivision. All money designated for deposit in the Minnesota breeders fund must be paid into that fund for distribution under section 240.18 except that all money generated by full racing card simulcasts must be distributed as provided in section 240.18, subdivisions 2, paragraph (d), clauses (1), (2), and (3); and 3. Revenue from an admissions tax imposed under subdivision 1 must be paid to the local unit of government at whose request it was imposed, at times and in a manner the commission determines. ~~All other revenues~~ Taxes received under this section ~~by the commission, and all license fees, fines, and other revenue it receives,~~ and fines collected under section 240.22 must be paid to the state treasurer for deposit in the general fund. All revenues from licenses and other fees imposed by the commission must be deposited in the state treasury and credited to a racing and card playing regulation account in the special revenue fund. Receipts in this account are available for the operations of the commission up to the amount authorized in biennial appropriations from the legislature.

Sec. 70. Minnesota Statutes 2002, section 240.155, subdivision 1, is amended to read:

Subdivision 1. [REIMBURSEMENT ACCOUNT CREDIT.] Money received by the commission as reimbursement for the costs of services provided by ~~assistant~~ veterinarians, stewards, and medical testing of horses must be deposited in the state treasury and credited to a racing reimbursement account, except as provided under subdivision 2. Receipts are appropriated to the commission to pay the costs of providing the services.

Sec. 71. Minnesota Statutes 2002, section 240A.03, subdivision 10, is amended to read:

Subd. 10. [USE AGREEMENTS AND FEES.] The commission may lease, license, or enter into agreements and may fix, alter, charge, and collect rentals, fees, and charges to persons for the use, occupation, and availability of part or all of any premises, property, or facilities under its ownership, operation, or control. ~~Fees charged by the commission are not subject to section 16A.1285.~~ The commission may also impose other fees it deems appropriate with the approval of the legislature according to section 16A.1283. Notwithstanding section 16A.1283, when the legislature is not in session, the commissioner of finance may grant interim approval of the fees, until such time as the legislature reconvenes and acts upon the fees. Revenues generated by the commission under this section must be sufficient to offset the biennial appropriations it receives from the legislature and must be deposited to the state treasury and credited to the general fund. A use agreement may provide that the other contracting party has exclusive use of the premises at the times agreed upon. As part of its biennial budget request, the commission must propose changes to its fees that will be sufficient to recover the direct appropriation to the commission.

Sec. 72. Minnesota Statutes 2002, section 240A.03, subdivision 15, is amended to read:

Subd. 15. [ADVERTISING.] The commission may accept paid advertising in its publications. Funds received from advertising ~~are annually appropriated to the commission for its publications. The commission must annually report the amount of funds received under this subdivision to the chair of the house of representatives ways and means and senate finance committees~~ must be deposited to the state treasury and credited to the general fund.

Sec. 73. Minnesota Statutes 2002, section 240A.04, is amended to read:

240A.04 [PROMOTION AND DEVELOPMENT OF AMATEUR SPORTS.]

In addition to the powers and duties granted under section 240A.03, the commission ~~shall~~ may:

(1) promote the development of olympic training centers;

(2) promote physical fitness by promoting participation in sports;

(3) develop, foster, and coordinate physical fitness services and programs;

(4) sponsor amateur sport workshops, clinics, and conferences;

(5) provide recognition for outstanding developments, achievements, and contributions to amateur sports;

(6) stimulate and promote amateur sport research;

(7) collect, disseminate, and communicate amateur sport information;

(8) promote amateur sport and physical fitness programs in schools and local communities;

(9) develop programs to promote personal health and physical fitness by participation in amateur sports in cooperation with medical, dental, sports medicine, and similar professional societies;

(10) promote the development of recreational amateur sport opportunities and activities in the state, including the means of facilitating acquisition, financing, construction, and rehabilitation of sports facilities for the holding of amateur sporting events;

(11) promote national and international amateur sport competitions and events;

(12) sanction or sponsor amateur sport competition;

(13) take membership in regional or national amateur sports associations or organizations; and

(14) promote the mainstreaming and normalization of people with physical disabilities and visual and hearing impairments in amateur sports.

Sec. 74. Minnesota Statutes 2002, section 240A.06, subdivision 1, is amended to read:

Subdivision 1. [SPONSORSHIP REQUIRED.] The commission ~~shall~~ may sponsor and sanction a series of statewide amateur athletic games patterned after the winter and summer Olympic Games, with variations as required by facilities, equipment, and expertise, and as necessary to include people with physical disabilities and visual and hearing impairments. The games may be held annually beginning in 1989, if money and facilities are available, unless the time of the games would conflict with other sporting events as the commission determines.

Sec. 75. Minnesota Statutes 2002, section 256B.435, subdivision 2a, is amended to read:

Subd. 2a. [DURATION AND TERMINATION OF CONTRACTS.] (a) All contracts entered into under this section are for a term of one year. Either party may terminate this contract at any time without cause by providing 90 calendar days' advance written notice to the other party. Notwithstanding section 16C.05, subdivisions 2, paragraph ~~(a)~~ (b), and 5, if neither party provides written notice of termination, the contract shall be renegotiated for additional one-year terms or the terms of the existing contract will be extended for one year. The provisions of the contract shall be renegotiated annually by the parties prior to the expiration date of the contract. The parties may voluntarily renegotiate the terms of the contract at any time by mutual agreement.

(b) If a nursing facility fails to comply with the terms of a contract, the commissioner shall provide reasonable notice regarding the breach of contract and a reasonable opportunity for the facility to come into compliance. If the facility fails to come into compliance or to remain in compliance, the commissioner may terminate the contract. If a contract is terminated, provisions of section 256B.48, subdivision 1a, shall apply.

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

Sec. 76. Minnesota Statutes 2002, section 268.186, is amended to read:

268.186 [RECORDS.]

(a) Each employer shall keep true and accurate records for the periods of time and containing the information the commissioner may require. For the purpose of administering this chapter, the commissioner has the power to examine, or cause to be supplied or copied, any books, correspondence, papers, records, or memoranda that are relevant, whether the books, correspondence, papers, records, or memoranda are the property of or in the possession of the employer or any other person at any reasonable time and as often as may be necessary.

(b) The commissioner may make summaries, compilations, photographs, duplications, or reproductions of any records, or reports that the commissioner considers advisable for the preservation of the information contained therein. Any summaries, compilations, photographs, duplications, or reproductions shall be admissible in any proceeding under this chapter. ~~Regardless of any restrictions contained in section 16B.50,~~ The commissioner may duplicate records, reports, summaries, compilations, instructions, determinations, or any other written or recorded matter pertaining to the administration of this chapter.

(c) Regardless of any law to the contrary, the commissioner may provide for the destruction of any records, reports, or reproductions thereof, or other papers, that are more than two years old, and that are no longer necessary for determining employer liability or an applicant's unemployment benefit rights or for the administration of this chapter, including any required audit. The commissioner may provide for the destruction or disposition of any record, report, or other paper that has been photographed, duplicated, or reproduced.

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

Sec. 77. Minnesota Statutes 2002, section 270.052, is amended to read:

270.052 [AGREEMENT WITH INTERNAL REVENUE SERVICE.]

Pursuant to section 270B.12, the commissioner may enter into an agreement with the Internal Revenue Service to identify taxpayers who have refunds due from the department of revenue and liabilities owing to the Internal Revenue Service. In accordance with the procedures established in the agreement, the Internal Revenue Service may levy against the refunds to be paid by the department of revenue. For each refund levied upon, the commissioner shall first deduct from the refund a fee of $20, and then remit the refund or the amount of the levy, whichever is less, to the Internal Revenue Service. The proceeds of fees shall be deposited into the department of revenue recapture revolving fund under section 270A.07, subdivision 1.

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

Sec. 78. Minnesota Statutes 2002, section 270.44, is amended to read:

270.44 [CHARGES FOR COURSES, EXAMINATIONS OR MATERIALS.]

~~The board may establish reasonable fees or charges for courses, examinations or materials, the proceeds of which shall be used to finance the activities and operation of the board.~~

The board shall charge the following fees:

(1) $105 for a senior accredited Minnesota assessor license;

(2) $80 for an accredited Minnesota assessor license;

(3) $65 for a certified Minnesota assessor specialist license;

(4) $55 for a certified Minnesota assessor license;

(5) $50 for a course challenge examination;

(6) $35 for grading a form appraisal;

(7) $60 for grading a narrative appraisal;

(8) $30 for a reinstatement fee;

(9) $25 for a record retention fee;

(10) $20 for an educational transcript; and

(11) $30 for all retests of board-sponsored educational courses.

[EFFECTIVE DATE.] This section is effective for license terms beginning on or after July 1, 2004, and for all other fees imposed on or after July 1, 2004.

Sec. 79. Minnesota Statutes 2002, section 270A.07, subdivision 1, is amended to read:

Subdivision 1. [NOTIFICATION REQUIREMENT.] Any claimant agency, seeking collection of a debt through setoff against a refund due, shall submit to the commissioner information indicating the amount of each debt and information identifying the debtor, as required by section 270A.04, subdivision 3.

For each setoff of a debt against a refund due, the commissioner shall charge a fee of ~~$10~~ $15. The proceeds of fees shall be allocated by depositing ~~$2.55~~ $4 of each ~~$10~~ $15 fee collected into a department of revenue recapture revolving fund and depositing the remaining balance into the general fund. The sums deposited into the revolving fund are appropriated to the commissioner for the purpose of administering the Revenue Recapture Act.

The claimant agency shall notify the commissioner when a debt has been satisfied or reduced by at least $200 within 30 days after satisfaction or reduction.

[EFFECTIVE DATE.] This section is effective for refund setoffs after June 30, 2003.

Sec. 80. Minnesota Statutes 2002, section 289A.08, subdivision 16, is amended to read:

Subd. 16. [TAX REFUND OR RETURN PREPARERS; ELECTRONIC FILING; PAPER FILING FEE IMPOSED.] (a) A "tax refund or return preparer," as defined in section 289A.60, subdivision 13, paragraph (g), who prepared more than 500 Minnesota individual income tax returns for the prior calendar year must file all Minnesota individual income tax returns prepared for the current calendar year by electronic means.

(b) For tax returns prepared for the tax year beginning in 2001, the "500" in paragraph (a) is reduced to 250.

(c) For tax returns prepared for tax years beginning after December 31, 2001, the "500" in paragraph (a) is reduced to 100.

(d) Paragraph (a) does not apply to a return if the taxpayer has indicated on the return that the taxpayer did not want the return filed by electronic means.

(e) For each return that is not filed electronically by a tax refund or return preparer under this subdivision, including returns filed under paragraph (d), a paper filing fee of $5 is imposed upon the preparer. The fee is collected from the preparer in the same manner as income tax. If the department of revenue requires that a return be filed in writing, no fee shall be imposed upon the preparer.

[EFFECTIVE DATE.] This section is effective for returns filed for tax years beginning after December 31, 2002.

Sec. 81. Minnesota Statutes 2002, section 306.95, is amended to read:

306.95 [DUTIES OF THE COUNTY AUDITOR.]

Subdivision 1. [NOTIFICATION ~~OF STATE AUDITOR~~.] Any county auditor finding evidence of violations of this chapter when reviewing reports or bonds filed by any person, firm, partnership, association, or corporation operating a cemetery, mausoleum, or columbarium must notify the ~~state auditor's office~~ county attorney in a timely manner of such finding.

Subd. 2. [ANNUAL LETTER.] Every county auditor must file an annual letter by May 31 with the ~~state auditor's office~~ county attorney disclosing whether the county auditor has detected any indications of violations of this chapter in the reports or bonds which were filed or should have been filed. If the county auditor has not detected from the information supplied to the county auditor any such indications, that fact must be reported to the ~~state auditor~~ county attorney in the annual letter.

Sec. 82. [326.992] [BOND REQUIREMENT; GAS, HEATING, VENTILATION, AIR CONDITIONING, REFRIGERATION (G/HVACR) CONTRACTORS.]

(a) A person contracting to do gas, heating, ventilation, cooling, air conditioning, fuel burning, or refrigeration work must give bond to the state in the amount of $25,000 for all work entered into within the state. The bond must be for the benefit of persons suffering financial loss by reason of the contractor's failure to comply with the requirements of the State Mechanical Code. A bond given to the state must be filed with the commissioner of administration and is in lieu of all other bonds to any political subdivision required for work covered by this section. The bond must be written by a corporate surety licensed to do business in the state.

(b) The commissioner of administration may charge each person giving bond under this section an annual bond filing fee of $25. The money must be deposited in the state government special revenue fund and is appropriated to the commissioner to cover the cost of administering the bond program.

Sec. 83. Minnesota Statutes 2002, section 349.12, is amended by adding a subdivision to read:

Subd. 11a. [DISTRIBUTOR SALESPERSON.] "Distributor salesperson" means a person who in any manner receives orders for gambling equipment or who solicits a licensed, exempt, or excluded organization to purchase gambling equipment from a licensed distributor.

Sec. 84. Minnesota Statutes 2002, section 349.12, subdivision 25, is amended to read:

Subd. 25. [LAWFUL PURPOSE.] (a) "Lawful purpose" means one or more of the following:

(1) any expenditure by or contribution to a 501(c)(3) or festival organization, as defined in subdivision 15a, provided that the organization and expenditure or contribution are in conformity with standards prescribed by the board under section 349.154, which standards must apply to both types of organizations in the same manner and to the same extent;

(2) a contribution to an individual or family suffering from poverty, homelessness, or physical or mental disability, which is used to relieve the effects of that poverty, homelessness, or disability;

(3) a contribution to an individual for treatment for delayed posttraumatic stress syndrome or a contribution to a program recognized by the Minnesota department of human services for the education, prevention, or treatment of compulsive gambling;

(4) a contribution to or expenditure on a public or private nonprofit educational institution registered with or accredited by this state or any other state;

(5) a contribution to a scholarship fund for defraying the cost of education to individuals where the funds are awarded through an open and fair selection process;

(6) activities by an organization or a government entity which recognize humanitarian or military service to the United States, the state of Minnesota, or a community, subject to rules of the board, provided that the rules must not include mileage reimbursements in the computation of the per occasion reimbursement limit and must impose no aggregate annual limit on the amount of reasonable and necessary expenditures made to support:

(i) members of a military marching or color guard unit for activities conducted within the state;

(ii) members of an organization solely for services performed by the members at funeral services; or

(iii) members of military marching, color guard, or honor guard units may be reimbursed for participating in color guard, honor guard, or marching unit events within the state or states contiguous to Minnesota at a per participant rate of up to $35 per occasion;

(7) recreational, community, and athletic facilities and activities intended primarily for persons under age 21, provided that such facilities and activities do not discriminate on the basis of gender and the organization complies with section 349.154;

(8) payment of local taxes authorized under this chapter, taxes imposed by the United States on receipts from lawful gambling, the taxes imposed by section 297E.02, subdivisions 1, 4, 5, and 6, and the tax imposed on unrelated business income by section 290.05, subdivision 3;

(9) payment of real estate taxes and assessments on permitted gambling premises wholly owned by the licensed organization paying the taxes, or wholly leased by a licensed veterans organization under a national charter recognized under section 501(c)(19) of the Internal Revenue Code, not to exceed:

(i) for premises used for bingo, the amount that an organization may expend under board rules on rent for bingo; and

(ii) $35,000 per year for premises used for other forms of lawful gambling;

(10) a contribution to the United States, this state or any of its political subdivisions, or any agency or instrumentality thereof other than a direct contribution to a law enforcement or prosecutorial agency;

(11) a contribution to or expenditure by a nonprofit organization which is a church or body of communicants gathered in common membership for mutual support and edification in piety, worship, or religious observances;

(12) payment of the reasonable costs of an audit required in section 297E.06, subdivision 4, provided the annual audit is filed in a timely manner with the department of revenue;

(13) a contribution to or expenditure on a wildlife management project that benefits the public at-large, provided that the state agency with authority over that wildlife management project approves the project before the contribution or expenditure is made;

(14) expenditures, approved by the commissioner of natural resources, by an organization for grooming and maintaining snowmobile trails and all-terrain vehicle trails that are (1) grant-in-aid trails established under section 85.019, or (2) other trails open to public use, including purchase or lease of equipment for this purpose; or

(15) conducting nutritional programs, food shelves, and congregate dining programs primarily for persons who are age 62 or older or disabled;

(16) a contribution to a community arts organization, or an expenditure to sponsor arts programs in the community, including but not limited to visual, literary, performing, or musical arts;

(17) payment of heat, water, sanitation, telephone, and other utility bills for a building owned or leased by, and used as the primary headquarters of, a veterans organization; ~~or~~

(18) expenditure by a veterans organization of up to $5,000 in a calendar year in net costs to the organization for meals and other membership events, limited to members and spouses, held in recognition of military service; or

(19) payment of fees authorized under this chapter imposed by the state of Minnesota to conduct lawful gambling in Minnesota.

(b) Notwithstanding paragraph (a), "lawful purpose" does not include:

(1) any expenditure made or incurred for the purpose of influencing the nomination or election of a candidate for public office or for the purpose of promoting or defeating a ballot question;

(2) any activity intended to influence an election or a governmental decision-making process;

(3) the erection, acquisition, improvement, expansion, repair, or maintenance of real property or capital assets owned or leased by an organization, unless the board has first specifically authorized the expenditures after finding that (i) the real property or capital assets will be used exclusively for one or more of the purposes in paragraph (a); (ii) with respect to expenditures for repair or maintenance only, that the property is or will be used extensively as a meeting place or event location by other nonprofit organizations or community or service groups and that no rental fee is charged for the use; (iii) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building, a building owned by the organization and destroyed or made uninhabitable by fire or natural disaster, provided that the expenditure may be only for that part of the replacement cost not reimbursed by insurance; (iv) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building a building owned by the organization that was acquired from the organization by eminent domain or sold by the organization to a purchaser that the organization reasonably believed would otherwise have acquired the building by eminent domain, provided that the expenditure may be only for that part of the replacement cost that exceeds the compensation received by the organization for the building being replaced; or (v) with respect to an expenditure to bring an existing building into compliance with the Americans with Disabilities Act under item (ii), an organization has the option to apply the amount of the board-approved expenditure to the erection or acquisition of a replacement building that is in compliance with the Americans with Disabilities Act;

(4) an expenditure by an organization which is a contribution to a parent organization, foundation, or affiliate of the contributing organization, if the parent organization, foundation, or affiliate has provided to the contributing organization within one year of the contribution any money, grants, property, or other thing of value;

(5) a contribution by a licensed organization to another licensed organization unless the board has specifically authorized the contribution. The board must authorize such a contribution when requested to do so by the contributing organization unless it makes an affirmative finding that the contribution will not be used by the recipient organization for one or more of the purposes in paragraph (a); or

(6) a contribution to a statutory or home rule charter city, county, or town by a licensed organization with the knowledge that the governmental unit intends to use the contribution for a pension or retirement fund.

Sec. 85. Minnesota Statutes 2002, section 349.151, subdivision 4, is amended to read:

Subd. 4. [POWERS AND DUTIES.] (a) The board has the following powers and duties:

(1) to regulate lawful gambling to ensure it is conducted in the public interest;

(2) to issue licenses to organizations, distributors, distributor salespersons, bingo halls, manufacturers, and gambling managers;

(3) to collect and deposit license, permit, and registration fees due under this chapter;

(4) to receive reports required by this chapter and inspect all premises, records, books, and other documents of organizations, distributors, manufacturers, and bingo halls to insure compliance with all applicable laws and rules;

(5) to make rules authorized by this chapter;

(6) to register gambling equipment and issue registration stamps;

(7) to provide by rule for the mandatory posting by organizations conducting lawful gambling of rules of play and the odds and/or house percentage on each form of lawful gambling;

(8) to report annually to the governor and legislature on its activities and on recommended changes in the laws governing gambling;

(9) to impose civil penalties of not more than $500 per violation on organizations, distributors, ~~employees eligible to make sales on behalf of a~~ distributor salespersons, manufacturers, bingo halls, and gambling managers for failure to comply with any provision of this chapter or any rule or order of the board;

(10) to issue premises permits to organizations licensed to conduct lawful gambling;

(11) to delegate to the director the authority to issue or deny license and premises permit applications and renewals under criteria established by the board;

(12) to suspend or revoke licenses and premises permits of organizations, distributors, distributor salespersons, manufacturers, bingo halls, or gambling managers as provided in this chapter;

(13) to register employees of organizations licensed to conduct lawful gambling;

(14) to require fingerprints from persons determined by board rule to be subject to fingerprinting;

(15) to delegate to a compliance review group of the board the authority to investigate alleged violations, issue consent orders, and initiate contested cases on behalf of the board;

(16) to order organizations, distributors, distributor salespersons, manufacturers, bingo halls, and gambling managers to take corrective actions; and

(17) to take all necessary steps to ensure the integrity of and public confidence in lawful gambling.

(b) The board, or director if authorized to act on behalf of the board, may by citation assess any organization, distributor, employee eligible to make sales on behalf of a distributor, manufacturer, bingo hall licensee, or gambling manager a civil penalty of not more than $500 per violation for a failure to comply with any provision of this chapter or any rule adopted or order issued by the board. Any organization, distributor, bingo hall licensee, gambling manager, or manufacturer assessed a civil penalty under this paragraph may request a hearing before the board. Appeals of citations imposing a civil penalty are not subject to the provisions of the Administrative Procedure Act.

(c) All ~~fees and~~ penalties received by the board must be deposited in the general fund.

(d) All fees imposed by the board under sections 349.16 to 349.165 must be deposited in the state treasury and credited to a lawful gambling regulation account in the special revenue fund. Receipts in this account are available for the operations of the board up to the amount authorized in biennial appropriations from the legislature.

Sec. 86. Minnesota Statutes 2002, section 349.151, subdivision 4b, is amended to read:

Subd. 4b. [PULL-TAB SALES FROM DISPENSING DEVICES.] (a) The board may by rule authorize but not require the use of pull-tab dispensing devices.

(b) Rules adopted under paragraph (a):

(1) must limit the number of pull-tab dispensing devices on any permitted premises to three; and

(2) must limit the use of pull-tab dispensing devices to a permitted premises which is (i) a licensed premises for on-sales of intoxicating liquor or 3.2 percent malt beverages; or (ii) a licensed bingo hall that allows gambling only by persons 18 years or older.

(c) Notwithstanding rules adopted under paragraph (b), pull-tab dispensing devices may be used in establishments licensed for the off-sale of intoxicating liquor, other than drugstores and general food stores licensed under section 340A.405, subdivision 1.

~~(d) The director may charge a manufacturer a fee of up to $5,000 per pull-tab dispensing device to cover the costs of services provided by an independent testing laboratory to perform testing and analysis of pull-tab dispensing devices. The director shall deposit in a separate account in the state treasury all money the director receives as reimbursement for the costs of services provided by independent testing laboratories that have entered into contracts with the state to perform testing and analysis of pull-tab dispensing devices. Money in the account is appropriated to the director to pay the costs of services under those contracts.~~

Sec. 87. Minnesota Statutes 2002, section 349.155, subdivision 3, is amended to read:

Subd. 3. [MANDATORY DISQUALIFICATIONS.] (a) In the case of licenses for manufacturers, distributors, distributor salespersons, bingo halls, and gambling managers, the board may not issue or renew a license under this chapter, and shall revoke a license under this chapter, if the applicant or licensee, or a director, officer, partner, governor, or person in a supervisory or management position of the applicant or licensee~~, or an employee eligible to make sales on behalf of the applicant or licensee~~:

(1) has ever been convicted of a felony or a crime involving gambling;

(2) has ever been convicted of (i) assault, (ii) a criminal violation involving the use of a firearm, or (iii) making terroristic threats;

(3) is or has ever been connected with or engaged in an illegal business;

(4) owes $500 or more in delinquent taxes as defined in section 270.72;

(5) had a sales and use tax permit revoked by the commissioner of revenue within the past two years; or

(6) after demand, has not filed tax returns required by the commissioner of revenue. The board may deny or refuse to renew a license under this chapter, and may revoke a license under this chapter, if any of the conditions in this paragraph are applicable to an affiliate or direct or indirect holder of more than a five percent financial interest in the applicant or licensee.

(b) In the case of licenses for organizations, the board may not issue or renew a license under this chapter, and shall revoke a license under this chapter, if the organization, or an officer or member of the governing body of the organization:

(1) has been convicted of a felony or gross misdemeanor within the five years before the issuance or renewal of the license;

(2) has ever been convicted of a crime involving gambling; or

(3) has had a license issued by the board or director permanently revoked for violation of law or board rule.

Sec. 88. Minnesota Statutes 2002, section 349.16, subdivision 6, is amended to read:

Subd. 6. [LICENSE ~~CLASSIFICATIONS~~ FEES.] ~~The board may issue four classes of organization licenses: a class A license authorizing all forms of lawful gambling; a class B license authorizing all forms of lawful gambling except bingo; a class C license authorizing bingo only, or bingo and pull tabs if the gross receipts for any combination of bingo and pull tabs does not exceed $50,000 per year; and a class D license authorizing raffles only.~~ The board shall ~~not charge a fee for an organization~~ impose a fee of $100 for an organization's initial license application. There is no charge for a renewal license.

Sec. 89. Minnesota Statutes 2002, section 349.16, is amended by adding a subdivision to read:

Subd. 11. [AGREEMENT TO PAY TAXES.] A 501(c)(3) organization which is recognized by federal law, regulation, or other ruling as a quasi-governmental organization that would otherwise be exempt from one or more taxes under chapter 297E must agree to pay all taxes under chapter 297E on lawful gambling conducted by the organization as a condition of receiving or renewing a license or premises permit.

Sec. 90. Minnesota Statutes 2002, section 349.161, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED ACTS; LICENSES REQUIRED.] (a) No person may:

(1) sell, offer for sale, or furnish gambling equipment for use within the state other than for lawful gambling exempt or excluded from licensing, except to an organization licensed for lawful gambling;

(2) sell, offer for sale, or furnish gambling equipment for use within the state without having obtained a distributor license or a distributor salesperson license under this section;

(3) sell, offer for sale, or furnish gambling equipment for use within the state that is not purchased or obtained from a manufacturer or distributor licensed under this chapter; or

(4) sell, offer for sale, or furnish gambling equipment for use within the state that has the same serial number as another item of gambling equipment of the same type sold or offered for sale or furnished for use in the state by that distributor.

(b) No licensed distributor salesperson may sell, offer for sale, or furnish gambling equipment for use within the state without being employed by a licensed distributor or owning a distributor license.

Sec. 91. Minnesota Statutes 2002, section 349.161, subdivision 4, is amended to read:

Subd. 4. [FEES.] (a) The ~~initial~~ annual fee for a distributor's license is ~~$3,500~~ $6,000. ~~The initial term of a distributor's license is one year. Renewal licenses under this section are valid for two years and the fee for the renewal license is $7,000.~~

(b) The annual fee for a distributor salesperson license is $100.

Sec. 92. Minnesota Statutes 2002, section 349.161, subdivision 5, is amended to read:

Subd. 5. [PROHIBITION.] (a) No distributor, distributor salesperson, or other employee of a distributor, may also be a wholesale distributor of alcoholic beverages or an employee of a wholesale distributor of alcoholic beverages.

(b) No distributor, distributor salesperson, or any representative, agent, affiliate, or other employee of a distributor, may: (1) be involved in the conduct of lawful gambling by an organization; (2) keep or assist in the keeping of an organization's financial records, accounts, and inventories; or (3) prepare or assist in the preparation of tax forms and other reporting forms required to be submitted to the state by an organization.

(c) No distributor, distributor salesperson, or any representative, agent, affiliate, or other employee of a distributor may provide a lessor of gambling premises any compensation, gift, gratuity, premium, or other thing of value.

(d) No distributor, distributor salesperson, or any representative, agent, affiliate, or other employee of a distributor may participate in any gambling activity at any gambling site or premises where gambling equipment purchased from that distributor or distributor salesperson is being used in the conduct of lawful gambling.

(e) No distributor, distributor salesperson, or any representative, agent, affiliate, or other employee of a distributor may alter or modify any gambling equipment, except to add a "last ticket sold" prize sticker.

(f) No distributor, distributor salesperson, or any representative, agent, affiliate, or other employee of a distributor may: (1) recruit a person to become a gambling manager of an organization or identify to an organization a person as a candidate to become gambling manager for the organization; or (2) identify for an organization a potential gambling location.

(g) No distributor or distributor salesperson may purchase gambling equipment for resale to a person for use within the state from any person not licensed as a manufacturer under section 349.163.

(h) No distributor or distributor salesperson may sell gambling equipment to any person for use in Minnesota other than (i) a licensed organization or organization excluded or exempt from licensing, or (ii) the governing body of an Indian tribe.

(i) No distributor or distributor salesperson may sell or otherwise provide a pull-tab or tipboard deal with the symbol required by section 349.163, subdivision 5, paragraph (h), visible on the flare to any person other than in Minnesota to a licensed organization or organization exempt from licensing.

Sec. 93. Minnesota Statutes 2002, section 349.162, subdivision 1, is amended to read:

Subdivision 1. [STAMP REQUIRED.] (a) A distributor may not sell, transfer, furnish, or otherwise provide to a person, and no person may purchase, borrow, accept, or acquire from a distributor gambling equipment for use within the state unless the equipment has been registered with the board and has a registration stamp affixed, except for gambling equipment not stamped by the manufacturer pursuant to section 349.163, subdivision 5 or 8. ~~The board shall charge a fee of five cents for each stamp.~~ Each stamp must bear a registration number assigned by the board. ~~A distributor or manufacturer is entitled to a refund for unused registration stamps and replacement for registration stamps which are defective or canceled by the distributor or manufacturer.~~

(b) A manufacturer must return all unused registration stamps in its possession to the board by February 1, 1995. No manufacturer may possess unaffixed registration stamps after February 1, 1995.

(c) After February 1, 1996, no person may possess any unplayed pull-tab or tipboard deals with a registration stamp affixed to the flare or any unplayed paddleticket cards with a registration stamp affixed to the master flare. This paragraph does not apply to unplayed pull-tab or tipboard deals with a registration stamp affixed to the flare, or to unplayed paddleticket cards with a registration stamp affixed to the master flare, if the deals or cards are identified on a list of existing inventory submitted by a licensed organization or a licensed distributor, in a format prescribed by the commissioner of revenue, to the commissioner of revenue on or before February 1, 1996. Gambling equipment kept in violation of this paragraph is contraband under section 349.2125.

Sec. 94. Minnesota Statutes 2002, section 349.163, subdivision 2, is amended to read:

Subd. 2. [LICENSE; FEE.] ~~The initial license under this section is valid for one year. The fee for the initial license is $5,000. Renewal licenses under this section are valid for two years and the fee for the renewal license is $10,000.~~ The annual fee for a manufacturer's license is $9,000.

Sec. 95. Minnesota Statutes 2002, section 349.163, subdivision 6, is amended to read:

Subd. 6. [SAMPLES OF GAMBLING EQUIPMENT.] The board shall require each licensed manufacturer to submit to the board one or more samples of each item of gambling equipment the manufacturer manufactures for use or resale in this state. The board shall inspect and test all the equipment it deems necessary to determine the equipment's compliance with law and board rules. Samples required under this subdivision must be approved by the board before the equipment being sampled is shipped into or sold for use or resale in this state. The board shall impose a fee of $25 for each item of gambling equipment that the manufacturer submits for approval or for which the manufacturer requests approval. The board shall impose a fee of $100 for each sample of gambling equipment that it tests. The board may require samples of gambling equipment to be tested by an independent testing laboratory prior to submission to the board for approval. All costs of testing by an independent testing laboratory must be borne by the manufacturer. An independent testing laboratory used by a manufacturer to test samples of gambling equipment must be approved by the board before the equipment is submitted to the laboratory for testing. The board may request the assistance of the commissioner of public safety and the director of the state lottery in performing the tests.

Sec. 96. Minnesota Statutes 2002, section 349.164, subdivision 4, is amended to read:

Subd. 4. [FEES; TERM OF LICENSE.] The ~~initial~~ annual fee for a bingo hall license is ~~$2,500~~ $4,000. ~~An initial license under this section is valid for one year. Renewal licenses under this section are valid for two years and the fee for the renewal license is $5,000.~~

Sec. 97. Minnesota Statutes 2002, section 349.165, subdivision 3, is amended to read:

Subd. 3. [FEES.] ~~(a) The board may issue four classes of premises permits corresponding to the classes of licenses authorized under section 349.16, subdivision 6. The fee for each class of permit is:~~

~~(1) $400 for a class A permit;~~

~~(2) $250 for a class B permit;~~

~~(3) $200 for a class C permit; and~~

~~(4) $150 for a class D permit.~~

~~(b) If a premises permit is issued during the second year of an organization's license, the fee for each class of permit is:~~

~~(1) $200 for a class A permit;~~

~~(2) $125 for a class B permit;~~

~~(3) $100 for a class C permit; and~~

~~(4) $75 for a class D permit.~~

The monthly fee for a premises permit is 0.18 percent of the organization's gross receipts from lawful gambling conducted at that site. The fee shall be reported and paid on a monthly basis in a format as determined by the commissioner of revenue, and remitted to the commissioner of revenue along with the organization's monthly tax return for that premises. All premises permit fees received by the commissioner of revenue pursuant to this subdivision must be deposited in the lawful gambling regulation account of the special revenue fund according to section 349.151. Failure to pay the monthly premises permit fees in a timely manner may result in disciplinary action by the board.

Sec. 98. Minnesota Statutes 2002, section 349.166, subdivision 1, is amended to read:

Subdivision 1. [EXCLUSIONS.] (a) Bingo may be conducted without a license and without complying with sections 349.168, subdivisions 1 and 2; 349.17, subdivisions 1, 4, and 5; 349.18, subdivision 1; and 349.19, if it is conducted:

(1) by an organization in connection with a county fair, the state fair, or a civic celebration and is not conducted for more than 12 consecutive days and is limited to no more than four separate applications for activities applied for and approved in a calendar year; or

(2) by an organization that conducts four or fewer bingo occasions in a calendar year.

An organization that holds a license to conduct lawful gambling under this chapter may not conduct bingo under this subdivision.

(b) Bingo may be conducted within a nursing home or a senior citizen housing project or by a senior citizen organization if the prizes for a single bingo game do not exceed $10, total prizes awarded at a single bingo occasion do not exceed $200, no more than two bingo occasions are held by the organization or at the facility each week, only members of the organization or residents of the nursing home or housing project are allowed to play in a bingo game, no compensation is paid for any persons who conduct the bingo, and a manager is appointed to supervise the bingo. Bingo conducted under this paragraph is exempt from sections 349.11 to 349.23, and the board may not require an organization that conducts bingo under this paragraph, or the manager who supervises the bingo, to register or file a report with the board. The gross receipts from bingo conducted under the limitations of this subdivision are exempt from taxation under chapter 297A.

(c) Raffles may be conducted by an organization without a license and without complying with sections 349.154 to 349.165 and 349.167 to 349.213 if the value of all raffle prizes awarded by the organization in a calendar year does not exceed ~~$750~~ $1,500.

(d) Except as provided in paragraph (b), the organization must maintain all required records of excluded gambling activity for 3-1/2 years.

Sec. 99. Minnesota Statutes 2002, section 349.166, subdivision 2, is amended to read:

Subd. 2. [EXEMPTIONS.] (a) Lawful gambling may be conducted by an organization without a license and without complying with sections 349.168, subdivisions 1 and 2; 349.17, subdivisions 4 and 5; 349.18, subdivision 1; and 349.19 if:

(1) the organization conducts lawful gambling on five or fewer days in a calendar year;

(2) the organization does not award more than $50,000 in prizes for lawful gambling in a calendar year;

(3) the organization pays a fee of ~~$25~~ $50 to the board, notifies the board in writing not less than 30 days before each lawful gambling occasion of the date and location of the occasion, or 60 days for an occasion held in the case of a city of the first class, the types of lawful gambling to be conducted, the prizes to be awarded, and receives an exemption identification number;

(4) the organization notifies the local government unit 30 days before the lawful gambling occasion, or 60 days for an occasion held in a city of the first class;

(5) the organization purchases all gambling equipment and supplies from a licensed distributor; and

(6) the organization reports to the board, on a single-page form prescribed by the board, within 30 days of each gambling occasion, the gross receipts, prizes, expenses, expenditures of net profits from the occasion, and the identification of the licensed distributor from whom all gambling equipment was purchased.

(b) If the organization fails to file a timely report as required by paragraph (a), clause (3) or (6), the board shall not issue any authorization, license, or permit to the organization to conduct lawful gambling on an exempt, excluded, or licensed basis until the report has been filed.

(c) Merchandise prizes must be valued at their fair market value.

(d) Unused pull-tab and tipboard deals must be returned to the distributor within seven working days after the end of the lawful gambling occasion. The distributor must accept and pay a refund for all returns of unopened and undamaged deals returned under this paragraph.

(e) An organization that is exempt from taxation on purchases of pull-tabs and tipboards under section 297E.02, subdivision 4, paragraph (b), clause (4), must return to the distributor any tipboard or pull-tab deal no part of which is used at the lawful gambling occasion for which it was purchased by the organization.

(f) The organization must maintain all required records of exempt gambling activity for 3-1/2 years.

Sec. 100. [349.2113]

On or after January 1, 2004, a licensed organization may not put into play a pull-tab or tipboard deal that provides for a prize payout of greater than 85 percent of the ideal gross of the deal.

Sec. 101. Minnesota Statutes 2002, section 349A.08, subdivision 5, is amended to read:

Subd. 5. [PAYMENT; UNCLAIMED PRIZES.] A prize in the state lottery must be claimed by the winner within one year of the date of the drawing at which the prize was awarded or the last day sales were authorized for a game where a prize was determined in a manner other than by means of a drawing. If a valid claim is not made for a prize payable directly by the lottery by the end of this period, the prize money is considered unclaimed and the winner of the prize shall have no further claim to the prize. A prize won by a person who purchased the winning ticket in violation of section 349A.12, subdivision 1, or won by a person ineligible to be awarded a prize under subdivision 7 must be treated as an unclaimed prize under this section. The director ~~shall~~ must transfer ~~70 percent of~~ all unclaimed prize money at the end of each fiscal year from the lottery cash flow account ~~as follows: of the 70 percent, 40 percent must be transferred to the Minnesota environment and natural resources trust fund and 60 percent must be transferred~~ to the general fund. ~~The remaining 30 percent of the unclaimed prize money must be added by the director to prize pools of subsequent lottery games.~~

Sec. 102. Minnesota Statutes 2002, section 352D.04, is amended by adding a subdivision to read:

Subd. 3. [ADDITIONAL CONTRIBUTIONS.] The executive director of the Minnesota state retirement system must allow a participant in the unclassified program a onetime option, at the time of hire, under which the employee contribution to the plan is ten percent of salary.

Sec. 103. Minnesota Statutes 2002, section 356.611, subdivision 1, is amended to read:

Subdivision 1. [STATE SALARY LIMITATIONS.] (a) Notwithstanding any provision of law, bylaws, articles of incorporation, retirement and disability allowance plan agreements, or retirement plan contracts to the contrary, the covered salary for pension purposes for a plan participant of a covered retirement fund enumerated in section 356.30, subdivision 3, may not exceed 95 percent of the salary established for the governor under section 15A.082 at the time the person received the salary.

(b) This section does not apply to a salary paid:

(1) to the governor;

(2) to an employee of a political subdivision in a position that is excluded from the limit as specified under section ~~43A.17, subdivision 9~~ 15A.23; or

(3) to a state employee in a position for which the commissioner of employee relations has approved a salary rate that exceeds 95 percent of the governor's salary.

(c) The limited covered salary determined under this section must be used in determining employee and employer contributions and in determining retirement annuities and other benefits under the respective covered retirement fund and under this chapter.

Sec. 104. Minnesota Statutes 2002, section 458D.17, subdivision 5, is amended to read:

Subd. 5. [AUDIT.] The board shall provide for and pay the cost of an independent annual audit of its official books and records by the state ~~public examiner~~ auditor or a certified public accountant.

Sec. 105. Minnesota Statutes 2002, section 471.696, is amended to read:

471.696 [FISCAL YEAR; DESIGNATION.]

Beginning in 1979, the fiscal year of a city and all of its funds shall be the calendar year, except that a city may, by resolution, provide that the fiscal year for city-owned nursing homes be the reporting year designated by the commissioner of human services. Beginning in 1994, the fiscal year of a town and all of its funds shall be the calendar year. ~~The state auditor may upon request of a town and a showing of inability to conform, extend the deadline for compliance with this section for one year.~~

Sec. 106. Minnesota Statutes 2002, section 471.999, is amended to read:

471.999 [MAINTAINING PAY EQUITY; REPORT TO LEGISLATURE.]

(a) The state auditor shall monitor compliance by political subdivisions with section 471.992, subdivision 1. The state auditor may charge and collect a fee pursuant to section 6.56.

(b) The ~~commissioner of employee relations~~ state auditor shall report to the legislature by January 1 of each year on the status of compliance with section 471.992, subdivision 1, by governmental subdivisions.

The report must include a list of the political subdivisions in compliance with section 471.992, subdivision 1, and the estimated cost of compliance. The report must also include a list of political subdivisions found by the ~~commissioner~~ state auditor to be not in compliance, the basis for that finding, recommended changes to achieve compliance, estimated cost of compliance, and recommended penalties, if any. The ~~commissioner's~~ auditor's report must include a list of subdivisions that did not comply with the reporting requirements of this section. The ~~commissioner~~ state auditor may request, and a subdivision shall provide, any additional information needed for the preparation of a report under this subdivision.

(c) Notwithstanding any rule to the contrary, beginning in 2005, a political subdivision must report to the commissioner on its compliance with the requirements of sections 471.991 to 471.999 no more frequently than once every five years. No report from a political subdivision is required for 2003 and 2004.

Sec. 107. Minnesota Statutes 2002, section 474A.21, is amended to read:

474A.21 [APPROPRIATION; RECEIPTS.]

Any application fees collected by the department under sections 474A.01 to 474A.21 must be deposited in ~~a separate account in~~ the general fund. The amount necessary to refund application deposits is appropriated to the department ~~from the separate account in the general fund~~ for that purpose. The interest accruing on application

deposits and any application deposit not refunded as provided under section 474A.061, subdivision 4, or 474A.091, subdivision 5, or forfeited as provided under section 474A.131, subdivision 2, must be deposited in the ~~housing trust~~ general fund ~~account under section 462A.201~~.

Sec. 108. Minnesota Statutes 2002, section 477A.014, subdivision 4, is amended to read:

Subd. 4. [COSTS.] The director of the office of strategic and long-range planning shall annually bill the commissioner of revenue for one-half of the costs incurred by the state demographer in the preparation of materials required by section 4A.02. The state auditor shall bill the commissioner of revenue for the costs of best practices reviews and the services provided by the government information division and the parts of the constitutional office that are related to the government information function, not to exceed $217,000 in fiscal year 1992 and $217,000 in fiscal year 1993 and thereafter. The commissioner of administration shall bill the commissioner of revenue for the costs of the local government records program and the intergovernmental information systems activity, not to exceed $201,100 in fiscal year 1992 and $205,800 in fiscal year 1993 and thereafter. ~~The commissioner of employee relations shall bill the commissioner of revenue for the costs of administering the local government pay equity function, not to exceed $56,000 in fiscal year 1992 and $55,000 in fiscal year 1993 and thereafter.~~

[EFFECTIVE DATE.] The requirement in this section for the state auditor to bill for costs of best practices reviews is effective July 1, 2004. The remainder of the section is effective July 1, 2003.

Sec. 109. Minnesota Statutes 2002, section 624.20, subdivision 1, is amended to read:

Subdivision 1. (a) As used in sections 624.20 to 624.25, the term "fireworks" means any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and includes blank cartridges, toy cannons, and toy canes in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, sparklers other than those specified in paragraph (c), or other fireworks of like construction, and any fireworks containing any explosive or inflammable compound, or any tablets or other device containing any explosive substance and commonly used as fireworks.

(b) The term "fireworks" shall not include toy pistols, toy guns, in which paper caps containing 25/100 grains or less of explosive compound are used and toy pistol caps which contain less than 20/100 grains of explosive mixture.

(c) The term also does not include wire or wood sparklers of not more than 100 grams of mixture per item, other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical mixture per tube or a total of 200 grams or less for multiple tubes, snakes and glow worms, smoke devices, or trick noisemakers which include paper streamers, party poppers, string poppers, snappers, and drop pops, each consisting of not more than twenty-five hundredths grains of explosive mixture. The use of items listed in this paragraph is not permitted on public property. This paragraph does not authorize the purchase of items listed in it by persons younger than 18 years of age. The age of a purchaser of items listed in this paragraph must be verified by photographic identification.

(d) A local unit of government may impose an annual license fee for the retail sale of items authorized under paragraph (c). The annual license fee of each retail seller that is in the business of selling only the items authorized under paragraph (c) may not exceed $350, and the annual license of each other retail seller may not exceed $100. A local unit of government may not:

(1) impose any fee or charge, other than the fee authorized by this paragraph, on the retail sale of items authorized under paragraph (c);

(2) prohibit or restrict the display of items for retail sale authorized under paragraph (c); or

(3) impose on a retail seller any financial guarantee requirements, including bonding or insurance provisions, containing restrictions or conditions not imposed on the same basis on all other business licensees.

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

Sec. 110. Laws 1998, chapter 366, section 80, as amended by Laws 2001, First Special Session chapter 10, article 2, section 86, is amended to read:

Sec. 80. [SETTLEMENT DIVISION; TRANSFER OF JUDGES.]

The office of administrative hearings shall establish a settlement division. The workers' compensation judges at the department of labor and industry, together with their support staff, offices, furnishings, equipment, and supplies, are transferred to the settlement division of the office of administrative hearings. Minnesota Statutes, section 15.039, applies to the transfer of employees. The settlement division of the office of administrative hearings shall maintain offices in either Hennepin or Ramsey county and the ~~cities~~ city of Duluth ~~and Detroit Lakes~~. The office of a judge in the settlement division of the office of administrative hearings and the support staff of the judge may be located in a building that contains offices of the department of labor and industry. The seniority of a workers' compensation judge at the office of administrative hearings, after the transfer, shall be based on the total length of service as a judge at either agency. For purposes of the commissioner's plan under Minnesota Statutes, section 43A.18, subdivision 2, all compensation judges at the office of administrative hearings shall be considered to be in the same employment condition, the same organizational unit and qualified for work in either division.

Sec. 111. [TRANSFER OF DUTIES RELATING TO PAY EQUITY.]

The responsibilities relating to local government pay equity under Minnesota Statutes, sections 471.991 to 471.999, and Minnesota Rules, chapter 3920, are transferred from the department of employee relations to the state auditor. Minnesota Statutes, section 15.039, applies to the transfer of responsibilities.

Sec. 112. [UNCLASSIFIED PLAN.]

The executive director of the Minnesota state retirement system must offer persons who are participants in the unclassified plan on the effective date of this section a onetime option to choose the ten percent contribution level specified in Minnesota Statutes, section 352D.04.

Sec. 113. [SALARY FREEZE.]

Subdivision 1. [SALARY INCREASES PROHIBITED.] (a) From the effective date of this section through June 30, 2005, a state employer must not increase the rate of salary or wages for any employee. This section prohibits any increase including, but not limited to, across-the-board increases, cost-of-living adjustments, increases based on longevity, increases as a result of step and lane changes, increases in the form of lump-sum payments, increases in employer contributions to deferred compensation plans, or any other pay grade adjustments of any kind. For purposes of this section, salary or wages does not include employer contributions toward the cost of medical or dental insurance premiums provided that employee contributions to the costs of medical or dental insurance premiums are not decreased.

(b) This section does not prohibit an increase in the rate of salary and wages for an employee who is promoted or transferred to a position that the employer determines has greater job responsibilities.

(c) Notwithstanding any law to the contrary, the terms of a collective bargaining agreement in effect on June 30, 2003, may not be extended after that date if the extension would increase a salary in a manner prohibited by this section.

Subd. 2. [FUTURE CONTRACTS.] A contract or collective bargaining agreement or compensation plan entered into after June 30, 2005, must not provide a retroactive salary, or wage increase that applies to a period before June 30, 2005, if that increase would be prohibited by this section if granted before June 30, 2005.

Subd. 3. [ARBITRATION AND STRIKES.] Notwithstanding any law to the contrary:

(1) an employee may not legally strike due to a state employer's refusal to grant a salary or wage increase if the refusal is required to comply with this section; and

(2) neither a state employer nor an exclusive representative may request interest arbitration in relation to an increase in the rate of salary or wages that is prohibited by this section, and an arbitrator may not issue an award that would increase salary or wages in a manner prohibited by this section.

Subd. 4. [DEFINITIONS.] For purposes of this section:

(1) "state employer" means an appointing authority in the executive, legislative, or judicial branches as defined in Minnesota Statutes, section 43A.02, subdivisions 5, 22, 25, and 27; and

(2) "employee" has the meaning given in Minnesota Statutes, section 43A.02, subdivision 21.

Subd. 5. [RELATION TO OTHER LAW.] This section supersedes Minnesota Statutes, chapter 179A, and any other law to the contrary. It is not an unfair labor practice under Minnesota Statutes, chapter 179A, for a state employer to take any action required to comply with this section.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 114. [UNIVERSITY OF MINNESOTA; SALARY AND WAGE RATE FREEZE RECOMMENDED.]

The legislature strongly recommends that the University of Minnesota comply with section 113 as if it were defined as a state employer under that section.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 115. [GAMBLING CONTROL; FEE TRANSITION.]

Effective July 1, 2003, all licensees regulated by the gambling control board must begin paying the applicable fees under Minnesota Statutes, sections 349.16 to 349.165. The gambling control board shall provide a onetime, prorated credit against these fees to licensees who paid for licenses before July 1, 2003, that were to extend beyond July 1, 2003.

Sec. 116. [CARRYFORWARD.]

Notwithstanding Minnesota Statutes, section 16A.28, or other law to the contrary, funds encumbered by the judicial or executive branch for severance costs; unemployment compensation costs; and health, dental, and life insurance continuation costs resulting from state employee layoffs during the fiscal year ending June 30, 2003, may be carried forward and may be spent until January 1, 2004.

Sec. 117. [VACATION LIMIT.]

A state employee who takes voluntary unpaid leave of absence during the biennium ending June 30, 2005, must be allowed to accrue a vacation leave balance up to at least 300 hours through June 30, 2005.

Sec. 118. [GAMING STUDY.]

The director of the state lottery shall contract with an independent entity to perform an analysis of the economic effects of a gaming facility in the metropolitan area on existing tribal gaming facilities located in or within 100 miles of the metropolitan area.

Sec. 119. [LCC; LEAVE WITHOUT PAY.]

(a) If the legislative coordinating commission requires employees under its jurisdiction to take temporary leave without pay during the biennium ending June 30, 2005, the first 80 hours of leave without pay in fiscal year 2004 and the first 80 hours of leave without pay in fiscal year 2005 are governed by this section. The commission must permit employees taking this leave to continue accruing vacation and sick leave, be eligible for paid holidays and insurance benefits, accrue seniority, and accrue service credit and credited salary in state retirement plans permitting service credits for authorized leaves of absence as if the employee had actually been employed during the time of the leave. The commission may make the employer contribution to the employee's retirement plan if the employee participates in a defined contribution plan. If the leave without pay is for one full pay period or longer, any holiday pay shall be included in the first payroll warrant after return from the leave. Managers must attempt to schedule leaves to meet the needs of employees and the need to continue efficient operation of their offices.

(b) Notwithstanding Minnesota Statutes, section 43A.18, subdivisions 2 and 3, the legislative coordinating commission may require employees in the office of the legislative auditor whose terms and conditions of employment are determined through the commissioner and managerial compensation plans to take leave without pay as described in paragraph (a).

Sec. 120. [OFFICIAL PUBLICATION STUDY.]

Representatives of local public corporations, as defined in Minnesota Statutes, chapter 331A, must meet with representatives of qualified newspapers and report to the legislature by January 15, 2004, on alternative means of official publication for local public corporations.

Sec. 121. [TRAINING SERVICES.]

During the biennium ending June 30, 2005, state executive agencies must consider using services provided by the government training service before contracting with other outside vendors for similar services.

Sec. 122. [REVISOR'S INSTRUCTIONS.]

(a) In the next and subsequent editions of Minnesota Statutes, the revisor of statutes shall replace the terms "commissioner of employee relations" and "commissioner" with "state auditor" in sections 471.991 to 471.999. In sections affected by this instruction, the revisor may make changes necessary to correct the cross-references, punctuation, grammar, or structure of the remaining text and preserve its meaning.

(b) In the next and subsequent editions of Minnesota Rules, chapter 3920, the revisor of statutes shall replace the terms "department of employee relations" and "department" with "state auditor." The revisor shall replace the address listed in Minnesota Rules, part 3920.0100, subpart 11, with "525 Park Street, Suite 400, Saint Paul, Minnesota 55103." In parts affected by this instruction, the revisor may make changes necessary to correct the cross-references, punctuation, grammar, or structure of the remaining text and preserve its meaning.

Sec. 123. [REPEALER.]

(a) Minnesota Statutes 2002, sections 3.305, subdivision 5; 3.9222; 3A.11; 4A.055; 6.77; 16A.151, subdivision 5; 16A.87; 43A.04, subdivision 10; 43A.17, subdivision 9; 149A.97, subdivision 8; 163.10; 240A.08; and 306.97, are repealed.

(b) Minnesota Rules, part 1950.1070, is repealed effective July 1, 2004.

(c) Minnesota Statutes 2002, sections 12.221, subdivision 5; 16B.50; 16C.07; and 43A.047, are repealed effective the day following final enactment.

(d) Minnesota Statutes 2002, section 3.971, subdivision 8, is repealed effective July 1, 2004.

ARTICLE 3

LINKED BINGO

Section 1. Minnesota Statutes 2002, section 349.12, subdivision 4, is amended to read:

Subd. 4. [BINGO.] "Bingo" means a game where each player has a bingo hard card or bingo paper sheet, for which a consideration has been paid, and played in accordance with this chapter and with rules of the board for the conduct of bingo. Bingo also includes a linked bingo game.

Sec. 2. Minnesota Statutes 2002, section 349.12, subdivision 18, is amended to read:

Subd. 18. [GAMBLING EQUIPMENT.] "Gambling equipment" means: bingo hard cards or paper sheets, linked bingo paper sheets, devices for selecting bingo numbers, pull-tabs, jar tickets, paddlewheels, paddlewheel tables, paddletickets, paddleticket cards, tipboards, tipboard tickets, and pull-tab dispensing devices.

Sec. 3. Minnesota Statutes 2002, section 349.12, is amended by adding a subdivision to read:

Subd. 25a. [LINKED BINGO GAME.] "Linked bingo game" means a bingo game played at two or more locations where licensed organizations are authorized to conduct bingo, where there is a common prize pool and a common selection of numbers or symbols conducted at one location, and where the results of the selection are transmitted to all participating locations by satellite, telephone, or other means by a linked bingo game provider.

Sec. 4. Minnesota Statutes 2002, section 349.12, is amended by adding a subdivision to read:

Subd. 25b. [LINKED BINGO GAME PROVIDER.] "Linked bingo game provider" means any person who provides the means to link bingo prizes in a linked bingo game, who provides linked bingo paper sheets to the participating organizations, who provides linked bingo prize management, and who provides the linked bingo game system.

Sec. 5. Minnesota Statutes 2002, section 349.12, is amended by adding a subdivision to read:

Subd. 25c. [LINKED BINGO GAME SYSTEM.] "Linked bingo game system" means the equipment used by the linked bingo provider to conduct, transmit, and track a linked bingo game. The system must be approved by the board before its use in this state and it must have dial-up or other capability to permit the board to monitor its operation remotely.

Sec. 6. Minnesota Statutes 2002, section 349.12, is amended by adding a subdivision to read:

Subd. 25d. [LINKED BINGO PRIZE POOL.] "Linked bingo prize pool" means the total of all prize money that each participating organization has contributed to the linked bingo game prize. No participating organization may contribute more than $300 per bingo occasion to a linked bingo prize pool.

Sec. 7. Minnesota Statutes 2002, section 349.151, subdivision 4, is amended to read:

Subd. 4. [POWERS AND DUTIES.] (a) The board has the following powers and duties:

(1) to regulate lawful gambling to ensure it is conducted in the public interest;

(2) to issue licenses to organizations, distributors, bingo halls, manufacturers, linked bingo game providers, and gambling managers;

(3) to collect and deposit license, permit, and registration fees due under this chapter;

(4) to receive reports required by this chapter and inspect all premises, records, books, and other documents of organizations, distributors, manufacturers, linked bingo game providers, and bingo halls to insure compliance with all applicable laws and rules;

(5) to make rules authorized by this chapter;

(6) to register gambling equipment and issue registration stamps;

(7) to provide by rule for the mandatory posting by organizations conducting lawful gambling of rules of play and the odds and/or house percentage on each form of lawful gambling;

(8) to report annually to the governor and legislature on its activities and on recommended changes in the laws governing gambling;

(9) to impose civil penalties of not more than $500 per violation on organizations, distributors, employees eligible to make sales on behalf of a distributor, manufacturers, bingo halls, linked bingo game providers, and gambling managers for failure to comply with any provision of this chapter or any rule or order of the board;

(10) to issue premises permits to organizations licensed to conduct lawful gambling;

(11) to delegate to the director the authority to issue or deny license and premises permit applications and renewals under criteria established by the board;

(12) to suspend or revoke licenses and premises permits of organizations, distributors, manufacturers, bingo halls, linked bingo game providers, or gambling managers as provided in this chapter;

(13) to register employees of organizations licensed to conduct lawful gambling;

(14) to require fingerprints from persons determined by board rule to be subject to fingerprinting;

(15) to delegate to a compliance review group of the board the authority to investigate alleged violations, issue consent orders, and initiate contested cases on behalf of the board;

(16) to order organizations, distributors, manufacturers, bingo halls, linked bingo game providers, and gambling managers to take corrective actions; and

(17) to take all necessary steps to ensure the integrity of and public confidence in lawful gambling.

(b) The board, or director if authorized to act on behalf of the board, may by citation assess any organization, distributor, employee eligible to make sales on behalf of a distributor, manufacturer, bingo hall licensee, linked bingo game provider, or gambling manager a civil penalty of not more than $500 per violation for a failure to comply with any provision of this chapter or any rule adopted or order issued by the board. Any organization, distributor, bingo hall licensee, gambling manager, linked bingo game provider, or manufacturer assessed a civil penalty under this paragraph may request a hearing before the board. Appeals of citations imposing a civil penalty are not subject to the provisions of the Administrative Procedure Act.

(c) All fees and penalties received by the board must be deposited in the general fund.

Sec. 8. Minnesota Statutes 2002, section 349.153, is amended to read:

349.153 [CONFLICT OF INTEREST.]

(a) A person may not serve on the board, be the director, or be an employee of the board who has an interest in any corporation, association, limited liability company, or partnership that is licensed by the board as a distributor, manufacturer, linked bingo game provider, or ~~a~~ bingo hall under section 349.164.

(b) A member of the board, the director, or an employee of the board may not accept employment with, receive compensation directly or indirectly from, or enter into a contractual relationship with an organization that conducts lawful gambling, a distributor, a linked bingo game provider, a bingo hall, or a manufacturer while employed with or a member of the board or within one year after terminating employment with or leaving the board.

(c) A distributor, bingo hall, manufacturer, linked bingo game provider, or organization licensed to conduct lawful gambling may not hire a former employee, director, or member of the gambling control board for one year after the employee, director, or member has terminated employment with or left the gambling control board.

Sec. 9. Minnesota Statutes 2002, section 349.155, subdivision 3, is amended to read:

Subd. 3. [MANDATORY DISQUALIFICATIONS.] (a) In the case of licenses for manufacturers, distributors, bingo halls, linked bingo game providers, and gambling managers, the board may not issue or renew a license under this chapter, and shall revoke a license under this chapter, if the applicant or licensee, or a director, officer, partner, governor, person in a supervisory or management position of the applicant or licensee, or an employee eligible to make sales on behalf of the applicant or licensee:

(1) has ever been convicted of a felony or a crime involving gambling;

(2) has ever been convicted of (i) assault, (ii) a criminal violation involving the use of a firearm, or (iii) making terroristic threats;

(3) is or has ever been connected with or engaged in an illegal business;

(4) owes $500 or more in delinquent taxes as defined in section 270.72;

(5) had a sales and use tax permit revoked by the commissioner of revenue within the past two years; or

(6) after demand, has not filed tax returns required by the commissioner of revenue. The board may deny or refuse to renew a license under this chapter, and may revoke a license under this chapter, if any of the conditions in this paragraph are applicable to an affiliate or direct or indirect holder of more than a five percent financial interest in the applicant or licensee.

(b) In the case of licenses for organizations, the board may not issue or renew a license under this chapter, and shall revoke a license under this chapter, if the organization, or an officer or member of the governing body of the organization:

(1) has been convicted of a felony or gross misdemeanor within the five years before the issuance or renewal of the license;

(2) has ever been convicted of a crime involving gambling; or

(3) has had a license issued by the board or director permanently revoked for violation of law or board rule.

Sec. 10. Minnesota Statutes 2002, section 349.163, subdivision 3, is amended to read:

Subd. 3. [PROHIBITED SALES.] (a) A manufacturer may not:

(1) sell gambling equipment for use or resale within the state to any person not licensed as a distributor, except that gambling equipment used exclusively in a linked bingo game may be sold to a licensed linked bingo game provider; or

(2) sell gambling equipment to a distributor in this state that has the same serial number as another item of gambling equipment of the same type that is sold by that manufacturer for use or resale in this state.

(b) A manufacturer, affiliate of a manufacturer, or person acting as a representative or agent of a manufacturer may not provide a lessor of gambling premises or an appointed official any compensation, gift, gratuity, premium, contribution, or other thing of value.

(c) A manufacturer may not sell or otherwise provide a pull-tab or tipboard deal with the symbol required by subdivision 5, paragraph (h), imprinted on the flare to any person other than a licensed distributor unless the manufacturer first renders the symbol permanently invisible.

Sec. 11. [349.1635] [LINKED BINGO GAME PROVIDER LICENSE.]

Subdivision 1. [LICENSE REQUIRED.] No person may do any of the following without having first obtained a license from the board:

(1) provide the means to link prizes in a linked bingo game;

(2) provide linked bingo game prize management;

(3) provide the linked bingo game system; or

(4) provide linked bingo game paper sheets to an organization.

Subd. 2. [LICENSE APPLICATION.] The board may issue a license to a linked bingo game provider who meets the qualifications of this chapter and the rules adopted by the board. The application shall be on a form prescribed by the board. The license is valid for two years and the fee for a linked bingo game provider license is $5,000 per year.

Subd. 3. [ATTACHMENTS TO APPLICATION.] An applicant for a linked bingo game provider license must attach to its application:

(1) evidence of a bond in the principal amount of $250,000 payable to the state of Minnesota conditioned on the payment of all linked bingo game prizes and any other money due and payable under this chapter;

(2) detailed plans and specifications for the operation of the linked bingo game and the linked bingo game system; and

(3) any other information required by the board by rule.

Subd. 4. [PROHIBITION.] (a) Except for services associated exclusively with a linked bingo game, a linked bingo game provider may not participate or assist in the conduct of lawful gambling by an organization. No linked bingo game provider may:

(1) also be licensed as a bingo hall or hold any financial or managerial interest in a bingo hall;

(2) also be licensed as a distributor or hold any financial or managerial interest in a distributor;

(3) sell or lease linked bingo game equipment to any person not licensed as an organization;

(4) purchase gambling equipment to be used exclusively in a linked bingo game from any person not licensed as a manufacturer under section 349.163; or

(5) provide an organization, a lessor of gambling premises, or an appointed official any compensation, gift, gratuity, premium, or contribution.

(b) Employees of the board and the division of alcohol and gambling enforcement may inspect the books, records, inventory, and business premises of a licensed linked bingo game provider without notice during the normal business hours of the linked bingo game provider. The board may charge a linked bingo game provider for the actual cost of conducting scheduled or unscheduled inspections of the licensee's facilities.

Sec. 12. Minnesota Statutes 2002, section 349.166, subdivision 1, is amended to read:

Subdivision 1. [EXCLUSIONS.] (a) Bingo, with the exception of linked bingo games, may be conducted without a license and without complying with sections 349.168, subdivisions 1 and 2; 349.17, subdivisions 1, 4, and 5; 349.18, subdivision 1; and 349.19, if it is conducted:

(1) by an organization in connection with a county fair, the state fair, or a civic celebration and is not conducted for more than 12 consecutive days and is limited to no more than four separate applications for activities applied for and approved in a calendar year; or

(2) by an organization that conducts four or fewer bingo occasions in a calendar year.

An organization that holds a license to conduct lawful gambling under this chapter may not conduct bingo under this subdivision.

(b) Bingo may be conducted within a nursing home or a senior citizen housing project or by a senior citizen organization if the prizes for a single bingo game do not exceed $10, total prizes awarded at a single bingo occasion do not exceed $200, no more than two bingo occasions are held by the organization or at the facility each week, only members of the organization or residents of the nursing home or housing project are allowed to play in a bingo

game, no compensation is paid for any persons who conduct the bingo, and a manager is appointed to supervise the bingo. Bingo conducted under this paragraph is exempt from sections 349.11 to 349.23, and the board may not require an organization that conducts bingo under this paragraph, or the manager who supervises the bingo, to register or file a report with the board. The gross receipts from bingo conducted under the limitations of this subdivision are exempt from taxation under chapter 297A.

(c) Raffles may be conducted by an organization without a license and without complying with sections 349.154 to 349.165 and 349.167 to 349.213 if the value of all raffle prizes awarded by the organization in a calendar year does not exceed $750.

(d) Except as provided in paragraph (b), the organization must maintain all required records of excluded gambling activity for 3-1/2 years.

Sec. 13. Minnesota Statutes 2002, section 349.166, subdivision 2, is amended to read:

Subd. 2. [EXEMPTIONS.] (a) Lawful gambling, with the exception of linked bingo games, may be conducted by an organization without a license and without complying with sections 349.168, subdivisions 1 and 2; 349.17, subdivisions 4 and 5; 349.18, subdivision 1; and 349.19 if:

(1) the organization conducts lawful gambling on five or fewer days in a calendar year;

(2) the organization does not award more than $50,000 in prizes for lawful gambling in a calendar year;

(3) the organization pays a fee of $25 to the board, notifies the board in writing not less than 30 days before each lawful gambling occasion of the date and location of the occasion, or 60 days for an occasion held in the case of a city of the first class, the types of lawful gambling to be conducted, the prizes to be awarded, and receives an exemption identification number;

(4) the organization notifies the local government unit 30 days before the lawful gambling occasion, or 60 days for an occasion held in a city of the first class;

(5) the organization purchases all gambling equipment and supplies from a licensed distributor; and

(6) the organization reports to the board, on a single-page form prescribed by the board, within 30 days of each gambling occasion, the gross receipts, prizes, expenses, expenditures of net profits from the occasion, and the identification of the licensed distributor from whom all gambling equipment was purchased.

(b) If the organization fails to file a timely report as required by paragraph (a), clause (3) or (6), the board shall not issue any authorization, license, or permit to the organization to conduct lawful gambling on an exempt, excluded, or licensed basis until the report has been filed.

(c) Merchandise prizes must be valued at their fair market value.

(d) Unused pull-tab and tipboard deals must be returned to the distributor within seven working days after the end of the lawful gambling occasion. The distributor must accept and pay a refund for all returns of unopened and undamaged deals returned under this paragraph.

(e) An organization that is exempt from taxation on purchases of pull-tabs and tipboards under section 297E.02, subdivision 4, paragraph (b), clause (4), must return to the distributor any tipboard or pull-tab deal no part of which is used at the lawful gambling occasion for which it was purchased by the organization.

(f) The organization must maintain all required records of exempt gambling activity for 3-1/2 years.

Sec. 14. Minnesota Statutes 2002, section 349.167, subdivision 6, is amended to read:

Subd. 6. [RECRUITMENT OF GAMBLING MANAGERS.] No organization may seek or accept assistance from a manufacturer ~~or~~, distributor, or linked bingo game provider, or a representative, agent, affiliate, or employee of a manufacturer ~~or~~, distributor, or linked bingo game provider, in identifying or recruiting candidates to become a gambling manager for the organization.

Sec. 15. Minnesota Statutes 2002, section 349.17, subdivision 3, is amended to read:

Subd. 3. [WINNERS.] Each bingo winner must be determined and every prize shall be awarded and delivered the same day on which the bingo occasion is conducted, except that prizes won in a linked bingo game must be delivered within three business days of the day on which the occasion was conducted.

Sec. 16. Minnesota Statutes 2002, section 349.17, subdivision 6, is amended to read:

Subd. 6. [CONDUCT OF BINGO.] (a) Each bingo hard card and paper sheets must have five horizontal rows of spaces with each row except one having five numbers. The center row must have four numbers and the center space marked "free." Each column must have one of the letters B-I-N-G-O in order at the top. Bingo paper sheets may also have numbers that are not preprinted but are filled in by players.

(b) A game of bingo begins with the first letter and number called. Each player must cover or mark with a liquid dauber the numbers when bingo balls, similarly numbered, are randomly drawn, announced, and displayed to the players, either manually or with a flashboard and monitor. The game is won when a player has covered or marked a previously designated arrangement of numbers on the card or sheet and declared bingo. The game is completed when a winning card or sheet is verified and a prize awarded, except that prizes won in linked bingo games may be awarded pursuant to subdivision 3.

Sec. 17. Minnesota Statutes 2002, section 349.17, subdivision 7, is amended to read:

Subd. 7. [NOON HOUR BINGO.] Notwithstanding subdivisions 1 and 3, an organization may conduct bingo subject to the following restrictions:

(1) the bingo is conducted only between the hours of 11:00 a.m. and 2:00 p.m.;

(2) the bingo is conducted at a site the organization owns or leases and which has a license for the sale of intoxicating beverages on the premises under chapter 340A;

(3) the bingo is limited to one progressive bingo game per site as defined by section 349.211, subdivision 2;

(4) the bingo is conducted using only bingo paper sheets; ~~and~~

(5) if the premises are leased, the rent may not exceed $25 per day for each day bingo is conducted; and

(6) linked bingo games may not be conducted at a noon hour bingo occasion.

Sec. 18. Minnesota Statutes 2002, section 349.17, is amended by adding a subdivision to read:

Subd. 8. [LINKED BINGO GAMES.] (a) A licensed organization may conduct or participate in a linked bingo game in association with one or more other licensed organizations.

(b) Each participating licensed organization shall contribute to each prize awarded in a linked bingo game in an amount not to exceed $300 per occasion.

(c) The board may adopt rules to:

(1) specify the manner in which a linked bingo game must be played and how the linked bingo prizes must be awarded;

(2) specify the records to be maintained by a linked bingo game provider;

(3) require the submission of periodic reports by the linked bingo game provider and specify the content of the reports;

(4) establish the qualifications required to be licensed as a linked bingo game provider; and

(5) any other matter involving the operation of a linked bingo game.

Sec. 19. Minnesota Statutes 2002, section 349.18, subdivision 1, is amended to read:

Subdivision 1. [LEASE OR OWNERSHIP REQUIRED.] (a) An organization may conduct lawful gambling only on premises it owns or leases. Leases must be on a form prescribed by the board. Except for leases entered into before August 1, 1994, the term of the lease may not begin before the effective date of the premises permit and must expire on the same day that the premises permit expires. Copies of all leases must be made available to employees of the board and the division of alcohol and gambling enforcement on request. A lease may not provide for payments determined directly or indirectly by the receipts or profits from lawful gambling. The board may prescribe by rule limits on the amount of rent which an organization may pay to a lessor for premises leased for lawful gambling provided that no rule of the board may prescribe a limit of less than $1,000 per month on rent paid for premises used for lawful gambling other than bingo. Any rule adopted by the board limiting the amount of rent to be paid may only be effective for leases entered into, or renewed, after the effective date of the rule.

(b) No person, distributor, manufacturer, lessor, linked bingo game provider, or organization other than the licensed organization leasing the space may conduct any activity other than the sale or serving of food and beverages on the leased premises during times when lawful gambling is being conducted on the premises.

(c) At a site where the leased premises consists of an area on or behind a bar at which alcoholic beverages are sold and employees of the lessor are employed by the organization as pull-tab sellers at the site, pull-tabs and tipboard tickets may be sold and redeemed by those employees at any place on or behind the bar, but the tipboards and receptacles for pull-tabs and cash drawers for lawful gambling receipts must be maintained only within the leased premises.

(d) Employees of a lessor may participate in lawful gambling on the premises provided (1) if pull-tabs or tipboards are sold, the organization voluntarily posts, or is required to post, the major prizes as specified in section 349.172; and (2) any employee of the lessor participating in lawful gambling is not a gambling employee for the organization conducting lawful gambling on the premises.

(e) A gambling employee may purchase pull-tabs at the site of the employee's place of employment provided:

(1) the organization voluntarily posts, or is required to post, the major prizes for pull-tab or tipboard games as specified in section 349.172; and

(2) the employee is not involved in the sale of pull-tabs at that site.

(f) At a leased site where an organization uses a paddlewheel consisting of 30 numbers or less or a tipboard consisting of 30 tickets or less, tickets may be sold throughout the permitted premises, but winning tickets must be redeemed, the paddlewheel must be located, and the tipboard seal must be opened within the leased premises.

Sec. 20. Minnesota Statutes 2002, section 349.19, is amended by adding a subdivision to read:

Subd. 2b. [LINKED BINGO PRIZE POOL ACCOUNT.] A licensed organization participating in a linked bingo game must maintain a separate account in a bank for the deposit of the organization's portion of the linked bingo game prize pool. The name of the bank, the account number, and authorization for electronic funds transfer must be provided by the organization to the linked bingo game provider. Deposits must be made into the account by the organization as designated by the linked bingo game provider. Money in the account must be available to the linked bingo game provider at all times by electronic funds transfer, unless the linked bingo game provider agrees to the transfer of the funds by other means.

Sec. 21. Minnesota Statutes 2002, section 349.191, subdivision 1, is amended to read:

Subdivision 1. [CREDIT RESTRICTION.] A manufacturer may not offer or extend to a distributor, a linked bingo game provider may not offer or extend to an organization, and a distributor may not offer or extend to an organization, credit for a period of more than 30 days for the sale or lease of any gambling equipment. No right of action exists for the collection of any claim based on credit prohibited by this subdivision. The 30-day period allowed by this subdivision begins with the day immediately following the day of invoice and includes all successive days, including Sundays and holidays, to and including the 30th successive day.

Sec. 22. Minnesota Statutes 2002, section 349.191, subdivision 1a, is amended to read:

Subd. 1a. [CREDIT AND SALES TO DELINQUENT ORGANIZATIONS.] (a) If a distributor or linked bingo game provider does not receive payment in full from an organization within 35 days of the day immediately following the date of the invoice, the distributor or linked bingo game provider must notify the board in writing of the delinquency on the next business day.

(b) If a distributor or linked bingo game provider who has notified the board under paragraph (a) has not received payment in full from the organization within 60 days of the notification under paragraph (a), the distributor or linked bingo game provider must notify the board of the continuing delinquency.

(c) On receipt of a notice under paragraph (a), the board shall order all distributors and linked bingo game providers that until further notice from the board, they may sell gambling equipment to the delinquent organizations only on a cash basis with no credit extended. On receipt of a notice under paragraph (b), the board shall order all distributors and linked bingo game providers not to sell any gambling equipment to the delinquent organization.

(d) No distributor or linked bingo game provider may extend credit or sell gambling equipment to an organization in violation of an order under paragraph (c) until the board has authorized such credit or sale.

Sec. 23. Minnesota Statutes 2002, section 349.211, subdivision 1, is amended to read:

Subdivision 1. [BINGO.] Except as provided in ~~subdivision~~ subdivisions 1a and 2, prizes for a single bingo game may not exceed $200 except prizes for a cover-all game, which may exceed $200 if the aggregate value of all cover-all prizes in a bingo occasion does not exceed $1,000. Total prizes awarded at a bingo occasion may not exceed $2,500, unless a cover-all game is played in which case the limit is $3,500. A prize may be determined based on the value of the bingo packet sold to the player. For purposes of this subdivision, a cover-all game is one in which a player must cover all spaces except a single free space to win.

Sec. 24. Minnesota Statutes 2002, section 349.211, is amended by adding a subdivision to read:

Subd. 1a. [LINKED BINGO PRIZES.] Prizes for a linked bingo game shall be limited as follows:

(1) no organization may contribute more than $300 per occasion to a linked bingo game prize pool; and

(2) if an organization contributes to a linked bingo game prize pool, the organization's aggregate value of cover-all prizes available during the bingo occasion must be reduced by the amount contributed to the linked bingo game prize pool.

ARTICLE 4

TIPBOARDS

Section 1. Minnesota Statutes 2002, section 349.12, subdivision 34, is amended to read:

Subd. 34. [TIPBOARD.] "Tipboard" means a board, placard or other device containing a seal that conceals the winning number or symbol, and that serves as the game flare for a tipboard game, or a board or placard that is not required to contain a seal, but for which the winning numbers are determined in whole or in part by the outcome of one or more professional sporting events.

Sec. 2. Minnesota Statutes 2002, section 349.151, is amended by adding a subdivision to read:

Subd. 4c. [RULES.] The board may adopt rules for the conduct of tipboards for which the winning numbers are determined in whole or in part by the outcome of one or more professional sporting events. The rules must provide for operation procedures, internal control standards, posted information, records, and reports. The rules must provide for the award of prizes, method of payout, wagers, determination of winners, and the specifications of these tipboards. Cash or merchandise prizes may be awarded in these tipboards.

Sec. 3. Minnesota Statutes 2002, section 349.1711, subdivision 2, is amended to read:

Subd. 2. [DETERMINATION OF WINNERS.] When the predesignated numbers or symbols have all been purchased, or all of the tipboard tickets for that game have been sold, the seal must be removed to reveal a number or symbol that determines which of the predesignated numbers or symbols is the winning number or symbol. A tipboard may also contain consolation winners, or winning chances that are determined in whole or in part by the outcome of one or more professional sporting events, that need not be determined by the use of the seal.

Sec. 4. Minnesota Statutes 2002, section 349.211, is amended by adding a subdivision to read:

Subd. 2d. [SPORTS BOARDS.] The maximum prize which may be awarded for a tipboard for which the winning numbers are determined in whole or in part by the outcome of one or more professional sporting events is $500. A chance for such a board may not be sold for more than $10.

Sec. 5. [REPEALER.]

Minnesota Statutes 2002, section 349.2127, subdivision 9, is repealed."

Delete the title and insert:

"A bill for an act relating to state government; appropriating money for the general legislative and administrative expenses of state government; modifying provisions related to state government operations; requiring certain contractor bonding; requiring licensure of certain gambling equipment salespersons; modifying fee provisions and providing for disposition of various fees and other revenue; modifying provisions of various state boards and

commissions; authorizing rulemaking; providing for a license fee for fireworks retailers; requiring studies; modifying lawful gambling provisions; amending Minnesota Statutes 2002, sections 3.099, subdivision 3; 3.885, subdivision 1; 3.971, subdivision 2; 6.48; 6.49; 6.54; 6.55; 6.64; 6.65; 6.66; 6.67; 6.68, subdivision 1; 6.70; 6.71; 6.74; 8.06; 10A.02, by adding subdivisions; 10A.04, subdivisions 2, 4, by adding a subdivision; 10A.09, subdivision 6, by adding a subdivision; 10A.31, subdivisions 1, 3, 4; 14.48, by adding a subdivision; 15.50, subdivision 1; 16A.11, subdivision 3; 16A.17, by adding a subdivision; 16A.40; 16A.501; 16A.642, subdivision 1; 16B.24, subdivision 5; 16B.35, subdivision 1; 16B.465, subdivisions 1a, 7; 16B.47; 16B.48, subdivision 2; 16B.49; 16B.58, by adding a subdivision; 16C.05, subdivision 2; 16C.08, subdivisions 2, 3, 4, by adding a subdivision; 16C.09; 16C.10, subdivision 7; 16E.01, subdivision 3; 16E.07, subdivision 9; 16E.09, subdivision 1; 69.772, subdivision 2; 115A.929; 116J.8771; 136F.77, subdivision 3; 179A.03, subdivision 7; 192.501, subdivision 2; 197.608; 240.03; 240.10; 240.15, subdivision 6; 240.155, subdivision 1; 240A.03, subdivisions 10, 15; 240A.04; 240A.06, subdivision 1; 256B.435, subdivision 2a; 268.186; 270.052; 270.44; 270A.07, subdivision 1; 289A.08, subdivision 16; 306.95; 349.12, subdivisions 4, 18, 25, 34, by adding subdivisions; 349.151, subdivisions 4, 4b, by adding a subdivision; 349.153; 349.155, subdivision 3; 349.16, subdivision 6, by adding a subdivision; 349.161, subdivisions 1, 4, 5; 349.162, subdivision 1; 349.163, subdivisions 2, 3, 6; 349.164, subdivision 4; 349.165, subdivision 3; 349.166, subdivisions 1, 2; 349.167, subdivision 6; 349.17, subdivisions 3, 6, 7, by adding a subdivision; 349.1711, subdivision 2; 349.18, subdivision 1; 349.19, by adding a subdivision; 349.191, subdivisions 1, 1a; 349.211, subdivision 1, by adding subdivisions; 349A.08, subdivision 5; 352D.04, by adding a subdivision; 356.611, subdivision 1; 458D.17, subdivision 5; 471.696; 471.999; 474A.21; 477A.014, subdivision 4; 624.20, subdivision 1; Laws 1998, chapter 366, section 80, as amended; proposing coding for new law in Minnesota Statutes, chapters 3A; 6; 10A; 15A; 16C; 43A; 326; 349; repealing Minnesota Statutes 2002, sections 3.305, subdivision 5; 3.9222; 3.971, subdivision 8; 3A.11; 4A.055; 6.77; 12.221, subdivision 5; 16A.151, subdivision 5; 16A.87; 16B.50; 16C.07; 43A.04, subdivision 10; 43A.047; 43A.17, subdivision 9; 149A.97, subdivision 8; 163.10; 240A.08; 306.97; 349.2127, subdivision 9; Minnesota Rules, part 1950.1070."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Harder from the Committee on Agriculture and Rural Development Finance to which was referred:

H. F. No. 752, A bill for an act relating to state government; appropriating money for environmental, natural resources, and agricultural purposes; establishing and modifying certain programs; providing for regulation of certain activities and practices; providing for accounts, assessments, and fees; amending Minnesota Statutes 2002, sections 16A.531, subdivision 1, by adding a subdivision; 17.4988; 18.525; 18.78; 18.79, subdivisions 2, 3, 5, 6, 9, 10, 11; 18.81, subdivisions 2, 3; 18.84, subdivision 3; 18.85; 18.86; 18B.26, subdivision 3; 21.89, subdivision 2; 21.90, subdivision 2; 21.901; 28A.08, subdivision 3; 28A.085, subdivision 1; 28A.09, subdivision 1; 32.394, subdivisions 8, 8b, 8d; 35.02, subdivision 1; 37.03, subdivision 1; 41A.09, subdivisions 2a, 3a; 84.085, subdivision 1; 84.415, subdivisions 4, 5, by adding subdivisions; 84D.14; 85.052, subdivision 3; 85.053, subdivision 1; 85A.02, subdivision 17; 86B.415, subdivision 7; 97A.475, subdivisions 15, 26, 27, 28, 29, 30, 38, 39, 40, 42; 97B.645, subdivision 7; 103B.231, subdivision 3a; 103B.305, subdivision 3, by adding subdivisions; 103B.311, subdivisions 1, 2, 3, 4; 103B.315, subdivisions 4, 5, 6; 103B.321, subdivisions 1, 2; 103B.325, subdivisions 1, 2; 103B.331, subdivisions 1, 2, 3; 103B.3363, subdivision 3; 103B.3369, subdivisions 2, 4, 5, 6; 103B.355; 103D.405, subdivision 2; 103G.005, subdivision 10e; 103G.222, subdivision 1; 103G.2242, by adding subdivisions; 103G.271, subdivisions 6, 6a; 103G.611, subdivision 1; 103G.615, subdivision 2; 115.03, by adding subdivisions; 115.073; 115.56, subdivision 4; 115A.0716, subdivision 3; 115A.545, subdivision 2; 115A.9651, subdivision 6; 115B.17, subdivisions 6, 7, 14, 16; 115B.19; 115B.20; 115B.22, subdivision 7; 115B.25, subdivisions 1a, 4; 115B.26; 115B.30; 115B.31, subdivisions 1, 3, 4; 115B.32, subdivision 1; 115B.33, subdivision 1; 115B.34; 115B.36;

115B.40, subdivision 4; 115B.41, subdivisions 1, 2, 3; 115B.42, subdivision 2; 115B.421; 115B.445; 115B.48, subdivision 2; 115B.49, subdivisions 1, 3, 4; 115D.12, subdivision 2; 116.03, subdivision 2; 116.07, subdivisions 4d, 4h; 116.994; 116C.834, subdivision 1; 116O.09, subdivisions 1, 1a, 2, 3, 8, 9, 12, 13, by adding a subdivision; 116P.02, subdivision 1; 116P.05, subdivision 2; 116P.09, subdivisions 4, 5, 7; 116P.10; 116P.14, subdivision 2; 273.13, subdivision 23; 297A.94; 297F.10, subdivision 1; 297H.13, subdivisions 1, 2; 325E.10, subdivision 1; 469.175, subdivision 7; 473.843, subdivision 2; 473.844, subdivision 1; 473.845, subdivisions 1, 3, 7, 8; 473.846; proposing coding for new law in Minnesota Statutes, chapters 18; 21; 103B; 116; repealing Minnesota Statutes 2002, sections 1.31; 1.32; 3.737; 17.101, subdivision 5; 17.110; 18.51; 18.52; 18.53; 18.54; 18.79, subdivisions 1, 4, 7, 8; 18B.065, subdivision 5; 38.02; 41A.09, subdivisions 1, 1a, 6, 7, 8; 84.415, subdivisions 1, 3; 89.391; 93.2235; 103B.311, subdivisions 5, 6, 7; 103B.315, subdivisions 1, 2, 3, 7; 103B.321, subdivision 3; 103B.3369, subdivision 3; 103G.222, subdivision 2; 115A.908, subdivision 2; 115B.02, subdivision 1a; 115B.19; 115B.42, subdivision 1; 116O.09, subdivisions 5, 6, 7, 10; 116P.13; 297H.13, subdivisions 3, 4; 325E.112, subdivisions 2, 3; 325E.113; 473.845, subdivision 4; Minnesota Rules, parts 6135.0100; 6135.0200; 6135.0300; 6135.0400; 6135.0510; 6135.0610; 6135.0710; 6135.0810; 6135.1000; 6135.1100; 6135.1200; 6135.1300; 6135.1400; 6135.1500; 6135.1600; 6135.1700; 6135.1800; 9300.0010; 9300.0020; 9300.0030; 9300.0040; 9300.0050; 9300.0060; 9300.0070; 9300.0080; 9300.0090; 9300.0100; 9300.0110; 9300.0120; 9300.0130; 9300.0140; 9300.0150; 9300.0160; 9300.0170; 9300.0180; 9300.0190; 9300.0200; 9300.0210.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [AGRICULTURE AND RURAL DEVELOPMENT APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another named fund, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "2004" and "2005," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 2004, or June 30, 2005, respectively. The term "the first year" means the year ending June 30, 2004, and the term "the second year" means the year ending June 30, 2005.

SUMMARY BY FUND

	2004	2005	TOTAL
General	$45,185,000	$44,620,000	$89,805,000
Remediation	353,000	353,000	706,000
TOTAL	$45,538,000	$44,973,000	$90,511,000

	APPROPRIATIONS Available for the Year Ending June 30	
	2004	2005
Sec. 2. DEPARTMENT OF AGRICULTURE		
Subdivision 1. Total Appropriation	42,735,000	42,170,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Summary by Fund		
General	42,382,000	41,817,000
Remediation	353,000	353,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivision.

Subd. 2. Protection Services

	9,138,000	9,138,000
Summary by Fund		
General	8,785,000	8,785,000
Remediation	353,000	353,000

$353,000 the first year and $353,000 the second year are from the remediation fund for administrative funding for the voluntary cleanup program.

Subd. 3. Agricultural Marketing and Development

	5,209,000	5,209,000

$71,000 the first year and $71,000 the second year are for transfer to the Minnesota grown matching account and may be used as grants for Minnesota grown promotion under Minnesota Statutes, section 17.109. Grants may be made for one year. Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered under contract on or before June 30, 2005, for Minnesota grown grants in this subdivision are available until June 30, 2007.

$80,000 the first year and $80,000 the second year are for grants to farmers for demonstration projects involving sustainable agriculture as authorized in Minnesota Statutes, section 17.116. Of the amount for grants, up to $20,000 may be used for dissemination of information about the demonstration projects. Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered under contract on or before June 30, 2005, for sustainable agriculture grants in this subdivision are available until June 30, 2007.

APPROPRIATIONS
Available for the Year
Ending June 30
2004 2005

The commissioner, in consultation with farm groups and individuals and organizations in the education community, shall identify an appropriate entity in the private sector to sponsor, house, and carry on the staffing and function of the Ag in the Classroom program. Once an entity is identified and arrangements for the transfer finalized, the commissioner may release educational and program materials to the new entity.

Subd. 4. Ethanol Development

22,962,000 21,428,000

Notwithstanding the annual appropriation for ethanol producer payments in Minnesota Statutes, section 41A.09, subdivision 1, the general fund appropriation for fiscal year 2004 is $22,692,000 and the appropriation for fiscal year 2005 is $21,428,000. Payments from these appropriations for eligible ethanol production in fiscal years 2004 and 2005 shall be disbursed at the rate of $0.13 per gallon, and the base appropriation amounts in fiscal years 2006 and 2007 must be calculated as the projected eligible production in those years times a payment rate of $0.13 per gallon. If the total amount for which all producers are eligible in a quarter exceeds the amount available for payments, the commissioner shall make payments on a pro rata basis.

Subd. 5. Administration and Financial Assistance

5,426,000 6,395,000

$1,005,000 the first year and $1,005,000 the second year are for continuation of the dairy development and profitability enhancement and dairy business planning grant programs established under Laws 1997, chapter 216, section 7, subdivision 2 and Laws 2001, First Special Session chapter 2, section 9, subdivision 2. The commissioner may allocate the available sums among permissible activities, including efforts to improve the quality of milk produced in the state, in the proportions which the commissioner deems most beneficial to Minnesota's dairy farmers. The commissioner must submit a work plan detailing plans for expenditures under this program to the chairs of the house and senate committees dealing with agricultural policy and budget on or before the start of each fiscal year. If significant changes are made to the plans in the course of the year, the commissioner must notify the chairs.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
$50,000 the first year and $50,000 the second year are for the Northern Crops Institute. These appropriations may be spent to purchase equipment.		
$19,000 the first year and $19,000 the second year are for a grant to the Minnesota livestock breeders association.		
$2,000 the first year and $1,000 the second year are for family farm security interest payment adjustments. If the appropriation for either year is insufficient, the appropriation for the other year is available for it. No new loans may be approved in fiscal year 2004 or 2005.		
$500,000 the first year and $1,535,000 the second year are for the administration and performance of the duties under Minnesota Statutes, section 116O.09. The commissioner shall transfer up to $100,000 to the agricultural utilization and research institute for its operations between July 1 and September 30, 2003.		
Sec. 3. BOARD OF ANIMAL HEALTH	2,803,000	2,803,000
$400,000 the first year and $400,000 the second year are for the purposes of cervidae inspections as authorized in Minnesota Statutes, section 17.452.		
Sec. 4. AGRICULTURAL UTILIZATION RESEARCH INSTITUTE	-0-	-0-

Sec. 5. Minnesota Statutes 2002, section 17.451, is amended to read:

17.451 [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to this section and section 17.452.

Subd. 1a. [CERVIDAE.] "Cervidae" means animals that are members of the family Cervidae and includes, but is not limited to, white-tailed deer, mule deer, red deer, elk, moose, caribou, reindeer, and muntjac.

Subd. 2. [FARMED CERVIDAE.] "Farmed cervidae" means members of the Cervidae family that are:

(1) raised for ~~the~~ any purpose ~~of producing fiber, meat, or animal by-products, as pets, or as breeding stock~~; and

(2) registered in a manner approved by the board of animal health.

Subd. 3. [OWNER.] "Owner" means a person who owns or is responsible for the raising of farmed cervidae.

Subd. 4. [HERD.] "Herd" means:

(1) all cervidae maintained on common ground for any purpose; or

(2) all cervidae under common ownership or supervision, geographically separated, but that have an interchange or movement of animals without regard to whether the animals are infected with or exposed to diseases.

Sec. 6. Minnesota Statutes 2002, section 17.452, subdivision 8, is amended to read:

Subd. 8. [SLAUGHTER.] Farmed cervidae must be slaughtered and inspected in accordance with chapters 31 and 31A or the United States Department of Agriculture voluntary program for exotic animals, Code of Federal Regulations, title 9, part 352.

Sec. 7. Minnesota Statutes 2002, section 17.452, subdivision 10, is amended to read:

Subd. 10. [FENCING.] ~~(a)~~ Farmed cervidae must be confined in a manner designed to prevent escape. ~~Fencing must meet the requirements in this subdivision unless an alternative is specifically approved by the commissioner. The board of animal health shall follow the guidelines established by the United States Department of Agriculture in the program for eradication of bovine tuberculosis. Perimeter fencing must be of the following heights:~~

~~(1) for fences constructed before August 1, 1995, for farmed deer, at least 75 inches;~~

~~(2) for fences constructed before August 1, 1995, for farmed elk, at least 90 inches; and~~

~~(3) for fences constructed on or after August 1, 1995, for all farmed cervidae, at least 96 inches.~~

~~(b) The farmed cervidae advisory committee shall establish guidelines designed to prevent the escape of farmed cervidae and other appropriate management practices.~~ All perimeter fences for farmed cervidae must be at least 96 inches in height and be constructed and maintained in a way that prevents the escape of farmed cervidae or entry into the premises by free-roaming cervidae.

~~(c) The commissioner of agriculture in consultation with the commissioner of natural resources shall adopt rules prescribing fencing criteria for farmed cervidae.~~

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

Sec. 8. Minnesota Statutes 2002, section 17.452, subdivision 11, is amended to read:

Subd. 11. [DISEASE ~~INSPECTION~~ CONTROL PROGRAMS.] Farmed cervidae herds are subject to chapter 35 and the rules of the board of animal health in the same manner as livestock and domestic animals, including provisions relating to importation and transportation.

Sec. 9. Minnesota Statutes 2002, section 17.452, subdivision 12, is amended to read:

Subd. 12. [IDENTIFICATION.] (a) Farmed cervidae must be identified by ~~United States Department of Agriculture metal ear tags, electronic implants, or other~~ means ~~of identification~~ approved by the board of animal health ~~in consultation with the commissioner of natural resources~~. Beginning January 1, 2004, the identification must be visible to the naked eye during daylight under normal conditions at a distance of 50 yards. Newborn ~~or~~

~~imported~~ animals ~~are required to~~ must be identified ~~by March 1 of each year~~ before December 31 of the year in which the animal is born or before movement from the premises, whichever occurs first. ~~The board shall authorize discrete permanent identification for farmed cervidae in public displays or other forums where visible identification is objectionable.~~

(b) ~~Identification of farmed cervidae is subject to sections 35.821 to 35.831.~~

~~(c)~~ The board of animal health shall register farmed cervidae ~~upon request of the owner~~. The owner must submit the registration request on forms provided by the board. The forms must include sales receipts or other documentation of the origin of the cervidae. The board shall provide copies of the registration information to the commissioner of natural resources upon request. The owner must keep written records of the acquisition and disposition of registered farmed cervidae.

Sec. 10. Minnesota Statutes 2002, section 17.452, subdivision 13, is amended to read:

Subd. 13. [INSPECTION.] The commissioner of agriculture and the board of animal health may inspect farmed cervidae, farmed cervidae facilities, and farmed cervidae records. The commissioner of natural resources may inspect farmed cervidae, farmed cervidae facilities, and farmed cervidae records with reasonable suspicion that laws protecting native wild animals have been violated~~.~~ and must notify the owner ~~must be notified~~ in writing at the time of the inspection of the reason for the inspection and ~~informed~~ must inform the owner in writing after the inspection of whether (1) the cause of the inspection was unfounded; or (2) there will be an ongoing investigation or continuing evaluation.

Sec. 11. Minnesota Statutes 2002, section 17.452, is amended by adding a subdivision to read:

Subd. 15. [MANDATORY REGISTRATION.] A person may not possess live cervidae in Minnesota unless the person is registered with the board of animal health and meets all the requirements for farmed cervidae under this section. Cervidae possessed in violation of this subdivision may be seized and destroyed by the commissioner of natural resources.

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

Sec. 12. Minnesota Statutes 2002, section 17.452, is amended by adding a subdivision to read:

Subd. 16. [MANDATORY SURVEILLANCE FOR CHRONIC WASTING DISEASE.] (a) An inventory for each farmed cervidae herd must be verified by an accredited veterinarian and filed with the board of animal health every 12 months.

(b) Movement of farmed cervidae from any premises to another location must be reported to the board of animal health within 14 days of such movement on forms approved by the board of animal health.

(c) All animals from farmed cervidae herds that are over 16 months of age that die or are slaughtered must be tested for chronic wasting disease.

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

Sec. 13. [18.511] [FEE SCHEDULE.]

Subdivision 1. [ESTABLISHMENT OF FEES.] The commissioner shall establish fees sufficient to allow for the administration and enforcement of this chapter and rules adopted under this chapter, including the portion of general support costs and statewide indirect costs of the agency attributable to that function, with a reserve sufficient for up

to six months. The commissioner shall review the fee schedule annually in consultation with the Minnesota nursery and landscape advisory committee. For the certificate year beginning January 1, 2004, the fees are as described in this section.

Subd. 2. [NURSERY STOCK GROWER CERTIFICATE.] (a) A nursery stock grower must pay an annual fee based on the area of all acreage on which nursery stock is grown for certification as follows:

(1) less than one-half acre, $150;

(2) from one-half acre to two acres, $200;

(3) over two acres up to five acres, $300;

(4) over five acres up to ten acres, $350;

(5) over ten acres up to 20 acres, $500;

(6) over 20 acres up to 40 acres, $650;

(7) over 40 acres up to 50 acres, $800;

(8) over 50 acres up to 200 acres, $1,100;

(9) over 200 acres up to 500 acres, $1,500; and

(10) over 500 acres, $1,500 plus $2 for each additional acre.

(b) In addition to the fees in paragraph (a), a penalty of ten percent of the fee due must be charged for each month that the fee is delinquent for any application for renewal not received by January 1 of the year following expiration of a certificate.

Subd. 3. [NURSERY STOCK DEALER, CERTIFICATE.] (a) A nursery stock dealer must pay an annual fee based on the dealer's gross sales of nursery stock per location during the preceding certificate year. A certificate applicant operating for the first time shall pay the minimum fee. The fees are per sales location as follows:

(1) gross sales up to $20,000, $150;

(2) gross sales over $20,000 up to $100,000, $175;

(3) gross sales over $100,000 up to $250,000, $300;

(4) gross sales over $250,000 up to $500,000, $425;

(5) gross sales over $500,000 up to $1,000,000, $550;

(6) gross sales over $1,000,000 up to $2,000,000, $675; and

(7) gross sales over $2,000,000, $800.

(b) In addition to the fees in paragraph (a), a penalty of ten percent of the fee due must be charged for each month that the fee is delinquent for any application for renewal not received by January 1 of the year following expiration of a certificate.

Subd. 4. [REINSPECTION; ADDITIONAL OR OPTIONAL INSPECTION FEES.] If a reinspection is required or an additional inspection is needed or requested, a fee shall be assessed based on mileage and inspection time as follows:

(1) mileage must be charged at the current United States Internal Revenue Service reimbursement rate; and

(2) inspection time must be charged at the rate of $50 per hour, including the driving time to and from the location in addition to the time spent conducting the inspection.

Sec. 14. Minnesota Statutes 2002, section 18.525, is amended to read:

18.525 [EXEMPT NURSERY SALES.]

Subdivision 1. [NOT-FOR-PROFIT SALES.] An organization ~~does not need to obtain a nursery stock dealer certificate before offering~~ or individual may offer for sale certified nursery stock ~~for sale or distribution if the organization:~~

~~(1) is a~~ and be exempt from the requirement to obtain a nursery stock dealer certificate if sales are conducted by a nonprofit charitable, educational, or religious organization~~;~~

~~(2)~~ that:

(1) conducts sales or distributions of certified nursery stock on 14 or fewer days in a calendar year; and

~~(3)~~ (2) uses the proceeds from its certified nursery stock sales or distributions for charitable, educational, or religious purposes.

~~The organization must notify the commissioner, prior to any sales or distributions of certified nursery stock and must demonstrate to the commissioner, if requested, that such sales or distributions will be conducted on 14 or fewer days in the calendar year, as provided in clause (2).~~

Subd. 2. [NURSERY HOBBYIST SALES.] (a) An organization or individual may offer nursery stock for sale and be exempt from the requirement to obtain a nursery stock dealer certificate if:

(1) the gross sales of all nursery stock sold in a calendar year do not exceed $2,000;

(2) all nursery stock sold or distributed by the hobbyist is intended for planting in Minnesota; and

(3) all nursery stock purchased or procured for resale or distribution was grown in Minnesota and has been certified by the commissioner of agriculture.

(b) The commissioner may prescribe the conditions of the exempt nursery sales under this subdivision and may conduct routine inspections of nursery stock offered for sale.

Sec. 15. [18.541] [NURSERY AND PHYTOSANITARY ACCOUNT.]

A nursery and phytosanitary account is established in the state treasury. The fees and penalties collected under this chapter and interest attributable to money in the account must be deposited in the state treasury and credited to the nursery and phytosanitary account in the agricultural fund. Money in the account, including interest earned, is appropriated to the commissioner for administration and enforcement of this chapter.

Sec. 16. [18.611] [EXPORT CERTIFICATION, INSPECTIONS, CERTIFICATES, PERMITS, AND FEES.]

Subdivision 1. [DISPOSITION AND USE OF MONEY RECEIVED.] All fees and penalties collected under this chapter and interest attributable to the money in the account must be deposited in the state treasury and credited to the nursery and phytosanitary account in the agricultural fund. Money in the account, including interest earned, is appropriated to the commissioner for the administration and enforcement of this chapter.

Subd. 2. [COOPERATIVE AGREEMENTS.] The commissioner may enter into cooperative agreements with federal and state agencies for administration of the export certification program. An exporter of plants or plant products desiring to originate shipments from Minnesota to a foreign country requiring a phytosanitary certificate or export certificate must submit an application to the commissioner.

Subd. 3. [PHYTOSANITARY AND EXPORT CERTIFICATES.] Application for phytosanitary certificates or export certificates must be made on forms provided or approved by the commissioner. The commissioner shall conduct inspections of plants, plant products, or facilities for persons that have applied for or intend to apply for a phytosanitary certificate or export certificate from the commissioner. Inspections must include one or more of the following as requested or required:

(1) an inspection of the plants or plant products intended for export under a phytosanitary certificate or export certificate;

(2) field inspections of growing plants to determine presence or absence of plant diseases, if necessary;

(3) laboratory diagnosis for presence or absence of plant diseases, if necessary;

(4) observation and evaluation of procedures and facilities utilized in handling plants and plant products, if necessary; and

(5) review of United States Department of Agriculture, Federal Grain Inspection Service Official Export Grain Inspection Certificate logs.

The commissioner may issue a phytosanitary or export certificate if the plants or plant products satisfactorily meet the requirements of the importing foreign country and the United States Department of Agriculture requirements. The requirements of the destination countries must be met by the applicant.

Subd. 4. [CERTIFICATE FEES.] (a) The commissioner shall assess the fees in paragraphs (b) to (f) for the inspection, service, and work performed in carrying out the issuance of a phytosanitary certificate or export certificate. The inspection fee must be based on mileage and inspection time.

(b) Mileage charge: current United States Internal Revenue Service mileage rate.

(c) Inspection time: $50 per hour minimum or fee necessary to cover department costs. Inspection time includes the driving time to and from the location in addition to the time spent conducting the inspection.

(d) A fee shall be assessed for any certificate issued that requires laboratory analysis before issuance. The fee must be deposited into the laboratory account as authorized in section 17.85.

(e) Certificate fee for product value greater than $250: a fee of $75 for each phytosanitary or export certificate issued for any single shipment valued at more than $250 in addition to any mileage or inspection time charges that are assessed.

(f) Certificate fee for product value less than $250: a fee of $25 for each phytosanitary or export certificate issued for any single shipment valued at less than $250 in addition to any mileage or inspection time charges that are assessed.

Subd. 5. [CERTIFICATE DENIAL OR CANCELLATION.] The commissioner may deny or cancel the issuance of a phytosanitary or export certificate for any of the following reasons:

(1) failure of the plants or plant products to meet quarantine, regulations, and requirements imposed by the country for which the phytosanitary or export certificate is being requested;

(2) failure to completely or accurately provide the information requested on the application form;

(3) failure to ship the exact plants or plant products which were inspected and approved; or

(4) failure to pay any fees or costs due the commissioner.

Subd. 6. [PLANT PROTECTION INSPECTIONS, CERTIFICATES, PERMITS, AND FEES.] (a) The commissioner may provide inspection, sampling, or certification services to ensure that Minnesota plant products or commodities meet import requirements of other states or countries.

(b) The state plant regulatory official may issue permits and certificates verifying that various Minnesota agricultural products or commodities meet specified phytosanitary requirements, treatment requirements, or pest absence assurances based on determinations by the commissioner. The commissioner may collect fees sufficient to recover costs for these permits or certificates. The fees must be deposited in the nursery and phytosanitary account.

Sec. 17. [18.612] [CREDITING OF PENALTIES, FEES, AND COSTS.]

Penalties, cost reimbursements, fees, and other money collected under this chapter must be deposited into the state treasury and credited to the appropriate nursery and phytosanitary or seed account.

Sec. 18. Minnesota Statutes 2002, section 18.78, is amended to read:

18.78 [CONTROL OR ERADICATION OF NOXIOUS WEEDS.]

Subdivision 1. [GENERALLY.] ~~Except as provided in section 18.85,~~ A person owning land, a person occupying land, or a person responsible for the maintenance of public land shall control or eradicate all noxious weeds on the land at a time and in a manner ordered by ~~the commissioner,~~ the county agricultural inspector~~,~~ or a local weed inspector.

Subd. 2. [CONTROL OF PURPLE LOOSESTRIFE.] An owner of nonfederal lands underlying public waters or wetlands designated under section 103G.201 is not required to control or eradicate purple loosestrife below the ordinary high water level of the public water or wetland. The commissioner of natural resources is responsible for control and eradication of purple loosestrife on public waters and wetlands designated under section 103G.201, except those located upon lands owned in fee title or managed by the United States. The officers, employees,

agents, and contractors of the commissioner of natural resources may enter upon public waters and wetlands designated under section 103G.201 and, after providing notification to the occupant or owner of the land, may cross adjacent lands as necessary for the purpose of investigating purple loosestrife infestations, formulating methods of eradication, and implementing control and eradication of purple loosestrife. The commissioner~~, after consultation with the commissioner of agriculture,~~ of natural resources shall, by June 1 of each year, compile a priority list of purple loosestrife infestations to be controlled in designated public waters. The commissioner of ~~agriculture~~ natural resources must distribute the list to county agricultural inspectors, local weed inspectors, and their appointed agents. The commissioner of natural resources shall control listed purple loosestrife infestations in priority order within the limits of appropriations provided for that purpose. This procedure shall be the exclusive means for control of purple loosestrife on designated public waters by the commissioner of natural resources and shall supersede the other provisions for control of noxious weeds set forth elsewhere in this chapter. The responsibility of the commissioner of natural resources to control and eradicate purple loosestrife on public waters and wetlands located on private lands and the authority to enter upon private lands ends ten days after receipt by the commissioner of a written statement from the landowner that the landowner assumes all responsibility for control and eradication of purple loosestrife under sections 18.78 to 18.88. State officers, employees, agents, and contractors of the commissioner of natural resources are not liable in a civil action for trespass committed in the discharge of their duties under this section and are not liable to anyone for damages, except for damages arising from gross negligence.

Sec. 19. Minnesota Statutes 2002, section 18.79, subdivision 2, is amended to read:

Subd. 2. [AUTHORIZED AGENTS.] ~~The commissioner shall authorize department of agriculture personnel and may authorize, in writing,~~ County agricultural inspectors ~~to act as agents in the administration and enforcement of~~ may administer and enforce sections 18.76 to 18.88.

Sec. 20. Minnesota Statutes 2002, section 18.79, subdivision 3, is amended to read:

Subd. 3. [ENTRY UPON LAND.] To administer and enforce sections 18.76 to 18.88, ~~the commissioner, authorized agents of the commissioner,~~ county agricultural inspectors~~,~~ and local weed inspectors may enter upon land without consent of the owner and without being subject to an action for trespass or any damages.

Sec. 21. Minnesota Statutes 2002, section 18.79, subdivision 5, is amended to read:

Subd. 5. [ORDER FOR CONTROL OR ERADICATION OF NOXIOUS WEEDS.] ~~The commissioner,~~ A county agricultural inspector~~,~~ or a local weed inspector may order the control or eradication of noxious weeds on any land within the state.

Sec. 22. Minnesota Statutes 2002, section 18.79, subdivision 6, is amended to read:

Subd. 6. [EDUCATIONAL PROGRAMS FOR CONTROL OR ERADICATION OF NOXIOUS WEEDS.] ~~The commissioner shall conduct education programs considered necessary for weed inspectors in the enforcement of the Noxious Weed Law.~~ The director of the Minnesota extension service may conduct educational programs for the general public that will aid compliance with the noxious weed law.

Sec. 23. Minnesota Statutes 2002, section 18.79, subdivision 9, is amended to read:

Subd. 9. [INJUNCTION.] If the ~~commissioner~~ county agricultural inspector applies to a court for a temporary or permanent injunction restraining a person from violating or continuing to violate sections 18.76 to 18.88, the injunction may be issued without requiring a bond.

Sec. 24. Minnesota Statutes 2002, section 18.79, subdivision 10, is amended to read:

Subd. 10. [PROSECUTION.] On finding that a person has violated sections 18.76 to 18.88, the ~~commissioner~~ county agricultural inspector may start court proceedings in the locality in which the violation occurred. The county attorney may prosecute actions under sections 18.76 to 18.88 within the county attorney's jurisdiction.

Sec. 25. Minnesota Statutes 2002, section 18.81, subdivision 2, is amended to read:

Subd. 2. [LOCAL WEED INSPECTORS.] Local weed inspectors shall:

(1) examine all lands, including highways, roads, alleys, and public ground in the territory over which their jurisdiction extends to ascertain if section 18.78 and related rules have been complied with;

(2) see that the control or eradication of noxious weeds is carried out in accordance with section 18.83 and related rules; and

(3) issue permits in accordance with section 18.82 and related rules for the transportation of materials or equipment infested with noxious weed propagating parts~~; and~~

~~(4) submit reports and attend meetings that the commissioner requires~~.

Sec. 26. Minnesota Statutes 2002, section 18.81, subdivision 3, is amended to read:

Subd. 3. [NONPERFORMANCE BY INSPECTORS; REIMBURSEMENT FOR EXPENSES.] ~~(a)~~ If local weed inspectors neglect or fail to do their duty as prescribed in this section, the ~~commissioner~~ county agricultural inspector shall issue a notice to the inspector providing instructions on how and when to do their duty. If, after the time allowed in the notice, the local weed inspector has not complied as directed, the county agricultural inspector may perform the duty for the local weed inspector. A claim for the expense of doing the local weed inspector's duty is a legal charge against the municipality in which the inspector has jurisdiction. The county agricultural inspector doing the work may file an itemized statement of costs with the clerk of the municipality in which the work was performed. The municipality shall immediately issue proper warrants to the county for the work performed. If the municipality fails to issue the warrants, the county auditor may include the amount contained in the itemized statement of costs as part of the next annual tax levy in the municipality and withhold that amount from the municipality in making its next apportionment.

~~(b) If a county agricultural inspector fails to perform the duties as prescribed in this section, the commissioner shall issue a notice to the inspector providing instructions on how and when to do that duty.~~

~~(c) The commissioner shall by rule establish procedures to carry out the enforcement actions for nonperformance required by this subdivision.~~

Sec. 27. Minnesota Statutes 2002, section 18.84, subdivision 3, is amended to read:

Subd. 3. [COURT APPEAL OF COSTS; PETITION.] (a) A landowner who has appealed the cost of noxious weed control measures under subdivision 2 may petition for judicial review. The petition must be filed within 30 days after the conclusion of the hearing before the county board. The petition must be filed with the court administrator in the county in which the land where the noxious weed control measures were undertaken is located, together with proof of service of a copy of the petition on ~~the commissioner and~~ the county auditor. No responsive pleadings may be required of ~~the commissioner or the~~ county, and no court fees may be charged for the appearance of ~~the commissioner or~~ the county in this matter.

(b) The petition must be captioned in the name of the person making the petition as petitioner and ~~the commissioner of agriculture and~~ respective county as respondents. The petition must include the petitioner's name, the legal description of the land involved, a copy of the notice to control noxious weeds, and the date or dates on which appealed control measures were undertaken.

(c) The petition must state with specificity the grounds upon which the petitioner seeks to avoid the imposition of a lien for the cost of noxious weed control measures.

Sec. 28. Minnesota Statutes 2002, section 18.86, is amended to read:

18.86 [UNLAWFUL ACTS.]

No person may:

(1) hinder or obstruct in any way the ~~commissioner, the commissioner's authorized agents,~~ county agricultural inspectors~~,~~ or local weed inspectors in the performance of their duties as provided in sections 18.76 to 18.88 or related rules;

(2) neglect, fail, or refuse to comply with section 18.82 or related rules in the transportation and use of material or equipment infested with noxious weed propagating parts;

(3) sell material containing noxious weed propagating parts to a person who does not have a permit to transport that material or to a person who does not have a screenings permit issued in accordance with section 21.74; or

(4) neglect, fail, or refuse to comply with a general notice or an individual notice to control or eradicate noxious weeds.

Sec. 29. Minnesota Statutes 2002, section 18B.26, subdivision 3, is amended to read:

Subd. 3. [APPLICATION FEE.] (a) A registrant shall pay an annual application fee for each pesticide to be registered, and this fee is set at one-tenth of one percent for calendar year 1990, at one-fifth of one percent for calendar year 1991, and at two-fifths of one percent for calendar year 1992 and thereafter of annual gross sales within the state and annual gross sales of pesticides used in the state, with a minimum nonrefundable fee of $250. The registrant shall determine when and which pesticides are sold or used in this state. The registrant shall secure sufficient sales information of pesticides distributed into this state from distributors and dealers, regardless of distributor location, to make a determination. Sales of pesticides in this state and sales of pesticides for use in this state by out-of-state distributors are not exempt and must be included in the registrant's annual report, as required under paragraph (c), and fees shall be paid by the registrant based upon those reported sales. Sales of pesticides in the state for use outside of the state are exempt from the application fee in this paragraph if the registrant properly documents the sale location and distributors. A registrant paying more than the minimum fee shall pay the balance due by March 1 based on the gross sales of the pesticide by the registrant for the preceding calendar year. The fee for disinfectants and sanitizers shall be the minimum. The minimum fee is due by December 31 preceding the year for which the application for registration is made. ~~Of the amount collected after calendar year 1990, at least $600,000 per fiscal year must be credited to the waste pesticide account under section 18B.065, subdivision 5~~ The commissioner shall spend at least $300,000 per fiscal year from the pesticide regulatory account for the purposes of the waste pesticide collection program.

(b) An additional fee of $100 must be paid by the applicant for each pesticide to be registered if the application is a renewal application that is submitted after December 31.

(c) A registrant must annually report to the commissioner the amount and type of each registered pesticide sold, offered for sale, or otherwise distributed in the state. The report shall be filed by March 1 for the previous year's registration. The commissioner shall specify the form of the report and require additional information deemed necessary to determine the amount and type of pesticides annually distributed in the state. The information required shall include the brand name, amount, and formulation of each pesticide sold, offered for sale, or otherwise distributed in the state, but the information collected, if made public, shall be reported in a manner which does not identify a specific brand name in the report.

Sec. 30. Minnesota Statutes 2002, section 21.89, subdivision 2, is amended to read:

Subd. 2. [PERMITS; ISSUANCE AND REVOCATION.] (a) The commissioner shall issue a permit to the initial labeler of agricultural, vegetable, ~~or~~ flower, and wildflower seeds which are sold for use in Minnesota and which conform to and are labeled under sections 21.80 to 21.92. The categories of permits are as follows:

(1) for initial labelers who sell 50,000 pounds or less of agricultural seed each calendar year, an annual permit issued for a fee established in section 21.891, subdivision 2, paragraph (b);

(2) for initial labelers who sell vegetable, flower, and wildflower seed packed for use in home gardens or household plantings, an annual permit issued for a fee established in section 21.891, subdivision 2, paragraph (c), based upon the gross sales from the previous year; and

(3) for initial labelers who sell more than 50,000 pounds of agricultural seed each calendar year, a permanent permit for a fee established in section 21.891, subdivision 2, paragraph (d).

(b) In addition, the ~~person~~ permit holders shall furnish to the commissioner an itemized statement of all seeds sold in Minnesota for the periods established by the commissioner. This statement shall be delivered, along with the payment of the fee, based upon the amount and type of seed sold, to the commissioner no later than 30 days after the end of each reporting period. Any person holding a permit shall show as part of the analysis labels or invoices on all agricultural, vegetable, flower, wildflower, tree or shrub seeds all information the commissioner requires. The commissioner may revoke any permit in the event of failure to comply with applicable laws and rules.

Sec. 31. [21.891] [CHARGES UNDER MINNESOTA SEED LAW.]

Subdivision 1. [SAMPLING EXPORT SEED.] In accordance with section 21.85, subdivision 13, the commissioner shall, if requested, sample seed destined for export to other countries. The fee for sampling export seed is an hourly rate published annually by the commissioner and it shall be an amount sufficient to recover the actual costs for the service provided.

Subd. 2. [SEED FEE PERMITS.] (a) An initial labeler who wishes to sell seed in Minnesota must comply with section 21.89, subdivisions 1 and 2, and the procedures in this subdivision. Each initial labeler who wishes to sell seed in Minnesota must apply to the commissioner to obtain a permit. The application must contain the name and address of the applicant, the application date, and the name and title of the applicant's contact person.

(b) The application for a seed permit covered by section 21.89, subdivision 2, paragraph (a), clause (1), must be accompanied by an application fee of $50.

(c) The application for a vegetable, flower, and wildflower seed permit covered by section 21.89, subdivision 2, paragraph (a), clause (2), must be accompanied by an application fee based on the level of annual gross sales as follows:

(1) for gross sales of zero to $25,000, the annual permit fee is $50;

(2) for gross sales of $25,001 to $50,000, the annual permit fee is $100;

(3) for gross sales of $50,001 to $100,000, the annual permit fee is $200;

(4) for gross sales of $100,001 to $250,000, the annual permit fee is $500;

(5) for gross sales of $250,001 to $500,000, the annual permit fee is $1,000; and

(6) for gross sales of $500,001 and above, the annual permit fee is $2,000.

(d) The application for an agricultural seed permit covered by section 21.89, subdivision 2, paragraph (a), clause (3), must be accompanied by an application fee of $50. Initial labelers holding seed fee permits covered under this paragraph need not apply for a new permit or pay the application fee. Under this permit category, the fees for the following kinds of agricultural seed sold either in bulk or containers are:

(1) oats, wheat, barley: 6.3 cents per hundredweight;

(2) rye, field beans, soybeans, buckwheat, flax: 8.4 cents per hundredweight;

(3) field corn: 29.4 cents per hundredweight;

(4) forage, lawn and turf grasses, legumes: 49 cents per hundredweight;

(5) sunflower: $1.40 per hundredweight;

(6) sugar beet: $3.29 per hundredweight; and

(7) for any agricultural seed not listed in clauses (1) to (6), the fee for the crop most closely resembling it in normal planting rate applies.

(e) If, for reasons beyond the control and knowledge of the initial labeler, seed is shipped into Minnesota by a person other than the initial labeler, the responsibility for the seed fees are transferred to the shipper. An application for a transfer of this responsibility must be made to the commissioner. Upon approval by the commissioner of the transfer, the shipper is responsible for payment of the seed permit fees.

(f) Seed permit fees may be included in the cost of the seed either as a hidden cost or as a line item cost on each invoice for seed sold. To identify the fee on an invoice, the words, "Minnesota seed permit fees" must be used.

(g) All seed fee permit holders must file semiannual reports with the commissioner, even if no seed was sold during the reporting period. Each semiannual report must be submitted within 30 days of the end of each reporting period. The reporting periods are October 1 to March 31 and April 1 to September 30 of each year or July 1 to December 31, and January 1 to June 30 of each year. Permit holders may change their reporting periods with the approval of the commissioner.

(h) The holder of a seed fee permit must pay fees on all seed for which the permit holder is the initial labeler and which are covered by sections 21.80 to 21.92 and sold during the reporting period.

(i) If a seed fee permit holder fails to submit a semiannual report and pay the seed fee within 30 days after the end of each reporting period, the commissioner shall assess a penalty of $100 or eight percent, calculated on an annual basis, of the fee due, whichever is greater, but no more than $500 for each late semiannual report. A $15 penalty must be charged when the semiannual report is late, even if no fee is due for the reporting period. Seed fee permits may be revoked for failure to comply with this subdivision or the Minnesota seed law.

Subd. 3. [HYBRID SEED CORN VARIETY REGISTRATION FEE.] In accordance with section 21.90, subdivision 2, the fee for the registration of each hybrid seed corn variety or blend is $50, which must be paid at the time of registration. New hybrid seed corn variety registrations received after March 1 and renewed registrations of older varieties received after August 1 of each year will have an annual registration fee of $75 per variety.

Subd. 4. [BRAND NAME REGISTRATION FEE.] The fee is $25 for each variety registered for sale by brand name.

Sec. 32. Minnesota Statutes 2002, section 21.90, subdivision 2, is amended to read:

Subd. 2. [FEES.] A record of each new hybrid seed field corn variety to be sold in Minnesota shall be registered with the commissioner by ~~February~~ March 1 of each year by the originator or owner. Records of all other hybrid seed field corn varieties sold in Minnesota shall be registered with the commissioner by August 1 of each year by the originator or owner. The commissioner shall establish the annual fee for registration for each variety. The record shall include the permanent designation of the hybrid as well as the day classification and zone of adaptation, as determined under subdivision 1, which the originator or owner declares to be the zone in which the variety is adapted. In addition, at the time of the first registration of a hybrid seed field corn variety, the originator or owner shall include a sworn statement that the declaration of the zone of adaptation was based on actual field trials in that zone and that the field trials substantiate the declaration as to the day and zone classifications to which the variety is adapted. The name or number used to designate a hybrid seed field corn variety in the registration is the only name of all seed corn covered by or sold under that registration. To assist in defraying the expenses of the Minnesota agricultural experiment station in carrying out the provisions of this section, there is transferred annually from the seed inspection fund to the agricultural experiment station a sum which shall equal 60 percent of the total revenue from all hybrid seed field corn variety registrations.

Sec. 33. Minnesota Statutes 2002, section 21.901, is amended to read:

21.901 [BRAND NAME REGISTRATION.]

The owner or originator of a variety of nonhybrid seed that is to be sold in this state must annually register the variety with the commissioner if the variety is to be sold only under a brand name. The registration must include the brand name and the variety of seed. The brand name for a blend or mixture need not be registered.

~~The fee is $15 for each variety registered for sale by brand name.~~

Sec. 34. Minnesota Statutes 2002, section 28A.08, subdivision 3, is amended to read:

Subd. 3. [FEES EFFECTIVE JULY 1, ~~1999~~ 2003.]

Type of food handler	License Fee Effective July 1, ~~1999~~ 2003	Penalties: Late Renewal	Penalties: No License
1. Retail food handler			
(a) Having gross sales of only prepackaged nonperishable food of less than $15,000 for the immediately previous license or fiscal year and filing a statement with the commissioner	~~$48~~ $65	~~$16~~ $21	~~$27~~ $43

(b) Having under $15,000 gross sales including food preparation or having $15,000 to $50,000 gross sales for the immediately previous license or fiscal year	~~$65~~ $88	~~$16~~ $29	~~$27~~ $58
(c) Having $50,000 to $250,000 gross sales for the immediately previous license or fiscal year	~~$126~~ $170	~~$37~~ $56	~~$80~~ $112
(d) Having $250,000 to $1,000,000 gross sales for the immediately previous license or fiscal year	~~$216~~ $292	~~$54~~ $96	~~$107~~ $193
(e) Having $1,000,000 to $5,000,000 gross sales for the immediately previous license or fiscal year	~~$601~~ $812	~~$107~~ $268	~~$187~~ $536
(f) Having $5,000,000 to $10,000,000 gross sales for the immediately previous license or fiscal year	~~$842~~ $1,137	~~$161~~ $375	~~$321~~ $750
(g) Having over $10,000,000 gross sales for the immediately previous license or fiscal year	~~$962~~ $1,300	~~$214~~ $429	~~$375~~ $858
2. Wholesale food handler			
(a) Having gross sales or service of less than $25,000 for the immediately previous license or fiscal year	~~$54~~ $73	~~$16~~ $24	~~$16~~ $48
(b) Having $25,000 to $250,000 gross sales or service for the immediately previous license or fiscal year	~~$241~~ $326	~~$54~~ $108	~~$107~~ $215
(c) Having $250,000 to $1,000,000 gross sales or service from a mobile unit without a separate food facility for the immediately previous license or fiscal year	~~$361~~ $488	~~$80~~ $161	~~$161~~ $322
(d) Having $250,000 to $1,000,000 gross sales or service not covered under paragraph (c) for the immediately previous license or fiscal year	~~$480~~ $648	~~$107~~ $214	~~$214~~ $428
(e) Having $1,000,000 to $5,000,000 gross sales or service for the immediately previous license or fiscal year	~~$601~~ $812	~~$134~~ $268	~~$268~~ $536

	(f) Having over $5,000,000 gross sales for the immediately previous license or fiscal year	~~$692~~ $935	~~$161~~ $309	~~$321~~ $617
3.	Food broker	~~$120~~ $150	~~$32~~ $50	~~$54~~ $99
4.	Wholesale food processor or manufacturer			
	(a) Having gross sales of less than $125,000 for the immediately previous license or fiscal year	~~$161~~ $217	~~$54~~ $72	~~$107~~ $143
	(b) Having $125,000 to $250,000 gross sales for the immediately previous license or fiscal year	~~$332~~ $448	~~$80~~ $148	~~$161~~ $296
	(c) Having $250,001 to $1,000,000 gross sales for the immediately previous license or fiscal year	~~$480~~ $648	~~$107~~ $214	~~$214~~ $428
	(d) Having $1,000,001 to 5,000,000 gross sales for the immediately previous license or fiscal year	~~$601~~ $812	~~$134~~ $268	~~$268~~ $536
	(e) Having $5,000,001 to $10,000,000 gross sales for the immediately previous license or fiscal year	~~$692~~ $935	~~$161~~ $309	~~$321~~ $617
	(f) Having over $10,000,000 gross sales for the immediately previous license or fiscal year	~~$963~~ $1,301	~~$214~~ $429	~~$375~~ $859
5.	Wholesale food processor of meat or poultry products under supervision of the U. S. Department of Agriculture			
	(a) Having gross sales of less than $125,000 for the immediately previous license or fiscal year	~~$107~~ $145	~~$27~~ $48	~~$54~~ $96
	(b) Having $125,000 to $250,000 gross sales for the immediately previous license or fiscal year	~~$181~~ $245	~~$54~~ $81	~~$80~~ $162
	(c) Having $250,001 to $1,000,000 gross sales for the immediately previous license or fiscal year	~~$271~~ $366	~~$80~~ $121	~~$134~~ $242
	(d) Having $1,000,001 to $5,000,000 gross sales for the immediately previous license or fiscal year	~~$332~~ $448	~~$80~~ $148	~~$161~~ $296

	(e) Having $5,000,001 to $10,000,000 gross sales for the immediately previous license or fiscal year	~~$392~~ $530	~~$107~~ $175	~~$187~~ $350
	(f) Having over $10,000,000 gross sales for the immediately previous license or fiscal year	~~$535~~ $723	~~$161~~ $239	~~$268~~ $477
6.	Wholesale food processor or manufacturer operating only at the state fair	$125	$40	$50
7.	Wholesale food manufacturer having the permission of the commissioner to use the name Minnesota Farmstead cheese	$30	$10	$15
8.	Nonresident frozen dairy manufacturer	$200	$50	$75
9.	Wholesale food manufacturer processing less than 700,000 pounds per year of raw milk	$30	$10	$15
10.	A milk marketing organization without facilities for processing or manufacturing that purchases milk from milk producers for delivery to a licensed wholesale food processor or manufacturer	$50	$15	$25

Sec. 35. Minnesota Statutes 2002, section 28A.085, subdivision 1, is amended to read:

Subdivision 1. [VIOLATIONS; PROHIBITED ACTS.] The commissioner may charge a reinspection fee for each reinspection of a food handler that:

(1) is found with a major violation of requirements in chapter 28, 29, 30, 31, 31A, 32, 33, or 34, or rules adopted under one of those chapters;

(2) is found with a violation of section 31.02, 31.161, or 31.165, and requires a follow-up inspection after an administrative meeting held pursuant to section 31.14; or

(3) fails to correct equipment and facility deficiencies as required in rules adopted under chapter 28, 29, 30, 31, 31A, 32, or 34. The first reinspection of a firm with gross food sales under $1,000,000 must be assessed at ~~$25~~ $75. The fee for a firm with gross food sales over $1,000,000 is ~~$50~~ $100. The fee for a subsequent reinspection of a firm for the same violation is 50 percent of their current license fee or $200, whichever is greater. The establishment must be issued written notice of violations with a reasonable date for compliance listed on the notice. An initial inspection relating to a complaint is not a reinspection.

Sec. 36. Minnesota Statutes 2002, section 28A.09, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL FEE; EXCEPTIONS.] Every coin-operated food vending machine is subject to an annual state inspection fee of ~~$15~~ $25 for each nonexempt machine except nut vending machines which are subject to an annual state inspection fee of ~~$5~~ $10 for each machine, provided that:

(a) Food vending machines may be inspected by either a home rule charter or statutory city, or a county, but not both, and if inspected by a home rule charter or statutory city, or a county they shall not be subject to the state inspection fee, but the home rule charter or statutory city, or the county may impose an inspection or license fee of no more than the state inspection fee. A home rule charter or statutory city or county that does not inspect food vending machines shall not impose a food vending machine inspection or license fee.

(b) Vending machines dispensing only gum balls, hard candy, unsorted candy, or ice manufactured and packaged by another shall be exempt from the state inspection fee, but may be inspected by the state. A home rule charter or statutory city may impose by ordinance an inspection or license fee of no more than the state inspection fee for nonexempt machines on the vending machines described in this paragraph. A county may impose by ordinance an inspection or license fee of no more than the state inspection fee for nonexempt machines on the vending machines described in this paragraph which are not located in a home rule charter or statutory city.

(c) Vending machines dispensing only bottled or canned soft drinks are exempt from the state, home rule charter or statutory city, and county inspection fees, but may be inspected by the commissioner or the commissioner's designee.

Sec. 37. Minnesota Statutes 2002, section 32.394, subdivision 8, is amended to read:

Subd. 8. [GRADE A INSPECTION FEES.] A processor or marketing organization of milk, milk products, sheep milk, or goat milk who wishes to market Grade A milk or use the Grade A label must apply for Grade A inspection service from the commissioner. A pasteurization plant requesting Grade A inspection service must hold a Grade A permit and pay an annual inspection fee of no more than $500. For Grade A farm inspection service, the fee must be no more than $50 per farm, paid annually by the processor or by the marketing organization on behalf of its patrons. For a farm requiring a reinspection in addition to the required biannual inspections, an additional fee of ~~no more than $25~~ $45 per reinspection must be paid by the processor or by the marketing organization on behalf of its patrons. ~~The Grade A farm inspection fee must not exceed the lesser of (1) 40 percent of the department's actual average cost per farm inspection or reinspection; or (2) the dollar limits set in this subdivision. No fee increase may be implemented until after the commissioner has held three or more public hearings.~~

Sec. 38. Minnesota Statutes 2002, section 32.394, subdivision 8b, is amended to read:

Subd. 8b. [MANUFACTURING GRADE FARM CERTIFICATION.] A processor or marketing organization of milk, milk products, sheep milk, or goat milk who wishes to market other than Grade A milk must apply for a manufacturing grade farm certification inspection from the commissioner. A manufacturing plant that pasteurizes milk or milk by-products must pay an annual fee based on the number of pasteurization units. This fee must not exceed $140 per unit. The fee for farm certification inspection must not be more than $25 per farm to be paid annually by the processor or by the marketing organization on behalf of its patrons. For a farm requiring more than the one inspection for certification, a reinspection fee of ~~no more than $25~~ $45 must be paid by the processor or by the marketing organization on behalf of its patrons. ~~The fee must be set by the commissioner in an amount necessary to cover 40 percent of the department's actual cost of providing the annual inspection but must not exceed the limits in this subdivision. No fee increase may be implemented until after the commissioner has held three or more public hearings.~~

Sec. 39. Minnesota Statutes 2002, section 32.394, subdivision 8d, is amended to read:

Subd. 8d. [PROCESSOR ASSESSMENT.] (a) A manufacturer shall pay to the commissioner a fee for fluid milk processed and milk used in the manufacture of fluid milk products sold for retail sale in Minnesota~~. Beginning May 1, 1993, the fee is six cents per hundredweight. If the commissioner determines that a different fee,~~ in an amount not less than five cents and not more than nine cents per hundredweight~~, when combined with general fund appropriations and fees charged under sections 31.39 and 32.394, subdivision 8, is needed to provide adequate funding for the Grades A and B inspection programs and the administration and enforcement of Laws 1993, chapter 65, the commissioner may, by rule, change the fee on processors within the range provided within this subdivision~~ as set by the commissioner's order except that beginning July 1, 2003, the fee is set at seven cents per hundredweight and thereafter no change within any 12-month period may be in excess of one cent per hundredweight.

(b) Processors must report quantities of milk processed under paragraph (a) on forms provided by the commissioner. Processor fees must be paid monthly. The commissioner may require the production of records as necessary to determine compliance with this subdivision.

(c) The commissioner may create within the department a dairy consulting program to provide assistance to dairy producers who are experiencing problems meeting the sanitation and quality requirements of the dairy laws and rules.

The commissioner may use money appropriated from the dairy services account created in subdivision 9 to pay for the program authorized in this paragraph.

Sec. 40. Minnesota Statutes 2002, section 35.155, is amended to read:

35.155 [CERVIDAE IMPORT RESTRICTIONS.]

~~(a)~~ A person must not import cervidae into the state from a herd that is infected or exposed to chronic wasting disease or from a known chronic wasting disease endemic area, as determined by the board. A person may import cervidae into the state only from a herd that is not in a known chronic wasting disease endemic area, as determined by the board, and the herd has been subject to a state or provincial approved chronic wasting disease monitoring program for at least three years. Cervidae imported in violation of this section may be seized and destroyed by the commissioner of natural resources.

~~(b) This section expires on June 1, 2003.~~

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

Sec. 41. Minnesota Statutes 2002, section 41A.09, subdivision 1, is amended to read:

Subdivision 1. [APPROPRIATION.] ~~A sum sufficient to make the payments required by this section~~ $35,000,000 is annually appropriated from the general fund to the commissioner of agriculture ~~and all money so appropriated is available until expended~~ for purposes of developing ethanol production in Minnesota.

Sec. 42. Minnesota Statutes 2002, section 41A.09, subdivision 2a, is amended to read:

Subd. 2a. [DEFINITIONS.] For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Ethanol" means fermentation ethyl alcohol derived from agricultural products, including potatoes, cereal~~,~~ grains, cheese whey, and sugar beets; forest products; or other renewable resources, including residue and waste generated from the production, processing, and marketing of agricultural products, forest products, and other renewable resources, that:

(1) meets all of the specifications in ASTM specification D 4806-88; and

(2) is denatured as specified in Code of Federal Regulations, title 27, parts 20 and 21.

(b) ~~"Wet alcohol" means agriculturally derived fermentation ethyl alcohol having a purity of at least 50 percent but less than 99 percent.~~

~~(c) "Anhydrous alcohol" means fermentation ethyl alcohol derived from agricultural products as described in paragraph (a), but that does not meet ASTM specifications or is not denatured and is shipped in bond for further processing.~~

~~(d)~~ "Ethanol plant" means a plant at which ethanol~~, anhydrous alcohol, or wet alcohol~~ is produced.

(c) "Commissioner" means the commissioner of agriculture.

Sec. 43. Minnesota Statutes 2002, section 41A.09, subdivision 3a, is amended to read:

Subd. 3a. [ETHANOL PRODUCER PAYMENTS.] (a) The commissioner ~~of agriculture~~ shall make cash payments to producers of ethanol~~, anhydrous alcohol, and wet alcohol~~ located in the state~~. These payments shall apply only to ethanol, anhydrous alcohol, and wet alcohol fermented in the state and produced at plants~~ that have begun production by June 30, 2000. For the purpose of this subdivision, an entity that holds a controlling interest in more than one ethanol plant is considered a single producer. The amount of the payment for each producer's annual production~~,~~ ~~is:~~

~~(1)~~ except as provided in paragraph ~~(b)~~ (c), is 20 cents per gallon for each gallon of ethanol ~~or anhydrous alcohol~~ produced on or before June 30, 2000, or ten years after the start of production, whichever is later~~, 19 cents per gallon; and~~

~~(2) for each gallon produced of wet alcohol on or before June 30, 2000, or ten years after the start of production, whichever is later, a payment in cents per gallon calculated by the formula "alcohol purity in percent divided by five," and rounded to the nearest cent per gallon, but not less than 11 cents per gallon.~~

~~The producer payments for anhydrous alcohol and wet alcohol under this section may be paid to either the original producer of anhydrous alcohol or wet alcohol or the secondary processor, at the option of the original producer, but not to both~~.

The first claim for production after June 30, 2003, must be accompanied by a disclosure statement on a form provided by the commissioner. The disclosure statement must include a detailed description of the organization of the business structure of the claimant listing the percentages of ownership by any person or other entity with an ownership interest of five percent or greater, the distribution of income received by the claimant, including operating income and payments under this subdivision, and any other relevant financial information requested by the commissioner. The disclosure statement must include information sufficient to demonstrate that a majority of the ultimate beneficial interest in the entity receiving payments under this section is owned by farmers or spouses of farmers, as defined in section 500.24, residing in Minnesota. Subsequent quarterly claims must report changes in ownership. Payments must not be made to a claimant that has less than a majority of Minnesota farmer control; provided, however, a claimant located in a city of the first class which qualifies for payments in all other respects is not subject to this condition. Information provided under this paragraph is nonpublic data under section 13.02, subdivision 9.

(b) No payments shall be made for ethanol production that occurs after June 30, 2010. Nonetheless, catch-up payments may be made either before or after June 30, 2010, for production prior to June 30, 2010, if payments in the earlier quarters were reduced because appropriated money was insufficient to make timely payments in the amount provided in paragraph (a) to all eligible producers. To assure that each ethanol producer receives the full amount of ethanol producer payments to which the producer is entitled by reason of promises made by the state in return for equity investment in ethanol production facilities, the commissioner shall calculate for each producer a value to be known as the "obligated balance." The obligated balance represents the total dollar value, as of July 1, 2003, that is or will be owed to each Minnesota ethanol producer for ethanol produced by eligible capacity during all eligible quarters at a payment rate of 20 cents per gallon. The obligated balance is a unique number for each producer and is reduced on a dollar-for-dollar basis as payments are made to that producer. Ethanol producer payments from the state must continue until the obligated balance for each producer is reduced to zero.

~~(b)~~ (c) If the level of production at an ethanol plant increases due to an increase in the production capacity of the plant, the payment under paragraph (a)~~, clause (1),~~ applies to the additional increment of production until ten years after the increased production began. Once a plant's production capacity reaches 15,000,000 gallons per year, no additional increment will qualify for the payment.

~~(c)~~ (d) The commissioner shall make payments to producers of ethanol ~~or wet alcohol~~ in the amount of 1.5 cents for each kilowatt hour of electricity generated using closed-loop biomass in a cogeneration facility at an ethanol plant located in the state. Payments under this paragraph shall be made only for electricity generated at cogeneration facilities that begin operation by June 30, 2000. The payments apply to electricity generated on or before the date ten years after the producer first qualifies for payment under this paragraph. Total payments under this paragraph in any fiscal year may not exceed $750,000. For the purposes of this paragraph:

(1) "closed-loop biomass" means any organic material from a plant that is planted for the purpose of being used to generate electricity or for multiple purposes that include being used to generate electricity; and

(2) "cogeneration" means the combined generation of:

(i) electrical or mechanical power; and

(ii) steam or forms of useful energy, such as heat, that are used for industrial, commercial, heating, or cooling purposes.

~~(d)~~ (e) Payments under paragraphs (a) and ~~(b)~~ (c) to all producers may not exceed $35,150,000 in a fiscal year. Total payments under paragraphs (a) and ~~(b)~~ (c) to a producer in a fiscal year may not exceed ~~$2,850,000~~ $3,000,000.

~~(e)~~ (f) By the last day of October, January, April, and July, each producer shall file a claim for payment for ethanol~~, anhydrous alcohol, and wet alcohol~~ production during the preceding three calendar months. ~~A producer with more than one plant shall file a separate claim for each plant.~~ A producer that files a claim under this subdivision shall include a statement of the producer's total ethanol~~, anhydrous alcohol, and wet alcohol~~ production in Minnesota during the quarter covered by the claim~~, including anhydrous alcohol and wet alcohol~~ produced or received from an outside source. A producer shall file a separate claim for any amount claimed under paragraph ~~(c)~~ (d). For each claim and statement of total ethanol~~, anhydrous alcohol, and wet alcohol~~ production filed under this subdivision, the volume of ethanol~~, anhydrous alcohol, and wet alcohol~~ production or amounts of electricity generated using closed-loop biomass must be examined by an independent certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants.

~~(f)~~ (g) Payments shall be made November 15, February 15, May 15, and August 15. A separate payment shall be made for each claim filed. Except as provided in paragraph (j), the total quarterly payment to a producer under this paragraph, excluding amounts paid under paragraph ~~(c)~~ (d), may not exceed $750,000.

~~(g) If the total amount for which all producers are eligible in a quarter under paragraph (c) exceeds the amount available for payments, the commissioner shall make payments in the order in which the plants covered by the claims began generating electricity using closed-loop biomass.~~

(h) After July 1, 1997, new production capacity is only eligible for payment under this subdivision if the commissioner receives:

(1) an application for approval of the new production capacity;

(2) an appropriate letter of long-term financial commitment for construction of the new production capacity; and

(3) copies of all necessary permits for construction of the new production capacity.

The commissioner may approve new production capacity based on the order in which the applications are received.

(i) The commissioner may not approve any new production capacity after July 1, 1998, except that a producer with an approved production capacity of at least 12,000,000 gallons per year but less than 15,000,000 gallons per year prior to July 1, 1998, is approved for 15,000,000 gallons of production capacity.

(j) Notwithstanding the quarterly payment limits of paragraph ~~(f)~~ (g), the commissioner shall make an additional payment in the eighth quarter of each fiscal biennium to ethanol producers for the lesser of: (1) ~~19~~ 20 cents per gallon of production in the eighth quarter of the biennium that is greater than 3,750,000 gallons; or (2) the total amount of payments lost during the first seven quarters of the biennium due to plant outages, repair, or major maintenance. Total payments to an ethanol producer in a fiscal biennium, including any payment under this paragraph, must not exceed the total amount the producer is eligible to receive based on the producer's approved production capacity. The provisions of this paragraph apply only to production losses that occur in quarters beginning after December 31, 1999.

(k) For the purposes of this subdivision "new production capacity" means annual ethanol production capacity that was not allowed under a permit issued by the pollution control agency prior to July 1, 1997, or for which construction did not begin prior to July 1, 1997.

Sec. 44. Minnesota Statutes 2002, section 41A.09, is amended by adding a subdivision to read:

Subd. 3b. [LIMITATION ON ELIGIBILITY FOR PAYMENTS.] A producer of ethanol is eligible for ethanol producer payments under subdivision 3a only while the producer is in compliance with the shareholder rights provisions of subdivision 3c.

Sec. 45. Minnesota Statutes 2002, section 41A.09, is amended by adding a subdivision to read:

Subd. 3c. [BUSINESS ASSOCIATIONS PRODUCING ETHANOL; SHAREHOLDER RIGHTS.] (a) A business association organized under chapter 302A, 308A, or 322B that receives 25 percent or more of its gross revenues from the sale of fuel-grade ethanol must comply with this subdivision in addition to other applicable state and federal laws.

(b) The provisions of the chapter of Minnesota Statutes under which the business organization is established and any amendments or successor requirements to that chapter apply to every business association identified in paragraph (a). The rights granted in this subdivision also apply to the spouse of the shareholder. In addition to other requirements of law, a business association must maintain records of all proceedings of meetings of shareholders and directors during the previous three-year period, including the vote of each director on roll call votes. Roll call votes are required on actions that directly establish marketing agreements, operational contracts, and shareholder dividend payments. Roll call voting is also required on any matter upon the request of one or more directors. Every duly elected director of a business association identified in paragraph (a) has the right to inspect, in person and at any reasonable time, the business records required by this paragraph.

(c) Meetings of the board of directors must be open to the shareholders of the business and the shareholders' spouses. Shareholders must be given notice of all scheduled meetings except those of an emergency nature. Portions of meetings relating to labor negotiations, current litigation, and personnel matters are excluded from the provisions of this paragraph.

(d) Notwithstanding the provisions of other law, upon receipt of a written petition concerning governance matters signed by at least 50 shareholders or five percent of the shareholders, whichever is less, of a business association, the matter in the petition must be presented to the shareholders for a vote at the next annual or special

meeting. A shareholder wishing to have a matter heard at an annual or special meeting must submit the petition to the business association not less than 60 days prior to the scheduled annual meeting or special meeting. For purposes of this subdivision, "governance matters" means matters properly contained in the articles of incorporation or bylaws by adopting, amending, or repealing bylaws or the articles of incorporation.

(e) If the directors of a business association provide information to shareholders to influence their votes on a matter to be decided by a vote of the shareholders under a successful petition submitted under paragraph (d), the directors must provide the organizers of the petition or person presenting the petition equal time and opportunity to include their position on the matter to the shareholders in a substantially similar mode and range of distribution. The organizers of the petition must pay the costs of inclusion of their position.

(f) A business association subject to this subdivision must include in its bylaws a provision allowing each duly elected board member access to each current ethanol marketing contract or operating contract entered into by the business association and transactions conducted under the marketing contract. Further, the bylaws must provide that each current ethanol marketing or operating contract, and all ethanol marketing and operating contracts in effect during the previous two years, and transactions conducted under the marketing contracts, be made available for examination by the commissioner of agriculture or the commissioner's designated representative. Marketing and operating information examined by the commissioner or the commissioner's designated representative is nonpublic data under section 13.02, subdivision 9.

(g) A business association subject to this subdivision that is organized after the effective date of this section must include the provisions of this section in its bylaws or articles of incorporation. A business association in existence prior to the effective date of this subdivision must adopt amendments to its bylaws or articles of incorporation in compliance with these provisions not later than 12 months after the effective date.

Sec. 46. Minnesota Statutes 2002, section 116.07, subdivision 7a, is amended to read:

Subd. 7a. [NOTICE OF APPLICATION FOR LIVESTOCK FEEDLOT PERMIT.] (a) A person who applies to the pollution control agency or a county board for a permit to construct or expand a feedlot with a capacity of 500 animal units or more shall, not ~~later~~ less than ten business days ~~after the application is submitted~~ before the date on which a permit is issued, provide notice to each resident and each owner of real property within 5,000 feet of the perimeter of the proposed feedlot. The notice may be delivered by first class mail, in person, or by the publication in a newspaper of general circulation within the affected area and must include information on the type of livestock and the proposed capacity of the feedlot. Notification under this subdivision is satisfied under an equal or greater notification requirement of a county conditional use permit.

(b) The agency or a county board must verify that notice was provided as required under paragraph (a) prior to issuing a permit.

Sec. 47. Minnesota Statutes 2002, section 116D.04, subdivision 2a, is amended to read:

Subd. 2a. Where there is potential for significant environmental effects resulting from any major governmental action, the action shall be preceded by a detailed environmental impact statement prepared by the responsible governmental unit. The environmental impact statement shall be an analytical rather than an encyclopedic document which describes the proposed action in detail, analyzes its significant environmental impacts, discusses appropriate alternatives to the proposed action and their impacts, and explores methods by which adverse environmental impacts of an action could be mitigated. The environmental impact statement shall also analyze those economic, employment and sociological effects that cannot be avoided should the action be implemented. To ensure its use in the decision making process, the environmental impact statement shall be prepared as early as practical in the formulation of an action.

(a) The board shall by rule establish categories of actions for which environmental impact statements and for which environmental assessment worksheets shall be prepared as well as categories of actions for which no environmental review is required under this section.

(b) The responsible governmental unit shall promptly publish notice of the completion of an environmental assessment worksheet in a manner to be determined by the board and shall provide copies of the environmental assessment worksheet to the board and its member agencies. Comments on the need for an environmental impact statement may be submitted to the responsible governmental unit during a 30 day period following publication of the notice that an environmental assessment worksheet has been completed. The responsible governmental unit's decision on the need for an environmental impact statement shall be based on the environmental assessment worksheet and the comments received during the comment period, and shall be made within 15 days after the close of the comment period. The board's chair may extend the 15 day period by not more than 15 additional days upon the request of the responsible governmental unit.

(c) An environmental assessment worksheet shall also be prepared for a proposed action whenever material evidence accompanying a petition by not less than 25 individuals, submitted before the proposed project has received final approval by the appropriate governmental units, demonstrates that, because of the nature or location of a proposed action, there may be potential for significant environmental effects. Petitions requesting the preparation of an environmental assessment worksheet shall be submitted to the board. The chair of the board shall determine the appropriate responsible governmental unit and forward the petition to it. A decision on the need for an environmental assessment worksheet shall be made by the responsible governmental unit within 15 days after the petition is received by the responsible governmental unit. The board's chair may extend the 15 day period by not more than 15 additional days upon request of the responsible governmental unit. Except in an environmentally sensitive location where Minnesota Rules, part 4410.4300, subpart 29, item B, applies, the proposed action is exempt from Minnesota Rules, parts 4410.0200 to 4410.6500, if:

(1) it is:

(i) an animal feedlot facility with a capacity of less than 1,000 animal units; or

(ii) an expansion of an existing animal feedlot facility by less than 1,000 animal units; and

(2) the application for the animal feedlot facility includes a written commitment by the proposer to design, construct, and operate the facility in full compliance with Minnesota Rules, chapter 7020.

(d) The board may, prior to final approval of a proposed project, require preparation of an environmental assessment worksheet by a responsible governmental unit selected by the board for any action where environmental review under this section has not been specifically provided for by rule or otherwise initiated.

(e) An early and open process shall be utilized to limit the scope of the environmental impact statement to a discussion of those impacts, which, because of the nature or location of the project, have the potential for significant environmental effects. The same process shall be utilized to determine the form, content and level of detail of the statement as well as the alternatives which are appropriate for consideration in the statement. In addition, the permits which will be required for the proposed action shall be identified during the scoping process. Further, the process shall identify those permits for which information will be developed concurrently with the environmental impact statement. The board shall provide in its rules for the expeditious completion of the scoping process. The determinations reached in the process shall be incorporated into the order requiring the preparation of an environmental impact statement.

(f) Whenever practical, information needed by a governmental unit for making final decisions on permits or other actions required for a proposed project shall be developed in conjunction with the preparation of an environmental impact statement.

(g) An environmental impact statement shall be prepared and its adequacy determined within 280 days after notice of its preparation unless the time is extended by consent of the parties or by the governor for good cause. The responsible governmental unit shall determine the adequacy of an environmental impact statement, unless within 60 days after notice is published that an environmental impact statement will be prepared, the board chooses to determine the adequacy of an environmental impact statement. If an environmental impact statement is found to be inadequate, the responsible governmental unit shall have 60 days to prepare an adequate environmental impact statement.

Sec. 48. Minnesota Statutes 2002, section 116D.04, subdivision 10, is amended to read:

Subd. 10. Decisions on the need for an environmental assessment worksheet, the need for an environmental impact statement and the adequacy of an environmental impact statement may be reviewed by a declaratory judgment action in the ~~district~~ court of ~~the county wherein the proposed action, or any part thereof, would be undertaken~~ appeals brought by any person aggrieved by the decision. Judicial review under this section shall be initiated within 30 days after the governmental unit makes the decision, and a bond may be required under section 562.02 unless at the time of hearing on the application for the bond the plaintiff has shown that the claim has sufficient possibility of success on the merits to sustain the burden required for the issuance of a temporary restraining order. Nothing in this section shall be construed to alter the requirements for a temporary restraining order or a preliminary injunction pursuant to the Minnesota rules of civil procedure for district courts. The board may initiate judicial review of decisions referred to herein and may intervene as of right in any proceeding brought under this subdivision.

Sec. 49. Minnesota Statutes 2002, section 116D.04, subdivision 11, is amended to read:

Subd. 11. If the board or governmental unit which is required to act within a time period specified in this section fails to so act, any person may seek ~~an order of the district court~~ relief through the court of appeals requiring the board or governmental unit to immediately take the action mandated by subdivisions 2a and 3a. The court of appeals shall make a decision based on the information and record supplied by the responsible governmental unit.

Sec. 50. Minnesota Statutes 2002, section 116D.04, subdivision 13, is amended to read:

Subd. 13. This section may be enforced by ~~injunction, action to compel performance, or other~~ appropriate action in the ~~district court of the county where the violation takes place~~ court of appeals. The court of appeals shall have full jurisdiction to hear and determine the matter appealed. The proceeding may be governed by the Rules of Civil Appellate Procedure. Upon the request of the board or the chair of the board, the attorney general may bring an action under this subdivision.

Sec. 51. Minnesota Statutes 2002, section 116O.09, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] The agricultural ~~utilization research institute~~ innovation center is established ~~as a nonprofit corporation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended. The agricultural utilization research institute shall~~ within the department of agriculture to promote the establishment of new products and product uses and the expansion of existing markets for the state's agricultural commodities and products, including direct financial and technical assistance for Minnesota entrepreneurs. The ~~institute must be located near an existing agricultural research facility in the agricultural region of the state~~ commissioner must establish or maintain facilities for the center with priority to continued use of facilities at Crookston and Marshall. The center shall work with private and public entities to leverage the resources available to achieve maximum results for Minnesota agriculture.

Sec. 52. Minnesota Statutes 2002, section 116O.09, subdivision 1a, is amended to read:

Subd. 1a. [BOARD OF DIRECTORS.] The board of directors of the agricultural ~~utilization research institute~~ innovation center is comprised of:

(1) the chairs of the senate and the house of representatives standing committees with jurisdiction over agriculture ~~policy~~ finance or the chair's designee;

(2) the commissioner or the commissioner's designee;

(3) the dean of the college of agriculture of the University of Minnesota or the dean's representative;

~~(2)~~ (4) two representatives of statewide farm organizations appointed by the commissioner;

~~(3)~~ (5) two representatives of agribusiness~~, one of whom is a member of the Minnesota Technology, Inc. board representing agribusiness~~ appointed by the commissioner; and

~~(4)~~ (6) three representatives of the commodity promotion councils appointed by the commissioner.

A member of the board of directors under clauses ~~(1) to~~ (4) to (6), including a member serving on July 1, 2003, may ~~designate a permanent or temporary replacement member representing the same constituency~~ serve for a maximum of two three-year terms. The board's compensation is governed by section 15.0575, subdivision 3.

Sec. 53. Minnesota Statutes 2002, section 116O.09, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] (a) In addition to the duties and powers assigned to the institutes in section 116O.08, the agricultural ~~utilization research institute~~ innovation center shall:

(1) identify ~~the various market segments characterized by Minnesota's agricultural industry, address each segment's individual needs, and identify~~ development opportunities ~~in each segment~~ for agricultural products;

(2) ~~develop and~~ implement a ~~utilization~~ program ~~for each segment~~ that ~~addresses its development needs and~~ identifies techniques to meet those ~~needs~~ opportunities;

(3) monitor and coordinate research among the public and private organizations and individuals specifically addressing procedures to transfer new technology to businesses, farmers, and individuals;

(4) provide research grants to public and private educational institutions and other organizations that are undertaking basic and applied research ~~that would~~ to promote the development of ~~the various~~ emerging agricultural industries; ~~and~~

(5) ~~provide financial assistance including, but not limited to: (i) direct loans, guarantees, interest subsidy payments, and equity investments; and (ii) participation in loan participations. The board of directors shall establish the terms and conditions of the financial assistance.~~ assist organizations and individuals with market analysis and product marketing implementations;

(6) to the extent possible earn and receive revenue from contracts, patents, licenses, royalties, grants, fees-for-service, and memberships;

(7) work with other divisions within the department of agriculture, the United States Department of Agriculture, the department of trade and economic development, and other agencies to maximize marketing opportunities locally, nationally, and internationally; and

(8) leverage available funds from federal, state, and private sources to develop new markets and value added opportunities for Minnesota agricultural products.

(b) The ~~agricultural utilization research institute~~ commissioner shall recommend to the board of directors ~~shall have the sole approval authority for establishing agricultural utilization research~~ priorities, requests for proposals to meet those priorities, awarding of grants, hiring and direction of personnel, and other expenditures of funds consistent with the adopted and approved mission and goals of the agricultural ~~utilization research institute~~ innovation center. ~~The actions and expenditures of the agricultural utilization research institute are subject to audit and regular annual report to the legislature in general and specifically the house of representatives agriculture committee, the senate agriculture and rural development committee, the house of representatives environment and natural resources finance committee, and the senate environment and agriculture budget division.~~ The center shall annually report by February 1 to the senate and house of representative standing committees with jurisdiction over agricultural policy and funding. The report must list projects initiated, progress on projects, and financial information relating to expenditures, income from other sources, and other information to allow the chairs to evaluate the effectiveness of the center's activities.

Sec. 54. Minnesota Statutes 2002, section 116O.09, subdivision 3, is amended to read:

Subd. 3. [STAFF.] The commissioner, at the direction of the board of directors, shall ~~hire~~ provide staff ~~for the agricultural utilization research institute. Persons employed by the agricultural utilization research institute are not state employees and may participate in state retirement, deferred compensation, insurance, or other plans that apply to state employees generally and are subject to regulation by the state campaign finance and public disclosure board~~ and administrative support for the center as needed within the resources available. The staff shall include a division director for the center.

Sec. 55. Minnesota Statutes 2002, section 116O.09, subdivision 9, is amended to read:

Subd. 9. [MEETINGS.] The board of directors shall meet at least twice each year and may hold additional meetings upon giving notice in accordance with ~~the bylaws of the institute~~ chapter 13D. Board meetings are subject to chapter 13D, except section 13D.01, subdivision ~~1b~~ 6, paragraph (a), as it pertains to financial information, business plans, income and expense projections, customer lists, market and feasibility studies, and trade secret information as defined by section 13.37, subdivision 1, paragraph (b). This information is nonpublic data under chapter 13.

Sec. 56. Minnesota Statutes 2002, section 116O.09, subdivision 12, is amended to read:

Subd. 12. [FUNDS.] The ~~institute~~ center may accept and use gifts, grants, or contributions from any source. Unless otherwise restricted by the terms of a gift or bequest, the ~~board~~ center may sell, exchange, or otherwise dispose of and invest or reinvest the money, securities, or other property given or bequested to it. The principal of these funds, the income from them, and all other revenues received by it from any nonstate source must be ~~placed in the depositories the board determines~~ deposited in the state treasury and credited to the agricultural innovation center account and is subject to expenditure for the ~~board's~~ center's purposes. ~~Expenditures of more than $25,000 must be approved by the full board.~~

Sec. 57. Minnesota Statutes 2002, section 116O.09, is amended by adding a subdivision to read:

Subd. 12a. [AGRICULTURAL INNOVATION CENTER ACCOUNT.] An agricultural innovation center account is established in the agricultural fund in the state treasury. All gifts, grants, or contributions from any source received by the department of agriculture for agricultural innovation shall be deposited in the state treasury and credited to the agricultural innovation center account. Unless otherwise restricted by the terms of the gift or bequest, the department of agriculture may sell, exchange, or otherwise dispose of any gift or bequest. The proceeds from the sale or disposal shall be deposited in the agriculture innovation center account.

All negotiable assets transferred from the agricultural innovation center under subdivision 14 shall be deposited into the agricultural innovation account.

Money in the account, including interest earned, is appropriated to the commissioner for the administration of this section.

Sec. 58. Minnesota Statutes 2002, section 116O.09, subdivision 13, is amended to read:

Subd. 13. [~~ACCOUNTS; AUDITS~~ DEFINITIONS.] ~~The institute may establish funds and accounts that it finds convenient. The board shall provide for and pay the cost of an independent annual audit of its official books and records by the legislative auditor subject to sections 3.971 and 3.972. A copy of this audit shall be filed with the secretary of state.~~

For purposes of this section, ~~"institute"~~ "center" means the agricultural ~~utilization research institute~~ innovation center established under this section and "board of directors" means the board of directors of the agricultural ~~utilization research institute~~ innovation center and "commissioner" means the commissioner of agriculture.

Sec. 59. Minnesota Statutes 2002, section 116O.09, is amended by adding a subdivision to read:

Subd. 14. [TRANSFER.] The commissioner of administration, in consultation with the commissioner of agriculture, shall take measures necessary to transfer the functions, assets, and liabilities from the corporation established under this section to the department of agriculture. During the transition period the commissioner of agriculture must be fully informed of all expenditures of the corporation. There is no obligation for the commissioner to pay state funds for projects or operations of the agricultural utilization research institute beyond October 1, 2003, unless approved by the board and the commissioner.

Sec. 60. [REVISOR'S INSTRUCTION.]

The revisor shall change the term "agricultural utilization research institute" to "agricultural innovation center" in Minnesota Statutes and change "institute" to "center" in Minnesota Statutes, section 116O.09. The revisor shall recodify Minnesota Statutes, section 116O.09 into Minnesota Statutes, chapter 17.

Sec. 61. [REPEALER.]

Minnesota Statutes 2002, sections 17.110; 18.51; 18.52; 18.53; 18.54; 18.79, subdivisions 1, 7, and 11; 18.85; 41A.09, subdivisions 1a, 5a, 6, 7, and 8, are repealed.

Sec. 62. [REPEALER; MINNESOTA RULES.]

Minnesota Rules, part 1510.0281, is repealed.

Sec. 63. [EFFECTIVE DATE.]

Except as otherwise provided, this act is effective July 1, 2003."

Delete the title and insert:

"A bill for an act relating to state government; appropriating money for agricultural and rural development purposes; establishing and modifying certain programs; providing for regulation of certain activities and practices; providing for accounts, assessments, and fees; amending Minnesota Statutes 2002, sections 17.451; 17.452, subdivisions 8, 10, 11, 12, 13, by adding subdivisions; 18.525; 18.78; 18.79, subdivisions 2, 3, 5, 6, 9, 10; 18.81, subdivisions 2, 3; 18.84, subdivision 3; 18.86; 18B.26, subdivision 3; 21.89, subdivision 2; 21.90, subdivision 2; 21.901; 28A.08, subdivision 3; 28A.085, subdivision 1; 28A.09, subdivision 1; 32.394, subdivisions 8, 8b, 8d; 35.155; 41A.09, subdivisions 1, 2a, 3a, by adding subdivisions; 116.07, subdivision 7a; 116D.04, subdivisions 2a, 10, 11, 13; 116O.09, subdivisions 1, 1a, 2, 3, 9, 12, 13, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 18; 21; repealing Minnesota Statutes 2002, sections 17.110; 18.51; 18.52; 18.53; 18.54; 18.79, subdivisions 1, 7, 11; 18.85; 41A.09, subdivisions 1a, 5a, 6, 7, 8; Minnesota Rules, part 1510.0281."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Ozment from the Committee on Environment and Natural Resources Finance to which was referred:

H. F. No. 779, A bill for an act relating to state government; appropriating money for environmental and natural resources purposes; establishing and modifying certain programs; providing for regulation of certain activities and practices; providing for accounts, assessments, and fees; amending Minnesota Statutes 2002, sections 16A.531, subdivision 1, by adding a subdivision; 84.085, subdivision 1; 84.415, subdivisions 4, 5, by adding subdivisions; 84D.14; 85.052, subdivision 3; 85.053, subdivision 1; 85A.02, subdivision 17; 86B.415, subdivision 7; 97A.475, subdivisions 15, 26, 27, 28, 29, 30, 38, 39, 40, 42; 97B.645, subdivision 7; 103B.231, subdivision 3a; 103B.305, subdivision 3, by adding subdivisions; 103B.311, subdivisions 1, 2, 3, 4; 103B.315, subdivisions 4, 5, 6; 103B.321, subdivisions 1, 2; 103B.325, subdivisions 1, 2; 103B.331, subdivisions 1, 2, 3; 103B.3363, subdivision 3; 103B.3369, subdivisions 2, 4, 5, 6; 103B.355; 103D.405, subdivision 2; 103G.005, subdivision 10e; 103G.222, subdivision 1; 103G.2242, by adding subdivisions; 103G.271, subdivisions 6, 6a; 103G.611, subdivision 1; 103G.615, subdivision 2; 115.03, by adding subdivisions; 115.073; 115.56, subdivision 4; 115A.0716, subdivision 3; 115A.545, subdivision 2; 115A.9651, subdivision 6; 115B.17, subdivisions 6, 7, 14, 16; 115B.19; 115B.20; 115B.22, subdivision 7; 115B.25, subdivisions 1a, 4; 115B.26; 115B.30; 115B.31, subdivisions 1, 3, 4; 115B.32, subdivision 1; 115B.33, subdivision 1; 115B.34; 115B.36; 115B.40, subdivision 4; 115B.41, subdivisions 1, 2, 3; 115B.42, subdivision 2; 115B.421; 115B.445; 115B.48, subdivision 2; 115B.49, subdivisions 1, 3, 4; 115D.12, subdivision 2; 116.03, subdivision 2; 116.07, subdivisions 4d, 4h; 116.994; 116C.834, subdivision 1; 116P.02, subdivision 1; 116P.05, subdivision 2; 116P.09, subdivisions 4, 5, 7; 116P.10; 116P.14, subdivision 2; 273.13, subdivision 23; 297A.94; 297F.10, subdivision 1; 297H.13, subdivisions 1, 2; 325E.10, subdivision 1; 469.175, subdivision 7; 473.843, subdivision 2; 473.844, subdivision 1; 473.845, subdivisions 1, 3, 7, 8; 473.846; proposing coding for new law in Minnesota Statutes, chapters 103B; 116; repealing Minnesota Statutes 2002, sections 1.31; 1.32; 84.415, subdivisions 1, 3; 89.391; 93.2235; 103B.311, subdivisions 5, 6, 7; 103B.315, subdivisions 1, 2, 3, 7; 103B.321, subdivision 3; 103B.3369, subdivision 3; 103G.222, subdivision 2; 115A.908, subdivision 2; 115B.02, subdivision 1a; 115B.19; 115B.42, subdivision 1; 116P.13; 297H.13, subdivisions 3, 4; 325E.112, subdivisions 2, 3;

325E.113; 473.845, subdivision 4; Minnesota Rules, parts 6135.0100; 6135.0200; 6135.0300; 6135.0400; 6135.0510; 6135.0610; 6135.0710; 6135.0810; 6135.1000; 6135.1100; 6135.1200; 6135.1300; 6135.1400; 6135.1500; 6135.1600; 6135.1700; 6135.1800; 9300.0010; 9300.0020; 9300.0030; 9300.0040; 9300.0050; 9300.0060; 9300.0070; 9300.0080; 9300.0090; 9300.0100; 9300.0110; 9300.0120; 9300.0130; 9300.0140; 9300.0150; 9300.0160; 9300.0170; 9300.0180; 9300.0190; 9300.0200; 9300.0210.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

GENERAL

Section 1. [ENVIRONMENT AND NATURAL RESOURCES.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another named fund, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "2003," "2004," and "2005," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 2003, June 30, 2004, or June 30, 2005, respectively. The term "the first year" means the year ending June 30, 2004, and the term "the second year" means the year ending June 30, 2005.

SUMMARY BY FUND

	2003	2004	2005	TOTAL
General		$135,894,000	$135,121,000	$271,015,000
State Government Special Revenue		48,000	48,000	96,000
Environmental		42,776,000	42,822,000	85,598,000
Natural Resources		50,536,000	48,596,000	99,132,000
Game and Fish		82,350,000	82,292,000	164,642,000
Remediation		11,504,000	11,504,000	23,008,000
Land and Water Conservation Account		2,000,000	-0-	2,000,000
Great Lakes Protection Account		56,000	-0-	56,000
Environment and Natural Resources Trust Fund		15,050,000	15,050,000	30,100,000
Oil Overcharge		519,000	-0-	519,000
TOTAL		$340,733,000	$335,433,000	$676,166,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Sec. 2. POLLUTION CONTROL AGENCY		
Subdivision 1. Total Appropriation	$52,463,000	$52,463,000
Summary by Fund		
General	10,229,000	10,183,000
State Government Special Revenue	48,000	48,000
Environmental	30,782,000	30,828,000
Remediation	11,404,000	11,404,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Water

	18,976,000	18,976,000
Summary by Fund		
General	7,254,000	7,222,000
State Government Special Revenue	48,000	48,000
Environmental	11,674,000	11,706,000

$2,348,000 the first year and $2,348,000 the second year are for the clean water partnership program. Any balance remaining in the first year does not cancel and is available for the second year of the biennium.

$2,324,000 the first year and $2,324,000 the second year are for grants for county administration of the feedlot permit program. These amounts are transferred to the board of water and soil resources for disbursement in accordance with Minnesota Statutes, section 103B.3369, in cooperation with the pollution control agency. Grants must be matched with a combination of local cash and/or in-kind contributions. Counties receiving these grants shall submit an annual report to the pollution control agency regarding activities conducted under the grant, expenditures made, and local match contributions. Funding shall be given to counties that have

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requested and received delegation from the pollution control agency for processing of animal feedlot permit applications under Minnesota Statutes, section 116.07, subdivision 7. The first year, delegated counties shall be eligible to receive an amount of either: (1) $50 multiplied by the number of feedlots with greater than ten animal units as reported by the county in their annual report for registration data developed in accordance with Minnesota Rules, part 7020.0350 or Minnesota Statutes, section 116.072; or (2) $80 multiplied by the number of feedlots with greater than ten animal units as reported by the county in their annual report and determined by a level 2 or level 3 feedlot inventory conducted in accordance with the Feedlot Inventory Guidebook published by the board of water and soil resources, dated June 1991. The second year, delegated counties shall be eligible to receive an amount of either: (1) $50 multiplied by the number of feedlots with greater than ten animal units as reported to the agency under the terms of aggregate reporting as defined in Minnesota Statutes, section 116.0712; or (2) $80 multiplied by the number of feedlots with greater than ten animal units based on the agency's statewide database for registration in accordance with Minnesota Rules, part 7020.0350. By June 30, 2004, the agency in consultation with delegated counties, shall develop a new funding formula incorporating the following criteria at a minimum: (i) fee multiplier per feedlot as defined by the state registration program (greater than 50 animal units in nonshoreland areas and ten to 50 animal units in shoreland areas), (ii) use of the state database for determination of feedlots in item (i), and (iii) incentive-based payments for counties exceeding minimum program requirements based on program priorities. To be eligible for a grant, a county must be delegated by December 31 of the year prior to the year in which awards are distributed. At a minimum, delegated counties are eligible to receive a grant of $7,500 per year. To receive the award, the county must receive approval by the pollution control agency of the county feedlot work plan and annual county feedlot officer report. Feedlots that have been inactive for five or more years may not be counted in determining the amount of the grant.

Any money remaining after the first year is available for the second year and is available for distribution to all counties on a competitive basis through the challenge grant process for the development of delegated county feedlot programs or to enhance existing delegated county feedlot programs, information and education, or technical assistance efforts to reduce feedlot-related pollution hazards.

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$335,000 the first year and $335,000 the second year are for community technical assistance and education, including grants and technical assistance to communities for local and basinwide water quality protection.

$205,000 the first year and $205,000 the second year are for individual sewage treatment system (ISTS) administration. Of this amount, $86,000 in each year is transferred to the board of water and soil resources for assistance to local units of government through competitive grant programs for ISTS program development.

$200,000 the first year and $200,000 the second year are for individual sewage treatment system grants. Any unexpended balance in the first year does not cancel, but is available in the second year.

By February 1, 2004, the commissioner shall report to the environment and natural resources finance committees of the house and senate on the status of discussions with stakeholders on strategies to implement the impaired waters program and any specific recommendations on funding options to address the needs documents in the agency's report to the legislature, "Minnesota's Impaired Waters," dated March 2003.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered under contract on or before June 30, 2005, for clean water partnership, ISTS, Minnesota River, and Total Maximum Daily Load grants in this subdivision are available until June 30, 2007.

Subd. 3. Air

8,645,000 8,640,000

Summary by Fund

Environmental 8,645,000 8,640,000

Up to $150,000 the first year and $150,000 the second year may be transferred to the environmental fund for the small business environmental improvement loan program established in Minnesota Statutes, section 116.993.

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$200,000 the first year and $200,000 the second year are from the environmental fund for a monitoring program under Minnesota Statutes, section 116.454.

Subd. 4. Land

	18,454,000	18,454,000
	Summary by Fund	
Environmental	7,050,000	7,050,000
Remediation	11,404,000	11,404,000

All money for environmental response, compensation, and compliance in the remediation fund not otherwise appropriated is appropriated to the commissioners of the pollution control agency and the department of agriculture for purposes of Minnesota Statutes, section 115B.20, subdivision 2, clauses (1), (2), (3), (6), and (7). At the beginning of each fiscal year, the two commissioners shall jointly submit an annual spending plan to the commissioner of finance that maximizes the utilization of resources and appropriately allocates the money between the two agencies. This appropriation is available until June 30, 2005.

$574,000 the first year and $574,000 the second year are from the petroleum tank fund to be transferred to the remediation fund for purposes of the leaking underground storage tank program to protect the land.

$200,000 the first year and $200,000 the second year are from the remediation fund to be transferred to the department of health for private water supply monitoring and health assessment costs in areas contaminated by unpermitted mixed municipal solid waste disposal facilities.

$685,000 the first year and $685,000 the second year are from the environmental fund balance to reimburse the general fund for past sales of bonds used to support the closed landfill program through June 30, 2007.

Subd. 5. Multimedia

4,301,000	4,306,000

			APPROPRIATIONS Available for the Year Ending June 30 2004	2005
		Summary by Fund		
General	2,265,000	2,265,000		
Environmental	2,036,000	2,041,000		
Subd. 6. Administrative Support				
	2,087,000	2,087,000		
		Summary by Fund		
General	710,000	696,000		
Environmental	1,377,000	1,391,000		
Sec. 3. OFFICE OF ENVIRONMENTAL ASSISTANCE			24,754,000	24,754,000
		Summary by Fund		
General	12,760,000	12,760,000		
Environmental	11,994,000	11,994,000		

$12,500,000 each year is for SCORE block grants to counties. Of that amount, $8,060,000 is from the general fund and $4,440,000 is from the environmental fund.

Any unencumbered grant and loan balances in the first year do not cancel but are available for grants and loans in the second year.

All money deposited in the environmental fund for the metropolitan solid waste landfill fee in accordance with Minnesota Statutes, section 473.843, and not otherwise appropriated, is appropriated to the office of environmental assistance for the purposes of Minnesota Statutes, section 473.844.

$200,000 the first year and $200,000 the second year are transferred to the environmental assistance revolving account under Minnesota Statutes, section 115A.0716, subdivision 3.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered under contract on or before June 30, 2005, for environmental assistance grants awarded under Minnesota Statutes, section 115A.0716, and for technical and

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

research assistance under Minnesota Statutes, section 115A.152, technical assistance under Minnesota Statutes, section 115A.52, and pollution prevention assistance under Minnesota Statutes, section 115D.04, are available until June 30, 2006.

$5,000,000 the first year and $5,000,000 the second year are from the environmental fund for mixed municipal solid waste processing payments under Minnesota Statutes, section 115A.545.

The office of environmental assistance shall, in consultation with stakeholders, develop and report to the legislative finance and policy committees with jurisdiction over the environment on an incentive-based distribution approach for SCORE funding to replace the allocation formula in Minnesota Statutes, section 115A.557, subdivision 2. The office must submit preliminary recommendations by January 15, 2004, and final recommendations by January 1, 2005.

Sec. 4. ZOOLOGICAL BOARD	6,681,000	6,681,000

Summary by Fund

General	6,557,000	6,557,000
Natural Resources	124,000	124,000

$124,000 the first year and $124,000 the second year are from the natural resources fund from the revenue deposited under Minnesota Statutes, section 297A.94, paragraph (e), clause (5). This is a onetime appropriation.

Sec. 5. NATURAL RESOURCES

Subdivision 1. Total Appropriation	223,915,000	221,809,000

Summary by Fund

General	91,053,000	90,945,000
Natural Resources	50,412,000	48,472,000
Game and Fish	82,350,000	82,292,000
Remediation	100,000	100,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

Subd. 2. Land and Mineral Resources Management

	7,509,000	7,509,000

Summary by Fund

General	6,466,000	6,466,000
Natural Resources	156,000	156,000
Game and Fish	887,000	887,000

$275,000 the first year and $275,000 the second year are for iron ore cooperative research, of which $137,500 the first year and $137,500 the second year are available only as matched by $1 of nonstate money for each $1 of state money. The match may be cash or in-kind. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

$172,000 the first year and $172,000 the second year are for mineral diversification.

$86,000 the first year and $86,000 the second year are for minerals cooperative environmental research, of which $43,000 the first year and $43,000 the second year are available only as matched by $1 of nonstate money for each $1 of state money. The match may be cash or in-kind. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

Subd. 3. Water Resources Management

	10,949,000	10,841,000

Summary by Fund

General	10,669,000	10,561,000
Natural Resources	280,000	280,000

$108,000 the first year is for a grant to the Lewis and Clark joint powers board to acquire land for, and to predesign, design, construct, furnish, and equip a rural water system to serve southwestern Minnesota, and to pay additional project development costs that are approved for federal cost-share

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payment by the United States Bureau of Reclamation, and is available until spent. This appropriation is available when matched by $8 of federal money and $1 of local money for each $1 of state money.

Up to $210,000 the first year and up to $210,000 the second year are for grants associated with the implementation of the Red River mediation agreement.

$300,000 the first year and $300,000 the second year are appropriated for groundwater sustainability analyses under Minnesota Statutes, section 103G.271, subdivision 8.

Subd. 4. Forest Management

33,066,000 33,066,000

Summary by Fund

General	32,824,000	32,824,000
Game and Fish	242,000	242,000

$7,650,000 the first year and $7,650,000 the second year are for prevention, presuppression, and suppression costs of emergency firefighting and other costs incurred under Minnesota Statutes, section 88.12. If the appropriation for either year is insufficient to cover all costs of presuppression and suppression, the amount necessary to pay for these costs during the biennium is appropriated from the general fund. By November 15 of each year, the commissioner of natural resources shall submit a report to the chairs of the house of representatives ways and means committee, the senate finance committee, the environment and agriculture budget division of the senate finance committee, and the house of representatives environment and natural resources finance committee, identifying all firefighting costs incurred and reimbursements received in the prior fiscal year. The report must be in a format agreed to by the house environment finance committee chair, the senate environment budget division chair, the department, and the department of finance. These appropriations may not be transferred. Any reimbursement of firefighting expenditures made to the commissioner from any source other than federal mobilizations shall be deposited into the general fund.

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$730,000 the first year and $730,000 the second year are for the forest resources council for implementation of the Sustainable Forest Resources Act.

$350,000 the first year and $350,000 the second year are for the FORIST timber management information system and for increased forestry management.

$242,000 the first year and $242,000 the second year are from the game and fish fund to implement ecological classification systems (ECS) standards on forested landscapes. This is a onetime appropriation from revenue deposited to the game and fish fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (1).

Subd. 5. Parks and Recreation Management

36,508,000 36,508,000

Summary by Fund

General	19,283,000	19,283,000
Natural Resources	17,225,000	17,225,000

$640,000 the first year and $640,000 the second year are from the water recreation account in the natural resources fund for state park development projects.

$3,060,000 in each year is for payment of a grant to the metropolitan council for metropolitan area regional parks maintenance and operations.

$3,462,000 the first year and $3,462,000 the second year are from the natural resources fund for state park and recreation area operations. This appropriation is from the revenue deposited to the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (2).

$4,152,000 the first year and $4,152,000 the second year are from the natural resources fund for a grant to the metropolitan council for metropolitan area regional parks and trails maintenance and operations. This appropriation is from the revenue deposited to the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (3).

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$8,971,000 the first year and $8,971,000 the second year are from the state parks account in the natural resources fund for state park and recreation area operations.

$25,000 the first year and $25,000 the second year are for a grant to the city of Taylors Falls for fire and rescue operations in support of Interstate state park.

Subd. 6. Trails and Waterways Management

	23,210,000	20,723,000
	Summary by Fund	
General	1,234,000	1,234,000
Natural Resources	19,805,000	17,805,000
Game and Fish	2,171,000	1,684,000

$5,724,000 the first year and $5,724,000 the second year are from the snowmobile trails and enforcement account in the natural resources fund for snowmobile grants-in-aid.

$261,000 the first year and $261,000 the second year are from the water recreation account in the natural resources fund for a safe harbor program on Lake Superior.

$690,000 the first year and $690,000 the second year are from the natural resources fund for state trail operations. This appropriation is from the revenue deposited to the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (2). This is a onetime appropriation.

$553,000 the first year and $553,000 the second year are from the natural resources fund for trail grants to local units of government on land to be maintained for at least 20 years for the purposes of the grant. This appropriation is from the revenue deposited to the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (4). This is a onetime appropriation.

$700,000 the first year is from the water recreation account in the natural resources fund for a cooperative project with the U.S. Army Corps of Engineers to develop the Mississippi Whitewater Park. Of this amount, $525,000 is available to provide a match for

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$975,000 of federal funds, in a ratio of 65 percent federal to 35 percent state, for construction design development. $175,000 is available for use by the department for project management, including costs for the project review team, real estate acquisition, staff coordination of project, and legal services.

The appropriation in Laws 2001, First Special Session chapter 2, section 5, subdivision 6, from the water recreation account in the natural resources fund for preconstruction, acquisition, and staffing needs for the Mississippi Whitewater trail authorized by Minnesota Statutes, section 85.0156, is available until June 30, 2005.

$150,000 the first year and $150,000 the second year are from the natural resources fund for trail development. Of this amount, $86,000 each year is from the all-terrain vehicle account, $57,000 each year is from the the off-road vehicle account, and $7,000 each year is from the off-highway motorcycle account.

$1,000,000 the first year is from the natural resources fund for the Iron Range off-highway vehicle recreation area. Of this amount, $600,000 is from the all-terrain vehicle account, $350,000 is from the off-road vehicle account, and $50,000 is from the off-highway motorcycle account. This appropriation is available until expended.

$300,000 the first year is from the snowmobile trails and enforcement account in the natural resources fund. The commissioner shall expend this money to acquire permanent easements for a snowmobile trail to connect the Willard Munger State Trail in Hermantown to the North Shore State Trail in Duluth. This appropriation is available until expended.

Subd. 7. Fish Management

28,979,000 29,010,000

Summary by Fund

General	455,000	455,000
Natural Resources	197,000	197,000
Game and Fish	28,327,000	28,358,000

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$402,000 the first year and $402,000 the second year are for resource population surveys in the 1837 treaty area. Of this amount, $260,000 the first year and $260,000 the second year are from the game and fish fund.

$177,000 the first year and $177,000 the second year are for the reinvest in Minnesota programs of game and fish, critical habitat, and wetlands established under Minnesota Statutes, section 84.95, subdivision 2.

$1,030,000 the first year and $1,030,000 the second year are from the trout and salmon management account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 3.

$136,000 the first year and $136,000 the second year are available for aquatic plant restoration.

$3,998,000 the first year and $3,998,000 the second year are from the heritage enhancement account in the game and fish fund for only the purposes specified in Minnesota Statutes, section 297A.94, paragraph (e), clause (1). This appropriation is from the revenue deposited to the game and fish fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (1).

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered under contract on or before June 30, 2005, for aquatic restoration grants in this subdivision are available until June 30, 2006.

Subd. 8. Wildlife Management

23,865,000 24,180,000

Summary by Fund

General	1,416,000	1,416,000
Game and Fish	22,449,000	22,764,000

$565,000 the first year and $565,000 the second year are for the reinvest in Minnesota programs of game and fish, critical habitat, and wetlands established under Minnesota Statutes, section 84.95, subdivision 2.

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$1,830,000 the first year and $2,030,000 the second year are from the wildlife acquisition surcharge account for only the purposes specified in Minnesota Statutes, section 97A.071, subdivision 2a.

$1,269,000 the first year and $1,269,000 the second year are from the deer habitat improvement account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 1, paragraph (b).

$148,000 the first year and $148,000 the second year are from the deer and bear management account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 1, paragraph (c).

$808,000 the first year and $808,000 the second year are from the waterfowl habitat improvement account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 2.

$546,000 the first year and $546,000 the second year are from the pheasant habitat improvement account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 4.

$120,000 the first year and $120,000 the second year are from the wild turkey management account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 5. Of this amount, $8,000 the first year and $8,000 the second year are appropriated from the game and fish fund for transfer to the wild turkey management account for purposes specified in Minnesota Statutes, section 97A.075, subdivision 5.

$2,560,000 the first year and $2,560,000 the second year are from the heritage enhancement account in the game and fish fund for only the purposes specified in Minnesota Statutes, section 297A.94, paragraph (e), clause (1). However, in the event that chronic wasting disease (CWD) is found in the wild deer herd, these appropriations may be used for wildlife health management costs related to fighting the spread of CWD. This appropriation is from the revenue deposited to the game and fish fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (1). Notwithstanding Minnesota Statutes, section 297A.94, this appropriation may be used for hunter recruitment and retention and public land user facilities.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered under contract on or before June 30, 2005, for wildlife habitat grants in this subdivision are available until June 30, 2006.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

Subd. 9. Ecological Services

	8,677,000	8,745,000
	Summary by Fund	
General	3,085,000	3,085,000
Natural Resources	2,572,000	2,632,000
Game and Fish	3,020,000	3,028,000

$1,028,000 the first year and $1,028,000 the second year are from the nongame wildlife management account in the natural resources fund for the purpose of nongame wildlife management.

$224,000 the first year and $224,000 the second year are for population and habitat objectives of the nongame wildlife management program.

$477,000 the first year and $477,000 the second year are for the reinvest in Minnesota programs of game and fish, critical habitat, and wetlands established under Minnesota Statutes, section 84.95, subdivision 2.

$1,263,000 the first year and $1,263,000 the second year are from the heritage enhancement account in the game and fish fund for only the purposes specified in Minnesota Statutes, section 297A.94, paragraph (e), clause (1). This appropriation is from the revenue deposited to the game and fish fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (1).

Subd. 10. Enforcement

	26,918,000	26,986,000
	Summary by Fund	
General	3,487,000	3,487,000
Natural Resources	6,161,000	6,161,000
Game and Fish	17,170,000	17,238,000
Remediation	100,000	100,000

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$1,082,000 the first year and $1,082,000 the second year are from the water recreation account in the natural resources fund for grants to counties for boat and water safety.

$100,000 the first year and $100,000 the second year are from the remediation fund for solid waste enforcement activities under Minnesota Statutes, section 116.073.

$315,000 the first year and $315,000 the second year are from the snowmobile trails and enforcement account in the natural resources fund for grants to local law enforcement agencies for snowmobile enforcement activities.

$1,164,000 the first year and $1,164,000 the second year are from the heritage enhancement account in the game and fish fund for only the purposes specified in Minnesota Statutes, section 297A.94, paragraph (e), clause (1). This appropriation is from the revenue deposited to the game and fish fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (1).

$100,000 the first year and $100,000 the second year are from the off-road vehicle account in the natural resources fund for grants to off-highway organizations under Minnesota Statutes, section 84.785.

$200,000 the first year and $200,000 the second year are from the natural resources fund for grants to county law enforcement agencies for off-highway vehicle enforcement and public education activities based on off-highway vehicle use and trail mileage in the county. Of this amount, $115,000 each year is from the all-terrain vehicle account, $76,000 each year is from the off-road vehicle account, and $9,000 each year is from the off-highway motorcycle account. The county enforcement agencies may use money received under this appropriation to make grants to other local enforcement agencies within the county that have a high concentration of off-highway vehicle use.

Subd. 11. Operations Support

24,234,000 24,241,000

Summary by Fund

General 12,134,000 12,134,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Natural Resources	4,016,000	4,016,000
Game and Fish	8,084,000	8,091,000

$189,000 the first year and $189,000 the second year are for technical assistance and grants to assist local government units and organizations in the metropolitan area to acquire and develop natural areas and greenways.

$375,000 the first year and $375,000 the second year are for the community assistance program to provide for technical assistance and regional resource enhancement grants.

$246,000 the first year and $246,000 the second year are from the natural resources fund for grants to be divided equally between the city of St. Paul for the Como Zoo and Conservatory and the city of Duluth Zoo. This appropriation is from the revenue deposited to the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (5). This is a onetime appropriation.

The commissioner may allow the payment for license fees at the central office to be made by credit card, at the license holder's discretion, at a charge of a reasonable fee.

Any unencumbered balance for state project reimbursements received in fiscal year 2003 from the federal Land and Water Conservation Fund Act and deposited in the state land and water conservation account in the future resources fund shall be transferred to the account in the natural resources fund. This provision is effective the day following final enactment.

Sec. 6. BOARD OF WATER AND SOIL RESOURCES	15,362,000	15,361,000

$4,102,000 the first year and $4,102,000 the second year are for natural resources block grants to local governments.

The board shall reduce the amount of the natural resources block grant to a county by an amount equal to any reduction in the county's general services allocation to a soil and water conservation district from the county's previous year allocation.

$3,566,000 the first year and $3,566,000 the second year are for grants to soil and water conservation districts for general purposes, nonpoint engineering, and implementation of the Reinvest in

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

Minnesota conservation reserve program. Upon approval of the board, expenditures may be made from these appropriations for supplies and services benefiting soil and water conservation districts.

$3,320,000 the first year and $3,320,000 the second year are for grants to soil and water conservation districts for cost-sharing contracts for erosion control and water quality management. Of this amount, at least $1,500,000 the first year and $1,500,000 the second year are for grants for cost-sharing contracts for water quality management on feedlots. Any unencumbered balance in the board's program of grants does not cancel at the end of the first year and is available for the second year for the same grant program.

$100,000 the first year and $100,000 the second year are for a grant to the Red River Basin Commission to develop a Red River basin plan and to coordinate water management activities in the states and provinces bordering the Red river. The unencumbered balance in the first year does not cancel but is available for the second year.

Sec. 7. SCIENCE MUSEUM OF MINNESOTA	618,000	-0-
Sec. 8. MINNESOTA RESOURCES		
Subdivision 1. Total Appropriation	17,625,000	15,050,000

Summary by Fund

State Land and Water Conservation Account (LAWCON)	2,000,000	-0-
Environment and Natural Resources Trust Fund	15,050,000	15,050,000
Oil Overcharge Money in the Special Revenue Fund	519,000	-0-

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
Great Lakes Protection Account	56,000	-0-

Appropriations from the oil overcharge money in the special revenue fund and Great Lakes protection account are available for either year of the biennium.

For appropriations from the environment and natural resources trust fund, any unencumbered balance remaining in the first year does not cancel and is available for the second year of the biennium.

Unless otherwise provided, the amounts in this section are available until June 30, 2005, when projects must be completed and final products delivered.

Subd. 2. Definitions

(a) "State Land and Water Conservation Account (LAWCON)" means the state land and water conservation account in the natural resources fund.

(b) "Great Lakes protection account" means the Great Lakes protection account referred to in Minnesota Statutes, section 116Q.02, subdivision 1.

(c) "Trust fund" means the Minnesota environment and natural resources trust fund referred to in Minnesota Statutes, section 116P.02, subdivision 6.

(d) "Oil overcharge money" means the money referred to in Minnesota Statutes, section 4.071, subdivision 2.

Subd. 3. Administration	406,000	406,000

Summary by Fund

Trust Fund	406,000	406,000

(a) Legislative Commission on Minnesota Resources

$326,000 the first year and $346,000 the second year are from the trust fund for administration as provided in Minnesota Statutes, section 116P.09, subdivision 5.

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

(b) LCMR Study Commission on Park Systems

$20,000 the first year is from the trust fund to the legislative commission on Minnesota resources to evaluate the use of fees to assist the financial stability and the potential of fees to provide for self-sufficiency in Minnesota's park systems, including state parks, metropolitan regional parks, and rural regional parks in greater Minnesota. The study commission will report to the chairs of the senate and house environment finance committees by February 16, 2004.

(c) Contract Administration

$60,000 the first year and $60,000 the second year are from the trust fund to the commissioner of natural resources for contract administration activities assigned to the commissioner in this section. This appropriation is available until June 30, 2006.

Subd. 4. Advisory Committee	23,000	22,000

Summary by Fund

Trust Fund	23,000	22,000

Citizen Advisory Committee for the Trust Fund

$23,000 the first year and $22,000 the second year are from the trust fund to the legislative commission on Minnesota resources for expenses of the citizen advisory committee as provided in Minnesota Statutes, section 116P.06.

Subd. 5. Fish and Wildlife Habitat	6,466,000	6,467,000

Summary by Fund

Trust Fund	6,466,000	6,467,000

(a) Restoring Minnesota's Fish and Wildlife Habitat Corridors - Phase II

$2,500,000 the first year and $2,500,000 the second year are from the trust fund to the commissioner of natural resources for the second biennium for acceleration of agency programs and cooperative agreements with Minnesota Deer Hunters Association, Ducks Unlimited, Inc., National Wild Turkey Federation,

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Pheasants Forever, the Nature Conservancy, Minnesota Land Trust, the Trust for Public Land, Minnesota Valley National Wildlife Refuge Trust, Inc., U.S. Fish and Wildlife Service, U.S. Bureau of Indian Affairs, Red Lake Band of Chippewa, Leech Lake Band of Chippewa, Fond du Lac Band of Chippewa, USDA-Natural Resources Conservation Service, and the board of water and soil resources to plan, restore, and acquire fragmented landscape corridors that connect areas of quality habitat to sustain fish, wildlife, and plants. As part of the required work program, criteria and priorities for planned acquisition and restoration activities must be submitted to the legislative commission on Minnesota resources for review and approval before expenditure. Expenditures are limited to the 11 project areas as defined in the work program. Land acquired with this appropriation must be sufficiently improved to meet at least minimum habitat and facility management standards as determined by the commissioner of natural resources. This appropriation may not be used for the purchase of residential structures unless expressly approved in the work program. Any land acquired in fee title by the commissioner of natural resources with money from this appropriation must be designated: (1) as an outdoor recreation unit under Minnesota Statutes, section 86A.07; or (2) as provided in Minnesota Statutes, sections 89.018, subdivision 2, paragraph (a); 97A.101; 97A.125; 97C.001; and 97C.011. The commissioner may so designate any lands acquired in less than fee title. This appropriation is available until June 30, 2006, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(b) Metropolitan Area Wildlife Corridors

$2,500,000 the first year and $2,500,000 the second year are from the trust fund to the commissioner of natural resources. $3,700,000 of this appropriation is for acceleration of agency programs and cooperative agreements with the Trust for Public Land, Ducks Unlimited, Inc., Friends of the Mississippi River, Great River Greening, Minnesota Land Trust, and Minnesota Valley National Wildlife Refuge Trust, Inc., for the purposes of planning, improving, and protecting important natural areas in the metropolitan region, as defined by Minnesota Statutes, section 473.121, subdivision 2, through grants, contracted services, conservation easements, and fee acquisition. $500,000 of this appropriation is for an agreement with the city of Ramsey for the Trott Brook Corridor acquisition. $800,000 of this appropriation is for an agreement with the Rice Creek Watershed District for

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Hardwood Creek acquisition and restoration. Land acquired with this appropriation must be sufficiently improved to meet at least minimum management standards as determined by the commissioner of natural resources. As part of the required work program, criteria and priorities for planned acquisition and restoration activities must be submitted to the legislative commission on Minnesota resources for review and approval before expenditure. Expenditures are limited to the identified project areas as defined in the work program. This appropriation may not be used for the purchase of residential structures unless expressly approved in the work program. Any land acquired in fee title by the commissioner of natural resources with money from this appropriation must be designated: (1) as an outdoor recreation unit under Minnesota Statutes, section 86A.07; or (2) as provided in Minnesota Statutes, sections 89.018, subdivision 2, paragraph (a); 97A.101; 97A.125; 97C.001; and 97C.011. The commissioner may so designate any lands acquired in less than fee title. This appropriation is available until June 30, 2006, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(c) Restoring RIM Match

$200,000 the first year and $200,000 the second year are from the trust fund to the commissioner of natural resources for the RIM critical habitat matching program to acquire and enhance fish, wildlife, and native plant habitat. Land acquired with this appropriation must be sufficiently improved to meet at least minimum management standards as determined by the commissioner of natural resources. Up to $27,000 of this appropriation is for matching nongame program activities.

(d) Acquisition and Development of Scientific and Natural Areas

$300,000 the first year and $300,000 the second year are from the trust fund to the commissioner of natural resources to acquire and develop lands with natural features of state ecological or geological significance in accordance with the scientific and natural area program long-range plan. Land acquired with this appropriation must be sufficiently improved to meet at least minimum management standards as determined by the commissioner of natural resources.

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(e) Forest and Prairie Stewardship of Public and Private Lands

$196,000 the first year and $196,000 the second year are from the trust fund to the commissioner of natural resources. $147,000 of this appropriation is to develop stewardship plans for private forested lands and implement stewardship plans on a cost-share basis. $245,000 of this appropriation is to develop stewardship plans on private prairie lands and implement prairie management on public and private lands. This appropriation is available until June 30, 2006, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(f) Local Initiative Grants-Conservation Partners and Environmental Partnerships

$315,000 the first year and $315,000 the second year are from the trust fund to the commissioner of natural resources for matching grants of up to $20,000 to local government and private organizations for enhancement, research, and education associated with natural habitat and environmental service projects. This appropriation is available until June 30, 2006, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(g) Minnesota ReLeaf Community Forest Development and Protection

$306,000 the first year and $307,000 the second year are from the trust fund to the commissioner of natural resources for acceleration of the agency program and a cooperative agreement with Tree Trust to protect forest resources, develop inventory-based management plans, and provide matching grants to communities to plant native trees. At least $421,000 of this appropriation must be used for grants to communities. For the purposes of this paragraph, the match must be a nonstate contribution, but may be either cash or qualifying in-kind. This appropriation is available until June 30, 2006, at which time the project must be completed and final projects delivered, unless an earlier date is specified in the work program.

(h) Developing Pheromones for Use in Carp Control

$50,000 the first year and $50,000 the second year are from the trust fund to the University of Minnesota for research on new options for controlling carp. This appropriation is available until

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June 30, 2006, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(i) Biological Control of European Buckthorn and Spotted Knapweed

$99,000 the first year and $99,000 the second year are from the trust fund. Of this amount, $54,000 the first year and $55,000 the second year are to the commissioner of natural resources for research to evaluate potential insects for biological control of invasive European buckthorn species. $45,000 the first year and $44,000 the second year are to the commissioner of agriculture to assess the effectiveness of spotted knapweed biological control agents. This appropriation is available until June 30, 2006, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

Subd. 6. Recreation	7,926,000	5,925,000

Summary by Fund

Trust Fund	5,926,000	5,925,000
State Land and Conservation Account (LAWCON)	2,000,000	

(a) State Park and Recreation Area Land Acquisition

$750,000 the first year and $750,000 the second year are from the trust fund to the commissioner of natural resources to acquire in-holdings for state park and recreation areas. Land acquired with this appropriation must be sufficiently improved to meet at least minimum management standards as determined by the commissioner of natural resources. This appropriation is available until June 30, 2006, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(b) LAWCON Federal Reimbursements

$2,000,000 is from the state land and water conservation account (LAWCON) in the natural resources fund to the commissioner of natural resources for eligible state projects and administrative and planning activities consistent with Minnesota Statutes, section 116P.14,

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and the federal Land and Water Conservation Fund Act. This appropriation is contingent upon receipt of the federal obligation and remains available until June 30, 2006, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(c) Local Initiative Grants-Parks and Natural Areas

$1,375,000 the first year and $1,375,000 the second year are from the trust fund to the commissioner of natural resources for matching grants to local governments for acquisition and development of natural and scenic areas and local parks as provided in Minnesota Statutes, section 85.019, subdivisions 2 and 4a, and regional parks outside of the metropolitan area. Grants may provide up to 50 percent of the nonfederal share of the project cost, except nonmetropolitan regional park grants may provide up to 60 percent of the nonfederal share of the project cost. The commission will monitor the grants for approximate balance over extended periods of time between the metropolitan area, under Minnesota Statutes, section 473.121, subdivision 2, and the nonmetropolitan area through work program oversight and periodic allocation decisions. For the purposes of this paragraph, the match must be a nonstate contribution, but may be either cash or qualifying in-kind. Recipients may receive funding for more than one project in any given grant period. This appropriation is available until June 30, 2006, at which time the project must be completed and final products delivered.

(d) Metropolitan Regional Parks Acquisition, Rehabilitation, and Development

$1,670,000 the first year and $1,669,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with the metropolitan council for subgrants for the acquisition, development, and rehabilitation in the metropolitan regional park system, consistent with the metropolitan council regional recreation open space capital improvement plan. This appropriation may not be used for the purchase of residential structures. This appropriation may be used to reimburse implementing agencies for acquisition of nonresidential property as expressly approved in the work program. This appropriation is available until June 30, 2006, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program. In addition, if a project financed under this program receives a federal grant, the availability of the financing from this paragraph for that project is extended to equal the period of the federal grant.

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	2004	2005

(e) Local and Regional Trail Grant Initiative Program

$246,000 the first year and $246,000 the second year are from the trust fund to the commissioner of natural resources to provide matching grants to local units of government for the cost of acquisition, development, engineering services, and enhancement of existing and new trail facilities. This appropriation is available until June 30, 2006, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program. In addition, if a project financed under this program receives a federal grant, the availability of the financing from this paragraph for that project is extended to equal the period of the federal grant.

(f) Gitchi-Gami State Trail

$650,000 the first year and $650,000 the second year are from the trust fund to the commissioner of natural resources, in cooperation with the Gitchi-Gami Trail Association, for the third biennium, to design and construct approximately five miles of Gitchi-Gami state trail segments. This appropriation must be matched by at least $400,000 of nonstate money. The availability of the financing from this paragraph is extended to equal the period of any federal money received.

(g) Water Recreation: Boat Access, Fishing Piers, and Shore-fishing

$750,000 the first year and $750,000 the second year are from the trust fund to the commissioner of natural resources to acquire and develop public water access sites statewide, construct shore-fishing and pier sites, and restore shorelands at public accesses. This appropriation is available until June 30, 2006, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(h) Mesabi Trail

$190,000 the first year and $190,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with St. Louis and Lake Counties Regional Rail Authority for the sixth biennium to acquire and develop segments of the Mesabi trail. If a federal grant is received, the availability of the financing from this paragraph is extended to equal the period of the federal grant.

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(i) Development and Rehabilitation of Minnesota Shooting Ranges		
$120,000 the first year and $120,000 the second year are from the trust fund to the commissioner of natural resources to provide technical assistance and matching cost-share grants to local recreational shooting and archery clubs for the purpose of developing or rehabilitating shooting and archery facilities for public use. Recipient facilities must be open to the general public at reasonable times and for a reasonable fee on a walk-in basis. This appropriation is available until June 30, 2006, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.		
(j) Land Acquisition, Minnesota Landscape Arboretum		
$175,000 the first year and $175,000 the second year are from the trust fund to the University of Minnesota for an agreement with the University of Minnesota Landscape Arboretum Foundation for the fifth biennium to acquire in-holdings within the arboretum's boundary. This appropriation must be matched by an equal amount of nonstate money. This appropriation is available until June 30, 2006, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.		
Subd. 7. Water Resources	998,000	942,000
Summary by Fund		
Trust Fund	942,000	942,000
Great Lakes Protection Account	56,000	
(a) Local Water Planning Matching Challenge Grants		
$222,000 the first year and $222,000 the second year are from the trust fund and $56,000 is from the Great Lakes protection account to the board of water and soil resources to accelerate the local water planning challenge grant program under Minnesota Statutes, sections 103B.3361 to 103B.3369, through matching grants to implement high-priority activities in comprehensive water management plans, plan development guidance, and regional resource assessments. For the purposes of this paragraph, the match must be a nonstate contribution, but may be either cash or		

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005

qualifying in-kind. This appropriation is available until June 30, 2006, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(b) Accelerating and Enhancing Surface Water Monitoring for Lakes and Streams

$370,000 the first year and $370,000 the second year are from the trust fund to the commissioner of the pollution control agency for acceleration of agency programs and cooperative agreements with the Minnesota Lakes Association, Rivers Council of Minnesota, the Minnesota Initiative Foundation, and the University of Minnesota to accelerate monitoring efforts through assessments, citizen training, and implementation grants. This appropriation is available until June 30, 2006, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(c) TAPwaters: Technical Assistance Program for Watersheds

$80,000 the first year and $80,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with the Science Museum of Minnesota to assess the St. Croix river and its tributaries to identify solutions to pollution threats. This appropriation is available until June 30, 2006, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(d) Wastewater Phosphorus Control and Reduction Initiative

$270,000 the first year and $270,000 the second year are from the trust fund to the commissioner of the pollution control agency to study human causes of excess phosphorus and for cooperation and an agreement with the Minnesota environmental science and economic review board to assess phosphorus reduction techniques at wastewater treatment plants.

Subd. 8. Land Use and Natural Resource Information	691,000	691,000

Summary by Fund

Trust Fund	691,000	691,000

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
(a) Minnesota County Biological Survey		
$450,000 the first year and $450,000 the second year are from the trust fund to the commissioner of natural resources for the ninth biennium to accelerate the survey that identifies significant natural areas and systematically collects and interprets data on the distribution and ecology of native plant communities, rare plants, and rare animals.		
(b) Updating Outmoded Soil Survey		
$118,000 the first year and $118,000 the second year are from the trust fund to the board of water and soil to continue updating and digitizing outmoded soil surveys in Fillmore, Goodhue, Dodge, and Wabasha counties in southeast Minnesota. Participating counties must provide a cost share as reflected in the work program. This appropriation is available until June 30, 2006, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.		
(c) Mesabi Iron Range Geologic and Hydrologic Map and Databases		
$123,000 the first year and $123,000 the second year are from the trust fund. $58,000 the first year and $57,000 the second year of this appropriation are to the commissioner of natural resources to develop a database of hydrogeologic data across the Mesabi iron range. $65,000 the first year and $66,000 the second year are to the Minnesota geological survey at the University of Minnesota for geologic and hydrogeologic maps of the Mesabi iron range.		
Subd. 9. Energy	644,000	125,000
Summary by Fund		
Trust Fund	125,000	125,000
Oil Overcharge Money	519,000	-0-
(a) Community Energy Development Program		
$519,000 is from the oil overcharge money to the commissioner of administration for transfer to the commissioner of commerce to assist communities in identifying cost-effective energy projects and developing locally owned wind energy projects through local wind resource assessment and financial assistance.		

	APPROPRIATIONS Available for the Year Ending June 30 2004	2005
(b) Advancing Utilization of Manure Methane Digester Electrical Generation		
$125,000 the first year and $125,000 the second year are from the trust fund to the commissioner of agriculture to maximize use of manure methane digesters by identifying compatible waste streams and the feasibility of microturbine and fuel cell technologies.		
Subd. 10. Environmental Education	189,000	189,000
Summary by Fund		
Trust Fund 189,000	189,000	
(a) Dodge Nature Center - Restoration Plan		
$41,000 the first year and $42,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with Dodge Nature Center for restoration and restoration planning.		
(b) Bucks and Buckthorn: Engaging Young Hunters in Restoration		
$148,000 the first year and $147,000 the second year are from the trust fund to the commissioner of natural resources for agreements with Great River Greening, Minnesota Deer Hunters Association, and the St. Croix Watershed Research Station for a pilot program linking hunting and habitat restoration opportunities for youth.		
Subd. 11. Children's Environmental Health	282,000	283,000
Summary by Fund		
Trust Fund 282,000	283,000	
(a) Healthy Schools: Indoor Air Quality and Asthma Management		
$87,000 the first year and $88,000 the second year are from the trust fund to the commissioner of health to assist school districts with developing and implementing effective indoor air quality and asthma management plans.		

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(b) Economic-based Analysis of Children's Environmental Health Risks

$45,000 the first year and $45,000 the second year are from the trust fund to the commissioner of health to assess economic strategies for children's environmental health risks.

(c) Continuous Indoor Air Quality Monitoring in Minnesota Schools

$150,000 the first year and $150,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with Schulte Associates, LLC to provide continuous, real-time indoor air quality monitoring in selected schools.

Subd. 12. Data Availability Requirements

(a) During the biennium ending June 30, 2005, data collected by the projects funded under this section that have value for planning and management of natural resource, emergency preparedness, and infrastructure investments must conform to the enterprise information architecture developed by the office of technology. Spatial data must conform to geographic information system guidelines and standards outlined in that architecture and adopted by the Minnesota geographic data clearinghouse at the land management information center. A description of these data must be made available on-line through the clearinghouse, and the data themselves must be accessible and free to the public unless made private under the Data Practices Act, Minnesota Statutes, chapter 13.

(b) To the extent practicable, summary data and results of projects funded under this section should be readily accessible on the Internet.

(c) As part of project expenditures, recipients of land acquisition appropriations must provide the information necessary to update public recreation information maps to the department of natural resources in the specified form.

Subd. 13. Project Requirements

It is a condition of acceptance of the appropriations in this section that any agency or entity receiving the appropriation must comply with Minnesota Statutes, chapter 116P, and vegetation planted

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must be native to Minnesota and preferably of the local ecotype unless the work program approved by the commission expressly allows the planting of species that are not native to Minnesota.

Subd. 14. Match Requirements

Unless specifically authorized, appropriations in this section that must be matched and for which the match has not been committed by December 31, 2003, are canceled, and in-kind contributions may not be counted as matching funds.

Subd. 15. Payment Conditions and Capital Equipment Expenditures

All agreements, grants, or contracts referred to in this section must be administered on a reimbursement basis. Notwithstanding Minnesota Statutes, section 16A.41, expenditures made on or after July 1, 2003, or the date the work program is approved, whichever is later, are eligible for reimbursement unless otherwise provided in this section. Payment must be made upon receiving documentation that project-eligible reimbursable amounts have been expended, except that reasonable amounts may be advanced to projects in order to accommodate cash flow needs. The advances must be approved as part of the work program. No expenditures for capital equipment or lobbying expenses are allowed unless expressly authorized in the project work program.

Subd. 16. Purchase of Recycled and Recyclable Materials

A political subdivision, public or private corporation, or other entity that receives an appropriation in this section must use the appropriation in compliance with Minnesota Statutes, sections 16B.121 and 16B.122, requiring the purchase of recycled, repairable, and durable materials; the purchase of uncoated paper stock; and the use of soy-based ink, the same as if it were a state agency.

Subd. 17. Energy Conservation

A recipient to whom an appropriation is made in this section for a capital improvement project shall ensure that the project complies with the applicable energy conservation standards contained in law, including Minnesota Statutes, sections 216C.19 and 216C.20, and rules adopted thereunder. The recipient may use the energy planning, advocacy, and state energy office units of the department

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of commerce to obtain information and technical assistance on energy conservation and alternative energy development relating to the planning and construction of the capital improvement project.

Subd. 18. Accessibility

Structural and nonstructural facilities must meet the design standards in the Americans with Disability Act (ADA) accessibility guidelines.

Subd. 19. Carryforward

(a) The availability of the appropriations for the following projects is extended to June 30, 2004: Laws 2001, First Special Session chapter 2, section 14, subdivision 4, paragraph (b), state fish hatchery rehabilitation, paragraph (c), enhancing Canada goose hunting and management; subdivision 5, paragraph (g), McQuade small craft harbor, paragraph (i), Gateway trail bridge, paragraph (k), Gitchi-Gami state trail, paragraph (p), state park and recreation area acquisition, paragraph (q), LAWCON; subdivision 6, paragraph (d), determination of fecal pollution sources in Minnesota; subdivision 7, paragraph (e), Lake Superior Lakewide Management Plan (LaMP); subdivision 8, paragraph (b), agricultural land preservation, paragraph (d), accelerated technology transfer for starch-based plastics; and subdivision 9, improving air quality by using biodiesel in generators.

(b) The availability of the appropriation from the trust fund for the following project is extended to June 30, 2004: Laws 2001, First Special Session chapter 2, section 14, subdivision 3, paragraph (a), legislative commission on Minnesota resources. During the 2004-2005 biennium the legislative commission on Minnesota resources is not subject to the limitation on uses of funds provided under Minnesota Statutes, section 16A.281.

(c) The availability of the appropriation for the following project is extended to June 30, 2005: Laws 2001, First Special Session chapter 2, section 14, subdivision 7, paragraph (a), hydraulic impacts of quarries and gravel pits.

Subd. 20. Future Resources Funds

Minnesota future resources fund appropriations remaining from appropriations in Laws 1999, chapter 231, section 16; and Laws 2001, First Special Session chapter 2, section 14, as amended in subdivision 19 are continued to the date of their availability in law.

	APPROPRIATIONS Available for the Year Ending June 30	
	2004	2005
Any projects with dollars appropriated from the Minnesota future resources fund prior to July 1, 2003, continue to be subject to the requirements of Minnesota Statutes, chapter 116P.		

Sec. 9. [TRANSFER.]

The commissioner of the pollution control agency shall transfer $5,000,000 before July 30, 2003, and $5,000,000 before July 30, 2004, from the unreserved balance of the environmental fund to the commissioner of finance for cancellation to the general fund.

Sec. 10. Minnesota Statutes 2002, section 17.4988, is amended to read:

17.4988 [LICENSE AND INSPECTION FEES.]

Subdivision 1. [REQUIREMENTS FOR ISSUANCE.] A permit or license must be issued by the commissioner if the requirements of law are met and the license and permit fees specified in this section are paid.

Subd. 2. [AQUATIC FARMING LICENSE.] (a) The annual fee for an aquatic farming license is ~~$70~~ $210.

(b) The aquatic farming license may contain endorsements for the rights and privileges of the following licenses under the game and fish laws. The endorsement must be made upon payment of the license fee prescribed in section 97A.475 for the following licenses:

(1) minnow dealer license;

(2) minnow retailer license for sale of minnows as bait;

(3) minnow exporting license;

(4) aquatic farm vehicle endorsement, which includes a minnow dealer vehicle license, a minnow retailer vehicle license, an exporting minnow vehicle license, and a fish vendor license;

(5) sucker egg taking license; and

(6) game fish packers license.

Subd. 3. [INSPECTION FEES.] The fees for the following inspections are:

(1) initial inspection of each water to be licensed, $50;

(2) fish health inspection and certification, ~~$20~~ $60 plus ~~$100~~ $150 per lot thereafter; and

(3) initial inspection for containment and quarantine facility inspections, ~~$50~~ $100.

Subd. 4. [AQUARIUM FACILITY.] (a) A person operating a commercial aquarium facility must have a commercial aquarium facility license issued by the commissioner if the facility contains species of aquatic life that are for sale and that are present in waters of the state. The commissioner may require an aquarium facility license for aquarium facilities importing or holding species of aquatic life that are for sale and that are not present in Minnesota if those species can survive in waters of the state. The fee for an aquarium facility license is ~~$19~~ $90.

(b) Game fish transferred by an aquarium facility must be accompanied by a receipt containing the information required on a shipping document by section 17.4985, subdivision 3, paragraph (b).

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

Sec. 11. Minnesota Statutes 2002, section 84.027, subdivision 13, is amended to read:

Subd. 13. [GAME AND FISH RULES.] (a) The commissioner of natural resources may adopt rules under sections 97A.0451 to 97A.0459 and this subdivision that are authorized under:

(1) chapters 97A, 97B, and 97C to set open seasons and areas, to close seasons and areas, to select hunters for areas, to provide for tagging and registration of game, to prohibit or allow taking of wild animals to protect a species, to prevent or control wildlife disease, and to prohibit or allow importation, transportation, or possession of a wild animal;

(2) sections 84.093, 84.15, and 84.152 to set seasons for harvesting wild ginseng roots and wild rice and to restrict or prohibit harvesting in designated areas; and

(3) section 84D.12 to designate prohibited exotic species, regulated exotic species, unregulated exotic species, and infested waters.

(b) If conditions exist that do not allow the commissioner to comply with sections 97A.0451 to 97A.0459, the commissioner may adopt a rule under this subdivision by submitting the rule to the attorney general for review under section 97A.0455, publishing a notice in the State Register and filing the rule with the secretary of state and the legislative coordinating commission, and complying with section 97A.0459, and including a statement of the emergency conditions and a copy of the rule in the notice. The notice may be published after it is received from the attorney general or five business days after it is submitted to the attorney general, whichever is earlier.

(c) Rules adopted under paragraph (b) are effective upon publishing in the State Register and may be effective up to seven days before publishing and filing under paragraph (b), if:

(1) the commissioner of natural resources determines that an emergency exists;

(2) the attorney general approves the rule; and

(3) for a rule that affects more than three counties the commissioner publishes the rule once in a legal newspaper published in Minneapolis, St. Paul, and Duluth, or for a rule that affects three or fewer counties the commissioner publishes the rule once in a legal newspaper in each of the affected counties.

(d) Except as provided in paragraph (e), a rule published under paragraph (c), clause (3), may not be effective earlier than seven days after publication.

(e) A rule published under paragraph (c), clause (3), may be effective the day the rule is published if the commissioner gives notice and holds a public hearing on the rule within 15 days before publication.

(f) The commissioner shall attempt to notify persons or groups of persons affected by rules adopted under paragraphs (b) and (c) by public announcements, posting, and other appropriate means as determined by the commissioner.

(g) Notwithstanding section 97A.0458, a rule adopted under this subdivision is effective for the period stated in the notice but not longer than 18 months after the rule is adopted.

Sec. 12. Minnesota Statutes 2002, 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. ~~Each employee of the department of natural resources, while engaged in employment in connection with such recreational areas, has and possesses the authority and power of a peace officer when so designated by the commissioner~~ The commissioner may employ and designate individuals according to section 85.04 to enforce laws governing the use of recreational areas.

Sec. 13. Minnesota Statutes 2002, section 84.085, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY.] (a) The commissioner of natural resources may accept for and on behalf of the state any gift, bequest, devise, or grants of lands or interest in lands or personal property of any kind or of money tendered to the state for any purpose pertaining to the activities of the department or any of its divisions. Any money so received is hereby appropriated and dedicated for the purpose for which it is granted. Lands and interests in lands so received may be sold or exchanged as provided in chapter 94.

(b) The commissioner of natural resources, on behalf of the state, may accept and use grants of money or property from the United States or other grantors for conservation purposes not inconsistent with the laws of this state. Any money or property so received is hereby appropriated and dedicated for the purposes for which it is granted, and shall be expended or used solely for such purposes in accordance with the federal laws and regulations pertaining thereto, subject to applicable state laws and rules as to manner of expenditure or use providing that the commissioner may make subgrants of any money received to other agencies, units of local government, private individuals, private organizations, and private nonprofit corporations. Appropriate funds and accounts shall be maintained by the commissioner of finance to secure compliance with this section.

(c) The commissioner may accept for and on behalf of the permanent school fund a donation of lands, interest in lands, or improvements on lands. A donation so received shall become state property, be classified as school trust land as defined in section 92.025, and be managed consistent with section 127A.31.

Sec. 14. Minnesota Statutes 2002, section 84.091, subdivision 2, is amended to read:

Subd. 2. [LICENSE REQUIRED; EXCEPTION.] (a) Except as provided in paragraph (b), a person may not harvest, buy, sell, transport, or possess aquatic plants without a license required under this chapter. A license shall be issued in the same manner as provided under the game and fish laws.

(b) A resident under the age of ~~16~~ 18 years may harvest wild rice without a license, if accompanied by a person with a wild rice license.

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

Sec. 15. Minnesota Statutes 2002, section 84.091, subdivision 3, is amended to read:

Subd. 3. [LICENSE FEES.] (a) The fees for the following licenses, to be issued to residents only, are:

(1) for harvesting wild rice~~, $12.50~~:

(i) for a season, $25; and

(ii) for one day, $15;

(2) for buying and selling wild ginseng, $5;

(3) for a wild rice dealer's license to buy and sell 50,000 pounds or less, $70; and

(4) for a wild rice dealer's license to buy and sell more than 50,000 pounds, $250.

(b) The fee for a nonresident one-day license to harvest wild rice is $30.

(c) The weight of the wild rice shall be determined in its raw state.

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

Sec. 16. Minnesota Statutes 2002, section 84.0911, is amended to read:

84.0911 [WILD RICE MANAGEMENT ACCOUNT.]

Subdivision 1. [~~ESTABLISHMENT~~ ACCOUNT ESTABLISHED.] The wild rice management account is established as an account in the ~~state treasury~~ game and fish fund.

Subd. 2. [RECEIPTS.] Money received from the sale of wild rice licenses issued by the commissioner under section 84.091, subdivision 3, paragraph (a), clauses (1) ~~and~~, (3), and (4), and subdivision 3, paragraph (b), shall be credited to the wild rice management account.

Subd. 3. [USE OF MONEY IN ACCOUNT.] ~~(a)~~ Money in the wild rice management account ~~shall be used by~~ is annually appropriated to the commissioner and shall be used for management of designated public waters to improve natural wild rice production.

~~(b) Money that is not appropriated from the wild rice management account does not cancel but shall remain in the wild rice management account until appropriated.~~

Sec. 17. Minnesota Statutes 2002, section 84.415, is amended by adding a subdivision to read:

Subd. 1a. [UTILITY LICENSES ACROSS STATE LANDS AND WATERS.] The commissioner may grant permanent licenses permitting the passage of utilities across state land or public waters under the commissioner's jurisdiction. For purposes of this section, "utilities" include: telephone, electric power, and fiber optic lines, cables or conduits, underground or otherwise; and mains or pipelines for gas, liquids, or solids in suspension.

Sec. 18. Minnesota Statutes 2002, section 84.415, is amended by adding a subdivision to read:

Subd. 3a. [APPLICATION; FORM AND FEE.] The applicant must complete and submit, in writing or electronically, an application on a form provided by the commissioner. The applicant shall include a fee of $500 with each application for a license, except that if the number of crossings is greater than ten, the application fee must be increased by an additional $50 per crossing.

Application fees must not be refunded if the application is withdrawn. The application fee must be deposited into the general fund.

Sec. 19. Minnesota Statutes 2002, section 84.415, subdivision 4, is amended to read:

Subd. 4. [ATTORNEY GENERAL, DUTIES; LICENSE FORM.] The license ~~or permit~~ to be granted shall be in a form to be prescribed by the attorney general~~;~~, shall describe the location of the license ~~or permit thereby~~ granted, and shall continue until canceled by the commissioner~~, subject to change or modification as herein provided~~. The license must:

(1) provide that the crossing must be designed, constructed, and maintained so that the ongoing use is compatible with surrounding land uses and does not cause significant adverse environmental or natural resource management impacts as determined by the commissioner;

(2) provide that the license reverts to the state in the event of nonuse for one year, with the holder required to notify the state upon abandonment;

(3) provide that the license runs with the land or public waters and extend to and bind heirs, successors, and assigns of the respective parties to the license;

(4) provide that a license may add capacity during the life of the license without payment of an additional fee; and

(5) include other terms and conditions of use as necessary and appropriate under the circumstances.

Sec. 20. Minnesota Statutes 2002, section 84.415, subdivision 5, is amended to read:

Subd. 5. [~~FEE~~ FEES.] (a) In addition to the application fee, a onetime utility crossing fee must be paid to secure a license as follows:

(1) if the utility license is for a crossing of state land, the fee equals the acreage of the occupied corridor times the estimated market value as determined by the commissioner. The minimum corridor width for the calculation is ten feet; and

(2) if the utility license is for a crossing of public waters, the fee must be determined as follows:

(i) if the utility is a cable lying on a public waters bed, the fee is $100 for the first 100 linear feet, or portion thereof, and 50 cents per linear foot for each foot in excess of 100 linear feet;

(ii) if the commissioner determines that the crossing will have a low impact by not disturbing the public waters bed and not resulting in exposed lines suspended over public waters, the fee is $100 for the first 100 linear feet, or portion thereof, and 25 cents per foot for each foot in excess of 100 linear feet; and

(iii) for all other crossings of public waters, if the corridor width is:

(A) ten feet or less, the fee is $200 for the first 100 linear feet, or portion thereof, and 50 cents per foot for each foot in excess of 100 linear feet; and

(B) greater than ten feet, the fee is $300 for the first 100 linear feet, or portion thereof, and 75 cents for each foot in excess of 100 linear feet; and

(3) if the license is adding corridor width to an existing licensed corridor, the fee must be calculated only on the additional area.

(b) In the event the construction of such lines causes damage to timber or other property of the state on or along the same, the license ~~or permit shall~~ must also provide for payment to the state treasurer of ~~the~~ an amount ~~thereof as may be~~ determined by the commissioner. The commissioner may charge for costs incurred to investigate damages to the property of the state by construction of a utility crossing and for costs incurred to investigate a utility crossing that was constructed without first applying for the license. This payment must be deposited in the general fund.

(c) All money received under ~~such~~ paragraph (a) for licenses ~~or permits~~ crossing state lands shall be credited to the fund to which other income or proceeds of sale from ~~such~~ the land would be credited, if ~~provision therefor be~~ provisions were made by law, otherwise to the general fund. All money received under paragraph (a) for licenses crossing public waters must be credited to the permanent school fund.

Sec. 21. Minnesota Statutes 2002, section 84.415, is amended by adding a subdivision to read:

Subd. 6. [LICENSE MODIFICATION.] Any utility license issued before July 1, 2003, and remaining in force may be modified by the commissioner of natural resources to conform with this section, upon application of the holder of the license. The onetime utility crossing fee for the new license must be adjusted by a credit equal to: (1) the amount of the fee paid under the original license, times (2) a fraction, the numerator of which is the number of calendar years remaining during the term of the original license, and the denominator of which is the number of years of the term of the original license.

Sec. 22. [84.785] [OFF-HIGHWAY VEHICLE SAFETY AND CONSERVATION GRANT PROGRAM.]

Subdivision 1. [CREATION; DEFINITION.] (a) For the purposes of this section, "off-highway vehicle" means:

(1) an off-highway motorcycle as defined under section 84.787, subdivision 7;

(2) an off-road vehicle as defined under section 84.797, subdivision 7; or

(3) an all-terrain vehicle as defined under section 84.92, subdivision 8.

(b) The commissioner of natural resources shall establish an off-highway vehicle safety and conservation grant program to award grants to organizations that meet the eligibility requirements under subdivision 3.

Subd. 2. [PURPOSE.] The purpose of the off-highway vehicle safety and conservation grant program is to encourage off-highway vehicle clubs to assist in safety and environmental education and in improving, maintaining, and monitoring trails on state forest land and other public lands.

Subd. 3. [ELIGIBILITY.] To be eligible for a grant under this section, an organization must:

(1) be a statewide organization that has been in existence at least five years and that promotes the operation of off-highway vehicles in a manner that is safe, responsible, and does not harm the environment;

(2) promote the operation of off-highway vehicles in a manner that does not conflict with the laws and rules that relate to the operation of off-highway vehicles;

(3) have an interest limited to the operation of motorized vehicles on motorized trails and other designated areas;

(4) have a board of directors that has 80 percent of its members who are representatives of all-terrain vehicle clubs, off-highway motorcycle clubs, or off-road vehicle clubs; and

(5) provide support to off-highway vehicle clubs.

Subd. 4. [USE OF GRANTS.] An organization receiving a grant under this section shall use the grant money to promote and provide support to the department of natural resources by:

(1) encouraging off-highway vehicle clubs to assist in improving, maintaining, and monitoring trails on state forest land and other public lands;

(2) providing assistance to the department in locating, recruiting, and training instructors;

(3) assisting the commissioner and the director of tourism in creating an outreach program to inform local communities of appropriate off-highway vehicle use in their communities and of the economic benefits that may be gained from promoting tourism to attract off-highway vehicles;

(4) publishing a manual in cooperation with the commissioner that will be used to train volunteers in monitoring the operation of off-highway vehicles for safety, environmental, and other issues that relate to the responsible operation of off-highway vehicles; and

(5) collecting data on the operation of off-highway vehicles in the state.

Sec. 23. Minnesota Statutes 2002, section 84.788, subdivision 2, is amended to read:

Subd. 2. [EXEMPTIONS.] Registration is not required for off-highway motorcycles:

(1) owned and used by the United States, the state, another state, or a political subdivision;

(2) registered in another state or country that have not been within this state for more than 30 consecutive days; or

(3) ~~used exclusively in organized track racing events;~~

~~(4) being used on private land with the permission of the landowner; or~~

~~(5)~~ registered under chapter 168, when operated on forest roads to gain access to a state forest campground.

Sec. 24. Minnesota Statutes 2002, section 84.788, subdivision 3, is amended to read:

Subd. 3. [APPLICATION; ISSUANCE; REPORTS.] (a) Application for registration or continued registration must be made to the commissioner or an authorized deputy registrar of motor vehicles in a form prescribed by the commissioner. The form must state the name and address of every owner of the off-highway motorcycle.

(b) A person who purchases from a retail dealer an off-highway motorcycle ~~that is intended to be operated on public lands or waters~~ shall make application for registration to the dealer at the point of sale. The dealer shall issue a temporary ten-day registration permit to each purchaser who applies to the dealer for registration. The dealer shall submit the completed registration applications and fees to the deputy registrar at least once each week. No fee may be charged by a dealer to a purchaser for providing the temporary permit.

(c) Upon receipt of the application and the appropriate fee, the commissioner or deputy registrar shall issue to the applicant, or provide to the dealer, a 60-day temporary receipt and shall assign a registration number that must be affixed to the motorcycle in a manner prescribed by the commissioner. A dealer subject to paragraph (b) shall provide the registration materials and temporary receipt to the purchaser within the ten-day temporary permit period.

(d) The commissioner shall develop a registration system to register vehicles under this section. A deputy registrar of motor vehicles acting under section 168.33, is also a deputy registrar of off-highway motorcycles. The commissioner of natural resources in agreement with the commissioner of public safety may prescribe the accounting and procedural requirements necessary to ensure efficient handling of registrations and registration fees. Deputy registrars shall strictly comply with the accounting and procedural requirements. A fee of $2 in addition to other fees prescribed by law is charged for each off-highway motorcycle registered by:

(1) a deputy registrar and must be deposited in the treasury of the jurisdiction where the deputy is appointed, or kept if the deputy is not a public official; or

(2) the commissioner and must be deposited in the state treasury and credited to the off-highway motorcycle account.

Sec. 25. Minnesota Statutes 2002, section 84.794, subdivision 2, is amended to read:

Subd. 2. [PURPOSES.] (a) Subject to appropriation by the legislature, money in the off-highway motorcycle account may only be spent for:

(1) administration, enforcement, and implementation of sections 84.787 to 84.796;

(2) acquisition, maintenance, and development of off-highway motorcycle trails and use areas; ~~and~~

(3) grants-in-aid to counties and municipalities to construct and maintain off-highway motorcycle trails and use areas; and

(4) enforcement and public education grants to local law enforcement agencies.

(b) The distribution of funds made available for grants-in-aid must be guided by the statewide comprehensive outdoor recreation plan.

Sec. 26. Minnesota Statutes 2002, section 84.803, subdivision 2, is amended to read:

Subd. 2. [PURPOSES.] Subject to appropriation by the legislature, money in the off-road vehicle account may only be spent for:

(1) administration, enforcement, and implementation of sections 84.797 to 84.805 and Laws 1993, chapter 311, article 2, section 18;

(2) acquisition, maintenance, and development of off-road vehicle trails and use areas;

(3) grant-in-aid programs to counties and municipalities to construct and maintain off-road vehicle trails and use areas; ~~and~~

(4) grants-in-aid to local safety programs; and

(5) enforcement and public education grants to local law enforcement agencies.

Sec. 27. [84.913] [CLOSURE OF MOTORIZED FOREST ROADS AND TRAILS.]

(a) For the purpose of this section, "off-highway vehicle" has the meaning given in section 84.785.

(b) All forest roads and trails open to use by off-highway vehicles on the effective date of this section must remain open to use by off-highway vehicles, unless after a detailed field analysis the commissioner determines the trail is inappropriate for off-highway vehicle use. The commissioner of natural resources may permanently close a forest road or trail to off-highway vehicle use only after completing the five-step public review process as provided in the department of natural resources publication titled: "Off-Highway Vehicle System Planning, Project Implementation and Review: (Revised 01/07/03)."

Sec. 28. Minnesota Statutes 2002, section 84.92, subdivision 8, is amended to read:

Subd. 8. [ALL-TERRAIN VEHICLE.] "All-terrain vehicle" or "vehicle" means a motorized flotation-tired vehicle of not less than three low pressure tires, but not more than six tires, that is limited in engine displacement of less than 800 cubic centimeters and total dry weight less than ~~800~~ 900 pounds.

Sec. 29. Minnesota Statutes 2002, section 84.927, subdivision 2, is amended to read:

Subd. 2. [PURPOSES.] Subject to appropriation by the legislature, money in the all-terrain vehicle account may only be spent for:

(1) the education and training program under section 84.925;

(2) administration, enforcement, and implementation of sections 84.92 to 84.929 and Laws 1984, chapter 647, sections 9 and 10;

(3) acquisition, maintenance, and development of vehicle trails and use areas;

(4) grant-in-aid programs to counties and municipalities to construct and maintain all-terrain vehicle trails and use areas; ~~and~~

(5) grants-in-aid to local safety programs; and

(6) enforcement and public education grants to local law enforcement agencies.

The distribution of funds made available through grant-in-aid programs must be guided by the statewide comprehensive outdoor recreation plan.

Sec. 30. [84.991] [MINNESOTA CONSERVATION CORPS.]

Subdivision 1. [TRANSFER.] (a) The Minnesota conservation corps is moved to the friends of the Minnesota conservation corps, an existing nonprofit corporation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, doing business as the Minnesota conservation corps under the supervision of a board of directors.

(b) The expenditure of state funds by the Minnesota conservation corps is subject to audit by the legislative auditor and regular annual report to the legislature in general and specifically to the house of representatives and senate committees with jurisdiction over environment and natural resources policy and finance.

Subd. 2. [STAFF; CORPS MEMBERS.] (a) Staff employed by the Minnesota conservation corps are not state employees, but, at the option of the board of directors of the nonprofit corporation and at the expense of the corporation or its staff, may participate in state retirement and deferred compensation, that apply to state employees.

(b) Employment as a Minnesota conservation corps member is noncovered employment for purposes of eligibility for unemployment benefits under chapter 268.

(c) The Minnesota conservation corps is authorized to continue to have staff and corps members participate in the state of Minnesota workers' compensation program through the department of natural resources. Staff and corps members' claim and administrative costs must be allocated and set annually by the department of natural resources in a manner that is consistent with how these costs are allocated across that agency's operations. The friends of the Minnesota conservation corps shall establish and follow loss-control strategies that are consistent with loss-control activities of the department of natural resources. In the event that the friends of the Minnesota conservation corps becomes insolvent or cannot otherwise fund its claim and administrative costs, liability for these costs shall be assumed by the department of natural resources.

(d) The Minnesota conservation corps is a training and service program and exempt from Minnesota prevailing wage guidelines.

Subd. 3. [STATE AND OTHER AGENCY COLLABORATION.] The departments of natural resources, agriculture, public safety, transportation, and other appropriate state agencies must constructively collaborate with the Minnesota conservation corps.

Subd. 4. [EQUIPMENT AND SERVICE PURCHASES; STATE CONTRACTS.] The Minnesota conservation corps may purchase or lease equipment and services, including fleet, through state contracts administered by the commissioner of administration or the department of natural resources.

Subd. 5. [LIMITATIONS ON MINNESOTA CONSERVATION CORPS PROJECTS.] Each employing state or local agency must certify that the assignment of Minnesota conservation corps members will not result in the displacement of currently employed workers or workers on seasonal layoff, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits. Supervising agencies that participate in the program may not terminate, lay off, reduce the seasonal hours, or reduce the working hours of any employee for the purpose of using a corps member with available funds. The positions and job duties of corps members employed in projects shall be submitted to affected exclusive representatives prior to actual assignment.

Sec. 31. Minnesota Statutes 2002, 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. ~~Supervisors, guards, custodians, and caretakers assigned to duty in the preserve have the powers of peace officers while in their employment~~ The commissioner of natural resources may employ and designate individuals according to section 85.04 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. 32. Minnesota Statutes 2002, 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. ~~Supervisors, guards, custodians, and caretakers assigned to duty in any project have the powers of peace officers while employed by the department~~ The commissioner of natural resources may employ and designate individuals according to section 85.04 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. 33. Minnesota Statutes 2002, 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. ~~Supervisors, guards, custodians, and caretakers assigned to duty in a project have the powers of peace officers while employed by the department~~ The commissioner of natural resources may employ and designate individuals according to section 85.04 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. 34. Minnesota Statutes 2002, 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. ~~Persons assigned to the policing have the powers of police officers while so engaged~~ The commissioner may employ and designate individuals according to section 85.04 to enforce laws governing the use of the game preserves, areas, and projects.

Sec. 35. [84B.12] [CITIZENS COUNCIL ON VOYAGEURS NATIONAL PARK.]

(a) The governor may appoint, except for the legislative members, a citizens council on Voyageurs National Park, consisting of 17 members as follows:

(1) four residents of Koochiching county;

(2) four residents of St. Louis county;

(3) five residents of the state, at large, from outside Koochiching and St. Louis counties;

(4) two members of the senate to be appointed by the committee on committees;

(5) two members of the house of representatives to be appointed by the speaker of the house.

(b) The governor shall designate one of the appointees to serve as chair and the committee may elect other officers that it considers necessary. Members shall be appointed so as to represent differing viewpoints and interest groups on the facilities included in and around the park. Legislative members shall serve for the term of the legislative office to which they were elected. The terms, compensation and removal of nonlegislative members of the council are as provided in section 15.059. Notwithstanding section 15.059, subdivision 5, the council shall continue to exist.

(c) The executive committee of the council consists of the legislative members and the chair. The executive committee shall act on matters of personnel, out-of-state trips by members of the council, and nonroutine monetary issues.

(d) The committee shall conduct meetings and research into all matters related to the establishment and operation of Voyageurs National Park, and shall make such recommendations to the United States National Park Service and other federal and state agencies concerned regarding operation of the park as the committee deems advisable. A copy of each recommendation shall be filed with the legislative reference library. Subject to the availability of legislative appropriation or other funding, the committee may employ staff and may contract for consulting services relating to matters within its authority.

(e) Money appropriated to provide the payments prescribed by this section is appropriated to the commissioner of administration.

Sec. 36. Minnesota Statutes 2002, section 84D.14, is amended to read:

84D.14 [EXEMPTIONS.]

This chapter does not apply to:

(1) pathogens and terrestrial arthropods ~~regulated under sections 18.44 to 18.61~~; or

(2) mammals and birds defined by statute as livestock.

Sec. 37. Minnesota Statutes 2002, section 85.04, is amended to read:

85.04 [ENFORCEMENT EMPLOYEES ~~AS PEACE OFFICERS~~.]

Subdivision 1. [PEACE OFFICER EMPLOYMENT.] ~~All supervisors, guards, custodians, keepers, and caretakers~~ The commissioner of natural resources may employ peace officers as defined under section 626.84, subdivision 1, paragraph (c), to enforce laws governing the use of state parks, state monuments, state recreation areas, and state waysides ~~shall have and possess the authority and powers of peace officers while in their employment~~.

Subd. 2. [OTHER EMPLOYEES.] The commissioner may designate employees to monitor laws governing the use of state parks, state monuments, state recreation areas, state waysides, and state forest subareas. The employees shall:

(1) have citizen arrest powers as defined in sections 629.37 to 629.39;

(2) issue warning citations on a form prescribed by the commissioner for petty misdemeanor violations and misdemeanor offenses; and

(3) issue a report of violation to be turned over to a conservation officer or other peace officer, as defined under section 626.84, subdivision 1, paragraph (c), for possible charges at the peace officer's discretion.

Subd. 3. [CITATION AUTHORITY.] Employees under subdivision 2, when designated by the commissioner, may issue citations in lieu of arrest for violations of section 85.45 and Minnesota Rules, parts 6100.0600; 6100.0900; 6100.1000; 6100.1100; 6100.1200; 6100.1250; 6100.1350; 6100.1355; 6100.1600; 6100.1650; 6100.1700; 6100.1710; 6100.1900, subpart 2; 6320.0250, subparts 5, 7, 11, 15, 16, 19, and 22; and 6230.0500 to 6230.1100.

Sec. 38. Minnesota Statutes 2002, section 85.052, subdivision 3, is amended to read:

Subd. 3. [FEE FOR CERTAIN PARKING AND CAMPSITE USE.] (a) An individual using spaces in state parks under subdivision 1, clause (2), shall be charged daily rates determined and set by the commissioner in a manner and amount consistent with the type of facility provided for the accommodation of guests in a particular park and with similar facilities offered for tourist camping and similar use in the area.

(b) The fee for special parking spurs, campgrounds for automobiles, sites for tent camping, and special auto trailer coach parking spaces is one-half of the fee set in paragraph (a) on Sunday through Thursday of each week for a physically handicapped person:

(1) ~~an individual age 65 or over who is a resident of the state and who furnishes satisfactory proof of age and residence;~~

~~(2) a physically handicapped person~~ with a motor vehicle that has special plates issued under section 168.021, subdivision 1; or

~~(3) a physically handicapped person~~ (2) who possesses a certificate issued under section 169.345, subdivision 3.

Sec. 39. Minnesota Statutes 2002, section 85.053, subdivision 1, is amended to read:

Subdivision 1. [FORM, ISSUANCE, VALIDITY.] (a) The commissioner shall prepare and provide state park permits for each calendar year that state a motor vehicle may enter and use state parks, state recreation areas, and state waysides over 50 acres in area. State park permits must be available and placed on sale by ~~October~~ January 1 of ~~the year preceding~~ the calendar year that the permit is valid. A separate motorcycle permit may be prepared and provided by the commissioner.

(b) An annual state park permit must be affixed when purchased and may be used from the time it is affixed for a 12-month period. State park permits in each category must be numbered consecutively for each year of issue.

(c) State park permits shall be issued by employees of the division of parks and recreation as designated by the commissioner. State park permits also may be consigned to and issued by agents designated by the commissioner who are not employees of the division of parks and recreation. All proceeds from the sale of permits and all unsold permits consigned to agents shall be returned to the commissioner at such times as the commissioner may direct, but no later than the end of the calendar year for which the permits are effective. No part of the permit fee may be retained by an agent. An additional charge or fee in an amount to be determined by the commissioner, but not to exceed four percent of the price of the permit, may be collected and retained by an agent for handling or selling the permits.

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

Sec. 40. Minnesota Statutes 2002, section 85.055, subdivision 1, is amended to read:

Subdivision 1. [FEES.] The fee for state park permits for:

(1) an annual use of state parks is ~~$20~~ $25;

(2) a second vehicle state park permit is ~~$15~~ $18;

(3) a state park permit valid for one day is ~~$4~~ $7;

(4) a daily vehicle state park permit for groups is ~~$2~~ $5;

(5) an employee's state park permit is without charge; and

(6) a state park permit for handicapped persons under section 85.053, subdivision 7, clauses (1) and (2), is $12.

The fees specified in this subdivision include any sales tax required by state law.

Sec. 41. Minnesota Statutes 2002, section 85A.02, subdivision 17, is amended to read:

Subd. 17. [ADDITIONAL POWERS.] The board may establish a schedule of charges for admission to or the use of the Minnesota zoological garden or any related facility. Notwithstanding section 16A.1283, legislative approval is not required for the board to establish a schedule of charges for admission or use of the Minnesota zoological garden or related facilities. The board shall have a policy admitting elementary school children at ~~no~~ a reduced charge when they are part of an organized school activity. The Minnesota zoological garden will offer free admission throughout the year to economically disadvantaged Minnesota citizens equal to ten percent of the average annual attendance. However, the zoo may charge at any time for parking, special services, and for admission to special facilities for the education, entertainment, or convenience of visitors. Notwithstanding section 16C.09, the board may provide for the purchase, reproduction, and sale of gifts, souvenirs, publications, informational materials, food and beverages, and grant concessions for the sale of these items.

Sec. 42. Minnesota Statutes 2002, section 88.17, subdivision 1, is amended to read:

Subdivision 1. [PERMIT REQUIRED.] A permit to start a fire to burn vegetative materials and other materials allowed by Minnesota Statutes or official state rules and regulations may be given by the commissioner or the commissioner's agent. This permission shall be in the form of:

(1) a written permit ~~signed~~ issued by a forest officer~~,~~ or fire warden, ~~authorized Minnesota pollution control agent,~~ or other person authorized by the ~~forest officer, or town fire warden, and~~ commissioner; or

(2) an electronic permit issued by a department of natural resources office or an authorized department of natural resources electronic license agent.

Burning permits shall set the time and conditions by which the fire may be started and burned. The permit shall also specifically list the materials that may be burned. The permittee must have the permit on their person and shall produce the permit for inspection when requested to do so by a forest officer, ~~town fire warden,~~ conservation officer, or other peace officer. The permittee shall remain with the fire at all times and before leaving the site shall completely extinguish the fire. A person shall not start or cause a fire to be started on any land that is not owned or under their legal control without the written permission of the owner, lessee, or an agent of the owner or lessee of the land. Violating or exceeding the permit conditions shall constitute a misdemeanor and shall be cause for the permit to be revoked.

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

Sec. 43. Minnesota Statutes 2002, section 88.17, is amended by adding a subdivision to read:

Subd. 2a. [PERMIT FEES.] The annual fee for an electronic burning permit is $6 for a single burning event, $12 for up to four burning events, and $50 for an expanded use burning permit, which includes more burning events or extended burning conditions. Money received from permits issued under this section must be deposited in the state treasury and credited to the special revenue fund and is annually appropriated to the commissioner of natural

resources for the costs of operating the electronic burning permit system. The commissioner shall allow an issuing fee of $1, included in the fees in this subdivision, to be retained by the permit agent as a commission for selling the permits.

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

Sec. 44. Minnesota Statutes 2002, section 97A.015, subdivision 24, is amended to read:

Subd. 24. [GAME BIRDS.] "Game birds" means migratory waterfowl, pheasant, ruffed grouse, sharp-tailed grouse, Canada spruce grouse, prairie chickens, gray partridge, bob-white quail, turkeys, coots, gallinules, sora and Virginia rails, American woodcock, ~~and~~ common snipe, and mourning doves.

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

Sec. 45. Minnesota Statutes 2002, section 97A.015, subdivision 52, is amended to read:

Subd. 52. [UNPROTECTED BIRDS.] "Unprotected birds" means English sparrow, blackbird, starling, magpie, cormorant, common pigeon, chukar partridge, quail other than bob-white quail, mute swan, ~~and~~ great horned owl, and Eurasian collared-dove.

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

Sec. 46. Minnesota Statutes 2002, section 97A.045, subdivision 7, is amended to read:

Subd. 7. [DUTY TO ENCOURAGE STAMP DESIGN AND PURCHASES.] (a) The commissioner shall encourage the purchase of:

(1) Minnesota migratory waterfowl stamps by nonhunters interested in migratory waterfowl preservation and habitat development;

(2) pheasant stamps by persons interested in pheasant habitat improvement;

(3) trout and salmon stamps by persons interested in trout and salmon stream and lake improvement; ~~and~~

(4) turkey stamps by persons interested in wild turkey management and habitat improvement; and

(5) mourning dove stamps by persons interested in dove management and habitat improvement.

(b) The commissioner shall make rules governing contests for selecting a design for each stamp, including those stamps not required to be in possession while taking game or fish.

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

Sec. 47. Minnesota Statutes 2002, section 97A.045, is amended by adding a subdivision to read:

Subd. 11. [POWER TO PREVENT OR CONTROL WILDLIFE DISEASE.] (a) If the commissioner determines that action is necessary to prevent or control a wildlife disease, the commissioner may prevent or control wildlife disease in a species of wild animal in addition to the protection provided by the game and fish laws by further limiting, closing, expanding, or opening seasons or areas of the state; by reducing or increasing limits in areas of the state; by establishing disease management zones; by authorizing free licenses; by allowing shooting from motor

vehicles by persons designated by the commissioner; by issuing replacement licenses for sick animals; by requiring sample collection from hunter-harvested animals; by limiting wild animal possession, transportation, and disposition; and by restricting wildlife feeding.

(b) The commissioner may prevent or control wildlife disease in a species of wild animal in the state by emergency rule adopted under section 84.027, subdivision 13.

Sec. 48. Minnesota Statutes 2002, section 97A.071, subdivision 2, is amended to read:

Subd. 2. [REVENUE FROM THE SMALL GAME LICENSE SURCHARGE AND LIFETIME LICENSES.] Revenue from the small game surcharge and ~~$4~~ $6.50 annually from the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license issued under sections 97A.473, subdivisions 3 and 5, and 97A.474, subdivision 3, shall be credited to the wildlife acquisition account and the money in the account shall be used by the commissioner only for the purposes of this section, and acquisition and development of wildlife lands under section 97A.145 and maintenance of the lands, in accordance with appropriations made by the legislature.

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

Sec. 49. Minnesota Statutes 2002, section 97A.075, subdivision 1, is amended to read:

Subdivision 1. [DEER, BEAR, AND LIFETIME LICENSES.] (a) For purposes of this subdivision, "deer license" means a license issued under section 97A.475, subdivisions 2, clauses (4), (5), ~~and~~ (9), (11), (13), and (14), and 3, clauses (2), (3), and (7), and licenses issued under section 97B.301, subdivision 4.

(b) At least $2 from each annual deer license and $2 annually from the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license issued under section 97A.473, subdivision 4, shall be used for deer habitat improvement or deer management programs.

(c) At least $1 from each annual deer license and each bear license and $1 annually from the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license issued under section 97A.473, subdivision 4, shall be used for deer and bear management programs, including a computerized licensing system. Fifty cents from each deer license is appropriated for emergency deer feeding and wild cervidae health management ~~of chronic wasting disease~~. Money appropriated for emergency deer feeding and ~~management of chronic wasting disease~~ wild cervidae health management is available until expended. When the unencumbered balance in the appropriation for emergency deer feeding and ~~chronic wasting disease~~ wild cervidae health management at the end of a fiscal year exceeds ~~$1,500,000~~ $2,500,000 for the first time, $750,000 is canceled to the unappropriated balance of the game and fish fund. The commissioner must inform the legislative chairs of the natural resources finance committees every two years on how the money for ~~chronic wasting disease~~ emergency deer feeding and wild cervidae health management has been spent.

Thereafter, when the unencumbered balance in the appropriation for emergency deer feeding and wild cervidae health management exceeds ~~$1,500,000~~ $2,500,000 at the end of a fiscal year, the unencumbered balance in excess of ~~$1,500,000~~ $2,500,000 is canceled and available for deer and bear management programs and computerized licensing.

Sec. 50. Minnesota Statutes 2002, section 97A.075, subdivision 2, is amended to read:

Subd. 2. [MINNESOTA MIGRATORY WATERFOWL STAMP.] (a) Ninety percent of the revenue from the Minnesota migratory waterfowl stamps must be credited to the waterfowl habitat improvement account. Money in the account may be used only for:

(1) development of wetlands and lakes in the state and designated waterfowl management lakes for maximum migratory waterfowl production including habitat evaluation, the construction of dikes, water control structures and impoundments, nest cover, rough fish barriers, acquisition of sites and facilities necessary for development and management of existing migratory waterfowl habitat and the designation of waters under section 97A.101;

(2) management of migratory waterfowl;

(3) development, restoration, maintenance, or preservation of migratory waterfowl habitat; ~~and~~

(4) acquisition of and access to structure sites; and

(5) the promotion of waterfowl habitat development and maintenance, including promotion and evaluation of government farm program benefits for waterfowl habitat.

(b) Money in the account may not be used for costs unless they are directly related to a specific parcel of land or body of water under paragraph (a), clause (1), (3), ~~or~~ (4), or (5), or to specific management activities under paragraph (a), clause (2).

Sec. 51. Minnesota Statutes 2002, section 97A.075, subdivision 4, is amended to read:

Subd. 4. [PHEASANT STAMP.] (a) Ninety percent of the revenue from pheasant stamps must be credited to the pheasant habitat improvement account. Money in the account may be used only for:

(1) the development, restoration, and maintenance of suitable habitat for ringnecked pheasants on public and private land including the establishment of nesting cover, winter cover, and reliable food sources;

(2) reimbursement of landowners for setting aside lands for pheasant habitat;

(3) reimbursement of expenditures to provide pheasant habitat on public and private land; ~~and~~

(4) the promotion of pheasant habitat development and maintenance, including promotion and evaluation of government farm program benefits for pheasant habitat; and

(5) the acquisition of lands suitable for pheasant habitat management and public hunting.

(b) Money in the account may not be used for:

(1) costs unless they are directly related to a specific parcel of land under paragraph (a), ~~clauses~~ clause (1) ~~to,~~ (3), or (5), or to specific promotional or evaluative activities under paragraph (a), clause (4); or

(2) any personnel costs, except that prior to July 1, 2009, personnel may be hired to provide technical and promotional assistance for private landowners to implement conservation provisions of state and federal programs.

Sec. 52. Minnesota Statutes 2002, section 97A.075, is amended by adding a subdivision to read:

Subd. 6. [MOURNING DOVE STAMPS.] (a) 90 percent of revenue from mourning dove stamps must be credited to the mourning dove habitat improvement account. Money in the account may be used only for:

(1) the development, restoration, and maintenance of suitable habitat for mourning doves on public and private land including establishment of nesting cover and reliable food sources;

(2) acquisitions of, or easements on, mourning dove habitat;

(3) reimbursement of expenditures to provide mourning dove habitat on public and private land; and

(4) the promotion of mourning dove habitat development and maintenance, population surveys and monitoring, and research.

(b) Money in the account may not be used for:

(1) costs unless they are directly related to a specific parcel of land under paragraph (a), clauses (1) to (3), or to specific promotional or evaluative activities under paragraph (a), clause (4); or

(2) any permanent personnel costs.

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

Sec. 53. Minnesota Statutes 2002, section 97A.105, subdivision 1, is amended to read:

Subdivision 1. [LICENSE REQUIREMENTS.] (a) A person may breed and propagate fur-bearing animals, game birds, bear, ~~moose, elk, caribou,~~ or mute swans~~, or deer~~ only on privately owned or leased land and after obtaining a license. Any of the permitted animals on a game farm may be sold to other licensed game farms. "Privately owned or leased land" includes waters that are shallow or marshy, are not actually navigable, and are not of substantial beneficial public use. Before an application for a license is considered, the applicant must enclose the area to sufficiently confine the animals to be raised in a manner approved by the commissioner. A license may be granted only if the commissioner finds the application is made in good faith with intention to actually carry on the business described in the application and the commissioner determines that the facilities are adequate for the business.

(b) A person may purchase live game birds or their eggs without a license if the birds or eggs, or birds hatched from the eggs, are released into the wild, consumed, or processed for consumption within one year after they were purchased or hatched. This paragraph does not apply to the purchase of migratory waterfowl or their eggs.

(c) A person may not introduce mute swans into the wild without a permit issued by the commissioner.

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

Sec. 54. Minnesota Statutes 2002, section 97A.401, subdivision 3, is amended to read:

Subd. 3. [TAKING, POSSESSING, AND TRANSPORTING WILD ANIMALS FOR CERTAIN PURPOSES.] (a) Except as provided in paragraph (b), special permits may be issued without a fee to take, possess, and transport wild animals as pets and for scientific, educational, rehabilitative, wildlife disease prevention and control, and exhibition purposes. The commissioner shall prescribe the conditions for taking, possessing, transporting, and disposing of the wild animals.

(b) A special permit may not be issued to take or possess wild or native deer for exhibition ~~or,~~ propagation, or as pets.

~~(c) The commissioner shall establish criteria for issuing special permits for persons to possess wild and native deer as pets.~~

Sec. 55. Minnesota Statutes 2002, section 97A.411, subdivision 2, is amended to read:

Subd. 2. [SIGNATURE ON STAMPS.] A migratory waterfowl, mourning dove, or pheasant stamp issued under the game and fish laws must be signed by the licensee across the front of the stamp to be valid.

Sec. 56. Minnesota Statutes 2002, section 97A.441, subdivision 7, is amended to read:

Subd. 7. [OWNERS OR TENANTS OF AGRICULTURAL LAND.] (a) The commissioner may issue, without a fee, a license to take an antlerless deer to a person who is an owner or tenant and is living and actively farming on at least 80 acres of agricultural land, as defined in section 97B.001, in deer permit areas that have deer archery licenses to take additional deer under section 97B.301, subdivision 4. A person may receive only one license per year under this subdivision. For properties with coowners or cotenants, only one coowner or cotenant may receive a license under this subdivision per year. The license issued under this subdivision is restricted to the land owned or leased by the holder of the license within the permit area where the qualifying land is located. The holder of the license may transfer the license to the holder's spouse or dependent. Notwithstanding sections 97A.415, subdivision 1, and 97B.301, subdivision 2, the holder of the license may purchase an additional license for taking deer and may take an additional deer under that license.

(b) A person who obtains a license under paragraph (a) must allow public deer hunting on their land during that deer hunting season, with the exception of the first Saturday and Sunday during the deer hunting season applicable to the license issued under section 97A.475, subdivision 2, ~~clause~~ clauses (4) and (13).

Sec. 57. Minnesota Statutes 2002, section 97A.441, is amended by adding a subdivision to read:

Subd. 10. [TAKING WILD ANIMALS FOR WILDLIFE DISEASE PREVENTION AND CONTROL.] The commissioner may issue, without a fee, licenses to take wild animals for the purposes of wildlife disease prevention and control.

Sec. 58. Minnesota Statutes 2002, section 97A.475, subdivision 2, is amended to read:

Subd. 2. [RESIDENT HUNTING.] Fees for the following licenses, to be issued to residents only, are:

(1) for persons age 18 or over and under age 65 to take small game, ~~$12~~ $12.50;

(2) for persons ~~age~~ ages 16 and 17 and age 65 or over, $6 to take small game;

(3) to take turkey, $18;

(4) for persons age 16 or over to take deer with firearms, ~~$25~~ $26;

(5) for persons age 16 or over to take deer by archery, ~~$25~~ $26;

(6) to take moose, for a party of not more than six persons, $310;

(7) to take bear, $38;

(8) to take elk, for a party of not more than two persons, $250;

(9) to take antlered deer in more than one zone, ~~$50~~ $52;

(10) to take Canada geese during a special season, ~~$4~~;

(11) to take two deer throughout the state in any open deer season, except as restricted under section 97B.305, ~~$75~~ $78; ~~and~~

(12) to take prairie chickens, $20;

(13) for persons at least age 12 and under age 16 to take deer with firearms, $13; and

(14) for persons at least age 12 and under age 16 to take deer by archery, $13.

[EFFECTIVE DATES.] Clauses (4), (5), (9), (11), (13), and (14), are effective August 1, 2003. Clauses (1) and (2) are effective March 1, 2004.

Sec. 59. Minnesota Statutes 2002, section 97A.475, subdivision 3, is amended to read:

Subd. 3. [NONRESIDENT HUNTING.] Fees for the following licenses, to be issued to nonresidents, are:

(1) to take small game, $73;

(2) to take deer with firearms, ~~$125~~ $135;

(3) to take deer by archery, ~~$125~~ $135;

(4) to take bear, $195;

(5) to take turkey, $73;

(6) to take raccoon, bobcat, fox, coyote, or lynx, $155;

(7) to take antlered deer in more than one zone, ~~$250~~ $270; and

(8) to take Canada geese during a special season, $4.

[EFFECTIVE DATE.] This section is effective August 1, 2003.

Sec. 60. Minnesota Statutes 2002, section 97A.475, subdivision 4, is amended to read:

Subd. 4. [SMALL GAME SURCHARGE.] Fees for annual licenses to take small game must be increased by a surcharge of ~~$4~~ $6.50. An additional commission may not be assessed on the surcharge and ~~this must be stated on the back of the license with~~ the following statement must be included in the annual small game hunting regulations: "This ~~$4~~ $6.50 surcharge is being paid by hunters for the acquisition and development of wildlife lands."

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

Sec. 61. Minnesota Statutes 2002, section 97A.475, subdivision 5, is amended to read:

Subd. 5. [HUNTING STAMPS.] Fees for the following stamps and stamp validations are:

(1) migratory waterfowl stamp, ~~$5~~ $7.50;

(2) pheasant stamp, ~~$5~~ $7.50; ~~and~~

(3) turkey stamp validation, $5; and

(4) mourning dove stamp, $7.50.

[EFFECTIVE DATE.] Clauses (1) to (3) are effective March 1, 2004. Clause (4) is effective the day following final enactment.

Sec. 62. Minnesota Statutes 2002, section 97A.475, subdivision 10, is amended to read:

Subd. 10. [TROUT AND SALMON STAMP VALIDATION.] The fee for a trout and salmon stamp validation is ~~$8.50~~ $10.

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

Sec. 63. Minnesota Statutes 2002, section 97A.475, subdivision 15, is amended to read:

Subd. 15. [FISHING GUIDES.] The fee for a license to operate a charter boat and guide anglers on Lake Superior or the St. Louis river estuary is:

(1) for a resident, ~~$35~~ $125;

(2) for a nonresident, ~~$140~~ $400; or

(3) if another state charges a Minnesota resident a fee greater than ~~$140~~ $440 for a Lake Superior or St. Louis river estuary fishing guide license in that state, the nonresident fee for a resident of that state is that greater fee.

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

Sec. 64. Minnesota Statutes 2002, section 97A.475, subdivision 26, is amended to read:

Subd. 26. [MINNOW DEALERS.] The fees for the following licenses are:

(1) minnow dealer, ~~$100~~ $310;

(2) minnow dealer's vehicle, $15;

(3) exporting minnow dealer, ~~$350~~ $700; and

(4) exporting minnow dealer's vehicle, $15.

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

Sec. 65. Minnesota Statutes 2002, section 97A.475, subdivision 27, is amended to read:

Subd. 27. [MINNOW RETAILERS.] The fees for the following licenses, to be issued to residents and nonresidents, are:

(1) minnow retailer, ~~$15~~ $47; and

(2) minnow retailer's vehicle, $15.

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

Sec. 66. Minnesota Statutes 2002, section 97A.475, subdivision 28, is amended to read:

Subd. 28. [NONRESIDENT MINNOW HAULERS.] The fees for the following licenses, to be issued to nonresidents, are:

(1) exporting minnow hauler, ~~$675~~ $1,000; and

(2) exporting minnow hauler's vehicle, $15.

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

Sec. 67. Minnesota Statutes 2002, section 97A.475, subdivision 29, is amended to read:

Subd. 29. [PRIVATE FISH HATCHERIES.] The fees for the following licenses to be issued to residents and nonresidents are:

(1) for a private fish hatchery, with annual sales under $200, ~~$35~~ $70;

(2) for a private fish hatchery, with annual sales of $200 or more, ~~$70~~ $210; and

(3) to take sucker eggs from public waters for a private fish hatchery, ~~$210~~ $400, plus ~~$4~~ $6 for each quart in excess of 100 quarts.

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

Sec. 68. Minnesota Statutes 2002, section 97A.475, subdivision 30, is amended to read:

Subd. 30. [COMMERCIAL NETTING OF FISH.] The fees to take commercial fish are:

(1) commercial license fees:

(i) for residents and nonresidents seining and netting in inland waters, ~~$90~~ $120;

(ii) for residents netting in Lake Superior, ~~$50~~ $120;

(iii) for residents netting in Lake of the Woods, Rainy, Namakan, and Sand Point lakes, ~~$50~~ $120;

(iv) for residents seining in the Mississippi River from St. Anthony Falls to the St. Croix River junction, ~~$50~~ $120;

(v) for residents seining, netting, and set lining in Wisconsin boundary waters from Lake St. Croix to the Iowa border, ~~$50~~ $120; and

(vi) for a resident apprentice license, ~~$25~~ $55; and

(2) commercial gear fees:

(i) for each gill net in Lake Superior, Wisconsin boundary waters, and Namakan Lake, ~~$3.50~~ $5 per 100 feet of net;

(ii) for each seine in inland waters, on the Mississippi River as described in section 97C.801, subdivision 2, and in Wisconsin boundary waters, ~~$7~~ $9 per 100 feet;

(iii) for each commercial hoop net in inland waters, ~~$1.25~~ $2;

(iv) for each submerged fyke, trap, and hoop net in Lake Superior, St. Louis Estuary, Lake of the Woods, and Rainy, Namakan, and Sand Point lakes, and for each pound net in Lake Superior, ~~$15~~ $20;

(v) for each stake and pound net in Lake of the Woods, ~~$60~~ $90; and

(vi) for each set line in the Wisconsin boundary waters, ~~$20~~ $45.

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

Sec. 69. Minnesota Statutes 2002, section 97A.475, subdivision 38, is amended to read:

Subd. 38. [FISH BUYERS.] The fees for licenses to buy fish from commercial fishing licensees to be issued residents and nonresidents are:

(1) for Lake Superior fish bought for sale to retailers, ~~$70~~ $150;

(2) for Lake Superior fish bought for sale to consumers, ~~$15~~ $35;

(3) for Lake of the Woods, Namakan, Sand Point, and Rainy Lake fish bought for sale to retailers, ~~$140~~ $300; and

(4) for Lake of the Woods, Namakan, Sand Point, and Rainy Lake fish bought for shipment only on international boundary waters, ~~$15~~ $35.

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

Sec. 70. Minnesota Statutes 2002, section 97A.475, subdivision 39, is amended to read:

Subd. 39. [FISH PACKER.] The fee for a license to prepare dressed game fish for transportation or shipment is ~~$20~~ $40.

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

Sec. 71. Minnesota Statutes 2002, section 97A.475, subdivision 40, is amended to read:

Subd. 40. [FISH VENDORS.] The fee for a license to use a motor vehicle to sell fish is ~~$35~~ $70.

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

Sec. 72. Minnesota Statutes 2002, section 97A.475, subdivision 42, is amended to read:

Subd. 42. [FROG DEALERS.] The fee for the licenses to deal in frogs that are to be used for purposes other than bait are:

(1) for a resident to purchase, possess, and transport frogs, ~~$100~~ $220;

(2) for a nonresident to purchase, possess, and transport frogs, ~~$280~~ $550; and

(3) for a resident to take, possess, transport, and sell frogs, ~~$15~~ $35.

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

Sec. 73. Minnesota Statutes 2002, section 97A.475, is amended by adding a subdivision to read:

Subd. 45. [CAMP RIPLEY ARCHERY DEER HUNT.] The application fee for the Camp Ripley archery deer hunt is $8.

Sec. 74. Minnesota Statutes 2002, section 97A.505, is amended by adding a subdivision to read:

Subd. 8. [IMPORTATION OF HUNTER-HARVESTED CERVIDAE.] Importation into Minnesota of hunter-harvested cervidae carcasses is prohibited except for cut and wrapped meat, quarters or other portions of meat with no part of the spinal column or head attached, antlers, hides, teeth, finished taxidermy mounts, and antlers attached to skull caps that are cleaned of all brain tissue.

Sec. 75. Minnesota Statutes 2002, section 97A.505, is amended by adding a subdivision to read:

Subd. 9. [POSSESSION OF LIVE CERVIDAE.] A person may not possess live cervidae, except as authorized in sections 17.451 and 17.452 or 97A.401.

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

Sec. 76. Minnesota Statutes 2002, section 97B.311, is amended to read:

97B.311 [DEER SEASONS AND RESTRICTIONS.]

(a) The commissioner may, by rule, prescribe restrictions and designate areas where deer may be taken, including hunter selection criteria for special hunts established under section 97A.401, subdivision 4. The commissioner may, by rule, prescribe the open seasons for deer within the following periods:

(1) taking with firearms, other than muzzle-loading firearms, between November 1 and December 15;

(2) taking with muzzle-loading firearms between September 1 and December 31; and

(3) taking by archery between September 1 and December 31.

(b) Notwithstanding paragraph (a), the commissioner may establish special seasons within designated areas ~~between September 1 and January 15~~ at any time of year.

Sec. 77. [97B.717] [MOURNING DOVES.]

Subdivision 1. [SEASON.] The commissioner shall prescribe an open season for taking mourning doves.

Subd. 2. [LICENSE AND STAMP REQUIRED.] A person may not take mourning doves without a small game license and a mourning dove stamp in possession.

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

Sec. 78. Minnesota Statutes 2002, section 103B.231, subdivision 3a, is amended to read:

Subd. 3a. [PRIORITY SCHEDULE.] (a) The board of water and soil resources in consultation with the state review agencies and the metropolitan council ~~shall~~ may develop a priority schedule for the revision of plans required under this chapter.

(b) The prioritization should be based on but not be limited to status of current plan, scheduled revision dates, anticipated growth and development, existing and potential problems, and regional water quality goals and priorities.

(c) The schedule will be used by the board of water and soil resources in consultation with the state review agencies and the metropolitan council to direct watershed management organizations of when they will be required to revise their plans.

(d) ~~Upon notification from the board of water and soil resources that a revision of a plan is required, a watershed management organization shall have 24 months from the date of notification to revise and submit a plan for review.~~

~~(e)~~ In the event that a plan expires prior to notification from the board of water and soil resources under this section, the existing plan, authorities, and official controls of a watershed management organization shall remain in full force and effect until a revision is approved.

~~(f) A one-year extension to submit a revised plan may be granted by the board.~~

~~(g)~~ (e) Watershed management organizations submitting plans and draft plan amendments for review prior to the board's priority review schedule, may proceed to adopt and implement the plan revisions without formal board approval if the board fails to adjust its priority review schedule for plan review, and commence its statutory review process within 45 days of submittal of the plan revision or amendment.

Sec. 79. Minnesota Statutes 2002, section 103B.305, subdivision 3, is amended to read:

Subd. 3. [COMPREHENSIVE LOCAL WATER MANAGEMENT PLAN.] "Comprehensive local water management plan," ~~means~~ "comprehensive water plan," "local water plan," and "local water management plan" mean the plan adopted by a county under sections 103B.311 and 103B.315.

Sec. 80. Minnesota Statutes 2002, section 103B.305, is amended by adding a subdivision to read:

Subd. 7a. [PLAN AUTHORITY.] "Plan authority" means those local government units coordinating planning under sections 103B.301 to 103B.335.

Sec. 81. Minnesota Statutes 2002, section 103B.305, is amended by adding a subdivision to read:

Subd. 7b. [PRIORITY CONCERNS.] "Priority concerns" means issues, resources, subwatersheds, or demographic areas that are identified as a priority by the plan authority.

Sec. 82. Minnesota Statutes 2002, section 103B.305, is amended by adding a subdivision to read:

Subd. 7c. [PRIORITY CONCERNS SCOPING DOCUMENT.] "Priority concerns scoping document" means the list of the chosen priority concerns and a detailed account of how those concerns were identified and chosen.

Sec. 83. Minnesota Statutes 2002, section 103B.305, is amended by adding a subdivision to read:

Subd. 8a. [STATE REVIEW AGENCIES.] "State review agencies" means the board of water and soil resources, the department of agriculture, the department of health, the department of natural resources, the pollution control agency, and other agencies granted state review status by a resolution of the board.

Sec. 84. Minnesota Statutes 2002, section 103B.311, subdivision 1, is amended to read:

Subdivision 1. [COUNTY DUTIES.] Each county is encouraged to develop and implement a ~~comprehensive~~ local water management plan. Each county that develops and implements a plan has the duty and authority to:

(1) prepare and adopt a ~~comprehensive~~ local water management plan that meets the requirements of this section and section 103B.315;

(2) review water and related land resources plans and official controls submitted by local units of government to assure consistency with the ~~comprehensive~~ local water management plan; and

(3) exercise any and all powers necessary to assure implementation of ~~comprehensive~~ local water management plans.

Sec. 85. Minnesota Statutes 2002, section 103B.311, subdivision 2, is amended to read:

Subd. 2. [DELEGATION.] The county is responsible for preparing, adopting, and assuring implementation of the ~~comprehensive~~ local water management plan, but may delegate all or part of the preparation of the plan to a local unit of government, a regional development commission, or a resource conservation and development committee. The county may not delegate authority for the exercise of eminent domain, taxation, or assessment to a local unit of government that does not possess those powers.

Sec. 86. Minnesota Statutes 2002, section 103B.311, subdivision 3, is amended to read:

Subd. 3. [COORDINATION.] (a) To assure the coordination of efforts of all local units of government within a county during the preparation and implementation of a ~~comprehensive~~ local water management plan, each county intending to adopt a plan shall conduct meetings with other local units of government and may execute agreements with other local units of government establishing the responsibilities of each unit during the preparation and implementation of the ~~comprehensive~~ local water management plan.

(b) Each county intending to adopt a plan shall coordinate its planning program with contiguous counties. Before meeting with local units of government, a county board shall notify the county boards of each county contiguous to it that the county is about to begin preparing its ~~comprehensive~~ local water management plan and is encouraged to request and hold a joint meeting with the contiguous county boards to consider the planning process.

Sec. 87. Minnesota Statutes 2002, section 103B.311, subdivision 4, is amended to read:

Subd. 4. [WATER PLAN REQUIREMENTS.] (a) A ~~comprehensive~~ local water management plan must:

(1) cover the entire area within a county;

(2) address water problems in the context of watershed units and groundwater systems;

(3) be based upon principles of sound hydrologic management of water, effective environmental protection, and efficient management;

(4) be consistent with ~~comprehensive~~ local water management plans prepared by counties and watershed management organizations wholly or partially within a single watershed unit or groundwater system; and

(5) the ~~comprehensive~~ local water management plan must specify the period covered by the ~~comprehensive~~ local water management plan and must extend at least five years but no more than ten years from the date the board approves the ~~comprehensive~~ local water management plan. ~~Comprehensive~~ Local water management plans that contain revision dates inconsistent with this section must comply with that date, provided it is not more than ten years beyond the date of board approval. A two-year extension of the revision date of a ~~comprehensive~~ local water management plan may be granted by the board, provided no projects are ordered or commenced during the period of the extension.

(b) Existing water and related land resources plans, including plans related to agricultural land preservation programs developed pursuant to chapter 40A, must be fully utilized in preparing the ~~comprehensive~~ local water management plan. Duplication of the existing plans is not required.

Sec. 88. [103B.312] [IDENTIFYING PRIORITY CONCERNS.]

Each priority concerns scoping document must contain:

(1) the list of proposed priority concerns the plan will address; and

(2) a description of how and why the priority concerns were chosen, including:

(i) a list of all public and internal forums held to gather input regarding priority concerns, including the dates they were held, a list of participants and affiliated organizations, a summary of the proceedings, and supporting data;

(ii) the process used to locally coordinate and resolve differences between the plan's priority concerns and other state, local, and regional concerns; and

(iii) a list of issues identified by the stakeholders but not selected as priority concerns, why they were not included in the list of priority concerns, and a brief description of how the concerns may be addressed or delegated to other partnering entities.

Sec. 89. [103B.313] [PLAN DEVELOPMENT.]

Subdivision 1. [NOTICE OF PLAN REVISION.] The local water management plan authority shall send a notice to local government units partially or wholly within the planning jurisdiction, adjacent counties, and state review agencies of their intent to revise the local water management plan. The notice of a plan revision must include an invitation for all recipients to submit priority concerns they wish to see the plan address.

Subd. 2. [SUBMITTING PRIORITY CONCERNS TO PLANNING AUTHORITY.] Local governments and state review agencies must submit the priority concerns they want the plan to address to the plan authority within 45 days of receiving the notice defined in subdivision 1 or within an otherwise agreed-upon time frame.

Subd. 3. [PUBLIC INFORMATION MEETING.] Before submitting the priority concerns scoping document to the board, the plan authority shall publish a legal notice for and conduct a public information meeting.

Subd. 4. [SUBMITTAL OF PRIORITY CONCERNS SCOPING DOCUMENT TO BOARD.] The plan authority shall send the scoping document to all state review agencies for review and comment. State review agencies shall provide comments on the plan outline to the board within 30 days of receipt.

Subd. 5. [BOARD REVIEW OF THE PRIORITY CONCERNS SCOPING DOCUMENT.] The board shall review the scoping document and the comments submitted in accordance with this subdivision. The board shall provide comments to the local plan authority within 60 days of receiving the scoping document, or after the next regularly scheduled board meeting, whichever is later. No local water management plan may be approved pursuant to section 103B.315 without addressing items communicated in the board comments to the plan authority. The plan authority may request that resolution of unresolved issues be addressed pursuant to board policy defined in section 103B.345.

Subd. 6. [REQUESTS FOR EXISTING AGENCY INFORMATION RELEVANT TO PRIORITY CONCERNS SCOPING DOCUMENT.] The state review agencies shall, upon request from the local government, provide existing plans, reports, and data analysis related to priority concerns to the plan author within 60 days from the date of the request or within an otherwise agreed upon time frame.

Sec. 90. [103B.314] [CONTENTS OF PLAN.]

Subdivision 1. [EXECUTIVE SUMMARY.] Each plan must have an executive summary, including:

(1) the purpose of the local water management plan;

(2) a description of the priority concerns to be addressed by the plan;

(3) a summary of goals and actions to be taken along with the projected total cost of the implementation program;

(4) a summary of the consistency of the plan with other pertinent local, state, and regional plans and controls, and where inconsistencies are noted; and

(5) a summary of recommended amendments to other plans and official controls to achieve consistency.

Subd. 2. [ASSESSMENT OF PRIORITY CONCERNS.] For each priority concern defined pursuant to section 103B.312, clause (1), the plan shall analyze relevant data, plans, and policies provided by agencies consistent with section 103B.313, subdivision 6, and describe the magnitude of the concern, including how the concern is impacting or changing the local land and water resources.

Subd. 3. [GOALS AND OBJECTIVES ADDRESSING PRIORITY CONCERNS.] Each plan must contain specific measurable goals and objectives relating to the priority concerns and other state, regional, or local concerns. The goals and objectives must coordinate and attempt to resolve conflict with city, county, regional, or state goals and policies.

Subd. 4. [IMPLEMENTATION PROGRAM FOR PRIORITY CONCERNS.] (a) For the measurable goals identified in subdivision 3, each plan must include an implementation program that includes the items described in paragraphs (b) to (e).

(b) An implementation program may include actions involving, but not limited to, data collection programs, educational programs, capital improvement projects, project feasibility studies, enforcement strategies, amendments to existing official controls, and adoption of new official controls. If the local government finds that no actions are necessary to address the goals and objectives identified in subdivision 3 it must explain why actions are not needed. Staff and financial resources available or needed to carry out the local water management plan must be stated.

(c) The implementation schedule must state the time in which each of the actions contained in the implementation program will be taken.

(d) If a local government unit has made any agreement for the implementation of the plan or portions of a plan by another local unit of government, that local unit must be specified, the responsibility indicated, and a description included indicating how and when the implementation will happen.

(e) If capital improvement projects are proposed to implement the local water management plan, the projects must be described in the plan. The description of a proposed capital improvement project must include the following information:

(1) the physical components of the project, including their approximate size, configuration, and location;

(2) the purposes of the project and relationship to the objectives in the plan;

(3) the proposed schedule for project construction;

(4) the expected federal, state, and local costs;

(5) the types of financing proposed, such as special assessments, ad valorem taxes, and grants; and

(6) the sources of local financing proposed.

Subd. 5. [OTHER WATER MANAGEMENT RESPONSIBILITIES AND ACTIVITIES COORDINATED BY PLAN.] The plan must also describe the actions that will be taken to carry out the responsibilities or activities, identify the lead and supporting organizations or government units that will be involved in carrying out the action, and estimate the cost of each action.

Subd. 6. [AMENDMENTS.] The plan authority may initiate an amendment to the local water management plan by submitting a petition to the board and sending copies of the proposed amendment and the date of the public hearing to the following entities for review: local government units defined in section 103B.305, subdivision 5, that are within the plan's jurisdiction; and the state review agencies.

After the public hearing the board shall review the amendment pursuant to section 103B.315, subdivision 5, paragraphs (b) and (c). The amendment becomes part of the local water management plan after being approved by the board. The board must send the order and the approved amendment to the entities that received the proposed amendment and notice of the public hearing.

Sec. 91. Minnesota Statutes 2002, section 103B.315, subdivision 4, is amended to read:

Subd. 4. [PUBLIC HEARING.] The county board shall conduct a public hearing on the ~~comprehensive~~ local water management plan pursuant to section 375.51 ~~after the 60-day period for local review and comment is completed but before submitting it to the state for review~~.

Sec. 92. Minnesota Statutes 2002, section 103B.315, subdivision 5, is amended to read:

Subd. 5. [STATE REVIEW.] (a) After conducting the public hearing but before final adoption, the county board must submit its ~~comprehensive~~ local water management plan, all written comments received on the plan, a record of the public hearing under subdivision 4, and a summary of changes incorporated as a result of the review process to the board for review. The board shall complete the review within 90 days after receiving a ~~comprehensive~~ local water management plan and supporting documents. The board shall consult with the departments of agriculture, health, and natural resources; the pollution control agency; the environmental quality board; and other appropriate state agencies during the review.

(b) The board may disapprove a ~~comprehensive~~ local water management plan if the board determines the plan is not consistent with state law. If a plan is disapproved, the board shall provide a written statement of its reasons for disapproval. A disapproved ~~comprehensive~~ local water management plan must be revised by the county board and resubmitted for approval by the board within 120 days after receiving notice of disapproval of the ~~comprehensive~~ local water management plan, unless the board extends the period for good cause. ~~The decision of the board to disapprove the plan may be appealed by the county to district court.~~

(c) If the local government unit disagrees with the board's decision to disapprove the plan, it may, within 60 days, initiate mediation through the board's informal dispute resolution process as established pursuant to section 103B.345, subdivision 1. A local government unit may appeal disapproval to the court of appeals. A decision of the board on appeal is subject to judicial review under sections 14.63 to 14.69.

Sec. 93. Minnesota Statutes 2002, section 103B.315, subdivision 6, is amended to read:

Subd. 6. [ADOPTION AND IMPLEMENTATION.] A county board shall adopt and begin implementation of its ~~comprehensive~~ local water management plan within 120 days after receiving notice of approval of the plan from the board.

Sec. 94. Minnesota Statutes 2002, section 103B.321, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] The board shall:

(1) develop guidelines for the contents of ~~comprehensive~~ local water management plans that provide for a flexible approach to meeting the different water and related land resources needs of counties and watersheds across the state;

(2) coordinate assistance of state agencies to counties and other local units of government involved in preparation of ~~comprehensive~~ local water management plans, including identification of pertinent data and studies available from the state and federal government;

(3) conduct an active program of information and education concerning the requirements and purposes of sections 103B.301 to 103B.355 in conjunction with the association of Minnesota counties;

(4) determine contested cases under section 103B.345;

(5) establish a process for review of ~~comprehensive~~ local water management plans that assures the plans are consistent with state law; and

(6) ~~report to the house of representatives and senate committees with jurisdiction over the environment, natural resources, and agriculture as required by section 103B.351; and~~

~~(7)~~ make grants to counties for ~~comprehensive~~ local water management planning, implementation of priority actions identified in approved plans, and sealing of abandoned wells.

Sec. 95. Minnesota Statutes 2002, section 103B.321, subdivision 2, is amended to read:

Subd. 2. [RULEMAKING.] The board ~~shall~~ may adopt rules to implement sections 103B.301 to 103B.355.

Sec. 96. Minnesota Statutes 2002, section 103B.325, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] Local units of government shall amend existing water and related land resources plans and official controls as necessary to conform them to the applicable, approved ~~comprehensive~~ local water management plan following the procedures in this section.

Sec. 97. Minnesota Statutes 2002, section 103B.325, subdivision 2, is amended to read:

Subd. 2. [PROCEDURE.] Within 90 days after local units of government are notified by the county board of the adoption of a ~~comprehensive~~ local water management plan or of adoption of an amendment to a comprehensive water plan, the local units of government exercising water and related land resources planning and regulatory responsibility for areas within the county must submit existing water and related land resources plans and official controls to the county board for review. The county board shall identify any inconsistency between the plans and controls and the ~~comprehensive~~ local water management plan and shall recommend the amendments necessary to bring local plans and official controls into conformance with the ~~comprehensive~~ local water management plan.

Sec. 98. Minnesota Statutes 2002, section 103B.331, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY.] When an approved ~~comprehensive~~ local water management plan is adopted the county has the authority specified in this section.

Sec. 99. Minnesota Statutes 2002, section 103B.331, subdivision 2, is amended to read:

Subd. 2. [REGULATION OF WATER AND LAND RESOURCES.] The county may regulate the use and development of water and related land resources within incorporated areas when one or more of the following conditions exists:

(1) the municipality does not have a local water and related land resources plan or official controls consistent with the ~~comprehensive~~ local water management plan;

(2) a municipal action granting a variance or conditional use would result in an action inconsistent with the ~~comprehensive~~ local water management plan;

(3) the municipality has authorized the county to require permits for the use and development of water and related land resources; or

(4) a state agency has delegated the administration of a state permit program to the county.

Sec. 100. Minnesota Statutes 2002, section 103B.331, subdivision 3, is amended to read:

Subd. 3. [ACQUISITION OF PROPERTY; ASSESSMENT OF COSTS.] A county may:

(1) acquire in the name of the county, by condemnation under chapter 117, real and personal property found by the county board to be necessary for the implementation of an approved ~~comprehensive~~ local water management plan;

(2) assess the costs of projects necessary to implement the ~~comprehensive~~ local water management plan undertaken under sections 103B.301 to 103B.355 upon the property benefited within the county in the manner provided for municipalities by chapter 429;

(3) charge users for services provided by the county necessary to implement the ~~comprehensive~~ local water management plan; and

(4) establish one or more special taxing districts within the county and issue bonds for the purpose of financing capital improvements under sections 103B.301 to 103B.355.

Sec. 101. Minnesota Statutes 2002, section 103B.3363, subdivision 3, is amended to read:

Subd. 3. [COMPREHENSIVE LOCAL WATER MANAGEMENT PLAN.] "Comprehensive local water management plan," ~~means~~ "comprehensive water plan," "local water plan," and "local water management plan" mean a county water plan authorized under section 103B.311, a watershed management plan required under section 103B.231, a watershed management plan required under section 103D.401 or 103D.405, or a county groundwater plan authorized under section 103B.255.

Sec. 102. Minnesota Statutes 2002, section 103B.3369, subdivision 2, is amended to read:

Subd. 2. [ESTABLISHMENT.] A Local Water Resources Protection and Management Program is established. The board ~~shall~~ may provide financial assistance to ~~counties for~~ local units of government for activities that protect or manage water and related land quality. The activities include planning, zoning, official controls, and other activities to implement ~~comprehensive~~ local water management plans.

Sec. 103. Minnesota Statutes 2002, section 103B.3369, subdivision 4, is amended to read:

Subd. 4. [CONTRACTS ~~WITH LOCAL GOVERNMENTS~~.] A ~~county~~ local unit of government may contract ~~with other appropriate local units of government~~ to implement programs. An explanation of the program responsibilities proposed to be contracted ~~with other local units of government~~ must accompany grant requests. A ~~county~~ local unit of government that contracts ~~with other local units of government~~ is responsible for ensuring that state funds are properly expended and for providing an annual report to the board describing expenditures of funds and program accomplishments.

Sec. 104. Minnesota Statutes 2002, section 103B.3369, subdivision 5, is amended to read:

Subd. 5. [FINANCIAL ASSISTANCE.] ~~The board may award grants to watershed management organizations in the seven-county metropolitan area or counties to carry out water resource protection and management programs identified as priorities in comprehensive local water plans. Grants may be used to employ persons and to obtain and use information necessary to:~~

~~(1) develop comprehensive local water plans under sections 103B.255 and 103B.311 that have not received state funding for water resources planning as provided for in Laws 1987, chapter 404, section 30, subdivision 5, clause (a);~~

~~(2) revise comprehensive local water plans under section 103B.201; and~~

~~(3) implement comprehensive local water plans.~~

A base grant ~~shall~~ may be awarded to a county that levies a water implementation tax at a rate, which shall be determined by the board. The minimum amount of the water implementation tax shall be a tax rate times the adjusted net tax capacity of the county for the preceding year. The rate shall be the rate, rounded to the nearest .001 of a percent, that, when applied to the adjusted net tax capacity for all counties, raises the amount of $1,500,000. The base grant will be in an amount equal to $37,500 less the amount raised by that levy. If the amount necessary to implement the local water plan for the county is less than $37,500, the amount of the base grant shall be the amount that, when added to the levy amount, equals the amount required to implement the plan. For counties where the tax rate generates an amount equal to or greater than $18,750, the base grant shall be in an amount equal to $18,750.

Sec. 105. Minnesota Statutes 2002, section 103B.3369, subdivision 6, is amended to read:

Subd. 6. [LIMITATIONS.] (a) Grants provided to implement programs under this section must be reviewed by the state agency having statutory program authority to assure compliance with minimum state standards. At the request of the state agency commissioner, the board shall revoke the portion of a grant used to support a program not in compliance.

(b) Grants provided to develop or revise ~~comprehensive~~ local water management plans may not be awarded for a time longer than two years.

(c) A ~~county~~ local unit of government may not request or be awarded grants for project implementation unless a ~~comprehensive~~ local management water plan has been adopted.

Sec. 106. Minnesota Statutes 2002, section 103B.355, is amended to read:

103B.355 [APPLICATION.]

Sections 103B.301 to 103B.355 do not apply in areas subject to the requirements of sections 103B.201 to 103B.255 under section 103B.231, subdivision 1, and in areas covered by an agreement under section 103B.231, subdivision 2, except as otherwise provided in ~~sections~~ section 103B.311, subdivision 4, clause (4)~~; and 103B.315, subdivisions 1, clauses (3) and (4), and 2, clause (b)~~.

Sec. 107. Minnesota Statutes 2002, section 103D.341, subdivision 2, is amended to read:

Subd. 2. [PROCEDURE.] (a) Rules of the watershed district must be adopted or amended by a majority vote of the managers, after public notice and hearing. Rules must be signed by the secretary of the board of managers and recorded in the board of managers' official minute book.

(b) Prior to adoption, the proposed rule or amendment to the rule must be submitted to the board for review and comment. The board's review shall be considered advisory. The board shall have 45 days from receipt of the proposed rule or amendment to the rule to provide its comments in writing to the watershed district. Proposed rules or amendments to the rule shall also be noticed for review and comment to all public transportation authorities that have jurisdiction within the watershed district at least 45 days prior to adoption. The public transportation authorities have 45 days from receipt of the proposed rule or amendment to the rule to provide comments in writing to the watershed district.

(c) For each county affected by the watershed district, the managers must publish a notice of hearings and adopted rules in one or more legal newspapers published in the county and generally circulated in the watershed district. The managers must also provide written notice of adopted or amended rules to public transportation authorities that have jurisdiction within the watershed district. The managers must file adopted rules with the county recorder of each county affected by the watershed district and the board.

(d) The managers must mail a copy of the rules to the governing body of each municipality affected by the watershed district.

Sec. 108. Minnesota Statutes 2002, section 103D.345, is amended by adding a subdivision to read:

Subd. 6. [GENERAL PERMITS.] A watershed district may issue general permits for public transportation projects for work on existing roads.

Sec. 109. Minnesota Statutes 2002, section 103D.405, subdivision 2, is amended to read:

Subd. 2. [REQUIRED TEN-YEAR REVISION.] (a) After ten years and six months from the date that the board approved a watershed management plan or the last revised watershed management plan, the managers must consider the requirements under subdivision 1 and adopt a revised watershed management plan outline and send a copy of the outline to the board.

(b) By 60 days after receiving a revised watershed management plan outline, the board must review it, adopt recommendations regarding the revised watershed management plan outline, and send the recommendations to the managers.

(c) ~~By 120 days~~ After receiving the board's recommendations regarding the revised watershed management plan outline, the managers must complete the revised watershed management plan.

Sec. 110. Minnesota Statutes 2002, section 103D.537, is amended to read:

103D.537 [APPEALS OF RULES, PERMIT DECISIONS, AND ORDERS ~~NOT INVOLVING PROJECTS~~.]

(a) Except as provided in section 103D.535, an interested party may appeal a permit decision or order made by the managers by a declaratory judgment action brought under chapter 555. An interested party may appeal a rule made by the managers by a declaratory judgment action brought under chapter 555 or by appeal to the board. The decision on appeal must be based on the record made in the proceeding before the managers. An appeal of a permit decision or order must be filed within 30 days of the managers' decision.

(b) In addition to the authorities identified in paragraph (a), a public transportation authority may appeal a watershed district permit decision to the board. The board shall, upon request of the public transportation authority, conduct an expedited appeal hearing within 30 days or less from the date of the appeal being accepted.

(c) By January 1, ~~1997~~ 2005, the board shall adopt rules governing appeals to the board under ~~paragraph~~ paragraphs (a) and (b). A decision of the board on appeal is subject to judicial review under sections 14.63 to 14.69. The rules authorized in this paragraph are exempt from the rulemaking provisions of chapter 14 except that section 14.386 applies and the proposed rules must be submitted to the members of senate and house environment and natural resource and transportation policy committees at least 30 days prior to being published in the State Register. The amended rules are effective for two years from the date of publication of the rules in the State Register unless they are superseded by permanent rules.

Sec. 111. Minnesota Statutes 2002, section 103G.005, subdivision 10e, is amended to read:

Subd. 10e. [LOCAL GOVERNMENT UNIT.] "Local government unit" means:

(1) outside of the seven-county metropolitan area, a city council ~~or~~, county board of commissioners, or a soil and water conservation district or their delegate;

(2) in the seven-county metropolitan area, a city council, a town board under section 368.01, ~~or~~ a watershed management organization under section 103B.211, or a soil and water conservation district or their delegate; and

(3) on state land, the agency with administrative responsibility for the land.

Sec. 112. Minnesota Statutes 2002, section 103G.222, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENTS.] (a) Wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value under a replacement plan approved as provided in section 103G.2242, a replacement plan under a local governmental unit's comprehensive wetland protection and management plan approved by the board under section 103G.2243, or, if a permit to mine is required under section 93.481, under a mining reclamation plan approved by the commissioner under the permit to mine. Mining reclamation plans shall apply the same principles and standards for replacing wetlands by restoration or creation of wetland areas that are applicable to mitigation plans approved as provided in section 103G.2242. Public value must be determined in accordance with section 103B.3355 or a comprehensive wetland protection and management plan established under section 103G.2243. Sections 103G.221 to 103G.2372 also apply to excavation in permanently and semipermanently flooded areas of types 3, 4, and 5 wetlands.

(b) Replacement must be guided by the following principles in descending order of priority:

(1) avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;

(2) minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;

(3) rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;

(4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity;

(5) compensating for the impact by restoring a wetland; and

(6) compensating for the impact by replacing or providing substitute wetland resources or environments.

For a project involving the draining or filling of wetlands in an amount not exceeding 10,000 square feet more than the applicable amount in section 103G.2241, subdivision 9, paragraph (a), the local government unit may make an on-site sequencing determination without a written alternatives analysis from the applicant.

(c) If a wetland is located in a cultivated field, then replacement must be accomplished through restoration only without regard to the priority order in paragraph (b), provided that a deed restriction is placed on the altered wetland prohibiting nonagricultural use for at least ten years.

(d) Restoration and replacement of wetlands must be accomplished in accordance with the ecology of the landscape area affected.

(e) Except as provided in paragraph (f), for a wetland or public waters wetland located on nonagricultural land, replacement must be in the ratio of two acres of replaced wetland for each acre of drained or filled wetland.

(f) For a wetland or public waters wetland located on agricultural land or in a greater than 80 percent area, replacement must be in the ratio of one acre of replaced wetland for each acre of drained or filled wetland.

(g) Wetlands that are restored or created as a result of an approved replacement plan are subject to the provisions of this section for any subsequent drainage or filling.

(h) Except in a greater than 80 percent area, only wetlands that have been restored from previously drained or filled wetlands, wetlands created by excavation in nonwetlands, wetlands created by dikes or dams along public or private drainage ditches, or wetlands created by dikes or dams associated with the restoration of previously drained

or filled wetlands may be used in a statewide banking program established in rules adopted under section 103G.2242, subdivision 1. Modification or conversion of nondegraded naturally occurring wetlands from one type to another are not eligible for enrollment in a statewide wetlands bank.

(i) The technical evaluation panel established under section 103G.2242, subdivision 2, shall ensure that sufficient time has occurred for the wetland to develop wetland characteristics of soils, vegetation, and hydrology before recommending that the wetland be deposited in the statewide wetland bank. If the technical evaluation panel has reason to believe that the wetland characteristics may change substantially, the panel shall postpone its recommendation until the wetland has stabilized.

(j) This section and sections 103G.223 to 103G.2242, 103G.2364, and 103G.2365 apply to the state and its departments and agencies.

(k) For projects involving draining or filling of wetlands associated with a new public transportation project ~~in a greater than 80 percent area~~, and for projects expanded solely for additional traffic capacity, public transportation authorities~~, other than the state department of transportation, may purchase credits from the state wetland bank established with proceeds from Laws 1994, chapter 643, section 26, subdivision 3, paragraph (c). Wetland banking credits may be purchased at the least of the following, but in no case shall the purchase price be less than $400 per acre: (1) the cost to the state to establish the credits; (2) the average estimated market value of agricultural land in the township where the road project is located, as determined by the commissioner of revenue; or (3) the average value of the land in the immediate vicinity of the road project as determined by the county assessor. Public transportation authorities in a less than 80 percent area~~ may purchase credits from the ~~state~~ board at the cost to the ~~state~~ board to establish credits.

(l) A replacement plan for wetlands is not required for individual projects that result in the filling or draining of wetlands for the repair, rehabilitation, reconstruction, or replacement of a currently serviceable existing state, city, county, or town public road necessary, as determined by the public transportation authority, to meet state or federal design or safety standards or requirements, excluding new roads or roads expanded solely for additional traffic capacity lanes. This paragraph only applies to authorities for public transportation projects that:

(1) minimize the amount of wetland filling or draining associated with the project and consider mitigating important site-specific wetland functions on-site;

(2) except as provided in clause (3), submit project-specific reports to the board, the technical evaluation panel, the commissioner of natural resources, and members of the public requesting a copy at least 30 days prior to construction that indicate the location, amount, and type of wetlands to be filled or drained by the project or, alternatively, convene an annual meeting of the parties required to receive notice to review projects to be commenced during the upcoming year; and

(3) for minor and emergency maintenance work impacting less than 10,000 square feet, submit project-specific reports, within 30 days of commencing the activity, to the board that indicate the location, amount, and type of wetlands that have been filled or drained.

Those required to receive notice of public transportation projects may appeal minimization, delineation, and on-site mitigation decisions made by the public transportation authority to the board according to the provisions of section 103G.2242, subdivision 9. The technical evaluation panel shall review minimization and delineation decisions made by the public transportation authority and provide recommendations regarding on-site mitigation if requested to do so by the local government unit, a contiguous landowner, or a member of the technical evaluation panel.

Except for state public transportation projects, for which the state department of transportation is responsible, the board must replace the wetlands, and wetland areas of public waters if authorized by the commissioner or a delegated authority, drained or filled by public transportation projects on existing roads.

Public transportation authorities at their discretion may deviate from federal and state design standards on existing road projects when practical and reasonable to avoid wetland filling or draining, provided that public safety is not unreasonably compromised. The local road authority and its officers and employees are exempt from liability for any tort claim for injury to persons or property arising from travel on the highway and related to the deviation from the design standards for construction or reconstruction under this paragraph. This paragraph does not preclude an action for damages arising from negligence in construction or maintenance on a highway.

(m) If a landowner seeks approval of a replacement plan after the proposed project has already affected the wetland, the local government unit may require the landowner to replace the affected wetland at a ratio not to exceed twice the replacement ratio otherwise required.

(n) A local government unit may request the board to reclassify a county or watershed on the basis of its percentage of presettlement wetlands remaining. After receipt of satisfactory documentation from the local government, the board shall change the classification of a county or watershed. If requested by the local government unit, the board must assist in developing the documentation. Within 30 days of its action to approve a change of wetland classifications, the board shall publish a notice of the change in the Environmental Quality Board Monitor.

(o) One hundred citizens who reside within the jurisdiction of the local government unit may request the local government unit to reclassify a county or watershed on the basis of its percentage of presettlement wetlands remaining. In support of their petition, the citizens shall provide satisfactory documentation to the local government unit. The local government unit shall consider the petition and forward the request to the board under paragraph (n) or provide a reason why the petition is denied.

Sec. 113. Minnesota Statutes 2002, section 103G.2242, is amended by adding a subdivision to read:

Subd. 14. [FEES ESTABLISHED.] Fees must be assessed for managing wetland bank accounts and transactions as follows:

(1) account maintenance annual fee: one percent of the value of credits not to exceed $500;

(2) account establishment, deposit, or transfer: 6.5 percent of the value of credits not to exceed $1,000 per establishment, deposit, or transfer; and

(3) withdrawal fee: 6.5 percent of the value of credits withdrawn.

Sec. 114. Minnesota Statutes 2002, section 103G.2242, is amended by adding a subdivision to read:

Subd. 15. [FEES PAID TO BOARD.] All fees established in subdivision 14 must be paid to the board of water and soil resources and credited to the general fund to be used for the purpose of administration of the wetland bank.

Sec. 115. Minnesota Statutes 2002, section 103G.271, subdivision 6, is amended to read:

Subd. 6. [WATER USE PERMIT PROCESSING FEE.] (a) Except as described in paragraphs (b) to (f), a water use permit processing fee must be prescribed by the commissioner in accordance with the ~~following~~ schedule of fees in this subdivision for each water use permit in force at any time during the year. The schedule is as follows, with the stated fee in each clause applied to the total amount appropriated:

(1) ~~0.05 cents per 1,000 gallons~~ $101 for ~~the first~~ amounts not exceeding 50,000,000 gallons per year;

(2) ~~0.10 cents~~ $3 per ~~1,000~~ 1,000,000 gallons for amounts greater than 50,000,000 gallons but less than 100,000,000 gallons per year;

(3) ~~0.15 cents~~ $3.50 per ~~1,000~~ 1,000,000 gallons for amounts greater than 100,000,000 gallons but less than 150,000,000 gallons per year;

(4) ~~0.20 cents~~ $4 per ~~1,000~~ 1,000,000 gallons for amounts greater than 150,000,000 gallons but less than 200,000,000 gallons per year;

(5) ~~0.25 cents~~ $4.50 per ~~1,000~~ 1,000,000 gallons for amounts greater than 200,000,000 gallons but less than 250,000,000 gallons per year;

(6) ~~0.30 cents~~ $5 per ~~1,000~~ 1,000,000 gallons for amounts greater than 250,000,000 gallons but less than 300,000,000 gallons per year;

(7) ~~0.35 cents~~ $5.50 per ~~1,000~~ 1,000,000 gallons for amounts greater than 300,000,000 gallons but less than 350,000,000 gallons per year;

(8) ~~0.40 cents~~ $6 per ~~1,000~~ 1,000,000 gallons for amounts greater than 350,000,000 gallons but less than 400,000,000 gallons per year; ~~and~~

(9) ~~0.45 cents~~ $6.50 per ~~1,000~~ 1,000,000 gallons for amounts greater than 400,000,000 gallons but less than 450,000,000 gallons per year~~.~~;

(10) $7 per 1,000,000 gallons for amounts greater than 450,000,000 gallons but less than 500,000,000 gallons per year; and

(11) $7.50 per 1,000,000 gallons for amounts greater than 500,000,000 gallons per year.

(b) For once-through cooling systems, a water use processing fee must be prescribed by the commissioner in accordance with the following schedule of fees for each water use permit in force at any time during the year:

(1) for nonprofit corporations and school districts, ~~15.0 cents~~ $150 per ~~1,000~~ 1,000,000 gallons; and

(2) for all other users, ~~20 cents~~ $200 per ~~1,000~~ 1,000,000 gallons.

(c) The fee is payable based on the amount of water appropriated during the year and, except as provided in paragraph (f), the minimum fee is ~~$50~~ $100.

(d) For water use processing fees other than once-through cooling systems:

(1) the fee for a city of the first class may not exceed ~~$175,000~~ $250,000 per year;

(2) the fee for other entities for any permitted use may not exceed:

(i) ~~$35,000~~ $50,000 per year for an entity holding three or fewer permits;

(ii) ~~$50,000~~ $75,000 per year for an entity holding four or five permits;

(iii) ~~$175,000~~ $250,000 per year for an entity holding more than five permits;

(3) the fee for agricultural irrigation may not exceed $750 per year;

(4) the fee for a municipality that furnishes electric service and cogenerates steam for home heating may not exceed $10,000 for its permit for water use related to the cogeneration of electricity and steam; and

(5) no fee is required for a project involving the appropriation of surface water to prevent flood damage or to remove flood waters during a period of flooding, as determined by the commissioner.

(e) Failure to pay the fee is sufficient cause for revoking a permit. A penalty of two percent per month calculated from the original due date must be imposed on the unpaid balance of fees remaining 30 days after the sending of a second notice of fees due. A fee may not be imposed on an agency, as defined in section 16B.01, subdivision 2, or federal governmental agency holding a water appropriation permit.

(f) The minimum water use processing fee for a permit issued for irrigation of agricultural land is ~~$10~~ $20 for years in which:

(1) there is no appropriation of water under the permit; or

(2) the permit is suspended for more than seven consecutive days between May 1 and October 1.

Sec. 116. Minnesota Statutes 2002, section 103G.271, subdivision 6a, is amended to read:

Subd. 6a. [PAYMENT OF FEES FOR PAST UNPERMITTED APPROPRIATIONS.] An entity that appropriates water without a required permit under subdivision 1 must pay the applicable water use permit processing fee specified in subdivision 6 for the period during which the unpermitted appropriation occurred. The fees for unpermitted appropriations are required for the previous seven calendar years after being notified of the need for a permit. This fee is in addition to any other fee or penalty assessed.

Sec. 117. Minnesota Statutes 2002, section 103G.271, is amended by adding a subdivision to read:

Subd. 8. [GROUNDWATER ANALYSIS.] The commissioner of natural resources must look at groundwater flows and aquifer recharge in the state in order to understand whether the appropriation of groundwater is sustainable.

Sec. 118. Minnesota Statutes 2002, section 103G.611, subdivision 1, is amended to read:

Subdivision 1. [~~REQUIREMENT~~ REQUIREMENTS.] (a) The fee for a permit to operate an aeration system on public waters during periods of ice cover is $250. The commissioner may waive the fee for aeration systems that are assisting department efforts to maintain angling opportunities through the prevention of winterkill. To be eligible for the fee waiver, the lake being aerated must have public access and aeration must be identified as a desirable management tool in a plan approved by the commissioner. Operation of the aeration system in a manner not consistent with the approved plan represents justification for rescinding the fee waiver. The fee may not be charged to the state or a federal governmental agency applying for a permit. The money received for the permits under this subdivision must be deposited in the treasury and credited to the game and fish fund.

(b) A person operating an aeration system on public waters under a water aeration permit must comply with the sign posting requirements of this section and applicable rules of the commissioner.

Sec. 119. Minnesota Statutes 2002, section 103G.615, subdivision 2, is amended to read:

Subd. 2. [FEES.] (a) The commissioner shall establish a fee schedule for permits to harvest aquatic plants other than wild rice, by order, after holding a public hearing. The fees may not exceed ~~$200~~ $750 per permit based upon the cost of receiving, processing, analyzing, and issuing the permit, and additional costs incurred after the application to inspect and monitor the activities authorized by the permit, and enforce aquatic plant management rules and permit requirements.

(b) The fee for a permit for ~~chemical treatment~~ the destruction of rooted aquatic vegetation ~~may not exceed $20~~ is $35 for each contiguous parcel of shoreline owned by an owner. This fee may not be charged for permits issued in connection with lakewide Eurasian water milfoil control programs.

(c) A fee may not be charged to the state or a federal governmental agency applying for a permit.

(d) The money received for the permits under this subdivision shall be deposited in the treasury and credited to the game and fish fund.

Sec. 120. Minnesota Statutes 2002, section 115.03, is amended by adding a subdivision to read:

Subd. 5b. [STORM WATER PERMITS; COMPLIANCE WITH NONDEGRADATION AND MITIGATION REQUIREMENTS.] (a) During the period in which this subdivision is in effect, all point source storm water discharges that are subject to and in compliance with an individual or general storm water permit issued by the pollution control agency under the National Pollution Discharge Elimination System are considered to be in compliance with the nondegradation and mitigation requirements of Minnesota Rules, parts 7050.0180, 7050.0185, and 7050.0186.

(b) This subdivision is repealed on the earlier of July 1, 2007, or the effective date of rules adopted by the pollution control agency that provide specific mechanisms or criteria to determine whether point source storm water discharges comply with the nondegradation and mitigation requirements of Minnesota Rules, parts 7050.0180, 7050.0185, and 7050.0186.

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

Sec. 121. Minnesota Statutes 2002, section 115.03, is amended by adding a subdivision to read:

Subd. 5c. [REGULATION OF STORM WATER DISCHARGES.] (a) The agency may issue a general permit to any category or subcategory of point source storm water discharges that it deems administratively reasonable and efficient without making any findings under Minnesota Rules, part 7001.0210. Nothing in this subdivision precludes the agency from requiring an individual permit for a point source storm water discharge if the agency finds that it is appropriate under applicable legal or regulatory standards.

(b) Pursuant to this paragraph, the legislature authorizes the agency to adopt and enforce rules regulating point source storm water discharges. No further legislative approval is required under any other legal or statutory provision whether enacted before or after the enactment of this section.

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

Sec. 122. Minnesota Statutes 2002, section 115A.54, is amended by adding a subdivision to read:

Subd. 4. [TERMINATION OF OBLIGATIONS; GOOD-FAITH EFFORT.] Notwithstanding the provisions of section 16A.695, the director may terminate the obligations of a grant or loan recipient under this section, if the director finds that the recipient has made a good-faith effort to exhaust all options in trying to comply with the terms and conditions of the grant or loan. In lieu of declaring a default on a grant or a loan under this section, the director

may identify additional measures a recipient should take in order to meet the good-faith test required for terminating the recipient's obligations under this section. By December 15 of each year, the director shall report to the legislature the defaults and terminations the director has ordered in the previous year, if any. No decision on termination under this section is effective until the end of the legislative session following the director's report.

Sec. 123. Minnesota Statutes 2002, section 115A.545, subdivision 2, is amended to read:

Subd. 2. [PROCESSING PAYMENT.] (a) The director shall pay counties a processing payment for each ton of mixed municipal solid waste that is generated in the county and processed at a resource recovery facility. The processing payment shall be $5 for each ton of mixed municipal solid waste processed.

(b) ~~The director shall also pay a processing payment to a county that does not qualify under paragraph (a) that constructed a processing facility and that either:~~

~~(1) contracts for waste generated in the county to be received at a facility in that county; or~~

~~(2) has a comprehensive solid waste management plan approved by the director under section 115A.46 that demonstrates the intention of the county to make the processing facility operational.~~

The processing payment shall be $5 for each ton of mixed municipal waste generated in the county and delivered under contract with the county.

(c) By the last day of October, January, April, and July, each county claiming the processing payment shall file a claim for payment with the director for the three previous months certifying the number of tons of mixed municipal solid waste that were generated in the county and processed at a resource recovery facility. The director shall pay the processing payments by November 15, February 15, May 15, and August 15 each year.

(d) If the total amount for which all counties are eligible in a quarter exceeds the amount available for payment, the director shall make the payments on a pro rata basis.

(e) ~~All of the~~ Money received by a county under paragraph (a) ~~must~~ may be used ~~to lower the tipping fee for waste to be processed at a resource recovery facility.~~ for the following purposes:

(1) to reduce the amount of solid waste generated;

(2) to recycle the maximum amount of solid waste technically feasible;

(3) to create and support markets for recycled products;

(4) to remove problem materials from the solid waste stream and develop proper disposal options for them;

(5) to inform and educate all sectors of the public about proper solid waste management procedures;

(6) to provide technical assistance to public and private entities to ensure proper solid waste management;

(7) to provide educational, technical, and financial assistance for litter prevention; and

(8) to process mixed municipal solid waste generated in the county at a resource recovery facility.

~~(f) Amounts received by a county under:~~

~~(1) paragraph (b), clause (1), must be used to lower the tipping fee for waste received at a waste management facility within the county for waste received under contract with the county at a facility in the county; or~~

~~(2) paragraph (b), clause (2), must be used to assist in making the county's processing facility operational.~~

Sec. 124. Minnesota Statutes 2002, section 115A.908, subdivision 2, is amended to read:

Subd. 2. [DEPOSIT OF REVENUE.] Revenue collected shall be credited to the ~~motor vehicle transfer account in the environmental fund. As cash flow permits, the commissioner of finance must transfer (1) $3,200,000 each fiscal year from the motor vehicle transfer account to the environmental response, compensation, and compliance account established in section 115B.20; and (2) $1,200,000 each fiscal year from the motor vehicle transfer account to the general~~ environmental fund.

Sec. 125. Minnesota Statutes 2002, section 115C.02, subdivision 14, is amended to read:

Subd. 14. [TANK.] "Tank" means any one or a combination of containers, vessels, and enclosures, including structures and appurtenances connected to them, that is, or has been, used to contain ~~or~~, dispense, store, or transport petroleum.

"Tank" does not include:

~~(1) a mobile storage tank used to transport petroleum from one location to another, except a mobile storage tank with a capacity of 500 gallons or less used only to transport home heating fuel on private property; or~~

~~(2)~~ pipeline facilities, including gathering lines, regulated under the Natural Gas Pipeline Safety Act of 1968, United States Code, title 49, chapter 24, or the Hazardous Liquid Pipeline Safety Act of 1979, United States Code, title 49, chapter 29.

Sec. 126. Minnesota Statutes 2002, section 115C.08, subdivision 4, is amended to read:

Subd. 4. [EXPENDITURES.] (a) Money in the fund may only be spent:

(1) to administer the petroleum tank release cleanup program established in this chapter;

(2) for agency administrative costs under sections 116.46 to 116.50, sections 115C.03 to 115C.06, and costs of corrective action taken by the agency under section 115C.03, including investigations;

(3) for costs of recovering expenses of corrective actions under section 115C.04;

(4) for training, certification, and rulemaking under sections 116.46 to 116.50;

(5) for agency administrative costs of enforcing rules governing the construction, installation, operation, and closure of aboveground and underground petroleum storage tanks;

(6) for reimbursement of the environmental response, compensation, and compliance account under subdivision 5 and section 115B.26, subdivision 4;

(7) for administrative and staff costs as set by the board to administer the petroleum tank release program established in this chapter;

(8) for corrective action performance audits under section 115C.093; ~~and~~

(9) for contamination cleanup grants, as provided in paragraph (c); and

(10) to assess and remove abandoned underground storage tanks under section 115C.094 and, if a release is discovered, to pay for the specific consultant and contractor services costs necessary to complete the tank removal project, including, but not limited to, excavation soil sampling, groundwater sampling, soil disposal, and completion of an excavation report.

(b) Except as provided in paragraph (c), money in the fund is appropriated to the board to make reimbursements or payments under this section.

(c) $6,200,000 is annually appropriated from the fund to the commissioner of trade and economic development for contamination cleanup grants under section 116J.554. Of this amount, the commissioner may spend up to $120,000 annually for administration of the contamination cleanup grant program. The appropriation does not cancel and is available until expended. The appropriation shall not be withdrawn from the fund nor the fund balance reduced until the funds are requested by the commissioner of trade and economic development. The commissioner shall schedule requests for withdrawals from the fund to minimize the necessity to impose the fee authorized by subdivision 2. Unless otherwise provided, the appropriation in this paragraph may be used for:

(1) project costs at a qualifying site if a portion of the cleanup costs are attributable to petroleum contamination; and

(2) the costs of performing contamination investigation if there is a reasonable basis to suspect the contamination is attributable to petroleum.

Sec. 127. Minnesota Statutes 2002, section 115C.09, subdivision 3, is amended to read:

Subd. 3. [REIMBURSEMENTS; SUBROGATION; APPROPRIATION.] (a) The board shall reimburse an eligible applicant from the fund for 90 percent of the total reimbursable costs incurred at the site, except that the board may reimburse an eligible applicant from the fund for greater than 90 percent of the total reimbursable costs, if the applicant previously qualified for a higher reimbursement rate. For costs associated with a release from a tank in transport, the board may reimburse 90 percent of costs over $10,000, with the maximum reimbursement not to exceed $100,000.

Not more than $1,000,000 may be reimbursed for costs associated with a single release, regardless of the number of persons eligible for reimbursement, and not more than $2,000,000 may be reimbursed for costs associated with a single tank facility.

(b) A reimbursement may not be made from the fund under this chapter until the board has determined that the costs for which reimbursement is requested were actually incurred and were reasonable.

(c) When an applicant has obtained responsible competitive bids or proposals according to rules promulgated under this chapter prior to June 1, 1995, the eligible costs for the tasks, procedures, services, materials, equipment, and tests of the low bid or proposal are presumed to be reasonable by the board, unless the costs of the low bid or proposal are substantially in excess of the average costs charged for similar tasks, procedures, services, materials, equipment, and tests in the same geographical area during the same time period.

(d) When an applicant has obtained a minimum of two responsible competitive bids or proposals on forms prescribed by the board and where the rules promulgated under this chapter after June 1, 1995, designate maximum costs for specific tasks, procedures, services, materials, equipment and tests, the eligible costs of the low bid or proposal are deemed reasonable if the costs are at or below the maximums set forth in the rules.

(e) Costs incurred for change orders executed as prescribed in rules promulgated under this chapter after June 1, 1995, are presumed reasonable if the costs are at or below the maximums set forth in the rules, unless the costs in the change order are above those in the original bid or proposal or are unsubstantiated and inconsistent with the process and standards required by the rules.

(f) A reimbursement may not be made from the fund in response to either an initial or supplemental application for costs incurred after June 4, 1987, that are payable under an applicable insurance policy, except that if the board finds that the applicant has made reasonable efforts to collect from an insurer and failed, the board shall reimburse the applicant.

(g) If the board reimburses an applicant for costs for which the applicant has insurance coverage, the board is subrogated to the rights of the applicant with respect to that insurance coverage, to the extent of the reimbursement by the board. The board may request the attorney general to bring an action in district court against the insurer to enforce the board's subrogation rights. Acceptance by an applicant of reimbursement constitutes an assignment by the applicant to the board of any rights of the applicant with respect to any insurance coverage applicable to the costs that are reimbursed. Notwithstanding this paragraph, the board may instead request a return of the reimbursement under subdivision 5 and may employ against the applicant the remedies provided in that subdivision, except where the board has knowingly provided reimbursement because the applicant was denied coverage by the insurer.

(h) Money in the fund is appropriated to the board to make reimbursements under this chapter. A reimbursement to a state agency must be credited to the appropriation account or accounts from which the reimbursed costs were paid.

(i) The board may reduce the amount of reimbursement to be made under this chapter if it finds that the applicant has not complied with a provision of this chapter, a rule or order issued under this chapter, or one or more of the following requirements:

(1) the agency was given notice of the release as required by section 115.061;

(2) the applicant, to the extent possible, fully cooperated with the agency in responding to the release;

(3) the state rules applicable after December 22, 1993, to operating an underground storage tank and appurtenances without leak detection;

(4) the state rules applicable after December 22, 1998, to operating an underground storage tank and appurtenances without corrosion protection or spill and overfill protection; and

(5) the state rule applicable after November 1, 1998, to operating an aboveground tank without a dike or other structure that would contain a spill at the aboveground tank site.

(j) The reimbursement may be reduced as much as 100 percent for failure by the applicant to comply with the requirements in paragraph (i), clauses (1) to (5). In determining the amount of the reimbursement reduction, the board shall consider:

(1) the reasonable determination by the agency that the noncompliance poses a threat to the environment;

(2) whether the noncompliance was negligent, knowing, or willful;

(3) the deterrent effect of the award reduction on other tank owners and operators;

(4) the amount of reimbursement reduction recommended by the commissioner; and

(5) the documentation of noncompliance provided by the commissioner.

(k) An applicant may ~~assign the right to receive reimbursement to~~ request that the board issue a multiparty check that includes each lender who advanced funds to pay the costs of the corrective action or to each contractor or consultant who provided corrective action services. ~~An assignment~~ This request must be made by filing with the board a document, in a form prescribed by the board, indicating the identity of the applicant, the identity of the ~~assignee~~ lender, contractor, or consultant, the dollar amount ~~of the assignment~~, and the location of the corrective action. ~~An assignment signed by the applicant is valid unless terminated by filing a termination with the board, in a form prescribed by the board, which must include the written concurrence of the assignee. The board shall maintain an index of assignments filed under this paragraph. The board shall pay the reimbursement to the applicant and to one or more assignees by a multiparty check.~~ The applicant must submit a request for the issuance of a multiparty check for each application submitted to the board. Payment under this paragraph does not constitute the assignment of the applicant's right to reimbursement to the consultant, contractor, or lender. The board has no liability to an applicant for a payment ~~under an assignment meeting~~ issued as a multiparty check that meets the requirements of this paragraph.

Sec. 128. Minnesota Statutes 2002, section 115C.09, is amended by adding a subdivision to read:

Subd. 3i. [REIMBURSEMENT; NATURAL DISASTER AREA.] (a) As used in this subdivision, "natural disaster area" means a geographical area that has been declared a disaster by the governor and President of the United States.

(b) Notwithstanding subdivision 3, paragraph (a), and Minnesota Rules, chapter 2890, with the exception of Minnesota Rules, parts 2890.0010 to 2890.0065, and 2890.0090 to 2890.0130, the board may reimburse:

(1) up to 50 percent of an applicant' pre-natural-disaster estimated building market value as recorded by the county assessor; or

(2) if the applicant conveys title of the real estate to local or state government, up to 50 percent of the pre-natural-disaster estimated total market value, not to exceed one acre, as recorded by the county assessor.

(c) Paragraph (b) applies only if the applicant documents that:

(1) the natural disaster area has been declared eligible for state or federal emergency aid;

(2) the building is declared uninhabitable by the commissioner because of damage caused by the release of petroleum from a petroleum storage tank; and

(3) the applicant has submitted a claim under any applicable insurance policies and has been denied benefits under those policies.

(d) In determining the percentage for reimbursement, the board shall consider the applicant's eligibility to receive other state or federal financial assistance and determine a lesser reimbursement rate to the extent that the applicant is eligible to receive financial assistance that exceeds 50 percent of the applicant's pre-natural-disaster estimated building market value or total market value.

Sec. 129. Minnesota Statutes 2002, section 115C.09, is amended by adding a subdivision to read:

Subd. 3j. [RETAIL LOCATIONS AND TRANSPORT VEHICLES.] (a) As used in this subdivision, "retail location" means a facility located in the metropolitan area as defined in section 473.121, subdivision 2, where gasoline is offered for sale to the general public for use in automobiles and trucks. "Transport vehicle" means a liquid fuel cargo tank used to deliver gasoline into underground storage tanks during 2002 at a retail location.

(b) Notwithstanding any other provision in this chapter, and any rules adopted under this chapter, the board shall reimburse 90 percent of an applicant's cost for retrofits of retail locations and transport vehicles completed between January 1, 2001, and January 1, 2006, to comply with section 116.49, subdivisions 3 and 4, provided that the board determines the costs were incurred and reasonable. The reimbursement may not exceed $3,000 per retail location and $3,000 per transport vehicle.

Sec. 130. [115C.094] [ABANDONED UNDERGROUND STORAGE TANKS.]

(a) As used in this section, an abandoned underground petroleum storage tank means an underground petroleum storage tank that was:

(1) taken out of service prior to December 22, 1988; or

(2) taken out of service on or after December 22, 1988, if the current property owner did not know of the existence of the underground petroleum storage tank and cannot reasonably be expected to have known of the tank's existence.

(b) The board may contract for:

(1) a statewide assessment in order to determine the quantity, location, cost, and feasibility of removing abandoned underground petroleum storage tanks;

(2) the removal of an abandoned underground petroleum storage tank; and

(3) the removal and disposal of petroleum-contaminated soil if the removal is required by the commissioner at the time of tank removal.

(c) Before the board may contract for removal of an abandoned petroleum storage tank, the tank owner must provide the board with written access to the property and release the board from any potential liability for the work performed.

(d) Money in the fund is appropriated to the board for the purposes of this section.

Sec. 131. Minnesota Statutes 2002, section 115C.11, subdivision 1, is amended to read:

Subdivision 1. [REGISTRATION.] (a) All consultants and contractors who perform corrective action services must register with the board. In order to register, consultants must meet and demonstrate compliance with the following criteria:

(1) provide a signed statement to the board verifying agreement to abide by this chapter and the rules adopted under it and to include a signed statement with each claim that all costs claimed by the consultant are a true and accurate account of services performed;

(2) provide a signed statement that the consultant shall make available for inspection any records requested by the board for field or financial audits under the scope of this chapter;

(3) certify knowledge of the requirements of this chapter and the rules adopted under it;

(4) obtain and maintain professional liability coverage, including pollution impairment liability; and

(5) agree to submit to the board a certificate or certificates verifying the existence of the required insurance coverage.

(b) The board must maintain a list of all registered consultants and a list of all registered contractors.

(c) All corrective action services must be performed by registered consultants and contractors.

(d) Reimbursement for corrective action services performed by an unregistered consultant or contractor is subject to reduction under section 115C.09, subdivision 3, paragraph (i).

(e) Corrective action services performed by a consultant or contractor prior to being removed from the registration list may be reimbursed without reduction by the board.

(f) If the information in an application for registration becomes inaccurate or incomplete in any material respect, the registered consultant or contractor must promptly file a corrected application with the board.

(g) Registration is effective 30 days after a complete application is received by the board. The board may reimburse without reduction the cost of work performed by an unregistered contractor if the contractor performed the work within 60 days of the effective date of registration.

(h) Registration for consultants under this section remains in force until the expiration date of the professional liability coverage, including pollution impairment liability, required under paragraph (a), clause (4), or until voluntarily terminated by the registrant, or until suspended or revoked by the commissioner of commerce. Registration for contractors under this section expires each year on the anniversary of the effective date of the contractor's most recent registration and must be renewed on or before expiration. Prior to its annual expiration, a registration remains in force until voluntarily terminated by the registrant, or until suspended or revoked by the commissioner of commerce. All registrants must comply with registration criteria under this section.

(i) The board may deny a consultant or contractor registration or request for renewal under this section if the consultant or contractor:

(1) does not intend to or is not in good faith carrying on the business of an environmental consultant or contractor;

(2) has filed an application for registration that is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, contains any misrepresentation, or is false, misleading, or fraudulent;

(3) has engaged in any fraudulent, coercive, deceptive, or dishonest act or practice whether or not such act or practice involves the business of environmental consulting or contracting;

(4) has forged another's name to any document whether or not the document relates to a document approved by the board;

(5) has plead guilty, with or without explicitly admitting guilt; plead nolo contendere; or been convicted of a felony, gross misdemeanor, or misdemeanor involving moral turpitude, including, but not limited to, assault, harassment, or similar conduct;

(6) has been subject to disciplinary action in another state or jurisdiction; or

(7) has not paid subcontractors hired by the consultant or contractor after they have been paid in full by the applicant.

Sec. 132. Minnesota Statutes 2002, section 115C.13, is amended to read:

115C.13 [REPEALER.]

Sections 115C.01, 115C.02, 115C.021, 115C.03, 115C.04, 115C.045, 115C.05, 115C.06, 115C.065, 115C.07, 115C.08, 115C.09, 115C.093, 115C.094, 115C.10, 115C.11, 115C.111, 115C.112, 115C.113, 115C.12, and 115C.13, are repealed effective June 30, ~~2005~~ 2007.

Sec. 133. Minnesota Statutes 2002, section 116.073, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY TO ISSUE.] (a) Pollution control agency staff designated by the commissioner and department of natural resources conservation officers may issue citations to a person who:

(1) disposes of solid waste as defined in section 116.06, subdivision 22, at a location not authorized by law for the disposal of solid waste without permission of the owner of the property;

(2) fails to report or recover discharges as required under section 115.061; ~~or~~

(3) fails to take discharge preventive or preparedness measures required under chapter 115E; or

(4) fails to install or use vapor recovery equipment during the transfer of gasoline from a transport delivery vehicle to an underground storage tank as required in section 116.49, subdivisions 3 and 4.

(b) In addition, pollution control agency staff designated by the commissioner may issue citations to owners and operators of facilities dispensing petroleum products who violate sections 116.46 to 116.50 and Minnesota Rules, chapters 7150 and 7151 and parts 7001.4200 to 7001.4300. A citation issued under this subdivision must include a requirement that the person cited remove and properly dispose of or otherwise manage the waste or discharged oil or hazardous substance, reimburse any government agency that has disposed of the waste or discharged oil or hazardous substance and contaminated debris for the reasonable costs of disposal, or correct any storage tank violations.

(c) Until June 1, 2004, citations for violation of sections 115E.045 and 116.46 to 116.50 and Minnesota Rules, chapters 7150 and 7151, may be issued only after the owners and operators have had a 90-day period to correct violations stated in writing by pollution control agency staff, unless there is a discharge associated with the violation or the violation is of Minnesota Rules, part 7151.6400, subpart 1, item B, or 7151.6500.

Sec. 134. Minnesota Statutes 2002, section 116.073, subdivision 2, is amended to read:

Subd. 2. [PENALTY AMOUNT.] The citation must impose the following penalty amounts:

(1) $100 per major appliance, as defined in section 115A.03, subdivision 17a, up to a maximum of $2,000;

(2) $25 per waste tire, as defined in section 115A.90, subdivision 11, up to a maximum of $2,000;

(3) $25 per lead acid battery governed by section 115A.915, up to a maximum of $2,000;

(4) $1 per pound of other solid waste or $20 per cubic foot up to a maximum of $2,000;

(5) up to $200 for any amount of waste that escapes from a vehicle used for the transportation of solid waste if, after receiving actual notice that waste has escaped the vehicle, the person or company transporting the waste fails to immediately collect the waste;

(6) $50 per violation of rules adopted under section 116.49, relating to underground storage tank system design, construction, installation, and notification requirements, up to a maximum of $2,000;

(7) $250 per violation of rules adopted under section 116.49, relating to upgrading of existing underground storage tank systems, up to a maximum of $2,000;

(8) $100 per violation of rules adopted under section 116.49, relating to underground storage tank system general operating requirements, up to a maximum of $2,000;

(9) $250 per violation of rules adopted under section 116.49, relating to underground storage tank system release detection requirements, up to a maximum of $2,000;

(10) $50 per violation of rules adopted under section 116.49, relating to out-of-service underground storage tank systems and closure, up to a maximum of $2,000;

(11) $50 per violation of sections 116.48 to 116.491 relating to underground storage tank system notification, monitoring, environmental protection, and tank installers training and certification requirements, up to a maximum of $2,000;

(12) $25 per gallon of oil or hazardous substance discharged which is not reported or recovered under section 115.061, up to a maximum of $2,000;

(13) $1 per gallon of oil or hazardous substance being stored, transported, or otherwise handled without the prevention or preparedness measures required under chapter 115E, up to a maximum of $2,000; ~~and~~

(14) $250 per violation of Minnesota Rules, parts 7001.4200 to 7001.4300 or chapter 7151, related to aboveground storage tank systems, up to a maximum of $2,000; and

(15) $250 per delivery made in violation of section 116.49, subdivision 3 or 4, levied against:

(i) the retail location if vapor recovery equipment is not installed or maintained properly;

(ii) the carrier if the transport delivery vehicle is not equipped with vapor recovery equipment; or

(iii) the driver for failure to use supplied vapor recovery equipment.

Sec. 135. Minnesota Statutes 2002, section 116.46, is amended by adding a subdivision to read:

Subd. 7a. [RETAIL LOCATION.] "Retail location" means a facility located in the metropolitan area as defined in section 473.121, subdivision 2, where gasoline is offered for sale to the general public for use in automobiles and trucks.

Sec. 136. Minnesota Statutes 2002, section 116.46, is amended by adding a subdivision to read:

Subd. 7b. [TRANSPORT DELIVERY VEHICLE.] "Transport delivery vehicle" means a liquid fuel cargo tank of 3,500 gallons or more used to deliver gasoline into underground storage tanks.

Sec. 137. Minnesota Statutes 2002, section 116.46, is amended by adding a subdivision to read:

Subd. 9. [VAPOR RECOVERY SYSTEM.] "Vapor recovery system" means a system which transfers vapors from underground storage tanks during the filling operation to the storage compartment of the transport vehicle delivering gasoline.

Sec. 138. Minnesota Statutes 2002, section 116.49, is amended by adding a subdivision to read:

Subd. 3. [VAPOR RECOVERY SYSTEM.] Every underground gasoline storage tank at a retail location must be fitted with vapor recovery equipment by January 1, 2006. The equipment must be certified by the manufacturer as capable of collecting 95 percent of hydrocarbons emitted during gasoline transfers from a transport delivery vehicle to an underground storage tank. Product delivery and vapor recovery access points must be on the same side of the transport vehicle when the transport vehicle is positioned for delivery into the underground tank. After January 1, 2006, no gasoline may be delivered to a retail location that is not equipped with a vapor recovery system.

Sec. 139. Minnesota Statutes 2002, section 116.49, is amended by adding a subdivision to read:

Subd. 4. [VAPOR RECOVERY ON TRANSPORTS.] All transport delivery vehicles that deliver gasoline into underground storage tanks in the metropolitan area as defined in section 473.121, subdivision 2, must be fitted with vapor recovery equipment. The equipment must recover and manage 95 percent of hydrocarbons emitted during the transfer of gasoline from the underground storage tank and the transport delivery vehicle by January 1, 2006. After January 1, 2006, no gasoline may be delivered to a retail location by a transport vehicle that is not fitted with vapor recovery equipment.

Sec. 140. Minnesota Statutes 2002, section 116.50, is amended to read:

116.50 [PREEMPTION.]

Sections 116.46 to 116.49 preempt conflicting local and municipal rules or ordinances requiring notification or establishing environmental protection requirements for underground storage tanks. A state agency or local unit of government may not adopt rules or ordinances establishing or requiring vapor recovery for underground storage tanks.

Sec. 141. Minnesota Statutes 2002, section 116P.02, subdivision 1, is amended to read:

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to ~~sections 116P.01 to 116P.13~~ this chapter.

Sec. 142. Minnesota Statutes 2002, section 116P.05, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] (a) The commission shall recommend a budget plan for expenditures from the environment and natural resources trust fund and shall adopt a strategic plan as provided in section 116P.08.

(b) The commission shall recommend expenditures to the legislature from the ~~Minnesota future resources fund under section 116P.13~~ state land and water conservation account in the natural resources fund.

(c) It is a condition of acceptance of the appropriations made from the ~~Minnesota future resources fund,~~ Minnesota environment and natural resources trust fund, and oil overcharge money under section 4.071, subdivision 2, that the agency or entity receiving the appropriation must submit a work program and semiannual progress reports in the form determined by the legislative commission on Minnesota resources. None of the money provided may be spent unless the commission has approved the pertinent work program.

(d) The peer review panel created under section 116P.08 must also review, comment, and report to the commission on research proposals applying for an appropriation from the ~~Minnesota resources fund and from~~ oil overcharge money under section 4.071, subdivision 2.

(e) The commission may adopt operating procedures to fulfill its duties under ~~sections 116P.01 to 116P.13~~ chapter 116P.

Sec. 143. Minnesota Statutes 2002, section 116P.09, subdivision 4, is amended to read:

Subd. 4. [PERSONNEL.] Persons who are employed by a state agency to work on a project and are paid by an appropriation from the trust fund ~~or Minnesota future resources fund~~ are in the unclassified civil service, and their continued employment is contingent upon the availability of money from the appropriation. When the appropriation has been spent, their positions must be canceled and the approved complement of the agency reduced accordingly. Part-time employment of persons for a project is authorized. The use of classified employees is authorized when approved as part of the work program required by section 116P.05, subdivision 2, paragraph (c).

Sec. 144. Minnesota Statutes 2002, section 116P.09, subdivision 5, is amended to read:

Subd. 5. [ADMINISTRATIVE EXPENSE.] The ~~administrative expenses of the commission shall be paid from the various funds administered by the commission as follows:~~

~~(1) Through June 30, 1993, the administrative expenses of the commission and the advisory committee shall be paid from the Minnesota future resources fund. After that time, the prorated expenses related to administration of the trust fund shall be paid from the earnings of the trust fund.~~

~~(2) After June 30, 1993, the~~ prorated expenses related to commission administration of the trust fund may not exceed an amount equal to four percent of the ~~projected earnings~~ amount available for appropriation of the trust fund for the biennium.

Sec. 145. Minnesota Statutes 2002, section 116P.09, subdivision 7, is amended to read:

Subd. 7. [REPORT REQUIRED.] The commission shall, by January 15 of each odd-numbered year, submit a report to the governor, the chairs of the house appropriations and senate finance committees, and the chairs of the house and senate committees on environment and natural resources. Copies of the report must be available to the public. The report must include:

(1) a copy of the current strategic plan;

(2) a description of each project receiving money from the trust fund ~~and Minnesota future resources fund~~ during the preceding biennium;

(3) a summary of any research project completed in the preceding biennium;

(4) recommendations to implement successful projects and programs into a state agency's standard operations;

(5) to the extent known by the commission, descriptions of the projects anticipated to be supported by the trust fund ~~and Minnesota future resources account~~ during the next biennium;

(6) the source and amount of all revenues collected and distributed by the commission, including all administrative and other expenses;

(7) a description of the assets and liabilities of the trust fund ~~and the Minnesota future resources fund~~;

(8) any findings or recommendations that are deemed proper to assist the legislature in formulating legislation;

(9) a list of all gifts and donations with a value over $1,000;

(10) a comparison of the amounts spent by the state for environment and natural resources activities through the most recent fiscal year; and

(11) a copy of the most recent compliance audit.

Sec. 146. Minnesota Statutes 2002, section 116P.10, is amended to read:

116P.10 [ROYALTIES, COPYRIGHTS, PATENTS.]

This section applies to projects supported by the trust fund~~, the Minnesota future resources fund,~~ and the oil overcharge money referred to in section 4.071, subdivision 2, each of which is referred to in this section as a "fund." The fund owns and shall take title to the percentage of a royalty, copyright, or patent resulting from a project supported by the fund equal to the percentage of the project's total funding provided by the fund. Cash receipts resulting from a royalty, copyright, or patent, or the sale of the fund's rights to a royalty, copyright, or patent, must be credited immediately to the principal of the fund. Receipts from Minnesota future resources fund projects must be credited to the trust fund. Before a project is included in the budget plan, the commission may vote to relinquish the ownership or rights to a royalty, copyright, or patent resulting from a project supported by the fund to the project's proposer when the amount of the original grant or loan, plus interest, has been repaid to the fund.

Sec. 147. Minnesota Statutes 2002, section 116P.14, subdivision 1, is amended to read:

Subdivision 1. [DESIGNATED AGENCY.] The department of natural resources is designated as the state agency to apply for, accept, receive, and disburse federal reimbursement funds and private funds, which are granted to the state of Minnesota from section 6 of the federal Land and Water Conservation Fund Act.

Sec. 148. Minnesota Statutes 2002, section 116P.14, subdivision 2, is amended to read:

Subd. 2. [STATE LAND AND WATER CONSERVATION ACCOUNT; CREATION.] A state land and water conservation account is created in the ~~Minnesota future~~ natural resources fund. All of the money made available to the state from funds granted under subdivision 1 shall be deposited in the state land and water conservation account.

Sec. 149. Minnesota Statutes 2002, section 297A.94, is amended to read:

297A.94 [DEPOSIT OF REVENUES.]

(a) Except as provided in this section, the commissioner shall deposit the revenues, including interest and penalties, derived from the taxes imposed by this chapter in the state treasury and credit them to the general fund.

(b) The commissioner shall deposit taxes in the Minnesota agricultural and economic account in the special revenue fund if:

(1) the taxes are derived from sales and use of property and services purchased for the construction and operation of an agricultural resource project; and

(2) the purchase was made on or after the date on which a conditional commitment was made for a loan guaranty for the project under section 41A.04, subdivision 3.

The commissioner of finance shall certify to the commissioner the date on which the project received the conditional commitment. The amount deposited in the loan guaranty account must be reduced by any refunds and by the costs incurred by the department of revenue to administer and enforce the assessment and collection of the taxes.

(c) The commissioner shall deposit the revenues, including interest and penalties, derived from the taxes imposed on sales and purchases included in section 297A.61, subdivision 3, paragraph (g), clauses (1) and (4), in the state treasury, and credit them as follows:

(1) first to the general obligation special tax bond debt service account in each fiscal year the amount required by section 16A.661, subdivision 3, paragraph (b); and

(2) after the requirements of clause (1) have been met, the balance to the general fund.

(d) The commissioner shall deposit the revenues, including interest and penalties, collected under section 297A.64, subdivision 5, in the state treasury and credit them to the general fund. By July 15 of each year the commissioner shall transfer to the highway user tax distribution fund an amount equal to the excess fees collected under section 297A.64, subdivision 5, for the previous calendar year.

(e) For fiscal year 2001, 97 percent; for fiscal years 2002 and 2003, 87 percent; and for fiscal year 2004 and thereafter, ~~87.1~~ 72.43 percent of the revenues, including interest and penalties, transmitted to the commissioner under section 297A.65, must be deposited by the commissioner in the state treasury as follows:

(1) 50 percent of the receipts must be deposited in the heritage enhancement account in the game and fish fund, and may be spent only on activities that improve, enhance, or protect fish and wildlife resources, including conservation, restoration, and enhancement of land, water, and other natural resources of the state;

(2) 22.5 percent of the receipts must be deposited in the natural resources fund, and may be spent only for state parks and trails;

(3) 22.5 percent of the receipts must be deposited in the natural resources fund, and may be spent only on metropolitan park and trail grants;

(4) three percent of the receipts must be deposited in the natural resources fund, and may be spent only on local trail grants; and

(5) two percent of the receipts must be deposited in the natural resources fund, and may be spent only for the Minnesota zoological garden, the Como park zoo and conservatory, and the Duluth zoo.

(f) The revenue dedicated under paragraph (e) may not be used as a substitute for traditional sources of funding for the purposes specified, but the dedicated revenue shall supplement traditional sources of funding for those purposes. Land acquired with money deposited in the game and fish fund under paragraph (e) must be open to

public hunting and fishing during the open season, except that in aquatic management areas or on lands where angling easements have been acquired, fishing may be prohibited during certain times of the year and hunting may be prohibited. At least 87 percent of the money deposited in the game and fish fund for improvement, enhancement, or protection of fish and wildlife resources under paragraph (e) must be allocated for field operations.

Sec. 150. Minnesota Statutes 2002, section 297F.10, subdivision 1, is amended to read:

Subdivision 1. [TAX AND USE TAX ON CIGARETTES.] Revenue received from cigarette taxes, as well as related penalties, interest, license fees, and miscellaneous sources of revenue shall be deposited by the commissioner in the state treasury and credited as follows:

(a) first to the general obligation special tax bond debt service account in each fiscal year the amount required to increase the balance on hand in the account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding bonds whose debt service is payable primarily from the proceeds of the tax to and including the second following July 1; and

(b) after the requirements of paragraph (a) have been met:

(1) the revenue produced by one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the general fund from July 1, 2003, through June 30, 2005, and credited to the Minnesota future resources fund after June 30, 2005; and

(2) the balance of the revenues derived from taxes, penalties, and interest (under this chapter) and from license fees and miscellaneous sources of revenue shall be credited to the general fund.

Sec. 151. [MODIFICATIONS TO STORM WATER PERMIT FEES.]

(a) The pollution control agency shall collect water quality permit applications and annual fees as provided in the rules of the agency and in Laws 2002, chapter 220, article 8, section 15, with the following modifications:

(1) the application fee for general industrial storm water permits is reduced to zero, and the annual fee is increased to $400;

(2) the application fee for general construction storm water permits is increased to $400; and

(3) application and annual fees for other general permits do not apply to general municipal separate storm sewer system permits.

(b) Nothing in this section limits the authority of a county, city, town, watershed district, or other special purpose district or political subdivision, to impose fees or to levy taxes or assessments to pay the cost of regulating or controlling storm water discharges to waters of the state.

(c) The permit fee modifications provided in this section are effective July 1, 2003. The pollution control agency shall adopt amended water quality permit fee rules under Minnesota Statutes, section 14.389, that incorporate the fee modifications provided in this section. The agency shall begin collecting fees in accordance with the modifications in this section on July 1, 2003, regardless of the status of those rules. Notwithstanding Minnesota Statutes, section 14.18, subdivision 2, the permit fee modifications in this section and the rule amendments incorporating them do not require further legislative approval.

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

Sec. 152. [UTILITY LICENSES.]

Notwithstanding the repealers in this article, all licenses issued under Minnesota Statutes, section 84.415, and Minnesota Rules, chapter 6135, remain in effect for their existing terms, unless modified pursuant to Minnesota Statutes, section 84.415, subdivision 6.

Sec. 153. [CONSERVATION CORPS; TRANSFER OF ASSETS.]

The state's ownership interest in all tools, computers, and other supplies and equipment acquired by the commissioner of natural resources for the purpose of the conservation corps created under Minnesota Statutes, section 84.98, is transferred to the Minnesota conservation corps created in Minnesota Statutes, section 84.991.

Sec. 154. [CONSERVATION CORPS; TRANSFER OF FUNDS.]

The remaining balances in the Minnesota conservation corps cooperative agreement, youthworks, Americorps administration, education vouchers, and gift accounts on June 30, 2003, are canceled and reappropriated to the friends of the Minnesota conservation corps created in Minnesota Statutes, section 84.991.

Sec. 155. [STATE FOREST MOTORIZED TRAIL SYSTEM PLANNING PROCESS; IMPLEMENTATION.]

(a) By March 1, 2006, the commissioner of natural resources shall complete implementation of the existing system planning process for motorized trails in state forests. Notwithstanding any law to the contrary, any trail or forest road in a state forest for which motorized use was allowed from January 1, 2003, to January 1, 2006, and not closed through implementation of the system planning process is designated for motorized use on January 1, 2006. Any mileage identified in the system planning process for motorized trails that would be permanently closed as a result of the system planning process must be replaced with an equal amount of motorized mileage use. At least 50 percent of the existing forest trails and at least 50 percent of the class 3, 4, 5, and 6 forest roads that are currently open to off-road vehicle use must remain open to off-road vehicle use after the system planning process has been completed. The commissioner shall sign all trails and forest roads designated under this section for motorized use in state forests. By January 1, 2006, the environmental quality board shall adopt rules providing for threshold levels for environmental review on recreational trails. Until January 1, 2006, environmental review under Minnesota Statutes, section 116D.04, and rules adopted by the environmental quality board do not apply to the designation of:

(1) a motorized trail within the statutory boundaries of a state forest that is lawfully used by motorized recreational vehicles at the time of designation;

(2) any motorized trail segment within the statutory boundaries of a state forest that is a rerouting of a motorized trail when necessary for safety considerations or to avoid sensitive areas;

(3) existing public or forest roads within the statutory boundaries of a state forest for motorized recreational vehicle use; or

(4) any new trail within the statutory boundaries of a state forest designated by the commissioner.

(b) The commissioner shall complete the five-step public review process as provided in the department of natural resources publication titled: "Off-Highway Vehicle System Planning, Project Implementation and Review: (Revised 01/07/03)" for designations under paragraph (a), except that the commissioner shall conduct an alternative environmental review, according to this paragraph, in lieu of the process described in step 3, page 4, of the aforementioned publication. The commissioner shall conduct an internal departmental interdisciplinary environmental review. The commissioner may make project modifications or provide for additional mitigation as warranted by the internal departmental interdisciplinary environmental review.

Sec. 156. [PHOSPHORUS STUDY.]

The commissioner of the pollution control agency must study the concept of lowering phosphorus in the wastewater stream and the effect on water quality and how to best assist local units of government in removing phosphorus at public wastewater treatment plants. The commissioner must review the rules on nutrients in cleaning agents pursuant to Minnesota Statutes, sections 116.23 and 116.24, and report the results of the study and rule review to the house and senate environment and natural resources policy and finance committees and commerce committees by February 1, 2004.

Sec. 157. [INDIVIDUAL SEWAGE TREATMENT SYSTEM STUDY.]

The commissioner of the pollution control agency, with input from stakeholders, must develop and report back to the legislature by February 1, 2004, a five-year plan to work with counties to:

(1) locate individual sewage systems that are imminent threats to public health and safety, and those with less than two feet of soil separation, within those counties with watersheds impaired by fecal coliform;

(2) institute a system to oversee compliance with individual sewage treatment maintenance requirements of Minnesota Rules, part 7080.0175; and

(3) report the results of the study to the house and senate environment and natural resources policy and finance committees.

Sec. 158. [COUNTY PROCESSING GRANT OBLIGATIONS.]

The outstanding obligations arising from the following specified processing facility grants provided by the office of environmental assistance to the listed counties are terminated, notwithstanding the provisions of Minnesota Statutes, section 16A.695:

(1) Fillmore county, for demonstration program grants awarded March 1987 and June 1991;

(2) St. Louis county, for a capital assistance program grant awarded September 1989;

(3) Wright county, for a capital assistance program grant awarded April 1990;

(4) Isanti, Chisago, Pine, Mille Lacs, and Kanabec counties, together as the east central solid waste commission, for a capital assistance program grant awarded September 1990, and a facility optimization grant awarded February 1994; and

(5) Pennington county, for a capital assistance program grant awarded in February 1992.

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

Sec. 159. [REPORT.]

The commissioner shall report to the legislature by August 1, 2004, on the results of the mourning dove season authorized by Minnesota Statutes, section 97B.717. The report must include a description of the impact of the season on the mourning dove population in the state.

Sec. 160. [REVISOR'S INSTRUCTION.]

The revisor of statutes shall change the reference in Minnesota Rules, part 8420.0740, subpart 1, item I, subitem (3), from "8420.0720, subpart 8a" to "8420.0720, subpart 8."

Sec. 161. [REPEALER.]

(a) Minnesota Statutes 2002, section 97B.731, subdivision 2, is repealed effective the day following final enactment.

(b) Minnesota Statutes 2002, sections 1.31; 1.32; 84.0887; 84.415, subdivisions 1 and 3; 84.98; 84.99; 93.2235; 97A.485, subdivision 12; 103B.311, subdivisions 5, 6, and 7; 103B.315, subdivisions 1, 2, 3, and 7; 103B.321, subdivision 3; and 103B.3369, subdivision 3; Minnesota Rules, parts 6135.0100; 6135.0200; 6135.0300; 6135.0400; 6135.0510; 6135.0610; 6135.0710; 6135.0810; 6135.1000; 6135.1100; 6135.1200; 6135.1300; 6135.1400; 6135.1500; 6135.1600; 6135.1700; 6135.1800; 9300.0010; 9300.0020; 9300.0030; 9300.0040; 9300.0050; 9300.0060; 9300.0070; 9300.0080; 9300.0090; 9300.0100; 9300.0110; 9300.0120; 9300.0130; 9300.0140; 9300.0150; 9300.0160; 9300.0170; 9300.0180; 9300.0190; 9300.0200; and 9300.0210, are repealed.

(c) Minnesota Statutes 2002, section 97A.105, subdivisions 3a and 3b, are repealed effective January 1, 2004.

Sec. 162. [EFFECTIVE DATE.]

Except as otherwise provided, this article is effective July 1, 2003.

ARTICLE 2

ENVIRONMENTAL FUND CHANGES

Section 1. Minnesota Statutes 2002, section 16A.531, subdivision 1, is amended to read:

Subdivision 1. [ENVIRONMENTAL FUND.] There is created in the state treasury an environmental fund as a special revenue fund for deposit of receipts from environmentally related taxes, fees, and ~~activities conducted by the state~~ other sources as provided in subdivision 1a.

Sec. 2. Minnesota Statutes 2002, section 16A.531, is amended by adding a subdivision to read:

Subd. 1a. [REVENUES.] The following revenues must be deposited in the environmental fund:

(1) all revenue from the motor vehicle transfer fee imposed under section 115A.908;

(2) all fees collected under section 116.07, subdivision 4d;

(3) all money collected by the pollution control agency in enforcement matters as provided in section 115.073;

(4) all revenues from license fees for individual sewage treatment systems under section 115.56;

(5) all loan repayments deposited under section 115A.0716;

(6) all revenue from pollution prevention fees imposed under section 115D.12;

(7) all loan repayments deposited under section 116.994;

(8) all fees collected under section 116C.834;

(9) revenue collected from the solid waste management tax pursuant to chapter 297H;

(10) fees collected under section 473.844; and

(11) interest accrued on the fund.

Sec. 3. Minnesota Statutes 2002, section 115.073, is amended to read:

115.073 [ENFORCEMENT FUNDING.]

Except as provided in ~~sections 115B.20, subdivision 4, clause (2);~~ section 115C.05~~; and 473.845, subdivision 8~~, all money recovered by the state under this chapter and chapters 115A and 116, including civil penalties and money paid under an agreement, stipulation, or settlement, excluding money paid for past due fees or taxes, up to the amount appropriated for implementation of Laws 1991, chapter 347, must be deposited in the state treasury and credited to the environmental fund.

Sec. 4. Minnesota Statutes 2002, section 115.56, subdivision 4, is amended to read:

Subd. 4. [LICENSE FEE.] The fee for a license required under subdivision 2 is $100 per year. Revenue from the fees must be credited to the environmental fund and is exempt from section 16A.1285.

Sec. 5. Minnesota Statutes 2002, section 115A.0716, subdivision 3, is amended to read:

Subd. 3. [REVOLVING ACCOUNT.] ~~An environmental assistance revolving account is established in the environmental fund.~~ All repayments of loans awarded under this subdivision, including principal and interest, must be ~~deposited into~~ credited to the ~~account~~ environmental fund. Money deposited in the ~~account~~ fund under this section is annually appropriated to the director for loans for purposes identified in subdivisions 1 and 2.

Sec. 6. Minnesota Statutes 2002, section 115A.9651, subdivision 6, is amended to read:

Subd. 6. [PRODUCT REVIEW REPORTS.] (a) Except as provided under subdivision 7, the manufacturer, or an association of manufacturers, of any specified product distributed for sale or use in this state that is not listed pursuant to subdivision 4 shall submit a product review report and fee as provided in paragraph (c) to the commissioner for each product by July 1, 1998. Each product review report shall contain at least the following:

(1) a policy statement articulating upper management support for eliminating or reducing intentional introduction of listed metals into its products;

(2) a description of the product and the amount of each listed metal distributed for use in this state;

(3) a description of past and ongoing efforts to eliminate or reduce the listed metal in the product;

(4) an assessment of options available to reduce or eliminate the intentional introduction of the listed metal including any alternatives to the specified product that do not contain the listed metal, perform the same technical function, are commercially available, and are economically practicable;

(5) a statement of objectives in numerical terms and a schedule for achieving the elimination of the listed metals and an environmental assessment of alternative products;

(6) a listing of options considered not to be technically or economically practicable; and

(7) certification attesting to the accuracy of the information in the report signed and dated by an official of the manufacturer or user.

If the manufacturer fails to submit a product review report, a user of a specified product may submit a report and fee which comply with this subdivision by August 15, 1998.

(b) By July 1, 1999, and annually thereafter until the commissioner takes action under subdivision 9, the manufacturer or user must submit a progress report and fee as provided in paragraph (c) updating the information presented under paragraph (a).

(c) The fee shall be $295 for each report. The fee shall be deposited in the state treasury and credited to the environmental fund. The fee is exempt from section 16A.1285.

(d) Where it cannot be determined from a progress report submitted by a person pursuant to Laws 1994, chapter 585, section 30, subdivision 2, paragraph (e), the number of products for which product review reports are due under this subdivision, the commissioner shall have the authority to determine, after consultation with that person, the number of products for which product review reports are required.

(e) The commissioner shall summarize, aggregate, and publish data reported under paragraphs (a) and (b) annually.

(f) A product that is the subject of a recommendation by the Toxics in Packaging Clearinghouse, as administered by the Council of State Governments, is exempt from this section.

Sec. 7. Minnesota Statutes 2002, section 115B.17, subdivision 6, is amended to read:

Subd. 6. [RECOVERY OF EXPENSES.] Any reasonable and necessary expenses incurred by the agency or commissioner pursuant to this section, including all response costs, and administrative and legal expenses, may be recovered in a civil action brought by the attorney general against any person who may be liable under section 115B.04 or any other law. The agency's certification of expenses shall be prima facie evidence that the expenses are reasonable and necessary. Any expenses incurred pursuant to this section which are recovered by the attorney general pursuant to section 115B.04 or any other law, including any award of attorneys fees, shall be deposited in the remediation fund ~~and credited to a special account for additional response actions as provided in section 115B.20, subdivision 2, clause (2) or (4)~~.

Sec. 8. Minnesota Statutes 2002, section 115B.17, subdivision 7, is amended to read:

Subd. 7. [ACTIONS RELATING TO NATURAL RESOURCES.] For the purpose of this subdivision, the state is the trustee of the air, water and wildlife of the state. An action pursuant to section 115B.04 for damages with respect to air, water or wildlife may be brought by the attorney general in the name of the state as trustee for those natural resources. Any damages recovered by the attorney general pursuant to section 115B.04 or any other law for injury to, destruction of, or loss of natural resources resulting from the release of a hazardous substance, or a pollutant or contaminant, shall be deposited in the ~~account~~ remediation fund.

Sec. 9. Minnesota Statutes 2002, section 115B.17, subdivision 14, is amended to read:

Subd. 14. [REQUESTS FOR REVIEW, INVESTIGATION, AND OVERSIGHT.] (a) The commissioner may, upon request, assist a person in determining whether real property has been the site of a release or threatened release of a hazardous substance, pollutant, or contaminant. The commissioner may also assist in, or supervise, the

development and implementation of reasonable and necessary response actions. Assistance may include review of agency records and files, and review and approval of a requester's investigation plans and reports and response action plans and implementation.

(b) Except as otherwise provided in this paragraph, the person requesting assistance under this subdivision shall pay the agency for the agency's cost, as determined by the commissioner, of providing assistance. A state agency, political subdivision, or other public entity is not required to pay for the agency's cost to review agency records and files. Money received by the agency for assistance under this section must be deposited in the ~~environmental response, compensation, and compliance~~ remediation fund and is exempt from section 16A.1285.

(c) When a person investigates a release or threatened release in accordance with an investigation plan approved by the commissioner under this subdivision, the investigation does not associate that person with the release or threatened release for the purpose of section 115B.03, subdivision 3, clause (4).

Sec. 10. Minnesota Statutes 2002, section 115B.17, subdivision 16, is amended to read:

Subd. 16. [DISPOSITION OF PROPERTY ACQUIRED FOR RESPONSE ACTION.] (a) If the commissioner determines that real or personal property acquired by the agency for response action is no longer needed for response action purposes, the commissioner may:

(1) transfer the property to the commissioner of administration to be disposed of in the manner required for other surplus property subject to conditions the commissioner determines necessary to protect the public health and welfare or the environment, or to comply with federal law;

(2) transfer the property to another state agency, a political subdivision, or special purpose district as provided in paragraph (b); or

(3) if required by federal law, take actions and dispose of the property as required by federal law.

(b) If the commissioner determines that real or personal property acquired by the agency for response action must be operated, maintained, or monitored after completion of other phases of the response action, the commissioner may transfer ownership of the property to another state agency, a political subdivision, or special purpose district that agrees to accept the property. A state agency, political subdivision, or special purpose district is authorized to accept and implement the terms and conditions of a transfer under this paragraph. The commissioner may set terms and conditions for the transfer that the commissioner considers reasonable and necessary to ensure proper operation, maintenance, and monitoring of response actions, protect the public health and welfare and the environment, and comply with applicable federal and state laws and regulations. The state agency, political subdivision, or special purpose district to which the property is transferred is not liable under this chapter solely as a result of acquiring the property or acting in accordance with the terms and conditions of the transfer.

(c) If the agency acquires property under subdivision 15, the commissioner may lease or grant an easement in the property to a person during the implementation of response actions if the lease or easement is compatible with or necessary for response action implementation.

(d) The proceeds of a sale, lease, or other transfer of property under this subdivision by the commissioner or by the commissioner of administration shall be deposited in the ~~environmental response, compensation, and compliance account~~ remediation fund. Any share of the proceeds that the agency is required by federal law or regulation to reimburse to the federal government is appropriated from the account to the agency for that purpose. Except for section 94.16, subdivision 2, the provisions of section 94.16 do not apply to real property sold by the commissioner of administration which was acquired under subdivision 15.

Sec. 11. Minnesota Statutes 2002, section 115B.19, is amended to read:

115B.19 [~~PURPOSES OF ACCOUNT AND TAXES~~ PURPOSE OF FUND.]

In establishing the ~~environmental response, compensation and compliance account~~ remediation fund in section ~~115B.20 and imposing taxes in section 115B.22~~ 116.155 it is the purpose of the legislature to:

(1) encourage treatment and disposal of hazardous waste in a manner that adequately protects the public health or welfare or the environment;

(2) encourage responsible parties to provide the response actions necessary to protect the public and the environment from the effects of the release of hazardous substances;

(3) encourage the use of alternatives to land disposal of hazardous waste including resource recovery, recycling, neutralization, and reduction;

(4) provide state agencies with the financial resources needed to prepare and implement an effective and timely state response to the release of hazardous substances, including investigation, planning, removal and remedial action;

(5) compensate for increased governmental expenses and loss of revenue and to provide other appropriate assistance to mitigate any adverse impact on communities in which commercial hazardous waste processing or disposal facilities are located under the siting process provided in chapter 115A;

(6) recognize the environmental and public health costs of land disposal of solid waste and of the use and disposal of hazardous substances and to place the burden of financing state hazardous waste management activities on those whose products and services contribute to hazardous waste management problems and increase the risks of harm to the public and the environment.

Sec. 12. Minnesota Statutes 2002, section 115B.20, is amended to read:

115B.20 [~~ENVIRONMENTAL RESPONSE, COMPENSATION, AND COMPLIANCE ACCOUNT~~ ACTIONS USING MONEY FROM REMEDIATION FUND.]

~~Subdivision 1. [ESTABLISHMENT.] (a) The environmental response, compensation, and compliance account is in the environmental fund in the state treasury and may be spent only for the purposes provided in subdivision 2.~~

~~(b) The commissioner of finance shall administer a response account for the agency and the commissioner of agriculture to take removal, response, and other actions authorized under subdivision 2, clauses (1) to (4) and (9) to (11). The commissioner of finance shall transfer money from the response account to the agency and the commissioner of agriculture to take actions required under subdivision 2, clauses (1) to (4) and (9) to (11).~~

~~(c) The commissioner of finance shall administer the account in a manner that allows the commissioner of agriculture and the agency to utilize the money in the account to implement their removal and remedial action duties as effectively as possible.~~

~~(d) Amounts appropriated to the commissioner of finance under this subdivision shall not be included in the department of finance budget but shall be included in the pollution control agency and department of agriculture budgets.~~

~~(e) All money recovered by the state under section 115B.04 or any other law for injury to, destruction of, or loss of natural resources resulting from the release of a hazardous substance, or a pollutant or contaminant, must be credited to the environmental response, compensation, and compliance account in the environmental fund and is appropriated to the commissioner of natural resources for purposes of subdivision 2, clause (5), consistent with any applicable term of judgments, consent decrees, consent orders, or other administrative actions requiring payments to the state for such purposes. Before making an expenditure of money appropriated under this paragraph, the commissioner of natural resources shall provide written notice of the proposed expenditure to the chairs of the senate committee on finance, the house of representatives committee on ways and means, the finance division of the senate committee on environment and natural resources, and the house of representatives committee on environment and natural resources finance.~~

Subd. 2. [PURPOSES FOR WHICH MONEY MAY BE SPENT.] ~~Subject to appropriation by the legislature the money in the account~~ Money appropriated from the remediation fund under section 116.155, subdivision 2, paragraph (a), clause (1), may be spent only for ~~any of~~ the following purposes:

(1) preparation by the agency and the commissioner of agriculture for taking removal or remedial action under section 115B.17, or under chapter 18D, including investigation, monitoring and testing activities, enforcement and compliance efforts relating to the release of hazardous substances, pollutants or contaminants under section 115B.17 or 115B.18, or chapter 18D;

(2) removal and remedial actions taken or authorized by the agency or the commissioner of the pollution control agency under section 115B.17, or taken or authorized by the commissioner of agriculture under chapter 18D including related enforcement and compliance efforts under section 115B.17 or 115B.18, or chapter 18D, and payment of the state share of the cost of remedial action which may be carried out under a cooperative agreement with the federal government pursuant to the federal Superfund Act, under United States Code, title 42, section 9604(c)(3) for actions related to facilities other than commercial hazardous waste facilities located under the siting authority of chapter 115A;

(3) reimbursement to any private person for expenditures made before July 1, 1983, to provide alternative water supplies deemed necessary by the agency or the commissioner of agriculture and the department of health to protect the public health from contamination resulting from the release of a hazardous substance;

(4) ~~removal and remedial actions taken or authorized by the agency or the commissioner of agriculture or the pollution control agency under section 115B.17, or chapter 18D, including related enforcement and compliance efforts under section 115B.17 or 115B.18, or chapter 18D, and payment of the state share of the cost of remedial action which may be carried out under a cooperative agreement with the federal government pursuant to the federal Superfund Act, under United States Code, title 42, section 9604(c)(3) for actions related to commercial hazardous waste facilities located under the siting authority of chapter 115A;~~

~~(5)~~ assessment and recovery of natural resource damages by the agency and the commissioners of natural resources and administration, and planning and implementation by the commissioner of natural resources of the rehabilitation, restoration, or acquisition of natural resources to remedy injuries or losses to natural resources resulting from the release of a hazardous substance; before implementing a project to rehabilitate, restore, or acquire natural resources under this clause, the commissioner of natural resources shall provide written notice of the proposed project to the chairs of the senate and house of representatives committees with jurisdiction over environment and natural resources finance;

~~(6) inspection, monitoring, and compliance efforts by the agency, or by political subdivisions with agency approval, of commercial hazardous waste facilities located under the siting authority of chapter 115A;~~

~~(7) grants by the agency or the office of environmental assistance to demonstrate alternatives to land disposal of hazardous waste including reduction, separation, pretreatment, processing and resource recovery, for education of persons involved in regulating and handling hazardous waste;~~

~~(8) grants by the agency to study the extent of contamination and feasibility of cleanup of hazardous substances and pollutants or contaminants in major waterways of the state;~~

~~(9)~~ (5) acquisition of a property interest under section 115B.17, subdivision 15;

~~(10)~~ (6) reimbursement, in an amount to be determined by the agency in each case, to a political subdivision that is not a responsible person under section 115B.03, for reasonable and necessary expenditures resulting from an emergency caused by a release or threatened release of a hazardous substance, pollutant, or contaminant; and

~~(11)~~ (7) reimbursement to a political subdivision for expenditures in excess of the liability limit under section 115B.04, subdivision 4.

Subd. 3. [LIMIT ON CERTAIN EXPENDITURES.] The commissioner of agriculture or the pollution control agency or the agency may not spend any money under subdivision 2, clause (2) ~~or (4)~~, for removal or remedial actions to the extent that the costs of those actions may be compensated from any fund established under the Federal Superfund Act, United States Code, title 42, section 9600 et seq. The commissioner of agriculture or the pollution control agency or the agency shall determine the extent to which any of the costs of those actions may be compensated under the federal act based on the likelihood that the compensation will be available in a timely fashion. In making this determination the commissioner of agriculture or the pollution control agency or the agency shall take into account:

(1) the urgency of the removal or remedial actions and the priority assigned under the Federal Superfund Act to the release which necessitates those actions;

(2) the availability of money in the funds established under the Federal Superfund Act; and

(3) the consistency of any compensation for the cost of the proposed actions under the Federal Superfund Act with the national contingency plan, if such a plan has been adopted under that act.

~~Subd. 4. [REVENUE SOURCES.] Revenue from the following sources shall be deposited in the account:~~

~~(1) the proceeds of the taxes imposed pursuant to section 115B.22, including interest and penalties;~~

~~(2) all money recovered by the state under sections 115B.01 to 115B.18 or under any other statute or rule related to the regulation of hazardous waste or hazardous substances, including civil penalties and money paid under any agreement, stipulation or settlement but excluding fees imposed under section 116.12;~~

~~(3) all interest attributable to investment of money deposited in the account; and~~

~~(4) all money received in the form of gifts, grants, reimbursement or appropriation from any source for any of the purposes provided in subdivision 2, except federal grants.~~

~~Subd. 5. [RECOMMENDATION.] The commissioner of agriculture shall make recommendations to the standing legislative committees on finance and appropriations regarding appropriations from the account.~~

Subd. 6. [REPORT TO LEGISLATURE.] Each year, the commissioner of agriculture and the agency shall submit to the senate finance committee, the house ways and means committee, the environment and natural resources committees of the senate and house of representatives, the finance division of the senate committee on

environment and natural resources, and the house of representatives committee on environment and natural resources finance, and the environmental quality board a report detailing the activities for which money ~~from the account~~ has been spent pursuant to this section during the previous fiscal year.

Sec. 13. Minnesota Statutes 2002, section 115B.22, subdivision 7, is amended to read:

Subd. 7. [DISPOSITION OF PROCEEDS.] After reimbursement to the department of revenue for costs incurred in administering sections 115B.22 and 115B.24, the proceeds of the taxes imposed under this section including any interest and penalties shall be deposited in the environmental ~~response, compensation, and compliance account~~ fund.

Sec. 14. Minnesota Statutes 2002, section 115B.25, subdivision 1a, is amended to read:

Subd. 1a. [~~ACCOUNT~~ FUND.] Except when another fund or account is specified, "~~account~~ fund" means the ~~environmental response, compensation, and compliance account~~ remediation fund established in section ~~115B.20~~ 116.155.

Sec. 15. Minnesota Statutes 2002, section 115B.25, subdivision 4, is amended to read:

Subd. 4. [ELIGIBLE PERSON.] "Eligible person" means a person who is eligible to file a claim with the ~~account~~ fund under section 115B.29.

Sec. 16. Minnesota Statutes 2002, section 115B.26, is amended to read:

115B.26 [~~ENVIRONMENTAL RESPONSE, COMPENSATION, AND COMPLIANCE ACCOUNT~~ PAYMENT OF CLAIMS.]

Subd. 2. [APPROPRIATION.] The amount necessary to pay claims of compensation granted by the agency under sections 115B.25 to 115B.37 ~~is~~ must be directly appropriated to the agency from the ~~account~~ fund by the legislature.

~~Subd. 3. [PAYMENT OF CLAIMS WHEN ACCOUNT INSUFFICIENT.] If the amount of the claims granted exceeds the amount in the account, the agency shall request a transfer from the general contingent account to the environmental response, compensation, and compliance account as provided in section 3.30. If no transfer is approved, the agency shall pay the claims which have been granted in the order granted only to the extent of the money remaining in the account. The agency shall pay the remaining claims which have been granted after additional money is credited to the account.~~

Subd. 4. [~~ACCOUNT~~ TRANSFER REQUEST.] At the end of each fiscal year, the agency shall submit a request to the petroleum tank release compensation board for transfer to the ~~account~~ fund from the petroleum tank release cleanup fund under section 115C.08, subdivision 5, of an amount equal to the compensation granted by the agency for claims related to petroleum releases plus administrative costs related to determination of those claims.

Sec. 17. Minnesota Statutes 2002, section 115B.30, is amended to read:

115B.30 [ELIGIBLE INJURY AND DAMAGE.]

Subdivision 1. [ELIGIBLE PERSONAL INJURY.] (a) A personal injury which could reasonably have resulted from exposure to a harmful substance released from a facility where it was placed or came to be located is eligible for compensation from the ~~account~~ fund if:

(1) it is a medically verified chronic or progressive disease, illness, or disability such as cancer, organic nervous system disorders, or physical deformities, including malfunctions in reproduction, in humans or their offspring, or death; or

(2) it is a medically verified acute disease or condition that typically manifests itself rapidly after a single exposure or limited exposures and the persons responsible for the release of the harmful substance are unknown or cannot with reasonable diligence be determined or located or a judgment would not be satisfied in whole or in part against the persons determined to be responsible for the release of the harmful substance.

(b) A personal injury is not compensable from the account if:

(1) the injury is compensable under the workers' compensation law, chapter 176;

(2) the injury arises out of the claimant's use of a consumer product;

(3) the injury arises out of an exposure that occurred or is occurring outside the geographical boundaries of the state;

(4) the injury results from the release of a harmful substance for which the claimant is a responsible person; or

(5) the injury is an acute disease or condition other than one described in paragraph (a).

Subd. 2. [ELIGIBLE PROPERTY DAMAGE.] Damage to real property in Minnesota owned by the claimant is eligible for compensation from the ~~account~~ fund if the damage results from the presence in or on the property of a harmful substance released from a facility where it was placed or came to be located. Damage to property is not eligible for compensation from the ~~account~~ fund if it results from the release of a harmful substance for which the claimant is a responsible person.

Subd. 3. [TIME FOR FILING CLAIM.] (a) A claim is not eligible for compensation from the ~~account~~ fund unless it is filed with the agency within the time provided in this subdivision.

(b) A claim for compensation for personal injury must be filed within two years after the injury and its connection to exposure to a harmful substance was or reasonably should have been discovered.

(c) A claim for compensation for property damage must be filed within two years after the full amount of compensable losses can be determined.

(d) Notwithstanding the provisions of this subdivision, claims for compensation that would otherwise be barred by any statute of limitations provided in sections 115B.25 to 115B.37 may be filed not later than January 1, 1992.

Sec. 18. Minnesota Statutes 2002, section 115B.31, subdivision 1, is amended to read:

Subdivision 1. [SUBSEQUENT ACTION OR CLAIM PROHIBITED IN CERTAIN CASES.] (a) A person who has settled a claim for an eligible injury or eligible property damage with a responsible person, either before or after bringing an action in court for that injury or damage, may not file a claim with the account for the same injury or damage. A person who has received a favorable judgment in a court action for an eligible injury or eligible property damage may not file a claim with the ~~account~~ fund for the same injury or damage, unless the judgment cannot be satisfied in whole or in part against the persons responsible for the release of the harmful substance. A person who has filed a claim with the agency or its predecessor, the harmful substance compensation board, may not file another claim with the agency for the same eligible injury or damage, unless the claim was inactivated by the agency or board as provided in section 115B.32, subdivision 1.

(b) A person who has filed a claim with the agency or board for an eligible injury or damage, and who has received and accepted an award from the agency or board, is precluded from bringing an action in court for the same eligible injury or damage.

(c) A person who files a claim with the agency for personal injury or property damage must include all known claims eligible for compensation in one proceeding before the agency.

Sec. 19. Minnesota Statutes 2002, section 115B.31, subdivision 3, is amended to read:

Subd. 3. [SUBROGATION BY STATE.] The state is subrogated to all the claimant's rights under statutory or common law to recover losses compensated from the ~~account~~ fund from other sources, including responsible persons as defined in section 115B.03. The state may bring a subrogation action in its own name or in the name of the claimant. The state may not bring a subrogation action against a person who was a party in a court action by the claimant for the same eligible injury or damage, unless the claimant dismissed the action prior to trial. Money recovered by the state under this subdivision must be deposited in the ~~account~~ fund. Nothing in sections 115B.25 to 115B.37 shall be construed to create a standard of recovery in a subrogation action.

Sec. 20. Minnesota Statutes 2002, section 115B.31, subdivision 4, is amended to read:

Subd. 4. [SIMULTANEOUS CLAIM AND COURT ACTION PROHIBITED.] A claimant may not commence a court action to recover for any injury or damage for which the claimant seeks compensation from the ~~account~~ fund during the time that a claim is pending before the agency. A person may not file a claim with the agency for compensation for any injury or damage for which the claimant seeks to recover in a pending court action. The time for filing a claim under section 115B.30 or the statute of limitations for any civil action is suspended during the period of time that a claimant is precluded from filing a claim or commencing an action under this subdivision.

Sec. 21. Minnesota Statutes 2002, section 115B.32, subdivision 1, is amended to read:

Subdivision 1. [FORM.] A claim for compensation from the ~~account~~ fund must be filed with the agency in the form required by the agency. When a claim does not include all the information required by subdivision 2 and applicable agency rules, the agency staff shall notify the claimant of the absence of the required information within 14 days of the filing of the claim. All required information must be received by the agency not later than 60 days after the claimant received notice of its absence or the claim will be inactivated and may not be resubmitted for at least one year following the date of inactivation. The agency may decide not to inactivate a claim under this subdivision if it finds serious extenuating circumstances.

Sec. 22. Minnesota Statutes 2002, section 115B.33, subdivision 1, is amended to read:

Subdivision 1. [STANDARD FOR PERSONAL INJURY.] The agency shall grant compensation to a claimant who shows that it is more likely than not that:

(1) the claimant suffers a medically verified injury that is eligible for compensation from the ~~account~~ fund and that has resulted in a compensable loss;

(2) the claimant has been exposed to a harmful substance;

(3) the release of the harmful substance from a facility where the substance was placed or came to be located could reasonably have resulted in the claimant's exposure to the substance in the amount and duration experienced by the claimant; and

(4) the injury suffered by the claimant can be caused or significantly contributed to by exposure to the harmful substance in an amount and duration experienced by the claimant.

Sec. 23. Minnesota Statutes 2002, section 115B.34, is amended to read:

115B.34 [COMPENSABLE LOSSES.]

Subdivision 1. [PERSONAL INJURY LOSSES.] Losses compensable by the ~~account~~ fund for personal injury are limited to:

(1) medical expenses directly related to the claimant's injury;

(2) up to two-thirds of the claimant's lost wages not to exceed $2,000 per month or $24,000 per year;

(3) up to two-thirds of a self-employed claimant's lost income, not to exceed $2,000 per month or $24,000 per year;

(4) death benefits to dependents which the agency shall define by rule subject to the following conditions:

(i) the rule adopted by the agency must establish a schedule of benefits similar to that established by section 176.111 and must not provide for the payment of benefits to dependents other than those dependents defined in section 176.111;

(ii) the total benefits paid to all dependents of a claimant must not exceed $2,000 per month;

(iii) benefits paid to a spouse and all dependents other than children must not continue for a period longer than ten years;

(iv) payment of benefits is subject to the limitations of section 115B.36; and

(5) the value of household labor lost due to the claimant's injury or disease, which must be determined in accordance with a schedule established by the board by rule, not to exceed $2,000 per month or $24,000 per year.

Subd. 2. [PROPERTY DAMAGE LOSSES.] (a) Losses compensable by the ~~account~~ fund for property damage are limited to the following losses caused by damage to the principal residence of the claimant:

(1) the reasonable cost of replacing or decontaminating the primary source of drinking water for the property not to exceed the amount actually expended by the claimant or assessed by a local taxing authority, if the department of health has confirmed that the remedy provides safe drinking water and advised that the water not be used for drinking or determined that the replacement or decontamination of the source of drinking water was necessary, up to a maximum of $25,000;

(2) losses incurred as a result of a bona fide sale of the property at less than the appraised market value under circumstances that constitute a hardship to the owner, limited to 75 percent of the difference between the appraised market value and the selling price, but not to exceed $25,000; and

(3) losses incurred as a result of the inability of an owner in hardship circumstances to sell the property due to the presence of harmful substances, limited to the increase in costs associated with the need to maintain two residences, but not to exceed $25,000.

(b) In computation of the loss under paragraph (a), clause (3), the agency shall offset the loss by the amount of any income received by the claimant from the rental of the property.

(c) For purposes of paragraph (a), the following definitions apply:

(1) "appraised market value" means an appraisal of the market value of the property disregarding any decrease in value caused by the presence of a harmful substance in or on the property; and

(2) "hardship" means an urgent need to sell the property based on a special circumstance of the owner including catastrophic medical expenses, inability of the owner to physically maintain the property due to a physical or mental condition, and change of employment of the owner or other member of the owner's household requiring the owner to move to a different location.

(d) Appraisals are subject to agency approval. The agency may adopt rules governing approval of appraisals, criteria for establishing a hardship, and other matters necessary to administer this subdivision.

Sec. 24. Minnesota Statutes 2002, section 115B.36, is amended to read:

115B.36 [AMOUNT AND FORM OF PAYMENT.]

If the agency decides to grant compensation, it shall determine the net uncompensated loss payable to the claimant by computing the total amount of compensable losses payable to the claimant and subtracting the total amount of any compensation received by the claimant for the same injury or damage from other sources including, but not limited to, all forms of insurance and social security and any emergency award made by the agency. The agency shall pay compensation in the amount of the net uncompensated loss, provided that no claimant may receive more than $250,000. In the case of a death, the total amount paid to all persons on behalf of the claimant may not exceed $250,000.

Compensation from the ~~account~~ fund may be awarded in a lump sum or in installments at the discretion of the agency.

Sec. 25. Minnesota Statutes 2002, section 115B.40, subdivision 4, is amended to read:

Subd. 4. [QUALIFIED FACILITY NOT UNDER CLEANUP ORDER; DUTIES.] (a) The owner or operator of a qualified facility that is not subject to a cleanup order shall:

(1) complete closure activities at the facility, or enter into a binding agreement with the commissioner to do so, as provided in paragraph (e), within one year from the date the owner or operator is notified by the commissioner under subdivision 3 of the closure activities that are necessary to properly close the facility in compliance with facility's permit, closure orders, or enforcement agreement with the agency, and with the solid waste rules in effect at the time the facility stopped accepting waste;

(2) undertake or continue postclosure care at the facility until the date of notice of compliance under subdivision 7;

(3) in the case of qualified facilities defined in section 115B.39, subdivision 2, paragraph (l), clause (1), transfer to the commissioner of revenue for deposit in the ~~solid waste~~ remediation fund established in section ~~115B.42~~ 116.155 any funds required for proof of financial responsibility under section 116.07, subdivision 4h, that remain after facility closure and any postclosure care and response action undertaken by the owner or operator at the facility including, if proof of financial responsibility is provided through a letter of credit or other financial instrument or mechanism that does not accumulate money in an account, the amount that would have accumulated had the owner or operator utilized a trust fund, less any amount used for closure, postclosure care, and response action at the facility; and

(4) in the case of qualified facilities defined in section 115B.39, subdivision 2, paragraph (l), clause (2), transfer to the commissioner of revenue for deposit in the ~~solid waste~~ remediation fund established in section ~~115B.42~~ 116.155 an amount of cash that is equal to the sum of their approved current contingency action cost estimate and the present value of their approved estimated remaining postclosure care costs required for proof of financial responsibility under section 116.07, subdivision 4h.

(b) The owner or operator of a qualified facility that is not subject to a cleanup order shall:

(1) in the case of qualified facilities defined in section 115B.39, subdivision 2, paragraph (l), clause (1), provide the commissioner with a copy of all applicable comprehensive general liability insurance policies and other liability policies relating to property damage, certificates, or other evidence of insurance coverage held during the life of the facility; and

(2) enter into a binding agreement with the commissioner to:

(i) in the case of qualified facilities defined in section 115B.39, subdivision 2, paragraph (l), clause (1), take any actions necessary to preserve the owner or operator's rights to payment or defense under insurance policies included in clause (1); cooperate with the commissioner in asserting claims under the policies; and, within 60 days of a request by the commissioner, but no earlier than July 1, 1996, assign only those rights under the policies related to environmental response costs;

(ii) cooperate with the commissioner or other persons acting at the direction of the commissioner in taking additional environmental response actions necessary to address releases or threatened releases and to avoid any action that interferes with environmental response actions, including allowing entry to the property and to the facility's records and allowing entry and installation of equipment; and

(iii) refrain from developing or altering the use of property described in any permit for the facility except after consultation with the commissioner and in conformance with any conditions established by the commissioner for that property, including use restrictions, to protect public health and welfare and the environment.

(c) The owner or operator of a qualified facility defined in section 115B.39, subdivision 2, paragraph (l), clause (1), that is a political subdivision may use a portion of any funds established for response at the facility, which are available directly or through a financial instrument or other financial arrangement, for closure or postclosure care at the facility if funds available for closure or postclosure care are inadequate and shall assign the rights to any remainder to the commissioner.

(d) The agreement required in paragraph (b), clause (2), must be in writing and must apply to and be binding upon the successors and assigns of the owner. The owner shall record the agreement, or a memorandum approved by the commissioner that summarizes the agreement, with the county recorder or registrar of titles of the county where the property is located.

(e) A binding agreement entered into under paragraph (a), clause (1), may include a provision that the owner or operator will reimburse the commissioner for the costs of closing the facility to the standard required in that clause.

Sec. 26. Minnesota Statutes 2002, section 115B.41, subdivision 1, is amended to read:

Subdivision 1. [ALLOCATION AND RECOVERY OF COSTS.] (a) A person who is subject to the requirements in section 115B.40, subdivision 4 or 5, paragraph (b), is responsible for all environmental response costs incurred by the commissioner at or related to the facility until the date of notice of compliance under section 115B.40, subdivision 7. The commissioner may use any funds available for closure, postclosure care, and response

action established by the owner or operator. If those funds are insufficient or if the owner or operator fails to assign rights to them to the commissioner, the commissioner may seek recovery of environmental response costs against the owner or operator in the county of Ramsey or in the county where the facility is located or where the owner or operator resides.

(b) In an action brought under this subdivision in which the commissioner prevails, the court shall award the commissioner reasonable attorney fees and other litigation expenses incurred by the commissioner to bring the action. All costs, fees, and expenses recovered under this subdivision must be deposited in the ~~solid waste~~ remediation fund established in section ~~115B.42~~ 116.155.

Sec. 27. Minnesota Statutes 2002, section 115B.41, subdivision 2, is amended to read:

Subd. 2. [ENVIRONMENTAL RESPONSE COSTS; LIENS.] All environmental response costs, including administrative and legal expenses, incurred by the commissioner at a qualified facility before the date of notice of compliance under section 115B.40, subdivision 7, constitute a lien in favor of the state upon any real property located in the state, other than homestead property, owned by the owner or operator who is subject to the requirements of section 115B.40, subdivision 4 or 5. A lien under this subdivision attaches when the environmental response costs are first incurred and continues until the lien is satisfied or becomes unenforceable as for an environmental lien under section 514.672. Notice, filing, and release of the lien are governed by sections 514.671 to 514.676, except where those requirements specifically are related to only cleanup action expenses as defined in section 514.671. Relative priority of a lien under this subdivision is governed by section 514.672, except that a lien attached to property that was included in any permit for the solid waste disposal facility takes precedence over all other liens regardless of when the other liens were or are perfected. Amounts received to satisfy all or a part of a lien must be deposited in the ~~solid waste~~ remediation fund.

Sec. 28. Minnesota Statutes 2002, section 115B.41, subdivision 3, is amended to read:

Subd. 3. [LOCAL GOVERNMENT AID; OFFSET.] If an owner or operator fails to comply with section 115B.40, subdivision 4, or 5, paragraph (b), fails to remit payment of environmental response costs incurred by the commissioner before the date of notice of compliance under section 115B.40, subdivision 7, and is a local government unit, the commissioner may seek payment of the costs from any state aid payments, except payments made under section 115A.557, subdivision 1, otherwise due the local government unit. The commissioner of revenue, after being notified by the commissioner that the local government unit has failed to pay the costs and the amount due, shall pay an annual proportionate amount of the state aid payment otherwise payable to the local government unit into the ~~solid waste~~ remediation fund that will, over a period of no more than five years, satisfy the liability of the local government unit for the costs.

Sec. 29. Minnesota Statutes 2002, section 115B.42, subdivision 2, is amended to read:

Subd. 2. [EXPENDITURES.] ~~Money in the fund may be spent by~~ The commissioner may spend money from the remediation fund under section 116.155, subdivision 2, paragraph (a), clause (2), to:

(1) inspect permitted mixed municipal solid waste disposal facilities to:

(i) evaluate the adequacy of final cover, slopes, vegetation, and erosion control;

(ii) determine the presence and concentration of hazardous substances, pollutants or contaminants, and decomposition gases; and

(iii) determine the boundaries of fill areas;

(2) monitor and take, or reimburse others for, environmental response actions, including emergency response actions, at qualified facilities;

(3) acquire and dispose of property under section 115B.412, subdivision 3;

(4) recover costs under section 115B.39;

(5) administer, including providing staff and administrative support for, sections 115B.39 to 115B.445;

(6) enforce sections 115B.39 to 115B.445;

(7) ~~subject to appropriation, administer the agency's groundwater and solid waste management programs;~~

~~(8)~~ pay for private water supply well monitoring and health assessment costs of the commissioner of health in areas affected by unpermitted mixed municipal solid waste disposal facilities;

~~(9)~~ (8) reimburse persons under section 115B.43;

~~(10)~~ (9) reimburse mediation expenses up to a total of $250,000 annually or defense costs up to a total of $250,000 annually for third-party claims for response costs under state or federal law as provided in section 115B.414; and

~~(11)~~ (10) perform environmental assessments, up to $1,000,000, at unpermitted mixed municipal solid waste disposal facilities.

Sec. 30. Minnesota Statutes 2002, section 115B.421, is amended to read:

115B.421 [CLOSED LANDFILL INVESTMENT FUND.]

The closed landfill investment fund is established in the state treasury. The fund consists of money credited to the fund, and interest and other earnings on money in the fund. The commissioner of finance shall transfer an initial amount of $5,100,000 from the balance in the solid waste fund beginning in fiscal year 2000 and shall continue to transfer $5,100,000 for each following fiscal year, ceasing after 2003. Beginning July 1, 2003, funds must be deposited as described in section 115B.445. The fund shall be managed to maximize long-term gain through the state board of investment. Money in the fund may be spent by the commissioner after fiscal year 2020 in accordance with ~~section 115B.42, subdivision 2, clauses (1) to (6)~~ sections 115B.39 to 115B.444.

Sec. 31. Minnesota Statutes 2002, section 115B.445, is amended to read:

115B.445 [DEPOSIT OF PROCEEDS.]

All amounts paid to the state by an insurer pursuant to any settlement under section 115B.443 or judgment under section 115B.444 must be deposited in the state treasury and credited equally to the ~~solid waste~~ remediation fund and the closed landfill investment fund.

[EFFECTIVE DATE.] This section is effective for all proceeds paid after June 30, 2001.

Sec. 32. Minnesota Statutes 2002, section 115B.48, subdivision 2, is amended to read:

Subd. 2. [DRY CLEANER ENVIRONMENTAL RESPONSE AND REIMBURSEMENT ACCOUNT; ACCOUNT.] "Dry cleaner environmental response and reimbursement account" or "account" means the dry cleaner environmental response and reimbursement account in the remediation fund established in ~~section~~ sections 115B.49 and 116.155.

Sec. 33. Minnesota Statutes 2002, section 115B.49, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] The dry cleaner environmental response and reimbursement account is established as an account in the ~~state treasury~~ remediation fund.

Sec. 34. Minnesota Statutes 2002, section 115B.49, subdivision 3, is amended to read:

Subd. 3. [EXPENDITURES.] (a) Money in the account may ~~only~~ be used:

(1) for environmental response costs incurred by the commissioner under section 115B.50, subdivision 1;

(2) for reimbursement of amounts spent by the commissioner from the ~~environmental response, compensation, and compliance account~~ remediation fund for expenses described in clause (1);

(3) for reimbursements under section 115B.50, subdivision 2; and

(4) for administrative costs of the commissioner of revenue.

(b) Money in the account is appropriated to the commissioner for the purposes of this subdivision. The commissioner shall transfer funds to the commissioner of revenue sufficient to cover administrative costs pursuant to paragraph (a), clause (4).

Sec. 35. Minnesota Statutes 2002, section 115D.12, subdivision 2, is amended to read:

Subd. 2. [FEES.] (a) Persons required by United States Code, title 42, section 11023, to submit a toxic chemical release form to the commission, and owners or operators of facilities listed in section 299K.08, subdivision 3, shall pay a pollution prevention fee of $150 for each toxic pollutant reported released plus a fee based on the total pounds of toxic pollutants reported as released from each facility. Facilities reporting less than 25,000 pounds annually of toxic pollutants released per facility shall be assessed a fee of $500. Facilities reporting annual releases of toxic pollutants in excess of 25,000 pounds shall be assessed a graduated fee at the rate of two cents per pound of toxic pollutants reported.

(b) Persons who generate more than 1,000 kilograms of hazardous waste per month but who are not subject to the fee under paragraph (a) must pay a pollution prevention fee of $500 per facility. Hazardous waste as used in this paragraph has the meaning given it in section 116.06, subdivision 11, and Minnesota Rules, chapter 7045.

(c) Fees required under this subdivision must be paid to the director by January 1 of each year. The fees shall be deposited in the state treasury and credited to the environmental fund.

(d) The fees under this subdivision are exempt from section 16A.1285.

Sec. 36. Minnesota Statutes 2002, section 116.03, subdivision 2, is amended to read:

Subd. 2. [ORGANIZATION OF OFFICE.] The commissioner shall organize the agency and employ such assistants and other officers, employees and agents as the commissioner may deem necessary to discharge the functions of the commissioner's office, define the duties of such officers, employees and agents, and delegate to them any of the commissioner's powers, duties, and responsibilities, subject to the commissioner's control and under such conditions as the commissioner may prescribe. The commissioner may also contract with, and enter into grant agreements with, persons, firms, corporations, the federal government and any agency or instrumentality thereof, the water research center of the University of Minnesota or any other instrumentality of such university, for doing any of the work of the commissioner's office~~, and~~. None of the provisions of chapter 16C, relating to bids, shall apply to such contracts.

Sec. 37. Minnesota Statutes 2002, section 116.07, subdivision 4d, is amended to read:

Subd. 4d. [PERMIT FEES.] (a) The agency may collect permit fees in amounts not greater than those necessary to cover the reasonable costs of developing, reviewing, and acting upon applications for agency permits and implementing and enforcing the conditions of the permits pursuant to agency rules. Permit fees shall not include the costs of litigation. The fee schedule must reflect reasonable and routine direct and indirect costs associated with permitting, implementation, and enforcement ~~costs~~. The agency may impose an additional enforcement fee to be collected for a period of up to two years to cover the reasonable costs of implementing and enforcing the conditions of a permit under the rules of the agency. Any money collected under this paragraph shall be deposited in the environmental fund.

(b) Notwithstanding paragraph (a), ~~and section 16A.1285, subdivision 2,~~ the agency shall collect an annual fee from the owner or operator of all stationary sources, emission facilities, emissions units, air contaminant treatment facilities, treatment facilities, potential air contaminant storage facilities, or storage facilities subject to the requirement to obtain a permit under subchapter V of the federal Clean Air Act, United States Code, title 42, section 7401 et seq., or section 116.081. The annual fee shall be used to pay for all direct and indirect reasonable costs, including attorney general costs, required to develop and administer the permit program requirements of subchapter V of the federal Clean Air Act, United States Code, title 42, section 7401 et seq., and sections of this chapter and the rules adopted under this chapter related to air contamination and noise. Those costs include the reasonable costs of reviewing and acting upon an application for a permit; implementing and enforcing statutes, rules, and the terms and conditions of a permit; emissions, ambient, and deposition monitoring; preparing generally applicable regulations; responding to federal guidance; modeling, analyses, and demonstrations; preparing inventories and tracking emissions; and providing information to the public about these activities.

(c) The agency shall set fees that:

(1) will result in the collection, in the aggregate, from the sources listed in paragraph (b), of an amount not less than $25 per ton of each volatile organic compound; pollutant regulated under United States Code, title 42, section 7411 or 7412 (section 111 or 112 of the federal Clean Air Act); and each pollutant, except carbon monoxide, for which a national primary ambient air quality standard has been promulgated;

(2) may result in the collection, in the aggregate, from the sources listed in paragraph (b), of an amount not less than $25 per ton of each pollutant not listed in clause (1) that is regulated under this chapter or air quality rules adopted under this chapter; and

(3) shall collect, in the aggregate, from the sources listed in paragraph (b), the amount needed to match grant funds received by the state under United States Code, title 42, section 7405 (section 105 of the federal Clean Air Act).

The agency must not include in the calculation of the aggregate amount to be collected under clauses (1) and (2) any amount in excess of 4,000 tons per year of each air pollutant from a source. The increase in air permit fees to match federal grant funds shall be a surcharge on existing fees. The commissioner may not collect the surcharge after the grant funds become unavailable. In addition, the commissioner shall use nonfee funds to the extent practical to match the grant funds so that the fee surcharge is minimized.

(d) To cover the reasonable costs described in paragraph (b), the agency shall provide in the rules promulgated under paragraph (c) for an increase in the fee collected in each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of the year the fee is collected exceeds the Consumer Price Index for the calendar year 1989. For purposes of this paragraph the Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year. The revision of the Consumer Price Index that is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

(e) Any money collected under paragraphs (b) to (d) must be deposited in ~~an air quality account in~~ the environmental fund and must be used solely for the activities listed in paragraph (b).

(f) Persons who wish to construct or expand a facility may offer to reimburse the agency for the costs of staff overtime or consultant services needed to expedite permit review. The reimbursement shall be in addition to fees imposed by law ~~or rule~~. When the agency determines that it needs additional resources to review the permit application in an expedited manner, and that expediting the review would not disrupt permitting program priorities, the agency may accept the reimbursement. Reimbursements accepted by the agency are appropriated to the agency for the purpose of reviewing the permit application. Reimbursement by a permit applicant shall precede and not be contingent upon issuance of a permit and shall not affect the agency's decision on whether to issue or deny a permit, what conditions are included in a permit, or the application of state and federal statutes and rules governing permit determinations.

(g) The fees under this subdivision are exempt from section 16A.1285.

Sec. 38. Minnesota Statutes 2002, section 116.07, subdivision 4h, is amended to read:

Subd. 4h. [FINANCIAL RESPONSIBILITY RULES.] (a) The agency shall adopt rules requiring the operator or owner of a solid waste disposal facility to submit to the agency proof of the operator's or owner's financial capability to provide reasonable and necessary response during the operating life of the facility and for 30 years after closure for a mixed municipal solid waste disposal facility or for a minimum of 20 years after closure, as determined by agency rules, for any other solid waste disposal facility, and to provide for the closure of the facility and postclosure care required under agency rules. Proof of financial responsibility is required of the operator or owner of a facility receiving an original permit or a permit for expansion after adoption of the rules. Within 180 days of the effective date of the rules or by July 1, 1987, whichever is later, proof of financial responsibility is required of an operator or owner of a facility with a remaining capacity of more than five years or 500,000 cubic yards that is in operation at the time the rules are adopted. Compliance with the rules and the requirements of paragraph (b) is a condition of obtaining or retaining a permit to operate the facility.

(b) A municipality, as defined in section 475.51, subdivision 2, including a sanitary district, that owns or operates a solid waste disposal facility that was in operation on May 15, 1989, may meet its financial responsibility for all or a portion of the contingency action portion of the reasonable and necessary response costs at the facility by pledging its full faith and credit to meet its responsibility.

The pledge must be made in accordance with the requirements in chapter 475 for issuing bonds of the municipality, and the following additional requirements:

(1) The governing body of the municipality shall enact an ordinance that clearly accepts responsibility for the costs of contingency action at the facility and that reserves, during the operating life of the facility and for the time period required in paragraph (a) after closure, a portion of the debt limit of the municipality, as established under section 475.53 or other law, that is equal to the total contingency action costs.

(2) The municipality shall require that all collectors that haul to the facility implement a plan for reducing solid waste by using volume-based pricing, recycling incentives, or other means.

(3) When a municipality opts to meet a portion of its financial responsibility by relying on its authority to issue bonds, it shall also begin setting aside in a dedicated long-term care trust fund money that will cover a portion of the potential contingency action costs at the facility, the amount to be determined by the agency for each facility based on at least the amount of waste deposited in the disposal facility each year, and the likelihood and potential timing of conditions arising at the facility that will necessitate response action. The agency may not require a municipality to set aside more than five percent of the total cost in a single year.

(4) A municipality shall have and consistently maintain an investment grade bond rating as a condition of using bonding authority to meet financial responsibility under this section.

(5) The municipality shall file with the commissioner of revenue its consent to have the amount of its contingency action costs deducted from state aid payments otherwise due the municipality and paid instead to the ~~environmental response, compensation, and compliance account~~ remediation fund created in section ~~115B.20~~ 116.155, if the municipality fails to conduct the contingency action at the facility when ordered by the agency. If the agency notifies the commissioner that the municipality has failed to conduct contingency action when ordered by the agency, the commissioner shall deduct the amounts indicated by the agency from the state aids in accordance with the consent filed with the commissioner.

(6) The municipality shall file with the agency written proof that it has complied with the requirements of paragraph (b).

(c) The method for proving financial responsibility under paragraph (b) may not be applied to a new solid waste disposal facility or to expansion of an existing facility, unless the expansion is a vertical expansion. Vertical expansions of qualifying existing facilities cannot be permitted for a duration of longer than three years.

Sec. 39. [116.155] [REMEDIATION FUND.]

Subdivision 1. [CREATION.] The remediation fund is created as a special revenue fund in the state treasury to provide a reliable source of public money for response and corrective actions to address releases of hazardous substances, pollutants or contaminants, agricultural chemicals, and petroleum, and for environmental response actions at qualified landfill facilities for which the agency has assumed such responsibility, including perpetual care of such facilities. The specific purposes for which the general portion of the fund may be spent are provided in subdivision 2. In addition to the general portion of the fund, the fund contains two accounts described in subdivisions 4 and 5.

Subd. 2. [APPROPRIATION.] (a) Money in the general portion of the remediation fund is appropriated to the agency and the commissioners of agriculture and natural resources for the following purposes:

(1) to take actions related to releases of hazardous substances, or pollutants or contaminants as provided in section 115B.20;

(2) to take actions related to releases of hazardous substances, or pollutants or contaminants, at and from qualified landfill facilities as provided in section 115B.42, subdivision 2;

(3) to provide technical and other assistance under sections 115B.17, subdivision 14, 115B.175 to 115B.179, and 115C.03, subdivision 9;

(4) for corrective actions to address incidents involving agricultural chemicals, including related administrative, enforcement, and cost recovery actions pursuant to chapter 18D; and

(5) together with any amount approved for transfer to the agency from the petroleum tank fund by the commissioner of finance, to take actions related to releases of petroleum as provided under section 115C.08.

(b) The commissioner of finance shall allocate the amounts available in any biennium to the agency, and the commissioners of agriculture and natural resources for the purposes provided in this subdivision based upon work plans submitted by the agency and the commissioners of agriculture and natural resources, and may adjust those allocations upon submittal of revised work plans. Copies of the work plans shall be submitted to the chairs of the environment and environment finance committees of the senate and house of representatives.

Subd. 3. [REVENUES.] The following revenues shall be deposited in the general portion of the remediation fund:

(1) response costs and natural resource damages related to releases of hazardous substances, or pollutants or contaminants, recovered under sections 115B.17, subdivisions 6 and 7, 115B.443, 115B.444, or any other law;

(2) money paid to the agency or the agriculture department by voluntary parties who have received technical or other assistance under sections 115B.17, subdivision 14, 115B.175 to 115B.179, and 115C.03, subdivision 9;

(3) money received in the form of gifts, grants, reimbursement, or appropriation from any source for any of the purposes provided in subdivision 2, except federal grants; and

(4) interest accrued on the fund.

Subd. 4. [DRY CLEANER ENVIRONMENTAL RESPONSE AND REIMBURSEMENT ACCOUNT.] The dry cleaner environmental response and reimbursement account is as described in sections 115B.47 to 115B.51.

Subd. 5. [METROPOLITAN LANDFILL CONTINGENCY ACTION TRUST ACCOUNT.] The metropolitan landfill contingency action trust account is as described in section 473.845.

Subd. 6. [OTHER SOURCES OF THE FUND.] The remediation fund shall also be supported by transfers as may be authorized by the legislature from time to time from the environmental fund.

Sec. 40. Minnesota Statutes 2002, section 116.994, is amended to read:

116.994 [SMALL BUSINESS ENVIRONMENTAL IMPROVEMENT LOAN ~~ACCOUNT~~ ACCOUNTING.]

~~The small business environmental improvement loan account is established in the environmental fund.~~ Repayments of loans made under section 116.993 must be credited to ~~this account~~ the environmental fund. ~~This account replaces the small business environmental loan account in Minnesota Statutes 1996, section 116.992, and the hazardous waste generator loan account in Minnesota Statutes 1996, section 115B.224. The account balances and pending repayments from the small business environmental loan account and the hazardous waste generator account will be credited to this new account.~~ Money deposited in the ~~account~~ fund under section 116.993 is appropriated to the commissioner for loans under ~~this~~ section 116.993.

Sec. 41. Minnesota Statutes 2002, section 116C.834, subdivision 1, is amended to read:

Subdivision 1. [COSTS.] All costs incurred by the state to carry out its responsibilities under the compact and under sections 116C.833 to 116C.843 shall be paid by generators of low-level radioactive waste in this state through fees assessed by the pollution control agency. Fees may be reasonably assessed on the basis of volume or degree of hazard of the waste produced by a generator. Costs for which fees may be assessed include, but are not limited to:

(1) the state contribution required to join the compact;

(2) the expenses of the Commission member and state agency costs incurred to support the work of the Interstate Commission; and

(3) regulatory costs.

The fees are exempt from section 16A.1285.

Sec. 42. Minnesota Statutes 2002, section 297H.13, subdivision 1, is amended to read:

Subdivision 1. [DEPOSIT OF REVENUES.] The revenues derived from the taxes imposed on waste management services under this chapter~~, less the costs to the department of revenue for administering the tax under this chapter,~~ shall be deposited by the commissioner of revenue in the state treasury.

~~The amounts retained by the department of revenue shall be deposited in a separate revenue department fund which is hereby created. Money in this fund is hereby appropriated, up to a maximum annual amount of $200,000, to the commissioner of revenue for the costs incurred in administration of the solid waste management tax under this chapter.~~

Sec. 43. Minnesota Statutes 2002, section 297H.13, subdivision 2, is amended to read:

Subd. 2. [ALLOCATION OF REVENUES.] (a) $22,000,000, or 50 percent, whichever is greater, of the amounts remitted under this chapter must be credited to the ~~solid waste~~ environmental fund established in section ~~115B.42~~ 16A.531, subdivision 1.

(b) The remainder must be deposited into the general fund.

Sec. 44. Minnesota Statutes 2002, section 325E.10, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] For the purposes of sections 325E.11 to ~~325E.113~~ 325E.112 and this section, the terms defined in this section have the meanings given them.

Sec. 45. Minnesota Statutes 2002, section 469.175, subdivision 7, is amended to read:

Subd. 7. [CREATION OF HAZARDOUS SUBSTANCE SUBDISTRICT; RESPONSE ACTIONS.] (a) An authority which is creating or has created a tax increment financing district may establish within the district a hazardous substance subdistrict upon the notice and after the discussion, public hearing, and findings required for approval of or modification to the original plan. The geographic area of the subdistrict is made up of any parcels in the district designated for inclusion by the municipality or authority that are designated hazardous substance sites, and any additional parcels in the district designated for inclusion that are contiguous to the hazardous substance sites, including parcels that are contiguous to the site except for the interposition of a right-of-way. Before or at the time of approval of the tax increment financing plan or plan modification providing for the creation of the hazardous substance subdistrict, the authority must make the findings under paragraphs (b) to (d), and set forth in writing the reasons and supporting facts for each.

(b) Development or redevelopment of the site, in the opinion of the authority, would not reasonably be expected to occur solely through private investment and tax increment otherwise available, and therefore the hazardous substance district is deemed necessary.

(c) Other parcels that are not designated hazardous substance sites are expected to be developed together with a designated hazardous substance site.

(d) The subdistrict is not larger than, and the period of time during which increments are elected to be received is not longer than, that which is necessary in the opinion of the authority to provide for the additional costs due to the designated hazardous substance site.

(e) Upon request by an authority that has incurred expenses for removal or remedial actions to implement a development response action plan, the attorney general may:

(1) bring a civil action on behalf of the authority to recover the expenses, including administrative costs and litigation expenses, under section 115B.04 or other law; or

(2) assist the authority in bringing an action as described in clause (1), by providing legal and technical advice, intervening in the action, or other appropriate assistance.

The decision to participate in any action to recover expenses is at the discretion of the attorney general.

(f) If the attorney general brings an action as provided in paragraph (e), clause (1), the authority shall certify its reasonable and necessary expenses incurred to implement the development response action plan and shall cooperate with the attorney general as required to effectively pursue the action. The certification by the authority is prima facie evidence that the expenses are reasonable and necessary. The attorney general may deduct litigation expenses incurred by the attorney general from any amounts recovered in an action brought under paragraph (e), clause (1). The authority shall reimburse the attorney general for litigation expenses not recovered in an action under paragraph (e), clause (1), but only from the additional tax increment required to be used as described in section 469.176, subdivision 4e. The authority must reimburse the attorney general for litigation expenses incurred to assist in bringing an action under paragraph (e), clause (2), but only from amounts recovered by the authority in an action or, if the amounts are insufficient, from the additional tax increment required to be used as described in section 469.176, subdivision 4e. All money recovered or paid to the attorney general for litigation expenses under this paragraph shall be paid to the general fund of the state for deposit to the account of the attorney general. For the purposes of this section, "litigation expenses" means attorney fees and costs of discovery and other preparation for litigation.

(g) The authority shall reimburse the pollution control agency for its administrative expenses incurred to review and approve a development action response plan. The authority must reimburse the pollution control agency for expenses incurred for any services rendered to the attorney general to support the attorney general in actions brought or assistance provided under paragraph (e), but only from amounts recovered by the authority in an action brought under paragraph (e) or from the additional tax increment required to be used as described in section 469.176, subdivision 4e. All money paid to the pollution control agency under this paragraph shall be deposited in the ~~environmental response, compensation and compliance~~ remediation fund.

(h) Actions taken by an authority consistent with a development response action plan are deemed to be authorized response actions for the purpose of section 115B.17, subdivision 12. An authority that takes actions consistent with a development response action plan qualifies for the defenses available under sections 115B.04, subdivision 11, and 115B.05, subdivision 9.

(i) All money recovered by an authority in an action brought under paragraph (e) in excess of the amounts paid to the attorney general and the pollution control agency must be treated as excess increments and be distributed as provided in section 469.176, subdivision 2, clause (4), to the extent the removal and remedial actions were initially financed with increment revenues.

Sec. 46. Minnesota Statutes 2002, section 473.843, subdivision 2, is amended to read:

Subd. 2. [DISPOSITION OF PROCEEDS.] ~~After reimbursement to the department of revenue for costs incurred in administering this section,~~ The proceeds of the fees imposed under this section, including interest and penalties, must be deposited as follows:

(1) three-fourths of the proceeds must be deposited in the environmental fund for metropolitan landfill abatement ~~account established~~ for the purposes described in section 473.844; and

(2) one-fourth of the proceeds must be deposited in the metropolitan landfill contingency action trust account in the remediation fund established in ~~section~~ sections 116.155 and 473.845.

Sec. 47. Minnesota Statutes 2002, section 473.844, subdivision 1, is amended to read:

Subdivision 1. [~~ESTABLISHMENT;~~ PURPOSES.] The ~~metropolitan landfill abatement account is~~ money in the environmental fund ~~in order~~ for landfill abatement must be used to reduce to the greatest extent feasible and prudent the need for and practice of land disposal of mixed municipal solid waste in the metropolitan area. ~~The account~~ This money consists of revenue deposited in the ~~account~~ environmental fund under section 473.843, subdivision 2, clause (1), and interest earned on investment of this money ~~in the account~~. All repayments to loans made under this section must be credited to the ~~account~~ environmental fund. The landfill abatement money in the ~~account~~ environmental fund may be spent only for purposes of metropolitan landfill abatement as provided in subdivision 1a and only upon appropriation by the legislature.

Sec. 48. Minnesota Statutes 2002, section 473.845, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] The metropolitan landfill contingency action trust ~~fund~~ account is an expendable trust ~~fund~~ account in the ~~state treasury~~ remediation fund. The ~~fund~~ account consists of revenue deposited in the fund under section 473.843, subdivision 2, clause (2); amounts recovered under subdivision 7; and interest earned on investment of money in the fund.

Sec. 49. Minnesota Statutes 2002, section 473.845, subdivision 3, is amended to read:

Subd. 3. [~~EXPENDITURES FROM THE FUND~~ CONTINGENCY ACTIONS AND REIMBURSEMENT.] Money in the ~~fund~~ account is appropriated to the agency for expenditure for any of the following:

(1) to take reasonable and necessary ~~expenses~~ actions for closure and postclosure care of a mixed municipal solid waste disposal facility in the metropolitan area for a 30-year period after closure, if the agency determines that the operator or owner will not take the necessary actions requested by the agency for closure and postclosure in the manner and within the time requested;

(2) to take reasonable and necessary response actions and postclosure ~~costs~~ care actions at a mixed municipal solid waste disposal facility in the metropolitan area that has been closed for 30 years in compliance with the closure and postclosure rules of the agency;

(3) ~~reimbursement~~ to reimburse a local government unit for costs incurred over $400,000 under a work plan approved by the commissioner of the agency to remediate methane at a closed disposal facility owned by the local government unit; or

(4) reasonable and necessary response costs at an unpermitted facility for mixed municipal solid waste disposal in the metropolitan area that was permitted by the agency for disposal of sludge ash from a wastewater treatment facility.

Sec. 50. Minnesota Statutes 2002, section 473.845, subdivision 7, is amended to read:

Subd. 7. [RECOVERY OF EXPENSES.] When the agency incurs expenses for response actions at a facility, the agency is subrogated to any right of action which the operator or owner of the facility may have against any other person for the recovery of the expenses. The attorney general may bring an action to recover amounts spent by the agency under this section from persons who may be liable for them. Amounts recovered, including money paid under any agreement, stipulation, or settlement must be deposited in the metropolitan landfill contingency action account in the remediation fund created under section 116.155.

Sec. 51. Minnesota Statutes 2002, section 473.845, subdivision 8, is amended to read:

Subd. 8. [CIVIL PENALTIES.] The civil penalties of sections 115.071 and 116.072 apply to any person in violation of this section. ~~All money recovered by the state under any statute or rule related to the regulation of solid waste in the metropolitan area, including civil penalties and money paid under any agreement, stipulation, or settlement, shall be deposited in the fund.~~

Sec. 52. Minnesota Statutes 2002, section 473.846, is amended to read:

473.846 [REPORT TO LEGISLATURE.]

The agency and the director shall submit to the senate finance committee, the house ways and means committee, and the environment and natural resources committees of the senate and house of representatives, the finance division of the senate committee on environment and natural resources, and the house of representatives committee on environment and natural resources finance separate reports describing the activities for which money ~~from the~~ for landfill abatement ~~account and contingency action trust fund~~ has been spent under sections 473.844 and 473.845. The agency shall report by November 1 of each year on expenditures during its previous fiscal year. The director shall report on expenditures during the previous calendar year and must incorporate its report in the report required by section 115A.411, due July 1 of each odd-numbered year. The director shall make recommendations to the environment and natural resources committees of the senate and house of representatives, the finance division of the senate committee on environment and natural resources, and the house of representatives committee on environment and natural resources finance on the future management and use of the metropolitan landfill abatement account.

Sec. 53. [INCREASE TO WATER QUALITY PERMIT FEES.]

(a) The pollution control agency shall collect water quality permit fees that reflect the fees in Minnesota Rules, part 7002.0310, and Laws 2002, chapter 374, article 6, section 8, with the application fee in paragraph (b) increased from $240 to $1,000.

(b) The increased permit fee is effective July 1, 2003. The agency shall adopt amended water quality permit fee rules incorporating the permit fee increase in paragraph (a) under Minnesota Statutes, section 14.389. The pollution control agency shall begin collecting the increased permit fee on July 1, 2003, even if the rule adoption process has not been initiated or completed. Notwithstanding Minnesota Statutes, section 14.18, subdivision 2, the increased permit fee reflecting the permit fee increase in paragraph (a) and the rule amendments incorporating that permit fee increase do not require further legislative approval.

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

Sec. 54. [INCREASE TO HAZARDOUS WASTE FEES.]

(a) The pollution control agency shall collect hazardous waste fees that reflect the fee formula in Minnesota Rules, part 7046.0060, increased by an addition of $2,000,000 to the adjusted fiscal year target described in Step 2 of Minnesota Rules, part 7046.0060.

(b) The increased fees are effective January 1, 2004. The agency shall adopt an amended hazardous waste fee formula incorporating the increase in paragraph (a) under Minnesota Statutes, section 14.389. The pollution control agency shall begin collecting the increased permit fees on January 1, 2004, even if the rule adoption process has not been initiated or completed. Notwithstanding Minnesota Statutes, section 14.18, subdivision 2, the increased fees reflecting the fee increases in paragraph (a) and the rule amendments incorporating those permit fee increases do not require further legislative approval.

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

Sec. 55. [TRANSFER OF FUND BALANCES.]

Subdivision 1. [ENVIRONMENTAL RESPONSE, COMPENSATION, AND COMPLIANCE ACCOUNT.] All amounts remaining in the environmental response, compensation, and compliance account are transferred to the remediation fund created under Minnesota Statutes, section 116.155.

Subd. 2. [SOLID WASTE FUND.] $22,641,000 of the balance of the solid waste fund is transferred to the environmental fund created in Minnesota Statutes, section 16A.531, subdivision 1. Any remaining balance in the solid waste fund is transferred to the remediation fund created under Minnesota Statutes, section 116.155.

Subd. 3. [DRY CLEANER ENVIRONMENTAL RESPONSE AND REIMBURSEMENT ACCOUNT.] All amounts remaining in the dry cleaner environmental response and reimbursement account are transferred to the dry cleaner environmental response and reimbursement account in the remediation fund created under Minnesota Statutes, sections 115B.49 and 116.155.

Subd. 4. [METROPOLITAN LANDFILL CONTINGENCY ACTION FUND.] All amounts remaining in the metropolitan landfill contingency action fund are transferred to the metropolitan landfill contingency action trust account in the remediation fund created under Minnesota Statutes, sections 116.155 and 473.845.

Sec. 56. [REPEALER.]

Minnesota Statutes 2002, sections 115B.02, subdivision 1a; 115B.42, subdivision 1; 297H.13, subdivisions 3 and 4; 325E.112, subdivisions 2 and 3; 325E.113; and 473.845, subdivision 4, are repealed.

Sec. 57. [EFFECTIVE DATE.]

Except as otherwise provided, this article is effective July 1, 2003."

Delete the title and insert:

"A bill for an act relating to state government; appropriating money for environmental and natural resources purposes; establishing and modifying certain programs; providing for regulation of certain activities and practices; providing for accounts, assessments, and fees; amending Minnesota Statutes 2002, sections 16A.531, subdivision 1, by adding a subdivision; 17.4988; 84.027, subdivision 13; 84.029, subdivision 1; 84.085, subdivision 1; 84.091, subdivisions 2, 3; 84.0911; 84.415, subdivisions 4, 5, by adding subdivisions; 84.788, subdivisions 2, 3; 84.794, subdivision 2; 84.803, subdivision 2; 84.92, subdivision 8; 84.927, subdivision 2; 84A.02; 84A.21; 84A.32, subdivision 1; 84A.55, subdivision 8; 84D.14; 85.04; 85.052, subdivision 3; 85.053, subdivision 1; 85.055, subdivision 1; 85A.02, subdivision 17; 88.17, subdivision 1, by adding a subdivision; 97A.015, subdivisions 24, 52; 97A.045, subdivision 7, by adding a subdivision; 97A.071, subdivision 2; 97A.075, subdivisions 1, 2, 4, by adding a subdivision; 97A.105, subdivision 1; 97A.401, subdivision 3; 97A.411, subdivision 2; 97A.441, subdivision 7, by adding a subdivision; 97A.475, subdivisions 2, 3, 4, 5, 10, 15, 26, 27, 28, 29, 30, 38, 39, 40, 42, by adding a subdivision; 97A.505, by adding subdivisions; 97B.311; 103B.231, subdivision 3a; 103B.305, subdivision 3, by adding subdivisions; 103B.311, subdivisions 1, 2, 3, 4; 103B.315, subdivisions 4, 5, 6; 103B.321, subdivisions 1, 2; 103B.325, subdivisions 1, 2; 103B.331, subdivisions 1, 2, 3; 103B.3363, subdivision 3; 103B.3369, subdivisions 2, 4, 5, 6; 103B.355; 103D.341, subdivision 2; 103D.345, by adding a subdivision; 103D.405, subdivision 2; 103D.537; 103G.005, subdivision 10e; 103G.222, subdivision 1; 103G.2242, by adding subdivisions; 103G.271, subdivisions 6, 6a, by adding a subdivision; 103G.611, subdivision 1; 103G.615, subdivision 2; 115.03, by adding subdivisions; 115.073; 115.56, subdivision 4; 115A.0716, subdivision 3; 115A.54, by adding a subdivision; 115A.545, subdivision 2; 115A.908, subdivision 2; 115A.9651, subdivision 6; 115B.17, subdivisions 6, 7, 14, 16; 115B.19; 115B.20; 115B.22, subdivision 7; 115B.25, subdivisions 1a, 4; 115B.26; 115B.30; 115B.31, subdivisions 1, 3, 4; 115B.32, subdivision 1; 115B.33, subdivision 1; 115B.34; 115B.36; 115B.40, subdivision 4; 115B.41, subdivisions 1, 2, 3; 115B.42, subdivision 2; 115B.421; 115B.445; 115B.48, subdivision 2; 115B.49, subdivisions 1, 3; 115C.02, subdivision 14; 115C.08, subdivision 4; 115C.09, subdivision 3, by adding subdivisions; 115C.11, subdivision 1; 115C.13; 115D.12, subdivision 2; 116.03, subdivision 2; 116.07, subdivisions 4d, 4h; 116.073, subdivisions 1, 2; 116.46, by adding subdivisions; 116.49, by adding subdivisions; 116.50; 116.994; 116C.834, subdivision 1; 116P.02, subdivision 1; 116P.05, subdivision 2; 116P.09, subdivisions 4, 5, 7; 116P.10; 116P.14, subdivisions 1, 2; 297A.94; 297F.10, subdivision 1; 297H.13, subdivisions 1, 2; 325E.10, subdivision 1; 469.175, subdivision 7; 473.843, subdivision 2; 473.844, subdivision 1; 473.845, subdivisions 1, 3, 7, 8; 473.846; proposing coding for new law in Minnesota Statutes, chapters 84; 84B; 97B; 103B; 115C; 116; repealing Minnesota Statutes 2002, sections 1.31; 1.32; 84.0887; 84.415, subdivisions 1, 3; 84.98; 84.99; 93.2235; 97A.105, subdivisions 3a, 3b; 97A.485, subdivision 12; 97B.731, subdivision 2; 103B.311, subdivisions 5, 6, 7; 103B.315, subdivisions 1, 2, 3, 7; 103B.321, subdivision 3; 103B.3369, subdivision 3; 115B.02, subdivision 1a; 115B.42, subdivision 1; 297H.13, subdivisions 3, 4; 325E.112, subdivisions 2, 3; 325E.113; 473.845, subdivision 4; Minnesota Rules, parts 6135.0100; 6135.0200; 6135.0300; 6135.0400; 6135.0510; 6135.0610; 6135.0710; 6135.0810; 6135.1000;

6135.1100; 6135.1200; 6135.1300; 6135.1400; 6135.1500; 6135.1600; 6135.1700; 6135.1800; 9300.0010; 9300.0020; 9300.0030; 9300.0040; 9300.0050; 9300.0060; 9300.0070; 9300.0080; 9300.0090; 9300.0100; 9300.0110; 9300.0120; 9300.0130; 9300.0140; 9300.0150; 9300.0160; 9300.0170; 9300.0180; 9300.0190; 9300.0200; and 9300.0210."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 1093, A bill for an act relating to local government; establishing a legislative commission on unnecessary mandates; amending Minnesota Statutes 2002, sections 3.842, subdivision 4a; 3.843; proposing coding for new law in Minnesota Statutes, chapter 3.

Reported the same back with the following amendments:

Page 2, delete lines 25 to 27 and insert "Commission action requires a positive vote of at least four house members and at least four senate members."

Page 3, line 17, before "The" insert "Upon recommendation of" and after "mandates" insert ", the commissioner of revenue"

Page 3, line 25, delete "commission" and insert "commissioner"

Page 3, line 27, delete "it" and insert "the commissioner"

Page 4, after line 2, insert:

"Sec. 5. [3.994]

Sections 3.99 to 3.993 are repealed June 30, 2007."

Renumber the sections in sequence

With the recommendation that when so amended the bill be re-referred to the Committee on Rules and Legislative Administration without further recommendation.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 1141, A bill for an act relating to veterans homes; updating and correcting certain language; amending Minnesota Statutes 2002, sections 198.001, by adding a subdivision; 198.004, subdivision 1; 198.005; 198.007; repealing Minnesota Statutes 2002, sections 198.001, subdivision 7; 198.002, subdivision 5; 198.003, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 198.007, is amended to read:

198.007 [QUALITY ASSURANCE.]

~~The board~~ Each home shall ~~create~~ have a utilization review committee ~~for each home~~ comprised of the appropriate professionals employed by or under contract to the home. The committee shall use ~~the case mix~~ a patient classification system ~~established under section 144.072~~ approved by the board to assess the appropriateness and quality of care and services provided residents of the homes.

~~The board~~ Each home shall ~~create~~ have an admissions committee ~~for each home~~ comprised of the appropriate professionals employed by or under contract to each home and adopt a preadmission screening program for all applicants for admission to the homes who may require nursing or boarding care, taking into account the eligibility requirements in section 198.022, the admissions criteria established by board rules, and the availability of space in the homes."

Delete the title and insert:

"A bill for an act relating to veterans homes; changing certain quality assurance provisions; amending Minnesota Statutes 2002, section 198.007."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 1380, A bill for an act relating to public employment; establishing financial parameters for public employment contracts; amending Minnesota Statutes 2002, sections 179A.01; 179A.03, by adding subdivisions; 179A.07, subdivision 1; 179A.16, subdivision 9; 179A.18, subdivision 1; 179A.20, by adding a subdivision; repealing Minnesota Statutes 2002, sections 123B.749; 179A.03, subdivision 19.

Reported the same back with the following amendments:

Page 3, line 25, delete "but not" and insert "and" and delete "or" and insert "and"

Page 4, line 1, delete "but not" and insert "and" and delete "or" and insert "and"

Page 5, lines 21 and 22, delete "the design, terms, or selection of a group insurance plan;"

Pages 5 and 6, delete section 6

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, delete "179A.16,"

Page 1, line 6, delete "subdivision 9;"

With the recommendation that when so amended the bill be re-referred to the Committee on Rules and Legislative Administration without further recommendation.

The report was adopted.

Seagren from the Committee on Education Finance to which was referred:

H. F. No. 1404, A bill for an act relating to education finance; removing obsolete language from the definition of general education revenue; amending Minnesota Statutes 2002, section 126C.10, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

GENERAL EDUCATION

Section 1. Minnesota Statutes 2002, section 123A.06, subdivision 3, is amended to read:

Subd. 3. [HOURS OF INSTRUCTION EXEMPTION.] Notwithstanding any law to the contrary, the center programs must be available throughout the entire year. ~~Pupils in a center may receive instruction for more than or less than the daily number of hours required by the rules of the commissioner of children, families, and learning. However, a pupil must receive instruction each year for at least the total number of instructional hours required by statutes and rules.~~ A center may petition the state board under Minnesota Rules, part 3500.1000, for exemption from other rules.

Sec. 2. Minnesota Statutes 2002, section 123A.18, subdivision 2, is amended to read:

Subd. 2. [EXTENDED YEAR INSTRUCTION.] The agreement may provide opportunities for pupils to receive instruction throughout the entire year and for teachers to coordinate educational opportunities and provide instruction throughout the entire year. ~~Pupils may receive instruction for more than or less than the daily number of hours required by the rules of the commissioner of children, families, and learning. However, the pupil must receive instruction each year for at least the total number of instructional hours required by statutes and rules.~~ A teacher who is employed for the extended year may develop, in consultation with pupils and parents, individual educational programs for not more than 125 pupils.

Sec. 3. Minnesota Statutes 2002, section 123A.73, subdivision 3, is amended to read:

Subd. 3. [VOLUNTARY DISSOLUTION; REFERENDUM REVENUE.] As of the effective date of the voluntary dissolution of a district and its attachment to one or more existing districts pursuant to section 123A.46, the authorization for all referendum revenues previously approved by the voters of all affected districts for those districts pursuant to section 126C.17, subdivision 9, or its predecessor provision, is canceled. However, if all of the territory of any independent district is included in the enlarged district, and if the adjusted net tax capacity of taxable property in that territory comprises 90 percent or more of the adjusted net tax capacity of all taxable property in an enlarged district, the enlarged district's referendum revenue shall be determined as follows:

~~If the referendum revenue previously approved in the preexisting district is authorized as a tax rate, the referendum revenue in the enlarged district is the tax rate times the net tax capacity of the enlarged district. If referendum revenue previously approved in the preexisting district is authorized as revenue per resident pupil unit,~~ The referendum revenue shall be the revenue per resident marginal cost pupil unit times the number of resident marginal cost pupil units in the enlarged district. ~~If referendum revenue in the preexisting district is authorized both as a tax rate and as revenue per resident pupil unit, the referendum revenue in the enlarged district shall be the sum of both plus any referendum revenue in the preexisting district authorized as a dollar amount.~~ Any new referendum revenue shall be authorized only after approval is granted by the voters of the entire enlarged district in an election pursuant to section 126C.17, subdivision 9.

Sec. 4. Minnesota Statutes 2002, section 123A.73, subdivision 4, is amended to read:

Subd. 4. [CONSOLIDATION; MAXIMUM AUTHORIZED REFERENDUM REVENUES.] As of the effective date of a consolidation pursuant to section 123A.48, if the plan for consolidation so provides, or if the plan for consolidation makes no provision concerning referendum revenues, the authorization for all referendum revenues previously approved by the voters of all affected districts for those districts pursuant to section 126C.17, subdivision 9, or its predecessor provision shall be recalculated as provided in this subdivision. The referendum

revenue authorization for the newly created district shall be the ~~net tax capacity rate~~ revenue per resident marginal cost pupil unit that would raise an amount equal to the combined dollar amount of the referendum revenues authorized by each of the component districts for the year preceding the consolidation, unless the referendum revenue authorization of the newly created district is subsequently modified pursuant to section 126C.17, subdivision 9. ~~If the referendum revenue authorizations for each of the component districts were limited to a specified number of years,~~ The referendum revenue authorization for the newly created district shall continue for a period of time equal to the longest period authorized for any component district. ~~If the referendum revenue authorization of any component district is not limited to a specified number of years, the referendum revenue authorization for the newly created district shall not be limited to a specified number of years.~~

Sec. 5. Minnesota Statutes 2002, section 123A.73, subdivision 5, is amended to read:

Subd. 5. [ALTERNATIVE METHOD.] As of the effective date of a consolidation pursuant to section 123A.48, if the plan for consolidation so provides, the authorization for all referendum revenues previously approved by the voters of all affected districts for those districts pursuant to section 126C.17, subdivision 9, or its predecessor provision shall be combined as provided in this subdivision. The referendum revenue authorization for the newly created district may be any allowance per resident marginal cost pupil unit provided in the plan for consolidation, but may not exceed the allowance per resident marginal cost pupil unit that would raise an amount equal to the combined dollar amount of the referendum revenues authorized by each of the component districts for the year preceding the consolidation. ~~If the referendum revenue authorizations for each of the component districts were limited to a specified number of years,~~ The referendum revenue authorization for the newly created district shall continue for a period of time equal to the longest period authorized for any component district. ~~If the referendum revenue authorization of any component district is not limited to a specified number of years, the referendum revenue authorization for the newly created district shall not be limited to a specified number of years.~~ The referendum revenue authorization for the newly created district may be modified pursuant to section 126C.17, subdivision 9.

Sec. 6. Minnesota Statutes 2002, section 123B.90, subdivision 2, is amended to read:

Subd. 2. [STUDENT TRAINING.] (a) Each district must provide public school pupils enrolled in ~~grades~~ kindergarten through grade 10 with age-appropriate school bus safety training~~. The training must be results-oriented and shall consist of both classroom instruction and practical training using a school bus. Upon completing the training, a student shall be able to demonstrate knowledge and understanding~~, as described in this section, of ~~at least~~ the following ~~competencies and~~ concepts:

(1) transportation by school bus is a privilege and not a right;

(2) district policies for student conduct and school bus safety;

(3) appropriate conduct while on the school bus;

(4) the danger zones surrounding a school bus;

(5) procedures for safely boarding and leaving a school bus;

(6) procedures for safe street or road crossing; and

(7) school bus evacuation ~~and other emergency procedures; and~~

~~(8) appropriate training on the use of lap belts or lap and shoulder belts, if the district uses buses equipped with lap belts or lap and shoulder belts~~.

(b) Each nonpublic school located within the district must provide all nonpublic school pupils enrolled in ~~grades~~ kindergarten through grade 10 who are transported by school bus at public expense and attend school within the district's boundaries with training as required in paragraph (a). ~~The school district shall make a bus available for the practical training if the district transports the nonpublic students. Each nonpublic school shall provide the instruction.~~

(c) ~~All~~ Students enrolled in ~~grades~~ kindergarten through ~~3~~ grade 6 who are transported by school bus and are enrolled during the first or second week of school must ~~demonstrate achievement of~~ receive the school bus safety training competencies by the end of the third week of school. ~~All~~ Students enrolled in grades ~~4~~ 7 through 10 who are transported by school bus and are enrolled during the first or second week of school and have not received school bus safety training in kindergarten through grade 6 must ~~demonstrate achievement of~~ receive the ~~competencies~~ training by the end of the sixth week of school. Students in grades 9 and 10 must receive training in the laws and proper procedures when operating a motor vehicle in the vicinity of a school bus. Students enrolled in ~~grades~~ kindergarten through grade 10 who enroll in a school after the second week of school and are transported by school bus and have not received training in their previous school district shall undergo school bus safety training ~~and demonstrate achievement of the school bus safety competencies~~ or receive bus safety instructional materials within four weeks of the first day of attendance. The school transportation safety director in each district must certify to the ~~commissioner~~ superintendent of schools annually that all students transported by school bus within the district have ~~satisfactorily demonstrated knowledge and understanding of~~ received the school bus safety ~~competencies~~ training according to this section ~~or provide an explanation for a student's failure to demonstrate the competencies~~. The principal or other chief administrator of each nonpublic school must certify annually to the school transportation safety director of the district in which the school is located that ~~all of~~ the school's students transported by school bus at public expense have received training according to this section. ~~A district may deny transportation to a student who fails to demonstrate the competencies, unless the student is unable to achieve the competencies due to a disability, or to a student who attends a nonpublic school that fails to provide training as required by this subdivision.~~

(d) A district and a nonpublic school with students transported by school bus at public expense ~~must, to the extent possible,~~ may provide kindergarten pupils with bus safety training before the first day of school.

(e) A district and a nonpublic school with students transported by school bus at public expense ~~must~~ may also provide student safety education for bicycling and pedestrian safety, for students enrolled in ~~grades~~ kindergarten through grade 5.

(f) A district and a nonpublic school with students transported by school bus at public expense must make reasonable accommodations for the school bus~~, bicycle, and pedestrian~~ safety training of pupils known to speak English as a second language and pupils with disabilities.

(g) The district must provide students enrolled in kindergarten through grade 3 school bus safety training twice during the school year.

Sec. 7. Minnesota Statutes 2002, section 123B.90, subdivision 3, is amended to read:

Subd. 3. [MODEL TRAINING PROGRAM.] The commissioner shall develop a comprehensive model school bus safety training program for pupils who ride the bus that includes bus safety curriculum for both classroom and practical instruction~~, methods for assessing attainment of school bus safety competencies,~~ and age-appropriate instructional materials. ~~The model training program for students riding buses with lap belts or lap and shoulder belts must include information on the appropriate use of lap belts or lap and shoulder belts. The program must be adaptable for use by students with disabilities.~~

Sec. 8. Minnesota Statutes 2002, section 123B.91, subdivision 1, is amended to read:

Subdivision 1. [COMPREHENSIVE POLICY.] ~~(a)~~ Each district shall develop and implement a comprehensive, written policy governing pupil transportation safety, including transportation of nonpublic school students, when applicable. The policy, at minimum, must contain:

(1) provisions for appropriate student bus safety training under section 123B.90;

(2) rules governing student conduct on school buses and in school bus loading and unloading areas;

(3) a statement of parent or guardian responsibilities relating to school bus safety;

(4) ~~provisions for notifying students and parents or guardians of their responsibilities and the rules, including the district's seat belt policy, if applicable;~~

~~(5)~~ an intradistrict system for reporting school bus accidents or misconduct and a system for dealing with local law enforcement officials in cases of criminal conduct on a school bus;

~~(6)~~ (5) a discipline policy to address violations of school bus safety rules, including procedures for revoking a student's bus riding privileges in cases of serious or repeated misconduct;

~~(7)~~ (6) a system for integrating school bus misconduct records with other discipline records;

~~(8) a statement of bus driver duties;~~

~~(9)~~ (7) where applicable, provisions governing bus monitor qualifications, training, and duties;

~~(10)~~ (8) rules governing the use and maintenance of type III vehicles, drivers of type III vehicles, qualifications to drive a type III vehicle, qualifications for a type III vehicle, and the circumstances under which a student may be transported in a type III vehicle;

~~(11)~~ (9) operating rules and procedures;

~~(12) provisions for annual bus driver in-service training and evaluation;~~

~~(13)~~ (10) emergency procedures;

~~(14)~~ (11) a system for maintaining and inspecting equipment; and

~~(15)~~ (12) any other requirements of the school district~~, if any, that exceed state law minimum requirements for school bus operations; and~~

~~(16) requirements for basic first aid training, which must include the Heimlich maneuver and procedures for dealing with obstructed airways, shock, bleeding, and seizures~~.

~~(b) Districts are encouraged to use the model policy developed by the Minnesota school boards association, the department of public safety, and the department of children, families, and learning, as well as the current edition of the "National Standards for School Transportation," in developing safety policies. Each district shall review its policy annually to ensure that it conforms to law.~~

Sec. 9. Minnesota Statutes 2002, section 123B.92, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section and section 125A.76, the terms defined in this subdivision have the meanings given to them.

(a) "Actual expenditure per pupil transported in the regular and excess transportation categories" means the quotient obtained by dividing:

(1) the sum of:

(i) all expenditures for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2), plus

(ii) an amount equal to one year's depreciation on the district's school bus fleet and mobile units computed on a straight line basis at the rate of 15 percent per year for districts operating a program under section 124D.128 for grades 1 to 12 for all students in the district and 12-1/2 percent per year for other districts of the cost of the fleet, plus

(iii) an amount equal to one year's depreciation on the district's type three school buses, as defined in section 169.01, subdivision 6, clause (5), which must be used a majority of the time for pupil transportation purposes, computed on a straight line basis at the rate of 20 percent per year of the cost of the type three school buses by:

(2) the number of pupils eligible for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2).

(b) "Transportation category" means a category of transportation service provided to pupils as follows:

(1) Regular transportation is:

(i) transportation to and from school during the regular school year for resident elementary pupils residing one mile or more from the public or nonpublic school they attend, and resident secondary pupils residing two miles or more from the public or nonpublic school they attend, excluding desegregation transportation and noon kindergarten transportation; but with respect to transportation of pupils to and from nonpublic schools, only to the extent permitted by sections 123B.84 to 123B.87;

(ii) transportation of resident pupils to and from language immersion programs;

(iii) transportation of a pupil who is a custodial parent and that pupil's child between the pupil's home and the child care provider and between the provider and the school, if the home and provider are within the attendance area of the school; ~~and~~

(iv) transportation to and from or board and lodging in another district, of resident pupils of a district without a secondary school; and

(v) transportation to and from school during the regular school year required under subdivision 3 for nonresident elementary pupils when the distance from the attendance area border to the public school is one mile or more, and for nonresident secondary pupils when the distance from the attendance area border to the public school is two miles or more, excluding desegregation transportation and noon kindergarten transportation.

For the purposes of this paragraph, a district may designate a licensed day care facility, respite care facility, the residence of a relative, or the residence of a person chosen by the pupil's parent or guardian as the home of a pupil for part or all of the day, if requested by the pupil's parent or guardian, and if that facility or residence is within the attendance area of the school the pupil attends.

(2) Excess transportation is:

(i) transportation to and from school during the regular school year for resident secondary pupils residing at least one mile but less than two miles from the public or nonpublic school they attend, and transportation to and from school for resident pupils residing less than one mile from school who are transported because of extraordinary traffic, drug, or crime hazards; and

(ii) transportation to and from school during the regular school year required under subdivision 3 for nonresident secondary pupils when the distance from the attendance area border to the school is at least one mile but less than two miles from the public school they attend, and for nonresident pupils when the distance from the attendance area border to the school is less than one mile from the school and who are transported because of extraordinary traffic, drug, or crime hazards.

(3) Desegregation transportation is transportation within and outside of the district during the regular school year of pupils to and from schools located outside their normal attendance areas under a plan for desegregation mandated by the commissioner or under court order.

(4) "Transportation services for pupils with disabilities" is:

(i) transportation of pupils with disabilities who cannot be transported on a regular school bus between home or a respite care facility and school;

(ii) necessary transportation of pupils with disabilities from home or from school to other buildings, including centers such as developmental achievement centers, hospitals, and treatment centers where special instruction or services required by sections 125A.03 to 125A.24, 125A.26 to 125A.48, and 125A.65 are provided, within or outside the district where services are provided;

(iii) necessary transportation for resident pupils with disabilities required by sections 125A.12, and 125A.26 to 125A.48;

(iv) board and lodging for pupils with disabilities in a district maintaining special classes;

(v) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, and necessary transportation required by sections 125A.18, and 125A.26 to 125A.48, for resident pupils with disabilities who are provided special instruction and services on a shared-time basis;

(vi) transportation for resident pupils with disabilities to and from board and lodging facilities when the pupil is boarded and lodged for educational purposes; and

(vii) services described in clauses (i) to (vi), when provided for pupils with disabilities in conjunction with a summer instructional program that relates to the pupil's individual education plan or in conjunction with a learning year program established under section 124D.128.

(5) "Nonpublic nonregular transportation" is:

(i) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, excluding transportation for nonpublic pupils with disabilities under clause (4);

(ii) transportation within district boundaries between a nonpublic school and a public school or a neutral site for nonpublic school pupils who are provided pupil support services pursuant to section 123B.44; and

(iii) late transportation home from school or between schools within a district for nonpublic school pupils involved in after-school activities.

(c) "Mobile unit" means a vehicle or trailer designed to provide facilities for educational programs and services, including diagnostic testing, guidance and counseling services, and health services. A mobile unit located off nonpublic school premises is a neutral site as defined in section 123B.41, subdivision 13.

Sec. 10. Minnesota Statutes 2002, section 123B.92, subdivision 3, is amended to read:

Subd. 3. [ALTERNATIVE ATTENDANCE PROGRAMS.] A district that enrolls nonresident pupils in programs under sections 124D.03, 124D.06, ~~124D.07,~~ 124D.08, 123A.05 to 123A.08, and 124D.68, must provide authorized transportation to the pupil within the attendance area for the school that the pupil attends at the same level of service that is provided to resident pupils within the attendance area. The resident district need not provide or pay for transportation between the pupil's residence and the district's border.

Sec. 11. Minnesota Statutes 2002, section 123B.92, subdivision 9, is amended to read:

Subd. 9. [NONPUBLIC PUPIL TRANSPORTATION AID.] (a) A district's nonpublic pupil transportation aid for the 1996-1997 and later school years for transportation services for nonpublic school pupils according to sections 123B.88, 123B.84 to 123B.86, and this section, equals the sum of the amounts computed in paragraphs (b) and (c). This aid does not limit the obligation to transport pupils under sections 123B.84 to 123B.87.

(b) For regular and excess transportation according to subdivision 1, paragraph (b), clauses (1) and (2), an amount equal to the product of:

(1) the district's actual expenditure per pupil transported in the regular and excess transportation categories during the second preceding school year; times

(2) the number of nonpublic school pupils residing in the district who receive regular or excess transportation service or reimbursement for the current school year; times

(3) the ratio of the formula allowance pursuant to section 126C.10, subdivision 2, for the current school year to the formula allowance pursuant to section 126C.10, subdivision 2, for the second preceding school year.

(c) For nonpublic nonregular transportation according to subdivision 1, paragraph (b), clause (5), an amount equal to the product of:

(1) the district's actual expenditure for nonpublic nonregular transportation during the second preceding school year; times

(2) the ratio of the formula allowance pursuant to section 126C.10, subdivision 2, for the current school year to the formula allowance pursuant to section 126C.10, subdivision 2, for the second preceding school year.

(d) Notwithstanding the amount of the formula allowance for fiscal ~~years 2000, 2001, and 2002~~ year 2004 in section 126C.10, subdivision 2, the commissioner shall use the amount of the formula allowance for the current year ~~plus $87~~ minus $415 in determining the nonpublic pupil transportation revenue in paragraphs (b) and (c) for fiscal year ~~2000, and the amount of the formula allowance less $110 in determining the nonpublic pupil transportation revenue in paragraphs (b) and (c) for fiscal years 2001 and 2002~~ 2004.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2004.

Sec. 12. Minnesota Statutes 2002, section 124D.09, subdivision 13, is amended to read:

Subd. 13. [FINANCIAL ARRANGEMENTS.] For a pupil enrolled in a course under this section, the department must make payments according to this subdivision for courses that were taken for secondary credit.

The department must not make payments to a school district or post-secondary institution for a course taken for post-secondary credit only. The department must not make payments to a post-secondary institution for a course from which a student officially withdraws during the first 14 days of the quarter or semester or who has been absent from the post-secondary institution for the first 15 consecutive school days of the quarter or semester and is not receiving instruction in the home or hospital.

A post-secondary institution shall receive the following:

(1) for an institution granting quarter credit, the reimbursement per credit hour shall be an amount equal to 88 percent of the product of the formula allowance minus $415, multiplied by 1.3, and divided by 45; or

(2) for an institution granting semester credit, the reimbursement per credit hour shall be an amount equal to 88 percent of the product of the general revenue formula allowance minus $415, multiplied by 1.3, and divided by 30.

The department must pay to each post-secondary institution 100 percent of the amount in clause (1) or (2) within 30 days of receiving initial enrollment information each quarter or semester. If changes in enrollment occur during a quarter or semester, the change shall be reported by the post-secondary institution at the time the enrollment information for the succeeding quarter or semester is submitted. At any time the department notifies a post-secondary institution that an overpayment has been made, the institution shall promptly remit the amount due.

Sec. 13. Minnesota Statutes 2002, section 124D.128, subdivision 6, is amended to read:

Subd. 6. [REVENUE COMPUTATION AND REPORTING.] Aid and levy revenue computations must be based on the total number of hours of education programs for pupils in average daily membership for each fiscal year. Average daily membership shall be computed under section 126C.05, subdivision 15. Hours of participation that occur after the close of the regular 2003-2004 instructional year and before July 1, 2004, must be attributed to the following fiscal year. For revenue computation purposes, the learning year program shall generate revenue based on the formulas for the fiscal year in which the services are provided. The dates a participating pupil is promoted must be reported in a timely manner to the department.

Sec. 14. Minnesota Statutes 2002, section 124D.59, subdivision 2, is amended to read:

Subd. 2. [PUPIL OF LIMITED ENGLISH PROFICIENCY.] (a) "Pupil of limited English proficiency" means a pupil in kindergarten through grade 12 who meets the following requirements:

(1) the pupil ~~in kindergarten through grade 12~~, as declared by a parent or guardian first learned a language other than English, comes from a home where the language usually spoken is other than English, or usually speaks a language other than English; and

(2) ~~for a pupil in kindergarten through grade 2,~~ the pupil is determined by developmentally appropriate measures, which might include observations, teacher judgment, parent recommendations, or developmentally appropriate assessment instruments, to lack the necessary English skills to participate fully in classes taught in English~~; or~~.

~~(3) the~~ (b) Notwithstanding paragraph (a), a pupil in grades ~~3~~ 4 through 12 ~~scores~~ who was enrolled in a Minnesota public school on the dates during the previous school year when a commissioner provided assessment

that measures the pupil's emerging academic English was administered, shall not be counted as a pupil of limited English proficiency in calculating limited English proficiency pupil units under section 126C.05, subdivision 17, and shall not generate state limited English proficiency aid under section 124D.65, subdivision 5, unless the pupil scored below the state cutoff score on an assessment measuring emerging academic English provided by the commissioner during the previous school year.

(c) Notwithstanding paragraphs (a) and (b), a pupil in kindergarten through grade 12 shall not be counted as a pupil of limited English proficiency in calculating limited English proficiency pupil units under section 126C.05, subdivision 17, and shall not generate state limited English proficiency aid under section 124D.65, subdivision 5, if:

(i) the pupil is not enrolled during the current fiscal year in an educational program for pupils of limited English proficiency in accordance with sections 124D.58 to 124D.64; or

(ii) the pupil has generated seven or more years of average daily membership in Minnesota public schools since July 1, 1996.

A pupil that has generated more than four years but less than five years of average daily membership in Minnesota public schools since July 1, 1996, counts as .75 pupils. A pupil that has generated more than five years but less than six years of average daily membership in Minnesota schools since July 1, 1996, counts as .50 pupils. A pupil that has generated more than six years but less than seven years of average daily membership in Minnesota schools since July 1, 1996, counts as .25 pupils.

Sec. 15. Minnesota Statutes 2002, section 124D.65, subdivision 5, is amended to read:

Subd. 5. [SCHOOL DISTRICT LEP REVENUE.] (a) ~~A school district's limited English proficiency programs revenue for fiscal year 2000 equals the state total limited English proficiency programs revenue, minus the amount determined under paragraph (b), times the ratio of the district's adjusted limited English proficiency programs base revenue to the state total adjusted limited English proficiency programs base revenue.~~

~~(b) Notwithstanding paragraph (a), if the limited English proficiency programs base revenue for a district equals zero, the limited English proficiency programs revenue equals the sum of the following amounts, computed using current year data:~~

~~(1) 68 percent of the salary of one full-time equivalent teacher for each 40 pupils of limited English proficiency enrolled, or 68 percent of the salary of one-half of a full-time teacher in a district with 20 or fewer pupils of limited English proficiency enrolled; and~~

~~(2) for supplies and equipment purchased or rented for use in the instruction of pupils of limited English proficiency an amount equal to 47 percent of the sum actually spent by the district but not to exceed an average of $47 in any one school year for each pupil of limited English proficiency receiving instruction.~~

~~(c)~~ A district's limited English proficiency programs revenue ~~for fiscal year 2001 and later~~ equals the product of ~~$584~~ (1) $650 in fiscal year 2004 and $675 in fiscal year 2005 and later times (2) the greater of 20 or the ~~number of~~ adjusted marginal cost average daily membership of eligible pupils of limited English proficiency enrolled in the district during the current fiscal year.

~~(d)~~ (b) A pupil ceases to generate state limited English proficiency aid in the school year following the school year in which the pupil attains the state cutoff score on a commissioner-provided assessment that measures the pupil's emerging academic English.

Sec. 16. Minnesota Statutes 2002, section 126C.05, subdivision 1, is amended to read:

Subdivision 1. [PUPIL UNIT.] Pupil units for each Minnesota resident pupil in average daily membership enrolled in the district of residence, in another district under sections 123A.05 to 123A.08, 124D.03, 124D.06, 124D.07, 124D.08, or 124D.68; in a charter school under section 124D.10; or for whom the resident district pays tuition under section 123A.18, 123A.22, 123A.30, 123A.32, 123A.44, 123A.488, 123B.88, subdivision 4, 124D.04, 124D.05, 125A.03 to 125A.24, 125A.51, or 125A.65, shall be counted according to this subdivision.

(a) A prekindergarten pupil with a disability who is enrolled in a program approved by the commissioner and has an individual education plan is counted as the ratio of the number of hours of assessment and education service to 825 times 1.25 with a minimum average daily membership of 0.28, but not more than 1.25 pupil units.

(b) A prekindergarten pupil who is assessed but determined not to be handicapped is counted as the ratio of the number of hours of assessment service to 825 times 1.25.

(c) A kindergarten pupil with a disability who is enrolled in a program approved by the commissioner is counted as the ratio of the number of hours of assessment and education services required in the fiscal year by the pupil's individual education program plan to 875, but not more than one.

(d) A kindergarten pupil who is not included in paragraph (c) is counted as ~~.557~~ .50 of a pupil unit ~~for fiscal year 2000 and thereafter~~.

(e) A pupil who is in any of grades 1 to 3 is counted as ~~1.115~~ 1.00 pupil ~~units for fiscal year 2000 and thereafter~~ unit.

(f) A pupil who is any of grades 4 to 6 is counted as ~~1.06~~ 1.00 pupil ~~units for fiscal year 1995 and thereafter~~ unit.

(g) A pupil who is in any of grades 7 to 12 is counted as 1.3 pupil units.

(h) A pupil who is in the post-secondary enrollment options program is counted as 1.3 pupil units.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2004.

Sec. 17. Minnesota Statutes 2002, section 126C.05, subdivision 8, is amended to read:

Subd. 8. [AVERAGE DAILY MEMBERSHIP.] (a) Membership for pupils in grades kindergarten through 12 and for prekindergarten pupils with disabilities shall mean the number of pupils on the current roll of the school, counted from the date of entry until withdrawal. The date of withdrawal shall mean the day the pupil permanently leaves the school or the date it is officially known that the pupil has left or has been legally excused. However, a pupil, regardless of age, who has been absent from school for 15 consecutive school days during the regular school year or for five consecutive school days during summer school or intersession classes of flexible school year programs without receiving instruction in the home or hospital shall be dropped from the roll and classified as withdrawn. Nothing in this section shall be construed as waiving the compulsory attendance provisions cited in section 120A.22. Average daily membership equals the sum for all pupils of the number of days of the school year each pupil is enrolled in the district's schools divided by the number of days the schools are in session. Days of summer school or intersession classes of flexible school year programs are only included in the computation of membership for pupils with a disability not appropriately served primarily in the regular classroom. A student must not be counted as more than 1.2 pupils in average daily membership under this section. When the initial total average daily membership exceeds 1.2 for a pupil enrolled in more than one school district during the fiscal year, each district's average daily membership must be reduced proportionately.

(b) A student must not be counted as more than one pupil in average daily membership except for purposes of section 126C.10, subdivision 2a.

Sec. 18. Minnesota Statutes 2002, section 126C.05, subdivision 14, is amended to read:

Subd. 14. [COMPUTING PUPIL UNITS FOR A PRIOR YEAR.] In computing pupil units for a prior year, the number of pupil units shall be adjusted to reflect any change for the current year in relative weightings by grade level or category of special assistance, any change in measurement from average daily attendance to average daily membership, any change in the limit on average daily membership that can be generated by a pupil for a fiscal year as provided in subdivisions 8 and 15, and any change in school district boundaries, but not for the addition for the first time in the current year of a specified category of special assistance as provided in subdivision 1, clause (4).

Sec. 19. Minnesota Statutes 2002, section 126C.05, subdivision 15, is amended to read:

Subd. 15. [LEARNING YEAR PUPIL UNITS.] (a) When a pupil is enrolled in a learning year program under section 124D.128, an area learning center under sections 123A.05 and 123A.06, an alternative program approved by the commissioner, or a contract alternative program under section 124D.68, subdivision 3, paragraph (d), or subdivision 3a, for more than 1,020 hours in a school year for a secondary student, more than 935 hours in a school year for an elementary student, or more than 425 hours in a school year for a kindergarten student without a disability, that pupil may be counted as more than one pupil in average daily membership for purposes of section 126C.10, subdivision 2a. The amount in excess of one pupil must be determined by the ratio of the number of hours of instruction provided to that pupil in excess of: (i) the greater of 1,020 hours or the number of hours required for a full-time secondary pupil in the district to 1,020 for a secondary pupil; (ii) the greater of 935 hours or the number of hours required for a full-time elementary pupil in the district to 935 for an elementary pupil in grades 1 through 6; and (iii) the greater of 425 hours or the number of hours required for a full-time kindergarten student without a disability in the district to 425 for a kindergarten student without a disability. Hours that occur after the close of the instructional year in June shall be attributable to the following fiscal year. A kindergarten student must not be counted as more than 1.2 pupils in average daily membership under this subdivision. A student in grades 1 through 12 must not be counted as more than ~~1.5~~ 1.2 pupils in average daily membership under this subdivision.

(b)(i) To receive general education revenue for a pupil in an alternative program that has an independent study component, a district must meet the requirements in this paragraph. The district must develop, for the pupil, a continual learning plan consistent with section 124D.128, subdivision 3. Each school district that has a state-approved public alternative program must reserve revenue in an amount equal to at least 90 percent of the district average general education revenue per pupil unit less compensatory revenue per pupil unit times the number of pupil units generated by students attending a state-approved public alternative program. The amount of reserved revenue available under this subdivision may only be spent for program costs associated with the state-approved public alternative program. Compensatory revenue must be allocated according to section 126C.15, subdivision 2.

(ii) General education revenue for a pupil in an approved alternative program without an independent study component must be prorated for a pupil participating for less than a full year, or its equivalent. The district must develop a continual learning plan for the pupil, consistent with section 124D.128, subdivision 3. Each school district that has a state-approved public alternative program must reserve revenue in an amount equal to at least 90 percent of the district average general education revenue per pupil unit less compensatory revenue per pupil unit times the number of pupil units generated by students attending a state-approved public alternative program. The amount of reserved revenue available under this subdivision may only be spent for program costs associated with the state-approved public alternative program. Compensatory revenue must be allocated according to section 126C.15, subdivision 2.

(iii) General education revenue for a pupil in an approved alternative program that has an independent study component must be paid for each hour of teacher contact time and each hour of independent study time completed toward a credit or graduation standards necessary for graduation. Average daily membership for a pupil shall equal the number of hours of teacher contact time and independent study time divided by 1,020.

(iv) For an alternative program having an independent study component, the commissioner shall require a description of the courses in the program, the kinds of independent study involved, the expected learning outcomes of the courses, and the means of measuring student performance against the expected outcomes.

Sec. 20. Minnesota Statutes 2002, section 126C.05, subdivision 16, is amended to read:

Subd. 16. [FREE AND REDUCED PRICED LUNCHES.] The commissioner shall determine the number of children eligible to receive either a free or reduced priced lunch on October 1 each year. Children enrolled in a building on October 1 and determined to be eligible to receive free or reduced price lunch by ~~January~~ December 15 of ~~the following~~ that school year shall be counted as eligible on October 1 for purposes of subdivision 3. The commissioner may use federal definitions for these purposes and may adjust these definitions as appropriate. The commissioner may adopt reporting guidelines to assure accuracy of data counts and eligibility. Districts shall use any guidelines adopted by the commissioner.

Sec. 21. Minnesota Statutes 2002, section 126C.05, subdivision 17, is amended to read:

Subd. 17. [LEP PUPIL UNITS.] (a) Limited English proficiency pupil units for fiscal year ~~1998~~ 2004 and thereafter shall be determined according to this subdivision.

(b) The limited English proficiency concentration percentage for a district equals the product of 100 times the ratio of:

(1) the number of eligible pupils of limited English proficiency in average daily membership enrolled in the district during the current fiscal year; to

(2) the number of pupils in average daily membership enrolled in the district.

(c) The limited English proficiency pupil units for each eligible pupil ~~enrolled in a program for pupils~~ of limited English proficiency ~~in accordance with sections 124D.58 to 124D.64~~ in average daily membership equals the lesser of one or the quotient obtained by dividing the limited English proficiency concentration percentage for the pupil's district of enrollment by 11.5.

(d) Limited English proficiency pupil units shall be counted by the district of enrollment.

(e) Notwithstanding paragraph (d), for the purposes of this subdivision, pupils enrolled in a cooperative or intermediate school district shall be counted by the district of residence.

(f) For the purposes of this subdivision, the terms defined in section 124D.59 have the same meaning.

Sec. 22. Minnesota Statutes 2002, section 126C.10, subdivision 1, is amended to read:

Subdivision 1. [GENERAL EDUCATION REVENUE.] (a) ~~For fiscal year 2002, the general education revenue for each district equals the sum of the district's basic revenue, basic skills revenue, training and experience revenue, secondary sparsity revenue, elementary sparsity revenue, transportation sparsity revenue, total operating capital revenue, equity revenue, transition revenue, and supplemental revenue.~~

~~(b)~~ For fiscal year 2003 ~~and later~~, the general education revenue for each district equals the sum of the district's basic revenue, basic skills revenue, training and experience revenue, secondary sparsity revenue, elementary sparsity revenue, transportation sparsity revenue, total operating capital revenue, and equity revenue.

(b) For fiscal year 2004 and later, the general education revenue for each district equals the sum of the district's basic revenue, extended time revenue, class size reduction revenue, basic skills revenue, secondary sparsity revenue, elementary sparsity revenue, transportation sparsity revenue, total operating capital revenue, equity revenue, and transition revenue.

Sec. 23. Minnesota Statutes 2002, section 126C.10, is amended by adding a subdivision to read:

Subd. 2a. [EXTENDED TIME REVENUE.] (a) A school district's extended time revenue is equal to the product of $4,601 and the sum of the adjusted marginal cost pupil units of the district for each pupil in average daily membership in excess of 1.0 and less than 1.2 according to section 126C.05, subdivision 8.

(b) A school district's extended time revenue may be used for extended day programs, extended week programs, summer school, and other programming authorized under the learning year program.

Sec. 24. Minnesota Statutes 2002, section 126C.10, is amended by adding a subdivision to read:

Subd. 2b. [CLASS SIZE REDUCTION REVENUE.] For fiscal year 2004 and later, a school district's class size reduction revenue equals:

(1) $262 times the sum of adjusted marginal cost pupils in average daily membership, according to section 126C.05, subdivision 5, in kindergarten; plus

(2) $529 times the sum of adjusted marginal cost pupils in average daily membership, according to section 126C.05, subdivision 5, in grades 1 to 3; plus

(3) $276 times the sum of adjusted marginal cost pupils in average daily membership, according to section 126C.05, subdivision 5, in grades 4 to 6.

Sec. 25. Minnesota Statutes 2002, section 126C.10, subdivision 3, is amended to read:

Subd. 3. [COMPENSATORY EDUCATION REVENUE.] (a) For fiscal year 2004 and later, the compensatory education revenue for each building in the district equals ~~the formula allowance~~ $4,150 times the compensation revenue pupil units computed according to section 126C.05, subdivision 3.

(b) A district's compensatory education revenue equals the greater of the amount computed in paragraph (a) or the minimum compensatory allowance times the number of compensatory pupils computed according to section 126C.05, subdivision 3, paragraph (a), clause (1). For fiscal years 2004 and 2005, the minimum compensatory allowance equals $500. The minimum compensatory allowance for each subsequent year equals the previous year's allowance plus $50.

(c) Revenue shall be paid to the district and must be allocated according to section 126C.15, subdivision 2.

Sec. 26. Minnesota Statutes 2002, section 126C.10, subdivision 4, is amended to read:

Subd. 4. [BASIC SKILLS REVENUE.] ~~(a) For fiscal year 2002, a school district's basic skills revenue equals the sum of:~~

~~(1) compensatory revenue under subdivision 3; plus~~

~~(2) limited English proficiency revenue according to section 124D.65, subdivision 5; plus~~

~~(3) $190 times the limited English proficiency pupil units according to section 126C.05, subdivision 17; plus~~

~~(4) $22.50 times the number of adjusted marginal cost pupil units in kindergarten to grade 8.~~

~~(b) For fiscal year 2003 and later,~~ A school district's basic skills revenue equals the sum of:

(1) compensatory revenue under subdivision 3; plus

(2) limited English proficiency revenue under section 124D.65, subdivision 5; plus

(3) ~~$190~~ (i) $200 in fiscal year 2004 and later, times (ii) the limited English proficiency pupil units under section 126C.05, subdivision 17.

Sec. 27. Minnesota Statutes 2002, section 126C.10, subdivision 17, is amended to read:

Subd. 17. [TRANSPORTATION SPARSITY DEFINITIONS.] The definitions in this subdivision apply to subdivisions 18 and 19.

(a) "Sparsity index" for a district means the greater of .2 or the ratio of the square mile area of the district to the resident pupil units of the district.

(b) "Density index" for a district means the ratio of the square mile area of the district to the resident pupil units of the district. However, the density index for a district cannot be greater than .2 or less than .005.

~~(c) "Fiscal year 1996 base allowance" for a district means the result of the following computation:~~

~~(1) sum the following amounts:~~

~~(i) the fiscal year 1996 regular transportation revenue for the district according to Minnesota Statutes 1996, section 124.225, subdivision 7d, paragraph (a), excluding the revenue attributable nonpublic school pupils and to pupils with disabilities receiving special transportation services; plus~~

~~(ii) the fiscal year 1996 nonregular transportation revenue for the district according to Minnesota Statutes 1996, section 124.225, subdivision 7d, paragraph (b), excluding the revenue for desegregation transportation according to Minnesota Statutes 1996, section 124.225, subdivision 1, paragraph (c), clause (4), and the revenue attributable to nonpublic school pupils and to pupils with disabilities receiving special transportation services or board and lodging; plus~~

~~(iii) the fiscal year 1996 excess transportation levy for the district according to Minnesota Statutes 1996, section 124.226, subdivision 5, excluding the levy attributable to nonpublic school pupils; plus~~

~~(iv) the fiscal year 1996 late activity bus levy for the district according to Minnesota Statutes 1996, section 124.226, subdivision 9, excluding the levy attributable to nonpublic school pupils; plus~~

~~(v) an amount equal to one third of the fiscal year 1996 bus depreciation for the district according to Minnesota Statutes 1996, section 124.225, subdivision 1, paragraph (b), clauses (2), (3), and (4).~~

~~(2) divide the result in clause (1) by the district's 1995-1996 fund balance pupil units.~~

Sec. 28. Minnesota Statutes 2002, section 126C.10, subdivision 18, is amended to read:

Subd. 18. [TRANSPORTATION SPARSITY REVENUE ALLOWANCE.] (a) A district's transportation sparsity allowance equals the greater of zero or the result of the following computation:

(i) Multiply the formula allowance according to subdivision 2 minus $415, by .1469.

(ii) Multiply the result in clause (i) by the district's sparsity index raised to the 26/100 power.

(iii) Multiply the result in clause (ii) by the district's density index raised to the 13/100 power.

(iv) Multiply the formula allowance minus $415 according to subdivision 2, by .0485.

(v) Subtract the result in clause (iv) from the result in clause (iii).

(b) Transportation sparsity revenue is equal to the transportation sparsity allowance times the adjusted marginal cost pupil units.

Sec. 29. Minnesota Statutes 2002, section 126C.10, subdivision 24, is amended to read:

Subd. 24. [EQUITY REVENUE.] (a) A school district qualifies for equity revenue if:

(1) the school district's adjusted marginal cost pupil unit amount of basic revenue, supplemental revenue, transition revenue, and referendum revenue is less than the value of the school district at or immediately above the 95th percentile of school districts in its equity region for those revenue categories; and

(2) the school district's administrative offices are not located in a city of the first class on July 1, 1999.

(b) Equity revenue for a qualifying district that receives referendum revenue under section 126C.17, subdivision 4, equals the product of (1) the district's adjusted marginal cost pupil units for that year; times (2) the sum of (i) ~~$10~~ $13, plus (ii) ~~$55~~ $75, times the school district's equity index computed under subdivision 27.

(c) Equity revenue for a qualifying district that does not receive referendum revenue under section 126C.17, subdivision 4, equals the product of the district's adjusted marginal cost pupil units for that year times ~~$10~~ $13.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2005.

Sec. 30. Minnesota Statutes 2002, section 126C.10, is amended by adding a subdivision to read:

Subd. 29. [EQUITY LEVY.] To obtain equity revenue for fiscal year 2005 and later, a district may levy an amount not more than the product of its equity revenue for the fiscal year times the lesser of one or the ratio of its referendum market value per resident marginal cost pupil unit to $476,000.

Sec. 31. Minnesota Statutes 2002, section 126C.10, is amended by adding a subdivision to read:

Subd. 30. [EQUITY AID.] A district's equity aid equals its equity revenue minus its equity levy times the ratio of the actual amount levied to the permitted levy.

Sec. 32. Minnesota Statutes 2002, section 126C.10, is amended by adding a subdivision to read:

Subd. 31. [TRANSITION REVENUE.] (a) A district's transition allowance for fiscal years 2004 through 2008 equals the greater of zero or the product of the ratio of the number of adjusted marginal cost pupil units the district would have counted for fiscal year 2004 under Minnesota Statutes 2002 to the district's adjusted marginal cost pupil units for fiscal year 2004, times the difference between: (1) the lesser of the district's general education revenue per adjusted marginal cost pupil unit for fiscal year 2003 or the amount of general education revenue the district would have received per adjusted marginal cost pupil unit for fiscal year 2004 according to Minnesota Statutes 2002, and (2) the district's general education revenue for fiscal year 2004 excluding transition revenue divided by the number of adjusted marginal cost pupil units the district would have counted for fiscal year 2004 under Minnesota Statutes 2002. A district's transition allowance for fiscal year 2009 and later is zero.

(b) A district's transition revenue for fiscal year 2004 and later equals the product of the district's transition allowance times the district's adjusted marginal cost pupil units.

Sec. 33. Minnesota Statutes 2002, section 126C.10, is amended by adding a subdivision to read:

Subd. 32. [TRANSITION LEVY.] To obtain transition revenue for fiscal year 2005 and later, a district may levy an amount not more than the product of its transition revenue for the fiscal year times the lesser of one or the ratio of its referendum market value per resident marginal cost pupil unit to $476,000.

Sec. 34. Minnesota Statutes 2002, section 126C.10, is amended by adding a subdivision to read:

Subd. 33. [TRANSITION AID.] (a) For fiscal year 2004, a district's transition aid equals its transition revenue.

(b) For fiscal year 2005 and later, a district's transition aid equals its transition revenue minus its transition levy times the ratio of the actual amount levied to the permitted levy.

Sec. 35. Minnesota Statutes 2002, section 126C.13, subdivision 4, is amended to read:

Subd. 4. [GENERAL EDUCATION AID.] (a) For fiscal year 2004, a district's general education aid is the sum of the following amounts:

(1) general education revenue;

(2) shared time aid according to section 126C.01, subdivision 7; and

(3) referendum aid according to section 126C.17.

(b) For fiscal year 2005 and later, a district's general education aid is the sum of the following amounts:

(1) general education revenue, excluding equity revenue and transition revenue;

(2) equity aid according to section 126C.10, subdivision 30;

(3) transition aid according to section 126C.10, subdivision 33;

(4) shared time aid according to section 126C.01, subdivision 7; and

(5) referendum aid according to section 126C.17.

Sec. 36. Minnesota Statutes 2002, section 126C.15, subdivision 1, is amended to read:

Subdivision 1. [USE OF THE REVENUE.] The basic skills revenue under section 126C.10, subdivision 4, ~~and the portion of the transition revenue adjustment under section 126C.10, subdivision 20, attributable to the compensatory transition allowance under section 126C.10, subdivision 19, paragraph (b),~~ must be reserved and used to meet the educational needs of pupils who enroll under-prepared to learn and whose progress toward meeting state or local content or performance standards is below the level that is appropriate for learners of their age. Any of the following may be provided to meet these learners' needs:

(1) direct instructional services under the assurance of mastery program according to section 124D.66;

(2) remedial instruction in reading, language arts, mathematics, other content areas, or study skills to improve the achievement level of these learners;

(3) additional teachers and teacher aides to provide more individualized instruction to these learners through individual tutoring, lower instructor-to-learner ratios, or team teaching;

(4) a longer school day or week during the regular school year or through a summer program that may be offered directly by the site or under a performance-based contract with a community-based organization;

(5) comprehensive and ongoing staff development consistent with district and site plans according to section 122A.60, for teachers, teacher aides, principals, and other personnel to improve their ability to identify the needs of these learners and provide appropriate remediation, intervention, accommodations, or modifications;

(6) instructional materials and technology appropriate for meeting the individual needs of these learners;

(7) programs to reduce truancy, encourage completion of high school, enhance self-concept, provide health services, provide nutrition services, provide a safe and secure learning environment, provide coordination for pupils receiving services from other governmental agencies, provide psychological services to determine the level of social, emotional, cognitive, and intellectual development, and provide counseling services, guidance services, and social work services;

(8) bilingual programs, bicultural programs, and programs for learners of limited English proficiency;

(9) all day kindergarten;

(10) extended school day and extended school year programs; and

(11) substantial parent involvement in developing and implementing remedial education or intervention plans for a learner, including learning contracts between the school, the learner, and the parent that establish achievement goals and responsibilities of the learner and the learner's parent or guardian.

Sec. 37. Minnesota Statutes 2002, section 126C.17, subdivision 1, is amended to read:

Subdivision 1. [REFERENDUM ALLOWANCE.] (a) For fiscal year 2002, a district's referendum revenue allowance equals the sum of the allowance under section 126C.16, subdivision 2, plus any additional allowance per resident marginal cost pupil unit authorized under subdivision 9 for fiscal year 2002.

(b) For fiscal year 2003 and later, a district's initial referendum revenue allowance equals the sum of the allowance under section 126C.16, subdivision 2, plus any additional allowance per resident marginal cost pupil unit authorized under subdivision 9 before May 1, 2001, for fiscal year 2002 and later, plus the referendum conversion

allowance approved under subdivision 13, minus $415. For districts with more than one referendum authority, the reduction must be computed separately for each authority. The reduction must be applied first to the referendum conversion allowance and next to the authority with the earliest expiration date. A district's initial referendum revenue allowance may not be less than zero.

(c) For fiscal year 2003 ~~and later~~, a district's referendum revenue allowance equals the initial referendum allowance plus any additional allowance per resident marginal cost pupil unit authorized under subdivision 9 ~~after~~ between April 30, 2001, and December 30, 2001, for fiscal year 2003 and later.

(d) For fiscal year 2004 and later, a district's referendum revenue allowance equals the sum of:

(1) the product of (i) the ratio of the resident marginal cost pupil units the district would have counted for fiscal year 2004 under Minnesota Statutes 2002, section 126C.05, to the district's resident marginal cost pupil units for fiscal year 2004, times (ii) the initial referendum allowance plus any additional allowance per resident marginal cost pupil unit authorized under subdivision 9 between April 30, 2001, and May 30, 2003, for fiscal year 2003 and later, plus

(2) any additional allowance per resident marginal cost pupil unit authorized under subdivision 9 after May 30, 2003, for fiscal year 2005 and later.

Sec. 38. Minnesota Statutes 2002, section 126C.17, subdivision 2, is amended to read:

Subd. 2. [REFERENDUM ALLOWANCE LIMIT.] (a) ~~Notwithstanding subdivision 1, for fiscal year 2002, a district's referendum allowance must not exceed the greater of:~~

~~(1) the district's referendum allowance for fiscal year 1994;~~

~~(2) 25 percent of the formula allowance; or~~

~~(3) for a newly reorganized district created after July 1, 1994, the sum of the referendum revenue authority for the reorganizing districts for the fiscal year preceding the reorganization, divided by the sum of the resident marginal cost pupil units of the reorganizing districts for the fiscal year preceding the reorganization.~~

~~(b)~~ Notwithstanding subdivision 1, for fiscal year 2003 ~~and later fiscal years~~, a district's referendum allowance must not exceed the greater of:

(1) the sum of a district's referendum allowance for fiscal year 1994 times 1.162 plus its referendum conversion allowance for fiscal year 2003, minus $415;

(2) 18.2 percent of the formula allowance;

(3) for a newly reorganized district created on July 1, 2002, the referendum revenue authority for each reorganizing district in the year preceding reorganization divided by its resident marginal cost pupil units for the year preceding reorganization, minus $415; or

(4) for a newly reorganized district created after July 1, 2002, the referendum revenue authority for each reorganizing district in the year preceding reorganization divided by its resident marginal cost pupil units for the year preceding reorganization.

(b) Notwithstanding subdivision 1, for fiscal year 2004 and later, a district's referendum allowance must not exceed the greater of:

(1) the sum of a district's referendum allowance for fiscal year 1994 times 1.300 plus its referendum conversion allowance for fiscal year 2003, minus $415;

(2) 21 percent of the formula allowance; or

(3) for a newly reorganized district created after July 1, 2002, the referendum revenue authority for each reorganizing district in the year preceding reorganization divided by its resident marginal cost pupil units for the year preceding reorganization.

Sec. 39. Minnesota Statutes 2002, section 126C.17, subdivision 5, is amended to read:

Subd. 5. [REFERENDUM EQUALIZATION REVENUE.] (a) For fiscal year 2003 and later, a district's referendum equalization revenue equals the sum of the first tier referendum equalization revenue and the second tier referendum equalization revenue.

(b) A district's first tier referendum equalization revenue equals the district's first tier referendum equalization allowance times the district's resident marginal cost pupil units for that year.

(c) For fiscal years 2003 and 2004, a district's first tier referendum equalization allowance equals the lesser of the district's referendum allowance under subdivision 1 or $126. For fiscal year 2005, a district's first tier referendum equalization allowance equals the lesser of the district's referendum allowance under subdivision 1 or $405. For fiscal year 2006 and later, a district's first tier referendum equalization allowance equals the lesser of the district's referendum allowance under subdivision 1 or $500.

(d) A district's second tier referendum equalization revenue equals the district's second tier referendum equalization allowance times the district's resident marginal cost pupil units for that year.

(e) A district's second tier referendum equalization allowance equals the lesser of the district's referendum allowance under subdivision 1 or ~~18.2~~ 21 percent of the formula allowance, minus the district's first tier referendum equalization allowance.

(f) Notwithstanding paragraph (e), the second tier referendum allowance for a district qualifying for secondary sparsity revenue under section 126C.10, subdivision 7, or elementary sparsity revenue under section 126C.10, subdivision 8, equals the district's referendum allowance under subdivision 1 minus the district's first tier referendum equalization allowance.

Sec. 40. Minnesota Statutes 2002, section 126C.17, subdivision 7, is amended to read:

Subd. 7. [REFERENDUM EQUALIZATION AID.] (a) A district's referendum equalization aid equals the difference between its referendum equalization revenue and levy.

(b) If a district's actual levy for first or second tier referendum equalization revenue is less than its maximum levy limit for that tier, aid shall be proportionately reduced.

(c) Notwithstanding paragraph (a), the referendum equalization aid for a district, where the referendum equalization aid under paragraph (a) exceeds 90 percent of the referendum revenue, must not exceed ~~18.2~~ 21 percent of the formula allowance times the district's resident marginal cost pupil units. A district's referendum levy is increased by the amount of any reduction in referendum aid under this paragraph.

Sec. 41. Minnesota Statutes 2002, section 126C.17, subdivision 7a, is amended to read:

Subd. 7a. [REFERENDUM TAX BASE REPLACEMENT AID.] For each school district that had a referendum allowance for fiscal year 2002 exceeding $415, for each separately authorized referendum levy, the commissioner of revenue, in consultation with the commissioner of ~~children, families, and learning~~ education, shall certify the amount of the referendum levy in taxes payable year 2001 attributable to the portion of the referendum allowance exceeding $415 levied against property classified as class 2, noncommercial 4c(1), or 4c(4), under section 273.13, excluding the portion of the tax paid by the portion of class 2a property consisting of the house, garage, and surrounding one acre of land. The resulting amount must be used to reduce the district's referendum levy amount otherwise determined, and must be paid to the district each year that the referendum authority remains in effect. The aid payable under this subdivision must be subtracted from the district's referendum equalization aid under subdivision 7. The referendum equalization aid after the subtraction must not be less than zero.

~~For the purposes of this subdivision, the referendum levy with the latest year of expiration is assumed to be at the highest level of equalization, and the referendum levy with the earliest year of expiration is assumed to be at the lowest level of equalization.~~

Sec. 42. Minnesota Statutes 2002, section 126C.17, subdivision 9, is amended to read:

Subd. 9. [REFERENDUM REVENUE.] (a) The revenue authorized by section 126C.10, subdivision 1, may be increased in the amount approved by the voters of the district at a referendum called for the purpose. The referendum may be called by the board or shall be called by the board upon written petition of qualified voters of the district. The referendum must be conducted one or two calendar years before the increased levy authority, if approved, first becomes payable. Only one election to approve an increase may be held in a calendar year. Unless the referendum is conducted by mail under paragraph (g), the referendum must be held on the first Tuesday after the first Monday in November. The ballot must state the maximum amount of the increased revenue per resident marginal cost pupil unit, the estimated referendum tax rate as a percentage of referendum market value in the first year it is to be levied, and that the revenue must be used to finance school operations. The ballot may state a schedule, determined by the board, of increased revenue per resident marginal cost pupil unit that differs from year to year over the number of years for which the increased revenue is authorized. If the ballot contains a schedule showing different amounts, it must also indicate the estimated referendum tax rate as a percent of referendum market value for the amount specified for the first year and for the maximum amount specified in the schedule. The ballot may state that existing referendum levy authority is expiring. In this case, the ballot may also compare the proposed levy authority to the existing expiring levy authority, and express the proposed increase as the amount, if any, over the expiring referendum levy authority. The ballot must designate the specific number of years, not to exceed ten, for which the referendum authorization applies. The notice required under section 275.60 may be modified to read, in cases of renewing existing levies:

"BY VOTING "YES" ON THIS BALLOT QUESTION, YOU MAY BE VOTING FOR A PROPERTY TAX INCREASE."

The ballot may contain a textual portion with the information required in this subdivision and a question stating substantially the following:

"Shall the increase in the revenue proposed by (petition to) the board of ....., School District No. .., be approved?"

If approved, an amount equal to the approved revenue per resident marginal cost pupil unit times the resident marginal cost pupil units for the school year beginning in the year after the levy is certified shall be authorized for certification for the number of years approved, if applicable, or until revoked or reduced by the voters of the district at a subsequent referendum.

(b) The board must prepare and deliver by first class mail at least 15 days but no more than 30 days before the day of the referendum to each taxpayer a notice of the referendum and the proposed revenue increase. The board need not mail more than one notice to any taxpayer. For the purpose of giving mailed notice under this subdivision, owners must be those shown to be owners on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer. Every property owner whose name does not appear on the records of the county auditor or the county treasurer is deemed to have waived this mailed notice unless the owner has requested in writing that the county auditor or county treasurer, as the case may be, include the name on the records for this purpose. The notice must project the anticipated amount of tax increase in annual dollars and annual percentage for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the school district.

The notice for a referendum may state that an existing referendum levy is expiring and project the anticipated amount of increase over the existing referendum levy in the first year, if any, in annual dollars and annual percentage for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the district.

The notice must include the following statement: "Passage of this referendum will result in an increase in your property taxes." However, in cases of renewing existing levies, the notice may include the following statement: "Passage of this referendum may result in an increase in your property taxes."

(c) A referendum on the question of revoking or reducing the increased revenue amount authorized pursuant to paragraph (a) may be called by the board and shall be called by the board upon the written petition of qualified voters of the district. A referendum to revoke or reduce the ~~levy~~ revenue amount must ~~be based upon the dollar amount, local tax rate, or~~ state the amount per resident marginal cost pupil unit~~, that was stated to be the basis for the initial authorization~~ by which the authority is to be reduced. Revenue authority approved by the voters of the district pursuant to paragraph (a) must be ~~received~~ available to the school district at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one revocation or reduction referendum may be held to revoke or reduce referendum revenue for any specific year and for years thereafter.

(d) A petition authorized by paragraph (a) or (c) is effective if signed by a number of qualified voters in excess of 15 percent of the registered voters of the district on the day the petition is filed with the board. A referendum invoked by petition must be held on the date specified in paragraph (a).

(e) The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this subdivision.

(f) At least 15 days before the day of the referendum, the district must submit a copy of the notice required under paragraph (b) to the commissioner and to the county auditor of each county in which the district is located. Within 15 days after the results of the referendum have been certified by the board, or in the case of a recount, the certification of the results of the recount by the canvassing board, the district must notify the commissioner of the results of the referendum.

Sec. 43. Minnesota Statutes 2002, section 126C.17, subdivision 13, is amended to read:

Subd. 13. [REFERENDUM CONVERSION ALLOWANCE.] (a) A school district that received supplemental or transition revenue in fiscal year 2002 may convert its supplemental revenue conversion allowance and transition revenue conversion allowance to additional referendum allowance under subdivision 1 for fiscal year 2003 and thereafter. A majority of the school board must approve the conversion at a public meeting before November 1, 2001. For a district with other referendum authority, the referendum conversion allowance approved by the board continues until the portion of the district's other referendum authority with the earliest expiration date after June 30, 2006, expires. For a district with no other referendum authority, the referendum conversion allowance approved by the board continues until June 30, 2012.

(b) A school district that received transition revenue in fiscal year 2004 may convert all or part of its transition revenue to referendum revenue with voter approval in a referendum called for the purpose. The referendum must be held in accordance with subdivision 9, except that the ballot may state that existing transition revenue authority is being canceled or is expiring. In this case, the ballot shall compare the proposed referendum allowance to the canceled or expiring transition revenue allowance. For purposes of this comparison, the canceled or expiring transition revenue allowance per adjusted marginal cost pupil unit shall be converted to an allowance per resident marginal cost pupil unit based on the district's ratio of adjusted marginal cost pupil units to resident marginal cost pupil units for the preceding fiscal year. The referendum must be held on the first Tuesday after the first Monday in November. The notice required under section 275.60 may be modified to read: "BY VOTING 'YES' ON THIS BALLOT QUESTION, YOU MAY BE VOTING FOR A PROPERTY TAX INCREASE." Elections under this paragraph must be held in 2007 or earlier.

Sec. 44. Minnesota Statutes 2002, section 126C.21, subdivision 3, is amended to read:

Subd. 3. [COUNTY APPORTIONMENT DEDUCTION.] Each year the amount of money apportioned to a district for that year pursuant to section 127A.34, subdivision 2, ~~excluding any district where the general education levy is determined according to section 126C.13, subdivision 3,~~ must be deducted from the general education aid earned by that district for the same year or from aid earned from other state sources.

Sec. 45. Minnesota Statutes 2002, section 126C.457, is amended to read:

126C.457 [CAREER AND TECHNICAL LEVY.]

~~For taxes payable in 2003 only,~~ A school district may levy an amount equal to the greater of (1) $10,000, or (2) the district's fiscal year 2001 entitlement for career and technical aid under section 124D.453. The district must recognize the full amount of this levy as revenue for the fiscal year in which it is certified. Revenue received under this section must be reserved and used only for career and technical programs.

[EFFECTIVE DATE.] This section is effective for taxes payable in 2004.

Sec. 46. Minnesota Statutes 2002, section 169.28, subdivision 1, is amended to read:

Subdivision 1. [STOP REQUIRED.] (a) The driver of any motor vehicle carrying passengers for hire, or of any school bus whether carrying passengers or not, or of any Head Start bus whether carrying passengers or not, or of any vehicle that is required to stop at railroad grade crossings under Code of Federal Regulations, title 49, section 392.10, before crossing at grade any track or tracks of a railroad, shall stop the vehicle not less than 15 feet nor more than 50 feet from the nearest rail of the railroad and while so stopped shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until safe to do so. The driver must not shift gears while crossing the railroad tracks.

(b) A school bus or Head Start bus shall not be flagged across railroad grade crossings except at those railroad grade crossings that the local school administrative officer may designate.

(c) A type III school bus, as defined in section 169.01, is exempt from the requirement of school buses to stop at railroad grade crossings.

Sec. 47. Minnesota Statutes 2002, section 169.4503, subdivision 4, is amended to read:

Subd. 4. [CERTIFICATION.] A body manufacturer, school bus dealer, or certified Minnesota commercial vehicle inspector who is also an employee of an organization purchasing a school bus shall certify to the department of public safety that the product meets Minnesota standards.

Sec. 48. Minnesota Statutes 2002, section 169.454, subdivision 6, is amended to read:

Subd. 6. [IDENTIFICATION.] ~~(a)~~ The vehicle must not have the words "school bus" in any location on the exterior of the vehicle, or in any interior location visible to a motorist.

~~(b) The vehicle must display to the rear of the vehicle this sign: "VEHICLE STOPS AT RR CROSSINGS."~~

~~(c) The lettering (except for "AT," which may be one inch smaller) must be a minimum two inch "Series D" as specified in standard alphabets for highway signs as specified by the Federal Highway Administration. The printing must be in a color giving a marked contrast with that of the part of the vehicle on which it is placed.~~

~~(d) The sign must have provisions for being covered, or be of a removable or fold-down type.~~

Sec. 49. Minnesota Statutes 2002, section 171.321, subdivision 5, is amended to read:

Subd. 5. [ANNUAL EVALUATION AND LICENSE VERIFICATION.] (a) ~~A school district's pupil transportation safety director, the chief administrator of a nonpublic school, or a private contractor shall certify annually to the school board or governing board of a nonpublic school that, at minimum, each school bus driver meets the school bus driver training competencies under subdivision 4.~~ A school district, nonpublic school, or private contractor ~~also~~ shall provide in-service training annually to each school bus driver.

(b) A school district, nonpublic school, or private contractor shall annually verify the validity of the driver's license of each person who transports students for the district with the National Drivers Register or with the department of public safety.

Sec. 50. [NONPUBLIC PUPIL MATERIALS AND TESTS.]

Notwithstanding Minnesota Statutes, section 123B.42, subdivision 3, paragraph (b), the inflation adjustment for nonpublic pupil textbooks, individualized instructional or cooperative learning materials, and standardized tests for fiscal year 2004 must be computed using the fiscal year 2004 formula allowance minus $415.

Sec. 51. [RECOGNITION OF EXCELLENCE IN EDUCATION.]

The commissioner of education must develop for the kindergarten through grade 12 task force on school finance reform a plan that recognizes and financially rewards outstanding schools and students demonstrating excellence in education consistent with the provisions on academic excellence in Minnesota Statutes, chapter 120B.

Sec. 52. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [GENERAL EDUCATION AID.] For general education aid under Minnesota Statutes, section 126C.13, subdivision 4:

$4,834,653,000	. . . . .	2004
$5,137,390,000	. . . . .	2005

The 2004 appropriation includes $857,432,000 for 2003 and $3,977,221,000 for 2004.

The 2005 appropriation includes $1,164,990 for 2004 and $3,972,400,000 for 2005.

Subd. 3. [REFERENDUM TAX BASE REPLACEMENT AID.] For referendum tax base replacement aid under Minnesota Statutes, section 126C.17, subdivision 7a:

$7,600,000	. . . . .	2004
$7,971,000	. . . . .	2005

The 2004 appropriation includes $1,419,000 for 2003 and $6,181,000 for 2004.

The 2005 appropriation includes $1,846,000 for 2004 and $6,125,000 for 2005.

Subd. 4. [ENROLLMENT OPTIONS TRANSPORTATION.] For transportation of pupils attending postsecondary institutions under Minnesota Statutes, section 124D.09, or for transportation of pupils attending nonresident districts under Minnesota Statutes, section 124D.03:

$50,000	. . . . .	2004
$55,000	. . . . .	2005

Subd. 5. [ABATEMENT REVENUE.] For abatement aid under Minnesota Statutes, section 127A.49:

$2,597,000	. . . . .	2004
$2,931,000	. . . . .	2005

The 2004 appropriation includes $472,000 for 2003 and $2,125,000 for 2004.

The 2005 appropriation includes $643,000 for 2004 and $2,297,000 for 2005.

Subd. 6. [CONSOLIDATION TRANSITION.] For districts consolidating under Minnesota Statutes, section 123A.485:

$200,000	. . . . .	2004
$593,000	. . . . .	2005

The 2004 appropriation includes $35,000 for 2003 and $165,000 for 2004.

The 2005 appropriation includes $49,000 for 2004 and $544,000 for 2005.

Subd. 7. [TORNADO IMPACT; YELLOW MEDICINE EAST.] For a grant to independent school district No. 2190, Yellow Medicine East, for tornado impact declining enrollment aid:

$78,000	. . . . .	2004
$39,000	. . . . .	2005

Subd. 8. [DECLINING PUPIL AID; ALBERT LEA.] For declining pupil aid to independent school district No. 241, Albert Lea:

$225,000	. . . . .	2004
$150,000	. . . . .	2005

Subd. 9. [DECLINING PUPIL AID; MESABI EAST.] For declining pupil aid to independent school district No. 2711, Mesabi East:

$150,000	. . . . .	2004
$100,000	. . . . .	2005

Subd. 10. [DECLINING PUPIL AID; ROSEAU.] For declining pupil aid to independent school district No. 682, Roseau:

$30,000	. . . . .	2004
$20,000	. . . . .	2005

Subd. 11. [NONPUBLIC PUPIL AID.] For nonpublic pupil education aid under Minnesota Statutes, sections 123B.40 to 123B.43 and 123B.87:

$14,179,000	. . . . .	2004
$15,568,000	. . . . .	2005

The 2004 appropriation includes $2,715,000 for 2003 and $11,464,000 for 2004.

The 2005 appropriation includes $3,424,000 for 2004 and $12,144,000 for 2005.

Subd. 12. [NONPUBLIC PUPIL TRANSPORTATION.] For nonpublic pupil transportation aid under Minnesota Statutes, section 123B.92, subdivision 9:

$20,821,000	. . . . .	2004
$21,978,000	. . . . .	2005

The 2004 appropriation includes $3,990,000 for 2003 and $16,831,000 for 2004.

The 2005 appropriation includes $5,027,000 for 2004 and $16,951,000 for 2005.

Sec. 53. [REPEALER.]

(a) Minnesota Statutes 2002, sections 122A.60; 122A.61; 123A.73, subdivisions 7, 10, and 11; 123B.05; 123B.81, subdivision 6; 124D.65, subdivision 4; 126C.01, subdivision 4; 126C.12; and 126C.125, are repealed.

(b) Minnesota Statutes 2002, section 126C.14, is repealed effective for revenue for fiscal year 2003.

(c) Minnesota Statutes 2002, sections 122A.62; 126C.445; and 126C.455, are repealed effective for taxes payable in 2004.

(d) Laws 2001, First Special Session chapter 6, article 5, section 12, as amended by Laws 2002, chapter 377, article 12, section 15, is repealed.

(e) Laws 2000, chapter 489, article 2, section 36, as amended by Laws 2001, First Special Session chapter 6, article 1, section 44, is repealed effective for revenue for fiscal year 2004.

ARTICLE 2

EDUCATION EXCELLENCE

Section 1. Minnesota Statutes 2002, section 120A.24, subdivision 4, is amended to read:

Subd. 4. [REPORTS TO THE STATE.] A superintendent must make an annual report to the commissioner of ~~children, families, and learning~~ education. The report must include the following information:

(1) the number of children residing in the district attending nonpublic schools or receiving instruction from persons or institutions other than a public school;

(2) the number of children in clause (1) who are in compliance with section 120A.22 and this section; and

(3) the ~~names, ages, and addresses~~ number of children ~~whom~~ in clause (1) who the superintendent has determined are not in compliance with section 120A.22 and this section.

Sec. 2. Minnesota Statutes 2002, section 120A.41, is amended to read:

120A.41 [LENGTH OF SCHOOL YEAR; DAYS OF INSTRUCTION.]

A school board's annual school calendar must include at least ~~three additional days of student instruction or staff development training related to implementing section 120B.031, subdivision 1, paragraph (f), beyond~~ the number of days of student instruction the board formally adopted as its school calendar at the beginning of the 1996-1997 school year.

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year.

Sec. 3. Minnesota Statutes 2002, section 121A.23, subdivision 1, is amended to read:

Subdivision 1. [SEXUALLY TRANSMITTED INFECTIONS AND DISEASES PROGRAM.] The commissioner of ~~children, families, and learning~~ education, in consultation with the commissioner of health, shall assist districts in developing and implementing a program to prevent and reduce the risk of sexually transmitted infections and diseases, including but not exclusive to human immune deficiency virus and human papilloma virus. Each district must have a program that includes at least:

(1) planning materials, guidelines, and other technically accurate and updated information;

(2) a comprehensive, technically accurate, and updated curriculum that includes helping students to abstain from sexual activity until marriage;

(3) cooperation and coordination among districts and SCs;

(4) a targeting of adolescents, especially those who may be at high risk of contracting sexually transmitted infections and diseases, for prevention efforts;

(5) involvement of parents and other community members;

(6) in-service training for appropriate district staff and school board members;

(7) collaboration with state agencies and organizations having a sexually transmitted infection and disease prevention or sexually transmitted infection and disease risk reduction program;

(8) collaboration with local community health services, agencies and organizations having a sexually transmitted infection and disease prevention or sexually transmitted infection and disease risk reduction program; and

(9) participation by state and local student organizations.

~~The department may provide assistance at a neutral site to a nonpublic school participating in a district's program. District programs must not conflict with the health and wellness curriculum developed under Laws 1987, chapter 398, article 5, section 2, subdivision 7.~~

~~If a district fails to develop and implement a program to prevent and reduce the risk of sexually transmitted infection and disease, the department must assist the service cooperative in the region serving that district to develop or implement the program.~~

Sec. 4. Minnesota Statutes 2002, section 121A.23, is amended by adding a subdivision to read:

Subd. 1a. [ABSTINENCE UNTIL MARRIAGE.] A school district that complies with subdivision 1 must provide students with a curriculum on and instruction in abstinence until marriage premised on risk avoidance.

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

Sec. 5. [121A.24] [NOTICE REQUIREMENTS FOR STUDENT SURVEYS AND SIMILAR INSTRUMENTS.]

(a) A school district must obtain prior written informed consent from a student's parent or guardian before administering an academic or nonacademic student survey, assessment, analysis, evaluation, or similar instrument that reveals information about the student or the student's family concerning:

(1) political affiliations or beliefs;

(2) mental or psychological problems;

(3) sexual behavior or attitudes;

(4) illegal, antisocial, self-incriminating, or demeaning behavior;

(5) critical appraisals of another individual with whom a student has a close family relationship;

(6) legally recognized privileged or analogous relationships, such as those with a lawyer, physician, or minister;

(7) religious practices, affiliations, or beliefs; or

(8) income or other income-related information required by law to determine eligibility to participate in or receive financial assistance under a program.

(b) When asking a parent or guardian to provide informed written consent, the school district must:

(1) make a copy of the instrument readily accessible to the parent or guardian at a convenient location and reasonable time; and

(2) specifically identify the information in paragraph (a) that will be revealed through the instrument.

The district must request the consent of the parent or guardian at least 14 days before administering the instrument.

(c) A parent or guardian seeking to compel a school district to comply with this section has available the civil remedies under section 13.08, subdivision 4, in addition to other remedies provided by law.

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

Sec. 6. Minnesota Statutes 2002, section 121A.50, is amended to read:

121A.50 [JUDICIAL REVIEW.]

The decision of the ~~commissioner of children, families, and learning~~ school district made under sections 121A.40 to 121A.56 is subject to judicial review ~~under sections 14.63 to 14.69~~ by writ of certiorari to the court of appeals. The school district may implement its decision during the appeal. ~~The decision of the commissioner is stayed pending an appeal under this section.~~

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to all appeals of school district decisions made after that date.

Sec. 7. Minnesota Statutes 2002, section 121A.55, is amended to read:

121A.55 [POLICIES TO BE ESTABLISHED.]

(a) The commissioner of ~~children, families, and learning~~ education shall promulgate guidelines to assist each school board. Each school board shall establish uniform criteria for dismissal and adopt written policies and rules to effectuate the purposes of sections 121A.40 to 121A.56. The policies shall emphasize preventing dismissals through early detection of problems and shall be designed to address students' inappropriate behavior from recurring. The policies shall recognize the continuing responsibility of the school for the education of the pupil during the dismissal period. The alternative educational services, if the pupil wishes to take advantage of them, must be adequate to allow the pupil to make progress towards meeting the graduation standards adopted under section 120B.02 and help prepare the pupil for readmission.

(b) Consistent with its policies adopted under paragraph (a), a school district, in consultation with a student's parent or guardian, may assign a student to an area learning center or provide other alternative educational services under section 121A.41, subdivision 11. An area learning center under section 123A.05 may not prohibit an expelled or excluded pupil from enrolling solely because a district expelled or excluded the pupil. The board of the area learning center may use the provisions of the Pupil Fair Dismissal Act to exclude a pupil or to require an admission plan.

~~(c) The commissioner shall actively encourage and assist school districts to cooperatively establish alternative educational services within school buildings or at alternative program sites that offer instruction to pupils who are dismissed from school for willfully engaging in dangerous, disruptive, or violent behavior, including for possessing a firearm in a school zone.~~

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

Sec. 8. Minnesota Statutes 2002, section 122A.414, is amended by adding a subdivision to read:

Subd. 3. [REPORT.] Participating districts and school sites must report on the implementation and effectiveness of the alternative teacher compensation plan, particularly addressing each requirement under subdivision 2 and make biennial recommendations by January 1 to their school boards. The school boards shall transmit a summary of the findings and recommendations of their district to the commissioner.

Sec. 9. Minnesota Statutes 2002, section 122A.415, subdivision 1, is amended to read:

Subdivision 1. [AID AMOUNT.] (a) A school district that meets the conditions of section 122A.414 and submits an application approved by the commissioner is eligible for alternative compensation aid. The commissioner must consider only applications submitted jointly by a school district and the exclusive representative of the teachers for participation in the program. The application must contain a formally adopted collective bargaining agreement, memorandum of understanding, or other binding agreement that implements an alternative teacher professional pay system consistent with section 122A.414 and includes all teachers in a district, all teachers at a school site, or at least 25 percent of the teachers in a district. The commissioner, in approving applications, may give preference to applications involving entire districts or sites ~~in approving applications~~ or to applications that align measures of teacher performance with student academic achievement and progress under section 120B.35, subdivision 1.

(b) Alternative compensation aid for a qualifying school district, site, or portion of a district or school site is as follows:

(1) for a school district in which the school board and the exclusive representative of the teachers agree to place all teachers in the district or at the site on the alternative compensation schedule, alternative compensation aid equals $150 times the district's or the site's number of pupils enrolled on October 1 of the previous fiscal year; or

(2) for a district in which the school board and the exclusive representative of the teachers agree that at least 25 percent of the district's licensed teachers will be paid on the alternative compensation schedule, alternative compensation aid equals $150 times the percentage of participating teachers times the district's number of pupils enrolled as of October 1 of the previous fiscal year.

Sec. 10. Minnesota Statutes 2002, section 122A.415, subdivision 3, is amended to read:

Subd. 3. [AID TIMING.] (a) Districts or sites with approved applications must receive alternative compensation aid for each school year that the district or site participates in the program as described in this subdivision. Districts or sites with applications received by the commissioner before June 1 of the first year of a two-year contract shall receive compensation aid for both years of the contract. Districts or sites with applications received by the commissioner after June 1 of the first year of a two-year contract shall receive compensation aid only for the second year of the contract. The commissioner must approve initial applications for school districts qualifying under subdivision 1, paragraph (b), clause (1), by January 15 of each year. If any money remains, the commissioner must approve aid amounts for school districts qualifying under subdivision 1, paragraph (b), clause (2), by February 15 of each year.

(b) The commissioner shall select applicants that qualify for this program, notify school districts and school sites about the program, develop and disseminate application materials, and carry out other activities needed to implement this section.

Sec. 11. Minnesota Statutes 2002, section 122A.63, subdivision 3, is amended to read:

Subd. 3. [REVIEW AND COMMENT.] The commissioner must submit the joint application to the ~~Minnesota~~ American Indian ~~scholarship~~ education committee for review and comment.

Sec. 12. Minnesota Statutes 2002, section 123B.02, subdivision 14, is amended to read:

Subd. 14. [EMPLOYEES; CONTRACTS FOR SERVICES.] (a) The board may employ and discharge necessary employees and may contract for other services. Notwithstanding any other law to the contrary, it shall be an inherent managerial right of the board to unilaterally contract or subcontract for services unless the power to contract or subcontract is specifically prohibited by collective bargaining agreements with all units of affected employees.

(b) Notwithstanding any law to the contrary, when the exclusive representative and the employer have been in negotiation of a contract or subcontract for the services of nonteachers as set out in the collective bargaining agreement and have participated in mediation over a period of at least 45 days, either party may declare an impasse and terminate the negotiation and the collective bargaining agreement shall conclusively be determined to be expired. After expiration of the collective bargaining agreement occurs under this paragraph, the employer may contract with any other persons and entities for the services.

(c) For the purposes of paragraph (b), the mediation period begins on the day following receipt by the commissioner of a request for mediation.

(d) Paragraph (b) applies to all agreements between the board and collective bargaining representatives except for teachers as defined in section 122A.41, subdivision 1, paragraph (a).

[EFFECTIVE DATE.] This section is effective for contracts negotiated and entered into on or after July 1, 2003, and contracts beginning negotiation, but not entered into, before July 1, 2003.

Sec. 13. [123B.025] [SCHOOL SPONSORSHIP AND ADVERTISING REVENUE.]

Subdivision 1. [BOARD AUTHORITY; CONTRACTS.] A school board may enter into a contract with advertisers, sponsors, or others regarding advertising and naming rights to school facilities and vehicles under the general charge of the district. A contract authorized under this section must be approved by the school board. The powers granted to a school board under this section are in addition to any other authority the school district may have.

Subd. 2. [AUTHORIZED AGREEMENTS.] A school district may enter into a contract to:

(1) lease the naming rights for school facilities, including school buildings, ice arenas, and stadiums;

(2) sell advertising on or in the facilities listed in clause (1);

(3) sell advertising on or in school buses subject to the content restrictions of section 123B.93; and

(4) otherwise enter into an agreement with a sponsoring agent.

Subd. 3. [REVENUE USES.] Revenue generated under this section must be used according to a plan specified by the school board.

Sec. 14. Minnesota Statutes 2002, section 123B.36, subdivision 1, is amended to read:

Subdivision 1. [SCHOOL BOARDS MAY REQUIRE FEES.] (a) For purposes of this subdivision, "home school" means a home school as defined in sections 120A.22 and 120A.24 with five or fewer students receiving instruction.

(b) A school board is authorized to require payment of fees in the following areas:

(1) in any program where the resultant product, in excess of minimum requirements and at the pupil's option, becomes the personal property of the pupil;

(2) admission fees or charges for extra curricular activities, where attendance is optional and where the admission fees or charges a student must pay to attend or participate in an extracurricular activity is the same for all students, regardless of whether the student is enrolled in a public or a home school;

(3) a security deposit for the return of materials, supplies, or equipment;

(4) personal physical education and athletic equipment and apparel, although any pupil may personally provide it if it meets reasonable requirements and standards relating to health and safety established by the board;

(5) items of personal use or products that a student has an option to purchase such as student publications, class rings, annuals, and graduation announcements;

(6) fees specifically permitted by any other statute, including but not limited to section 171.05, subdivision 2; provided (i) driver education fees do not exceed the actual cost to the school and school district of providing driver education, and (ii) the driver education courses are open to enrollment to persons between the ages of 15 and 18 who reside or attend school in the school district;

(7) field trips considered supplementary to a district educational program;

(8) any authorized voluntary student health and accident benefit plan;

(9) for the use of musical instruments owned or rented by the district, a reasonable rental fee not to exceed either the rental cost to the district or the annual depreciation plus the actual annual maintenance cost for each instrument;

(10) transportation of pupils to and from extra curricular activities conducted at locations other than school, where attendance is optional, and transportation of charter school students participating in extracurricular activities conducted in the resident school district under section 123B.49, subdivision 4, paragraph (a), which must be charged to the charter school;

(11) transportation to and from school of pupils living within two miles from school and all other transportation services not required by law. If a district charges fees for transportation of pupils, it must establish guidelines for that transportation to ensure that no pupil is denied transportation solely because of inability to pay;

(12) motorcycle classroom education courses conducted outside of regular school hours; provided the charge must not exceed the actual cost of these courses to the school district;

(13) transportation to and from post-secondary institutions for pupils enrolled under the post-secondary enrollment options program under section 123B.88, subdivision 22. Fees collected for this service must be reasonable and must be used to reduce the cost of operating the route. Families who qualify for mileage reimbursement under section 124D.09, subdivision 22, may use their state mileage reimbursement to pay this fee. If no fee is charged, districts must allocate costs based on the number of pupils riding the route.

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year and later.

Sec. 15. Minnesota Statutes 2002, section 123B.49, subdivision 4, is amended to read:

Subd. 4. [BOARD CONTROL OF EXTRACURRICULAR ACTIVITIES.] (a) The board may take charge of and control all extracurricular activities of the teachers and children of the public schools in the district. Extracurricular activities means all direct and personal services for pupils for their enjoyment that are managed and operated under the guidance of an adult or staff member. The board shall allow all resident pupils receiving instruction in a home school as defined in section 123B.36, subdivision 1, paragraph (a), and all resident pupils receiving instruction in a charter school as defined in section 124D.10 to be eligible to fully participate in extracurricular activities on the same basis as public school students enrolled in the district's schools. Charter school students participating in extracurricular activities must meet the academic and student conduct requirements of the charter school and resident district.

(b) Extracurricular activities have all of the following characteristics:

(1) they are not offered for school credit nor required for graduation;

(2) they are generally conducted outside school hours, or if partly during school hours, at times agreed by the participants, and approved by school authorities;

(3) the content of the activities is determined primarily by the pupil participants under the guidance of a staff member or other adult.

(c) If the board does not take charge of and control extracurricular activities, these activities shall be self-sustaining with all expenses, except direct salary costs and indirect costs of the use of school facilities, met by dues, admissions, or other student fund-raising events. The general fund must reflect only those salaries directly related to and readily identified with the activity and paid by public funds. Other revenues and expenditures for extra curricular activities must be recorded according to the "Manual of Instruction for Uniform Student Activities Accounting for Minnesota School Districts and Area Vocational-Technical Colleges." Extracurricular activities not under board control must have an annual financial audit and must also be audited annually for compliance with this section.

(d) If the board takes charge of and controls extracurricular activities, any or all costs of these activities may be provided from school revenues and all revenues and expenditures for these activities shall be recorded in the same manner as other revenues and expenditures of the district.

(e) If the board takes charge of and controls extracurricular activities, the teachers or pupils in the district must not participate in such activity, nor shall the school name or any allied name be used in connection therewith, except by consent and direction of the board.

(f) School districts may charge charter schools their proportional share of the direct and indirect costs of the extracurricular activities not covered by student fees under section 123B.36, subdivision 1.

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year and later.

Sec. 16. Minnesota Statutes 2002, section 123B.88, subdivision 2, is amended to read:

Subd. 2. [VOLUNTARY SURRENDER OF TRANSPORTATION PRIVILEGES.] The parent or guardian of a ~~secondary~~ student may voluntarily surrender the ~~secondary~~ student's to and from school transportation privileges granted under subdivision 1.

Sec. 17. Minnesota Statutes 2002, section 124D.081, is amended by adding a subdivision to read:

Subd. 9. [RESERVE ACCOUNT.] First grade preparedness revenue must be placed in a reserve account within the general fund and may only be used for first grade preparedness programs at qualifying school sites.

Sec. 18. Minnesota Statutes 2002, section 124D.09, subdivision 9, is amended to read:

Subd. 9. [ENROLLMENT PRIORITY.] A post-secondary institution shall give priority to its post-secondary students when enrolling 11th and 12th grade pupils in its courses. A post-secondary institution may provide information about its programs to a secondary school or to a pupil or parent, but it may not advertise or otherwise recruit or solicit the participation ~~on financial grounds,~~ of secondary pupils to enroll in its programs on financial grounds. An institution must not enroll secondary pupils, for post-secondary enrollment options purposes, in remedial, developmental, or other courses that are not college level. Once a pupil has been enrolled in a post-secondary course under this section, the pupil shall not be displaced by another student.

Sec. 19. Minnesota Statutes 2002, section 124D.09, subdivision 10, is amended to read:

Subd. 10. [COURSES ACCORDING TO AGREEMENTS.] An eligible pupil, according to subdivision ~~4~~ 5, may enroll in a nonsectarian course taught by a secondary teacher or a post-secondary faculty member and offered at a secondary school, or another location, according to an agreement between a public school board and the governing body of an eligible public post-secondary system or an eligible private post-secondary institution, as defined in subdivision 3. All provisions of this section shall apply to a pupil, public school board, district, and the governing body of a post-secondary institution, except as otherwise provided.

Sec. 20. Minnesota Statutes 2002, section 124D.09, subdivision 16, is amended to read:

Subd. 16. [FINANCIAL ARRANGEMENTS FOR COURSES PROVIDED ACCORDING TO AGREEMENTS.] (a) The agreement between a board and the governing body of a public post-secondary system or private post-secondary institution shall set forth the payment amounts and arrangements, if any, from the board to the post-secondary institution. No payments shall be made by the department according to subdivision ~~14~~ 13 or 15. For the purpose of computing state aids for a district, a pupil enrolled according to subdivision 10 shall be counted in the average daily membership of the district as though the pupil were enrolled in a secondary course that is not offered in connection with an agreement. Nothing in this subdivision shall be construed to prohibit a public post-secondary system or private post-secondary institution from receiving additional state funding that may be available under any other law.

(b) If a course is provided under subdivision 10, offered at a secondary school, and taught by a secondary teacher, the post-secondary system or institution must not require a payment from the school board that exceeds the cost to the post-secondary institution that is directly attributable to providing that course.

Sec. 21. Minnesota Statutes 2002, section 124D.09, subdivision 20, is amended to read:

Subd. 20. [TEXTBOOKS; MATERIALS.] All textbooks and equipment provided to a pupil, and paid for under subdivision 13, are the property of the pupil's ~~school district of residence~~ postsecondary institution. Each pupil is required to return all textbooks and equipment to the ~~district~~ postsecondary institution after the course has ended.

Sec. 22. [124D.095] [DISTANCE EDUCATION OPTION.]

Subdivision 1. [CITATION.] This section may be cited as the "Distance Education Option Act."

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

(a) "Distance education" is an interactive course or program that delivers instruction to a student by video, audio, computer, or multimedia communication; is combined with other traditional delivery methods that include frequent student assessment and actual teacher contact time; and meets or exceeds state academic standards.

(b) "Distance education provider" is a school district, an organization of two or more school districts operating under a joint powers agreement, or a charter school located in Minnesota that provides distance education to students.

(c) "Student" is a Minnesota resident enrolled in a school under section 120A.22, subdivision 4, in kindergarten through grade 12.

(d) "Distance education student" is a student enrolled in distance education offered by a distance education provider under paragraph (b).

Subd. 3. [AUTHORIZATION; NOTICE; LIMITATIONS ON ENROLLMENT.] (a) A student, or the parent or guardian of a student age 17 or younger, may apply to a distance education provider to enroll the student in distance education. No school district or charter school may prohibit a student from applying to enroll in distance education. A distance education provider that accepts a student under this section must, within ten days, notify the student and the student's school and school district if the student is not enrolled in the school district or charter school delivering the distance education. The notice must report the student's course or program and hours of instruction.

(b) A distance education provider must notify the commissioner that it is delivering distance education and report the number of distance education students it is accepting and the distance education courses and programs it is delivering.

(c) A distance education provider may limit enrollment if the provider's school board or board of directors adopts by resolution specific standards for accepting and rejecting students' applications.

Subd. 4. [DISTANCE EDUCATION PARAMETERS.] (a) A distance education student must receive academic credit for successfully completing the requirements of a distance education course or program. Secondary credits granted to a distance education student must be counted toward the graduation and subject area requirements of the school district or charter school in which the student is enrolled.

(b) A distance education student may:

(1) enroll during a single school year in a maximum of 12 semester-long courses or their equivalent delivered by the distance education provider or the school district or charter school in which the distance education student is currently enrolled;

(2) complete course work at a grade level that is different from the student's current grade level; and

(3) enroll in additional courses with the distance education provider under a separate agreement that includes terms for payment of any tuition or course fees.

(c) A distance education student has the same access to the computer hardware and education software available in a school as all other students enrolled in the district or charter school. A distance education provider must assist a distance education student whose family qualifies for the education tax credit under section 290.0674 to acquire computer hardware and educational software for distance learning purposes.

Subd. 5. [PARTICIPATION IN EXTRACURRICULAR ACTIVITIES.] A distance education student may participate in the extracurricular activities of the charter school or school district in which the student is currently enrolled on the same basis as other students enrolled in the charter school or school district.

Subd. 6. [INFORMATION.] School districts and charter schools must make available information about distance education to all interested people.

Subd. 7. [FINANCIAL ARRANGEMENTS.] (a) For a distance education student enrolled in a distance education course or program, the department must make payments according to this subdivision.

(b) The department must not pay a distance education provider under this section if:

(1) the distance education provider is also the school district or charter school in which the student is currently enrolled; or

(2) the distance education student officially withdraws from the distance education course or program during the first 15 days of the course or program.

(c) For each quarter course, the department must pay a distance education provider delivering quarter courses under this section an amount equal to the product of (i) the student grade level weighting under section 126C.05, subdivision 1, (ii) .88, and (iii) the formula allowance, all divided by 18.

(d) For each semester course, the department must pay a distance education provider delivering semester courses under this section an amount equal to the product of (i) the student grade level weighting under section 126C.05, subdivision 1, (ii) .88, and (iii) the formula allowance divided by 12.

(e) The department must pay each distance education provider 100 percent of the amount in paragraph (c) or (d) within 30 days of receiving initial enrollment information each quarter or semester. If a change in enrollment occurs during a quarter or semester, the distance education provider must report the change to the department at the time it submits the enrollment information for the next quarter or semester.

(f) For students currently enrolled in a public school, the department shall continue to pay the public school under chapters 120A to 128, less any amounts paid to the distance education provider.

Subd. 8. [PAYMENT PRIORITY.] (a) To the extent funds are available, the commissioner must pay a distance education provider according to subdivision 7, in the order in which a distance education provider notifies the commissioner under subdivision 3, paragraph (b), that it is delivering distance education. The distance education provider must submit to the commissioner any student information necessary to process payments under this section.

(b) Before paying other distance education providers under paragraph (a), the commissioner must pay providers that delivered distance education in fiscal year 2003. The amount paid to these providers equals the amount received per pupil in fiscal year 2003 times the qualifying number of pupils enrolled during the current year. A provider's qualifying number of pupils may not exceed 110 percent of the previous year's pupils. A provider that qualifies under this paragraph may also submit an application for funding for additional pupils under paragraph (a).

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year and later.

Sec. 23. Minnesota Statutes 2002, section 124D.10, subdivision 2a, is amended to read:

Subd. 2a. [CHARTER SCHOOL ADVISORY COUNCIL.] (a) A charter school advisory council is established under section 15.059 except that the term for each council member shall be three years. The advisory council is composed of seven members from throughout the state who have demonstrated experience with or interest in charter schools. The members of the council shall be appointed by the commissioner. The advisory council shall bring to the attention of the commissioner any matters related to charter schools that the council deems necessary and shall:

(1) encourage school boards to make full use of charter school opportunities;

(2) encourage the creation of innovative schools;

(3) provide leadership and support for charter school sponsors to increase the innovation in and the effectiveness, accountability, and fiscal soundness of charter schools;

(4) serve an ombudsman function in facilitating the operations of new and existing charter schools;

(5) promote timely financial management training for newly elected members of a charter school board of directors and ongoing training for other members of a charter school board of directors; and

(6) ~~review charter school applications and recommend approving or disapproving the applications; and~~

~~(7)~~ facilitate compliance with auditing and other reporting requirements. The advisory council shall refer all its proposals to the commissioner who shall provide time for reports from the council.

(b) The charter school advisory council under this subdivision expires June 30, ~~2003~~ 2007.

Sec. 24. Minnesota Statutes 2002, section 124D.10, subdivision 3, is amended to read:

Subd. 3. [SPONSOR.] A school board; intermediate school district school board; education district organized under sections 123A.15 to 123A.19; charitable organization under section 501(c)(3) of the Internal Revenue Code of 1986 that is a member of the Minnesota council of nonprofits or the Minnesota council on foundations, registered with the attorney general's office, and reports an end-of-year fund balance of at least $2,000,000; Minnesota private college that grants two- or four-year degrees and is registered with the higher education services office under chapter 136A; community college, state university, or technical college, governed by the board of trustees of the Minnesota state colleges and universities; or the University of Minnesota may sponsor one or more charter schools. A nonprofit corporation subject to chapter 317A, described in section 317A.905, and exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code of 1986, may sponsor one or more charter schools if the nonprofit corporation has existed for at least 25 years.

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year and later.

Sec. 25. Minnesota Statutes 2002, section 124D.10, subdivision 4, is amended to read:

Subd. 4. [FORMATION OF SCHOOL.] (a) A sponsor may authorize one or more licensed teachers under section 122A.18, subdivision 1, to operate a charter school subject to approval by the commissioner. A board must vote on charter school application for sponsorship no later than 90 days after receiving the application. After 90 days, the applicant may apply to the commissioner. If a board elects not to sponsor a charter school, the applicant may appeal the board's decision to the commissioner. The commissioner may elect to sponsor the charter school or assist the applicant in finding an eligible sponsor. The school must be organized and operated as a cooperative under chapter 308A or nonprofit corporation under chapter 317A and the provisions under the applicable chapter shall apply to the school except as provided in this section. Notwithstanding sections 465.717 and 465.719, a school district may create a corporation for the purpose of creating a charter school.

(b) Before the operators may form and operate a school, the sponsor must file an affidavit with the commissioner stating its intent to authorize a charter school. The affidavit must state the terms and conditions under which the sponsor would authorize a charter school. The commissioner must approve or disapprove the sponsor's proposed authorization within 60 days of receipt of the affidavit. Failure to obtain commissioner approval precludes a sponsor from authorizing the charter school that was the subject of the affidavit.

(c) The operators authorized to organize and operate a school, before entering into a contract or other agreement for professional or other services, goods, or facilities, must incorporate as a cooperative under chapter 308A or as a nonprofit corporation under chapter 317A and must establish a board of directors composed of at least five members until a timely election for members of the charter school board of directors is held according to the school's articles and bylaws. A charter school board of directors must be composed of at least five members. Any staff members who are employed at the school, including teachers providing instruction under a contract with a cooperative, and all parents of children enrolled in the school may participate in the election for members of the school's board of directors. Licensed teachers employed at the school, including teachers providing instruction under a contract with a cooperative, must be a majority of the members of the board of directors before the school completes its third year of operation, unless the commissioner waives the requirement for a majority of licensed teachers on the board. Board of director meetings must comply with chapter 13D.

(d) The granting or renewal of a charter by a sponsoring entity must not be conditioned upon the bargaining unit status of the employees of the school.

(e) A sponsor may authorize the operators of a charter school to expand the operation of the charter school to additional sites or to add additional grades at the school beyond those described in the sponsor's application as approved by the commissioner only after submitting a supplemental application to the commissioner in a form and manner prescribed by the commissioner. The supplemental application must provide evidence that:

(1) the expansion of the charter school is supported by need and projected enrollment;

(2) the charter school is fiscally sound;

(3) the sponsor supports the expansion; and

(4) the building of the additional site meets all health and safety requirements to be eligible for lease aid.

(f) The commissioner annually must provide timely financial management training to newly elected members of a charter school board of directors and ongoing training to other members of a charter school board of directors. Training must address ways to:

(1) proactively assess opportunities for a charter school to maximize all available revenue sources;

(2) establish and maintain complete, auditable records for the charter school;

(3) establish proper filing techniques;

(4) document formal actions of the charter school, including meetings of the charter school board of directors;

(5) properly manage and retain charter school and student records;

(6) comply with state and federal payroll record-keeping requirements; and

(7) address other similar factors that facilitate establishing and maintaining complete records on the charter school's operations.

Sec. 26. Minnesota Statutes 2002, section 124D.10, subdivision 8, is amended to read:

Subd. 8. [STATE AND LOCAL REQUIREMENTS.] (a) A charter school shall meet all applicable state and local health and safety requirements.

(b) A school sponsored by a school board may be located in any district, unless the school board of the district of the proposed location disapproves by written resolution.

(c) A charter school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. A sponsor may not authorize a charter school or program that is affiliated with a nonpublic sectarian school or a religious institution.

(d) Charter schools must not be used as a method of providing education or generating revenue for students who are being home-schooled.

(e) The primary focus of a charter school must be to provide a comprehensive program of instruction for at least one grade or age group from five through 18 years of age. Instruction may be provided to people younger than five years and older than 18 years of age.

(f) A charter school may not charge tuition.

(g) A charter school is subject to and must comply with chapter 363 and section 121A.04.

(h) A charter school is subject to and must comply with the Pupil Fair Dismissal Act, sections 121A.40 to 121A.56, and the Minnesota Public School Fee Law, sections 123B.34 to 123B.39.

(i) A charter school is subject to the same financial audits, audit procedures, and audit requirements as a district. Audits must be conducted in compliance with generally accepted governmental auditing standards, the Federal Single Audit Act, if applicable, and section 6.65. A charter school is subject to and must comply with sections 15.054; 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06; 123B.52, subdivision 5; 471.38; 471.391; 471.392; 471.425; 471.87; 471.88, subdivisions 1, 2, 3, 4, 5, 6, 12, 13, and 15; 471.881; and 471.89. The audit must comply with the requirements of sections 123B.75 to 123B.83, except to the extent deviations are necessary because of the program at the school. Deviations must be approved by the commissioner. The department of ~~children, families, and learning~~ education, state auditor, or legislative auditor may conduct financial, program, or compliance audits. A charter school determined to be in statutory operating debt under sections 123B.81 to 123B.83 must submit a plan under section 123B.81, subdivision 4.

(j) A charter school is a district for the purposes of tort liability under chapter 466.

(k) A charter school must comply with sections 13.32; 120A.22, subdivision 7; 121A.75; and 260B.171, subdivisions 3 and 5.

(l) A charter school where students participate in the extracurricular activities of the student's resident school district is subject to sections 123B.36, subdivision 1, clause (10), and 123B.49, subdivision 4, paragraph (a).

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year and later.

Sec. 27. Minnesota Statutes 2002, section 124D.10, subdivision 16, is amended to read:

Subd. 16. [TRANSPORTATION.] (a) By July 1 of each year, a charter school must notify the district in which the school is located and the department of ~~children, families, and learning~~ education if it will provide transportation for pupils enrolled in the school for the fiscal year.

(b) If a charter school elects to provide transportation for pupils, the transportation must be provided by the charter school within the district in which the charter school is located. The state must pay transportation aid to the charter school according to section 124D.11, subdivision 2.

For pupils who reside outside the district in which the charter school is located, the charter school is not required to provide or pay for transportation between the pupil's residence and the border of the district in which the charter school is located. A parent may be reimbursed by the charter school for costs of transportation from the pupil's residence to the border of the district in which the charter school is located if the pupil is from a family whose income is at or below the poverty level, as determined by the federal government. The reimbursement may not exceed the pupil's actual cost of transportation or 15 cents per mile traveled, whichever is less. Reimbursement may not be paid for more than 250 miles per week.

At the time a pupil enrolls in a charter school, the charter school must provide the parent or guardian with information regarding the transportation.

(c) If a charter school does not elect to provide transportation, transportation for pupils enrolled at the school must be provided by the district in which the school is located, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, for a pupil residing in the same district in which the charter school is located. Transportation may be provided by the district in which the school is located, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, for a pupil residing in a different district. If the district provides the transportation, the scheduling of routes, manner and method of transportation, control and discipline of the pupils, and any other matter relating to the transportation of pupils under this paragraph shall be within the sole discretion, control, and management of the district.

Sec. 28. Minnesota Statutes 2002, section 124D.10, subdivision 20, is amended to read:

Subd. 20. [LEAVE TO TEACH IN A CHARTER SCHOOL.] If a teacher employed by a district makes a written request for an extended leave of absence to teach at a charter school, the district must grant the leave. The district must grant a leave ~~for any number of~~ not to exceed five years ~~requested by the teacher, and must~~. Any request to extend the leave ~~at the teacher's request~~ shall be granted only at the discretion of the school board. The district may require that the request for a leave or extension of leave be made up to 90 days before the teacher would otherwise have to report for duty. Except as otherwise provided in this subdivision and except for section 122A.46, subdivision 7, the leave is governed by section 122A.46, including, but not limited to, reinstatement, notice of intention to return, seniority, salary, and insurance.

During a leave, the teacher may continue to aggregate benefits and credits in the teachers' retirement association account by paying both the employer and employee contributions based upon the annual salary of the teacher for the last full pay period before the leave began. The retirement association may impose reasonable requirements to efficiently administer this subdivision.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to approvals of leaves or approvals of extensions of leaves made after that date. Notwithstanding Minnesota Statutes 2002, section 122A.46, subdivision 2, a school district, upon request, must grant a one-year extension for the 2003-2004 school year to a teacher on a leave of absence to teach at a charter school under this subdivision who has taught five or more years as of the 2003-2004 school year.

Sec. 29. Minnesota Statutes 2002, section 124D.11, subdivision 1, is amended to read:

Subdivision 1. [GENERAL EDUCATION REVENUE.] (a) General education revenue must be paid to a charter school as though it were a district. The general education revenue for each adjusted marginal cost pupil unit is the state average general education revenue per pupil unit, plus the referendum equalization aid allowance in the pupil's district of residence, minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without basic skills revenue, and transportation sparsity revenue, ~~and the transportation portion of the transition revenue adjustment,~~ plus basic skills revenue and transition revenue as though the school were a school district.

(b) Notwithstanding paragraph (a), for charter schools in the first year of operation, general education revenue shall be computed using the number of adjusted pupil units in the current fiscal year.

Sec. 30. Minnesota Statutes 2002, section 124D.11, subdivision 2, is amended to read:

Subd. 2. [TRANSPORTATION REVENUE.] Transportation revenue must be paid to a charter school that provides transportation services according to section 124D.10, subdivision 16, according to this subdivision. Transportation aid shall equal transportation revenue.

In addition to the revenue under subdivision 1, a charter school providing transportation services must receive general education aid for each pupil unit equal to the sum of an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, plus the transportation sparsity allowance for the school district in which the charter school is located~~, plus the transportation transition allowance for the district in which the charter school is located~~.

Sec. 31. Minnesota Statutes 2002, section 124D.11, subdivision 4, is amended to read:

Subd. 4. [BUILDING LEASE AID.] When a charter school finds it economically advantageous to rent or lease a building or land for any instructional purposes and it determines that the total operating capital revenue under section 126C.10, subdivision 13, is insufficient for this purpose, it may apply to the commissioner for building lease aid for this purpose. The commissioner must review and either approve or deny a lease aid application using the following criteria:

(1) the reasonableness of the price based on current market values;

(2) the extent to which the lease conforms to applicable state laws and rules; and

(3) the appropriateness of the proposed lease in the context of the space needs and financial circumstances of the charter school.

A charter school must not use the building lease aid it receives for custodial, maintenance service, utility, or other operating costs. The amount of building lease aid per pupil unit served for a charter school for any year shall not exceed the lesser of (a) 90 percent of the approved cost or (b) the product of the pupil units served for the current school year times ~~$1,500~~ the greater of the charter school's building lease aid per pupil unit served for fiscal year 2003 or $1,200.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2004.

Sec. 32. Minnesota Statutes 2002, section 124D.11, subdivision 6, is amended to read:

Subd. 6. [OTHER AID, GRANTS, REVENUE.] (a) A charter school is eligible to receive other aids, grants, and revenue according to chapters 120A to 129C, as though it were a district.

(b) Notwithstanding paragraph (a), a charter school may not receive aid, a grant, or revenue if a levy is required to obtain the money, except as otherwise provided in this section.

(c) Federal aid received by the state must be paid to the school, if it qualifies for the aid as though it were a school district.

(d) A charter school may receive money from any source for capital facilities needs. In the year-end report to the commissioner of ~~children, families, and learning~~ education, the charter school shall report the total amount of funds received from grants and other outside sources.

~~(e) Notwithstanding paragraph (a) or (b), a charter school may apply for a grant to receive the aid portion of integration revenue under section 124D.86, subdivision 3, for enrolled students who are residents of a district that is eligible for integration revenue. The commissioner shall determine grant recipients and may adopt application guidelines. The grants must be competitively determined and must demonstrate that enrolling pupils in the charter school contributes to desegregation or integration purposes as determined by the commissioner. If the charter school has elected not to provide transportation under section 124D.10, subdivision 16, the aid shall be reduced by the amount per pupil unit specified for the district where the charter school is located under section 123B.92, subdivision 8.~~

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2004.

Sec. 33. Minnesota Statutes 2002, section 124D.128, subdivision 3, is amended to read:

Subd. 3. [STUDENT PLANNING.] A district must inform all pupils and their parents about the learning year program ~~and that participation in the program is optional~~. A continual learning plan must be developed at least annually for each pupil with the participation of the pupil, parent or guardian, teachers, and other staff; each participant must sign and date the plan. The plan must specify the learning experiences that must occur during the entire fiscal year and, for secondary students, for graduation. The plan must include:

(1) the pupil's learning objectives and experiences, including courses or credits the pupil plans to complete each year and, for a secondary pupil, the graduation requirements the student must complete;

(2) the assessment measurements used to evaluate a pupil's objectives;

(3) requirements for grade level or other appropriate progression; and

(4) for pupils generating more than one average daily membership in a given grade, an indication of which objectives were unmet.

The plan may be modified to conform to district schedule changes. The district may not modify the plan if the modification would result in delaying the student's time of graduation.

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

Sec. 34. Minnesota Statutes 2002, section 124D.42, subdivision 6, is amended to read:

Subd. 6. [PROGRAM TRAINING.] (a) The commission must, within available resources, ensure an opportunity for each participant to have three weeks of training in a residential setting. If offered, each training session must:

(1) orient each participant in the nature, philosophy, and purpose of the program;

(2) build an ethic of community service through general community service training; and

(3) provide additional training as it determines necessary, which may include training in evaluating early literacy skills and teaching reading to preschool children through the St. Croix River education district under Laws 2001, First Special Session chapter 6, article 2, section 70, to assist local Head Start organizations in establishing and evaluating Head Start programs for developing children's early literacy skills.

(b) Each grantee organization shall also train participants in skills relevant to the community service opportunity.

Sec. 35. Minnesota Statutes 2002, section 124D.86, subdivision 1a, is amended to read:

Subd. 1a. [BUDGET APPROVAL PROCESS.] Each year before a district receives any revenue under subdivision 3, clause (4), (5), or (6), the district must submit to the department of ~~children, families, and learning~~ education, for its review and approval a budget detailing the costs of the desegregation/integration plan filed under Minnesota Rules, parts 3535.0100 to 3535.0180. Notwithstanding chapter 14, the department may develop criteria for budget approval. The department shall consult with the desegregation advisory board in developing these criteria. The criteria developed by the department should address, at a minimum, the following:

(1) budget items cannot be approved unless they are part of any overall desegregation plan approved by the district for isolated sites or by the multidistrict collaboration council and participation individual members;

(2) the budget must indicate how revenue expenditures will be used specifically to support increased opportunities for interracial contact;

(3) components of the budget to be considered by the department, including staffing, curriculum, transportation, facilities, materials, and equipment and reasonable planning costs, as determined by the department; and

(4) if plans are proposed to enhance existing programs, the total budget being appropriated to the program must be included, indicating what part is to be funded using integration revenue and what part is to be funded using other revenues.

[EFFECTIVE DATE.] This section is effective retroactively for revenue for fiscal year 2003.

Sec. 36. Minnesota Statutes 2002, section 124D.86, subdivision 3, is amended to read:

Subd. 3. [INTEGRATION REVENUE.] Integration revenue equals the following amounts:

(1) for independent school district No. 709, Duluth, ~~$207~~ $212 times the adjusted pupil units for the school year;

(2) for independent school district No. 625, St. Paul, ~~$446~~ $464 times the adjusted pupil units for the school year;

(3) for special school district No. 1, Minneapolis, the sum of ~~$446~~ $473 times the adjusted pupil units for the school year and an additional ~~$35~~ $40 times the adjusted pupil units for the school year that is provided entirely through a local levy;

(4) for a district not listed in clause (1), (2), or (3), that must implement a plan under Minnesota Rules, parts 3535.0100 to 3535.0180, where the district's enrollment of protected students, as defined under Minnesota Rules, part 3535.0110, exceeds 15 percent, the lesser of (i) the actual cost of implementing the plan during the fiscal year minus the aid received under subdivision 6, or (ii) ~~$130~~ $133 times the adjusted pupil units for the school year;

(5) for a district not listed in clause (1), (2), (3), or (4), that is required to implement a plan according to the requirements of Minnesota Rules, parts 3535.0100 to 3535.0180, the lesser of

(i) the actual cost of implementing the plan during the fiscal year minus the aid received under subdivision 6, or

(ii) ~~$93~~ $94 times the adjusted pupil units for the school year.

Any money received by districts in clauses (1) to ~~(4)~~ (3) which exceeds the amount received in fiscal year 2000 shall be subject to the budget requirements in subdivision 1a; and

(6) for a member district of a multidistrict integration collaborative that files a plan with the commissioner, but is not contiguous to a racially isolated district, integration revenue equals the amount defined in clause (5).

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2004.

Sec. 37. Minnesota Statutes 2002, section 124D.86, subdivision 4, is amended to read:

Subd. 4. [INTEGRATION LEVY.] A district may levy an amount equal to 37 percent for fiscal year 2003, ~~22~~ 23 percent for fiscal year 2004, ~~29~~ and 35 percent for fiscal year 2005~~, and 22 percent for fiscal year 2006~~ and thereafter of the district's integration revenue as defined in subdivision 3.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2004.

Sec. 38. Minnesota Statutes 2002, section 124D.86, subdivision 5, is amended to read:

Subd. 5. [INTEGRATION AID.] A district's integration aid equals ~~63 percent for fiscal year 2003, 78 percent for fiscal year 2004, 71 percent for fiscal year 2005, and 78 percent for fiscal year 2006 and thereafter of~~ the difference between the district's integration revenue ~~as defined in subdivision 3~~ and its integration levy.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2004.

Sec. 39. Minnesota Statutes 2002, section 124D.86, subdivision 6, is amended to read:

Subd. 6. [ALTERNATIVE ATTENDANCE PROGRAMS.] (a) The integration aid under subdivision 5 must be adjusted for each pupil residing in a district eligible for integration revenue under subdivision 3, clause (1), (2), or (3), and attending a nonresident district under sections 123A.05 to 123A.08, 124D.03, 124D.06, ~~124D.07,~~ and 124D.08, that is not eligible for integration revenue under subdivision 3, clause (1), (2), or (3), and has implemented a plan under Minnesota Rules, parts 3535.0100 to 3535.0180, if the enrollment of the pupil in the nonresident district contributes to desegregation or integration purposes. The adjustments must be made according to this subdivision.

(b) Aid paid to a district serving nonresidents must be increased by an amount equal to the revenue per pupil unit of the resident district under subdivision 3, clause (1), (2), or (3), minus the revenue attributable to the pupil in the nonresident district under subdivision 3, clause (4), (5), or (6), for the time the pupil is enrolled in the nonresident district.

[EFFECTIVE DATE.] This section is effective retroactively for fiscal year 2003.

Sec. 40. Minnesota Statutes 2002, section 126C.44, is amended to read:

126C.44 [SAFE SCHOOLS LEVY.]

Each district may make a levy on all taxable property located within the district for the purposes specified in this section. The maximum amount which may be levied for all costs under this section shall be equal to ~~$30~~ $31 multiplied by the district's adjusted marginal cost pupil units for the school year. The proceeds of the levy must be used for directly funding the following purposes or for reimbursing the cities and counties who contract with the district for the following purposes: (1) to pay the costs incurred for the salaries, benefits, and transportation costs of peace officers and sheriffs for liaison in services in the district's schools; (2) to pay the costs for a drug abuse prevention program as defined in section 609.101, subdivision 3, paragraph (e), in the elementary schools; (3) to pay the costs for a gang resistance education training curriculum in the district's schools; (4) to pay the costs for security in the district's schools and on school property; or (5) to pay the costs for other crime prevention, drug abuse, student and staff safety, and violence prevention measures taken by the school district. The district must initially attempt to contract for services to be provided by peace officers or sheriffs with the police department of each city or the sheriff's department of the county within the district containing the school receiving the services. If a local police department or a county sheriff's department does not wish to provide the necessary services, the district may contract for these services with any other police or sheriff's department located entirely or partially within the school district's boundaries. The levy authorized under this section is not included in determining the school district's levy limitations.

[EFFECTIVE DATE.] This section is effective for taxes payable in 2004.

Sec. 41. Minnesota Statutes 2002, section 128C.05, is amended by adding a subdivision to read:

Subd. 1a. [SUPERVISED COMPETITIVE HIGH SCHOOL DIVING.] (a) Notwithstanding Minnesota Rules, part 4717.3750, any pool built before January 1, 1987, that complies with the swimming and diving rules of the national federation of state high school associations may be used for supervised competitive high school diving. A school or district using a pool for supervised competitive high school diving under this provision must provide appropriate notice to parents and participants.

(b) Paragraph (a) applies only to a school or district that provided a high school diving program during the 2000-2001 school year.

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year and later.

Sec. 42. Laws 2001, First Special Session chapter 6, article 2, section 64, is amended to read:

Sec. 64. [SCHOOLS' ACADEMIC AND FINANCIAL PERFORMANCE EVALUATION; INDEPENDENT CONTRACTOR.]

(a) To assist taxpayers, educators, school board members, and state and local officials in realizing their commitment to improving student achievement and the management of school systems, the commissioner of ~~children, families, and learning~~ education shall contract with an independent school evaluation services contractor to evaluate and report on the academic and financial performance of the state's independent school districts using, but not limited to, six core categories of analysis:

(1) school district expenditures;

(2) students' performance outcomes based on multiple indicia including students' test scores, attendance rates, dropout rates, and graduation rates;

(3) return on resources to determine the extent to which student outcomes improve commensurate with increases in district spending;

(4) school district finances, taxes, and debt to establish the context for analyzing the district's return on resources under clause (3);

(5) students' learning environment to establish the context for analyzing the district's return on resources under clause (3); and

(6) school district demographics to establish the socioeconomic context for analyzing the district's return on resources under clause (3).

(b) In order to compare the regional and socioeconomic peers of particular school districts, monitor educational changes over time and identify important educational trends, the contractor shall use the six core categories of analysis to:

(1) identify allocations of baseline and incremental school district spending;

(2) connect student achievement with expenditure patterns;

(3) track school district financial health;

(4) observe school district debt and capital spending levels; and

(5) measure the return on a school district's educational resources.

(c) The contractor under paragraph (a) shall evaluate and report on the academic and financial performance of all school districts.

(d) ~~Consistent with paragraph (a), clause (2), the evaluation and reporting of test scores must distinguish between:~~

~~(1) performance-based assessments; and~~

~~(2) academic, objective knowledge-based tests.~~

~~(e)~~ The contractor ~~must~~ shall complete its written report and submit it to the commissioner within 360 days of the date on which the contract is signed. The commissioner immediately must make the report available in a readily accessible format to state and local elected officials, members of the public, educators, parents, and other interested individuals. The commissioner, upon receiving an individual's request, also ~~must~~ shall make available all draft reports prepared by the contractor, consistent with Minnesota Statutes, chapter 13.

Sec. 43. [CHARTER SCHOOL ADVISORY BOARD MEMBER TERMS.]

In order to establish staggered terms for charter school advisory board members under Minnesota Statutes, section 124D.10, subdivision 2a, the commissioner of education shall, by lot, determine the length of term for each member serving on the board on the effective date of this section. One-third of the members shall serve a one-year term, one-third shall serve a two-year term, and one-third shall serve a three-year term. Thereafter, the term for each member must be three years.

Sec. 44. [PILOT PROJECT; CARE AND TREATMENT CHARTER SCHOOL.]

Subdivision 1. [PILOT PROJECT AUTHORIZED.] A pilot project is created to evaluate the educational effectiveness of combining a care and treatment program with a charter school.

Subd. 2. [APPLICATION.] Northwood Children's Services may apply to the commissioner of education to form a care and treatment pilot charter school under the provisions of this section and Minnesota Statutes, section 124D.10. Before forming the care and treatment pilot charter school, Northwood Children's Services must file an affidavit with the commissioner stating its intent to form the pilot charter school. The affidavit must state the terms and conditions under which the care and treatment pilot charter school would operate. The commissioner must approve or disapprove Northwood Children's Services' proposed authorization within 60 days of receipt of the affidavit. Northwood Children's Services must include in its application the items required in a charter school's contract under Minnesota Statutes, section 124D.10, subdivision 6, and any other information the commissioner may request to approve or disapprove the application.

Subd. 3. [ENROLLMENT.] Notwithstanding Minnesota Statutes, section 124D.10, subdivision 9, a care and treatment center pilot charter school shall give preference for enrollment to participants in the center's care and treatment programs.

Subd. 4. [PLACEMENT OF STUDENTS; RESPONSIBILITIES FOR PROVIDING EDUCATION.] Notwithstanding Minnesota Statutes, section 125A.515, subdivision 3, a care and treatment center operating a charter school may notify the department of education of its intent to provide education services, including special education if eligible, to all students placed in the facility for care and treatment.

Subd. 5. [REVENUE.] A care and treatment center pilot charter school is eligible for revenue as if it were a charter school under Minnesota Statutes, section 124D.11, except that it does not qualify for charter school lease aid under Minnesota Statutes, section 124D.11, subdivision 4.

Subd. 6. [FINANCIAL INFORMATION.] A charter school operating under this section must keep financial records sufficient to allow audits under Minnesota Statutes, section 124D.10, subdivisions 6a and 8.

Subd. 7. [REPORT.] Northwood Children's Services must annually report to the education committees of the legislature on the charter school's success in integrating educational services into the students' care and treatment programs.

Subd. 8. [EXPIRATION.] The authority granted Northwood Children's Services under this section applies only to the school's first six years of operation. This section expires after the school's sixth year of operation.

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

Sec. 45. [PROGRAM EFFICACY.]

The commissioner of education must study the efficacy of American Indian Success for the Future program under Minnesota Statutes, section 124D.81, to determine the extent to which the program meets the educational needs of students participating in the program and achieves the goals and objectives of the program and its students and of the Minnesota American Indian Education Act. The commissioner by February 15, 2004, must present a written report of the efficacy of the program to the committees of the legislature having jurisdiction over kindergarten through grade 12 education policy and finance.

Sec. 46. [CHARTER SCHOOL START-UP AID.]

A charter school in its first year of operation during fiscal year 2004 or 2005 is not eligible for charter school start-up aid under Minnesota Statutes, section 124D.11, subdivision 8.

Sec. 47. [ALTERNATIVE ATTENDANCE ADJUSTMENTS FOR FISCAL YEAR 2003.]

Notwithstanding Minnesota Statutes, section 124D.86, subdivision 6, for fiscal year 2003 only, integration aid under Minnesota Statutes 124D.86, subdivision 5, must be adjusted for each pupil residing in special school district No. 1, Minneapolis; independent school district No. 625, St. Paul; or independent school district No. 709, Duluth, and attending a nonresident district under Minnesota Statutes, sections 123A.05 to 123A.08, 124D.03, 124D.06, and 124D.08, other than Minneapolis, St. Paul or Duluth that has implemented a plan under Minnesota Rules, parts 3535.0100 to 3535.0180, if the enrollment of the pupil in the nonresident district contributes to desegregation or integration purposes. The adjustments must be made according to this subdivision.

(b) Aid paid to a district serving nonresident pupils must be increased by an amount equal to the revenue per pupil of the resident district under Minnesota Statutes, section 124D.86, subdivision 3, minus the revenue attributable to the pupil in the nonresident district for the time the pupil is enrolled in the nonresident district.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to fiscal year 2003.

Sec. 48. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [CHARTER SCHOOL BUILDING LEASE AID.] For building lease aid under Minnesota Statutes, section 124D.11, subdivision 4:

$16,592,000	.....	2004
$20,915,000	.....	2005

The 2004 appropriation includes $2,524,000 for 2003 and $14,068,000 for 2004.

The 2005 appropriation includes $4,202,000 for 2004 and $16,713,000 for 2005.

Subd. 3. [CHARTER SCHOOL STARTUP AID.] For charter school startup cost aid under Minnesota Statutes, section 124D.11:

$802,000	.....	2004
$173,000	.....	2005

The 2004 appropriation includes $220,000 for 2003 and $582,000 for 2004.

The 2005 appropriation includes $173,000 for 2004 and $0 for 2005.

Subd. 4. [CHARTER SCHOOL INTEGRATION GRANTS.] For grants to charter schools to promote integration and desegregation under Minnesota Statutes, section 124D.11, subdivision 6, paragraph (e):

$8,000	.....	2004

This appropriation includes $8,000 for 2003 and $0 for 2004.

Subd. 5. [INTEGRATION AID.] For integration aid under Minnesota Statutes, section 124D.86, subdivision 5:

$55,169,000	. . . . .	2004
$53,396,000	. . . . .	2005

The 2004 appropriation includes $8,428,000 for 2003 and $46,741,000 for 2004.

The 2005 appropriation includes $13,961,000 for 2004 and $39,435,000 for 2005.

Subd. 6. [MAGNET SCHOOL GRANTS.] For magnet school and program grants:

$750,000	. . . . .	2004
$750,000	. . . . .	2005

These amounts may be used for magnet school programs under Minnesota Statutes, section 124D.88.

Subd. 7. [MAGNET SCHOOL STARTUP AID.] For magnet school startup aid under Minnesota Statutes, section 124D.88:

$37,000	. . . . .	2004
$437,000	. . . . .	2005

The 2004 appropriation includes $37,000 for 2003 and $0 for 2004.

The 2005 appropriation includes $0 for 2004 and $437,000 for 2005.

Subd. 8. [INTERDISTRICT DESEGREGATION OR INTEGRATION TRANSPORTATION GRANTS.] For interdistrict desegregation or integration transportation grants under Minnesota Statutes, section 124D.87:

$5,796,000	. . . . .	2004
$8,401,000	. . . . .	2005

Subd. 9. [SUCCESS FOR THE FUTURE.] For American Indian success for the future grants under Minnesota Statutes, section 124D.81:

$2,009,000	. . . . .	2004
$2,137,000	. . . . .	2005

The 2004 appropriation includes $363,000 for 2003 and $1,646,000 for 2004.

The 2005 appropriation includes $491,000 for 2004 and $1,646,000 for 2005.

Subd. 10. [AMERICAN INDIAN SCHOLARSHIPS.] For American Indian scholarships under Minnesota Statutes, section 124D.84:

$1,875,000	. . . . .	2004
$1,875,000	. . . . .	2005

Subd. 11. [AMERICAN INDIAN TEACHER PREPARATION GRANTS.] For joint grants to assist American Indian people to become teachers under Minnesota Statutes, section 122A.63:

$190,000	. . . . .	2004
$190,000	. . . . .	2005

Subd. 12. [TRIBAL CONTRACT SCHOOLS.] For tribal contract school aid under Minnesota Statutes, section 124D.83:

$2,066,000	. . . . .	2004
$2,335,000	. . . . .	2005

The 2004 appropriation includes $285,000 for 2003 and $1,781,000 for 2004.

The 2005 appropriation includes $531,000 for 2004 and $1,804,000 for 2005.

Subd. 13. [EARLY CHILDHOOD PROGRAMS AT TRIBAL SCHOOLS.] For early childhood family education programs at tribal contract schools under Minnesota Statutes, section 124D.83, subdivision 4:

$68,000	. . . . .	2004
$68,000	. . . . .	2005

Subd. 14. [STATEWIDE TESTING SUPPORT.] For supporting implementation of the graduation standards:

$6,500,000	. . . . .	2004
$6,500,000	. . . . .	2005

Subd. 15. [SEVENTH GRADE TESTING.] For seventh grade testing under Minnesota Statutes, section 120B.30:

$2,500,000	. . . . .	2004
$2,500,000	. . . . .	2005

Subd. 16. [BEST PRACTICES SEMINARS.] For best practices seminars and other professional development capacity building activities that assure proficiency in teaching and implementation of graduation rule standards:

$2,180,000	. . . . .	2004
$2,180,000	. . . . .	2005

$250,000 per year is for a grant to A Chance to Grow/New Visions for the Minnesota learning resource center's comprehensive training program for education professionals charged with helping children acquire basic reading and math skills.

Subd. 17. [SCHOOL PERFORMANCE EVALUATION.] For evaluating school performance under Laws 2001, First Special Session chapter 6, article 2, section 64:

$2,000,000	. . . . .	2004

This appropriation is available until June 30, 2005. This is a onetime appropriation.

Subd. 18. [ALTERNATIVE TEACHER COMPENSATION.] For alternative teacher compensation established under Minnesota Statutes, sections 122A.413 to 122A.415:

$3,700,000	. . . . .	2004
$3,700,000	. . . . .	2005

If the appropriations under this subdivision are insufficient to fund all program participants, a participant may receive less than the maximum per pupil amount available under Minnesota Statutes, section 122A.415, subdivision 1.

Subd. 19. [EXAMINATION FEES; TEACHER TRAINING AND SUPPORT PROGRAMS.] (a) For students' advanced placement and international baccalaureate examination fees under Minnesota Statutes, section 120B.13, subdivision 3, and the training and related costs for teachers and other interested educators under Minnesota Statutes, section 120B.13, subdivision 1:

$1,000,000	. . . . .	2004
$1,000,000	. . . . .	2005

(b) The advanced placement program shall receive 75 percent of the appropriation each year and the international baccalaureate program shall receive 25 percent of the appropriation each year. The department, in consultation with representatives of the advanced placement and international baccalaureate programs selected by the advanced placement advisory council and IBMN, respectively, shall determine the amounts of the expenditures each year for examination fees and training and support programs for each program.

(c) Notwithstanding Minnesota Statutes, section 120B.13, subdivision 1, $375,000 each year is for teachers to attend subject matter summer training programs and follow-up support workshops approved by the advanced placement or international baccalaureate programs. The amount of the subsidy for each teacher attending an advanced placement or international baccalaureate summer training program or workshop shall be the same. The commissioner shall determine the payment process and the amount of the subsidy.

(d) The commissioner shall pay all examination fees for all students of low-income families under Minnesota Statutes, section 120B.13, subdivision 3, and to the extent of available appropriations shall also pay examination fees for students sitting for an advanced placement examination, international baccalaureate examination, or both.

Any balance in the first year does not cancel but is available in the second year.

Subd. 20. [FIRST GRADE PREPAREDNESS.] For first grade preparedness grants under Minnesota Statutes, section 124D.081:

$7,250,000	. . . . .	2004
$7,250,000	. . . . .	2005

Subd. 21. [YOUTH WORKS PROGRAM.] For funding youth works programs under Minnesota Statutes, sections 124D.37 to 124D.45:

$900,000	. . . . .	2004
$900,000	. . . . .	2005

(a) $150,000 per year is for training in evaluating early literacy skills and teaching reading to preschool children under Minnesota Statutes, section 124D.42, subdivision 6, paragraph (a), clause (3).

(b) A grantee organization may provide health and child care coverage to the dependents of each participant enrolled in a full-time youth works program to the extent such coverage is not otherwise available.

Subd. 22. [STUDENT ORGANIZATIONS.] For student organizations:

$625,000	. . . . .	2004
$625,000	. . . . .	2005

Subd. 23. [DISTANCE EDUCATION.] For distance education under Minnesota Statutes, section 124D.095:

$2,000,000	. . . . .	2004
$3,000,000	. . . . .	2005

Sec. 49. [REVISOR'S INSTRUCTION.]

The revisor of statutes shall codify Laws 2001, First Special Session chapter 6, article 2, section 68, as Minnesota Statutes, section 120B.305.

Sec. 50. [REPEALER.]

(a) Minnesota Statutes 2002, sections 122A.64; 122A.65; 124D.84, subdivision 2; and 124D.89, are repealed.

(b) Laws 1993, chapter 224, article 8, section 20, subdivision 2, as amended by Laws 1994, chapter 647, article 8, section 29, is repealed.

(c) Minnesota Statutes 2002, section 121A.49, is repealed the day following final enactment.

ARTICLE 3

SPECIAL PROGRAMS

Section 1. Minnesota Statutes 2002, section 121A.41, subdivision 10, is amended to read:

Subd. 10. [SUSPENSION.] "Suspension" means an action by the school administration, under rules promulgated by the school board, prohibiting a pupil from attending school for a period of no more than ten school days. If a suspension is longer than five days, the suspending administrator must provide the superintendent with a reason for the longer suspension. This definition does not apply to dismissal from school for one school day or less, except as provided in federal law for a student with a disability. Each suspension action may include a readmission plan. The readmission plan shall include, where appropriate, a provision for implementing alternative educational services upon readmission and may not be used to extend the current suspension. Consistent with section 125A.09, subdivision 3, the readmission plan must not obligate a parent to provide a sympathomimetic medication for the parent's child as a condition of readmission. The school administration may not impose consecutive suspensions against the same pupil for the same course of conduct, or incident of misconduct, except where the pupil will create an immediate and substantial danger to self or to surrounding persons or property, or where the district is in the process of initiating an expulsion, in which case the school administration may extend the suspension to a total of 15 days. In the case of a student with a disability, the student's individual education plan team must meet immediately

but not more than ten school days after the date on which the decision to remove the student from the student's current education placement is made. The individual education plan team and other qualified personnel shall at that meeting: conduct a review of the relationship between the child's disability and the behavior subject to disciplinary action; and determine the appropriateness of the child's education plan.

The requirements of the individual education plan team meeting apply when:

(1) the parent requests a meeting;

(2) the student is removed from the student's current placement for five or more consecutive days; or

(3) the student's total days of removal from the student's placement during the school year exceed ten cumulative days in a school year. The school administration shall implement alternative educational services when the suspension exceeds five days. A separate administrative conference is required for each period of suspension.

Sec. 2. [124D.452] [DISTRICT REPORT; CAREER AND TECHNICAL EDUCATION.]

Each district and cooperative center must report data to the department of education for all career and technical education programs as required by the department.

Sec. 3. Minnesota Statutes 2002, section 124D.454, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE.] The purpose of this section is to provide a method to fund ~~transition~~ career and technical education programs for children with a disability that are components of the student's transition plan. As used in this section, the term "children with a disability" shall have the meaning ascribed to it in section 125A.02.

Sec. 4. Minnesota Statutes 2002, section 124D.454, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For the purposes of this section, the definitions in this subdivision apply.

(a) "Base year" ~~for fiscal year 1996 means fiscal year 1995. Base year for later fiscal years~~ means the second fiscal year preceding the fiscal year for which aid will be paid.

(b) "Basic revenue" has the meaning given it in section 126C.10, subdivision 2. For the purposes of computing basic revenue pursuant to this section, each child with a disability shall be counted as prescribed in section 126C.05, subdivision 1.

(c) "Average daily membership" has the meaning given it in section 126C.05.

(d) "Program growth factor" means 1.00 for fiscal year 1998 and later.

(e) "Aid percentage factor" means ~~60 percent for fiscal year 1996, 70 percent for fiscal year 1997, 80 percent for fiscal year 1998, 90 percent for fiscal year 1999, and~~ 100 percent for fiscal year 2000 and later.

(f) "Essential personnel" means a licensed teacher, licensed support services staff person, paraprofessional providing direct services to students, or licensed personnel under subdivision 12.

Sec. 5. Minnesota Statutes 2002, section 124D.454, subdivision 3, is amended to read:

Subd. 3. [BASE REVENUE.] (a) The ~~transition program disabled~~ transition-disabled program base revenue equals the sum of the following amounts computed using base year data:

(1) 68 percent of the salary of each essential licensed person or approved paraprofessional who provides direct instructional services to students employed during that fiscal year for services rendered in that district's transition program for children with a disability;

(2) 47 percent of the costs of necessary equipment for transition programs for children with a disability;

(3) 47 percent of the costs of necessary travel between instructional sites by transition program teachers of children with a disability but not including travel to and from local, regional, district, state, or national ~~vocational~~ career and technical student organization meetings;

(4) 47 percent of the costs of necessary supplies for transition programs for children with a disability but not to exceed an average of $47 in any one school year for each child with a disability receiving these services;

(5) for transition programs for children with disabilities provided by a contract approved by the commissioner with public, private, or voluntary agencies other than a Minnesota school district or cooperative center, in place of programs provided by the district, 52 percent of the difference between the amount of the contract and the basic revenue of the district for that pupil for the fraction of the school day the pupil receives services under the contract;

(6) for transition programs for children with disabilities provided by a contract approved by the commissioner with public, private, or voluntary agencies other than a Minnesota school district or cooperative center, that are supplementary to a full educational program provided by the school district, 52 percent of the amount of the contract; and

(7) for a contract approved by the commissioner with another Minnesota school district or cooperative center for vocational evaluation services for children with a disability for children that are not yet enrolled in grade 12, 52 percent of the amount of the contract.

(b) If requested by a school district for transition programs during the base year for less than the full school year, the commissioner may adjust the base revenue to reflect the expenditures that would have occurred during the base year had the program been operated for the full year.

Sec. 6. Minnesota Statutes 2002, section 124D.454, subdivision 8, is amended to read:

Subd. 8. [USE OF AID.] The aid provided under this section shall be paid only for services rendered or for the costs which are incurred according to this section for transition programs for children with a disability which are approved by the commissioner of ~~children, families, and learning~~ education and operated in accordance with rules promulgated by the commissioner. These rules shall be subject to the restrictions provided in ~~section 124D.453,~~ subdivision ~~6~~ 12. The procedure for application for approval of these programs shall be as provided in section 125A.75, subdivisions 4 and 6, and the application review process shall be conducted by the ~~office~~ division of ~~lifework development~~ federal programs in the department.

Sec. 7. Minnesota Statutes 2002, section 124D.454, subdivision 10, is amended to read:

Subd. 10. [EXCLUSION.] A district shall not receive aid pursuant to section ~~124D.453 or~~ 125A.76 for salaries, supplies, travel or equipment for which the district receives aid pursuant to this section.

Sec. 8. Minnesota Statutes 2002, section 124D.454, is amended by adding a subdivision to read:

Subd. 12. [COMPLIANCE WITH RULES.] Aid must be paid under this section only for services rendered or for costs incurred in career and technical education programs approved by the commissioner and operated in accordance with rules promulgated by the commissioner. This aid shall be paid only for services rendered and for

costs incurred by essential, licensed personnel who meet the requirements for licensure pursuant to the rules of the Minnesota board of teaching. Licensed personnel means persons holding a valid career and technical license issued by the commissioner. If an average of five or fewer secondary full-time equivalent students are enrolled per teacher in an approved postsecondary program at intermediate district No. 287, 916, or 917, licensed personnel means persons holding a valid vocational license issued by the commissioner or the board of trustees of the Minnesota state colleges and universities. Notwithstanding section 127A.42, the commissioner may modify or withdraw the program or aid approval and withhold aid under this section without proceeding under section 127A.42 at any time. To do so, the commissioner must determine that the program does not comply with rules of the department of education or that any facts concerning the program or its budget differ from the facts in the district's approved application.

Sec. 9. [125A.091] [ALTERNATIVE DISPUTE RESOLUTION AND DUE PROCESS HEARINGS.]

Subdivision 1. [DISTRICT OBLIGATION.] A school district must use the procedures in federal law and state law and rule to reach decisions about the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability.

Subd. 2. [PRIOR WRITTEN NOTICE.] A parent must receive prior written notice a reasonable time before the district proposes or refuses to initiate or change the identification, evaluation, educational placement, or the provision of a free appropriate public education to a child with a disability.

Subd. 3. [CONTENT OF NOTICE.] The notice under subdivision 2 must:

(1) describe the action the district proposes or refuses;

(2) explain why the district proposes or refuses to take the action;

(3) describe any other option the district considered and the reason why it rejected the option;

(4) describe each evaluation procedure, test, record, or report the district used as a basis for the proposed or refused action;

(5) describe any other factor affecting the proposal or refusal of the district to take the action;

(6) state that the parent of a child with a disability is protected by procedural safeguards and, if this notice is not an initial referral for evaluation, how a parent can get a description of the procedural safeguards; and

(7) identify where a parent can get help in understanding this law.

Subd. 4. [UNDERSTANDABLE NOTICE.] (a) The written notice under subdivision 2 must be understandable to the general public and available in the parent's native language or by another communication form, unless it is clearly not feasible to do so.

(b) If the parent's native language or other communication form is not written, the district must take steps to ensure that:

(1) the notice is translated orally or by other means to the parent in the parent's native language or other communication form;

(2) the parent understands the notice; and

(3) written evidence indicates the requirements in subdivision 2 are met.

Subd. 5. [INITIAL ACTION; PARENT CONSENT.] The district must not proceed with the initial evaluation of a child, the initial placement of a child in a special education program, or the initial provision of special education services for a child without the prior written consent of the child's parent. A district may not override the written refusal of a parent to consent to an initial evaluation or reevaluation.

Subd. 6. [DISPUTE RESOLUTION PROCESSES; GENERALLY.] Parties are encouraged to resolve disputes over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability through conciliation, mediation, facilitated team meetings, or other alternative process. All dispute resolution options are voluntary on the part of the parent and must not be used to deny or delay the right to a due process hearing. All dispute resolution processes under this section are provided at no cost to the parent.

Subd. 7. [CONCILIATION CONFERENCE.] A parent must have an opportunity to meet with appropriate district staff in at least one conciliation conference if the parent objects to any proposal of which the parent receives notice under subdivision 2. If the parent refuses district efforts to conciliate the dispute, the conciliation requirement is satisfied. Following a conciliation conference, the district must prepare and provide to the parent a conciliation conference memorandum that describes the district's final proposed offer of service by the district. This memorandum is admissible in evidence in any subsequent proceeding.

Subd. 8. [VOLUNTARY DISPUTE RESOLUTION OPTIONS.] In addition to offering at least one conciliation conference, a district must inform a parent of other dispute resolution processes, including at least mediation and facilitated team meetings. The fact that an alternative dispute resolution process was used is admissible in evidence at any subsequent proceeding. State-provided mediators and team meeting facilitators shall not be subpoenaed to testify at a due process hearing or civil action under federal special education law nor are any records of mediators or state-provided team meeting facilitators accessible to the parties.

Subd. 9. [MEDIATION.] Mediation is a dispute resolution process that involves a neutral party provided by the state to assist a parent and a district in resolving disputes over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability. A mediation process is available as an informal alternative to a due process hearing but must not be used to deny or postpone the opportunity of a parent or district to obtain a due process hearing. Mediation is voluntary for all parties. All mediation discussions are confidential and inadmissible in evidence in any subsequent proceeding, unless the:

(1) parties expressly agree otherwise;

(2) evidence is otherwise available; or

(3) evidence is offered to prove bias or prejudice of a witness.

Subd. 10. [MEDIATED AGREEMENTS.] Mediated agreements are not admissible unless the parties agree otherwise or a party to the agreement believes the agreement is not being implemented, in which case the aggrieved party may enter the agreement into evidence at a due process hearing. The parties may request another mediation to resolve a dispute over implementing the mediated agreement. After a due process hearing is requested, a party may request mediation and the commissioner must provide a mediator who conducts a mediation session no later than the third business day after the mediation request is made to the commissioner.

Subd. 11. [FACILITATED TEAM MEETING.] A facilitated team meeting is an IEP, IFSP, or IIIP team meeting led by an impartial state-provided facilitator to promote effective communication and assist a team in developing an individualized education plan.

Subd. 12. [IMPARTIAL DUE PROCESS HEARING.] (a) A parent or a district is entitled to an impartial due process hearing conducted by the state when a dispute arises over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability. The hearing must be held in the district responsible for ensuring that a free appropriate public education is provided according to state and federal law. The proceedings must be recorded and preserved, at state expense, pending ultimate disposition of the action.

(b) The due process hearing must be conducted according to the rules of the commissioner and federal law.

(c) A party in a due process hearing may not raise a claim based upon an alleged violation that occurred more than two years before the date on which the commissioner received the hearing request.

Subd. 13. [HEARING OFFICER QUALIFICATIONS.] The commissioner must appoint an individual who is qualified under this subdivision to serve as a hearing officer. The hearing officer must:

(1) be knowledgeable and impartial;

(2) have no personal interest in or specific involvement with the student who is a party to the hearing;

(3) not have been employed as an administrator by the district that is a party to the hearing;

(4) not have been involved in selecting the district administrator who is a party to the hearing;

(5) have no personal, economic, or professional interest in the outcome of the hearing other than properly administering federal and state laws, rules, and policies;

(6) have no substantial involvement in developing state or local policies or procedures challenged in the hearing;

(7) not be a current employee or board member of a Minnesota public school district, education district, intermediate unit or regional education agency, or the department if the department is the service provider; and

(8) not be a current employee or board member of a disability advocacy organization or group.

Subd. 14. [REQUEST FOR HEARING.] A request for a due process hearing must:

(1) be in writing;

(2) describe the nature of the issue about providing special education services to the student including facts relating to the issue; and

(3) state, to the extent known, the relief sought.

Any school district administrator receiving a request for a due process hearing must immediately forward the request to the commissioner. Within two business days of receiving a request for a due process hearing, the commissioner must appoint a hearing officer. The commissioner must not deny a request for hearing because the request is incomplete. A party may disqualify a hearing officer only by affirmatively showing prejudice or bias to the commissioner or to the chief administrative law judge if the hearing officer is an administrative law judge. If a party affirmatively shows prejudice against a hearing officer, the commissioner must assign another hearing officer to hear the matter.

Subd. 15. [PREHEARING CONFERENCE.] A prehearing conference must be held within five business days of the date the commissioner appoints the hearing officer. The hearing officer must initiate the prehearing conference which may be conducted in person, at a location within the district, or by telephone. The hearing officer must create a written verbatim record of the prehearing conference which is available to either party upon request. At the prehearing conference, the hearing officer must:

(1) identify the questions that must be answered to resolve the dispute and eliminate claims and complaints that are without merit;

(2) set a scheduling order for the hearing and additional prehearing activities;

(3) determine if the hearing can be disposed of without an evidentiary hearing and, if so, establish the schedule and procedure for doing so; and

(4) establish the management, control, and location of the hearing to ensure its fair, efficient, and effective disposition.

Subd. 16. [BURDEN OF PROOF.] The burden of proof at a due process hearing is on the district to demonstrate, by a preponderance of the evidence, that it is complying with the law and offered or provided a free appropriate public education to the child in the least restrictive environment. If the district has not offered or provided a free appropriate public education in the least restrictive environment and the parent wants the district to pay for a private placement, the burden of proof is on the parent to demonstrate, by a preponderance of the evidence, that the private placement is appropriate.

Subd. 17. [ADMISSIBLE EVIDENCE.] The hearing officer may admit all evidence that possesses probative value, including hearsay, if it is the type of evidence on which reasonable, prudent persons are accustomed to rely in conducting their serious affairs. The hearing officer must give effect to the rules of privilege recognized by law and exclude evidence that is incompetent, irrelevant, immaterial, or unduly repetitious.

Subd. 18. [HEARING OFFICER AUTHORITY.] (a) A hearing officer must limit an impartial due process hearing to the time sufficient for each party to present its case.

(b) A hearing officer must establish and maintain control and manage the hearing. This authority includes, but is not limited to:

(1) requiring attorneys representing parties at the hearing, after notice and an opportunity to be heard, to pay court reporting and hearing officer costs, or fines payable to the state, for failing to: (i) obey scheduling or prehearing orders, (ii) appear, (iii) be prepared, or (iv) participate in the hearing process in good faith;

(2) administering oaths and affirmations;

(3) issuing subpoenas;

(4) determining the responsible and providing districts and joining those districts, if not already notified, in the proceedings;

(5) making decisions involving identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability; and

(6) ordering an independent educational evaluation of a child at district expense.

Subd. 19. [EXPEDITED DUE PROCESS HEARINGS.] A parent has the right to an expedited due process hearing when there is a dispute over a manifestation determination or a proposed or actual placement in an interim alternative educational setting. A district has the right to an expedited due process hearing when proposing or seeking to maintain placement in an interim alternative educational setting. A hearing officer must hold an expedited due process hearing and must issue a decision within ten calendar days of the request for a hearing. A hearing officer may extend by up to five additional calendar days the time for issuing a decision in an expedited due process hearing. All policies in this section apply to expedited due process hearings to the extent they do not conflict with federal law.

Subd. 20. [HEARING OFFICER'S DECISION; TIME PERIOD.] (a) The hearing officer must issue a decision within 45 calendar days of the date on which the commissioner receives the hearing request. A hearing officer is encouraged to accelerate the time line to 30 days for a child under the age of three whose needs change rapidly and who requires quick resolution of a dispute. A hearing officer may not extend the time beyond the 45-day period unless requested by either party for good cause shown on the record. Extensions of time must not exceed a total of 30 calendar days unless both parties and the hearing officer agree or time is needed to complete an independent educational evaluation. Good cause includes, but is not limited to, the time required for mediation or other settlement discussions, independent educational evaluation, complexity and volume of issues, or finding or changing counsel.

(b) The hearing officer's decision must:

(1) be in writing;

(2) state the controlling and material facts upon which the decision is made in order to apprise the reader of the basis and reason for the decision; and

(3) be based on local standards, state statute, the rules of the commissioner, and federal law.

Subd. 21. [COMPENSATORY EDUCATIONAL SERVICES.] The hearing officer may require the resident or responsible district to provide compensatory educational services to the child if the hearing officer finds that the district has not offered or made available to the child a free appropriate public education in the least restrictive environment and the child suffered a loss of educational benefit. Such services take the form of direct and indirect special education and related services designed to address any loss of educational benefit that may have occurred. The hearing officer's finding must be based on a present determination of whether the child has suffered a loss of educational benefit.

Subd. 22. [CHILD'S EDUCATIONAL PLACEMENT DURING A DUE PROCESS HEARING.] (a) Until a due process hearing under this section is completed or the district and the parent agree otherwise, the child must remain in the child's current educational placement and must not be denied initial admission to school.

(b) Until an expedited due process hearing challenging an interim alternative educational placement is completed, the child must remain in the interim alternative educational setting until the decision of the hearing officer or the expiration of the 45 days permitted for an interim alternative educational setting, whichever occurs first, unless the parent and district agree otherwise.

Subd. 23. [IMPLEMENTATION OF HEARING OFFICER ORDER.] (a) That portion of a hearing officer's decision granting relief requested by the parent must be implemented upon issuance.

(b) Except as provided under paragraph (a) or the district and parent agree otherwise, following a hearing officer's decision granting relief requested by the district, the child must remain in the current educational placement until the time to request judicial review under subdivision 24 expires or, if judicial review is requested, at the time the Minnesota court of appeals or the federal district court issues its decision, whichever is later.

Subd. 24. [REVIEW OF HEARING OFFICER DECISIONS.] The parent or district may seek review of the hearing officer's decision in the Minnesota court of appeals or in the federal district court, consistent with federal law. A party must appeal to the Minnesota court of appeals within 60 days of receiving the hearing officer's decision.

Subd. 25. [ENFORCEMENT OF ORDERS.] The commissioner must monitor final hearing officer decisions and ensure enforcement of hearing officer orders.

Subd. 26. [HEARING OFFICER AND PERSON CONDUCTING ALTERNATIVE DISPUTE RESOLUTION ARE STATE EMPLOYEES.] A hearing officer or person conducting alternative dispute resolution under this section is an employee of the state under section 3.732 for purposes of section 3.736 only.

Subd. 27. [HEARING OFFICER TRAINING.] A hearing officer must participate in training and follow procedures established by the commissioner.

Subd. 28. [DISTRICT LIABILITY.] A district is not liable for harmless technical violations of this section or rules implementing this section if the school district can demonstrate on a case-by-case basis that the violations did not harm a student's educational progress or the parent's right to notice, participation, or due process.

Sec. 10. Minnesota Statutes 2002, section 125A.21, subdivision 2, is amended to read:

Subd. 2. [THIRD PARTY REIMBURSEMENT.] (a) Beginning July 1, 2000, districts shall seek reimbursement from insurers and similar third parties for the cost of services provided by the district whenever the services provided by the district are otherwise covered by the child's health coverage. Districts shall request, but may not require, the child's family to provide information about the child's health coverage when a child with a disability begins to receive services from the district of a type that may be reimbursable, and shall request, but may not require, updated information after that as needed.

(b) For children enrolled in medical assistance under chapter 256B or MinnesotaCare under chapter 256L who have no other health coverage, a district shall provide an initial written notice to the enrolled child's parent or legal representative of its intent to seek reimbursement from medical assistance or MinnesotaCare for the individual education plan health-related services provided by the district.

(c) The district shall give the parent or legal representative annual written notice of:

(1) the district's intent to seek reimbursement from medical assistance or MinnesotaCare for individual education plan health-related services provided by the district;

(2) the right of the parent or legal representative to request a copy of all records concerning individual education plan health-related services disclosed by the district to any third party; and

(3) the right of the parent or legal representative to withdraw consent for disclosure of a child's records at any time without consequence.

The written notice shall be provided as part of the written notice required by Code of Federal Regulations, title 34, section ~~300.503~~ 300.504.

(d) In order to access the private health care coverage of a child who is covered by private health care coverage in whole or in part, a district must:

(1) obtain annual written informed consent from the parent or legal representative, in compliance with subdivision 5; and

(2) inform the parent or legal representative that a refusal to permit the district or state Medicaid agency to access their private health care coverage does not relieve the district of its responsibility to provide all services necessary to provide free and appropriate public education at no cost to the parent or legal representative.

(e) If the commissioner of human services obtains federal approval to exempt covered individual education plan health-related services from the requirement that private health care coverage refuse payment before medical assistance may be billed, paragraphs (b), (c), and (d) shall also apply to students with a combination of private health care coverage and health care coverage through medical assistance or MinnesotaCare.

(f) In the event that Congress or any federal agency or the Minnesota legislature or any state agency establishes lifetime limits, limits for any health care services, cost-sharing provisions, or otherwise provides that individual education plan health-related services impact benefits for persons enrolled in medical assistance or MinnesotaCare, the amendments to this subdivision adopted in 2002 are repealed on the effective date of any federal or state law or regulation that imposes the limits. In that event, districts must obtain informed consent consistent with this subdivision as it existed prior to the 2002 amendments and subdivision 5, before seeking reimbursement for children enrolled in medical assistance under chapter 256B or MinnesotaCare under chapter 256L who have no other health care coverage.

Sec. 11. Minnesota Statutes 2002, section 125A.28, is amended to read:

125A.28 [STATE INTERAGENCY COORDINATING COUNCIL.]

An interagency coordinating council of at least 17, but not more than 25 members is established, in compliance with Public Law ~~Number~~ 102-119, section 682. The members must be appointed by the governor. Council members must elect the council chair. The representative of the commissioner may not serve as the chair. The council must be composed of at least five parents, including persons of color, of children with disabilities under age 12, including at least three parents of a child with a disability under age seven, five representatives of public or private providers of services for children with disabilities under age five, including a special education director, county social service director, local Head Start director, and a community health services or public health nursing administrator, one member of the senate, one member of the house of representatives, one representative of teacher preparation programs in early childhood-special education or other preparation programs in early childhood intervention, at least one representative of advocacy organizations for children with disabilities under age five, one physician who cares for young children with special health care needs, one representative each from the commissioners of commerce, ~~children, families, and learning~~ education, health, human services, a representative from the state agency responsible for child care, and a representative from Indian health services or a tribal council. Section 15.059, subdivisions 2 to 5, apply to the council. The council must meet at least quarterly.

The council must address methods of implementing the state policy of developing and implementing comprehensive, coordinated, multidisciplinary interagency programs of early intervention services for children with disabilities and their families.

The duties of the council include recommending policies to ensure a comprehensive and coordinated system of all state and local agency services for children under age five with disabilities and their families. The policies must address how to incorporate each agency's services into a unified state and local system of multidisciplinary assessment practices, individual intervention plans, comprehensive systems to find children in need of services, methods to improve public awareness, and assistance in determining the role of interagency early intervention committees.

By September 1, the council must recommend to the governor and the commissioners of ~~children, families, and learning~~ education, health, human services, commerce, and economic security policies for a comprehensive and coordinated system.

Notwithstanding any other law to the contrary, the state interagency coordinating council expires on June 30, ~~2003~~ 2005.

Sec. 12. Minnesota Statutes 2002, section 125A.30, is amended to read:

125A.30 [INTERAGENCY EARLY INTERVENTION COMMITTEES.]

(a) A school district, group of districts, or special education cooperative, in cooperation with the health and human service agencies located in the county or counties in which the district or cooperative is located, must establish an interagency early intervention committee for children with disabilities under age five and their families under this section, and for children with disabilities ages three to 22 consistent with the requirements under sections 125A.023 and 125A.027. Committees must include representatives of local ~~and regional~~ health, education, and county human service agencies, county boards, school boards, early childhood family education programs, Head Start, parents of young children with disabilities under age 12, child care resource and referral agencies, school readiness programs, current service providers, and may also include representatives from other private or public agencies and school nurses. The committee must elect a chair from among its members and must meet at least quarterly.

(b) The committee must develop and implement interagency policies and procedures concerning the following ongoing duties:

(1) develop public awareness systems designed to inform potential recipient families of available programs and services;

(2) implement interagency child find systems designed to actively seek out, identify, and refer infants and young children with, or at risk of, disabilities and their families;

(3) establish and evaluate the identification, referral, child and family assessment systems, procedural safeguard process, and community learning systems to recommend, where necessary, alterations and improvements;

(4) assure the development of individualized family service plans for all eligible infants and toddlers with disabilities from birth through age two, and their families, and individual education plans and individual service plans when necessary to appropriately serve children with disabilities, age three and older, and their families and recommend assignment of financial responsibilities to the appropriate agencies;

(5) encourage agencies to develop individual family service plans for children with disabilities, age three and older;

(6) implement a process for assuring that services involve cooperating agencies at all steps leading to individualized programs;

(7) facilitate the development of a transitional plan if a service provider is not recommended to continue to provide services;

(8) identify the current services and funding being provided within the community for children with disabilities under age five and their families;

(9) develop a plan for the allocation and expenditure of additional state and federal early intervention funds under United States Code, title 20, section 1471 et seq. (Part H, Public Law ~~Number~~ 102-119) and United States Code, title 20, section 631, et seq. (Chapter I, Public Law ~~Number~~ 89-313); and

(10) develop a policy that is consistent with section 13.05, subdivision 9, and federal law to enable a member of an interagency early intervention committee to allow another member access to data classified as not public.

(c) The local committee shall also:

(1) participate in needs assessments and program planning activities conducted by local social service, health and education agencies for young children with disabilities and their families; and

(2) review and comment on the early intervention section of the total special education system for the district, the county social service plan, the section or sections of the community health services plan that address needs of and service activities targeted to children with special health care needs, the section on children with special needs in the county child care fund plan, sections in Head Start plans on coordinated planning and services for children with special needs, any relevant portions of early childhood education plans, such as early childhood family education or school readiness, or other applicable coordinated school and community plans for early childhood programs and services, and the section of the maternal and child health special project grants that address needs of and service activities targeted to children with chronic illness and disabilities.

Sec. 13. Minnesota Statutes 2002, section 125A.76, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the definitions in this subdivision apply.

(a) "Base year" for fiscal year 1998 and later fiscal years means the second fiscal year preceding the fiscal year for which aid will be paid.

(b) "Basic revenue" has the meaning given it in section 126C.10, subdivision 2. For the purposes of computing basic revenue pursuant to this section, each child with a disability shall be counted as prescribed in section 126C.05, subdivision 1.

(c) "Essential personnel" means teachers, cultural liaisons, related services, and support services staff providing direct services to students. Essential personnel may also include special education paraprofessionals or clericals providing support to teachers and students by preparing paperwork and making arrangements related to special education compliance requirements, including parent meetings and individual education plans.

(d) "Average daily membership" has the meaning given it in section 126C.05.

(e) "Program growth factor" means ~~1.08 for fiscal year 2002, and~~ 1.046 for fiscal year 2003, and 1.0 for fiscal year 2004 and later.

Sec. 14. Minnesota Statutes 2002, section 125A.76, subdivision 4, is amended to read:

Subd. 4. [STATE TOTAL SPECIAL EDUCATION AID.] The state total special education aid for fiscal year ~~2000~~ 2004 equals ~~$463,000,000~~ $530,642,000. The state total special education aid for fiscal year ~~2001~~ 2005 equals ~~$474,000,000~~ $529,164,000. The state total special education aid for later fiscal years equals:

(1) the state total special education aid for the preceding fiscal year; times

(2) the program growth factor; times

(3) the ratio of the state total average daily membership for the current fiscal year to the state total average daily membership for the preceding fiscal year.

Sec. 15. Minnesota Statutes 2002, section 125A.79, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the definitions in this subdivision apply.

(a) "Unreimbursed special education cost" means the sum of the following:

(1) expenditures for teachers' salaries, contracted services, supplies, equipment, and transportation services eligible for revenue under section 125A.76; plus

(2) expenditures for tuition bills received under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2; minus

(3) revenue for teachers' salaries, contracted services, supplies, and equipment under section 125A.76; minus

(4) tuition receipts under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2.

(b) "General revenue" means for fiscal year 1996, the sum of the general education revenue according to section 126C.10, subdivision 1, as adjusted according to section 127A.47, subdivision 7, plus the total referendum revenue according to section 126C.17, subdivision 4. For fiscal years 1997 and later, "general revenue" means the sum of the general education revenue according to section 126C.10, subdivision 1, as adjusted according to section 127A.47, subdivisions 7 and 8, plus the total referendum revenue minus transportation sparsity revenue minus total operating capital revenue.

(c) "Average daily membership" has the meaning given it in section 126C.05.

(d) "Program growth factor" means ~~1.044 for fiscal year 2002 and~~ 1.02 for fiscal year 2003, and 1.0 for fiscal year 2004 and later.

Sec. 16. Minnesota Statutes 2002, section 125A.79, subdivision 6, is amended to read:

Subd. 6. [STATE TOTAL SPECIAL EDUCATION EXCESS COST AID.] The state total special education excess cost aid for fiscal year 2004 equals $92,067,000. The state total special education aid for fiscal year 2005 equals $91,811,000. The state total special education excess cost aid for fiscal year ~~2002~~ 2006 and later fiscal years equals:

(1) the state total special education excess cost aid for the preceding fiscal year; times

(2) the program growth factor; times

(3) the ratio of the state total average daily membership for the current fiscal year to the state total average daily membership for the preceding fiscal year.

Sec. 17. [SPECIAL EDUCATION CROSS-SUBSIDY REDUCTION AID.]

(a) For fiscal year 2004, a district shall receive special education cross-subsidy reduction aid equal to $5,000,000 times the ratio of the district's special education excess cost aid for the previous fiscal year according to Minnesota Statutes, section 125A.79, subdivision 7, to the state total special education excess cost aid for the previous fiscal year according to Minnesota Statutes, section 125A.79, subdivision 6.

(b) For fiscal year 2005, a district shall receive special education cross-subsidy reduction aid equal to $15,000,000 times the ratio of the district's special education excess cost aid for the previous fiscal year according to Minnesota Statutes, section 125A.79, subdivision 7, to the state total special education excess cost aid for the previous fiscal year according to Minnesota Statutes, section 125A.79, subdivision 6.

(c) Special education cross-subsidy reduction aid must be used to pay for a district's unfunded special education costs that would otherwise be cross-subsidized by a district's general education revenue.

Sec. 18. [IMPACT OF WAIVING SPECIFIC SPECIAL EDUCATION REQUIREMENTS THAT EXCEED FEDERAL LAW; THREE-YEAR PILOT PROJECT.]

Subdivision 1. [ESTABLISHMENT; GOAL.] A three-year pilot project is established to permit independent school district No. 535, Rochester, and up to three other geographically diverse school districts or cooperative units under Minnesota Statutes, section 125A.11, subdivision 3, selected by the commissioner of education to determine the impact, if any, of waiving specific special education requirements listed in subdivision 3 on the quality and cost-effectiveness of the instructional services and educational outcomes provided to eligible students by the project participant.

Subd. 2. [ELIGIBILITY; APPLICATIONS.] The commissioner must transmit information about the pilot project and make application forms available to interested school districts or cooperative units. Applications must be submitted to the commissioner by July 1, 2003. An applicant must identify the specific special education requirements listed in subdivision 3 for which the applicant seeks a waiver and indicate how the applicant proposes to modify the activities and procedures affected by the waiver. The commissioner must approve the applications by August 1, 2003.

Subd. 3. [WAIVERS.] The following state special education requirements are waived for the 2003-2004, 2004-2005, and 2005-2006 school years for independent school district No. 535, Rochester, and the other school districts or cooperative units participating in this pilot project:

(1) Minnesota Statutes, section 125A.56, governing prereferral interventions;

(2) Minnesota Statutes, section 125A.08, paragraph (a), clause (1), governing transitional services for students when reaching age 14 or grade 9, who transition from secondary services to postsecondary education and training, employment, community participation, recreation and leisure, and home living;

(3) Minnesota Statutes, section 125A.22, governing community transition interagency committees; and

(4) Minnesota Statutes, section 125A.023, governing coordinated interagency services but only affecting eligible children with disabilities age seven or older.

Subd. 4. [STUDENTS' RIGHTS.] Eligible students enrolled in a district or receiving special instruction and services through a cooperative unit that is participating in this pilot project remain entitled to the procedural protections provided under federal law in any matter that affects the students' identification, evaluation, and placement or change in placement, or protections provided under state law in dismissal proceedings that may result in students' suspension, exclusion, or expulsion. Project participants must ensure that students' civil rights are protected, provide equal educational opportunities, and prohibit discrimination. Failure to comply with this subdivision will at least cause a district or cooperative unit to become ineligible to participate in the pilot project.

Subd. 5. [TECHNICAL ASSISTANCE.] The commissioner must provide project participants, upon request, assistance in developing and implementing a valid and uniform procedure under subdivision 6 to evaluate the participants' experience.

Subd. 6. [EVALUATION; REPORT.] All participating school districts and cooperative units must evaluate the impact, if any, of waiving specific special education requirements listed in subdivision 3 on the quality and cost-effectiveness of the instructional services and educational outcomes provided to eligible students by the project participant. Project participants must focus the evaluation on the overall efficacy of modifying the activities and procedures affected by the waiver. The evaluation must include a mechanism for documenting parents' response to the pilot project. Project participants must submit to the commissioner a progress report by September 1, 2004, and a final report by November 1, 2005. The commissioner must compile and present the results of the reports to the legislature by February 1, 2006, and recommend appropriate amendments to the statutory requirements listed in subdivision 3.

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

Sec. 19. [DEPARTMENT RESPONSIBILITY.]

By January 1, 2004, the commissioner of education must adopt rules that:

(1) establish criteria for selecting hearing officers, the standards of conduct to which a hearing officer must adhere, and a process to evaluate the hearing system;

(2) ensure that appropriately trained and knowledgeable persons conduct due process hearings in compliance with federal law; and

(3) create standards for expedited due process hearings under federal law.

By March 1, 2004, the commissioner of education must develop and make available a notice for participants in state-provided dispute resolution processes that informs participants of their rights concerning dispute resolution.

Sec. 20. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [SPECIAL EDUCATION; REGULAR.] For special education aid under Minnesota Statutes, section 125A.75:

$499,172,000	.....	2004
$529,504,000	.....	2005

The 2004 appropriation includes $90,577,000 for 2003 and $408,595,000 for 2004.

The 2005 appropriation includes $122,047,000 for 2004 and $407,457,000 for 2005.

Subd. 3. [SPECIAL EDUCATION CROSS-SUBSIDY REDUCTION AID.] For special education cross-subsidy reduction aid under section 17:

$5,000,000	.....	2004
$15,000,000	.....	2005

This is a onetime appropriation.

Subd. 4. [AID FOR CHILDREN WITH DISABILITIES.] For aid under Minnesota Statutes, section 125A.75, subdivision 3, for children with disabilities placed in residential facilities within the district boundaries for whom no district of residence can be determined:

$2,177,000	. . . . .	2004
$2,244,000	. . . . .	2005

If the appropriation for either year is insufficient, the appropriation for the other year is available.

Subd. 5. [TRAVEL FOR HOME-BASED SERVICES.] For aid for teacher travel for home-based services under Minnesota Statutes, section 125A.75, subdivision 1:

$213,000	. . . . .	2004
$260,000	. . . . .	2005

The 2004 appropriation includes $34,000 for 2003 and $179,000 for 2004.

The 2005 appropriation includes $53,000 for 2004 and $207,000 for 2005.

Subd. 6. [SPECIAL EDUCATION; EXCESS COSTS.] For excess cost aid under Minnesota Statutes, section 125A.79, subdivision 7:

$90,699,000	. . . . .	2004
$92,950,000	. . . . .	2005

The 2004 appropriation includes $41,754,000 for 2003 and $48,945,000 for 2004.

The 2005 appropriation includes $43,122,000 for 2004 and $49,828,000 for 2005.

Subd. 7. [LITIGATION COSTS FOR SPECIAL EDUCATION.] For paying the costs a district incurs under Minnesota Statutes, section 125A.75, subdivision 8:

$346,000	. . . . .	2004
$356,000	. . . . .	2005

Subd. 8. [TRANSITION FOR DISABLED STUDENTS.] For aid for transition programs for children with disabilities under Minnesota Statutes, section 124D.454:

$8,359,000	. . . . .	2004
$8,867,000	. . . . .	2005

The 2004 appropriation includes $1,516,000 for 2003 and $6,843,000 for 2004.

The 2005 appropriation includes $2,043,000 for 2004 and $6,824,000 for 2005.

Subd. 9. [COURT-PLACED SPECIAL EDUCATION REVENUE.] For reimbursing serving school districts for unreimbursed eligible expenditures attributable to children placed in the serving school district by court action under Minnesota Statutes, section 125A.79, subdivision 4:

$152,000	. . . . .	2004
$160,000	. . . . .	2005

Subd. 10. [OUT-OF-STATE TUITION SPECIAL EDUCATION.] For special education out-of-state tuition according to Minnesota Statutes, section 125A.79, subdivision 8:

$250,000	. . . . .	2004
$250,000	. . . . .	2005

Sec. 21. [REPEALER.]

Minnesota Statutes 2002, sections 125A.023, subdivision 5; 125A.09; 125A.47; and 125A.79, subdivision 2, are repealed.

ARTICLE 4

FACILITIES AND TECHNOLOGY

Section 1. Minnesota Statutes 2002, section 123B.51, subdivision 3, is amended to read:

Subd. 3. [LEASE ~~ROOMS OR BUILDINGS~~ REAL PROPERTY.] When necessary, the board may lease ~~rooms or buildings~~ real property for school purposes.

Sec. 2. Minnesota Statutes 2002, section 123B.51, subdivision 4, is amended to read:

Subd. 4. [LEASE FOR NONSCHOOL PURPOSE.] (a) The board may lease to any person, business, or organization ~~a schoolhouse~~ real property that is not needed for school purposes, or part of ~~a schoolhouse~~ the property that is not needed for school purposes if the board determines that leasing part of ~~a schoolhouse~~ the property does not interfere with the educational programs taking place ~~in the rest of the building~~ on the property. The board may charge and collect reasonable consideration for the lease and may determine the terms and conditions of the lease.

(b) In districts with outstanding bonds, the net proceeds of the lease must be first deposited in the debt retirement fund of the district in an amount sufficient to meet when due that percentage of the principal and interest payments for outstanding bonds that is ascribable to the payment of expenses necessary and incidental to the construction or purchase of the particular building or property that is leased. Any remaining net proceeds in these districts may be deposited in either the debt redemption fund or operating capital ~~expenditure fund~~ account. All net proceeds of the lease in districts without outstanding bonds shall be deposited in the operating capital ~~expenditure fund~~ account of the district.

(c) The board may make capital improvements~~, including fixtures, to a schoolhouse or a portion thereof~~ to the real property, not exceeding in cost the replacement value of the ~~schoolhouse~~ property, to facilitate its rental, and the lease of ~~an~~ the improved ~~schoolhouse~~ property, or part of it, shall provide for rentals which will recover the cost of the improvements over the initial term of the lease. Notwithstanding paragraph (b), the portion of the rentals representing the cost of the improvements shall be deposited in the operating capital ~~expenditure fund~~ account of the district and the balance of the rentals shall be used as provided in paragraph (b).

Sec. 3. Minnesota Statutes 2002, section 123B.52, is amended by adding a subdivision to read:

Subd. 1a. [CONSTRUCTION CONTRACTS.] In entering into a contract for, or in calling for bids for, the construction or repair of a facility, a board may not require that any contractor or subcontractor that is not signatory to an agreement with a labor organization at the time it makes a bid or is awarded a contract, do any of the following as a condition of performing work on the construction or repair project:

(1) enter into or agree to adhere to or otherwise observe the wage, benefit, or economic terms of, or incur any economic detriment pursuant to, any agreement with any labor organization in connection with the public improvement; or

(2) enter into any agreement that requires the employees of that contractor or subcontractor to do either of the following as a condition of employment or continued employment:

(i) become members of or become affiliated with a labor organization; or

(ii) pay dues or fees to a labor organization.

Sec. 4. Minnesota Statutes 2002, section 123B.53, subdivision 4, is amended to read:

Subd. 4. [DEBT SERVICE EQUALIZATION REVENUE.] (a) The debt service equalization revenue of a district equals the sum of the first tier debt service equalization revenue and the second tier debt service equalization revenue.

(b) The first tier debt service equalization revenue of a district equals the greater of zero or the eligible debt service revenue minus the amount raised by a levy of 15 percent times the adjusted net tax capacity of the district minus the second tier debt service equalization revenue of the district.

(c) The second tier debt service equalization revenue of a district equals the greater of zero or the eligible debt service revenue, excluding alternative facilities levies under section 123B.59, subdivision 5, minus the amount raised by a levy of 25 percent times the adjusted net tax capacity of the district.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2005.

Sec. 5. Minnesota Statutes 2002, section 123B.57, subdivision 1, is amended to read:

Subdivision 1. [HEALTH AND SAFETY PROGRAM.] (a) To receive health and safety revenue for any fiscal year a district must submit to the commissioner an application for aid and levy by the date determined by the commissioner. The application may be for hazardous substance removal, fire and life safety code repairs, labor and industry regulated facility and equipment violations, and health, safety, and environmental management, including indoor air quality management. The application must include a health and safety program adopted by the school district board. The program must include the estimated cost, per building, of the program by fiscal year. Upon approval through the adoption of a resolution by each of an intermediate district's member school district boards and the approval of the department of ~~children, families, and learning~~ education, a school district may include its proportionate share of the costs of health and safety projects for an intermediate district in its application.

(b) Health and safety projects with an estimated cost of $500,000 or more per site, approved after February 1, 2003, are not eligible for health and safety revenue. Health and safety projects with an estimated cost of $500,000 or more per site, approved after February 1, 2003, that meet all other requirements for health and safety funding, are

eligible for alternative facilities bonding and levy revenue according to section 123B.59. A school board shall not separate portions of a single project into components to qualify for health and safety revenue, and shall not combine unrelated projects into a single project to qualify for alternative facilities bonding and levy revenue.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to projects approved after February 1, 2003, for taxes payable in 2004 and later.

Sec. 6. Minnesota Statutes 2002, section 123B.57, subdivision 4, is amended to read:

Subd. 4. [HEALTH AND SAFETY LEVY.] To receive health and safety revenue, a district may levy an amount equal to the district's health and safety revenue as defined in subdivision 3 multiplied by the lesser of one, or the ratio of the quotient derived by dividing the adjusted net tax capacity of the district for the year preceding the year the levy is certified by the adjusted marginal cost pupil units in the district for the school year to which the levy is attributable, to ~~$3,956~~ $2,935.

Sec. 7. Minnesota Statutes 2002, section 123B.57, subdivision 6, is amended to read:

Subd. 6. [USES OF HEALTH AND SAFETY REVENUE.] (a) Health and safety revenue may be used only for approved expenditures necessary to correct fire and life safety hazards, ~~life safety hazards,~~ or for the removal or encapsulation of asbestos from school buildings or property owned or being acquired by the district, asbestos-related repairs, cleanup and disposal of polychlorinated biphenyls found in school buildings or property owned or being acquired by the district, or the cleanup, removal, disposal, and repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline, fuel oil, and special fuel, as defined in section 296A.01, ~~labor and industry~~ Minnesota occupational safety and health administration regulated facility and equipment hazards, indoor air quality mold abatement, upgrades or replacement of mechanical ventilation systems to meet American Society of Heating, Refrigerating and Air Conditioning Engineers standards and state mechanical code, department of health food code and swimming pool hazards excluding depth correction, and health, safety, and environmental management. Health and safety revenue must not be used to finance a lease purchase agreement, installment purchase agreement, or other deferred payments agreement. Health and safety revenue must not be used for the construction of new facilities or the purchase of portable classrooms, for interest or other financing expenses, or for energy efficiency projects under section 123B.65. The revenue may not be used for a building or property or part of a building or property used for post-secondary instruction or administration or for a purpose unrelated to elementary and secondary education.

(b) Notwithstanding paragraph (a), health and safety revenue must not be used for replacement of building materials or facilities including roof, walls, windows, internal fixtures and flooring, nonhealth and safety costs associated with demolition of facilities, structural repair or replacement of facilities due to unsafe conditions, violence prevention and facility security, ergonomics, building and heating, ventilating and air conditioning supplies, maintenance, cleaning, testing, and calibration activities. All assessments, investigations, inventories, and support equipment not leading to the engineering or construction of a project shall be included in the health, safety, and environmental management costs in subdivision 8, paragraph (a).

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to projects approved after February 1, 2003, for taxes payable in 2004 and later.

Sec. 8. Minnesota Statutes 2002, section 123B.59, subdivision 1, is amended to read:

Subdivision 1. [TO QUALIFY.] (a) An independent or special school district qualifies to participate in the alternative facilities bonding and levy program if the district has:

(1) more than 66 students per grade;

(2) over 1,850,000 square feet of space and the average age of building space is 15 years or older or over 1,500,000 square feet and the average age of building space is 35 years or older;

(3) insufficient funds from projected health and safety revenue and capital facilities revenue to meet the requirements for deferred maintenance, to make accessibility improvements, or to make fire, safety, or health repairs; and

(4) a ten-year facility plan approved by the commissioner according to subdivision 2.

(b) An independent or special school district not eligible to participate in the alternative facilities bonding and levy program under paragraph (a) qualifies for limited participation in the program if the district has:

(1) one or more health and safety projects with an estimated cost of $500,000 or more per site that would qualify for health and safety revenue except for the project size limitation in section 123B.57, subdivision 1, paragraph (b); and

(2) insufficient funds from capital facilities revenue to fund those projects.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2005.

Sec. 9. Minnesota Statutes 2002, section 123B.59, subdivision 2, is amended to read:

Subd. 2. [~~TEN-YEAR~~ FACILITY PLAN.] (a) A district qualifying ~~district~~ under subdivision 1, paragraph (a), must have a ten-year facility plan approved by the commissioner that includes an inventory of projects and costs that would be eligible for:

(1) health and safety revenue, without restriction as to project size;

(2) disabled access levy; and

(3) deferred capital expenditures and maintenance projects necessary to prevent further erosion of facilities.

(b) A district qualifying under subdivision 1, paragraph (b), must have a five-year plan approved by the commissioner that includes an inventory of projects and costs for health and safety projects with an estimated cost of $500,000 or more per site that would qualify for health and safety revenue except for the project size limitation in section 123B.57, subdivision 1, paragraph (b).

(c) The school district must:

(1) annually update the ~~plan~~ plans;

(2) biennially submit a facility maintenance plan; and

(3) indicate whether the district will issue bonds to finance the plan or levy for the costs.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2005.

Sec. 10. Minnesota Statutes 2002, section 123B.59, subdivision 3, is amended to read:

Subd. 3. [BOND AUTHORIZATION.] (a) A school district~~, upon approval of its board and the commissioner,~~ may issue general obligation bonds under this section to finance ~~approved~~ facilities plans approved by its board and

the commissioner. Chapter 475, except sections 475.58 and 475.59, must be complied with. The district may levy under subdivision 5 for the debt service revenue. The authority to issue bonds under this section is in addition to any bonding authority authorized by this chapter, or other law. The amount of bonding authority authorized under this section must be disregarded in calculating the bonding or net debt limits of this chapter, or any other law other than section 475.53, subdivision 4.

(b) Before a district issues bonds under this subdivision, it must publish notice of the intended projects, the amount of the bond issue, and the total amount of district indebtedness.

(c) A bond issue tentatively authorized by the board under this subdivision becomes finally authorized unless a petition signed by more than 15 percent of the registered voters of the district is filed with the school board within 30 days of the board's adoption of a resolution stating the board's intention to issue bonds. The percentage is to be determined with reference to the number of registered voters in the district on the last day before the petition is filed with the board. The petition must call for a referendum on the question of whether to issue the bonds for the projects under this section. The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this section.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to bonds issued after April 1, 2003, for taxes payable in 2004 and later.

Sec. 11. Minnesota Statutes 2002, section 123B.59, is amended by adding a subdivision to read:

Subd. 3a. [LEVY AUTHORIZATION.] (a) A school district may levy under this section to finance the portion of facilities plans approved by its board and the commissioner that are not financed through bond issues according to subdivision 3.

(b) Before a district levies under this subdivision, it must publish notice of the intended projects, including the total estimated project cost.

(c) A levy tentatively authorized by the board under this subdivision becomes finally authorized unless a petition signed by more than 15 percent of the registered voters of the district is filed with the school board within 30 days of the board's adoption of a resolution stating the board's intention to levy. The percentage is to be determined with reference to the number of registered voters in the district on the last day before the petition is filed with the board. The petition must call for a referendum on the question of whether to levy for the projects under this section. The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this section. The referendum must be held on a date set by the board. The ballot must provide a general description of the proposed projects and state the estimated total cost of the projects, the specific number of years, not to exceed ten, for which the referendum authorization applies, the maximum amount of the levy for each year, and the estimated tax rate as a percentage of net tax capacity for the amount specified for the first year and for the maximum amount specified in the schedule. The ballot must contain a textual portion with the information required in this subdivision and a question stating substantially the following:

"Shall the alternative facilities levy proposed by the board of ..... School District No. ..... be approved?"

If approved, the amount stated for each year may be certified for the number of years approved. The district must notify the commissioner of the results of the referendum.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to levies for taxes payable in 2004 and later.

Sec. 12. Minnesota Statutes 2002, section 123B.59, subdivision 5, is amended to read:

Subd. 5. [LEVY AUTHORIZED.] A district~~, after local board approval,~~ may levy for costs related to an approved facility plan as follows:

(a) if the district has indicated to the commissioner that bonds will be issued, the district may levy for the principal and interest payments on outstanding bonds issued according to subdivision 3 ~~after reduction for any alternative facilities aid receivable under subdivision 6~~; or

(b) if the district has indicated to the commissioner that the plan will be funded through levy, the district may levy according to ~~the schedule approved in the plan after reduction for any alternative facilities aid receivable under~~ subdivision ~~6~~ 3a.

[EFFECTIVE DATE.] This section is effective for taxes payable in 2004.

Sec. 13. Minnesota Statutes 2002, section 123B.63, subdivision 1, is amended to read:

Subdivision 1. [CREATION OF A ~~DOWN PAYMENT~~ CAPITAL PROJECT REFERENDUM ACCOUNT.] A district may create a ~~down payment~~ capital project referendum account as a separate account in its general fund or its building construction fund. All proceeds from the ~~down payment~~ capital project levy must be deposited in the capital ~~expenditure fund and transferred to this account~~ project referendum account in its general fund. The portion of the proceeds to be used for building construction must be transferred to the capital project referendum account in its building construction fund. Interest income attributable to the ~~down payment~~ capital project referendum account must be credited to the account.

Sec. 14. Minnesota Statutes 2002, section 123B.63, subdivision 2, is amended to read:

Subd. 2. [USES OF THE ACCOUNT.] Money in the ~~down payment~~ capital project referendum account must be used ~~as a down payment~~ for the ~~future~~ costs of acquisition and betterment for a project that has been reviewed under section 123B.71 and has been approved according to subdivision 3.

Sec. 15. Minnesota Statutes 2002, section 123B.63, subdivision 3, is amended to read:

Subd. 3. [~~FACILITIES DOWN PAYMENT~~ CAPITAL PROJECT LEVY REFERENDUM.] A district may levy the local tax rate approved by a majority of the electors voting on the question to provide funds ~~for a down payment~~ for an approved project. The election must take place no more than five years before the estimated date of commencement of the project. The referendum must be held on a date set by the board. A referendum for a project not receiving a positive review and comment by the commissioner under section 123B.71 must be approved by at least 60 percent of the voters at the election. The referendum may be called by the school board and may be held:

(1) separately, before an election for the issuance of obligations for the project under chapter 475; or

(2) in conjunction with an election for the issuance of obligations for the project under chapter 475; or

(3) notwithstanding section 475.59, as a conjunctive question authorizing both the ~~down payment~~ capital project levy and the issuance of obligations for the project under chapter 475. Any obligations authorized for a project may be issued within five years of the date of the election.

The ballot must provide a general description of the proposed project, state the estimated total cost of the project, state whether the project has received a positive or negative review and comment from the commissioner, state the maximum amount of the ~~down payment~~ capital project levy as a percentage of net tax capacity, state the amount that will be raised by that local tax rate in the first year it is to be levied, and state the maximum number of years that the levy authorization will apply.

The ballot must contain a textual portion with the information required in this section and a question stating substantially the following:

"Shall the ~~down payment~~ capital project levy proposed by the board of ..... School District No. ..... be approved?"

If approved, the amount provided by the approved local tax rate applied to the net tax capacity for the year preceding the year the levy is certified may be certified for the number of years approved.

In the event a conjunctive question proposes to authorize both the ~~down payment~~ capital project levy and the issuance of obligations for the project, appropriate language authorizing the issuance of obligations must also be included in the question.

The district must notify the commissioner of the results of the referendum.

Sec. 16. Minnesota Statutes 2002, section 123B.63, subdivision 4, is amended to read:

Subd. 4. [EXCESS ~~BUILDING CONSTRUCTION FUND~~ LEVY PROCEEDS.] Any funds remaining in the ~~down payment~~ capital project referendum account that are not applied to the payment of the costs of the approved project before its final completion must be transferred to the district's debt redemption fund.

Sec. 17. Minnesota Statutes 2002, section 125B.21, is amended to read:

125B.21 [MINNESOTA EDUCATION TELECOMMUNICATIONS COUNCIL.]

Subdivision 1. [STATE COUNCIL MEMBERSHIP.] The membership of the Minnesota education telecommunications council established in Laws 1993, First Special Session chapter 2, is expanded to include representatives of elementary and secondary education. The membership shall consist of three representatives from the University of Minnesota; three representatives of the board of trustees for Minnesota state colleges and universities; one representative of the higher education services offices; one representative appointed by the private college council; one representative selected by the commissioner of administration; eight representatives selected by the commissioner of ~~children, families, and learning~~ education, at least one of which must come from each of the six higher education telecommunication regions; a representative from the office of technology; two members each from the senate and the house of representatives selected by the subcommittee on committees of the committee on rules and administration of the senate and the speaker of the house, one member from each body must be a member of the minority party; and three representatives of libraries, one representing regional public libraries, one representing multitype libraries, and one representing community libraries, selected by the governor; and two members, one selected from and representing the higher education regional coordinators and one selected from and representing the kindergarten through grade 12 cluster regions. The council shall serve as a forum to establish and advocate for a statewide vision and plans for the use of distance learning technologies, including:

(1) the coordination and collaboration of distance learning opportunities;

(2) the implementation of the use of distance learning technologies;

(3) the collaboration of distance learning users;

(4) the implementation of educational policy relating to telecommunications;

(5) the exchange of ideas;

(6) the communications with state government and related agencies and entities;

(7) the coordination of networks for post-secondary campuses, kindergarten through grade 12 education, and regional and community libraries; and

(8) the promotion of consistency of the operation of the learning network with standards of an open system architecture.

The council expires June 30, 2004.

Sec. 18. Minnesota Statutes 2002, section 126C.40, subdivision 1, is amended to read:

Subdivision 1. [TO LEASE BUILDING OR LAND.] (a) When an independent or a special school district or a group of independent or special school districts finds it economically advantageous to rent or lease a building or land for any instructional purposes or for school storage or furniture repair, and it determines that the operating capital revenue authorized under section 126C.10, subdivision 13, is insufficient for this purpose, it may apply to the commissioner for permission to make an additional capital expenditure levy for this purpose. An application for permission to levy under this subdivision must contain financial justification for the proposed levy, the terms and conditions of the proposed lease, and a description of the space to be leased and its proposed use.

(b) The criteria for approval of applications to levy under this subdivision must include: the reasonableness of the price, the appropriateness of the space to the proposed activity, the feasibility of transporting pupils to the leased building or land, conformity of the lease to the laws and rules of the state of Minnesota, and the appropriateness of the proposed lease to the space needs and the financial condition of the district. The commissioner must not authorize a levy under this subdivision in an amount greater than 90 percent of the cost to the district of renting or leasing a building or land for approved purposes. The proceeds of this levy must not be used for custodial or other maintenance services. A district may not levy under this subdivision for the purpose of leasing or renting a district-owned building or site to itself.

(c) For agreements finalized after July 1, 1997, a district may not levy under this subdivision for the purpose of leasing: (1) a newly constructed building used primarily for regular kindergarten, elementary, or secondary instruction; or (2) a newly constructed building addition or additions used primarily for regular kindergarten, elementary, or secondary instruction that contains more than 20 percent of the square footage of the previously existing building.

(d) Notwithstanding paragraph (b), a district may levy under this subdivision for the purpose of leasing or renting a district-owned building or site to itself only if the amount is needed by the district to make payments required by a lease purchase agreement, installment purchase agreement, or other deferred payments agreement authorized by law, and the levy meets the requirements of paragraph (c). A levy authorized for a district by the commissioner under this paragraph may be in the amount needed by the district to make payments required by a lease purchase agreement, installment purchase agreement, or other deferred payments agreement authorized by law, provided that any agreement include a provision giving the school districts the right to terminate the agreement annually without penalty.

(e) The total levy under this subdivision for a district for any year must not exceed ~~$100~~ $90 times the resident pupil units for the fiscal year to which the levy is attributable.

(f) For agreements for which a review and comment have been submitted to the department of ~~children, families, and learning~~ education after April 1, 1998, the term "instructional purpose" as used in this subdivision excludes expenditures on stadiums.

(g) The commissioner of ~~children, families, and learning~~ education may authorize a school district to exceed the limit in paragraph (e) if the school district petitions the commissioner for approval. The commissioner shall grant approval to a school district to exceed the limit in paragraph (e) for not more than five years if the district meets the following criteria:

(1) the school district has been experiencing pupil enrollment growth in the preceding five years;

(2) the purpose of the increased levy is in the long-term public interest;

(3) the purpose of the increased levy promotes colocation of government services; and

(4) the purpose of the increased levy is in the long-term interest of the district by avoiding over construction of school facilities.

(h) A school district that is a member of an intermediate school district may include in its authority under this section 90 percent of the costs associated with leases of administrative and classroom space for intermediate school district programs. This authority must not exceed ~~$25~~ $22.50 times the adjusted marginal cost pupil units of the member districts. This authority is in addition to any other authority authorized under this section.

(i) In addition to the allowable capital levies in paragraph (a), a district that is a member of the "Technology and Information Education Systems" data processing joint board, that finds it economically advantageous to enter into a lease purchase agreement for a building for a group of school districts or special school districts for staff development purposes, may levy for its portion of lease costs attributed to the district within the total levy limit in paragraph (e).

[EFFECTIVE DATE.] This section is effective for taxes payable in 2004.

Sec. 19. Minnesota Statutes 2002, section 126C.63, subdivision 5, is amended to read:

Subd. 5. [LEVY.] "Levy" means a district's net debt service levy after the reduction of debt service equalization aid under section 123B.53, subdivision 6. For taxes payable in ~~1994~~ 2003 and later, each district's maximum effort debt service levy for purposes of subdivision 8, must be reduced by an equal number of percentage points if the commissioner of finance determines that the levy reduction will not result in a ~~statewide property tax~~ payment from the general fund in the state treasury according to section 16A.641, as would be required under Minnesota Statutes ~~1992~~, section ~~124.46~~ 126C.72, subdivision 3. A district's levy that is adjusted under this section must not be reduced below ~~22.3~~ 30.1 percent of the district's adjusted net tax capacity.

Sec. 20. Minnesota Statutes 2002, section 126C.63, subdivision 8, is amended to read:

Subd. 8. [MAXIMUM EFFORT DEBT SERVICE LEVY.] (a) "Maximum effort debt service levy" means the lesser of:

(1) a levy in whichever of the following amounts is applicable:

~~(a)~~ (i) in any district receiving a debt service loan for a debt service levy payable in 2002 and thereafter, or granted a capital loan after January 1, ~~2001~~ 2002, a levy in total dollar amount computed at a rate of ~~30~~ 40 percent of adjusted net tax capacity for taxes payable in 2002 and thereafter;

~~(b)~~ (ii) in any district receiving a debt service loan for a debt service levy payable in ~~1991 and thereafter~~ 2001 or earlier, or granted a capital loan ~~after~~ before January ~~1~~ 2, ~~1990~~ 2001, a levy in a total dollar amount computed at a rate of ~~24~~ 32 percent of adjusted net tax capacity for taxes payable in ~~1991~~ 2002 and thereafter;

~~(c) in any district granted a debt service loan after July 31, 1981, or granted a capital loan which is approved after July 31, 1981, a levy in a total dollar amount computed as a tax rate of 21.92 percent on the adjusted net tax capacity for taxes payable in 1991 and thereafter;~~ or

(2) a levy in any district for which a capital loan was approved prior to August 1, 1981, a levy in a total dollar amount equal to the sum of the amount of the required debt service levy and an amount which when levied annually will in the opinion of the commissioner be sufficient to retire the remaining interest and principal on any outstanding loans from the state within 30 years of the original date when the capital loan was granted.

(b) The board in any district affected by the provisions of paragraph (a), clause (2), may elect instead to determine the amount of its levy according to the provisions of paragraph (a), clause (1). If a district's capital loan is not paid within 30 years because it elects to determine the amount of its levy according to the provisions of paragraph (a), clause (2), the liability of the district for the amount of the difference between the amount it levied under paragraph (a), clause (2), and the amount it would have levied under paragraph (a), clause (1), and for interest on the amount of that difference, must not be satisfied and discharged pursuant to Minnesota Statutes 1988, or an earlier edition of Minnesota Statutes if applicable, section 124.43, subdivision 4.

Sec. 21. Minnesota Statutes 2002, section 126C.69, subdivision 2, is amended to read:

Subd. 2. [CAPITAL LOANS ELIGIBILITY.] Beginning July 1, 1999, a district is not eligible for a capital loan unless the district's estimated net debt tax rate as computed by the commissioner after debt service equalization aid would be more than ~~30~~ 40 percent of adjusted net tax capacity. The estimate must assume a 20-year maturity schedule for new debt.

Sec. 22. Minnesota Statutes 2002, section 126C.69, subdivision 9, is amended to read:

Subd. 9. [LOAN AMOUNT LIMITS.] (a) A loan must not be recommended for approval for a district exceeding an amount computed as follows:

(1) the amount requested by the district under subdivision 6;

(2) plus the aggregate principal amount of general obligation bonds of the district outstanding on June 30 of the year following the year the application was received, not exceeding the limitation on net debt of the district in section 475.53, subdivision 4, or ~~450~~ 607 percent of its adjusted net tax capacity as most recently determined, whichever is less;

(3) less the maximum net debt permissible for the district on December 1 of the year the application is received, under the limitation in section 475.53, subdivision 4, or ~~450~~ 607 percent of its adjusted net tax capacity as most recently determined, whichever is less;

(4) less any amount by which the amount voted exceeds the total cost of the facilities for which the loan is granted.

(b) The loan may be approved in an amount computed as provided in paragraph (a), clauses (1) to (3), subject to later reduction according to paragraph (a), clause (4).

Sec. 23. Minnesota Statutes 2002, section 177.42, subdivision 2, is amended to read:

Subd. 2. [PROJECT.] "Project" means erection, construction, remodeling, or repairing of a public building or other public work, except a public school facility, financed in whole or part by state funds.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to all contracts for erecting, constructing, remodeling, or repairing a public school facility for students in any grades kindergarten through 12 entered into after that date.

Sec. 24. Minnesota Statutes 2002, section 475.61, subdivision 1, is amended to read:

Subdivision 1. [DEBT SERVICE RESOLUTION.] The governing body of any municipality issuing general obligations shall, prior to delivery of the obligations, levy by resolution a direct general ad valorem tax upon all taxable property in the municipality to be spread upon the tax rolls for each year of the term of the obligations. The tax levies for all years for municipalities other than school districts shall be specified and such that if collected in full they, together with estimated collections of special assessments and other revenues pledged for the payment of said obligations, will produce at least five percent in excess of the amount needed to meet when due the principal and interest payments on the obligations. The tax levies for school districts shall be specified and such that if collected in full they, together with estimated collection of other revenues pledged for the payment of the obligations, will produce ~~between~~ five ~~and six~~ percent in excess of the amount needed to meet when due the principal and interest payments on the obligations, rounded up to the nearest dollar; except that, with the permission of the commissioner of ~~children, families, and learning~~ education, a school board may specify a tax levy in a higher amount if necessary either to meet an anticipated tax delinquency or for cash flow needs to meet the required payments from the debt redemption fund. Such resolution shall irrevocably appropriate the taxes so levied and any special assessments or other revenues so pledged to the municipality's debt service fund or a special debt service fund or account created for the payment of one or more issues of obligations. The governing body may, in its discretion, at any time after the obligations have been authorized, adopt a resolution levying only a portion of such taxes, to be filed, assessed, extended, collected, and remitted as hereinafter provided, and the amount or amounts therein levied shall be credited against the tax required to be levied prior to delivery of the obligations.

Sec. 25. Minnesota Statutes 2002, section 475.61, subdivision 3, is amended to read:

Subd. 3. [IRREVOCABILITY.] (a) Tax levies so made and filed shall be irrevocable, except as provided in this subdivision.

(b) For purposes of this subdivision, "excess debt redemption fund balance" means the greater of zero or the balance in the district's debt redemption fund as of June 30 of the fiscal year ending in the year before the year the levy is certified, minus any debt redemption fund balance attributable to refunding of existing bonds, minus the amount of the levy reduction for the current year and the prior year under paragraphs (e) and (f), minus five percent of the district's required debt service levy for the next year.

(c) By July 15 each year, a district shall report to the commissioner of ~~children, families, and learning~~ education the amount of the districts' debt redemption fund balance as of June 30 of the prior year attributable to refunding of existing bonds.

(d) By August 15 each year, the commissioner shall determine the excess debt redemption fund balance for each school district, and shall certify the amount of the excess balance to the school district superintendent.

(e) In each year when a district has an excess debt redemption fund balance, the commissioner shall ~~report the amount of the excess to the county auditor and the auditor shall~~ reduce the tax levy otherwise to be included in the rolls next prepared by the amount certified.

(f) The school board may, with the approval of the commissioner, retain all or part of the excess balance if it is necessary to ensure the prompt and full payment of its obligations and any call premium on its obligations, will be used for redemption of its obligations in accordance with their terms, or to level out the debt service tax rate, excluding the debt excess adjustment, for its obligations over the next two years. A school district requesting authority to retain all or part of the excess balance shall provide written documentation to the commissioner describing the rationale for its request by September 15 including the issuance of new obligations within the next year or the refunding of existing obligations. A school district that retains an excess may request to transfer the excess to its operating capital account in the general fund under section 123B.80. The school board may, with the approval of the commissioner, specify a tax levy in a higher amount if necessary because of anticipated tax delinquency or for cash flow needs to meet the required payments from the debt redemption fund.

(g) If the governing body, including the governing body of a school district, in any year makes an irrevocable appropriation to the debt service fund of money actually on hand or if there is on hand any excess amount in the debt service fund, the recording officer may certify to the county auditor the fact and amount thereof and the auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

Sec. 26. [BONDS; MOUNDS VIEW.]

Notwithstanding Minnesota Statutes, section 123B.59, subdivision 3, independent school district No. 621, Mounds View, may issue bonds according to Minnesota Statutes 2002, section 123B.59, subdivision 3, for projects approved by the commissioner before February 1, 2003.

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

Sec. 27. [LEASE LEVY EXCEPTION.]

Notwithstanding Minnesota Statutes, section 126C.40, subdivision 1, a school district that has entered into a completed agreement under Laws 2000, chapter 492, article 1, section 3, subdivision 4, may continue to levy for 100 percent of the costs of any lease required by the agreement.

Sec. 28. [PROPERTY SALE; ST. FRANCIS SCHOOL DISTRICT.]

Notwithstanding Minnesota Statutes, section 123B.51, subdivision 6, or any other law to the contrary, independent school district No. 15, St. Francis, may deposit the proceeds from the sale of land that was purchased with funds obtained according to Laws 1992, chapter 558, section 7, subdivision 7, in the district's general fund reserved for operating capital account. The district may only use the proceeds of the sale for projects designed to create or improve safe walking routes for the students of independent school district No. 15, St. Francis.

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

Sec. 29. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [HEALTH AND SAFETY REVENUE.] For health and safety aid according to Minnesota Statutes, section 123B.57, subdivision 5:

$7,602,000	. . . . .	2004
$6,137,000	. . . . .	2005

The 2004 appropriation includes $1,516,000 for 2003 and $6,086,000 for 2004.

The 2005 appropriation includes $1,817,000 for 2004 and $4,320,000 for 2005.

Subd. 3. [DEBT SERVICE EQUALIZATION.] For debt service aid according to Minnesota Statutes, section 123B.53, subdivision 6:

$33,416,000	. . . . .	2004
$37,521,000	. . . . .	2005

The 2004 appropriation includes $5,586,000 for 2003 and $27,830,000 for 2004.

The 2005 appropriation includes $8,312,000 for 2004 and $29,209,000 for 2005.

Subd. 4. [ALTERNATIVE FACILITIES BONDING AID.] For alternative facilities bonding aid, according to Minnesota Statutes, section 123B.59, subdivision 1:

$18,129,000	. . . . .	2004
$4,436,000	. . . . .	2005

The 2004 appropriation includes $3,278,000 for 2003 and $14,851,000 for 2004.

The 2005 appropriation includes $4,436,000 for 2004 and $0 for 2005.

Sec. 30. [REPEALER.]

(a) Minnesota Statutes 2002, section 125B.11, is repealed.

(b) Minnesota Statutes 2002, section 123B.59, subdivisions 6 and 7, are repealed effective for revenue for fiscal year 2005.

ARTICLE 5

NUTRITION; SCHOOL ACCOUNTING; OTHER PROGRAMS

Section 1. Minnesota Statutes 2002, section 12.21, subdivision 3, is amended to read:

Subd. 3. [SPECIFIC AUTHORITY.] In performing duties under this chapter and to effect its policy and purpose, the governor may:

(1) make, amend, and rescind the necessary orders and rules to carry out the provisions of this chapter and section 216C.15 within the limits of the authority conferred by this section, with due consideration of the plans of the federal government and without complying with sections 14.001 to 14.69, but no order or rule has the effect of law except as provided by section 12.32;

(2) ensure that a comprehensive emergency operations plan and emergency management program for this state are developed and maintained, and are integrated into and coordinated with the emergency plans of the federal government and of other states to the fullest possible extent;

(3) in accordance with the emergency operations plan and the emergency management program of this state, procure supplies, equipment, and facilities; institute training programs and public information programs; and take all other preparatory steps, including the partial or full activation of emergency management organizations in advance of actual disaster to ensure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need;

(4) make studies and surveys of the industries, resources, and facilities in this state as may be necessary to ascertain the capabilities of the state for emergency management and to plan for the most efficient emergency use of those industries, resources, and facilities;

(5) on behalf of this state, enter into mutual aid arrangements or cooperative agreements with other states, tribal authorities, and Canadian provinces, and coordinate mutual aid plans between political subdivisions of this state;

(6) delegate administrative authority vested in the governor under this chapter, except the power to make rules, and provide for the subdelegation of that authority;

(7) cooperate with the president and the heads of the armed forces, the emergency management agency of the United States and other appropriate federal officers and agencies, and with the officers and agencies of other states in matters pertaining to the emergency management of the state and nation, including the direction or control of:

(i) emergency preparedness drills and exercises;

(ii) warnings and signals for drills or actual emergencies and the mechanical devices to be used in connection with them;

(iii) shutting off water mains, gas mains, electric power connections and the suspension of all other utility services;

(iv) the conduct of persons in the state, including entrance or exit from any stricken or threatened public place, occupancy of facilities, and the movement and cessation of movement of pedestrians, vehicular traffic, and all forms of private and public transportation during, prior, and subsequent to drills or actual emergencies;

(v) public meetings or gatherings; and

(vi) the evacuation, reception, and sheltering of persons;

(8) contribute to a political subdivision, within the limits of the appropriation for that purpose, not more than 25 percent of the cost of acquiring organizational equipment that meets standards established by the governor;

(9) formulate and execute, with the approval of the executive council, plans and rules for the control of traffic in order to provide for the rapid and safe movement over public highways and streets of troops, vehicles of a military nature, and materials for national defense and war or for use in any war industry, for the conservation of critical materials, or for emergency management purposes; coordinate the activities of the departments or agencies of the state and its political subdivisions concerned directly or indirectly with public highways and streets, in a manner that will best effectuate those plans;

(10) alter or adjust by executive order, without complying with sections 14.01 to 14.69, the working hours, work days and work week of, and annual and sick leave provisions and payroll laws regarding all state employees in the executive branch as the governor deems necessary to minimize the impact of the disaster or emergency, conforming the alterations or adjustments to existing state laws, rules, and collective bargaining agreements to the extent practicable;

(11) authorize the commissioner of ~~children, families, and learning~~ education to alter school schedules, curtail school activities, or order schools closed ~~without affecting state aid to schools,~~ as defined in section 120A.05, subdivisions 9, 11, 13, and 17, and including charter schools under section 124D.10, and elementary schools enrolling prekindergarten pupils in district programs; and

(12) transfer the direction, personnel, or functions of state agencies to perform or facilitate response and recovery programs.

Sec. 2. Minnesota Statutes 2002, section 84A.51, subdivision 4, is amended to read:

Subd. 4. [COUNTY'S USE OF FUNDS.] The funds received by each county must be apportioned by the county auditor as follows:

(1) 30 percent to a county development fund, which is created, to be spent under the direction of the county board for the rehabilitation and development of the portion of the county within the conservation area;

(2) 40 percent to the ~~capital outlay~~ general fund of the school district from which derived;

(3) 20 percent to the county revenue fund; and

(4) ten percent to the township road and bridge fund of the township from which derived.

If the proceeds are derived from an unorganized township with no levy for road and bridge purposes, the township portion must be credited to the county revenue fund.

Sec. 3. Minnesota Statutes 2002, section 120A.05, subdivision 9, is amended to read:

Subd. 9. [ELEMENTARY SCHOOL.] "Elementary school" means any school with building, equipment, courses of study, class schedules, enrollment of pupils ordinarily in prekindergarten through grade 6 or any portion thereof, and staff meeting the standards established by the commissioner.

~~The commissioner of children, families, and learning shall not close a school or deny any state aids to a district for its elementary schools because of enrollment limitations classified in accordance with the provisions of this subdivision.~~

Sec. 4. Minnesota Statutes 2002, section 124D.11, subdivision 9, is amended to read:

Subd. 9. [PAYMENT OF AIDS TO CHARTER SCHOOLS.] (a) Notwithstanding section 127A.45, subdivision 3, aid payments for the current fiscal year to a charter school not in its first year of operation shall be of an equal amount on each of the 23 payment dates. A charter school in its first year of operation shall receive, on its first payment date, ten percent of its cumulative amount guaranteed for the year and 22 payments of an equal amount thereafter the sum of which shall be 90 percent of the cumulative amount guaranteed.

(b) Notwithstanding paragraph (a), for a charter school ceasing operation prior to the end of a school year, ~~83~~ 77 percent of the amount due for the school year may be paid to the school after audit of prior fiscal year and current fiscal year pupil counts.

(c) Notwithstanding section 127A.45, subdivision 3, and paragraph (a), ~~83~~ 77 percent of the start-up cost aid under subdivision 8 shall be paid within 45 days after the first day of student attendance for that school year.

(d) In order to receive state aid payments under this subdivision, a charter school in its first three years of operation must submit a quarterly report to the department of ~~children, families, and learning~~ education. The report must list each student by grade, show the student's start and end dates, if any, with the charter school, and for any student participating in a learning year program, the report must list the hours and times of learning year activities. The report must be submitted not more than two weeks after the end of the calendar quarter to the department. The department must develop a Web-based reporting form for charter schools to use when submitting enrollment reports. A charter school in its fourth and subsequent year of operation must submit enrollment information to the department in the form and manner requested by the department.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2004.

Sec. 5. [124D.1158] [SCHOOL BREAKFAST PROGRAM.]

Subdivision 1. [PURPOSE.] The purpose of the school breakfast program is to provide affordable morning nutrition to children so that they can effectively learn. Public and nonpublic schools that participate in the federal school breakfast program may receive state breakfast aid. Schools shall encourage all children to eat a nutritious breakfast, either at home or at school, and shall work to eliminate barriers to breakfast participation at school such as inadequate facilities and transportation.

Subd. 2. [PROGRAM; ELIGIBILITY.] Each school year, public and nonpublic schools that participate in the federal school breakfast program are eligible for the state breakfast program.

Subd. 3. [PROGRAM REIMBURSEMENT.] Each school year, the state must reimburse each participating school 30 cents for each reduced price breakfast and 55 cents for each fully paid breakfast.

Sec. 6. Minnesota Statutes 2002, section 124D.118, subdivision 4, is amended to read:

Subd. 4. [REIMBURSEMENT.] In accordance with program guidelines, the commissioner shall ~~prepay or~~ reimburse each participating ~~districts for the state share of the district's cost for providing~~ public or nonpublic school nine cents for each half-pint of milk that is served to kindergarten students and is not part of a school lunch or breakfast reimbursed under section 124D.111 or 124D.1158.

Sec. 7. Minnesota Statutes 2002, section 126C.42, subdivision 1, is amended to read:

Subdivision 1. [1977 STATUTORY OPERATING DEBT.] (a) In each year in which so required by this subdivision, a district must make an additional levy to eliminate its statutory operating debt, determined as of June 30, 1977, and certified and adjusted by the commissioner. This levy shall not be made in more than 30 successive years and each year before it is made, it must be approved by the commissioner and the approval shall specify its amount. This levy shall be an amount which is equal to the amount raised by a levy of a net tax rate of ~~1.98~~ 2.67 percent times the adjusted net tax capacity of the district for the preceding year for taxes payable in ~~2000~~ 2002 and thereafter; provided that in the last year in which the district is required to make this levy, it must levy an amount not to exceed the amount raised by a levy of a net tax rate of ~~1.98~~ 2.67 percent times the adjusted net tax capacity of the district for the preceding year for taxes payable in ~~2000~~ 2002 and thereafter. When the sum of the cumulative levies made pursuant to this subdivision and transfers made according to section 123B.79, subdivision 6, equals an amount equal to the statutory operating debt of the district, the levy shall be discontinued.

(b) The district must establish a special account in the general fund which shall be designated "appropriated fund balance reserve account for purposes of reducing statutory operating debt" on its books and records. This account shall reflect the levy authorized pursuant to this subdivision. The proceeds of this levy must be used only for cash flow requirements and must not be used to supplement district revenues or income for the purposes of increasing the district's expenditures or budgets.

(c) ~~Any district which is required to levy pursuant to this subdivision must certify the maximum levy allowable under section 126C.13, subdivision 2, in that same year.~~

~~(d)~~ Each district shall make permanent fund balance transfers so that the total statutory operating debt of the district is reflected in the general fund as of June 30, 1977.

Sec. 8. Minnesota Statutes 2002, section 126C.43, subdivision 2, is amended to read:

Subd. 2. [PAYMENT TO UNEMPLOYMENT INSURANCE PROGRAM TRUST FUND BY STATE AND POLITICAL SUBDIVISIONS.] A district may levy 90 percent of the ~~amounts~~ amount exceeding $10 times the district's adjusted marginal cost pupil units for the fiscal year ending in the year before the year the levy is certified necessary (i) to pay the district's obligations under section 268.052, subdivision 1, and ~~the amounts necessary~~ (ii) to pay for job placement services offered to employees who may become eligible for benefits pursuant to section 268.085 for the fiscal year the levy is certified.

[EFFECTIVE DATE.] This section is effective for taxes payable in 2004.

Sec. 9. Minnesota Statutes 2002, section 126C.43, subdivision 3, is amended to read:

Subd. 3. [TAX LEVY FOR JUDGMENT.] A district may levy 90 percent of the ~~amounts~~ amount exceeding $10 times the district's adjusted marginal cost pupil units for the fiscal year ending in the year before the year the levy is certified necessary to pay judgments against the district under section 123B.25 that became final after the date the district certified its proposed levy in the previous year. With the approval of the commissioner, a district may spread this levy over a period not to exceed three years. Upon approval through the adoption of a resolution by each of an intermediate district's member school district boards, a member school district may include its proportionate share of the costs of a judgment against an intermediate school district that became final under section 123B.25 after the date that the earliest member school district certified its proposed levy in the previous year. With the approval of the commissioner, an intermediate school district member school district may spread this levy over a period not to exceed three years.

[EFFECTIVE DATE.] This section is effective for taxes payable in 2004.

Sec. 10. Minnesota Statutes 2002, section 126C.45, is amended to read:

126C.45 [ICE ARENA LEVY.]

(a) Each year, an independent school district operating and maintaining an ice arena, may levy for the net operational costs of the ice arena. The levy may not exceed 90 percent of the net actual costs of operation of the arena for the previous year. Net actual costs are defined as operating costs less any operating revenues.

(b) Any district operating and maintaining an ice arena must demonstrate to the satisfaction of the office of monitoring in the department that the district will offer equal sports opportunities for male and female students to use its ice arena, particularly in areas of access to prime practice time, team support, and providing junior varsity and younger level teams for girls' ice sports and ice sports offerings.

[EFFECTIVE DATE.] This section is effective for taxes payable in 2004.

Sec. 11. Minnesota Statutes 2002, section 126C.48, subdivision 3, is amended to read:

Subd. 3. [ADJUSTMENTS.] If any district levy is found to be excessive as a result of a decision of the tax court or a redetermination by the commissioner of revenue under section 127A.48, subdivisions 7 to 16, or for any other reason, the amount of the excess shall be deducted from the levy certified in the next year for the same purpose. If no levy is certified in the next year for the same purpose or if the amount certified is less than the amount of the excess, the excess must be deducted from that levy and the general fund levy certified pursuant to ~~section 126C.13, subdivision 2~~ chapters 122A, 123A, 123B, 124D, and 126C. If the amount of any aid would have been increased in a prior year as a result of a decision of the tax court or a redetermination by the commissioner of revenue, the amount of the increase shall be added to the amount of current aid for the same purposes.

Sec. 12. Minnesota Statutes 2002, section 127A.45, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] (a) The term "other district receipts" means payments by county treasurers pursuant to section 276.10, apportionments from the school endowment fund pursuant to section 127A.33, apportionments by the county auditor pursuant to section 127A.34, subdivision 2, and payments to school districts by the commissioner of revenue pursuant to chapter 298.

(b) The term "cumulative amount guaranteed" means the product of

(1) the cumulative disbursement percentage shown in subdivision 3; times

(2) the sum of

(i) ~~83~~ 77 percent of the estimated aid and credit entitlements paid according to subdivision 13; plus

(ii) 100 percent of the entitlements paid according to subdivisions 11 and 12; plus

(iii) the other district receipts.

(c) The term "payment date" means the date on which state payments to districts are made by the electronic funds transfer method. If a payment date falls on a Saturday, a Sunday, or a weekday which is a legal holiday, the payment shall be made on the immediately preceding business day. The commissioner may make payments on dates other than those listed in subdivision 3, but only for portions of payments from any preceding payment dates which could not be processed by the electronic funds transfer method due to documented extenuating circumstances.

Sec. 13. Minnesota Statutes 2002, section 127A.45, subdivision 3, is amended to read:

Subd. 3. [PAYMENT DATES AND PERCENTAGES.] (a) ~~For fiscal year 2003, the commissioner shall pay to a district on the dates indicated an amount computed as follows: the cumulative amount guaranteed minus the sum of (a) the district's other district receipts through the current payment, and (b) the aid and credit payments through the immediately preceding payment. For purposes of this computation, the payment dates and the cumulative disbursement percentages are as follows:~~

	~~Payment date~~	~~Percentage~~
~~Payment 1~~	~~July 15:~~	~~5.1~~
~~Payment 2~~	~~July 30:~~	~~7.7~~
~~Payment 3~~	~~August 15:~~	~~16.9~~
~~Payment 4~~	~~August 30:~~	~~19.3~~
~~Payment 5~~	~~September 15:~~	~~21.8~~
~~Payment 6~~	~~September 30:~~	~~24.3~~
~~Payment 7~~	~~October 15:~~	~~26.3~~
~~Payment 8~~	~~October 30:~~	~~28.3~~
~~Payment 9~~	~~November 15:~~	~~32.8~~
~~Payment 10~~	~~November 30:~~	~~39.1~~
~~Payment 11~~	~~December 15:~~	~~42.4~~
~~Payment 12~~	~~December 30:~~	~~45.6~~
~~Payment 13~~	~~January 15:~~	~~50.5~~
~~Payment 14~~	~~January 30:~~	~~55.0~~

~~Payment 15~~	~~February 15:~~	~~60.2~~
~~Payment 16~~	~~February 28:~~	~~65.0~~
~~Payment 17~~	~~March 15:~~	~~69.7~~
~~Payment 18~~	~~March 30:~~	~~74.3~~
~~Payment 19~~	~~April 15:~~	~~78.3~~
~~Payment 20~~	~~April 30:~~	~~84.2~~
~~Payment 21~~	~~May 15:~~	~~88.7~~
~~Payment 22~~	~~May 30:~~	~~93.3~~
~~Payment 23~~	~~June 20:~~	~~100.0~~

~~(b) In addition to the amounts paid under paragraph (a), for fiscal year 2003, the commissioner shall pay to a district on the dates indicated an amount computed as follows:~~

~~Payment 3~~	~~August 15: the final adjustment for the prior fiscal year for the state paid property tax credits established in section 273.1392~~
~~Payment 7~~	~~October 15: one-half of the final adjustment for the prior fiscal year for all aid entitlements except state paid property tax credits~~
~~Payment 8~~	~~October 30: one-half of the final adjustment for the prior fiscal year for all aid entitlements except state paid property tax credits~~

~~(c)~~ For fiscal year 2004 and later, the commissioner shall pay to a district on the dates indicated an amount computed as follows: the cumulative amount guaranteed minus the sum of (a) the district's other district receipts through the current payment, and (b) the aid and credit payments through the immediately preceding payment. For purposes of this computation, the payment dates and the cumulative disbursement percentages are as follows:

	Payment date	Percentage
Payment 1	July 15:	~~5.1~~ 5.5
Payment 2	July 30:	~~7.7~~ 8.0
Payment 3	August 15:	~~16.9~~ 17.5
Payment 4	August 30:	~~19.3~~ 20.0
Payment 5	September 15:	~~21.8~~ 22.5
Payment 6	September 30:	~~24.3~~ 25.0

Payment 7	October 15:	~~26.3~~ 27.0
Payment 8	October 30:	~~28.3~~ 30.0
Payment 9	November 15:	~~30.3~~ 32.5
Payment 10	November 30:	~~35.0~~ 36.5
Payment 11	December 15:	~~40.0~~ 42.0
Payment 12	December 30:	~~43.0~~ 45.0
Payment 13	January 15:	~~48.0~~ 50.0
Payment 14	January 30:	~~52.0~~ 54.0
Payment 15	February 15:	~~56.0~~ 58.0
Payment 16	February 28:	~~61.0~~ 63.0
Payment 17	March 15:	~~66.0~~ 68.0
Payment 18	March 30:	~~72.0~~ 74.0
Payment 19	April 15:	~~76.0~~ 78.0
Payment 20	April 30:	~~83.0~~ 85.0
Payment 21	May 15:	~~88.0~~ 90.0
Payment 22	May 30:	95.0
Payment 23	June 20:	100.0

~~(d)~~ (b) In addition to the amounts paid under paragraph ~~(c)~~ (a), for fiscal year 2004 ~~and later~~, the commissioner shall pay to a district on the dates indicated an amount computed as follows:

Payment 3	August 15: the final adjustment for the prior fiscal year for the state paid property tax credits established in section 273.1392
Payment 4	August 30: one-third of the final adjustment for the prior fiscal year for all aid entitlements except state paid property tax credits
Payment 6	September 30: one-third of the final adjustment for the prior fiscal year for all aid entitlements except state paid property tax credits
Payment 8	October 30: one-third of the final adjustment for the prior fiscal year for all aid entitlements except state paid property tax credits

(c) In addition to the amounts paid under paragraph (a), for fiscal year 2005 and later, the commissioner shall pay to a district on the dates indicated an amount computed as follows:

Payment 3	August 15: the final adjustment for the prior fiscal year for the state paid property tax credits established in section 273.1392
Payment 4	August 30: 30 percent of the final adjustment for the prior fiscal year for all aid entitlements except state paid property tax credits
Payment 6	September 30: 40 percent of the final adjustment for the prior fiscal year for all aid entitlements except state paid property tax credits
Payment 8	October 30: 30 percent of the final adjustment for the prior fiscal year for all aid entitlements except state paid property tax credits

Sec. 14. Minnesota Statutes 2002, section 127A.45, subdivision 7a, is amended to read:

Subd. 7a. [ADVANCE FINAL PAYMENT.] (a) Notwithstanding subdivisions 3 and 7, a school district or a charter school exceeding its expenditure limitations under section 123B.83 as of June 30 of the prior fiscal year may receive a portion of its final payment for the current fiscal year on June 20, if requested by the district. The amount paid under this subdivision must not exceed the lesser of:

(1) seven percent of the district or charter school's general education aid for the current fiscal year; or

(2) the amount by which the district or charter school's net negative unreserved general fund balance as of June 30 of the prior fiscal year exceeds 2.5 percent of the district or charter school's expenditures for that fiscal year.

(b) The state total advance final payment under this subdivision for any year must not exceed ~~$17,500,000~~ $12,000,000. If the amount requested exceeds ~~$17,500,000~~ $12,000,000, the advance final payment for each eligible district must be reduced proportionately.

Sec. 15. Minnesota Statutes 2002, section 127A.45, subdivision 10, is amended to read:

Subd. 10. [PAYMENTS TO SCHOOL NONOPERATING FUNDS.] Each fiscal year state general fund payments for a district nonoperating fund must be made at ~~83~~ 77 percent of the estimated entitlement during the fiscal year of the entitlement. This amount shall be paid in 12 equal monthly installments. The amount of the actual entitlement, after adjustment for actual data, minus the payments made during the fiscal year of the entitlement must be paid prior to October 31 of the following school year. The commissioner may make advance payments of debt service equalization aid or homestead and agricultural credit aid for a district's debt service fund earlier than would occur under the preceding schedule if the district submits evidence showing a serious cash flow problem in the fund. The commissioner may make earlier payments during the year and, if necessary, increase the percent of the entitlement paid to reduce the cash flow problem.

Sec. 16. Minnesota Statutes 2002, section 127A.45, subdivision 13, is amended to read:

Subd. 13. [AID PAYMENT PERCENTAGE.] Except as provided in subdivisions 11, 12, 12a, and 14, each fiscal year, all education aids and credits in this chapter and chapters 120A, 120B, 121A, 122A, 123A, 123B, 124D, 125A, 125B, 126C, 134, and section 273.1392, shall be paid at ~~83~~ 77 percent of the estimated entitlement during the

fiscal year of the entitlement. For the purposes of this subdivision, a district's estimated entitlement for special education excess cost aid under section 125A.79 equals 70 percent of the district's entitlement for the second prior fiscal year. The final adjustment payment, according to subdivision 9, must be the amount of the actual entitlement, after adjustment for actual data, minus the payments made during the fiscal year of the entitlement.

Sec. 17. Minnesota Statutes 2002, section 127A.45, subdivision 14, is amended to read:

Subd. 14. [NONPUBLIC AIDS.] The state shall pay aid according to sections 123B.40 to 123B.48 for pupils attending nonpublic schools as follows:

(1) an advance payment by November 30 equal to ~~83~~ 77 percent of the estimated entitlement for the current fiscal year; and

(2) a final payment by October 31 of the following fiscal year, adjusted for actual data.

If a payment advance to meet cash flow needs is requested by a district and approved by the commissioner, the state shall pay nonpublic pupil transportation aid according to section 123B.92 by October 31.

Sec. 18. Minnesota Statutes 2002, section 127A.45, subdivision 14a, is amended to read:

Subd. 14a. [STATE NUTRITION PROGRAMS.] Notwithstanding subdivision 3, the state shall pay 100 percent of the aid for the current year according to sections 124D.111, ~~124D.115,~~ 124D.1158, and 124D.118 ~~and 83 percent of the aid for the current year according to section 124D.1156~~ based on submitted monthly vouchers showing meals and milk served. ~~The remaining 17 percent according to section 124D.1156 shall be paid by October 30 of the following fiscal year.~~

Sec. 19. Minnesota Statutes 2002, section 127A.45, subdivision 16, is amended to read:

Subd. 16. [PAYMENTS TO THIRD PARTIES.] Notwithstanding subdivision 3, ~~83~~ 77 percent of the amounts under section 123A.26, subdivision 3, shall be paid in equal installments on August 30, December 30, and March 30, with a ~~17~~ 23 percent final adjustment payment on October 30 of the next fiscal year.

Sec. 20. Minnesota Statutes 2002, section 127A.47, subdivision 7, is amended to read:

Subd. 7. [ALTERNATIVE ATTENDANCE PROGRAMS.] The general education aid for districts must be adjusted for each pupil attending a nonresident district under sections 123A.05 to 123A.08, 124D.03, 124D.06, ~~124D.07,~~ 124D.08, and 124D.68. The adjustments must be made according to this subdivision.

(a) General education aid paid to a resident district must be reduced by an amount equal to the referendum equalization aid attributable to the pupil in the resident district.

(b) General education aid paid to a district serving a pupil in programs listed in this subdivision must be increased by an amount equal to the referendum equalization aid attributable to the pupil in the nonresident district.

(c) If the amount of the reduction to be made from the general education aid of the resident district is greater than the amount of general education aid otherwise due the district, the excess reduction must be made from other state aids due the district.

(d) The district of residence must pay tuition to a district or an area learning center, operated according to paragraph (e), providing special instruction and services to a pupil with a disability, as defined in section 125A.02, or a pupil, as defined in section 125A.51, who is enrolled in a program listed in this subdivision. The tuition must

be equal to (1) the actual cost of providing special instruction and services to the pupil, including a proportionate amount for debt service and for capital expenditure facilities and equipment, and debt service but not including any amount for transportation, minus (2) the amount of general education revenue and special education aid but not including any amount for transportation, attributable to that pupil, that is received by the district providing special instruction and services.

(e) An area learning center operated by a service cooperative, intermediate district, education district, or a joint powers cooperative may elect through the action of the constituent boards to charge the resident district tuition for pupils rather than to ~~calculate general education aid adjustments under paragraph (a), (b), or (c). The tuition must be equal to the greater of the average general education revenue per pupil unit attributable to the pupil, or the actual cost of providing the instruction, excluding transportation costs, if the pupil meets the requirements of section 125A.02 or 125A.51~~ have the general education revenue paid to a fiscal agent school district. Except as provided in paragraph (d), the district of residence must pay tuition equal to at least 90 percent of the district average general education revenue per pupil unit minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without basic skills revenue and transportation sparsity revenue, times the number of pupil units for pupils attending the area learning center, plus the amount of compensatory revenue generated by pupils attending the area learning center.

Sec. 21. Minnesota Statutes 2002, section 127A.47, subdivision 8, is amended to read:

Subd. 8. [CHARTER SCHOOLS.] (a) The general education aid for districts must be adjusted for each pupil attending a charter school under section 124D.10. The adjustments must be made according to this subdivision.

(b) General education aid paid to a district in which a charter school not providing transportation according to section 124D.10, subdivision 16, is located must be increased by an amount equal to the product of: (1) the sum of an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, plus the transportation sparsity allowance for the district~~, plus the transportation transition allowance for the district~~; times (2) the pupil units attributable to the pupil.

Sec. 22. Minnesota Statutes 2002, section 127A.49, subdivision 2, is amended to read:

Subd. 2. [ABATEMENTS.] Whenever by virtue of chapter 278, sections 270.07, 375.192, or otherwise, the net tax capacity of any district for any taxable year is changed after the taxes for that year have been spread by the county auditor and the local tax rate as determined by the county auditor based upon the original net tax capacity is applied upon the changed net tax capacities, the county auditor shall, prior to February 1 of each year, certify to the commissioner of ~~children, families, and learning~~ education the amount of any resulting net revenue loss that accrued to the district during the preceding year. Each year, the commissioner shall pay an abatement adjustment to the district in an amount calculated according to the provisions of this subdivision. This amount shall be deducted from the amount of the levy authorized by section 126C.46. The amount of the abatement adjustment must be the product of:

(1) the net revenue loss as certified by the county auditor, times

(2) the ratio of:

(i) the sum of the amounts of the district's certified levy in the preceding year according to the following:

(A) ~~section 126C.13 if the district received general education aid according to that section for the second preceding year;~~

~~(B)~~ section 123B.57, if the district received health and safety aid according to that section for the second preceding year;

~~(C) sections~~ (B) section 124D.20, ~~124D.21, and 124D.56,~~ if the district received aid for community education programs according to ~~any of those sections~~ that section for the second preceding year;

~~(D)~~ (C) section 124D.135, subdivision 3, if the district received early childhood family education aid according to section 124D.135 for the second preceding year; and

~~(E)~~ (D) section 126C.17, subdivision 6, if the district received referendum equalization aid according to that section for the second preceding year; to

(ii) the total amount of the district's certified levy in the preceding December, plus or minus auditor's adjustments.

Sec. 23. Minnesota Statutes 2002, section 127A.49, subdivision 3, is amended to read:

Subd. 3. [EXCESS TAX INCREMENT.] (a) If a return of excess tax increment is made to a district pursuant to section 469.176, subdivision 2, or upon decertification of a tax increment district, the school district's aid and levy limitations must be adjusted for the fiscal year in which the excess tax increment is paid under the provisions of this subdivision.

(b) An amount must be subtracted from the district's aid for the current fiscal year equal to the product of:

(1) the amount of the payment of excess tax increment to the district, times

(2) the ratio of:

(i) the sum of the amounts of the district's certified levy for the fiscal year in which the excess tax increment is paid according to the following:

(A) ~~section 126C.13, if the district received general education aid according to that section for the second preceding year;~~

~~(B)~~ section 123B.57, if the district received health and safety aid according to that section for the second preceding year;

~~(C) sections~~ (B) section 124D.20, ~~124D.21, and 124D.56,~~ if the district received aid for community education programs according to ~~any of those sections~~ that section for the second preceding year;

~~(D)~~ (C) section 124D.135, subdivision 3, if the district received early childhood family education aid according to section 124D.135 for the second preceding year; and

~~(E)~~ (D) section 126C.17, subdivision 6, if the district received referendum equalization aid according to that section for the second preceding year; to

(ii) the total amount of the district's certified levy for the fiscal year, plus or minus auditor's adjustments.

(c) An amount must be subtracted from the school district's levy limitation for the next levy certified equal to the difference between:

(1) the amount of the distribution of excess increment; and

(2) the amount subtracted from aid pursuant to clause (a).

If the aid and levy reductions required by this subdivision cannot be made to the aid for the fiscal year specified or to the levy specified, the reductions must be made from aid for subsequent fiscal years, and from subsequent levies. The school district must use the payment of excess tax increment to replace the aid and levy revenue reduced under this subdivision.

(d) This subdivision applies only to the total amount of excess increments received by a district for a calendar year that exceeds $25,000.

Sec. 24. Minnesota Statutes 2002, section 128D.11, subdivision 8, is amended to read:

Subd. 8. [NET DEBT LIMIT.] The school district shall not be subject to a net debt in excess of ~~102~~ 144 percent of the net tax capacity of all taxable property therein.

Sec. 25. Minnesota Statutes 2002, section 268.052, subdivision 2, is amended to read:

Subd. 2. [ELECTION BY STATE OR POLITICAL SUBDIVISION TO BE A TAXPAYING EMPLOYER.] (a) The state or political subdivision excluding a school district may elect to be a taxpaying employer for any calendar year if a notice of election is filed within 30 calendar days following January 1 of that calendar year. Upon election, the state or political subdivision shall be assigned the new employer tax rate under section 268.051, subdivision 5, for the calendar year of the election and until it qualifies for an experience rating under section 268.051, subdivision 3.

(b) An election shall be for a minimum period of two calendar years following the effective date of the election and continue unless a notice terminating the election is filed not later than 30 calendar days before the beginning of the calendar year. The termination shall be effective at the beginning of the next calendar year. Upon election, the commissioner shall establish a reimbursable account for the state or political subdivision. A termination of election shall be allowed only if the state or political subdivision has, since the beginning of the experience rating period under section 268.051, subdivision 3, paid taxes and made voluntary payments under section 268.051, subdivision 7, equal to or more than 125 percent of the unemployment benefits used in computing the experience rating. In addition, any unemployment benefits paid after the experience rating period shall be transferred to the new reimbursable account of the state or political subdivision. If the amount of taxes and voluntary payments paid since the beginning of the experience rating period exceeds 125 percent of the amount of unemployment benefits paid during the experience rating period, that amount in excess shall be applied against any unemployment benefits paid after the experience rating period.

(c) The method of payments to the fund under subdivisions 3 and 4 shall apply to all taxes paid by or due from the state or political subdivision that elects to be taxpaying employers under this subdivision.

(d) The commissioner may allow a notice of election or a notice terminating election to be filed by mail or electronic transmission.

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

Sec. 26. Minnesota Statutes 2002, section 268.052, subdivision 4, is amended to read:

Subd. 4. [METHOD OF PAYMENT BY POLITICAL SUBDIVISION.] A political subdivision or instrumentality thereof is authorized and directed to pay its liabilities by money collected from taxes or other revenues. Every political subdivision authorized to levy taxes except school districts may include in its tax levy the amount necessary to pay its liabilities. School districts may levy according to section 126C.43, subdivision 2. If the taxes authorized to be levied cause the total amount of taxes levied to exceed any limitation upon the power of a political subdivision to levy taxes, the political subdivision may levy taxes in excess of the limitations in the amounts necessary to meet its liability. The expenditures authorized shall not be included in computing the cost of government as defined in any home rule charter. The governing body of a municipality, for the purpose of meeting its liabilities, in the event of a deficit, may issue its obligations payable in not more than two years, in an amount that may cause its indebtedness to exceed any statutory or charter limitations, without an election, and may levy taxes in the manner provided in section 475.61.

[EFFECTIVE DATE.] This section is effective for taxes payable in 2004.

Sec. 27. Minnesota Statutes 2002, section 273.138, subdivision 6, is amended to read:

Subd. 6. The amount of aid calculated for a school district pursuant to subdivision 3, clauses (2), (3), (4), and (5) shall be deducted from the school district's general fund levy limitation established pursuant to ~~section 126C.13~~ chapters 122A, 123A, 123B, 124D, and 126C in determining the amount of taxes the school district may levy for general and special purposes.

Sec. 28. Minnesota Statutes 2002, section 298.28, subdivision 4, is amended to read:

Subd. 4. [SCHOOL DISTRICTS.] (a) 17.15 cents per taxable ton plus the increase provided in paragraph (d) must be allocated to qualifying school districts to be distributed, based upon the certification of the commissioner of revenue, under paragraphs (b) and (c), except as otherwise provided in paragraph (f).

(b) 3.43 cents per taxable ton must be distributed to the school districts in which the lands from which taconite was mined or quarried were located or within which the concentrate was produced. The distribution must be based on the apportionment formula prescribed in subdivision 2.

(c)(i) 13.72 cents per taxable ton, less any amount distributed under paragraph (e), shall be distributed to a group of school districts comprised of those school districts in which the taconite was mined or quarried or the concentrate produced or in which there is a qualifying municipality as defined by section 273.134, paragraph (b), in direct proportion to school district indexes as follows: for each school district, its pupil units determined under section 126C.05 for the prior school year shall be multiplied by the ratio of the average adjusted net tax capacity per pupil unit for school districts receiving aid under this clause as calculated pursuant to chapters 122A, 126C, and 127A for the school year ending prior to distribution to the adjusted net tax capacity per pupil unit of the district. Each district shall receive that portion of the distribution which its index bears to the sum of the indices for all school districts that receive the distributions.

(ii) Notwithstanding clause (i), each school district that receives a distribution under sections 298.018; 298.23 to 298.28, exclusive of any amount received under this clause; 298.34 to 298.39; 298.391 to 298.396; 298.405; or any law imposing a tax on severed mineral values after reduction for any portion distributed to cities and towns under section 126C.48, subdivision 8, paragraph (5), that is less than the amount of its levy reduction under section 126C.48, subdivision 8, for the second year prior to the year of the distribution shall receive a distribution equal to the difference; the amount necessary to make this payment shall be derived from proportionate reductions in the initial distribution to other school districts under clause (i).

(d) Any school district described in paragraph (c) where a levy increase pursuant to section 126C.17, subdivision 9, was authorized by referendum for taxes payable in 2001, shall receive a distribution from a fund that receives a distribution in 1998 of 21.3 cents per ton. On July 15 of 1999, and each year thereafter, the increase over the amount established for the prior year shall be determined according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1. Each district shall receive $175 times the pupil units identified in section 126C.05, subdivision 1, enrolled in the second previous year or the 1983-1984 school year, whichever is greater, less the product of 1.8 percent times the district's taxable net tax capacity in the second previous year.

If the total amount provided by paragraph (d) is insufficient to make the payments herein required then the entitlement of $175 per pupil unit shall be reduced uniformly so as not to exceed the funds available. Any amounts received by a qualifying school district in any fiscal year pursuant to paragraph (d) shall not be applied to reduce general education aid which the district receives pursuant to section 126C.13 or the permissible levies of the district. Any amount remaining after the payments provided in this paragraph shall be paid to the commissioner of iron range resources and rehabilitation who shall deposit the same in the taconite environmental protection fund and the northeast Minnesota economic protection trust fund as provided in subdivision 11.

Each district receiving money according to this paragraph shall reserve the lesser of the amount received under this paragraph or $25 times the number of pupil units served in the district. It may use the money for early childhood programs or for outcome-based learning programs that enhance the academic quality of the district's curriculum. The outcome-based learning programs must be approved by the commissioner of ~~children, families, and learning~~ education.

(e) There shall be distributed to any school district the amount which the school district was entitled to receive under section 298.32 in 1975.

(f) Effective for the distribution in 2003 only, five percent of the distributions to school districts under paragraphs (b), (c), and (e); subdivision 6, paragraph (c); subdivision 11; and section 298.225, shall be distributed to the general fund. The remainder less any portion distributed to cities and towns under section 126C.48, subdivision 8, paragraph (5), shall be distributed to the northeast Minnesota economic protection trust fund created in section 298.292. Fifty percent of the amount distributed to the northeast Minnesota economic protection trust fund shall be made available for expenditure under section 298.293 as governed by section 298.296. Effective in 2003 only, 100 percent of the distributions to school districts under section 477A.15 less any portion distributed to cities and towns under section 126C.48, subdivision 8, paragraph (5), shall be distributed to the general fund.

Sec. 29. Minnesota Statutes 2002, section 475.61, subdivision 4, is amended to read:

Subd. 4. [SURPLUS FUNDS.] (a) All such taxes shall be collected and remitted to the municipality by the county treasurer as other taxes are collected and remitted, and shall be used only for payment of the obligations on account of which levied or to repay advances from other funds used for such payments, except that any surplus remaining in the debt service fund when the obligations and interest thereon are paid may be appropriated to any other general purpose by the municipality. However, the amount of any surplus remaining in the debt service fund of a school district when the obligations and interest thereon are paid shall be used to reduce the general ~~education~~ fund levy authorized pursuant to ~~section 126C.13~~ chapters 122A, 123A, 123B, 124D, and 126C and the state aids authorized pursuant to chapters 122A, 123A, 123B, 124D, 125A, 126C, and 127A.

(b) The reduction to state aids equals the lesser of (1) the amount of the surplus times the ratio of the district's debt service equalization aid to the district's debt service equalization revenue for the last year that the district qualified for debt service equalization aid; or (2) the district's cumulative amount of debt service equalization aid.

(c) The reduction to the general ~~education~~ fund levy equals the total amount of the surplus minus the reduction to state aids.

Sec. 30. Laws 1965, chapter 705, as amended by Laws 1975, chapter 261, section 4; Laws 1980, chapter 609, article 6, section 37; and Laws 1989, chapter 329, article 13, section 18, is amended to read:

Sec. 6. [ST. PAUL SEVERANCE LEVY.] The school board of independent school district No. 625, St. Paul, for the purpose of providing moneys for the payment of its severance pay obligations under a plan approved by resolution of the district, in addition to all other powers possessed by the school district and in addition to and in excess of any existing limitation upon the amount it is otherwise authorized by law to levy as taxes, is authorized to levy taxes annually not exceeding in any one year an amount equal to ~~a gross tax capacity rate of .17 percent for taxes payable in 1990 or~~ a net tax capacity rate of ~~.21~~ .34 percent for taxes payable in ~~1991~~ 2002 and thereafter upon all taxable property within the school district which taxes as levied shall be spread upon the tax rolls, and all corrections thereof shall be held by the school district, and allocated therefor to be disbursed and expended by the school district in payment of any public school severance pay obligations and for no other purpose. Disbursements and expenditures previously authorized on behalf of the school district for payment of severance pay obligations shall not be deemed to constitute any part of the cost of the operation and maintenance of the school district within the meaning of any statutory limitation of any school district expenditures.

The amount of such severance pay allowable or to become payable in respect of any such employment or to any such employee shall not exceed the amount permitted by Minnesota Statutes, Section 465.72.

[EFFECTIVE DATE.] This section is effective retroactively for taxes payable in 2002 and thereafter.

Sec. 31. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [SCHOOL LUNCH.] (a) For school lunch aid according to Minnesota Statutes, section 124D.111, and Code of Federal Regulations, title 7, section 210.17:

$7,800,000	. . . . .	2004
$7,950,000	. . . . .	2005

Subd. 3. [TRADITIONAL SCHOOL BREAKFAST; KINDERGARTEN MILK.] For traditional school breakfast aid and kindergarten milk under Minnesota Statutes, sections 124D.1158 and 124D.118:

$3,088,000	. . . . .	2004
$3,217,000	. . . . .	2005

Subd. 4. [FAST BREAK TO LEARNING BREAKFAST.] For fast break to learning breakfast under Minnesota Statutes, section 124D.1156:

$747,000	. . . . .	2004

The 2004 appropriation includes $747,000 for 2003 and $0 for 2004.

Subd. 5. [SUMMER SCHOOL SERVICE REPLACEMENT AID.] For summer food service replacement aid under Minnesota Statutes, section 124D.119:

$150,000	. . . . .	2004
$150,000	. . . . .	2005

Sec. 32. [REVISOR INSTRUCTION.]

In the next and subsequent editions of Minnesota Statutes, the revisor shall codify section 30 as Minnesota Statutes, section 126C.41, subdivision 5.

Sec. 33. [REPEALER.]

Minnesota Statutes 2002, sections 124D.115; 124D.1156; and 127A.41, subdivision 6, are repealed.

ARTICLE 6

LIBRARIES

Section 1. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [BASIC SUPPORT.] For basic support grants according to Minnesota Statutes, sections 134.32 to 134.35:

$8,979,000	.....	2004
$9,770,000	.....	2005

The 2004 appropriation includes $1,456,000 for 2003 and $7,523,000 for 2004.

The 2005 appropriation includes $2,247,000 for 2004 and $7,523,000 for 2005.

Subd. 3. [MULTICOUNTY, MULTITYPE LIBRARY SYSTEMS.] For grants according to Minnesota Statutes, sections 134.353 and 134.354, to multicounty, multitype library systems:

$849,000	.....	2004
$903,000	.....	2005

The 2004 appropriation includes $153,000 for 2003 and $696,000 for 2004.

The 2005 appropriation includes $207,000 for 2004 and $696,000 for 2005.

Subd. 4. [ELECTRONIC LIBRARY FOR MINNESOTA.] For statewide licenses to on-line databases selected in cooperation with the higher education services office for school media centers, public libraries, state government agency libraries, and public or private college or university libraries:

$400,000	.....	2004
$400,000	.....	2005

Any balance in the first year does not cancel but is available in the second year.

ARTICLE 7

EARLY CHILDHOOD FAMILY SUPPORT

Section 1. Minnesota Statutes 2002, section 119A.52, is amended to read:

119A.52 [DISTRIBUTION OF APPROPRIATION AND PROGRAM COORDINATION.]

Subdivision 1. [DISTRIBUTION OF APPROPRIATION; WORK PLAN.] ~~(a)~~ The commissioner of ~~children, families, and learning~~ education must distribute money appropriated for that purpose to Head Start program grantees to expand services and to serve additional low-income children. Money must be allocated to each project Head Start grantee in existence on the effective date of Laws 1989, chapter 282. Migrant and Indian reservation grantees must be initially allocated money based on the grantees' share of federal funds. The remaining money must be initially allocated to the remaining local agencies based equally on the agencies' share of federal funds and on the proportion of eligible children in the agencies' service area who are not currently being served. A Head Start grantee must be funded at a per child rate equal to its contracted, federally funded base level for program accounts 20, 22, and 25 at the start of the fiscal year. In allocating funds under this paragraph, the commissioner of ~~children, families, and learning~~ education must assure that each Head Start grantee is allocated no less funding in any fiscal year than was allocated to that grantee in fiscal year 1993. The commissioner may provide additional funding to grantees for start-up costs incurred by grantees due to the increased number of children to be served. Before paying money to the grantees, the commissioner must notify each grantee of its initial allocation, how the money must be used, and the number of low-income children that must be served with the allocation. Each grantee must ~~notify~~ present a work plan to the commissioner ~~of~~ for approval. The work plan must include the estimated number of low-income children and families it will be able to serve, a description of the program design and service delivery area which meets the needs of and encourages access by low-income working families, a program design that ensures fair and equitable access to Head Start services for all populations and parts of the service area, and a plan for coordinating services to maximize assistance for child care costs available to families under chapter 119B. For any grantee that cannot utilize its full allocation, the commissioner must reduce the allocation proportionately. Money available after the initial allocations are reduced must be redistributed to eligible grantees.

~~(b) Up to 11 percent of the funds appropriated annually may be used to provide grants to local Head Start agencies to provide funds for innovative programs designed either to target Head Start resources to particular at-risk groups of children or to provide services in addition to those currently allowable under federal Head Start regulations. The commissioner must award funds for innovative programs under this paragraph on a competitive basis.~~

Subd. 2. [PROGRAM COORDINATION.] Each Head Start grantee must submit a plan, as part of the work plan requirement in subdivision 1, to coordinate and maximize use of existing public and private community resources and reduce duplication of services.

Sec. 2. Minnesota Statutes 2002, section 124D.13, subdivision 2, is amended to read:

Subd. 2. [PROGRAM CHARACTERISTICS.] Early childhood family education programs are programs for children in the period of life from birth to kindergarten, for the parents of such children, and for expectant parents. ~~The~~ To the extent that funds are insufficient to provide programs for all children, early childhood family education programs should emphasize programming for a child from birth to age three and encourage parents to involve four- and five-year-old children in school readiness programs, and other public and nonpublic early learning programs. Early childhood family education programs may include the following:

(1) programs to educate parents about the physical, mental, and emotional development of children;

(2) programs to enhance the skills of parents in providing for their children's learning and development;

(3) learning experiences for children and parents that promote children's development;

(4) activities designed to detect children's physical, mental, emotional, or behavioral problems that may cause learning problems;

(5) activities and materials designed to encourage self-esteem, skills, and behavior that prevent sexual and other interpersonal violence;

(6) educational materials which may be borrowed for home use;

(7) information on related community resources;

(8) programs to prevent child abuse and neglect;

(9) other programs or activities to improve the health, development, and school readiness of children; or

(10) activities designed to maximize development during infancy.

The programs must not include activities for children that do not require substantial involvement of the children's parents. The programs must be reviewed periodically to assure the instruction and materials are not racially, culturally, or sexually biased. The programs must encourage parents to be aware of practices that may affect equitable development of children.

Sec. 3. Minnesota Statutes 2002, section 124D.13, subdivision 4, is amended to read:

Subd. 4. [HOME VISITING PROGRAM.] ~~(a) The commissioner~~ A district that levies for home visiting under section 124D.135, subdivision 6, shall use this revenue to include as part of the early childhood family education programs a parent education component ~~to prevent child abuse and neglect. This parent education component must include:~~

~~(1) expanding statewide the home visiting component of the early childhood family education programs;~~

~~(2) training parent educators, child educators, community outreach workers, and home visitors in the dynamics of child abuse and neglect and positive parenting and discipline practices; and~~

~~(3) developing and disseminating education and public information materials that promote positive parenting skills and prevent child abuse and neglect.~~

~~(b) The parent education component must:~~

~~(1) offer to isolated or at risk families home visiting parent education services that at least address parenting skills, a child's development and stages of growth, communication skills, managing stress, problem solving skills, positive child discipline practices, methods of improving parent-child interactions and enhancing self-esteem, using community support services and other resources, and encouraging parents to have fun with and enjoy their children;~~

~~(2) develop a~~ that is designed to reach isolated or at-risk families.

The home visiting program must use:

(1) an established risk assessment tool to determine the family's level of risk;

~~(3)~~ (2) establish clear objectives and protocols for home visits;

~~(4) determine the frequency and duration of home visits based on a risk need assessment of the client, with home visits beginning in the second trimester of pregnancy and continuing, based on client need, until a child is six years old;~~

~~(5)~~ (3) encourage families to make a transition from home visits to site-based parenting programs ~~to build a family support network and reduce the effects of isolation~~;

~~(6) develop and distribute education materials on preventing child abuse and neglect that may be used in home visiting programs and parent education classes and distributed to the public;~~

~~(7) initially provide at least 40 hours of training and thereafter ongoing training for parent educators, child educators, community outreach workers, and home visitors that covers the dynamics of child abuse and neglect, domestic violence and victimization within family systems, signs of abuse or other indications that a child may be at risk of being abused or neglected, what child abuse and neglect are, how to properly report cases of child abuse and neglect, respect for cultural preferences in child rearing, what community resources, social service agencies, and family support activities and programs are available, child development and growth, parenting skills, positive child discipline practices, identifying stress factors and techniques for reducing stress, home visiting techniques, and risk assessment measures;~~

~~(8)~~ (4) provide program services that are community-based, accessible, and culturally relevant; and

~~(9)~~ (5) foster collaboration among existing agencies and community-based organizations that serve young children and their families.

~~(c)~~ Home visitors should reflect the demographic composition of the community ~~the home visitor is serving~~ to the extent possible.

Sec. 4. Minnesota Statutes 2002, section 124D.13, subdivision 8, is amended to read:

Subd. 8. [COORDINATION.] (a) A district ~~is encouraged to coordinate the program with its special education and vocational education programs and with related services provided by other governmental agencies and nonprofit agencies.~~ must describe strategies to coordinate and maximize public and private community resources and reduce duplication of services.

(b) A district is encouraged to coordinate adult basic education programs provided to parents and early childhood family education programs provided to children to accomplish the goals of section 124D.895.

Sec. 5. Minnesota Statutes 2002, section 124D.13, subdivision 11, is amended to read:

Subd. 11. [TEACHERS.] A school board must employ ~~necessary~~ qualified teachers or instructors for its early childhood family education programs.

Sec. 6. Minnesota Statutes 2002, section 124D.135, subdivision 1, is amended to read:

Subdivision 1. [REVENUE.] The revenue for early childhood family education programs for a school district equals ~~$113.50 for fiscal years 2000 and 2001 and~~ $120 ~~for 2002 and later fiscal years~~ for fiscal years 2003 and 2004 and $105 for fiscal year 2005 and later, times the greater of:

(1) 150; or

(2) the number of people under five years of age residing in the district on October 1 of the previous school year.

Sec. 7. Minnesota Statutes 2002, section 124D.135, subdivision 8, is amended to read:

Subd. 8. [RESERVE ACCOUNT LIMIT.] (a) Under this section, the average balance, during the most recent three-year period in a district's early childhood family education reserve account on June 30 of each year, adjusted for any prior reductions under this subdivision, must not be greater than 25 percent of the sum of the district's maximum early childhood family education annual revenue under subdivision 1, excluding adjustments under this subdivision, plus any fees, grants, or other revenue received by the district for early childhood family education programs for the prior year.

(b) If a district's adjusted average early childhood family education reserve over the three-year period is in excess of ~~25 percent of the prior year annual revenue~~ the limit under paragraph (a), the district's early childhood family education state aid and levy authority for the current school year must be reduced by the lesser of the current year revenue under subdivision 1 or the excess reserve amount. The aid reduction equals the product of the lesser of the excess reserve amount or the current year revenue under subdivision 1 times the ratio of the district's aid for the ~~prior~~ current year under subdivision 4 to the district's revenue for the ~~prior~~ current year under subdivision 1. The levy reduction equals the excess reserve amount minus the aid reduction. ~~The commissioner must reallocate aid and levy reduced under this subdivision to other eligible early childhood family education programs in proportion to each district's revenue for the prior year under subdivision 1.~~ For purposes of this paragraph, if a district does not levy the entire amount permitted under subdivision 3, the revenue under subdivision 1 must be reduced in proportion to the actual amount levied.

~~(b)~~ (c) Notwithstanding paragraph (a), for fiscal year 2003, the excess reserve amount shall be computed using the balance in a district's early childhood family education reserve account on June 30, 2002. For fiscal year 2004, the excess reserve amount shall be computed using the adjusted average balance in a district's early childhood family education reserve account on June 30, 2002, and June 30, 2003.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2003.

Sec. 8. Minnesota Statutes 2002, section 124D.15, subdivision 7, is amended to read:

Subd. 7. [ADVISORY COUNCIL.] Each school readiness program must have an advisory council composed of members of existing early education-related boards, parents of participating children, child care providers, culturally specific service organizations, local resource and referral agencies, local early intervention committees, and representatives of early childhood service providers. The council must advise the board in creating and administering the program and must monitor the progress of the program. The council must ensure that children at greatest risk receive appropriate services. If the board is unable to appoint to the advisory council members of existing early education-related boards, it must appoint parents of children enrolled in the program who represent the racial, cultural, and economic diversity of the district and representatives of early childhood service providers as representatives to an existing advisory council.

Sec. 9. Minnesota Statutes 2002, section 124D.16, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM REVIEW AND APPROVAL.] A school district shall biennially by May 1 submit to the commissioners of ~~children, families, and learning~~ education and health the program plan required under this subdivision. As determined by the commissioners, one-half of the districts shall first submit the plan by May 1 of the 2000-2001 school year and one-half of the districts shall first submit the plan by May 1 of the 2001-2002 school year. The program plan must include:

(1) a description of the services to be provided;

(2) a plan to ensure children at greatest risk receive appropriate services;

(3) a description of ~~procedures and methods to be used~~ strategies to coordinate and maximize public and private community resources ~~to maximize use of existing community resources, including school districts, health care facilities, government agencies, neighborhood organizations, and other resources knowledgeable in early childhood development~~ and reduce duplication of services;

(4) comments about the district's proposed program by the advisory council required by section 124D.15, subdivision 7; and

(5) agreements with all participating service providers.

Each commissioner may review and comment on the program, and make recommendations to the commissioner of ~~children, families, and learning~~ education, within ~~30~~ 90 days of receiving the plan.

Sec. 10. Minnesota Statutes 2002, section 124D.16, subdivision 6, is amended to read:

Subd. 6. [RESERVE ACCOUNT LIMIT.] (a) Under this section, the average balance, during the most recent three-year period, in a district's school readiness reserve account on June 30 of each year, adjusted for any prior reductions under this subdivision, must not be greater than 25 percent of the district's school readiness annual revenue for the prior year, excluding adjustments under this subdivision.

(b) If a district's adjusted average school readiness reserve over the three-year period is in excess of ~~25 percent of the prior year annual revenue~~ the limit under paragraph (a), the district's current year school readiness state aid must be reduced by the lesser of the excess reserve amount or the current year aid. ~~The commissioner must reallocate aid reduced under this subdivision to other eligible school readiness programs in proportion to each district's aid for the prior year under subdivision 2.~~

~~(b)~~ (c) Notwithstanding paragraph (a), for fiscal year 2003, the excess reserve amount shall be computed using the balance in a district's school readiness reserve account on June 30, 2002. For fiscal year 2004, the excess reserve amount shall be computed using the adjusted average balance in a district's school readiness reserve account on June 30, 2002, and June 30, 2003.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2003.

Sec. 11. [EARLY CHILDHOOD PROGRAMS FOR LOW-INCOME CHILDREN.]

The commissioner of education, in order to expand services to low-income children between the ages of three and five, must consider redistributing state funds currently appropriated to Head Start grantees to various qualifying early childhood program providers. The commissioner must explore eligibility criteria and requirements for awarding grants to early childhood program providers throughout the state, including Head Start grantees, that deliver services to low-income children in unserved and underserved areas, demonstrate relevant experience with young children, and include a strong early learning component in their program. The commissioner by February 15, 2004, must report the commissioner's findings about redistributing state funds currently appropriated to Head Start grantees to various qualifying early childhood program providers to the committees of the legislature having jurisdiction over kindergarten through grade 12 education policy and finance.

Sec. 12. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [SCHOOL READINESS.] For revenue for school readiness programs under Minnesota Statutes, sections 124D.15 and 124D.16:

$9,239,000	. . . . .	2004
$9,283,000	. . . . .	2005

The 2004 appropriation includes $1,605,000 for 2003 and $7,634,000 for 2004.

The 2005 appropriation includes $2,279,000 for 2004 and $7,004,000 for 2005.

Subd. 3. [EARLY CHILDHOOD FAMILY EDUCATION AID.] For early childhood family education aid under Minnesota Statutes, section 124D.135:

$19,059,000	. . . . .	2004
$17,862,000	. . . . .	2005

The 2004 appropriation includes $3,239,000 for 2003 and $15,820,000 for 2004.

The 2005 appropriation includes $4,725,000 for 2004 and $13,137,000 for 2005.

Subd. 4. [HEALTH AND DEVELOPMENTAL SCREENING AID.] For health and developmental screening aid under Minnesota Statutes, sections 121A.17 and 121A.19:

$2,501,000	. . . . .	2004
$2,661,000	. . . . .	2005

The 2004 appropriation includes $452,000 for 2003 and $2,049,000 for 2004.

The 2005 appropriation includes $612,000 for 2004 and $2,049,000 for 2005.

Subd. 5. [HEAD START PROGRAM.] For Head Start programs under Minnesota Statutes, section 119A.52:

$16,475,000	. . . . .	2004
$12,000,000	. . . . .	2005

Sec. 13. [REPEALER.]

Minnesota Statutes 2002, section 124D.17, is repealed.

ARTICLE 8

PREVENTION

Section 1. Minnesota Statutes 2002, section 124D.19, subdivision 3, is amended to read:

Subd. 3. [COMMUNITY EDUCATION DIRECTOR.] (a) Except as provided under paragraphs (b) and (c), each board shall employ a licensed community education director. The board shall submit the name of the person who is serving as director of community education under this section on the district's annual community education report to the commissioner.

(b) A board may apply to the ~~commissioner~~ Minnesota board of school administrators under Minnesota Rules, part 3512.3500, subpart 9, for authority to use an individual who is not licensed as a community education director.

(c) A board of a district with a total population of 2,000 or less may identify an employee who holds a valid Minnesota principal or superintendent license under Minnesota Rules, chapter 3512, to serve as director of community education. To be eligible for an exception under this paragraph, the board shall certify in writing to the commissioner that the district has not placed a licensed director of community education on unrequested leave.

Sec. 2. Minnesota Statutes 2002, section 124D.20, subdivision 3, is amended to read:

Subd. 3. [GENERAL COMMUNITY EDUCATION REVENUE.] The general community education revenue for a district equals $5.95 for fiscal year 2003 and 2004 and $5.23 for fiscal year 2005 and later, times the greater of 1,335 or the population of the district. The population of the district is determined according to section 275.14.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2005.

Sec. 3. Minnesota Statutes 2002, section 124D.20, subdivision 5, is amended to read:

Subd. 5. [TOTAL COMMUNITY EDUCATION LEVY.] To obtain total community education revenue, a district ~~operating a youth after-school enrichment program under section 124D.19, subdivision 12,~~ may levy the amount raised by a maximum tax rate of ~~.7431~~ .985 percent times the adjusted net tax capacity of the district. ~~To obtain total community education revenue, a district not operating a youth after-school enrichment program may levy the amount raised by a maximum tax rate of .4795 percent times the adjusted net tax capacity of the district.~~ If the amount of the total community education levy would exceed the total community education revenue, the total community education levy shall be determined according to subdivision 6.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2005.

Sec. 4. Minnesota Statutes 2002, section 124D.20, is amended by adding a subdivision to read:

Subd. 11. [RESERVE ACCOUNT LIMIT.] (a) Under this section, the sum of the average balances during the most recent three-year period in a district's community education reserve account and unreserved/undesignated community service fund account on June 30 of each year, adjusted for any prior reductions under this subdivision, must not be greater than 25 percent of the sum of the district's maximum total community education revenue under subdivision 1, excluding adjustments under this subdivision, plus the district's additional community education levy under section 124D.21, plus any fees, grants, or other revenue received by the district for community education programs for the prior year. For purposes of this paragraph, "community education programs" means programs according to subdivisions 8, paragraph (a), and 9, and section 124D.19, subdivision 12, excluding early childhood family education programs under section 124D.13, school readiness programs under sections 124D.15 and 124D.17, and adult basic education programs under section 124D.52.

(b) If the sum of the average balances during the most recent three-year period in a district's community education reserve account and unreserved/undesignated community service fund account on June 30 of each year, adjusted for any prior reductions under this subdivision, is in excess of the limit under paragraph (a), the district's community education state aid and levy authority for the current school year must be reduced by the lesser of the current year revenue under subdivision 1 or the excess reserve amount. The aid reduction equals the product of the lesser of the excess reserve amount or the current year revenue under subdivision 1 times the ratio of the district's aid for the current year under subdivision 7 to the district's revenue for the current year under subdivision 1. The levy reduction equals the excess reserve amount minus the aid reduction. For purposes of this paragraph, if a district does not levy the entire amount permitted under subdivision 5 or 6, the revenue under subdivision 1 must be reduced in proportion to the actual amount levied.

(c) Notwithstanding paragraph (a), for fiscal year 2003, the excess reserve amount shall be computed using the balances in a district's community education reserve account and unreserved/undesignated community service fund account on June 30, 2002. For fiscal year 2004, the excess reserve amount shall be computed using the adjusted average balances in a district's community education reserve account and unreserved/undesignated community service fund account on June 30, 2002, and June 30, 2003.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2003.

Sec. 5. Minnesota Statutes 2002, section 124D.20, is amended by adding a subdivision to read:

Subd. 12. [WAIVER.] (a) If a district anticipates that the reserve account may exceed the 25 percent limit established under subdivision 11 because of extenuating circumstances, prior approval to exceed the limit must be obtained in writing from the commissioner.

(b) Notwithstanding paragraph (a), for fiscal year 2003, a district may submit a waiver request within 30 days of the date of final enactment.

[EFFECTIVE DATE.] This section is effective the day following final enactment for revenue for fiscal year 2003.

Sec. 6. Minnesota Statutes 2002, section 124D.22, subdivision 3, is amended to read:

Subd. 3. [SCHOOL-AGE CARE LEVY.] To obtain school-age care revenue, a school district may levy an amount equal to the district's school-age care revenue as defined in subdivision 2 multiplied by the lesser of one, or the ratio of the quotient derived by dividing the adjusted net tax capacity of the district for the year before the year the levy is certified by the resident pupil units in the district for the school year to which the levy is attributable, to ~~$3,280~~ $2,433.

Sec. 7. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [COMMUNITY EDUCATION AID.] For community education aid under Minnesota Statutes, section 124D.20:

$5,325,000	.....	2004
$3,491,000	.....	2005

The 2004 appropriation includes $956,000 for 2003 and $4,369,000 for 2004.

The 2005 appropriation includes $1,304,000 for 2004 and $2,187,000 for 2005.

Subd. 3. [ADULTS WITH DISABILITIES PROGRAM AID.] For adults with disabilities programs under Minnesota Statutes, section 124D.56:

$667,000	.....	2004
$710,000	.....	2005

The 2004 appropriation includes $120,000 for 2003 and $547,000 for 2004.

The 2005 appropriation includes $163,000 for 2004 and $547,000 for 2005.

Subd. 4. [HEARING-IMPAIRED ADULTS.] For programs for hearing-impaired adults under Minnesota Statutes, section 124D.57:

$70,000	. . . . .	2004
$70,000	. . . . .	2005

Subd. 5. [ABUSED CHILDREN.] For abused children programs under Minnesota Statutes, section 119A.21:

$945,000	. . . . .	2004
$945,000	. . . . .	2005

Subd. 6. [SCHOOL-AGE CARE REVENUE.] For extended day care aid under Minnesota Statutes, section 124D.22:

$40,000	. . . . .	2004
$23,000	. . . . .	2005

The 2004 appropriation includes $14,000 for 2003 and $26,000 for 2004.

The 2005 appropriation includes $7,000 for 2004 and $16,000 for 2005.

Sec. 8. [REPEALER.]

Minnesota Statutes 2002, sections 120B.23; 124D.21; 124D.221; 124D.93; and 144.401, subdivision 5, are repealed.

ARTICLE 9

SELF-SUFFICIENCY AND LIFE LONG LEARNING

Section 1. Minnesota Statutes 2002, section 124D.52, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM REQUIREMENTS.] (a) An adult basic education program is a day or evening program offered by a district that is for people over 16 years of age who do not attend an elementary or secondary school. The program offers academic instruction necessary to earn a high school diploma or equivalency certificate. ~~Tuition and fees may not be charged to a learner for instruction paid under this section, except for~~

(b) Notwithstanding any law to the contrary, a school board or the governing body of a consortium offering an adult basic education program may adopt a sliding fee schedule based on a family's income, but must waive the fee for participants who are under the age of 21 or unable to pay. The fees charged must be designed to enable individuals of all socioeconomic levels to participate in the program. A program may charge a security deposit to assure return of materials, supplies, and equipment.

(c) Each approved adult basic education program must develop a memorandum of understanding with the local workforce development centers located in the approved program's service delivery area. The memorandum of understanding must describe how the adult basic education program and the workforce development centers will cooperate and coordinate services to provide unduplicated, efficient, and effective services to clients.

(d) Adult basic education aid must be spent for adult basic education purposes as specified in sections 124D.518 to 124D.531.

Sec. 2. Minnesota Statutes 2002, section 124D.52, subdivision 3, is amended to read:

Subd. 3. [ACCOUNTS; REVENUE; AID.] (a) Each district, group of districts, or private nonprofit organization providing adult basic education programs must establish and maintain ~~accounts separate from all other district accounts~~ a reserve account within the community service fund for the receipt and disbursement of all funds related to these programs. All revenue received pursuant to this section must be utilized solely for the purposes of adult basic education programs. State aid must not equal more than 100 percent of the unreimbursed expenses of providing these programs, excluding in-kind costs.

(b) Notwithstanding section 123A.26 or any other law to the contrary, an adult basic education consortium providing an approved adult basic education program may be its own fiscal agent and is eligible to receive state-aid payments directly from the commissioner.

Sec. 3. Minnesota Statutes 2002, section 124D.531, subdivision 1, is amended to read:

Subdivision 1. [STATE TOTAL ADULT BASIC EDUCATION AID.] (a) The state total adult basic education aid for fiscal year ~~2001~~ 2004 equals ~~$30,157,000~~ $34,388,000. The state total adult basic education aid for fiscal year 2005 and later is $36,509,000. ~~The state total adult basic education aid for later years equals:~~

~~(1) the state total adult basic education aid for the preceding fiscal year; times~~

~~(2) the lesser of:~~

~~(i) 1.08, or~~

~~(ii) the greater of 1.00 or the ratio of the state total contact hours in the first prior program year to the state total contact hours in the second prior program year.~~ Beginning in fiscal year 2002, two percent of the state total adult basic education aid must be set aside for adult basic education supplemental service grants under section 124D.522.

(b) The state total adult basic education aid, excluding basic population aid, equals the difference between the amount computed in paragraph (a), and the state total basic population aid under subdivision 2.

Sec. 4. Minnesota Statutes 2002, section 124D.531, subdivision 2, is amended to read:

Subd. 2. [BASIC POPULATION AID.] A district is eligible for basic population aid if the district has a basic service level approved by the commissioner under section 124D.52, subdivision 5, or is a member of a consortium with an approved basic service level. Basic population aid is equal to the greater of ~~$4,000~~ $3,844 or ~~$1.80~~ $1.73 times the population of the district. District population is determined according to section 275.14.

Sec. 5. Minnesota Statutes 2002, section 124D.531, subdivision 4, is amended to read:

Subd. 4. [ADULT BASIC EDUCATION PROGRAM AID LIMIT.] (a) Notwithstanding subdivisions 2 and 3, the total adult basic education aid for a program per prior year contact hour must not exceed ~~four times the rate~~ $21 per prior year contact hour computed under subdivision 3, clause (2).

(b) For fiscal year 2004, the aid for a program under subdivision 3, clause (2), adjusted for changes in program membership, must not exceed the aid for that program under subdivision 3, clause (2), for fiscal year 2003 by more than the greater of eight percent or $10,000.

(c) For fiscal year 2005, the aid for a program under subdivision 3, clause (2), adjusted for changes in program membership, must not exceed the sum of the aid for that program under subdivision 3, clause (2), and section 8, paragraph (a), for the preceding fiscal year by more than the greater of eight percent or $10,000.

(d) For fiscal year ~~2002~~ 2006 and later, the aid for a program under subdivision 3, clause (2), adjusted for changes in program membership, must not exceed the aid for that program under subdivision 3, clause (2), for the first preceding fiscal year by more than the greater of ~~17~~ eight percent or ~~$20,000~~ $10,000.

~~(c)~~ (d) Adult basic education aid is payable to a program for unreimbursed costs.

Sec. 6. Minnesota Statutes 2002, section 124D.531, subdivision 7, is amended to read:

Subd. 7. [PROGRAM AUDITS.] Programs that receive aid under this section must maintain records that support the aid payments. The commissioner may audit these records upon request. The commissioner must establish procedures for conducting fiscal audits of adult basic education programs ~~according to the schedule in this subdivision. In calendar year 2003, the commissioner must audit one-half of approved adult basic education programs that received aid for fiscal year 2002, and in calendar year 2004, the commissioner must audit the remaining unaudited programs for aid received in fiscal year 2003. Beginning with fiscal year 2005, the commissioner must, at a minimum, audit each adult basic education program once every five years~~. The commissioner must establish procedures to reconcile any discrepancies between aid payments based on information reported to the commissioner and aid estimates based on a program audit.

Sec. 7. [ADULT BASIC EDUCATION PROGRAM APPROVAL AND AID, FISCAL YEAR 2004.]

(a) Notwithstanding Minnesota Statutes 2002, section 124D.54, subdivision 2, a district or consortium of districts that provided a program funded under Minnesota Statutes 2002, section 124D.54, in fiscal year 2003 may request an extension of the application deadline for approval of an adult basic education program for fiscal year 2004.

(b) For purposes of computing the fiscal year 2005 adult basic education aid for a program under Minnesota Statutes, section 124D.531, subdivision 3, clause (2), the contact hours for students participating in the program during the first prior program year must be increased by 17 percent of the adult graduation aid average daily attendance for fiscal year 2002.

Sec. 8. [ADULT BASIC EDUCATION TRANSITION AID.]

(a) For fiscal year 2004, adult basic education transition aid for each qualifying district equals the district's adult high school graduation aid for fiscal year 2002. This aid amount must be used to provide an adult basic education program under Minnesota Statutes, section 124D.52. To qualify for aid under this section a district must establish or join an approved adult basic education program according to Minnesota Statutes, section 124D.52, subdivision 2.

(b) For fiscal year 2005, the adult high school graduation aid program is eliminated.

Sec. 9. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [ADULT BASIC EDUCATION AID.] For adult basic education aid under Minnesota Statutes, section 124D.52, in fiscal year 2004 and Minnesota Statutes, section 124D.531, in fiscal year 2005:

$32,131,000	. . . . .	2004
$35,758,000	. . . . .	2005

The 2004 appropriation includes $5,905,000 for 2003 and $26,226,000 for 2004.

The 2005 appropriation includes $7,833,000 for 2004 and $27,925,000 for 2005.

Subd. 3. [ADULT GRADUATION AID.] For adult graduation aid under Minnesota Statutes, section 124D.54:

$396,000	. . . . .	2004

Subd. 4. [ADULT BASIC EDUCATION TRANSITION AID.] (a) For adult basic transition aid under section 8:

$1,634,000	. . . . .	2004
$488,000	. . . . .	2005

The 2004 appropriation includes $1,634,000 for 2004.

The 2005 appropriation includes $488,000 for 2004 and $0 for 2005.

Subd. 5. [GED TESTS.] For payment of 60 percent of the costs of GED tests under Laws 1993, chapter 224, article 4, section 44, subdivision 10:

$125,000	. . . . .	2004
$125,000	. . . . .	2005

Subd. 6. [FAMILY ASSETS FOR INDEPENDENCE.] For family assets for independence:

$500,000	. . . . .	2004

Any balance in the first year does not cancel but is available in the second year.

Sec. 10. [REPEALER.]

Minnesota Statutes 2002, sections 124D.09, subdivision 15; 124D.54; and 126C.05, subdivision 12, are repealed.

ARTICLE 10

STATE AGENCIES

Section 1. Minnesota Statutes 2002, section 15.01, is amended to read:

15.01 [DEPARTMENTS OF THE STATE.]

The following agencies are designated as the departments of the state government: the department of administration; the department of agriculture; the department of commerce; the department of corrections; the department of ~~children, families, and learning~~ education; the department of economic security; the department of

trade and economic development; the department of finance; the department of health; the department of human rights; the department of labor and industry; the department of military affairs; the department of natural resources; the department of employee relations; the department of public safety; the department of human services; the department of revenue; the department of transportation; the department of veterans affairs; and their successor departments.

Sec. 2. Minnesota Statutes 2002, section 119A.01, subdivision 2, is amended to read:

Subd. 2. [ESTABLISHMENT.] The department of ~~children, families, and learning~~ education is established.

Sec. 3. Minnesota Statutes 2002, section 119A.02, subdivision 2, is amended to read:

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of ~~children, families, and learning~~ education.

Sec. 4. Minnesota Statutes 2002, section 119A.02, subdivision 3, is amended to read:

Subd. 3. [DEPARTMENT.] "Department" means the department of ~~children, families, and learning~~ education.

Sec. 5. Minnesota Statutes 2002, section 119B.011, subdivision 8, is amended to read:

Subd. 8. [COMMISSIONER.] "Commissioner" means the commissioner of ~~children, families, and learning~~ education.

Sec. 6. Minnesota Statutes 2002, section 119B.011, subdivision 10, is amended to read:

Subd. 10. [DEPARTMENT.] "Department" means the department of ~~children, families, and learning~~ education.

Sec. 7. Minnesota Statutes 2002, section 120A.02, is amended to read:

120A.02 [DEPARTMENT OF ~~CHILDREN, FAMILIES, AND LEARNING~~ EDUCATION.]

The department of ~~children, families, and learning~~ education shall carry out the provisions of chapters 120A to 129C and other related education provisions under law.

Sec. 8. Minnesota Statutes 2002, section 120A.05, subdivision 4, is amended to read:

Subd. 4. [COMMISSIONER.] "Commissioner" means the commissioner of ~~children, families, and learning~~ education.

Sec. 9. Minnesota Statutes 2002, section 120A.05, subdivision 7, is amended to read:

Subd. 7. [DEPARTMENT.] "Department" means the department of ~~children, families, and learning~~ education.

Sec. 10. Minnesota Statutes 2002, section 122A.09, subdivision 10, is amended to read:

Subd. 10. [VARIANCES.] (a) Notwithstanding subdivision 9 and section 14.05, subdivision 4, the board of teaching may grant a variance to its rules upon application by a school district for purposes of implementing experimental programs in learning or management.

(b) To enable a school district to meet the needs of students enrolled in an alternative education program and to enable licensed teachers instructing those students to satisfy content area licensure requirements, the board of teaching annually may permit a licensed teacher teaching in an alternative education program to instruct students in a content area for which the teacher is not licensed, consistent with paragraph (a).

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

Sec. 11. Minnesota Statutes 2002, section 122A.12, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] A board of school administrators is established and must consist of ~~nine~~ ten members appointed by the governor with the advice and consent of the senate, including at least:

(1) one elementary school principal;

(2) one secondary school principal;

(3) one higher education faculty member in an educational administration program approved by the board;

(4) one higher education administrator for an educational administration program approved by the board;

(5) one school superintendent;

(6) one classroom teacher;

(7) one community education director ~~or a~~ and one special education director; and

(8) two members of the public, one of whom must be a present or former school board member.

In making appointments, the governor shall solicit recommendations from groups representing persons in clauses (1) to (8).

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

Sec. 12. Minnesota Statutes 2002, section 122A.12, subdivision 2, is amended to read:

Subd. 2. [TERMS; COMPENSATION; REMOVAL; ADMINISTRATION.] Membership terms, removal of members, and the filling of membership vacancies are as provided in section 214.09. The terms of the initial board members must be determined by lot as follows:

(1) three members must be appointed for terms that expire August 1, 2002;

(2) three members must be appointed for terms that expire August 1, 2003; and

(3) ~~three~~ four members must be appointed for terms that expire August 1, 2004.

Members shall not receive the daily payment under section 214.09, subdivision 3. The public employer of a member shall not reduce the member's compensation or benefits for the member's absence from employment when engaging in the business of the board. The provision of staff, administrative services, and office space; the review and processing of complaints; the setting of fees; the selection and duties of an executive secretary to serve the board; and other provisions relating to board operations are as provided in chapter 214. Fiscal year and reporting requirements are as provided in sections 214.07 and 214.08.

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

Sec. 13. Minnesota Statutes 2002, section 122A.18, subdivision 7a, is amended to read:

Subd. 7a. [PERMISSION TO SUBSTITUTE TEACH.] (a) The board of teaching may allow a person who is enrolled in and making satisfactory progress in a board-approved teacher program and who has successfully completed student teaching to be employed as a short-call substitute teacher.

(b) The board of teaching may issue a lifetime qualified short-call substitute teaching license to a person who:

(1) was a qualified teacher under section 122A.16 while holding a continuing five-year teaching license issued by the board, and receives a retirement annuity from the teachers retirement association, Minneapolis teachers retirement fund association, St. Paul teachers retirement fund association, or Duluth teachers retirement fund association;

(2) holds an out-of-state teaching license and receives a retirement annuity as a result of the person's teaching experience; or

(3) held a continuing five-year license issued by the board, taught at least three school years in an accredited nonpublic school in Minnesota, and receives a retirement annuity as a result of the person's teaching experience.

A person holding a lifetime qualified short-call substitute teaching license is not required to complete continuing education clock hours. A person holding this license may reapply to the board for a continuing five-year license and must again complete continuing education clock hours one school year after receiving the continuing five-year license.

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year.

Sec. 14. Minnesota Statutes 2002, section 122A.21, is amended to read:

122A.21 [TEACHERS' AND ADMINISTRATORS' LICENSES; FEES.]

Each application for the issuance, renewal, or extension of a license to teach must be accompanied by a processing fee ~~in an amount set by the board of teaching by rule~~ of $57. Each application for issuing, renewing, or extending the license of a school administrator or supervisor must be accompanied by a processing fee in the amount set by the board of teaching. The processing fee for a teacher's license and for the licenses of supervisory personnel must be paid to the executive secretary of the appropriate board. The executive secretary of the board shall deposit the fees with the state treasurer, as provided by law, and report each month to the commissioner of finance the amount of fees collected. The fees as set by the board are nonrefundable for applicants not qualifying for a license. However, a fee must be refunded by the state treasurer in any case in which the applicant already holds a valid unexpired license. The board may waive or reduce fees for applicants who apply at the same time for more than one license.

Sec. 15. Minnesota Statutes 2002, section 122A.22, is amended to read:

122A.22 [DISTRICT ~~RECORDING~~ VERIFICATION OF TEACHER LICENSES.]

No person shall be accounted a qualified teacher until the ~~person has filed for record with the district superintendent where the person intends to teach a license, or certified copy of a license, authorizing the person to teach school in the district school system~~ school district or charter school contracting with the person for teaching services verifies through the Minnesota education licensing system available on the department Web site that the person is a qualified teacher, consistent with sections 122A.16 and 122A.44, subdivision 1.

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year and later.

Sec. 16. Minnesota Statutes 2002, section 127A.05, subdivision 1, is amended to read:

Subdivision 1. [APPOINTMENT AND DUTIES.] The department shall be under the administrative control of the commissioner of ~~children, families, and learning~~ education which office is established. The governor shall appoint the commissioner under the provisions of section 15.06.

The commissioner shall be a person who possesses educational attainment and breadth of experience in the administration of public education and of the finances pertaining thereto commensurate with the spirit and intent of this code. Notwithstanding any other law to the contrary, the commissioner may appoint two deputy commissioners who shall serve in the unclassified service. The commissioner shall also appoint other employees as may be necessary for the organization of the department. The commissioner shall perform such duties as the law and rules may provide and be held responsible for the efficient administration and discipline of the department. The commissioner is charged with the execution of powers and duties to promote public education in the state and to safeguard the finances pertaining thereto.

Sec. 17. Minnesota Statutes 2002, section 127A.05, subdivision 3, is amended to read:

Subd. 3. [GENERAL SUPERVISION OVER PUBLIC SCHOOLS AND EDUCATIONAL AGENCIES.] The commissioner of ~~children, families, and learning~~ education shall adopt goals for and exercise general supervision over public schools and public educational agencies in the state, classify and standardize public elementary and secondary schools, and prepare for them outlines and suggested courses of study. The commissioner shall develop a plan to attain the adopted goals. The commissioner may recognize educational accrediting agencies for the sole purposes of sections 120A.22, 120A.24, and 120A.26.

Sec. 18. Minnesota Statutes 2002, section 169.26, subdivision 3, is amended to read:

Subd. 3. [DRIVER TRAINING.] All driver education courses approved by ~~the commissioner of children, families, and learning and~~ the commissioner of public safety must include instruction on railroad-highway grade crossing safety. The ~~commissioner of children, families, and learning and the~~ commissioner of public safety shall by rule establish minimum standards of course content relating to operation of vehicles at railroad-highway grade crossings.

Sec. 19. Minnesota Statutes 2002, section 169.973, subdivision 1, is amended to read:

Subdivision 1. [COMMISSIONER'S AUTHORITY; RULES; CURRICULUM.] The commissioner of public safety shall supervise the administration and conduct of driver improvement clinics and youth-oriented driver improvement clinics. The commissioner of public safety shall promulgate rules setting forth standards for the curriculum and mode of instruction of driver improvement clinics and youth-oriented driver improvement clinics and such other matters as the commissioner of public safety considers necessary for the proper administration of such clinics. In the preparation of such standards the commissioner of public safety shall consult with the ~~commissioner of children, families, and learning and~~ state associations of judges. A driver improvement clinic established under sections 169.971 to 169.973 and 171.20, subdivision 3, shall conform to the standards promulgated by the commissioner of public safety. The course of study at a driver improvement clinic and youth-oriented driver improvement clinic may not exceed a cumulative total of nine hours with no single class session lasting more than three hours. The course of study at a driver improvement clinic and youth-oriented driver improvement clinic shall include instruction in railroad crossing safety.

Sec. 20. Minnesota Statutes 2002, section 178.02, subdivision 1, is amended to read:

Subdivision 1. [MEMBERS.] The commissioner of labor and industry, hereinafter called the commissioner, shall appoint an apprenticeship advisory council, hereinafter referred to as the council, composed of three representatives each from employer and employee organizations, and two representatives of the general public. The ~~assistant commissioner~~ director of ~~children, families, and learning~~ education responsible for ~~vocational~~ career and technical education or designee shall be an ex officio member of the council and shall serve in an advisory capacity only.

Sec. 21. [COST-BENEFIT ANALYSIS OF FEDERAL NO CHILD LEFT BEHIND ACT.]

The commissioner of education must conduct a rigorous cost-benefit analysis to determine the tangible and intangible costs and benefits to Minnesota of implementing the federal No Child Left Behind Act and the time needed for the benefits of the changes to repay the costs of the changes. The commissioner, by February 15, 2004, must present a written report of the analysis to the committees of the legislature having jurisdiction over kindergarten through grade 12 education policy and finance.

Sec. 22. [APPROPRIATIONS; DEPARTMENT OF EDUCATION.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] Unless otherwise indicated, the sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [DEPARTMENT.] (a) For the department of education:

$23,653,000	. . . . .	2004
$23,653,000	. . . . .	2005

Any balance in the first year does not cancel but is available in the second year.

(b) $260,000 each year is for the Minnesota children's museum.

(c) $41,000 each year is for the Minnesota academy of science.

(d) $246,000 of the balance in the state education courseware development account in the state government special revenue fund as of July 1, 2004, is canceled to the general fund.

(e) $160,000 of the balance in the state item bank revolving account in the state government special revenue fund as of July 1, 2004, is canceled to the general fund.

(f) $621,000 each year is for the board of teaching.

(g) $165,000 each year is for the board of school administrators.

Subd. 3. [FEDERAL GRANTS AND AIDS.] The expenditures of federal grants and aids as shown in the biennial budget document and its supplements are approved and appropriated and shall be spent as indicated.

Sec. 23. [APPROPRIATIONS; MINNESOTA STATE ACADEMIES.]

The sums indicated in this section are appropriated from the general fund to the Minnesota state academies for the deaf and the blind for the fiscal years designated:

$10,966,000	. . . . .	2004
$10,966,000	. . . . .	2005

Any balance in the first year does not cancel but is available in the second year.

Sec. 24. [APPROPRIATIONS; PERPICH CENTER FOR ARTS EDUCATION.]

The sums indicated in this section are appropriated from the general fund to the Perpich center for arts education for the fiscal years designated:

$6,864,000	. . . . .	2004
$6,423,000	. . . . .	2005

Any balance in the first year does not cancel but is available in the second year.

Sec. 25. [REVISOR'S INSTRUCTION.]

(a) In Minnesota Statutes, the revisor shall renumber section 119A.02, subdivision 2, as 120A.02, paragraph (a), and section 120A.02 as 120A.02, paragraph (b).

(b) In Minnesota Statutes and Minnesota Rules, the revisor shall change the term "children, families, and learning" to "education."

(c) In the next and subsequent editions of Minnesota Statutes, the revisor shall change all references to the "commissioner of children, families, and learning" to the "commissioner of public safety" in Minnesota Statutes, sections 123B.88, subdivision 9; 168.102; 169.441, subdivision 5; and 171.321, subdivision 4c; and "Part H" to "Part C" in Minnesota Statutes, sections 125A.27, subdivisions 7 and 8; 125A.32; 125A.35; 125A.37; 125A.39; 125A.44; and 125A.45.

Sec. 26. [REPEALER.]

(a) Minnesota Statutes 2002, sections 15.014, subdivision 3; 119A.01, subdivision 1; 123B.90, subdivision 1; 169.441, subdivision 4; and 239.004, are repealed.

(b) Minnesota Rules, parts 3500.0600; 3520.0400; 3520.1400; 3520.3300; 3530.1500; 3530.2700; 3530.4400; 3530.4500; 3530.4700; and 3550.0100, are repealed.

ARTICLE 11

DEFICIENCIES

Section 1. [DEPARTMENT OF EDUCATION.]

The dollar amounts shown are added to or, if shown in parentheses, are subtracted from the appropriations in Laws 2001, First Special Session chapter 6, as amended by Laws 2002, chapter 220, and Laws 2002, chapter 374, or other law, and are appropriated from the general fund to the department of education for the purposes specified in this article, to be available for the fiscal year indicated for each purpose. The figure "2003" used in this article means that the appropriation or appropriations listed are available for the fiscal year ending June 30, 2003.

	2003
APPROPRIATION ADJUSTMENTS	$10,869,000

APPROPRIATION CHANGE

Sec. 2. APPROPRIATIONS; DEPARTMENT OF EDUCATION

Subdivision 1. Community Education Aid	219,000
Subd. 2. General and Supplemental Education Aid	8,791,000
This change includes ($7,420,000) for 2002 and $16,211,000 for 2003.	
Subd. 3. Nonpublic Pupil Aid	437,000
Subd. 4. Consolidation Transition Aid	5,000
Subd. 5. Interdistrict Desegregation or Integration Transportation Grants	169,000
Subd. 6. Travel for Home-Based Services	48,000
Subd. 7. Debt Service Aid	19,000
Subd. 8. School Breakfast	100,000
Subd. 9. Fast Break to Learning	1,081,000

Sec. 3. [EFFECTIVE DATE.]

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

ARTICLE 12

TECHNICAL AMENDMENTS

Section 1. Minnesota Statutes 2002, section 119B.011, subdivision 20, is amended to read:

Subd. 20. [TRANSITION YEAR FAMILIES.] "Transition year families" means families who have received MFIP assistance, or who were eligible to receive MFIP assistance after choosing to discontinue receipt of the cash portion of MFIP assistance under section 256J.31, subdivision 12, for at least three of the last six months before losing eligibility for MFIP ~~or families participating in work first under chapter 256K who meet the requirements of section 256K.07~~. Transition year child care may be used to support employment or job search. Transition year child care is not available to families who have been disqualified from MFIP due to fraud.

Sec. 2. Minnesota Statutes 2002, section 121A.21, is amended to read:

121A.21 [SCHOOL HEALTH SERVICES.]

(a) Every school board must provide services to promote the health of its pupils.

(b) The board of a district with 1,000 pupils or more in average daily membership in early childhood family education, preschool handicapped, elementary, and secondary programs must comply with the requirements of this paragraph. It may use one or a combination of the following methods:

(1) employ personnel, including at least one full-time equivalent licensed school nurse ~~or continue to employ a registered nurse not yet certified as a public health nurse as defined in section 145A.02, subdivision 18, who is enrolled in a program that would lead to certification within four years of August 1, 1988~~;

(2) contract with a public or private health organization or another public agency for personnel during the regular school year, determined appropriate by the board, who are currently licensed under chapter 148 and who are certified public health nurses; or

(3) enter into another arrangement approved by the commissioner.

Sec. 3. Minnesota Statutes 2002, section 122A.41, subdivision 2, is amended to read:

Subd. 2. [PROBATIONARY PERIOD; DISCHARGE OR DEMOTION.] All teachers in the public schools in cities of the first class during the first three years of consecutive employment shall be deemed to be in a probationary period of employment during which period any annual contract with any teacher may, or may not, be renewed as the school board, after consulting with the peer review committee charged with evaluating the probationary teachers under subdivision ~~2a or~~ 3, shall see fit. The school site management team or the school board if there is no school site management team, shall adopt a plan for a written evaluation of teachers during the probationary period according to subdivision ~~2a~~ 3. Evaluation by the peer review committee charged with evaluating probationary teachers under subdivision ~~2a~~ 3 shall occur at least three times each year for a teacher performing services on 120 or more school days, at least two times each year for a teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school shall not be included in determining the number of school days on which a teacher performs services. The school board may, during such probationary period, discharge or demote a teacher for any of the causes as specified in this code. A written statement of the cause of such discharge or demotion shall be given to the teacher by the school board at least 30 days before such removal or demotion shall become effective, and the teacher so notified shall have no right of appeal therefrom.

Sec. 4. Minnesota Statutes 2002, section 123B.02, subdivision 1, is amended to read:

Subdivision 1. [BOARD AUTHORITY.] The board must have the general charge of the business of the district, the school houses, and of the interests of the schools thereof. The board's authority to govern, manage, and control the district; to carry out its duties and responsibilities; and to conduct the business of the district includes implied powers in addition to any specific powers granted by the legislature.

Sec. 5. Minnesota Statutes 2002, section 123B.72, subdivision 3, is amended to read:

Subd. 3. [CERTIFICATION.] Prior to occupying or reoccupying a school facility affected by this section, a school board or its designee shall submit a document prepared by a system inspector to the building official or to the commissioner, verifying that the facility's heating, ventilation, and air conditioning system has been installed and operates according to design specifications and code, according to section 123B.71, subdivision ~~10~~ 9, clause ~~(3)~~ (11). A systems inspector shall also verify that the facility's design will provide the ability for monitoring of outdoor airflow and total airflow of ventilation systems in new school facilities and that any heating, ventilation, or air conditioning system that is installed or modified for a project subject to this section must provide a filtration system with a current ASHRAE standard.

Sec. 6. Minnesota Statutes 2002, section 123B.93, is amended to read:

123B.93 [ADVERTISING ON SCHOOL BUSES.]

(a) The commissioner, through a competitive process, ~~and with the approval of the school bus safety advisory committee~~ may contract with advertisers regarding advertising on school buses. At a minimum, the contract must prohibit advertising and advertising images that:

(1) solicit the sale of, or promote the use of, alcoholic beverages and tobacco products;

(2) are discriminatory in nature or content;

(3) imply or declare an endorsement of the product or service by the school district;

(4) contain obscene material;

(5) are false, misleading, or deceptive; or

(6) relate to an illegal activity or antisocial behavior.

(b) Advertisement must meet the following conditions:

(1) the advertising attached to the school bus does not interfere with bus identification under section 169.441; and

(2) the bus with attached advertising meets the school bus equipment standards under sections 169.4501 to 169.4504.

(c) All buses operated by school districts may be attached with advertisements under the state contract. All school district contracts shall include a provision for advertisement. Each school district shall be reimbursed by the advertiser for all costs incurred by the district and its contractors for supporting the advertising program, including, but not limited to, retrofitting buses, storing advertising, attaching advertising to the bus, and related maintenance.

(d) The commissioner shall hold harmless and indemnify each district for all liabilities arising from the advertising program. Each district must tender defense of all such claims to the commissioner within five days of receipt.

(e) All revenue from the contract shall be deposited in the general fund.

Sec. 7. Minnesota Statutes 2002, section 124D.03, subdivision 12, is amended to read:

Subd. 12. [TERMINATION OF ENROLLMENT.] A district may terminate the enrollment of a nonresident student enrolled under this section or section ~~124D.07 or~~ 124D.08 at the end of a school year if the student meets the definition of a habitual truant under section 260C.007, subdivision 19, the student has been provided appropriate services under chapter 260A, and the student's case has been referred to juvenile court. A district may also terminate the enrollment of a nonresident student over the age of 16 enrolled under this section if the student is absent without lawful excuse for one or more periods on 15 school days and has not lawfully withdrawn from school under section 120A.22, subdivision 8.

Sec. 8. Minnesota Statutes 2002, section 124D.09, subdivision 3, is amended to read:

Subd. 3. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given to them.

(a) "Eligible institution" means a Minnesota public post-secondary institution, a private, nonprofit two-year trade and technical school granting associate degrees, an opportunities industrialization center accredited by the North Central Association of Colleges and Schools, or a private, residential, two-year or four-year, liberal arts, degree-granting college or university located in Minnesota. ~~"Course" means a course or program.~~

(b) "Course" means a course or program.

Sec. 9. Minnesota Statutes 2002, section 124D.10, subdivision 13, is amended to read:

Subd. 13. [LENGTH OF SCHOOL YEAR.] A charter school must provide instruction each year for at least the number of days required by section ~~120A.22, subdivision 5~~ 120A.41. It may provide instruction throughout the year according to sections 124D.12 to 124D.127 or 124D.128.

Sec. 10. Minnesota Statutes 2002, section 124D.10, subdivision 23a, is amended to read:

Subd. 23a. [RELATED PARTY LEASE COSTS.] (a) A charter school is prohibited from entering a lease of real property with a related party as defined in this subdivision, unless the lessor is a nonprofit corporation under chapter 317A or a cooperative under chapter 308A, and the lease cost is reasonable under section 124D.11, subdivision 4, clause (1).

(b) For purposes of this subdivision:

(1) A "related party" is an affiliate or close relative of the other party in question, an affiliate of a close relative, or a close relative of an affiliate.

(2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another person.

(3) "Close relative" means an individual whose relationship by blood, marriage, or adoption to another individual is no more remote than first cousin.

(4) "Person" means an individual or entity of any kind.

(5) "Control" includes the terms "controlling," "controlled by," and "under common control with" and means the possession, direct or indirect, of the power to direct or cause the direction of the management, operations, or policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(c) A lease of real property to be used for a charter school, not excluded in paragraph (b), must contain the following statement: "This lease is subject to Minnesota Statutes, section 124D.10, subdivision 23a."

(d) If a charter school enters into as lessee a lease with a related party and the charter school subsequently closes, the commissioner has the right to recover from the lessor any lease payments in excess of those that are reasonable under section ~~124.11~~ 124D.11, subdivision 4, clause (1).

Sec. 11. Minnesota Statutes 2002, section 125A.05, is amended to read:

125A.05 [METHOD OF SPECIAL INSTRUCTION.]

(a) As defined in this ~~subdivision~~ section, to the extent required by federal law as of July 1, 1999, special instruction and services for children with a disability must be based on the assessment and individual education plan. The instruction and services may be provided by one or more of the following methods:

(1) in connection with attending regular elementary and secondary school classes;

(2) establishment of special classes;

(3) at the home or bedside of the child;

(4) in other districts;

(5) instruction and services by special education cooperative centers established under this section, or in another member district of the cooperative center to which the resident district of the child with a disability belongs;

(6) in a state residential school or a school department of a state institution approved by the commissioner;

(7) in other states;

(8) by contracting with public, private or voluntary agencies;

(9) for children under age five and their families, programs and services established through collaborative efforts with other agencies;

(10) for children under age five and their families, programs in which children with a disability are served with children without a disability; and

(11) any other method approved by the commissioner.

(b) Preference shall be given to providing special instruction and services to children under age three and their families in the residence of the child with the parent or primary caregiver, or both, present.

(c) The primary responsibility for the education of a child with a disability must remain with the district of the child's residence regardless of which method of providing special instruction and services is used. If a district other than a child's district of residence provides special instruction and services to the child, then the district providing the special instruction and services must notify the child's district of residence before the child's individual education plan is developed and must provide the district of residence an opportunity to participate in the plan's development. The district of residence must inform the parents of the child about the methods of instruction that are available.

Sec. 12. Minnesota Statutes 2002, section 125A.12, is amended to read:

125A.12 [ATTENDANCE IN ANOTHER DISTRICT.]

No resident of a district who is eligible for special instruction and services pursuant to this section may be denied provision of this instruction and service because of attending a public school in another district pursuant to section 123B.88, subdivision 5, if the attendance is not subject to section 124D.06~~, 124D.07,~~ or 124D.08. If the pupil

attends a public school located in a contiguous district and the district of attendance does not provide special instruction and services, the district of residence must provide necessary transportation for the pupil between the boundary of the district of residence and the educational facility where special instruction and services are provided within the district of residence. The district of residence may provide necessary transportation for the pupil between its boundary and the school attended in the contiguous district, but must not pay the cost of transportation provided outside the boundary of the district of residence.

Sec. 13. Minnesota Statutes 2002, section 126C.10, subdivision 28, is amended to read:

Subd. 28. [EQUITY REGION.] For the purposes of computing equity revenue under subdivision ~~23~~ 24, a district whose administrative offices on July 1, 1999, is located in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington county is part of the metro equity region. Districts whose administrative offices on July 1, 1999, are not located in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington county are part of the rural equity region.

Sec. 14. Minnesota Statutes 2002, section 126C.55, subdivision 5, is amended to read:

Subd. 5. [AID REDUCTION FOR REPAYMENT.] Except as provided in this subdivision, the state must reduce the state aid payable to the district under this chapter and chapters 120B, 122A, 123A, 123B, 124D, 125A, 127A, and 273, ~~according to the schedule in section 127A.44, subdivision 2,~~ by the amount paid by the state under this section on behalf of the district, plus the interest due on it, and the amount reduced must revert from the appropriate account to the state general fund. Payments from the school endowment fund or any federal aid payments shall not be reduced. If, after review of the financial situation of the district, the commissioner advises the commissioner of finance that a total reduction of the aids would cause an undue hardship on or an undue disruption of the educational program of the district, the commissioner, with the approval of the commissioner of finance, may establish a different schedule for reduction of those aids to repay the state. The amount of aids to be reduced are decreased by any amounts repaid to the state by the school district from other revenue sources.

Sec. 15. Minnesota Statutes 2002, section 127A.05, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATIVE RULES.] The commissioner may adopt new rules or amend any existing rules only under specific authority and consistent with the requirements of chapter 14. The commissioner may repeal any existing rules adopted by the commissioner. ~~Notwithstanding the provisions of section 14.05, subdivision 4,~~ The commissioner may grant a variance to rules adopted by the commissioner upon application by a school district for purposes of implementing experimental programs in learning or school management. This subdivision shall not prohibit the commissioner from making technical changes or corrections to rules adopted by the commissioner.

Sec. 16. Minnesota Statutes 2002, section 127A.45, subdivision 12, is amended to read:

Subd. 12. [PAYMENT PERCENTAGE FOR CERTAIN AIDS.] (a) One hundred percent of the aid for the current fiscal year must be paid for the following aids: reimbursement for enrollment options transportation, according to sections 124D.03, subdivision 8, 124D.09, subdivision 22, and 124D.10; school lunch aid, according to section 124D.111; hearing impaired support services aid, according to section 124D.57; and Indian post-secondary preparation grants according to section ~~124D.85~~ 124D.80.

(b) One hundred percent of the aid for the current fiscal year, based on enrollment in the previous year, must be paid for the first grade preparedness program according to section 124D.081.

Sec. 17. Minnesota Statutes 2002, section 169.435, is amended to read:

169.435 [STATE SCHOOL BUS SAFETY ADMINISTRATION.]

Subdivision 1. [RESPONSIBILITY; DEPARTMENT OF PUBLIC SAFETY.] The department of public safety has the primary responsibility for school transportation safety. ~~To oversee school transportation safety, the commissioner of public safety shall establish a school bus safety advisory committee according to subdivision 2.~~ The commissioner or the commissioner's designee shall serve as state director of pupil transportation according to subdivision 3.

Subd. 3. [PUPIL TRANSPORTATION SAFETY DIRECTOR.] (a) The commissioner of public safety or the commissioner's designee shall serve as pupil transportation safety director.

(b) The duties of the pupil transportation safety director shall include:

(1) overseeing all department activities related to school bus safety;

(2) assisting in the development, interpretation, and implementation of laws and policies relating to school bus safety;

(3) supervising preparation of the school bus inspection manual; and

(4) in conjunction with the department of ~~children, families, and learning~~ education, assisting school districts in developing and implementing comprehensive transportation policies~~; and~~

~~(5) providing information requested by the school bus safety advisory committee~~.

Sec. 18. Minnesota Statutes 2002, section 169.449, subdivision 1, is amended to read:

Subdivision 1. [RULES.] The commissioner of public safety~~, in consultation with the school bus safety advisory committee,~~ shall adopt rules governing the operation of school buses used for transportation of school children, when owned or operated by a school or privately owned and operated under a contract with a school, and these rules must be made a part of that contract by reference. Each school, its officers and employees, and each person employed under the contract is subject to these rules.

Sec. 19. Minnesota Statutes 2002, section 169.4501, subdivision 3, is amended to read:

Subd. 3. [INSPECTION MANUAL.] The department of public safety shall develop a school bus inspection manual based on the national standards adopted in subdivision 1 and Minnesota standards adopted in sections 169.4502 to 169.4504. The Minnesota state patrol shall use the manual as the basis for inspecting buses as provided in section 169.451. ~~When appropriate, the school bus safety advisory committee shall recommend to the education committees of the legislature modifications to the standards upon which the school bus inspection manual is based.~~ The department of public safety has no rulemaking authority to alter the standards upon which school buses are inspected.

Sec. 20. Minnesota Statutes 2002, section 169.4501, subdivision 4, is amended to read:

Subd. 4. [VARIANCE.] The commissioner of public safety may grant a variance to any of the school bus standards to accommodate testing of new equipment related to school buses. A variance from the standards must be for the sole purpose of testing and evaluating new equipment for increased safety, efficiency, and economy of pupil

transportation. The variance expires 18 months from the date on which it is granted unless the commissioner specifies an earlier expiration date. ~~The school bus safety advisory committee shall annually review all variances that are granted under this subdivision and consider whether to recommend modifications to the Minnesota school bus equipment standards based on the variances.~~

Sec. 21. [REPEALER.]

(a) Minnesota Statutes 2002, section 126C.55, subdivision 5, is repealed.

(b) Laws 2001, First Special Session chapter 3, article 4, sections 1 and 2; and Laws 2001, First Special Session chapter 6, article 2, section 52, are repealed.

ARTICLE 13

ACADEMIC CONTENT STANDARDS

Section 1. [120B.001] [REPEALING PROFILE OF LEARNING STATUTES AND RULES AND RELATED STATEWIDE TESTING REQUIREMENT.]

(a) Notwithstanding sections 120B.02, 120B.031, 120B.30, 120B.31, and 120B.35, or other law to the contrary, the commissioner of education must not implement the profile of learning portion of the state's results-oriented graduation rule and all rules under Minnesota Rules, chapter 3501, related to the profile of learning portion of the state's results-oriented graduation rule described in this chapter are repealed.

(b) The requirement under section 120B.30 for a test aligned with the profile of learning portion of the state's graduation standards that is administered annually to all students in grades 3, 5, 7, 8, 10, and 11 is repealed. This repeal does not apply to the state's basic skills tests in reading, mathematics, and written composition.

[EFFECTIVE DATE.] Paragraph (a) is effective the day following final enactment and applies to the 2003-2004 school year and later. Paragraph (b) is effective immediately and applies to the 2005-2006 school year and later.

Sec. 2. [REPLACING PROFILE OF LEARNING STATUTES AND RULES.]

Subdivision 1. [STAKEHOLDER ADVICE ON STANDARDS.] The commissioner of education must consider advice from at least the following stakeholders in developing statewide rigorous core academic standards in English, mathematics, science, and history and geography to replace the profile of learning:

(1) parents of school-age children and members of the public throughout the state;

(2) teachers throughout the state currently licensed and providing instruction in English, mathematics, science, or history and geography and licensed elementary and secondary school principals throughout the state currently administering a school site;

(3) currently serving members of local school boards and charter school boards throughout the state;

(4) faculty teaching core subjects at postsecondary institutions in Minnesota; and

(5) representatives of the Minnesota business community.

Subd. 2. [PARAMETERS FOR ACADEMIC STANDARDS.] The academic standards must:

(1) be based on factual, objective, verifiable knowledge in English, mathematics, science, and history and geography;

(2) be clear, concise, measurable, and grade-level appropriate;

(3) preserve and promote fundamental American principles stated in the Declaration of Independence and the Constitution of the United States and other such principles as national sovereignty, natural law, and free market enterprise;

(4) not mandate a specific teaching methodology nor include work-based learning or any other content standard inconsistent with this subdivision; and

(5) be assessed using tests aligned with the academic standards established under this section.

Subd. 3. [COMMISSIONER TO PRESENT PROPOSED RULES TO THE LEGISLATURE.] (a) The commissioner must present to the legislature proposed rules for implementing statewide rigorous core academic standards in English, mathematics, science, and history and geography as follows:

(1) by April 15, 2003, present proposed rules for implementing statewide rigorous core academic standards in English and mathematics;

(2) present a statewide plan for students, educators, schools, and school districts to make the transition from the profile of learning to the standards described under this act;

(3) by March 1, 2004, present proposed rules for implementing statewide rigorous core academic standards in science;

(4) by March 1, 2005, present proposed rules for implementing statewide rigorous core academic standards in history and geography.

(b) All proposed rules the commissioner presents must comply with the requirements of this section.

(c) A school district, no later than the 2007-2008 school year, must incorporate into its existing locally established graduation requirements the state graduation requirements premised on rules proposed under this section. A school district that incorporates these state graduation requirements before the 2007-2008 school year must provide students who enter the ninth grade in or before the 2004-2005 school year with the opportunity to earn a diploma based on existing locally established graduation requirements in effect when the students entered grade 9. District efforts to develop, implement, or improve instruction or curriculum as a result of the provisions of this section must be consistent with sections 120B.10, 120B.11, and 120B.20.

Subd. 4. [RULES IMPLEMENTING READING AND MATH STANDARDS.] The commissioner must adopt rules under section 14.388, clause (2), for implementing the statewide rigorous core academic standards in English and mathematics described in subdivision 3, paragraph (a), clause (1).

[EFFECTIVE DATE.] Subdivisions 1, 2, and 3 are effective the day following final enactment. Subdivision 4 is effective April 30, 2003.

Sec. 3. [INTERIM ALTERNATIVE.]

If the legislature does not authorize the commissioner under section 2, subdivision 4, to adopt rules to implement statewide rigorous core academic standards in English and mathematics that are effective for the 2003-2004 school year, each school district and charter school shall continue to implement academic English and mathematics standards consistent with Minnesota Statutes, section 120A.22, subdivision 9, until such rules to implement statewide rigorous core academic standards in English and mathematics are adopted.

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

Delete the title and insert:

"A bill for an act relating to education; providing for kindergarten through grade 12 education including general education, education excellence, special programs, facilities and technology, nutrition, school accounting, other programs, deficiencies, state agencies, and academic content standard; providing for libraries; providing for early childhood and family education including early childhood family support, prevention, and self-sufficiency; providing for technical amendments to certain education provisions; changing the name of the department of children, families, and learning to the department of education; providing for rulemaking; appropriating money; amending Minnesota Statutes 2002, sections 12.21, subdivision 3; 15.01; 84A.51, subdivision 4; 119A.01, subdivision 2; 119A.02, subdivisions 2, 3; 119A.52; 119B.011, subdivisions 8, 10, 20; 120A.02; 120A.05, subdivisions 4, 7, 9; 120A.24, subdivision 4; 120A.41; 121A.21; 121A.23, subdivision 1, by adding a subdivision; 121A.41, subdivision 10; 121A.50; 121A.55; 122A.09, subdivision 10; 122A.12, subdivisions 1, 2; 122A.18, subdivision 7a; 122A.21; 122A.22; 122A.41, subdivision 2; 122A.414, by adding a subdivision; 122A.415, subdivisions 1, 3; 122A.63, subdivision 3; 123A.06, subdivision 3; 123A.18, subdivision 2; 123A.73, subdivisions 3, 4, 5; 123B.02, subdivisions 1, 14; 123B.36, subdivision 1; 123B.49, subdivision 4; 123B.51, subdivisions 3, 4; 123B.52, by adding a subdivision; 123B.53, subdivision 4; 123B.57, subdivisions 1, 4, 6; 123B.59, subdivisions 1, 2, 3, 5, by adding a subdivision; 123B.63, subdivisions 1, 2, 3, 4; 123B.72, subdivision 3; 123B.88, subdivision 2; 123B.90, subdivisions 2, 3; 123B.91, subdivision 1; 123B.92, subdivisions 1, 3, 9; 123B.93; 124D.03, subdivision 12; 124D.081, by adding a subdivision; 124D.09, subdivisions 3, 9, 10, 13, 16, 20; 124D.10, subdivisions 2a, 3, 4, 8, 13, 16, 20, 23a; 124D.11, subdivisions 1, 2, 4, 6, 9; 124D.118, subdivision 4; 124D.128, subdivisions 3, 6; 124D.13, subdivisions 2, 4, 8, 11; 124D.135, subdivisions 1, 8; 124D.15, subdivision 7; 124D.16, subdivisions 1, 6; 124D.19, subdivision 3; 124D.20, subdivisions 3, 5, by adding subdivisions; 124D.22, subdivision 3; 124D.42, subdivision 6; 124D.454, subdivisions 1, 2, 3, 8, 10, by adding a subdivision; 124D.52, subdivisions 1, 3; 124D.531, subdivisions 1, 2, 4, 7; 124D.59, subdivision 2; 124D.65, subdivision 5; 124D.86, subdivisions 1a, 3, 4, 5, 6; 125A.05; 125A.12; 125A.21, subdivision 2; 125A.28; 125A.30; 125A.76, subdivisions 1, 4; 125A.79, subdivisions 1, 6; 125B.21; 126C.05, subdivisions 1, 8, 14, 15, 16, 17; 126C.10, subdivisions 1, 3, 4, 17, 18, 24, 28, by adding subdivisions; 126C.13, subdivision 4; 126C.15, subdivision 1; 126C.17, subdivisions 1, 2, 5, 7, 7a, 9, 13; 126C.21, subdivision 3; 126C.40, subdivision 1; 126C.42, subdivision 1; 126C.43, subdivisions 2, 3; 126C.44; 126C.45; 126C.457; 126C.48, subdivision 3; 126C.55, subdivision 5; 126C.63, subdivisions 5, 8; 126C.69, subdivisions 2, 9; 127A.05, subdivisions 1, 3, 4; 127A.45, subdivisions 2, 3, 7a, 10, 12, 13, 14, 14a, 16; 127A.47, subdivisions 7, 8; 127A.49, subdivisions 2, 3; 128C.05, by adding a subdivision; 128D.11, subdivision 8; 169.26, subdivision 3; 169.28, subdivision 1; 169.435; 169.449, subdivision 1; 169.4501, subdivisions 3, 4; 169.4503, subdivision 4; 169.454, subdivision 6; 169.973, subdivision 1; 171.321, subdivision 5; 177.42, subdivision 2; 178.02, subdivision 1; 268.052, subdivisions 2, 4; 273.138, subdivision 6; 298.28, subdivision 4; 475.61, subdivisions 1, 3, 4; Laws 1965, chapter 705, as amended; Laws 2001, First Special Session chapter 6, article 2, section 64; proposing coding for new law in Minnesota Statutes, chapters 120B; 121A; 123B; 124D; 125A; repealing Minnesota Statutes 2002, sections 15.014, subdivision 3; 119A.01, subdivision 1; 120B.23; 121A.49; 122A.60; 122A.61; 122A.62; 122A.64; 122A.65; 123A.73, subdivisions 7, 10, 11; 123B.05; 123B.59, subdivisions 6, 7; 123B.81, subdivision 6; 123B.90, subdivision 1; 124D.09, subdivision 15; 124D.115; 124D.1156; 124D.17; 124D.21; 124D.221; 124D.54; 124D.65, subdivision 4; 124D.84, subdivision 2; 124D.89; 124D.93; 125A.023, subdivision 5; 125A.09; 125A.47; 125A.79, subdivision 2; 125B.11; 126C.01, subdivision 4; 126C.05, subdivision 12; 126C.12; 126C.125; 126C.14; 126C.445; 126C.455; 126C.55, subdivision 5; 127A.41, subdivision 6; 144.401, subdivision 5; 169.441, subdivision 4; 239.004; Laws 1993, chapter 224, article 8, section 20, subdivision 2, as amended; Laws 2000, chapter 489, article 2, section 36, as amended; Laws 2001, First Special Session chapter 3, article 4, sections 1, 2; Laws 2001, First Special Session

chapter 6, article 2, section 52; Laws 2001, First Special Session chapter 6, article 5, section 12, as amended; Minnesota Rules, parts 3500.0600; 3520.0400; 3520.1400; 3520.3300; 3530.1500; 3530.2700; 3530.4400; 3530.4500; 3530.4700; 3550.0100."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Westrom from the Committee on Regulated Industries to which was referred:

H. F. No. 1493, A bill for an act relating to liquor; eliminating certain geographic restrictions on competition for municipal liquor stores; extending bar hours to 2:00 a.m.; providing for uniform hours for off-sale of liquor in the state; removing restrictions on the number of on-sale and off-sale liquor licenses that may be issued by a municipality; amending Minnesota Statutes 2002, sections 340A.404, subdivision 6; 340A.405, subdivision 2; 340A.504, subdivisions 1, 2, 3, 4, 5; repealing Minnesota Statutes 2002, section 340A.413.

Reported the same back with the following amendments:

Pages 1 to 3, delete sections 1 and 2

Page 5, delete sections 6 to 8

Delete the title and insert:

"A bill for an act relating to liquor; extending bar hours to 2:00 a.m.; amending Minnesota Statutes 2002, section 340A.504, subdivisions 1, 2, 3."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

SECOND READING OF SENATE BILLS

S. F. Nos. 28, 233, 272, 421, 433, 727, 872, 907, 941, 942, 1158 and 1176 were read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Seifert, Kahn, Finstad, Erickson, Stang, Nornes, Cornish, Borrell, Wilkin, Heidgerken, Kielkucki, Pelowski and Seagren introduced:

H. F. No. 1557, A bill for an act relating to postsecondary education; providing penalties for students convicted of rioting; proposing coding for new law in Minnesota Statutes 2002, chapter 135A.

The bill was read for the first time and referred to the Committee on Higher Education Finance.

Jaros and Rukavina introduced:

H. F. No. 1558, A bill for an act relating to taxation; limiting mortgage interest deduction; appropriating money for homeless persons assistance; amending Minnesota Statutes 2002, section 290.01, subdivision 19a.

The bill was read for the first time and referred to the Committee on Taxes.

Lanning, Lenczewski, Sykora, Simpson and Clark introduced:

H. F. No. 1559, A bill for an act relating to taxation; providing a tax credit for qualifying affordable housing contributions; proposing coding for new law in Minnesota Statutes, chapter 290.

The bill was read for the first time and referred to the Committee on Taxes.

Erickson; Lanning; Olson, M.; Zellers; Severson; Eastlund; Nelson, P.; Wardlow; Anderson, B., and Westrom introduced:

H. F. No. 1560, A bill for an act relating to health; limiting use of family planning grant funds; proposing coding for new law in Minnesota Statutes, chapter 145.

The bill was read for the first time and referred to the Committee on Health and Human Services Finance.

Kelliher introduced:

H. F. No. 1561, A bill for an act relating to property taxation; providing that household income rather than market value be used as the basis for computing property taxes on homestead properties; appropriating money; amending Minnesota Statutes 2002, sections 126C.01, subdivision 3; 127A.48, by adding a subdivision; 273.13, subdivisions 22, 23, by adding a subdivision; 275.065, subdivision 3; 275.08, subdivision 1a; 276.017, subdivision 1; 276.02; 276.03; 276.04, subdivisions 2, 3; 276.09; proposing coding for new law in Minnesota Statutes, chapters 273, 477A; repealing Minnesota Statutes 2002, section 273.1384, subdivision 1.

The bill was read for the first time and referred to the Committee on Taxes.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 536, A bill for an act relating to insurance; regulating the joint underwriting association; modifying coverage; modifying the market assistance responsibilities of the association; amending Minnesota Statutes 2002, sections 62I.02, subdivision 1; 62I.03, by adding a subdivision; 62I.04; 62I.05; 62I.08; 62I.13, subdivisions 1, 2; 62I.14; 62I.21; 62I.22, subdivision 1; repealing Minnesota Statutes 2002, sections 62I.09; 62I.10; 62I.11; 62I.13, subdivision 4.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Simpson moved that the House concur in the Senate amendments to H. F. No. 536 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 536, A bill for an act relating to insurance; regulating the joint underwriting association; modifying coverage; modifying the market assistance responsibilities of the association; amending Minnesota Statutes 2002, sections 62I.02, subdivisions 1, 3; 62I.03, by adding a subdivision; 62I.04; 62I.05; 62I.08; 62I.13, subdivisions 1, 2; 62I.14; 62I.16, subdivision 3; 62I.21; 62I.22, subdivision 1; repealing Minnesota Statutes 2002, sections 62I.09; 62I.10; 62I.11; 62I.13, subdivision 4.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted:

S. F. Nos. 1098, 1064, 484, 350, 1080, 1282, 1071, 1015, 296, 515 and 420.

PATRICK E. FLAHAVEN, Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 1098, A bill for an act relating to occupational safety and health; eliminating certain responsibilities of the commissioner of health; increasing penalty limits for certain violations; amending Minnesota Statutes 2002, sections 182.65, subdivision 2; 182.656, subdivision 1; 182.66, subdivision 2; 182.666, subdivision 2.

The bill was read for the first time.

Mahoney moved that S. F. No. 1098 and H. F. No. 817, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1064, A bill for an act relating to child labor; exempting certain minors from minimum age restrictions for work as soccer assistant referees; amending Minnesota Statutes 2002, section 181A.07, by adding a subdivision.

The bill was read for the first time.

Erhardt moved that S. F. No. 1064 and H. F. No. 1189, now on the Consent Calendar, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 484, A bill for an act relating to counties; authorizing counties to require the dedication of land for public parks; providing certain terms and conditions for the dedication; amending Minnesota Statutes 2002, section 394.25, subdivision 7.

The bill was read for the first time.

Nelson, P., moved that S. F. No. 484 and H. F. No. 657, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 350, A bill for an act relating to insurance; regulating the FAIR plan; amending Minnesota Statutes 2002, sections 65A.29, subdivision 4; 65A.32; 65A.33, subdivisions 4, 6, 9, by adding subdivisions; 65A.34; 65A.35; 65A.36; 65A.37; 65A.375; 65A.38, subdivisions 1, 5; 65A.40; 65A.41; 65A.42; repealing Minnesota Statutes 2002, section 65A.33, subdivision 5.

The bill was read for the first time.

Sertich moved that S. F. No. 350 and H. F. No. 203, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1080, A bill for an act relating to veterans homes; updating and correcting certain language; amending Minnesota Statutes 2002, sections 198.001, by adding a subdivision; 198.004, subdivision 1; 198.005; 198.007; repealing Minnesota Statutes 2002, sections 198.001, subdivision 7; 198.002, subdivision 5; 198.003, subdivision 2.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

S. F. No. 1282, A bill for an act relating to veterans; providing for placement in the capitol area of a statue commemorating Hmong veterans of the campaign in Laos during the Vietnam War.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

S. F. No. 1071, A bill for an act relating to health; applying licensure regulations and requirements to the alkaline hydrolysis process; amending Minnesota Statutes 2002, section 149A.02, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 149A.

The bill was read for the first time.

Powell moved that S. F. No. 1071 and H. F. No. 1384, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1015, A bill for an act relating to veterans affairs; permitting the commissioner of veterans affairs access to taxpayer identification information to notify veterans of health hazards that might affect them; amending Minnesota Statutes 2002, section 270B.14, by adding a subdivision.

The bill was read for the first time.

Brod moved that S. F. No. 1015 and H. F. No. 973, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 296, A bill for an act relating to education; renaming the department of children, families, and learning to department of education; making conforming changes to reflect the department name change; amending Minnesota Statutes 2002, sections 15.01; 119A.01, subdivision 2; 119A.02, subdivisions 2, 3; 119B.011, subdivisions 8, 10; 120A.02; 120A.05, subdivisions 4, 7; 127A.05, subdivisions 1, 3; repealing Minnesota Statutes 2002, section 119A.01, subdivision 1.

The bill was read for the first time.

Demmer moved that S. F. No. 296 and H. F. No. 517, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 515, A bill for an act relating to criminal justice; modifying structure of financial crimes task force and modifying related policies; repealing sunset provision; amending Minnesota Statutes 2002, section 299A.68.

The bill was read for the first time.

Meslow moved that S. F. No. 515 and H. F. No. 1226, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 420, A bill for an act relating to consumer protection; regulating membership travel contracts; amending Minnesota Statutes 2002, sections 325G.50; 325G.51; proposing coding for new law in Minnesota Statutes, chapter 325G.

The bill was read for the first time.

Meslow moved that S. F. No. 420 and H. F. No. 501, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

CONSENT CALENDAR

S. F. No. 1099 was reported to the House.

Gerlach moved that S. F. No. 1099 be placed on the General Register. The motion prevailed.

MOTION TO FIX TIME TO CONVENE

Paulsen moved that when the House adjourns today it adjourn until 10:30 a.m., Wednesday, April 23, 2003. The motion prevailed.

REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Paulsen from the Committee on Rules and Legislative Administration, pursuant to rule 1.21, designated the following bills to be placed on the Calendar for the Day for Tuesday, April 22, 2003:

H. F. Nos. 628 and 700; S. F. No. 578; H. F. Nos. 151, 433, 1251, 1257 and 1268; S. F. No. 872; H. F. Nos. 944, 719 and 258; S. F. No. 907; and H. F. Nos. 129, 784, 1234, 1036, 494 and 1026.

CALENDAR FOR THE DAY

H. F. No. 1317, A bill for an act relating to state government; extending the existence of the governor's residence council; amending Minnesota Statutes 2002, section 16B.27, subdivision 3.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 124 yeas and 4 nays as follows:

Those who voted in the affirmative were:

Abeler	Anderson, B.	Atkins	Blaine	Bradley	Clark
Abrams	Anderson, I.	Bernardy	Borrell	Brod	Cornish
Adolphson	Anderson, J.	Biernat	Boudreau	Carlson	Cox

Davids	Harder	Knoblach	Meslow	Powell	Swenson
Davnie	Hausman	Koenen	Mullery	Pugh	Sykora
DeLaForest	Heidgerken	Kohls	Murphy	Rhodes	Thao
Demmer	Hilstrom	Kuisle	Nelson, C.	Rukavina	Thissen
Dempsey	Hilty	Lanning	Nelson, M.	Ruth	Tingelstad
Dill	Holberg	Larson	Nelson, P.	Samuelson	Urdahl
Dorman	Hoppe	Latz	Nornes	Seagren	Vandeveer
Dorn	Hornstein	Lenczewski	Olsen, S.	Seifert	Wagenius
Eastlund	Howes	Lesch	Opatz	Sertich	Walz
Eken	Huntley	Lieder	Osterman	Severson	Wardlow
Erickson	Jaros	Lindgren	Otremba	Sieben	Wasiluk
Finstad	Johnson, J.	Lindner	Otto	Simpson	Westerberg
Gerlach	Johnson, S.	Lipman	Ozment	Slawik	Westrom
Goodwin	Juhnke	Magnus	Paulsen	Smith	Wilkin
Greiling	Kahn	Mahoney	Paymar	Soderstrom	Zellers
Gunther	Kelliher	Mariani	Pelowski	Solberg	Spk. Sviggum
Haas	Kielkucki	Marquart	Penas	Stang	
Hackbarth	Klinzing	McNamara	Peterson	Strachan	

Those who voted in the negative were:

Buesgens	Jacobson	Krinkie	Olson, M.

The bill was passed and its title agreed to.

The Speaker called Olson, M., to the Chair.

H. F. No. 894 was reported to the House.

Pugh moved to amend H. F. No. 894, the first engrossment, as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 168A.141, is amended to read:

168A.141 [MANUFACTURED HOME AFFIXED TO REAL ~~ESTATE~~ PROPERTY.]

Subdivision 1. [~~PROCEDURE~~ CERTIFICATES SURRENDERED FOR CANCELLATION.] ~~The owner of~~ When a manufactured home ~~which~~ is affixed ~~as an improvement,~~ as defined in section 273.125, subdivision 8, paragraph (b), to real ~~estate may~~ property, and financed by the giving of a mortgage on the real property, the owner of the manufactured home shall surrender the ~~home's~~ manufacturer's certificate of origin or certificate of title to the department for cancellation. The owner of the manufactured home shall give the department the address and ~~location~~ legal description of the real ~~estate~~ property. The department may require the filing of other information. The department must not issue a certificate of title for a manufactured home under chapter 168A if the manufacturer's certificate of origin is surrendered under this subdivision. Upon surrender of the manufacturer's certificate of origin or the certificate of title, the department shall issue notice of surrender to the owner and the manufactured home is deemed to be an improvement to real property. The notice to surrender may be recorded in the office of the county recorder or with the registrar of titles if the land is registered but need not contain an acknowledgment.

Subd. 2. [PERFECTED SECURITY INTEREST AVOIDS CANCELLATION.] The department may not cancel a certificate of title if a security interest has been perfected on the manufactured home. If a security interest has been perfected, the department shall notify the owner and each secured party that the certificate of title and a description of the security interest have been surrendered to the department and that the department will not cancel the certificate of title until the security interest is satisfied. Permanent attachment to real ~~estate~~ property does not extinguish an otherwise valid security interest in or tax lien on the manufactured home.

Subd. 3. [NOTICE OF SECURITY INTEREST AVOIDS SURRENDER.] The manufacturer's certificate of origin or the certificate of title need not be surrendered to the department under subdivision 1 when a perfected security interest exists on the manufactured home at the time the manufactured home is affixed to real property, if the owner of the manufactured home files a notice with the county recorder, or with the registrar of titles, if the land is registered, stating that the manufactured home located on the property is encumbered by a perfected security interest. The notice must state the name and address of the secured party as set forth on the certificate of title, the legal description of the real property, and the name and address of the record fee owner of the real property on which the manufactured home is affixed. When the security interest is released or satisfied, the secured party shall attach a copy of the release or satisfaction to a notice executed by the secured party containing the county recorder or registrar of titles document number of the notice of security interest. The notice of release or satisfaction must be filed with the county recorder, or registrar of titles, if the land is registered. Neither the notice described in this subdivision nor the security interest on the certificate of title is deemed to be an encumbrance on the real property. The notices provided for in this subdivision need not be acknowledged.

Sec. 2. Minnesota Statutes 2002, section 507.24, subdivision 2, is amended to read:

Subd. 2. [ORIGINAL SIGNATURES REQUIRED.] Unless otherwise provided by law, an instrument affecting real estate that is to be recorded as provided in this section or other applicable law must contain the original signatures of the parties who execute it and of the notary public or other officer taking an acknowledgment. However, a financing statement that is recorded as a filing pursuant to section 336.9-502(b) need not contain: (1) the signatures of the debtor or the secured party; or (2) an acknowledgment. Any electronic instruments, including signatures and seals, affecting real estate may only be recorded as part of a pilot project for the electronic filing of real estate documents implemented by the task force created in Laws 2000, chapter 391. Notices filed pursuant to section 168A.141, subdivisions 1 and 3, need not contain an acknowledgment.

Sec. 3. [EFFECTIVE DATE.]

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

Amend the title accordingly

The motion prevailed and the amendment was adopted.

H. F. No. 894, A bill for an act relating to property; modifying provisions relating to certificates of title to manufactured homes; amending Minnesota Statutes 2002, sections 168A.141; 507.24, subdivision 2.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 126 yeas and 3 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson, B.	Buesgens	Krinkie

The bill was passed, as amended, and its title agreed to.

H. F. No. 628, A bill for an act relating to civil actions; limiting liability for public notification of emergency; proposing coding for new law in Minnesota Statutes, chapter 604A.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Blaine	Cox	Eastlund	Haas	Hornstein
Abrams	Borrell	Davids	Eken	Hackbarth	Howes
Adolphson	Boudreau	Davnie	Ellison	Harder	Huntley
Anderson, B.	Bradley	DeLaForest	Erickson	Hausman	Jacobson
Anderson, I.	Brod	Demmer	Finstad	Heidgerken	Jaros
Anderson, J.	Buesgens	Dempsey	Gerlach	Hilstrom	Johnson, J.
Atkins	Carlson	Dill	Goodwin	Hilty	Johnson, S.
Bernardy	Clark	Dorman	Greiling	Holberg	Juhnke
Biernat	Cornish	Dorn	Gunther	Hoppe	Kahn

Kelliher	Lieder	Nelson, M.	Penas	Simpson	Vandeveer
Kielkucki	Lindgren	Nelson, P.	Peterson	Slawik	Wagenius
Klinzing	Lindner	Nornes	Powell	Smith	Walz
Knoblach	Lipman	Olsen, S.	Pugh	Soderstrom	Wardlow
Koenen	Magnus	Olson, M.	Rhodes	Solberg	Wasiluk
Kohls	Mahoney	Opatz	Rukavina	Stang	Westerberg
Krinkie	Mariani	Osterman	Ruth	Strachan	Westrom
Kuisle	Marquart	Otremba	Samuelson	Swenson	Wilkin
Lanning	McNamara	Otto	Seagren	Sykora	Zellers
Larson	Meslow	Ozment	Seifert	Thao	Spk. Sviggum
Latz	Mullery	Paulsen	Sertich	Thissen	
Lenczewski	Murphy	Paymar	Severson	Tingelstad	
Lesch	Nelson, C.	Pelowski	Sieben	Urdahl	

The bill was passed and its title agreed to.

H. F. No. 700 was reported to the House.

Eastlund moved to amend H. F. No. 700, the first engrossment, as follows:

Page 1, line 14, after "individual" insert "reasonable"

The motion prevailed and the amendment was adopted.

H. F. No. 700, A bill for an act relating to civil actions; providing immunity for good faith reports to or requests for assistance from law enforcement; proposing coding for new law in Minnesota Statutes, chapter 604A.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 128 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abeler	Cornish	Greiling	Johnson, S.	Lindgren	Opatz
Abrams	Cox	Gunther	Juhnke	Lindner	Osterman
Adolphson	Davids	Haas	Kahn	Lipman	Otremba
Anderson, B.	Davnie	Hackbarth	Kelliher	Magnus	Otto
Anderson, I.	DeLaForest	Harder	Kielkucki	Mahoney	Ozment
Anderson, J.	Demmer	Hausman	Klinzing	Mariani	Paulsen
Atkins	Dempsey	Heidgerken	Knoblach	Marquart	Paymar
Bernardy	Dill	Hilstrom	Koenen	McNamara	Pelowski
Biernat	Dorman	Hilty	Kohls	Meslow	Penas
Blaine	Dorn	Holberg	Krinkie	Mullery	Peterson
Borrell	Eastlund	Hoppe	Kuisle	Murphy	Powell
Boudreau	Eken	Hornstein	Lanning	Nelson, C.	Pugh
Bradley	Ellison	Howes	Larson	Nelson, M.	Rhodes
Brod	Erickson	Huntley	Latz	Nelson, P.	Rukavina
Buesgens	Finstad	Jacobson	Lenczewski	Nornes	Ruth
Carlson	Gerlach	Jaros	Lesch	Olsen, S.	Samuelson
Clark	Goodwin	Johnson, J.	Lieder	Olson, M.	Seagren

Seifert	Slawik	Strachan	Urdahl	Wasiluk	Spk. Sviggum
Sertich	Smith	Swenson	Vandeveer	Westerberg	
Severson	Soderstrom	Sykora	Wagenius	Westrom	
Sieben	Solberg	Thao	Walz	Wilkin	
Simpson	Stang	Tingelstad	Wardlow	Zellers	

Those who voted in the negative were:

Thissen

The bill was passed, as amended, and its title agreed to.

S. F. No. 578, A bill for an act relating to civil commitment; clarifying qualifications of persons making certain decisions regarding civil commitments and emergency holds; amending Minnesota Statutes 2002, section 253B.02, subdivisions 7, 9.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

H. F. No. 151, A bill for an act relating to human services; exempting children eligible for adoption assistance from the prepaid medical assistance program; amending Minnesota Statutes 2002, section 256B.69, subdivision 4.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

H. F. No. 433, A bill for an act relating to zoning; modifying deadlines for agency actions; amending Minnesota Statutes 2002, section 15.99.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 126 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abeler	Bernardy	Buesgens	DeLaForest	Eken	Gunther
Abrams	Biernat	Carlson	Demmer	Ellison	Haas
Adolphson	Blaine	Clark	Dempsey	Erickson	Hackbarth
Anderson, B.	Borrell	Cornish	Dill	Finstad	Harder
Anderson, I.	Boudreau	Cox	Dorman	Gerlach	Heidgerken
Anderson, J.	Bradley	Davids	Dorn	Goodwin	Hilstrom
Atkins	Brod	Davnie	Eastlund	Greiling	Hilty

Holberg	Knoblach	Magnus	Osterman	Samuelson	Sykora
Hoppe	Koenen	Mahoney	Otremba	Seagren	Thao
Hornstein	Kohls	Marquart	Otto	Seifert	Thissen
Howes	Krinkie	McNamara	Ozment	Sertich	Tingelstad
Huntley	Kuisle	Meslow	Paulsen	Severson	Urdahl
Jacobson	Lanning	Mullery	Paymar	Sieben	Wagenius
Jaros	Larson	Murphy	Pelowski	Simpson	Walz
Johnson, J.	Latz	Nelson, C.	Penas	Slawik	Wardlow
Johnson, S.	Lenczewski	Nelson, M.	Peterson	Smith	Wasiluk
Juhnke	Lesch	Nelson, P.	Powell	Soderstrom	Westerberg
Kahn	Lieder	Nornes	Pugh	Solberg	Westrom
Kelliher	Lindgren	Olsen, S.	Rhodes	Stang	Wilkin
Kielkucki	Lindner	Olson, M.	Rukavina	Strachan	Zellers
Klinzing	Lipman	Opatz	Ruth	Swenson	Spk. Sviggum

Those who voted in the negative were:

Vandeveer

The bill was passed and its title agreed to.

H. F. No. 1251 was reported to the House.

Thao offered an amendment to H. F. No. 1251, the first engrossment.

POINT OF ORDER

Samuelson raised a point of order pursuant to rule 3.21 that the Thao amendment was not in order. Speaker pro tempore Olson, M., ruled the point of order well taken and the Thao amendment out of order.

Thao appealed the decision of Speaker pro tempore Olson, M.

A roll call was requested and properly seconded.

LAY ON THE TABLE

Seifert moved to lay the Thao appeal of the decision of Speaker pro tempore Olson, M., on the table.

A roll call was requested and properly seconded.

The question was taken on the Seifert motion and the roll was called. There were 78 yeas and 50 nays as follows:

Those who voted in the affirmative were:

Abeler	Anderson, B.	Borrell	Brod	Cox	Demmer
Abrams	Anderson, J.	Boudreau	Buesgens	Davids	Dempsey
Adolphson	Blaine	Bradley	Cornish	DeLaForest	Dorman

Eastlund	Hoppe	Lanning	Olsen, S.	Seagren	Tingelstad
Erickson	Howes	Lindgren	Olson, M.	Seifert	Urdahl
Finstad	Jacobson	Lindner	Osterman	Severson	Vandeveer
Gerlach	Johnson, J.	Lipman	Ozment	Simpson	Walz
Gunther	Kielkucki	Magnus	Paulsen	Smith	Wardlow
Haas	Klinzing	McNamara	Penas	Soderstrom	Westerberg
Hackbarth	Knoblach	Meslow	Powell	Stang	Westrom
Harder	Kohls	Nelson, C.	Rhodes	Strachan	Wilkin
Heidgerken	Krinkie	Nelson, P.	Ruth	Swenson	Zellers
Holberg	Kuisle	Nornes	Samuelson	Sykora	Spk. Sviggum

Those who voted in the negative were:

Anderson, I.	Eken	Johnson, S.	Lieder	Otto	Solberg
Atkins	Ellison	Juhnke	Mahoney	Paymar	Thao
Bernardy	Greiling	Kahn	Mariani	Pelowski	Thissen
Biernat	Hausman	Kelliher	Marquart	Peterson	Wagenius
Carlson	Hilstrom	Koenen	Mullery	Pugh	Wasiluk
Clark	Hilty	Larson	Murphy	Rukavina	
Davnie	Hornstein	Latz	Nelson, M.	Sertich	
Dill	Huntley	Lenczewski	Opatz	Sieben	
Dorn	Jaros	Lesch	Otremba	Slawik	

The motion prevailed and the appeal of the decision of Speaker pro tempore Olson, M., was laid on the table.

H. F. No. 1251, A bill for an act relating to health; excluding certain licensed home care agencies from supplemental nursing services law; requiring a review and report on certain home care provider laws; amending Minnesota Statutes 2002, section 144A.70, subdivision 6.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Cornish	Greiling	Johnson, S.	Lindgren	Opatz
Abrams	Cox	Gunther	Juhnke	Lindner	Osterman
Adolphson	Davids	Haas	Kahn	Lipman	Otremba
Anderson, B.	Davnie	Hackbarth	Kelliher	Magnus	Otto
Anderson, I.	DeLaForest	Harder	Kielkucki	Mahoney	Ozment
Anderson, J.	Demmer	Hausman	Klinzing	Mariani	Paulsen
Atkins	Dempsey	Heidgerken	Knoblach	Marquart	Paymar
Bernardy	Dill	Hilstrom	Koenen	McNamara	Pelowski
Biernat	Dorman	Hilty	Kohls	Meslow	Penas
Blaine	Dorn	Holberg	Krinkie	Mullery	Peterson
Borrell	Eastlund	Hoppe	Kuisle	Murphy	Powell
Boudreau	Eken	Hornstein	Lanning	Nelson, C.	Pugh
Bradley	Ellison	Howes	Larson	Nelson, M.	Rhodes
Brod	Erickson	Huntley	Latz	Nelson, P.	Rukavina
Buesgens	Finstad	Jacobson	Lenczewski	Nornes	Ruth
Carlson	Gerlach	Jaros	Lesch	Olsen, S.	Samuelson
Clark	Goodwin	Johnson, J.	Lieder	Olson, M.	Seagren

Seifert	Slawik	Strachan	Tingelstad	Wardlow	Zellers
Sertich	Smith	Swenson	Urdahl	Wasiluk	Spk. Sviggum
Severson	Soderstrom	Sykora	Vandeveer	Westerberg	
Sieben	Solberg	Thao	Wagenius	Westrom	
Simpson	Stang	Thissen	Walz	Wilkin	

The bill was passed and its title agreed to.

H. F. No. 1257, A bill for an act relating to natural resources; authorizing a drainage authority to compensate landowners for the removal of a bridge; amending Minnesota Statutes 2002, section 103E.701, by adding a subdivision.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

H. F. No. 1268, A bill for an act relating to traffic regulations; clarifying when vehicle lights must be displayed; amending Minnesota Statutes 2002, section 169.48, subdivision 1.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 113 yeas and 17 nays as follows:

Those who voted in the affirmative were:

Abeler	DeLaForest	Hilstrom	Latz	Olson, M.	Sieben
Abrams	Demmer	Hilty	Lenczewski	Opatz	Simpson
Adolphson	Dempsey	Holberg	Lesch	Osterman	Slawik
Anderson, B.	Dill	Hoppe	Lieder	Otremba	Soderstrom
Anderson, I.	Dorman	Hornstein	Lindgren	Otto	Solberg
Anderson, J.	Dorn	Huntley	Lindner	Ozment	Strachan
Atkins	Eastlund	Jacobson	Lipman	Paulsen	Swenson
Bernardy	Eken	Jaros	Magnus	Paymar	Sykora
Biernat	Ellison	Johnson, S.	Mahoney	Pelowski	Thao
Blaine	Entenza	Juhnke	Mariani	Peterson	Thissen
Borrell	Erickson	Kahn	Marquart	Powell	Tingelstad
Boudreau	Gerlach	Kelliher	McNamara	Pugh	Urdahl
Bradley	Goodwin	Klinzing	Meslow	Rhodes	Vandeveer
Carlson	Greiling	Knoblach	Mullery	Rukavina	Wagenius
Clark	Gunther	Koenen	Murphy	Ruth	Wardlow
Cornish	Haas	Kohls	Nelson, C.	Samuelson	Wasiluk
Cox	Hackbarth	Kuisle	Nelson, M.	Seagren	Zellers
Davids	Harder	Lanning	Nelson, P.	Sertich	Spk. Sviggum
Davnie	Hausman	Larson	Nornes	Severson	

Those who voted in the negative were:

Brod	Heidgerken	Kielkucki	Penas	Stang	Westrom
Buesgens	Howes	Krinkie	Seifert	Walz	Wilkin
Finstad	Johnson, J.	Olsen, S.	Smith	Westerberg	

The bill was passed and its title agreed to.

H. F. No. 944, A bill for an act relating to local government; providing an exception to the priorities for designating a qualified newspaper; amending Minnesota Statutes 2002, section 331A.04, by adding a subdivision.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Blaine	Cox	Eastlund	Gunther	Hoppe
Abrams	Borrell	Davids	Eken	Haas	Hornstein
Adolphson	Boudreau	Davnie	Ellison	Hackbarth	Howes
Anderson, B.	Bradley	DeLaForest	Entenza	Harder	Huntley
Anderson, I.	Brod	Demmer	Erickson	Hausman	Jacobson
Anderson, J.	Buesgens	Dempsey	Finstad	Heidgerken	Jaros
Atkins	Carlson	Dill	Gerlach	Hilstrom	Johnson, J.
Bernardy	Clark	Dorman	Goodwin	Hilty	Johnson, S.
Biernat	Cornish	Dorn	Greiling	Holberg	Juhnke

Kahn	Lesch	Nelson, C.	Pelowski	Sieben	Urdahl
Kelliher	Lieder	Nelson, M.	Penas	Simpson	Vandeveer
Kielkucki	Lindgren	Nelson, P.	Peterson	Slawik	Wagenius
Klinzing	Lindner	Nornes	Powell	Smith	Walz
Knoblach	Lipman	Olsen, S.	Pugh	Soderstrom	Wardlow
Koenen	Magnus	Olson, M.	Rhodes	Solberg	Wasiluk
Kohls	Mahoney	Opatz	Rukavina	Stang	Westerberg
Krinkie	Mariani	Osterman	Ruth	Strachan	Westrom
Kuisle	Marquart	Otremba	Samuelson	Swenson	Wilkin
Lanning	McNamara	Otto	Seagren	Sykora	Zellers
Larson	Meslow	Ozment	Seifert	Thao	Spk. Sviggum
Latz	Mullery	Paulsen	Sertich	Thissen	
Lenczewski	Murphy	Paymar	Severson	Tingelstad	

The bill was passed and its title agreed to.

H. F. No. 258, A bill for an act relating to agriculture; prohibiting registration of certain fertilizers; amending Minnesota Statutes 2002, section 18C.401, by adding a subdivision.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 124 yeas and 6 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Adolphson	Buesgens	Erickson	Kielkucki	Krinkie	Olson, M.

The bill was passed and its title agreed to.

H. F. No. 129 was reported to the House.

Wagenius and Kelliher moved to amend H. F. No. 129, the first engrossment, as follows:

Page 2, line 32, delete "must" and insert "may"

Page 3, line 1, delete "must" and insert "may"

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Wagenius and Kelliher amendment and the roll was called. There were 40 yeas and 89 nays as follows:

Those who voted in the affirmative were:

Abeler	Ellison	Hilty	Koenen	Paymar	Swenson
Bernardy	Entenza	Hornstein	Lanning	Pelowski	Thao
Biernat	Finstad	Huntley	Latz	Peterson	Thissen
Blaine	Goodwin	Jaros	Lieder	Rukavina	Wagenius
Clark	Hackbarth	Johnson, S.	Mahoney	Seifert	Wasiluk
Davnie	Hausman	Kelliher	Marquart	Sertich	
Eken	Hilstrom	Knoblach	Nelson, M.	Severson	

Those who voted in the negative were:

Abrams	Demmer	Howes	Lipman	Otto	Solberg
Adolphson	Dempsey	Jacobson	Magnus	Ozment	Stang
Anderson, B.	Dill	Johnson, J.	Mariani	Paulsen	Strachan
Anderson, I.	Dorman	Juhnke	McNamara	Penas	Sykora
Anderson, J.	Dorn	Kahn	Meslow	Powell	Tingelstad
Atkins	Eastlund	Kielkucki	Mullery	Pugh	Urdahl
Borrell	Erickson	Klinzing	Murphy	Rhodes	Vandeveer
Boudreau	Gerlach	Kohls	Nelson, C.	Ruth	Walz
Brod	Greiling	Krinkie	Nelson, P.	Samuelson	Wardlow
Buesgens	Gunther	Kuisle	Nornes	Seagren	Westerberg
Carlson	Haas	Larson	Olsen, S.	Sieben	Westrom
Cornish	Harder	Lenczewski	Olson, M.	Simpson	Wilkin
Cox	Heidgerken	Lesch	Opatz	Slawik	Zellers
Davids	Holberg	Lindgren	Osterman	Smith	Spk. Sviggum
DeLaForest	Hoppe	Lindner	Otremba	Soderstrom	

The motion did not prevail and the amendment was not adopted.

H. F. No. 129, A bill for an act relating to elections; requiring an affidavit of candidacy to include a candidate's residence address; providing for rejection of an affidavit that shows the candidate does not reside in the district for which election is sought; providing for elections of certain council members in cities of the first class elected by ward after reapportionment; amending Minnesota Statutes 2002, sections 204B.06, subdivision 1; 205.84, subdivision 1.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 81 yeas and 47 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorman	Jacobson	Mariani	Penas	Tingelstad
Abrams	Dorn	Johnson, J.	Murphy	Powell	Urdahl
Adolphson	Eastlund	Juhnke	Nelson, C.	Pugh	Vandeveer
Anderson, I.	Erickson	Kahn	Nelson, M.	Rhodes	Walz
Anderson, J.	Gerlach	Kielkucki	Nelson, P.	Rukavina	Wardlow
Borrell	Greiling	Klinzing	Nornes	Ruth	Wasiluk
Buesgens	Haas	Krinkie	Olsen, S.	Samuelson	Westerberg
Carlson	Harder	Kuisle	Olson, M.	Severson	Westrom
Cox	Heidgerken	Larson	Opatz	Sieben	Wilkin
Davids	Hilstrom	Lenczewski	Osterman	Simpson	Zellers
DeLaForest	Hilty	Lesch	Otremba	Slawik	Spk. Sviggum
Demmer	Holberg	Lieder	Ozment	Soderstrom	
Dempsey	Hoppe	Lindgren	Paulsen	Solberg	
Dill	Howes	Magnus	Paymar	Stang	

Those who voted in the negative were:

Anderson, B.	Clark	Hackbarth	Koenen	Meslow	Smith
Atkins	Cornish	Hausman	Kohls	Mullery	Strachan
Bernardy	Davnie	Hornstein	Lanning	Otto	Swenson
Biernat	Eken	Huntley	Latz	Pelowski	Sykora
Blaine	Ellison	Jaros	Lindner	Peterson	Thao
Boudreau	Finstad	Johnson, S.	Mahoney	Seagren	Thissen
Bradley	Goodwin	Kelliher	Marquart	Seifert	Wagenius
Brod	Gunther	Knoblach	McNamara	Sertich	

The bill was passed and its title agreed to.

Kahn was excused for the remainder of today's session.

H. F. No. 784, A bill for an act relating to crimes; prohibiting interfering with emergency communications; prescribing penalties; proposing coding for new law in Minnesota Statutes, chapter 609.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 113 yeas and 15 nays as follows:

Those who voted in the affirmative were:

Abeler	Bernardy	Brod	Davnie	Dorn	Greiling
Abrams	Biernat	Carlson	DeLaForest	Eastlund	Gunther
Adolphson	Blaine	Clark	Demmer	Eken	Haas
Anderson, I.	Borrell	Cornish	Dempsey	Entenza	Hackbarth
Anderson, J.	Boudreau	Cox	Dill	Finstad	Harder
Atkins	Bradley	Davids	Dorman	Goodwin	Hausman

Heidgerken	Kielkucki	Mahoney	Osterman	Seagren	Tingelstad
Hilstrom	Knoblach	Marquart	Otto	Seifert	Urdahl
Hilty	Koenen	McNamara	Ozment	Severson	Vandeveer
Hoppe	Kohls	Meslow	Paulsen	Sieben	Wagenius
Hornstein	Kuisle	Mullery	Paymar	Simpson	Walz
Howes	Lanning	Murphy	Pelowski	Slawik	Wardlow
Huntley	Larson	Nelson, C.	Penas	Smith	Wasiluk
Jacobson	Latz	Nelson, M.	Peterson	Soderstrom	Westerberg
Jaros	Lenczewski	Nelson, P.	Powell	Stang	Westrom
Johnson, J.	Lesch	Nornes	Pugh	Strachan	Wilkin
Johnson, S.	Lieder	Olsen, S.	Rhodes	Sykora	Zellers
Juhnke	Lipman	Olson, M.	Ruth	Thao	Spk. Sviggum
Kelliher	Magnus	Opatz	Samuelson	Thissen	

Those who voted in the negative were:

Anderson, B.	Erickson	Klinzing	Lindner	Sertich
Buesgens	Gerlach	Krinkie	Otremba	Solberg
Ellison	Holberg	Lindgren	Rukavina	Swenson

The bill was passed and its title agreed to.

H. F. No. 1234, A bill for an act relating to cemeteries; providing for correction of interment errors; proposing coding for new law in Minnesota Statutes, chapters 306; 307.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

The Speaker resumed the Chair.

H. F. No. 1036 was reported to the House.

CALL OF THE HOUSE

On the motion of Seifert and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

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

Paulsen moved that further proceedings of the roll call be suspended and that the Sergeant at Arms be instructed to bring in the absentees. The motion prevailed and it was so ordered.

The Speaker called Boudreau to the Chair.

H. F. No. 1036, A bill for an act relating to corrections; requiring regular meals to be provided to inmates; proposing coding for new law in Minnesota Statutes, chapter 243.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called.

Paulsen moved that those not voting be excused from voting. The motion prevailed.

There were 108 yeas and 22 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Hoppe	Lindgren	Otto	Soderstrom
Abrams	Dempsey	Howes	Lindner	Ozment	Solberg
Adolphson	Dorman	Huntley	Lipman	Paulsen	Stang
Anderson, B.	Dorn	Jacobson	Magnus	Pelowski	Strachan
Anderson, J.	Eastlund	Johnson, J.	Mahoney	Penas	Swenson
Atkins	Eken	Kelliher	Marquart	Peterson	Sykora
Beard	Entenza	Kielkucki	McNamara	Powell	Thissen
Bernardy	Erickson	Klinzing	Meslow	Pugh	Tingelstad
Blaine	Finstad	Knoblach	Murphy	Rhodes	Urdahl
Borrell	Gerlach	Koenen	Nelson, C.	Ruth	Vandeveer
Boudreau	Gunther	Kohls	Nelson, M.	Samuelson	Walz
Bradley	Haas	Krinkie	Nelson, P.	Seagren	Wardlow
Brod	Hackbarth	Kuisle	Nornes	Seifert	Wasiluk
Buesgens	Harder	Lanning	Olsen, S.	Severson	Westerberg
Carlson	Heidgerken	Larson	Olson, M.	Sieben	Westrom
Cornish	Hilstrom	Lenczewski	Opatz	Simpson	Wilkin
Cox	Hilty	Lesch	Osterman	Slawik	Zellers
DeLaForest	Holberg	Lieder	Otremba	Smith	Spk. Sviggum

Those who voted in the negative were:

Anderson, I.	Davnie	Greiling	Johnson, S.	Mullery	Thao
Biernat	Dill	Hausman	Juhnke	Paymar	Wagenius
Clark	Ellison	Hornstein	Latz	Rukavina	
Davids	Goodwin	Jaros	Mariani	Sertich	

The bill was passed and its title agreed to.

The Speaker resumed the Chair.

CALL OF THE HOUSE LIFTED

Kelliher moved that the call of the House be suspended. The motion prevailed and it was so ordered.

H. F. No. 494, A bill for an act relating to education; allowing independent school district No. 709, Duluth, to reduce the number of atlarge school board members.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 114 yeas and 12 nays as follows:

Those who voted in the affirmative were:

Abeler	Anderson, J.	Bernardy	Borrell	Buesgens	Cornish
Abrams	Atkins	Biernat	Boudreau	Carlson	Cox
Anderson, I.	Beard	Blaine	Brod	Clark	Davids

Davnie	Hausman	Klinzing	Marquart	Powell	Strachan
Demmer	Heidgerken	Knoblach	McNamara	Pugh	Swenson
Dempsey	Hilstrom	Koenen	Meslow	Rhodes	Sykora
Dill	Hilty	Kohls	Nelson, M.	Rukavina	Thao
Dorman	Holberg	Kuisle	Nelson, P.	Ruth	Thissen
Dorn	Hoppe	Lanning	Nornes	Samuelson	Tingelstad
Eastlund	Hornstein	Larson	Olsen, S.	Seagren	Urdahl
Eken	Howes	Latz	Olson, M.	Seifert	Vandeveer
Erickson	Huntley	Lenczewski	Opatz	Sertich	Wagenius
Finstad	Jacobson	Lesch	Osterman	Severson	Walz
Goodwin	Jaros	Lieder	Otto	Sieben	Wardlow
Greiling	Johnson, J.	Lindgren	Ozment	Simpson	Wasiluk
Gunther	Johnson, S.	Lipman	Paulsen	Slawik	Westrom
Haas	Juhnke	Magnus	Pelowski	Soderstrom	Wilkin
Hackbarth	Kelliher	Mahoney	Penas	Solberg	Zellers
Harder	Kielkucki	Mariani	Peterson	Stang	Spk. Sviggum

Those who voted in the negative were:

Adolphson	DeLaForest	Krinkie	Mullery	Otremba	Smith
Anderson, B.	Gerlach	Lindner	Murphy	Paymar	Westerberg

The bill was passed and its title agreed to.

H. F. No. 1026, A bill for an act relating to human services; authorizing a medical assistance capitated payment option for waivered services, day training and habilitation services, and intermediate care facility services for persons with mental retardation or a related condition; amending Minnesota Statutes 2002, sections 252.46, by adding a subdivision; 256B.69, subdivisions 6a, 23; proposing coding for new law in Minnesota Statutes, chapter 256B.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Buesgens	Entenza	Hoppe	Krinkie	McNamara
Abrams	Carlson	Erickson	Hornstein	Kuisle	Meslow
Adolphson	Clark	Finstad	Howes	Lanning	Mullery
Anderson, B.	Cornish	Gerlach	Huntley	Larson	Murphy
Anderson, I.	Cox	Goodwin	Jacobson	Latz	Nelson, C.
Anderson, J.	Davids	Greiling	Jaros	Lenczewski	Nelson, M.
Atkins	Davnie	Gunther	Johnson, J.	Lesch	Nelson, P.
Beard	DeLaForest	Haas	Johnson, S.	Lieder	Nornes
Bernardy	Demmer	Hackbarth	Juhnke	Lindgren	Olsen, S.
Biernat	Dempsey	Harder	Kelliher	Lindner	Olson, M.
Blaine	Dill	Hausman	Kielkucki	Lipman	Opatz
Borrell	Dorman	Heidgerken	Klinzing	Magnus	Osterman
Boudreau	Dorn	Hilstrom	Knoblach	Mahoney	Otremba
Bradley	Eastlund	Hilty	Koenen	Mariani	Otto
Brod	Eken	Holberg	Kohls	Marquart	Paulsen

Paymar	Rukavina	Sieben	Strachan	Vandeveer	Wilkin
Pelowski	Ruth	Simpson	Swenson	Wagenius	Zellers
Penas	Samuelson	Slawik	Sykora	Walz	Spk. Sviggum
Peterson	Seagren	Smith	Thao	Wardlow	
Powell	Seifert	Soderstrom	Thissen	Wasiluk	
Pugh	Sertich	Solberg	Tingelstad	Westerberg	
Rhodes	Severson	Stang	Urdahl	Westrom	

The bill was passed and its title agreed to.

Paulsen moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

MOTIONS AND RESOLUTIONS

Urdahl moved that his name be stricken as an author on H. F. No. 327. The motion prevailed.

Urdahl moved that his name be stricken as an author on H. F. No. 375. The motion prevailed.

Abeler moved that the names of Thissen and Blaine be added as authors on H. F. No. 395. The motion prevailed.

Kielkucki moved that the names of Wardlow and Heidgerken be added as authors on H. F. No. 806. The motion prevailed.

Westrom moved that the name of Swenson be added as an author on H. F. No. 1333. The motion prevailed.

Klinzing moved that the name of Simpson be added as an author on H. F. No. 1375. The motion prevailed.

Klinzing moved that the name of Simpson be added as an author on H. F. No. 1376. The motion prevailed.

Brod moved that the name of Swenson be added as an author on H. F. No. 1542. The motion prevailed.

Erhardt moved that the name of Severson be added as an author on H. F. No. 1546. The motion prevailed.

Lanning moved that the name of Finstad be added as an author on H. F. No. 1549. The motion prevailed.

Kuisle moved that the name of Nelson, C., be added as an author on H. F. No. 1554. The motion prevailed.

Knoblach moved that H. F. No. 749 be recalled from the Committee on Ways and Means and be re-referred to the Committee on Taxes. The motion prevailed.

Boudreau; Marquart; Sviggum; Brod; Cornish; Wilkin; Johnson, J.; Soderstrom; Knoblach; Anderson, J.; Seagren; Erickson; Bradley; Beard; Ruth and Nelson, P., introduced:

House Resolution No. 9, A House resolution recognizing May 1, 2003, as a Day of Prayer in Minnesota.

The resolution was referred to the Committee on Rules and Legislative Administration.

ADJOURNMENT

Paulsen moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 10:30 a.m., Wednesday, April 23, 2003.

EDWARD A. BURDICK, Chief Clerk, House of Representatives