

## STATE OF MINNESOTA

## EIGHTY-FOURTH SESSION — 2005

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 FORTY-SIXTH DAY

SAINT PAUL, MINNESOTA, TUESDAY, APRIL 26, 2005

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

A quorum was present.

Nelson, P., and Ozment were excused.

Hilty was excused until 12:55 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day. Soderstrom 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. 493 and H. F. No. 399, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

**SUSPENSION OF RULES**

Peterson, A., moved that the rules be so far suspended that S. F. No. 493 be substituted for H. F. No. 399 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1335 and H. F. No. 1460, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

**SUSPENSION OF RULES**

Beard moved that the rules be so far suspended that S. F. No. 1335 be substituted for H. F. No. 1460 and that the House File be indefinitely postponed. The motion prevailed.

**REPORTS OF STANDING COMMITTEES**

Ozment from the Committee on Agriculture, Environment and Natural Resources Finance to which was referred:

H. F. No. 902, A bill for an act relating to natural resources; modifying limit on gifts to the public; modifying state park permit provisions; providing for disposition of certain fees; appropriating money; amending Minnesota Statutes 2004, sections 84.027, subdivision 12; 85.052, subdivision 4; 85.053, subdivisions 1, 2; 85.055, subdivision 2, by adding a subdivision; repealing Minnesota Statutes 2004, section 85.054, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

**"ARTICLE 1****ENVIRONMENT AND NATURAL RESOURCES APPROPRIATIONS****OPTION B****Section 1. [ENVIRONMENT AND NATURAL RESOURCES 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 "2006" and "2007," where used in this article, mean that the appropriation or appropriations listed under them are available for the fiscal year ending June 30, 2006, or June 30, 2007, respectively. The term "the first year" means the year ending June 30, 2006, and the term "the second year" means the year ending June 30, 2007.

## SUMMARY BY FUND

	2006	2007	TOTAL
General	\$110,654,000	\$110,655,000	\$221,309,000
State Government Special Revenue	48,000	48,000	96,000
Environmental	56,663,000	56,970,000	113,633,000
Natural Resources	66,147,000	66,412,000	132,559,000
Game and Fish	84,857,000	86,629,000	171,486,000
Remediation	11,503,000	11,503,000	23,006,000
Permanent School	350,000	350,000	700,000
State Land and Water Conservation Account (LAWCON)	1,600,000	-0-	1,600,000
Environment and Natural Resources Trust Fund	18,829,000	18,829,000	37,658,000
Great Lakes Protection Account	28,000	-0-	28,000
TOTAL	\$350,679,000	\$351,396,000	\$702,075,000

## APPROPRIATIONS

Available for the Year

Ending June 30

2006

2007

## Sec. 2. DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Subdivision 1. Total Appropriation

\$79,278,000

\$79,585,000

## Summary by Fund

General	11,164,000	11,164,000
State Government Special Revenue	48,000	48,000
Environmental	56,663,000	56,970,000
Remediation	11,403,000	11,403,000

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  
2006 2007

\$2,324,000 the first year and \$2,324,000 the second year must be distributed as grants to delegated counties to administer the county feedlot program. Distribution of the funds must be conducted according to the following three-part formula:

(1) Number of feedlots in the county: 60 percent of the total appropriation must be distributed according to the number of feedlots that are required to be registered in the county. Grants awarded under this clause must be matched with a combination of local cash and in-kind contributions.

(2) Minimum program requirements: 25 percent of the total appropriation must be distributed based on the county (i) conducting an annual number of inspections at feedlots that is equal to or greater than seven percent of the total number of registered feedlots that are required to be registered in the county; and (ii) meeting noninspection minimum program requirements as identified in the county feedlot workplan form. Counties that do not meet the inspection requirement must not receive 50 percent of the eligible funding under this clause. Counties must receive funding for noninspection requirements under this clause according to a scoring system checklist administered by the department. The commissioner, in consultation with the Minnesota Association of County Feedlot Officers executive team, shall make a final decision regarding any appeal by a county regarding the terms and conditions of this clause.

(3) Performance credits: 15 percent of the total appropriation must be distributed according to work that has been done by the counties during the fiscal year. The amount must be determined by the number of performance credits a county accumulates during the year based on a performance credit matrix jointly agreed upon by the commissioner in consultation with the Minnesota Association of County Feedlot Officers executive team. To receive an award under this clause the county must meet the requirements of clause (2)(i) and achieve 90 percent of the requirements according to clause (2)(ii) of the formula. The rate of reimbursement per performance credit item must not exceed \$200.

Delegated counties are eligible for a minimum grant of \$7,500. To receive the full \$7,500 amount a county must meet the requirements under clause (2) of the formula. Nondelegated counties that apply for delegation shall receive a grant prorated according to the number of full quarters remaining in the program year from the date of commissioner approval of the delegation. Funds for awards to any newly delegated counties must be made

APPROPRIATIONS  
Available for the Year  
Ending June 30  
20062007

out of the appropriation reserved for clause (3) of the formula. The commissioner, in consultation with the Minnesota Association of County Feedlot Officers executive team, may decide to use funds reserved for clause (3) of the formula in an amount not to exceed five percent of the total annual appropriation for initiatives to enhance existing delegated county feedlot programs, information and education, or technical assistance efforts to reduce feedlot-related pollution hazards. Any funds remaining after distribution under clauses (1) and (2) of the formula must be transferred to clause (3) of the formula. Any money remaining after the first year is available for the second year.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered under contract on or before June 30, 2007, for clean water partnership, individual sewage treatment systems (ISTS), Minnesota River, total maximum daily loads (TMDLs), and local and basinwide water quality protection grants in this subdivision are available until June 30, 2009.

Subd. 3. Air

9,297,000	9,604,000
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Summary by Fund

Environmental	9,297,000	9,604,000
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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.

\$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

18,467,000	18,467,000
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Summary by Fund

Environmental	7,064,000	7,064,000
Remediation	11,403,000	11,403,000

APPROPRIATIONS  
Available for the Year  
Ending June 30

2006	2007
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All money for environmental response, compensation, and compliance in the remediation fund not otherwise appropriated is appropriated to the commissioners of the Departments of Environmental Protection and 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 departments. This appropriation is available until June 30, 2007.

\$3,616,000 the first year and \$3,616,000 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.

Subd. 5. Multimedia

24,059,000		24,059,000
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Summary by Fund

General	2,264,000	2,264,000
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Environmental	21,795,000	21,795,000
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\$12,500,000 each year is from the environmental fund for SCORE block grants to counties.

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 department for the purposes of Minnesota Statutes, section 473.844.

**APPROPRIATIONS**  
Available for the Year  
Ending June 30

2006	2007
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\$119,000 the first year and \$119,000 the second year are for environmental assistance grants or loans under Minnesota Statutes, section 115A.0716.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered under contract on or before June 30, 2007, for environmental assistance grants awarded under Minnesota Statutes, section 115A.0716, and for technical and 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, 2009.

### Subd. 6. Administrative Support

1,583,000                      1,583,000

### Summary by Fund

General	1,583,000	1,583,000
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### Sec. 3. NATURAL RESOURCES

Subdivision 1. Total Appropriation	220,582,000	222,618,000
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### Summary by Fund

General	73,902,000	73,903,000
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Natural Resources	61,373,000	61,636,000
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Game and Fish	84,857,000	86,629,000
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Remediation	100,000	100,000
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Permanent School	350,000	350,000
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The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

## Subd. 2. Land and Mineral Resources Management

8,716,000                      8,752,000



APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

Summary by Fund

General	5,248,000	5,248,000
Natural Resources	2,122,000	2,122,000
Game and Fish	996,000	1,032,000
Permanent School	350,000	350,000

\$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.

\$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.

\$1,946,000 the first year and \$1,946,000 the second year are from the minerals management account in the natural resources fund for only the purposes specified in Minnesota Statutes, section 93.2236, paragraph (c). Of this amount, \$1,526,000 the first year and \$1,526,000 the second year are for mineral resource management, \$420,000 the first year and \$420,000 the second year are for projects to enhance future income and promote new opportunities, including value-added iron products, geological mapping, and mercury research. The appropriation is from the revenue deposited in the minerals management account under Minnesota Statutes, section 93.22, subdivision 1, paragraph (b).

\$300,000 the first year and \$300,000 the second year are from the state forest suspense account in the permanent school fund to accelerate land exchanges, land sales, and commercial leasing of school trust lands. This appropriation is to be used toward meeting the provisions of Minnesota Statutes, section 92.121, to exchange school trust lands or put alternatives in effect when management practices have diminished or prohibited revenue generation, and the direction of Minnesota Statutes, section 127A.31, to secure maximum long-term economic return from the school trust lands consistent with fiduciary responsibilities and sound natural resources conservation and management principles.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

\$50,000 the first year and \$50,000 the second year are from the state forest suspense account in the permanent school fund to identify, evaluate, and lease construction aggregate located on school trust lands.

Subd. 3. Water Resources Management

11,122,000 11,122,000

Summary by Fund

General	10,842,000	10,842,000
Natural Resources	280,000	280,000

Upon completion of the five-county North Central Lakes Project and when funding becomes available, the commissioner shall begin to update Minnesota Rules, chapter 6120, Shoreland Rules, using the rulemaking process under Minnesota Statutes, section 14.389. Rules shall be updated to provide local units of government and citizens adequate tools, direction, and oversight to address current and future lake and river shoreland development issues including, but not limited to: review and update of shoreland zone; review and update of lake classification system; individual classification and suitability of sensitive shoreland areas for development and access; planned unit developments (PUDs); use of common access lots by nonriparian and PUD owners; recreational use capacity of lakes; review and update of shoreland management zones and corresponding lot dimensions; use of technical evaluation panels to evaluate shoreland development; and comprehensive lake management planning.

\$210,000 the first year and \$210,000 the second year are for grants associated with the implementation of the Red River mediation agreement.

\$125,000 the first year and \$125,000 the second year are for the construction of ring dikes under Minnesota Statutes, section 103F.161. The ring dikes may be publicly or privately owned. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

Subd. 4. Forest Management

34,063,000 34,063,000

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

Summary by Fund

General	24,098,000	24,098,000
Natural Resources	9,715,000	9,715,000
Game and Fish	250,000	250,000

\$7,217,000 the first year and \$7,217,000 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 Agriculture, Environment and Natural Resources Finance Committee, identifying all firefighting costs incurred and reimbursements received in the prior fiscal year. 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.

\$9,715,000 the first year and \$9,715,000 the second year are from the forest management investment account in the natural resources fund for only the purposes specified in Minnesota Statutes, section 89.039, subdivision 2.

\$517,000 the first year and \$517,000 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. The amount in the second year is also available in the first year.

\$250,000 the first year and \$250,000 the second year are from the game and fish fund to implement Ecological Classification Systems (ECS) standards on forested landscapes. This appropriation is from revenue deposited in the game and fish fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (1).



APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

\$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.

\$742,000 the first year and \$760,000 the second year are from the natural resources fund for state trail operations. This appropriation is from the revenue deposited in the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (2).

\$632,000 the first year and \$645,000 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 in the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (4).

\$75,000 the first year is from the all-terrain vehicle account in the natural resources fund for a study to determine the amount of gasoline used each year by all-terrain vehicle riders in the state. The commissioners of natural resources, revenue, and transportation shall jointly determine the amount of unrefunded gasoline tax attributable to all-terrain vehicle use in the state and shall report to the legislature by March 1, 2006, with an appropriate proposed revision to Minnesota Statutes, section 296A.18.

\$50,000 is appropriated from the all-terrain vehicle account in the natural resources fund to the commissioner of natural resources for fiscal year 2006 to revise the Northshore Trail master plan for use by all-terrain vehicles.

\$2,250,000 the first year and \$2,600,000 the second year are from the public access account in the natural resources fund for the acquisition, development, maintenance, and rehabilitation of sites for public access and boating facilities on public waters.

Ninety percent of the money received for watercraft licenses as a result of the fee increases contained in this act shall be credited to a public access subaccount within the water recreation account. Ten percent is for enforcement purposes.

Subd. 7. Fish and Wildlife Management

59,670,000

60,679,000

APPROPRIATIONS  
Available for the Year  
Ending June 30  
20062007

Summary by Fund

General	1,755,000	1,755,000
Natural Resources	1,542,000	1,542,000
Game and Fish	56,373,000	57,382,000

\$407,000 the first year and \$412,000 the second year are for resource population surveys in the 1837 treaty area. Of this amount, \$265,000 the first year and \$270,000 the second year are from the game and fish fund.

\$7,233,000 the first year and \$7,233,000 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).

Notwithstanding Minnesota Statutes, section 297A.94, this appropriation may be used for hunter recruitment and retention and public land user facilities.

\$1,030,000 the first year and \$880,000 the second year are from the trout and salmon management account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 3.

\$1,411,000 the first year and \$1,411,000 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).

\$397,000 the first year and \$397,000 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).

\$851,000 the first year and \$851,000 the second year are from the waterfowl habitat improvement account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 2.

\$890,000 the first year and \$890,000 the second year are from the pheasant habitat improvement account for only the purposes specified in Minnesota Statutes, section 97A.075, subdivision 4.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

\$142,000 the first year and \$142,000 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.

\$225,000 is from the revenue deposited to the game and fish fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (1), for a grant to "Let's Go Fishing" of Minnesota to promote opportunities for fishing. The grant recipient must report back to the commissioner by February 1, 2006, on the use and results of the appropriation. This is a onetime appropriation.

Subd. 8. Ecological Services

10,084,000          10,149,000

Summary by Fund

General	3,140,000	3,141,000
Natural Resources	3,153,000	3,153,000
Game and Fish	3,791,000	3,855,000

\$1,128,000 the first year and \$1,128,000 the second year are from the nongame wildlife management account in the natural resources fund for the purpose of nongame wildlife management.

Notwithstanding Minnesota Statutes, section 290.431, \$100,000 the first year and \$100,000 the second year may be used for nongame information, education, and promotion.

\$1,588,000 the first year and \$1,588,000 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 in the game and fish fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (1).

Subd. 9. Enforcement

29,397,000          29,982,000

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

Summary by Fund

General	3,356,000	3,356,000
Natural Resources	7,413,000	7,428,000
Game and Fish	18,528,000	19,098,000
Remediation	100,000	100,000

\$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.

The unexpended balance of money from Laws 1999, chapter 231, section 5, subdivision 6, must be credited to the snowmobile trails and enforcement account and the appropriation for the repair of public trails damaged by snowmobiles shall be canceled.

\$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 in the game and fish fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (1).

Overtime must be distributed to conservation officers at historical levels; however, a reasonable reduction or addition may be made to the officer's allocation, if justified, based on an individual officer's workload. If funding for enforcement is reduced because of an unallotment, the overtime bank may be reduced in proportion to reductions made in other areas of the budget.



APPROPRIATIONS  
Available for the Year  
Ending June 30

20062007

\$225,000 the first year and \$225,000 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 in the county. Of this amount, \$213,000 each year is from the all-terrain vehicle account; \$11,000 each year is from the off-highway motorcycle account; and \$1,000 each year is from the off-road vehicle 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. Of this appropriation, \$25,000 each year is for administration of these grants.

\$200,000 the first year and \$200,000 the second year are from the natural resources fund for an off-highway vehicle safety and conservation grant program. Of this amount, \$170,000 each year is from the all-terrain vehicle account; \$10,000 each year is from the off-highway motorcycle account; and \$20,000 each year is from the off-road vehicle account. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

\$15,000 the first year is from the off-highway motorcycle account in the natural resources fund to produce an interactive CD-ROM training tool for the off-highway motorcycle education and training program under Minnesota Statutes, section 84.791.

\$15,000 the first year and \$5,000 the second year are from the off-road vehicle account in the natural resources fund to establish the off-road vehicle environment and safety education and training program under Minnesota Statutes, section 84.8015.

Subd. 10. Operations Support

9,317,0009,418,000

Summary by Fund

General	4,900,000	4,900,000
Natural Resources	1,589,000	1,593,000
Game and Fish	2,828,000	2,925,000

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

\$264,000 the first year and \$268,000 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 fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (5).

Sec. 4. MINNESOTA CONSERVATION CORPS

840,000

840,000

Summary by Fund

General	350,000	350,000
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Natural Resources	490,000	490,000
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The Minnesota Conservation Corps may receive money appropriated under this section only as provided in an agreement with the commissioner of natural resources.

Sec. 5. BOARD OF WATER AND SOIL RESOURCES

15,131,000

15,131,000

\$4,102,000 the first year and \$4,102,000 the second year are for natural resources block grants to local governments.

The board may 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 when the board determines that the reduction was disproportionate.

Grants must be matched with a combination of local cash or in-kind contributions. The base grant portion related to water planning must be matched by an amount that would be raised by a levy under Minnesota Statutes, section 103B.3369.

\$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 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.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

\$3,285,000 the first year and \$3,285,000 the second year are for grants to soil and water conservation districts for cost-sharing contracts for erosion control and water quality management. For base grant allocations made prior to January 1, 2007, up to 100 percent of this appropriation may be used for technical assistance. 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. This appropriation is available until expended. If the appropriation in either year is insufficient, the appropriation in the other year is available for it.

Any balance in the board's cost share program that remains from the fiscal year 2005 appropriation is available in an amount of up to \$15,000 for a grant to the Mower County Soil and Water Conservation District to create a small pond demonstration project in the Cedar River Watershed for purposes of water retention and flood control. The Mower County Soil and Water Conservation District must seek other sources of funding, including federal and private sources, to ensure that the demonstration project is educational and complete.

\$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.

\$105,000 the first year and \$105,000 the second year are for a grant to Area II, Minnesota River Basin Projects, Inc., for floodplain management, including administration of programs. If the appropriation in either year is insufficient, the appropriation in the other year is available for it.

The board has authority to receive and expend money to acquire conservation easements, as defined in Minnesota Statutes, chapter 84C, on behalf of the state and federal government, consistent with the Camp Ripley's Army Compatible Use Buffer Project.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

The board shall conduct an implementation assessment of public drainage system buffers and their use, maintenance, and benefits. The assessment must be done in consultation with farm groups, watershed districts, soil and water conservation districts, counties, and conservation organizations, as well as federal agencies implementing voluntary buffer programs. The board shall report the results to the senate and house of representatives committees with jurisdiction over drainage systems by January 15, 2006.

Sec. 6. ZOOLOGICAL BOARD	6,189,000	6,191,000
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Summary by Fund

General	6,057,000	6,057,000
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Natural Resources	132,000	134,000
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\$132,000 the first year and \$134,000 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. 7. SCIENCE MUSEUM OF MINNESOTA	750,000	750,000
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Sec. 8. METROPOLITAN COUNCIL	7,152,000	7,152,000
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Summary by Fund

General	3,300,000	3,300,000
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Natural Resources	4,152,000	4,152,000
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\$3,300,000 the first year and \$3,300,000 the second year are for metropolitan area regional parks maintenance and operations.

\$4,152,000 the first year and \$4,152,000 the second year are from the natural resources fund for metropolitan area regional parks and trails maintenance and operations. This appropriation is from the revenue deposited in the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (3).

Sec. 9. MINNESOTA FUTURE RESOURCES FUND

By June 30, 2006, and by June 30, 2007, the commissioner of finance shall transfer any remaining unappropriated balance from the Minnesota future resources fund to the general fund.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006                      2007

## Sec. 10. MINNESOTA RESOURCES

Subdivision 1. Total Appropriation	\$20,457,000	\$18,829,000
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Summary by Fund

## State Land and Water Conservation Account (LAWCON)

	1,600,000	-0-
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## Environment and Natural Resources Trust Fund

	18,829,000	18,829,000
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## Great Lakes Protection Account

	28,000	-0-
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Appropriations from the LAWCON account 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, 2007, 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 referred to in Minnesota Statutes, section 116P.14.

(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.

Subd. 3. Administration	524,000	525,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

Summary by Fund

Trust Fund	524,000	525,000
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(a) Legislative Commission on Minnesota Resources	899,000
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\$449,000 the first year and \$450,000 the second year are from the trust fund for administration as provided in Minnesota Statutes, section 116P.09, subdivision 5.

(b) Contract Administration	150,000
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\$75,000 the first year and \$75,000 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, 2008.

Subd. 4. Citizen Advisory Committee	10,000	10,000
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Summary by Fund

Trust Fund	10,000	10,000
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\$10,000 the first year and \$10,000 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. Notwithstanding Minnesota Statutes, section 16A.281, the availability of \$15,000 of the appropriation from Laws 2003, chapter 128, article 1, section 9, subdivision 4, advisory committee, is extended to June 30, 2007.

Subd. 5. Fish and Wildlife Habitat	5,038,000	5,038,000
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Summary by Fund

Trust Fund	5,038,000	5,038,000
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(a) Restoring Minnesota's Fish and Wildlife Habitat Corridors-Phase III	4,062,000
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\$2,031,000 the first year and \$2,031,000 the second year are from the trust fund to the commissioner of natural resources for the third biennium for acceleration of agency programs and cooperative agreements with Pheasants Forever, Minnesota Deer Hunters Association, Ducks Unlimited, Inc., National Wild Turkey Federation, the Nature Conservancy, Minnesota Land Trust, the

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

Trust for Public Land, Minnesota Valley National Wildlife Refuge Trust, Inc., U.S. Fish and Wildlife Service, 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. 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 similarly designate any lands acquired in less than fee title. This appropriation is available until June 30, 2008, 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-Phase II

3,530,000

\$1,765,000 the first year and \$1,765,000 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 the Trust for Public Land, Ducks Unlimited, Inc., Friends of the Mississippi River, Great River Greening, Minnesota Land Trust, Minnesota Valley National Wildlife Refuge Trust, Inc., Pheasants Forever, Inc., and Friends of the Minnesota Valley 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, and portions of the surrounding counties, through grants, contracted services, conservation easements, and fee acquisition. Land acquired with this appropriation must be sufficiently improved to meet at least minimum management standards as determined by the commissioner of natural resources. 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

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

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 similarly designate any lands acquired in less than fee title. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(c) Development of Scientific and Natural Areas 134,000

\$67,000 the first year and \$67,000 the second year are from the trust fund to the commissioner of natural resources to develop and enhance lands designated as scientific and natural areas. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(d) Prairie Stewardship of Private Lands 100,000

\$50,000 the first year and \$50,000 the second year are from the trust fund to the commissioner of natural resources to develop stewardship plans and implement prairie management on private prairie lands on a cost-share basis with private or federal funds. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(e) Local Initiative Grants-Conservation Partners and Environmental Partnerships 500,000

\$250,000 the first year and \$250,000 the second year are from the trust fund to the commissioner of natural resources to provide matching grants of up to \$20,000 to local government and private organizations for enhancement, restoration, research, and education associated with natural habitat and environmental service projects. Subdivision 16 applies to grants awarded in the approved work program. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(f) Minnesota ReLeaf Community Forest Development and Protection 500,000



APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

\$250,000 the first year and \$250,000 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 \$390,000 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, 2008, at which time the project must be completed and final projects delivered, unless an earlier date is specified in the work program.

(g) Integrated and Pheromonal Control of Common Carp 550,000

\$275,000 the first year and \$275,000 the second year are from the trust fund to the University of Minnesota for the second biennium to research new options for controlling common carp. This appropriation is available until June 30, 2009, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(h) Biological Control of European Buckthorn and Garlic Mustard 200,000

\$100,000 the first year and \$100,000 the second year are from the trust fund to the commissioner of natural resources to research potential insects for biological control of invasive European buckthorn species for the second biennium and to introduce and evaluate insects for biological control of garlic mustard. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(i) Land Exchange Revolving Fund for Aitkin, Cass, and Crow Wing Counties 500,000

\$250,000 the first year and \$250,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with Aitkin County for a six-year revolving loan fund to improve public and private land ownership patterns, increase management efficiency, and protect critical habitat in Aitkin, Cass, and Crow Wing Counties. By June 30, 2011, Aitkin County shall repay the \$500,000 to the commissioner of finance for deposit in the environment and natural resources trust fund.

		APPROPRIATIONS Available for the Year Ending June 30	
		2006	2007
Subd. 6. Recreation		7,160,000	5,559,000
Summary by Fund			
Trust Fund	5,560,000	5,559,000	
State Land and Water Conservation Account (LAWCON)			
	1,600,000	-0-	
(a) State Park and Recreation Area Land Acquisition			2,000,000
<p>\$1,000,000 the first year and \$1,000,000 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, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.</p>			
(b) LAWCON Federal Reimbursements			1,600,000
<p>\$1,600,000 is from the State Land and Water Conservation Account (LAWCON) in the natural resources fund to the commissioner of natural resources for priorities established by the commissioner for eligible state projects and administrative and planning activities consistent with Minnesota Statutes, section 116P.14, and the federal Land and Water Conservation Fund Act. Subdivision 16 applies to grants awarded in the approved work program. This appropriation is contingent upon receipt of the federal obligation and remains available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.</p>			
(c) State Park and Recreation Area Revenue-Enhancing Development			200,000
<p>\$100,000 the first year and \$100,000 the second year are from the trust fund to the commissioner of natural resources to enhance revenue generation in the state's park and recreation system.</p>			
(d) Best Management Practices for Parks and Outdoor Recreation			200,000

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

\$100,000 the first year and \$100,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with the Minnesota Recreation and Park Association to develop and evaluate opportunities to more efficiently manage Minnesota's parks and outdoor recreation areas.

(e) Metropolitan Regional Parks Acquisition, Rehabilitation, and Development

2,000,000

\$1,000,000 the first year and \$1,000,000 the second year are from the trust fund to 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, may be used to reimburse implementing agencies for acquisition as expressly approved in the work program, and must be matched by at least 40 percent of nonstate money. Subdivision 16 applies to grants awarded in the approved work program. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program. If a project financed under this program receives a federal grant award, 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

500,000

\$250,000 the first year and \$250,000 the second year are from the trust fund to the commissioner of natural resources, in cooperation with the Gitchi-Gami Trail Association, for the fourth biennium, to design and construct approximately two miles of Gitchi-Gami State Trail segments. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered. If this project receives a federal grant award, the availability of the financing from this paragraph for the project is extended to equal the period of the federal grant.

(g) Casey Jones State Trail

1,200,000

\$600,000 the first year and \$600,000 the second year are from the trust fund to the commissioner of natural resources in cooperation with the Friends of the Casey Jones Trail Association for land acquisition and development of the Casey Jones State Trail in southwest Minnesota. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered. If this project receives a federal grant award, the availability of the financing from this paragraph for the project is extended to equal the period of the federal grant.

APPROPRIATIONS  
Available for the Year  
Ending June 30

	2006	2007
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(h) Paul Bunyan State Trail Connection		400,000
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\$200,000 the first year and \$200,000 the second year are from the trust fund to the commissioner of natural resources to acquire land to connect the Paul Bunyan State Trail within the city of Bemidji.

(i) Minnesota River Trail Planning		200,000
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\$100,000 the first year and \$100,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with the University of Minnesota to provide trail planning assistance to three communities along the Minnesota River State Trail.

(j) Local Initiative Grants-Parks and Natural Areas		1,200,000
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\$600,000 the first year and \$600,000 the second year are from the trust fund to the commissioner of natural resources to provide 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. \$500,000 of this appropriation is for land acquisition for a proposed county regional park on Kraemer Lake in Stearns County. 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. Subdivision 16 applies to grants awarded in the approved work program. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered.

(k) Regional Park Planning for Nonmetropolitan Urban Areas		86,000
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\$43,000 the first year and \$43,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with the University of Minnesota to develop a plan for a system of regional recreation areas for major outstate urban complexes in Minnesota.

APPROPRIATIONS Available for the Year Ending June 30	
2006	2007
(l) Local and Regional Trail Grant Initiative Program	700,000

\$350,000 the first year and \$350,000 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. Subdivision 16 applies to grants awarded in the approved work program. This appropriation is available until June 30, 2008, 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 award, the availability of the financing from this paragraph for that project is extended to equal the period of the federal grant.

(m) Mesabi Trail	1,000,000
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\$500,000 the first year and \$500,000 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 seventh biennium to acquire and develop segments for the Mesabi Trail. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered. If this project receives a federal grant award, the availability of the financing from this paragraph for the project is extended to equal the period of the federal grant.

(n) Cannon Valley Trail Belle Creek Bridge Replacement	300,000
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\$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 the Cannon Valley Trail Joint Powers Board for bridge replacement of the Belle Creek Bridge on the Cannon Valley Trail. This appropriation must be matched by at least \$44,000 of nonstate money.

(o) Arrowhead Regional Bike Trail Connections Plan	83,000
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\$42,000 the first year and \$41,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with the Arrowhead Regional Development Commission to analyze the Arrowhead's major bike trails and plan new trail connections.

(p) Land Acquisition, Minnesota Landscape Arboretum	650,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

\$325,000 the first year and \$325,000 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 sixth biennium to acquire land from willing sellers. This appropriation must be matched by an equal amount of nonstate money. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(q) Development and Rehabilitation of Minnesota Shooting Ranges 300,000

\$150,000 the first year and \$150,000 the second year are from the trust fund to the commissioner of natural resources to provide technical assistance and matching grants to local communities and 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, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(r) Birding Maps 100,000

\$50,000 the first year and \$50,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with Audubon Minnesota to create a new birding trail guide for the North Shore/Arrowhead region and reprint and distribute guides for three existing birding trails.

Subd. 7. Water Resources 3,027,000 3,000,000

Summary by Fund

Trust Fund 2,999,000 3,000,000

Great Lakes Protection Account 28,000

(a) Local Water Management Matching Challenge Grants 1,000,000

\$500,000 the first year and \$500,000 the second year are from the trust fund to the Board of Water and Soil Resources to accelerate the local water management challenge grant program under Minnesota Statutes, sections 103B.3361 to 103B.3369, through matching grants to implement high priority activities in state-approved comprehensive water management plans. For the

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

purposes of this paragraph, the match must be a nonstate contribution, but may be either cash or qualifying in-kind. The grants may be provided on an advance basis as specified in the work program. This appropriation is available until June 30, 2008, 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

600,000

\$300,000 the first year and \$300,000 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, and the University of Minnesota to accelerate monitoring efforts through assessments, citizen training, and implementation grants. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(c) Effects of Land Retirements on the Minnesota River

300,000

\$150,000 the first year and \$150,000 the second year are from the trust fund to the Board of Water and Soil Resources for a cooperative agreement with the U.S. Geological Survey to evaluate effects of retired or set-aside agricultural lands on the water quality and aquatic habitat of streams in the Minnesota River Basin in order to enhance prioritization of future land retirements. This appropriation must be matched by an equal amount of nonstate money. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(d) Recycling Treated Municipal Wastewater for Industrial Water Use

300,000

\$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 the Metropolitan Council to determine the feasibility of recycling treated municipal wastewater for industrial use, characterize industrial water demand and quality, and determine the costs to treat municipal wastewater to meet specific industrial needs.

(e) Unwanted Hormone Therapy: Protecting Water and Public Health

300,000

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

\$150,000 the first year and \$150,000 the second year are from the trust fund to the University of Minnesota to determine where behavior-altering estrogenic compounds come from and how they are distributed in wastewater treatment plants. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(f) Climate Change Impacts on Minnesota's Aquatic Resources 250,000

\$125,000 the first year and \$125,000 the second year are from the trust fund to the University of Minnesota, Natural Resources Research Institute, to quantify climate, hydrologic, and ecological variability and trends; and identify indicators of future climate change effects on aquatic systems. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(g) Green Roof Cost Share and Monitoring 350,000

\$175,000 the first year and \$175,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with Ramsey Conservation District to install green, vegetated roofs on four commercial or industrial buildings in Roseville and Falcon Heights and to monitor their effectiveness for stormwater management, flood reduction, water quality, and energy efficiency. The cost of the installations must be matched by at least 50 percent nonstate money.

(h) Woodchip Biofilter Treatment of Feedlot Runoff 270,000

\$135,000 the first year and \$135,000 the second year are from the trust fund to the commissioner of natural resources for agreements with Stearns County Soil and Water Conservation District and the University of Minnesota to treat feedlot runoff with woodchip biofilters to remove pollutants and assess improvements to surface water quality. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(i) Improving Water Quality on the Central Sands 587,000

\$294,000 the first year and \$293,000 the second year are from the trust fund to the commissioner of natural resources for agreements with the University of Minnesota and the Central Lakes College



APPROPRIATIONS  
Available for the Year  
Ending June 30

2006	2007
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Agricultural Center to reduce nitrate and phosphorus losses to groundwater and surface waters of sandy ecoregions through the development, promotion, and adoption of new farming and land management practices and techniques. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(j) Improving Impaired Watersheds: Conservation Drainage Research

300,000

\$150,000 the first year and \$150,000 the second year are from the trust fund to the commissioner of agriculture to analyze conservation drainage systems at University of Minnesota research and outreach centers for opportunities to retrofit drainage infrastructure with water quality improvement technologies. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(k) Hydrology, Habitat, and Energy Potential of Mine Lakes

500,000

\$188,000 the first year and \$211,000 the second year are from the trust fund to the commissioner of natural resources for agency work and agreements with Architectural Resources, Inc., and Northeast Technical Services, Inc., for a coordinated effort of the Central Iron Range Initiative to establish ultimate mine water elevations, outflows, and quality; design optimum future mineland configurations for fish habitat and lakeshore development; and evaluate wind-pumped hydropower potential. \$62,000 the first year and \$39,000 the second year are from the trust fund to the Minnesota Geological Survey at the University of Minnesota to assess the geology and mine pit morphometry.

(l) Hennepin County Beach Water Quality Monitoring Project

100,000

\$50,000 the first year and \$50,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with Hennepin County to develop a predictive model for on-site determination of beach water quality to prevent outbreaks of waterborne illnesses and provide related water safety outreach to the public.

(m) Southwest Minnesota Floodwater Retention Projects

500,000

APPROPRIATIONS  
Available for the Year  
Ending June 30

2006	2007
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\$250,000 the first year and \$250,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with Area II MN River Basin Projects, Inc., to acquire easements and construct four floodwater retention projects in the Minnesota River Basin to improve water quality and waterfowl habitat.

(n) Upgrades to Blue Heron Research Vessel	295,000
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\$28,000 is from the Great Lakes protection account in the first year and \$133,000 the first year and \$134,000 the second year are from the trust fund to the University of Minnesota, Large Lakes Observatory, to upgrade and overhaul the Blue Heron Research Vessel.

(o) Bassett Creek Valley Channel Restoration	175,000
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\$87,000 the first year and \$88,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with the city of Minneapolis for design and engineering activities for habitat restoration and water quality and channel improvements for Bassett Creek Valley.

(p) Restoration of Indian Lake	200,000
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\$100,000 the first year and \$100,000 the second year are from the trust fund to the commissioner of natural resources for agreements with MN Environmental Services and Bemidji State University to demonstrate the removal of excess nutrients from Indian Lake in Wright County. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program, and is contingent on all appropriate permits being obtained.

Subd. 8. Land Use and Natural Resource Information	1,000,000	1,000,000
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Summary by Fund

Trust Fund	1,000,000	1,000,000
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(a) Minnesota County Biological Survey	1,000,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30

2006	2007
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\$500,000 the first year and \$500,000 the second year are from the trust fund to the commissioner of natural resources for the tenth 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) Soil Survey	500,000
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\$250,000 the first year and \$250,000 the second year are from the trust fund to the Board of Water and Soil Resources to accelerate digitizing of completed soil surveys for Web-based user application and for agreements with Pine and Crow Wing Counties to begin soil surveys. The new soil surveys must be done on a cost-share basis with local and federal funds. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(c) Land Cover Mapping for Natural Resource Protection	250,000
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\$125,000 the first year and \$125,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with Hennepin County to develop GIS tools for prioritizing natural areas for protection and restoration and to update and complete land cover classification mapping.

(d) Open Space Planning and Protection	250,000
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\$125,000 the first year and \$125,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with Anoka Conservation District to protect open space by identifying high priority natural resource corridors through planning, conservation easements, and land dedication as part of development processes.

Subd. 9. Agriculture and Natural Resource Industries	1,342,000	1,341,000
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Summary by Fund

Trust Fund	1,342,000	1,341,000
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(a) Completing Third-Party Certification of DNR Forest Lands	250,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
20062007

\$125,000 the first year and \$125,000 the second year are from the trust fund to the commissioner of natural resources for third-party assessment and certification of 4,470,000 acres of DNR-administered lands under forest sustainability standards established by two internationally recognized forest certification systems, the Forest Stewardship Council system, and the Sustainable Forestry Initiative system.

(b) Third-Party Certification of Private Woodlands376,000

\$188,000 the first year and \$188,000 the second year are from the trust fund to the University of Minnesota, Cloquet Forestry Center, to pilot a third-party certification assessment framework for nonindustrial private forest owners.

(c) Sustainable Management of Private Forest Lands874,000

\$437,000 the first year and \$437,000 the second year are from the trust fund to the commissioner of natural resources to develop stewardship plans for private forested lands, implement stewardship plans on a cost-share basis and for conservation easements matching federal funds. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(d) Evaluating Riparian Timber Harvesting Guidelines: Phase 2333,000

\$167,000 the first year and \$166,000 the second year are from the trust fund to the University of Minnesota for a second biennium to assess the timber harvesting riparian management guidelines for postharvest impacts on terrestrial, aquatic, and wildlife habitat. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(e) Third Crops for Water Quality-Phase 2500,000

\$250,000 the first year and \$250,000 the second year are from the trust fund to the commissioner of natural resources for cooperative agreements with Rural Advantage and the University of Minnesota to accelerate adoption of third crops to enhance water quality, diversify cropping systems, supply bioenergy, and provide wildlife habitat through demonstration, research, and education. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

APPROPRIATIONS  
Available for the Year  
Ending June 30

	2006	2007
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(f) Bioconversion of Potato Waste into Marketable Biopolymers		350,000
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\$175,000 the first year and \$175,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with Bemidji State University to evaluate the bioconversion of potato waste into plant-based plastics. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

Subd. 10. Energy	1,896,000	1,896,000
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Summary by Fund

Trust Fund	1,896,000	1,896,000
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(a) Clean Energy Resource Teams and Community Wind Energy Rebate Programs		700,000
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\$350,000 the first year and \$350,000 the second year are from the trust fund to the commissioner of commerce. \$300,000 of this appropriation is to provide technical assistance to implement cost-effective conservation, energy efficiency, and renewable energy projects. \$400,000 of this appropriation is to assist two Minnesota communities in developing locally owned wind energy projects by offering financial assistance rebates.

(b) Planning for Economic Development via Energy Independence		240,000
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\$120,000 the first year and \$120,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with the University of Minnesota-Duluth to evaluate the socioeconomic benefits of statewide and community renewable energy production and distribution by analyzing system installation, technical capabilities, cost-competitiveness, economic impacts, and policy incentives.

(c) Manure Methane Digester Compatible Wastes and Electrical Generation		100,000
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\$50,000 the first year and \$50,000 the second year are from the trust fund to the commissioner of agriculture to research the potential for a centrally located, multifarm manure digester and the potential use of compatible waste streams with manure digesters.

(d) Dairy Farm Digesters		336,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

\$168,000 the first year and \$168,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with the Minnesota Project for a pilot project to evaluate anaerobic digester technology on average size dairy farms of 50 to 300 cows.

(e) Wind to Hydrogen Demonstration 800,000

\$400,000 the first year and \$400,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with the University of Minnesota, West Central Research and Outreach Center, to develop a model community-scale wind-to-hydrogen facility.

(f) Natural Gas Production from Agricultural Biomass 100,000

\$50,000 the first year and \$50,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with Sebesta Blomberg and Associates to demonstrate potential natural gas yield using anaerobic digestion of blends of chopped grasses or crop residue with hog manure and determine optimum operating conditions for conversion to natural gas.

(g) Biomass-Derived Oils for Generating Electricity and Reducing Emissions 150,000

\$75,000 the first year and \$75,000 the second year are from the trust fund to the University of Minnesota to evaluate the environmental and performance benefits of using renewable biomass-derived oils, such as soybean oil, for generating electricity.

(h) Phillips Biomass Community Energy System 900,000

\$450,000 the first year and \$450,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with Phillips Community Energy Cooperative to assist in the distribution system equipment and construction costs for a biomass district energy system. This appropriation is contingent on all appropriate permits being obtained and a signed commitment of financing for the biomass electrical generating facility being in place.

(i) Laurentian Energy Authority Biomass Project 466,000

APPROPRIATIONS  
Available for the Year  
Ending June 30

2006	2007
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\$233,000 the first year and \$233,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with Virginia Public Utility to lease land and plant approximately 1,000 acres of trees to support a proposed conversion to a biomass power plant.

Subd. 11. Environmental Education	360,000	360,000
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Summary by Fund

Trust Fund	360,000	360,000
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(a) Enhancing Civic Understanding of Groundwater	150,000
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\$75,000 the first year and \$75,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with the Science Museum of Minnesota to create groundwater exhibits and a statewide traveling groundwater classroom program. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(b) Cedar Creek Natural History Area Interpretive Center and Restoration	400,000
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\$200,000 the first year and \$200,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with the University of Minnesota, Cedar Creek Natural History Area, to restore 400 acres of savanna and prairie; construct a Science Interpretive Center to publicly demonstrate technologies for energy efficiency; and create interpretive trails. This appropriation is available until June 30, 2008, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(c) Environmental Problem-Solving Model for Twin Cities Schools	75,000
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\$38,000 the first year and \$37,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with Eco Education to train high school students and teachers on environmental problem solving.

(d) Tamarack Nature Center Exhibits	95,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30

2006	2007
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\$47,000 the first year and \$48,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with Ramsey County Parks and Recreation Department to develop interactive ecological exhibits at Tamarack Nature Center.

Subd. 12. Children's Environmental Health	100,000	100,000
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Summary by Fund

Trust Fund	100,000	100,000
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Minnesota Children's Pesticide Exposure Reduction Initiative		200,000
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\$100,000 the first year and \$100,000 the second year are appropriated to the commissioner of agriculture to reduce children's pesticide exposure through parent education on alternative pest control methods and safe pesticide use.

Subd. 13. Data Availability Requirements

(a) During the biennium ending June 30, 2007, 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 that adheres to Office of Technology geographic metadata standards must be submitted to the Land Management Information Center to 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 and identified as an environment and natural resources trust fund project.

(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 form specified by the department.



APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

Subd. 14. 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 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. 15. 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, 2005, are canceled, and in-kind contributions may not be counted as matching funds.

Subd. 16. Payment Conditions and Capital Equipment Expenditures

All agreements, grants, or contracts referred to in this section must be administered on a reimbursement basis unless otherwise provided in this section. Notwithstanding Minnesota Statutes, section 16A.41, expenditures made on or after July 1, 2005, 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 dollar amounts have been expended, except that reasonable amounts may be advanced to projects to accommodate cash flow needs or match federal funds. The advances must be approved as part of the work program. No expenditures for capital equipment are allowed unless expressly authorized in the project work program.

Subd. 17. 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.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
20062007

Subd. 18. 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 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. 19. Accessibility

Structural and nonstructural facilities must meet the design standards in the Americans with Disability Act (ADA) accessibility guidelines.

Sec. 11. Minnesota Statutes 2004, section 16A.125, subdivision 5, is amended to read:

Subd. 5. [FOREST TRUST LANDS.] (a) The term "state forest trust fund lands" as used in this subdivision, means public land in trust under the Constitution set apart as "forest lands under the authority of the commissioner" of natural resources as defined by section 89.001, subdivision 13.

(b) The commissioner of finance shall credit the revenue from the forest trust fund lands to the forest suspense account. The account must specify the trust funds interested in the lands and the respective receipts of the lands.

(c) After a fiscal year, the commissioner of finance shall certify the total costs incurred for forestry during that year under appropriations for the protection, improvement, administration, and management of state forest trust fund lands and construction and improvement of forest roads to enhance the forest value of the lands. The certificate must specify the trust funds interested in the lands. The commissioner of natural resources shall supply the commissioner of finance with the information needed for the certificate.

(d) After a fiscal year and after the appropriation in subdivision 11, the commissioner shall distribute the receipts credited to the suspense account during that fiscal year as follows:

~~(a)~~ (1) the amount of the certified costs incurred by the state for forest management, forest improvement, and road improvement during the fiscal year shall be transferred to the ~~general fund~~ forest management investment account established under section 89.039;

(2) the balance of the certified costs incurred by the state during the fiscal year shall be transferred to the general fund; and

~~(b)~~ (3) the balance of the receipts shall then be returned prorated to the trust funds in proportion to their respective interests in the lands which produced the receipts.

Sec. 12. Minnesota Statutes 2004, section 84.027, subdivision 12, is amended to read:

Subd. 12. [PROPERTY DISPOSAL; GIFT ACKNOWLEDGMENT; ADVERTISING SALES.] (a) The commissioner may give away to members of the public items with a value of less than ~~\$40~~ \$50 that are intended to promote conservation of natural resources or create awareness of the state and its resources or natural resource management programs. The total value of items given to the public under this paragraph may not exceed \$25,000 per year.

(b) The commissioner may recognize the contribution of money or in-kind services on plaques, signs, publications, audio-visual materials, and media advertisements by allowing the organization's contribution to be acknowledged in print of readable size.

(c) The commissioner may accept paid advertising for departmental publications. Advertising revenues received are appropriated to the commissioner to be used to defray costs of publications, media productions, or other informational materials. The commissioner may not accept paid advertising from any elected official or candidate for elective office.

Sec. 13. Minnesota Statutes 2004, section 84.027, subdivision 15, is amended to read:

Subd. 15. [ELECTRONIC TRANSACTIONS.] (a) The commissioner may receive an application for, sell, and issue any license, stamp, permit, pass, sticker, duplicate safety training certification, registration, or transfer under the jurisdiction of the commissioner by electronic means, including by telephone. Notwithstanding section 97A.472, electronic and telephone transactions may be made outside of the state. The commissioner may:

(1) provide for the electronic transfer of funds generated by electronic transactions, including by telephone;

(2) assign ~~a license~~ an identification number to an applicant who purchases a hunting or fishing license or recreational vehicle registration by electronic means, to serve as temporary authorization to engage in the ~~licensed~~ activity requiring a license or registration until the license or registration is received or expires;

(3) charge and permit agents to charge a fee of individuals who make electronic transactions and transactions by telephone or Internet, including ~~the issuing fee under section 97A.485, subdivision 6, fees~~ and an additional transaction fee not to exceed \$3.50;

(4) ~~collect issuing or filing fees as provided under sections 84.788, subdivision 3, paragraph (e); 84.798, subdivision 3, paragraph (b); 84.82, subdivision 2, paragraph (d); 84.8205, subdivisions 5 and 6; 84.922, subdivision 2, paragraph (e); 85.41, subdivision 5; 86B.415, subdivision 8; and 97A.485, subdivision 6, and collect establish, by written order, an electronic licensing system commission on to be paid by revenues generated from all sales of licenses as provided under sections 85.43, paragraph (b), and 97A.485, subdivision 7 made through the electronic licensing system. The commissioner shall establish the commission in a manner that neither significantly overrecovers nor underrecovers costs involved in providing the electronic licensing system; and~~

(5) adopt rules to administer the provisions of this subdivision.

(b) ~~Establishment of The transaction fee fees established under paragraph (a), clause (3), and the commission established under paragraph (a), clause (4), is are~~ not subject to the rulemaking procedures of chapter 14 and section 14.386 does not apply.

(c) Money received from fees and commissions collected under this subdivision, including interest earned, is annually appropriated from the game and fish fund and the natural resources fund to the commissioner for the cost of electronic licensing.

[EFFECTIVE DATE.] This section is effective July 6, 2005.

Sec. 14. Minnesota Statutes 2004, section 84.027, is amended by adding a subdivision to read:

Subd. 17. [BACKGROUND CHECKS FOR VOLUNTEER INSTRUCTORS.] (a) The commissioner may conduct background checks for volunteer instructor applicants for department safety training and education programs, including the programs established under sections 84.791 (youth off-highway motorcycle safety education and training), 84.86 and 84.862 (youth and adult snowmobile safety training), 84.925 (youth all-terrain vehicle safety education and training), 97B.015 (youth firearms safety training), and 97B.025 (hunter and trapper education and training).

(b) The commissioner shall perform the background check by retrieving criminal history data maintained in the criminal justice information system (CJIS) and other data sources.

(c) The commissioner shall develop a standardized form to be used for requesting a background check, which must include:

(1) a notification to the applicant that the commissioner will conduct a background check under this section;

(2) a notification to the applicant of the applicant's rights under paragraph (d); and

(3) a signed consent by the applicant to conduct the background check expiring one year from date of signature.

(d) The volunteer instructor applicant who is the subject of a background check has the right to:

(1) be informed that the commissioner will request a background check on the applicant;

(2) be informed by the commissioner of the results of the background check and obtain a copy of the background check;

(3) obtain any record that forms the basis for the background check and report;

(4) challenge the accuracy and completeness of the information contained in the report or a record; and

(5) be informed by the commissioner if the applicant is rejected because of the result of the background check.

Sec. 15. Minnesota Statutes 2004, section 84.0274, is amended by adding a subdivision to read:

Subd. 9. [EXCEPTION FOR NONPROFIT ORGANIZATIONS AND GOVERNMENTAL ENTITIES.] When the commissioner acquires land or interests in land from a nonprofit organization or governmental entity, any or all of the provisions of this section may be waived by mutual agreement of the commissioner and the nonprofit organization or governmental entity.

Sec. 16. Minnesota Statutes 2004, section 84.0274, is amended by adding a subdivision to read:

Subd. 10. [RIGHT OF FIRST REFUSAL AGREEMENT.] The commissioner may enter into a right of first refusal agreement with a landowner prior to determining the value of the land. No right of first refusal agreement shall be made for a period of greater than two years and payment to the landowner for entry into the agreement shall not exceed \$5,000.

Sec. 17. Minnesota Statutes 2004, section 84.0911, subdivision 2, is amended to read:

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), (3), and (4), and subdivision 3, paragraph (b), except for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, shall be credited to the wild rice management account.

**[EFFECTIVE DATE.]** This section is effective July 6, 2005.

Sec. 18. Minnesota Statutes 2004, section 84.631, is amended to read:

84.631 [ROAD EASEMENTS ACROSS STATE LANDS.]

(a) Except as provided in section 85.015, subdivision 1b, the commissioner, on behalf of the state, may convey a road easement across state land under the commissioner's jurisdiction other than school trust land, to a private person requesting an easement for access to property owned by the person only if the following requirements are met: (1) there are no reasonable alternatives to obtain access to the property; and (2) the exercise of the easement will not cause significant adverse environmental or natural resource management impacts.

(b) The commissioner shall:

- (1) require the applicant to pay the market value of the easement;
- (2) provide that the easement reverts to the state in the event of nonuse; and
- (3) impose other terms and conditions of use as necessary and appropriate under the circumstances.

(c) An applicant shall submit a fee of \$2,000 with each application for a road easement across state land. The application fee is nonrefundable, even if the application is withdrawn or denied.

(d) Fees collected under paragraph (c) must be deposited in the land management account in the natural resources fund.

Sec. 19. Minnesota Statutes 2004, section 84.775, subdivision 1, is amended to read:

Subdivision 1. [CIVIL CITATION; AUTHORITY TO ISSUE.] (a) A conservation officer or other licensed peace officer may issue a civil citation to a person who operates:

(1) an off-highway motorcycle in violation of sections 84.773, subdivision 1 or 2, clause (1); 84.777; 84.788 to 84.795; or 84.90;

(2) an off-road vehicle in violation of sections 84.773, subdivision 1 or 2, clause (1); 84.777; 84.798 to 84.804; or 84.90; or

(3) an all-terrain vehicle in violation of sections 84.773, subdivision 1 or 2, clause (1); 84.777; 84.90; or 84.922 to 84.928.

(b) A civil citation under paragraph (a) shall require restitution for public and private property damage and impose a penalty of:

- (1) \$100 for the first offense;

(2) \$200 for the second offense; and

(3) \$500 for third and subsequent offenses.

(c) A conservation officer or other licensed peace officer may issue a civil citation to a person who operates an off-highway motorcycle, off-road vehicle, or all-terrain vehicle in violation of section 84.773, subdivision 2, clause (2) or (3). A civil citation under this paragraph shall require restitution for damage to wetlands and impose a penalty of:

(1) \$100 for the first offense;

(2) \$500 for the second offense; and

(3) \$1,000 for third and subsequent offenses.

(d) If the peace officer determines that there is damage to property requiring restitution, the commissioner must send a written explanation of the extent of the damage and the cost of the repair by first class mail to the address provided by the person receiving the citation within 15 days of the date of the citation.

(e) An off-road vehicle or all-terrain vehicle that is equipped with a snorkel device and receives a civil citation under this section is subject to twice the penalty amounts in paragraphs (b) and (c).

Sec. 20. [84.781] [USE OF DEPARTMENT RESOURCES.]

The commissioner of natural resources may permit Department of Natural Resources personnel and equipment from the Division of Trails and Waterways to be used to assist local units of government in developing and maintaining off-highway vehicle grant-in-aid trails located on property owned by or under the control of the local unit of government.

Sec. 21. [84.785] [OFF-HIGHWAY VEHICLE SAFETY AND CONSERVATION GRANT PROGRAM.]

Subdivision 1. [CREATION.] 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 Minnesota 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 and costs that may be attributed to 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. 22. [84.7851] [WORKER DISPLACEMENT PROHIBITED.]

The commissioner may not enter into any agreement that has the purpose of or results in the displacement of public employees by volunteers participating in an off-highway safety and conservation program. The commissioner must certify to the appropriate bargaining agent that the work performed by a volunteer will not result in the displacement of currently employed workers or workers on seasonal layoff or layoff from a substantially equivalent position, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits.

Sec. 23. Minnesota Statutes 2004, section 84.788, subdivision 3, is amended to read:

Subd. 3. [APPLICATION; ISSUANCE; REPORTS.] (a) Application for registration or continued registration must be made to the commissioner or an authorized deputy registrar of motor vehicles in a form prescribed by the commissioner. The form must state the name and address of every owner of the off-highway motorcycle.

(b) A person who purchases from a retail dealer an off-highway motorcycle shall make application for registration to the dealer at the point of sale. The dealer shall issue a temporary ten-day registration permit to each purchaser who applies to the dealer for registration. The dealer shall submit the completed registration applications and fees to the deputy registrar at least once each week. No fee may be charged by a dealer to a purchaser for providing the temporary permit.

(c) Upon receipt of the application and the appropriate fee, the commissioner or deputy registrar shall issue to the applicant, or provide to the dealer, ~~a 60-day temporary receipt and shall assign a~~ an assigned registration number ~~that or a commissioner or deputy registrar temporary ten-day permit. Once issued, the registration number must be~~ affixed to the motorcycle ~~in a manner prescribed by the commissioner~~ according to paragraph (f). A dealer subject to paragraph (b) shall provide the registration materials ~~and or temporary receipt permit~~ to the purchaser within the ten-day temporary permit period.

(d) The commissioner shall develop a registration system to register vehicles under this section. A deputy registrar of motor vehicles acting under section 168.33, is also a deputy registrar of off-highway motorcycles. The commissioner of natural resources in agreement with the commissioner of public safety may prescribe the accounting and procedural requirements necessary to ensure efficient handling of registrations and registration fees. Deputy registrars shall strictly comply with the accounting and procedural requirements.

(e) In addition to other fees prescribed by law, a filing fee of \$4.50 is charged for each off-highway motorcycle registration renewal, duplicate or replacement registration card, and replacement decal and a filing fee of \$7 is charged for each off-highway motorcycle registration and registration transfer issued by:

(1) a deputy registrar and must be deposited in the treasury of the jurisdiction where the deputy is appointed, or kept if the deputy is not a public official; or

(2) the commissioner and must be deposited in the state treasury and credited to the off-highway motorcycle account.

(f) Unless exempted in paragraph (g), the owner of an off-highway motorcycle must display a registration decal issued by the commissioner. If the motorcycle is licensed as a motor vehicle, a registration decal must be affixed on the upper left corner of the rear license plate. If the motorcycle is not licensed as a motor vehicle, the decal must be attached on the side of the motorcycle and may be attached to the fork tube. The decal must be attached in a manner so that it is visible while a rider is on the motorcycle. The issued decals must be of a size to work within the constraints of the electronic licensing system, not to exceed three inches high and three inches wide.

(g) Display of a registration decal is not required for an off-highway motorcycle:

(1) while being operated on private property; or

(2) while competing in a closed-course competition event.

Sec. 24. Minnesota Statutes 2004, section 84.788, is amended by adding a subdivision to read:

Subd. 11. [REFUNDS.] The commissioner may issue a refund on a registration, not including any issuing fees paid under subdivision 3, paragraph (e), or section 84.027, subdivision 15, paragraph (a), clause (3), if the refund request is received within 12 months of the original registration and:

(1) the off-highway motorcycle was registered incorrectly by the commissioner or the deputy registrar; or

(2) the off-highway motorcycle was registered twice, once by the dealer and once by the customer.

Sec. 25. Minnesota Statutes 2004, section 84.789, is amended by adding a subdivision to read:

Subd. 3. [SOUND EMISSIONS.] (a) On and after July 1, 2006, off-highway motorcycles, when operating on public lands, shall at all times be equipped with a silencer or other device that limits sound emissions according to this subdivision.

(b) Sound emissions of competition off-highway motorcycles manufactured on or after January 1, 1998, are limited to not more than 96 dbA and, if manufactured prior to January 1, 1998, to not more than 99 dbA, when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J-1287, as applicable.

(c) Sound emissions of all other off-highway motorcycles are limited to not more than 96 dbA if manufactured on or after January 1, 1986, and not more than 99 dbA if manufactured prior to January 1, 1986, when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J-1287, as applicable.



Sec. 26. Minnesota Statutes 2004, section 84.791, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM ESTABLISHED; WHEN REQUIRED.] (a) The commissioner shall establish a comprehensive off-highway motorcycle environment and safety education and training program, including the preparation and dissemination of vehicle information and safety advice to the public, the training of off-highway motorcycle operators, and the issuance of off-highway motorcycle safety certificates to operators under the age of 16 years who successfully complete the off-highway motorcycle environment and safety education and training courses.

(b) An individual who is convicted of violating a law related to the operation of an off-highway motorcycle must successfully complete the environment and safety education and training program established under paragraph (a) before continuing operation of an off-highway motorcycle.

Sec. 27. Minnesota Statutes 2004, section 84.791, subdivision 2, is amended to read:

Subd. 2. [FEES.] For the purposes of administering the program and to defray a portion of the expenses of training and certifying vehicle operators, the commissioner shall collect a fee not to exceed \$5 from each person who receives the training. The commissioner shall collect a fee for issuing a duplicate off-highway motorcycle safety certificate. The commissioner shall establish the fee for a duplicate off-highway motorcycle safety certificate, to include a \$1 issuing fee for licensing agents, that neither significantly overrecovers nor underrecovers costs, including overhead costs, involved in providing the service. The fees ~~must~~, except for the issuing fee for licensing agents under this subdivision, shall be deposited in the state treasury and credited to the off-highway motorcycle account in the natural resources fund.

Sec. 28. Minnesota Statutes 2004, section 84.798, subdivision 1, is amended to read:

Subdivision 1. [GENERAL REQUIREMENTS.] (a) Unless exempted under paragraph (b) or subdivision 2, after January 1, 1995, a person may not operate and an owner may not give permission for another to operate ~~a vehicle off road, nor may a person have an off-road vehicle not registered under chapter 168 in possession at an off-road vehicle staging area, or designated trail on lands administered by the commissioner on off-road vehicle-designated trails or area areas, or on off-road vehicle grant-in-aid trails and areas funded under section 84.803,~~ unless the vehicle has been registered under this section.

(b) Annually on the third Saturday of May, the commissioner shall allow the operation of nonregistered off-road vehicles at the Iron Range Off-Highway Vehicle Recreation Area.

Sec. 29. Minnesota Statutes 2004, section 84.798, is amended by adding a subdivision to read:

Subd. 10. [REFUNDS.] The commissioner may issue a refund on a registration, not including any issuing fees paid under subdivision 3, paragraph (b), or section 84.027, subdivision 15, paragraph (a), clause (3), if the refund request is received within 12 months of the original registration and the vehicle was registered incorrectly by the commissioner or the deputy registrar.

Sec. 30. [84.8015] [EDUCATION AND TRAINING.]

Subdivision 1. [PROGRAM ESTABLISHED WHEN REQUIRED.] (a) The commissioner shall establish a comprehensive off-road vehicle environment and safety education and training program, including the preparation and dissemination of vehicle information and safety advice to the public, the training of off-road vehicle operators, and the issuance of off-road vehicle safety certificates to operators 16 to 18 years of age who successfully complete the off-road vehicle environment and safety education and training courses.

(b) Beginning July 1, 2006, an individual who is convicted of violating a law related to the operation of an off-road vehicle must successfully complete the environment and safety education and training program established under paragraph (a) before continuing operation of an off-road vehicle.

Subd. 2. [FEES.] For the purposes of administering the program and to defray a portion of the expenses of training and certifying vehicle operators, the commissioner shall collect a fee not to exceed \$15 from each person who receives the training. The commissioner shall collect a fee for issuing a duplicate off-road vehicle safety certificate. The commissioner shall establish the fee for a duplicate off-road vehicle safety certificate that neither significantly overrecovers nor underrecovers costs, including overhead costs, involved in providing the service. The fees must be deposited in the state treasury and credited to the off-road vehicle account.

Subd. 3. [COOPERATION AND CONSULTATION.] The commissioner shall cooperate with private organizations and associations, private and public corporations, and local governmental units in furtherance of the program established under this section. The commissioner shall consult with the commissioner of public safety in regard to training program subject matter and performance testing that leads to the certification of off-road vehicle operators.

Subd. 4. [RECIPROCITY WITH OTHER STATES.] The commissioner may enter into reciprocity agreements or otherwise certify off-road vehicle environment and safety education and training courses from other states that are substantially similar to in-state courses. Proof of completion of a course subject to a reciprocity agreement or certified as substantially similar is adequate to meet the safety certificate requirements of this section.

Sec. 31. Minnesota Statutes 2004, section 84.804, subdivision 3, is amended to read:

Subd. 3. [OPERATION GENERALLY.] A person may not drive or operate a vehicle off-road:

- (1) at a rate of speed greater than is reasonable under the surrounding circumstances;
- (2) in a careless, reckless, or negligent manner which may endanger or cause injury or damage to the person or property of another;
- (3) without a functioning stoplight if so equipped;
- (4) in a tree nursery or planting in a manner that damages or destroys growing stock;
- (5) without a brake operational by either hand or foot; ~~or~~
- (6) in a manner that violates rules adopted by the commissioner; ~~or~~
- (7) on unfrozen public water, if the vehicle is equipped with a snorkel device that has a raised air intake six inches or more above the vehicle manufacturer's original air intake.

Sec. 32. Minnesota Statutes 2004, section 84.82, subdivision 2, is amended to read:

Subd. 2. [APPLICATION, ISSUANCE, REPORTS, ADDITIONAL FEE.] (a) Application for registration or reregistration shall be made to the commissioner or an authorized deputy registrar of motor vehicles in a format prescribed by the commissioner and shall state the legal name and address of every owner of the snowmobile.

(b) A person who purchases a snowmobile from a retail dealer shall make application for registration to the dealer at the point of sale. The dealer shall issue a dealer temporary ten-day registration permit to each purchaser who applies to the dealer for registration. ~~The temporary registration is valid for 60 days from the date of issue.~~ Each retail dealer shall submit completed registration and fees to the deputy registrar at least once a 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 as hereinafter provided, ~~such snowmobile shall be registered and a~~ the commissioner or deputy registrar shall issue to the applicant, or provide to the dealer, an assigned registration number assigned which shall or a commissioner or deputy registrar temporary ten-day permit. Once issued, the registration number must be affixed to the snowmobile in a clearly visible and permanent manner for enforcement purposes as the commissioner of natural resources shall prescribe. A dealer subject to paragraph (b) shall provide the registration materials or temporary permit to the purchaser within the temporary ten-day permit period. The registration is not valid unless signed by at least one owner.

(~~e~~) (d) Each deputy registrar of motor vehicles acting pursuant to section 168.33, shall also be a deputy registrar of snowmobiles. The commissioner of natural resources in agreement with the commissioner of public safety may prescribe the accounting and procedural requirements necessary to assure efficient handling of registrations and registration fees. Deputy registrars shall strictly comply with these accounting and procedural requirements.

(~~d~~) (e) A fee of \$2 in addition to that otherwise prescribed by law shall be charged for:

(1) each snowmobile registered by the registrar or a deputy registrar and the additional fee shall be disposed of in the manner provided in section 168.33, subdivision 2; or

(2) each snowmobile registered by the commissioner and the additional fee shall be deposited in the state treasury and credited to the snowmobile trails and enforcement account in the natural resources fund.

Sec. 33. Minnesota Statutes 2004, section 84.82, is amended by adding a subdivision to read:

Subd. 11. [REFUNDS.] The commissioner may issue a refund on a registration, not including any issuing fees paid under subdivision 2, paragraph (e), or section 84.027, subdivision 15, paragraph (a), clause (3), if the refund request is received within 12 months of the original registration and:

(1) the snowmobile was registered incorrectly by the commissioner or the deputy registrar; or

(2) the snowmobile was registered twice, once by the dealer and once by the customer.

Sec. 34. Minnesota Statutes 2004, section 84.8205, subdivision 1, is amended to read:

Subdivision 1. [STICKER REQUIRED; FEE.] A person may not operate a snowmobile ~~that is not registered in this state~~ on a state or grant-in-aid snowmobile trail unless a snowmobile state trail sticker is affixed to the snowmobile. The commissioner of natural resources shall issue a sticker upon application and payment of a \$15 fee. The sticker is valid from November 1 through April 30. Fees collected under this section, except for the issuing fee for licensing agents under this section and for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, shall be deposited in the state treasury and credited to the snowmobile trails and enforcement account in the natural resources fund and must be used for grants-in-aid and easement acquisition.

Sec. 35. Minnesota Statutes 2004, section 84.8205, subdivision 3, is amended to read:

Subd. 3. [LICENSE AGENTS.] ~~County auditors are appointed agents of the commissioner for the sale of snowmobile state trail stickers. The commissioner may appoint other state agencies as agents for the sale of the to issue and sell state trail stickers. A county auditor may appoint subagents within the county or within adjacent counties to sell stickers. Upon appointment of a subagent, the auditor shall notify the commissioner of the name and address of the subagent. The auditor may revoke the appointment of a subagent, and The commissioner may revoke the appointment of a state agency an agent at any time. The commissioner may require an auditor to revoke a subagent's appointment. The auditor shall furnish stickers on consignment to any subagent who furnishes a surety~~

~~bond in favor of the county in an amount at least equal to the value of the stickers to be consigned to that subagent. A surety bond is not required for a state agency appointed by the commissioner. The county auditor shall be responsible for all stickers issued to and user fees received by agents except in a county where the county auditor does not retain fees paid for license purposes. In these counties, the responsibilities imposed by this section upon the county auditor are imposed upon the county. The commissioner may promulgate adopt additional rules governing the accounting and procedures for handling state trail stickers as provided in section 97A.485, subdivision 11.~~

~~Any resident desiring to sell snowmobile state trail stickers may either purchase for cash or obtain on consignment stickers from a county auditor in groups of not less than ten individual stickers. In selling stickers, the resident shall be deemed a subagent of the county auditor and the commissioner, and An agent shall observe all rules promulgated adopted by the commissioner for accounting and handling of licenses and stickers pursuant to section 97A.485, subdivision 11.~~

~~The county auditor An agent shall promptly deposit and remit all money received from the sale of the stickers with the county treasurer and shall promptly transmit any reports required by the commissioner, plus 96 percent of the price paid by each stickerholder, exclusive of the issuing fee, for each sticker sold or consigned by the auditor and subsequently sold to a stickerholder during the accounting period. The county auditor shall retain as a commission four percent of all sticker fees, excluding the issuing fee for stickers consigned to subagents and the issuing fee on stickers sold by the auditor to stickerholders to the commissioner.~~

~~Unsold stickers in the hands of any subagent shall be redeemed by the commissioner if presented for redemption within the time prescribed by the commissioner. Any stickers not presented for redemption within the period prescribed shall be conclusively presumed to have been sold, and the subagent possessing the same or to whom they are charged shall be accountable.~~

[EFFECTIVE DATE.] This section is effective July 6, 2005.

Sec. 36. Minnesota Statutes 2004, section 84.8205, subdivision 4, is amended to read:

Subd. 4. ~~[DISTRIBUTION ISSUANCE OF STICKERS.]~~ The commissioner and agents shall provide issue and sell snowmobile state trail stickers ~~to all agents authorized to issue stickers by the commissioner.~~

[EFFECTIVE DATE.] This section is effective July 6, 2005.

Sec. 37. Minnesota Statutes 2004, section 84.8205, subdivision 6, is amended to read:

Subd. 6. [DUPLICATE STATE TRAIL STICKERS.] The commissioner and agents shall issue a duplicate sticker to persons whose sticker is lost or destroyed using the process established under section 97A.405, subdivision 3, and rules promulgated thereunder. The fee for a duplicate state trail sticker is \$2, with an issuing fee of 50 cents.

[EFFECTIVE DATE.] This section is effective July 6, 2005.

Sec. 38. Minnesota Statutes 2004, section 84.83, subdivision 3, is amended to read:

Subd. 3. [PURPOSES FOR THE ACCOUNT.] The money deposited in the account and interest earned on that money may be expended only as appropriated by law for the following purposes:

(1) for a grant-in-aid program to counties and municipalities for construction and maintenance of snowmobile trails, including maintenance of trails on lands and waters of Voyageurs National Park, on Lake of the Woods, on Rainy Lake, and on the following lakes in St. Louis County: Burntside, Crane, Echo, Little Long, Mud, Pelican, Shagawa, and Vermilion;

- (2) for acquisition, development, and maintenance of state recreational snowmobile trails;
- (3) for snowmobile safety programs; and
- (4) for the administration and enforcement of sections 84.81 to 84.91 and appropriated grants to local law enforcement agencies.

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

Sec. 39. Minnesota Statutes 2004, section 84.83, is amended by adding a subdivision to read:

Subd. 6. [EASEMENT ACQUISITION; APPROPRIATION.] (a) The position of trails acquisition coordinator is created in the classified service under the commissioner of natural resources. The coordinator is responsible for acquiring easements for permanent recreational snowmobile trails.

(b) \$500,000 is annually appropriated from the snowmobile trails and enforcement account to the commissioner to acquire easements, and the administrative costs for acquiring easements, for permanent recreational snowmobile trails.

Sec. 40. Minnesota Statutes 2004, section 84.86, subdivision 1, is amended to read:

Subdivision 1. [REQUIRED RULES.] With a view of achieving maximum use of snowmobiles consistent with protection of the environment the commissioner of natural resources shall adopt rules in the manner provided by chapter 14, for the following purposes:

- (1) Registration of snowmobiles and display of registration numbers.
- (2) Use of snowmobiles insofar as game and fish resources are affected.
- (3) Use of snowmobiles on public lands and waters, or on grant-in-aid trails.
- (4) Uniform signs to be used by the state, counties, and cities, which are necessary or desirable to control, direct, or regulate the operation and use of snowmobiles.
- (5) Specifications relating to snowmobile mufflers.
- (6) A comprehensive snowmobile information and safety education and training program, including but not limited to the preparation and dissemination of snowmobile information and safety advice to the public, the training of snowmobile operators, and the issuance of snowmobile safety certificates to snowmobile operators who successfully complete the snowmobile safety education and training course. For the purpose of administering such program and to defray expenses of training and certifying snowmobile operators, the commissioner shall collect a fee from each person who receives the youth or adult training. The commissioner shall collect a fee, to include a \$1 issuing fee for licensing agents, for issuing a duplicate snowmobile safety certificate. The commissioner shall establish both fees in a manner that neither significantly overrecovers nor underrecovers costs, including overhead costs, involved in providing the services. The fees are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. The fees may be established by the commissioner notwithstanding section 16A.1283. The fees ~~must, except for the issuing fee for licensing agents under this subdivision,~~ shall be deposited in the snowmobile trails and enforcement account in the natural resources fund and the amount thereof, except for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, and issuing fees collected by the commissioner, is appropriated annually to the Enforcement Division of the Department

of Natural Resources for the administration of such programs. In addition to the fee established by the commissioner, instructors may charge each person up to the established fee amount for class materials and expenses. The commissioner shall cooperate with private organizations and associations, private and public corporations, and local governmental units in furtherance of the program established under this clause. School districts may cooperate with the commissioner and volunteer instructors to provide space for the classroom portion of the training. The commissioner shall consult with the commissioner of public safety in regard to training program subject matter and performance testing that leads to the certification of snowmobile operators.

(7) The operator of any snowmobile involved in an accident resulting in injury requiring medical attention or hospitalization to or death of any person or total damage to an extent of \$500 or more, shall forward a written report of the accident to the commissioner on such form as the commissioner shall prescribe. If the operator is killed or is unable to file a report due to incapacitation, any peace officer investigating the accident shall file the accident report within ten business days.

**[EFFECTIVE DATE.]** This section is effective July 6, 2005.

Sec. 41. Minnesota Statutes 2004, section 84.91, subdivision 1, is amended to read:

Subdivision 1. [ACTS PROHIBITED.] (a) No owner or other person having charge or control of any snowmobile or all-terrain vehicle shall authorize or permit any individual the person knows or has reason to believe is under the influence of alcohol or a controlled substance or other substance to operate the snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state.

(b) No owner or other person having charge or control of any snowmobile or all-terrain vehicle shall knowingly authorize or permit any person, who by reason of any physical or mental disability is incapable of operating the vehicle, to operate the snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state.

(c) A person who operates or is in physical control of a snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state is subject to chapter 169A. In addition to the applicable sanctions under chapter 169A, a person who is convicted of violating section 169A.20 or an ordinance in conformity with it while operating a snowmobile or all-terrain vehicle, or who refuses to comply with a lawful request to submit to testing under sections 169A.50 to 169A.53 or an ordinance in conformity with it, shall be prohibited from operating the snowmobile or all-terrain vehicle for a period of one year. The commissioner shall notify the person of the time period during which the person is prohibited from operating a snowmobile or all-terrain vehicle.

(d) Administrative and judicial review of the operating privileges prohibition is governed by section 97B.066, subdivisions 7 to 9, if the person does not have a prior impaired driving conviction or prior license revocation, as defined in section 169A.03. Otherwise, administrative and judicial review of the prohibition is governed by section 169A.53.

(e) The court shall promptly forward to the commissioner and the Department of Public Safety copies of all convictions and criminal and civil sanctions imposed under this section and ~~chapter~~ chapters 169 and 169A relating to snowmobiles and all-terrain vehicles.

(f) A person who violates paragraph (a) or (b), or an ordinance in conformity with either of them, is guilty of a misdemeanor. A person who operates a snowmobile or all-terrain vehicle during the time period the person is prohibited from operating a vehicle under paragraph (c) is guilty of a misdemeanor.

Sec. 42. Minnesota Statutes 2004, section 84.922, subdivision 2, is amended to read:

Subd. 2. [APPLICATION, ISSUANCE, REPORTS.] (a) Application for registration or continued registration shall be made to the commissioner ~~of natural resources, the commissioner of public safety~~ 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 vehicle.

(b) A person who purchases an all-terrain vehicle from a retail dealer shall make application for registration to the dealer at the point of sale. The dealer shall issue a dealer temporary ten-day registration permit to each purchaser who applies to the dealer for registration. The dealer shall submit the completed registration application 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~~ an assigned registration number ~~that or a commissioner or deputy registrar temporary ten-day permit. Once issued, the registration number~~ must be affixed to the vehicle in a manner prescribed by the commissioner. A dealer subject to paragraph (b) shall provide the registration materials ~~and or temporary receipt permit~~ to the purchaser within the ten-day temporary permit period. The commissioner shall use the snowmobile registration system to register vehicles under this section.

(d) Each deputy registrar of motor vehicles acting under section 168.33, is also a deputy registrar of all-terrain vehicles. The commissioner of natural resources in agreement with the commissioner of public safety may prescribe the accounting and procedural requirements necessary to assure efficient handling of registrations and registration fees. Deputy registrars shall strictly comply with the accounting and procedural requirements.

(e) In addition to other fees prescribed by law, a filing fee of \$4.50 is charged for each all-terrain vehicle registration renewal, duplicate or replacement registration card, and replacement decal and a filing fee of \$7 is charged for each all-terrain vehicle registration and registration transfer issued by:

(1) a deputy registrar and shall be deposited in the treasury of the jurisdiction where the deputy is appointed, or retained if the deputy is not a public official; or

(2) the commissioner and shall be deposited to the state treasury and credited to the all-terrain vehicle account in the natural resources fund.

Sec. 43. Minnesota Statutes 2004, section 84.922, is amended by adding a subdivision to read:

Subd. 12. [REFUNDS.] The commissioner may issue a refund on a registration, not including any issuing fees paid under subdivision 2, paragraph (e), or section 84.027, subdivision 15, paragraph (a), clause (3), if the refund request is received within 12 months of the original registration and:

(1) the vehicle was registered incorrectly by the commissioner or the deputy registrar; or

(2) the vehicle was registered twice, once by the dealer and once by the customer.

Sec. 44. Minnesota Statutes 2004, section 84.925, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM ESTABLISHED.] (a) The commissioner shall establish a comprehensive all-terrain vehicle environmental and safety education and training program, including the preparation and dissemination of vehicle information and safety advice to the public, the training of all-terrain vehicle operators, and the issuance of all-terrain vehicle safety certificates to vehicle operators over the age of 12 years who successfully complete the all-terrain vehicle environmental and safety education and training course.

(b) For the purpose of administering the program and to defray a portion of the expenses of training and certifying vehicle operators, the commissioner shall collect a fee of \$15 from each person who receives the training. The commissioner shall collect a fee, to include a \$1 issuing fee for licensing agents, for issuing a duplicate all-terrain vehicle safety certificate. The commissioner shall establish the fee for a duplicate all-terrain vehicle safety certificate that neither significantly overrecovers nor underrecovers costs, including overhead costs, involved in providing the service. Fee proceeds, except for the issuing fee for licensing agents under this subdivision, shall be deposited in the all-terrain vehicle account in the natural resources fund. In addition to the fee established by the commissioner, instructors may charge each person the cost of class material and expenses.

(c) The commissioner shall cooperate with private organizations and associations, private and public corporations, and local governmental units in furtherance of the program established under this section. School districts may cooperate with the commissioner and volunteer instructors to provide space for the classroom portion of the training. The commissioner shall consult with the commissioner of public safety in regard to training program subject matter and performance testing that leads to the certification of vehicle operators. By June 30, 2003, the commissioner shall incorporate a riding component in the safety education and training program.

**[EFFECTIVE DATE.]** This section, except for the the last sentence in paragraph (b), is effective July 6, 2005.

Sec. 45. Minnesota Statutes 2004, section 84.925, is amended by adding a subdivision to read:

Subd. 5. [TRAINING REQUIREMENTS.] (a) An individual who was born after July 1, 1987, and who is 16 years of age or older, must successfully complete the independent study course component of all-terrain vehicle safety training.

(b) An individual who is convicted of violating a law related to the operation of an all-terrain vehicle must successfully complete the independent study course component of all-terrain vehicle safety training before continuing operation of an all-terrain vehicle.

(c) An individual who is convicted for a second or subsequent excess speed, trespass, or wetland violation in an all-terrain vehicle season, or any conviction for careless or reckless operation of an all-terrain vehicle, must successfully complete the independent study and the testing and operating course components of all-terrain vehicle safety training before continuing operation of an all-terrain vehicle.

(d) An individual who receives three or more citations and convictions for violating a law related to the operation of an all-terrain vehicle in a two-year period must successfully complete the independent study and the testing and operating course components of all-terrain vehicle safety training before continuing operation of an all-terrain vehicle.

(e) An individual must present evidence of compliance with this subdivision before an all-terrain vehicle registration is issued or renewed.

**[EFFECTIVE DATE.]** This section is effective January 1, 2006.

Sec. 46. Minnesota Statutes 2004, section 84.9256, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITIONS ON YOUTHFUL OPERATORS.] (a) Except for operation on public road rights-of-way that is permitted under section 84.928, a driver's license issued by the state or another state is required to operate an all-terrain vehicle along or on a public road right-of-way.

(b) A person under 12 years of age shall not:



- (1) make a direct crossing of a public road right-of-way;
- (2) operate an all-terrain vehicle on a public road right-of-way in the state; or
- (3) operate an all-terrain vehicle on public lands or waters, except as provided in paragraph (e).

(c) Except for public road rights-of-way of interstate highways, a person 12 years of age but less than 16 years may make a direct crossing of a public road right-of-way of a trunk, county state-aid, or county highway or operate on public lands and waters, only if that person possesses a valid all-terrain vehicle safety certificate issued by the commissioner and is accompanied on another all-terrain vehicle by a person 18 years of age or older who holds a valid driver's license.

(d) ~~To be issued an all-terrain vehicle safety certificate issued by the commissioner to persons certificate, a person at least 12 years old, but less than 16 years old, are not valid for machines in excess of 90cc engine capacity unless must:~~

(1) ~~the person successfully completed~~ complete the safety education and training program under section 84.925, subdivision 1, including a riding component; and

(2) ~~the riding component of the training was conducted using an all-terrain vehicle with over 90cc engine capacity; and~~

(3) ~~the person is~~ be able to properly reach and control the handle bars and reach the foot pegs while sitting upright on the seat of the all-terrain vehicle.

(e) A person at least ten years of age but under 12 years of age may operate an all-terrain vehicle with an engine capacity up to 90cc on public lands or waters if accompanied by a parent or legal guardian.

Sec. 47. Minnesota Statutes 2004, section 84.9257, is amended to read:

84.9257 [PASSENGERS.]

(a) A parent or guardian may operate an all-terrain vehicle carrying one passenger who is under 16 years of age and who wears a safety helmet approved by the commissioner of public safety.

(b) For the purpose of this section, "guardian" means a legal guardian of a person under age 16, or a person 18 or older who has been authorized by the parent or legal guardian to supervise the person under age 16.

(c) A person 18 years of age or older may operate an all-terrain vehicle carrying one passenger who is 16 or 17 years of age and wears a safety helmet approved by the commissioner of public safety.

(d) A person 18 years of age or older may operate an all-terrain vehicle carrying one passenger who is 18 years of age or older.

Sec. 48. Minnesota Statutes 2004, section 84.926, is amended to read:

84.926 [VEHICLE USE ALLOWED ON PUBLIC LANDS ~~BY THE COMMISSIONER;~~ EXCEPTIONS.]

Subdivision 1. [EXCEPTION BY PERMIT.] Notwithstanding ~~section~~ sections 84.773, subdivision 1, and 84.777, on a case by case basis, the commissioner may issue a permit authorizing a person to operate an off-highway vehicle on individual public trails under the commissioner's jurisdiction during specified times and for specified purposes.

Subd. 2. [ALL-TERRAIN VEHICLES; MANAGED OR LIMITED FORESTS; OFF TRAIL.] Notwithstanding section 84.777, but subject to the commissioner's authority under subdivision 5, on state forest lands classified as managed or limited, other than the Richard J. Dorer Memorial Hardwood Forest, a person may use an all-terrain vehicle off forest trails or forest roads when:

(1) hunting big game or transporting or installing hunting stands during October, November, and December, when in possession of a valid big game hunting license;

(2) retrieving big game in September, when in possession of a valid big game hunting license;

(3) tending traps during an open trapping season for protected furbearers, when in possession of a valid trapping license; or

(4) trapping minnows, when in possession of a valid minnow dealer, private fish hatchery, or aquatic farm license.

Subd. 3. [ALL-TERRAIN VEHICLES; CLOSED FORESTS; HUNTING.] Notwithstanding section 84.777, the commissioner may determine whether all-terrain vehicles are allowed on specific forest roads, on state forest lands classified as closed, for the purpose of hunting big game during an open big game season. The determination shall be by written order as published in the State Register and is exempt from chapter 14. Section 14.386 does not apply.

Subd. 4. [OFF-ROAD AND ALL-TERRAIN VEHICLES; LIMITED OR MANAGED FORESTS; TRAILS.] Notwithstanding section 84.777, but subject to the commissioner's authority under subdivision 5, on state forest lands classified as limited or managed, other than the Richard J. Dorer Memorial Hardwood Forest, a person may use vehicles registered under chapter 168 or section 84.798 or 84.922 on forest trails that are not designated for a specific use when:

(1) hunting big game or transporting or installing hunting stands during October, November, and December, when in possession of a valid big game hunting license;

(2) retrieving big game in September, when in possession of a valid big game hunting license;

(3) tending traps during an open trapping season for protected furbearers, when in possession of a valid trapping license; or

(4) trapping minnows, when in possession of a valid minnow dealer, private fish hatchery, or aquatic farm license.

Subd. 5. [LIMITATIONS ON OFF-TRAIL AND UNDESIGNATED TRAIL USE.] The commissioner may designate areas on state forest lands that are not subject to the exceptions provided in subdivisions 2 and 4. Such designations are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. Before designating such areas, the commissioner shall hold a public meeting in the county where the largest portion of the forest lands are located to provide information to and receive comment from the public regarding the proposed designation. Sixty days before the public meeting, notice of the proposed designation shall be published in the legal newspapers that serve the counties in which the lands are located, in a statewide Department of Natural Resources news release, and in the State Register.

Sec. 49. Minnesota Statutes 2004, section 84.928, subdivision 2, is amended to read:

Subd. 2. [OPERATION GENERALLY.] A person may not drive or operate an all-terrain vehicle:

- (1) at a rate of speed greater than reasonable or proper under the surrounding circumstances;
- (2) in a careless, reckless, or negligent manner so as to endanger or to cause injury or damage to the person or property of another;
- (3) without headlight and taillight lighted at all times if the vehicle is equipped with headlight and taillight;
- (4) without a functioning stoplight if so equipped;
- (5) in a tree nursery or planting in a manner that damages or destroys growing stock;
- (6) without a brake operational by either hand or foot;
- (7) with more ~~persons than one person~~ on the vehicle ~~than it was designed for~~, except as allowed under section 84.9257;
- (8) at a speed exceeding ten miles per hour on the frozen surface of public waters within 100 feet of a person not on an all-terrain vehicle or within 100 feet of a fishing shelter; ~~or~~
- (9) with a snorkel device that has a raised air intake six inches or more above the vehicle manufacturer's original air intake, except within the Iron Range Off-Highway Vehicle Recreation Area as described in section 85.013, subdivision 12a, or other public off-highway vehicle recreation areas; or
- ~~(9)~~ (10) in a manner that violates operation rules adopted by the commissioner.

Sec. 50. Minnesota Statutes 2004, section 84D.03, subdivision 4, is amended to read:

Subd. 4. [COMMERCIAL FISHING AND TURTLE, FROG, AND CRAYFISH HARVESTING RESTRICTIONS IN INFESTED AND NONINFESTED WATERS.] (a) All nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting in an infested waters, water that is designated because the waters contain it contains invasive fish or invertebrates, may not be used in ~~noninfested any other~~ waters. If a commercial licensee operates in both ~~noninfested waters and an~~ infested ~~waters water~~ designated because ~~the waters contain it contains~~ invasive fish or invertebrates and other waters, all nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting in ~~noninfested~~ waters not designated as infested with invasive fish or invertebrates must be tagged with tags provided by the commissioner, as specified in the commercial licensee's license or permit, and may not be used in infested waters designated because the waters contain invasive fish or invertebrates.

(b) ~~In infested waters designated solely because the waters contain Eurasian water milfoil,~~ All nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting in an infested water that is designated solely because it contains Eurasian water milfoil must be dried for a minimum of ten days or frozen for a minimum of two days before they are used in ~~noninfested any other~~ waters, except as provided in this paragraph. Commercial operators licensees must notify the department's regional or area fisheries office or a conservation officer ~~when before~~ removing nets or equipment from an infested waters water designated solely because it contains Eurasian water milfoil and before resetting those nets or equipment in ~~noninfested any other~~ waters. All aquatic macrophytes Upon such notification, the commissioner may authorize a commercial licensee to move nets or equipment to another water without freezing or drying, if that water is designated as infested solely because it contains Eurasian water milfoil.

(c) A commercial licensee must ~~be removed~~ remove all aquatic macrophytes from nets and other equipment when the nets and equipment are removed from infested waters of the state.

(d) The commissioner shall provide a commercial licensee with a current listing of designated infested waters at the time that a license or permit is issued.

Sec. 51. Minnesota Statutes 2004, 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 January 1 of 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~~ purchased 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.

Sec. 52. Minnesota Statutes 2004, section 85.053, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENT.] Except as provided in section 85.054, a motor vehicle may not enter a state park, state recreation area, or state wayside over 50 acres in area, without a state park permit issued under this section. Except for vehicles permitted under subdivision 7, paragraph (a), clause (2), the state park permit must be affixed to the lower right corner windshield of the motor vehicle and must be completely affixed by its own adhesive to the windshield, or the commissioner may, by written order, provide an alternative means to display and validate annual permits.

Sec. 53. Minnesota Statutes 2004, section 85.055, is amended by adding a subdivision to read:

Subd. 1b. [DISCOUNTS.] Except as otherwise specified in law, and notwithstanding section 16A.1285, subdivision 2, the commissioner may by written order authorize waiver or reduction of state park entrance fees.

Sec. 54. Minnesota Statutes 2004, section 85.055, subdivision 2, is amended to read:

Subd. 2. [FEE DEPOSIT AND APPROPRIATION.] The fees collected under this section shall be deposited in the natural resources fund and credited to a ~~the~~ state parks account. Money in the account, except for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, is available for appropriation to the commissioner to operate and maintain the state park system.

**[EFFECTIVE DATE.]** This section is effective July 6, 2005.

Sec. 55. Minnesota Statutes 2004, section 85.42, is amended to read:

85.42 [USER FEE; VALIDITY.]

(a) The fee for an annual cross-country ski pass is ~~\$9~~ \$14 for an individual age 16 and over. The fee for a three-year pass is ~~\$24~~ \$39 for an individual age 16 and over. This fee shall be collected at the time the pass is purchased. Three-year passes are valid for three years beginning the previous July 1. Annual passes are valid for one year beginning the previous July 1.

(b) The cost for a daily cross-country skier pass is ~~\$2~~ \$4 for an individual age 16 and over. This fee shall be collected at the time the pass is purchased. The daily pass is valid only for the date designated on the pass form.

(c) A pass must be signed by the skier across the front of the pass to be valid and becomes nontransferable on signing.

Sec. 56. Minnesota Statutes 2004, section 85.43, is amended to read:

85.43 [DISPOSITION OF RECEIPTS; PURPOSE.]

~~(a) Fees from cross-country ski passes shall be deposited in the state treasury and credited to a cross-country ski account in the natural resources fund and, except as provided in paragraph (b) for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, are appropriated to the commissioner of natural resources for:~~

(1) grants-in-aid for cross-country ski trails sponsored by local units of government and special park districts as provided in section 85.44; and

(2) maintenance, winter grooming, and associated administrative costs for cross-country ski trails under the jurisdiction of the commissioner.

~~(b) The commissioner shall retain for the operation of the electronic licensing system a commission of 4.7 percent of all cross-country ski pass fees collected.~~

**[EFFECTIVE DATE.]** This section is effective July 6, 2005.

Sec. 57. Minnesota Statutes 2004, section 86B.415, subdivision 1, is amended to read:

Subdivision 1. [WATERCRAFT 19 FEET OR LESS.] The fee for a watercraft license for watercraft 19 feet or less in length is ~~\$18~~ \$27 except:

(1) for watercraft, other than personal watercraft, 19 feet in length or less that is offered for rent or lease, the fee is ~~\$6~~ \$12;

(2) for a canoe, kayak, sailboat, sailboard, paddle boat, or rowing shell 19 feet in length or less, the fee is ~~\$7~~ \$14;

(3) for a watercraft 19 feet in length or less used by a nonprofit corporation for teaching boat and water safety, the fee is as provided in subdivision 4;

(4) for a watercraft owned by a dealer under a dealer's license, the fee is as provided in subdivision 5;

(5) for a personal watercraft, the fee is ~~\$25~~ \$37.50; and

(6) for a watercraft less than 17 feet in length, other than a watercraft listed in clauses (1) to (5), the fee is ~~\$12~~ \$24.

Sec. 58. Minnesota Statutes 2004, section 86B.415, subdivision 2, is amended to read:

Subd. 2. [WATERCRAFT OVER 19 FEET.] Except as provided in subdivisions 3, 4, and 5, the watercraft license fee:

(1) for a watercraft more than 19 feet but less than 26 feet in length is ~~\$30~~ \$45;

(2) for a watercraft 26 feet but less than 40 feet in length is ~~\$45~~ \$67.50; and

(3) for a watercraft 40 feet in length or longer is ~~\$60~~ \$90.

Sec. 59. Minnesota Statutes 2004, section 86B.415, subdivision 3, is amended to read:

Subd. 3. [WATERCRAFT OVER 19 FEET FOR HIRE.] The license fee for a watercraft more than 19 feet in length for hire with an operator is ~~\$50~~ \$100 each.

Sec. 60. Minnesota Statutes 2004, section 86B.415, subdivision 4, is amended to read:

Subd. 4. [WATERCRAFT USED BY NONPROFIT CORPORATION FOR TEACHING.] The watercraft license fee for a watercraft used by a nonprofit organization for teaching boat and water safety is ~~\$3~~ \$6 each.

Sec. 61. Minnesota Statutes 2004, section 86B.415, subdivision 5, is amended to read:

Subd. 5. [DEALER'S LICENSE.] There is no separate fee for watercraft owned by a dealer under a dealer's license. The fee for a dealer's license is ~~\$45~~ \$67.50.

Sec. 62. Minnesota Statutes 2004, section 86B.415, subdivision 6, is amended to read:

Subd. 6. [TRANSFER OR DUPLICATE LICENSE.] The fee to transfer a watercraft license or be issued a duplicate license is ~~\$3~~ \$6.

Sec. 63. Minnesota Statutes 2004, section 86B.415, is amended by adding a subdivision to read:

Subd. 11. [REFUNDS.] The commissioner may issue a refund on a license or title, not including any issuing fees paid under subdivision 8 or section 84.027, subdivision 15, paragraph (a), clause (3), or 86B.870, subdivision 1, paragraph (b), if the refund request is received within 12 months of the original license or title and:

(1) the watercraft was licensed or titled incorrectly by the commissioner or the deputy registrar;

(2) the customer was incorrectly charged a title fee; or

(3) the watercraft was licensed or titled twice, once by the dealer and once by the customer.

Sec. 64. [86B.706] [WATER RECREATION ACCOUNT; RECEIPTS AND PURPOSE.]

Subdivision 1. [CREATION.] The water recreation account is created in the state treasury in the natural resources fund.

Subd. 2. [MONEY DEPOSITED IN ACCOUNT.] The following shall be deposited in the state treasury and credited to the water recreation account:

- (1) fees and surcharges from titling and licensing of watercraft under this chapter;
- (2) fines, installment payments, and forfeited bail according to section 86B.705, subdivision 2;
- (3) civil penalties according to section 84D.13;
- (4) mooring fees and receipts from the sale of marine gas at state-operated or state-assisted small craft harbors and mooring facilities according to section 86A.21;
- (5) the unrefunded gasoline tax attributable to watercraft use under section 296A.18; and
- (6) fees for permits issued to control or harvest aquatic plants other than wild rice under section 103G.615, subdivision 2.

Subd. 3. [PURPOSES.] The money in the account may be expended only as appropriated by law for the following purposes:

- (1) as directed under section 296A.18, subdivision 2, for acquisition, development, maintenance, and rehabilitation of public water access and boating facilities on public waters; lake and river improvements; and boat and water safety;
- (2) from the fees collected at state-operated or state-assisted small craft harbors and mooring facilities from daily and seasonal moorings and the sale of marine gas, for maintenance, operation, replacement, and expansion of these facilities and for the debt service on state bonds sold to finance these facilities;
- (3) for administration and enforcement of this chapter as it pertains to titling and licensing of watercraft and use and safe operation of watercraft; grants for county-sponsored and administered boat and water safety programs; and state boat and water safety efforts;
- (4) for management of aquatic invasive species and the implementation of chapter 84D as it pertains to aquatic invasive species, including control, public awareness, law enforcement, assessment and monitoring, management planning, and research; and
- (5) for management of aquatic plants and the implementation of section 103G.615 as it pertains to aquatic plants, including plant removal permitting, control, public awareness, law enforcement, assessment and monitoring, management planning, and research.

Sec. 65. Minnesota Statutes 2004, section 88.17, subdivision 1, is amended to read:

Subdivision 1. [PERMIT REQUIRED.] (a) 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, 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 the commissioner, an agent authorized by the commissioner, or an Internet site authorized by the commissioner.

(b) 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.

Sec. 66. Minnesota Statutes 2004, section 88.17, is amended by adding a subdivision to read:

Subd. 4. [ACCOUNT CREATED.] There is created in the state treasury a burning permit account within the natural resources fund where all fees collected under this section shall be deposited.

Sec. 67. Minnesota Statutes 2004, section 88.17, is amended by adding a subdivision to read:

Subd. 5. [PERMIT FEES.] (a) The annual fees for an electronic burning permit are:

(1) \$5 for a noncommercial burning permit; and

(2) for commercial enterprises that obtain multiple permits, \$5 per permit for each burning site, up to a maximum of \$50 per individual business enterprise per year.

(b) Except for the issuing fee under paragraph (c), and for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, money received from permits issued under this section shall be deposited in the state treasury and credited to the burning permit account and is annually appropriated to the commissioner of natural resources for the costs of operating the burning permit system.

(c) Of the fee amount collected under paragraph (a), \$1 shall be retained by the permit agent as a commission for issuing electronic permits.

Sec. 68. Minnesota Statutes 2004, section 88.6435, subdivision 4, is amended to read:

Subd. 4. [FOREST BOUGH ACCOUNT; DISPOSITION OF PERMIT FEES AND PENALTIES.] (a) The forest bough account is established in the state treasury within the natural resources fund.

(b) Fees for permits issued under this section shall be deposited in the state treasury and credited to the ~~special revenue fund~~ forest bough account and, except for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, are annually appropriated to the commissioner of natural resources for costs associated with balsam bough educational programs for harvesters and buyers.

[EFFECTIVE DATE.] This section is effective July 6, 2005.

Sec. 69. Minnesota Statutes 2004, section 89.039, subdivision 1, is amended to read:

Subdivision 1. [ACCOUNT ESTABLISHED; SOURCES.] The forest management investment account is created in the natural resources fund in the state treasury and money in the account may be spent only for the purposes provided in subdivision 2. The following revenue shall be deposited in the forest management investment account:



(1) timber sales receipts transferred from the consolidated conservation areas account as provided in section 84A.51, subdivision 2;

(2) timber sales receipts from forest lands as provided in section 89.035; ~~and~~

(3) money transferred from the forest suspense account according to section 16A.125, subdivision 5; and

(4) interest accruing from investment of the account.

Sec. 70. Minnesota Statutes 2004, section 89.19, subdivision 2, is amended to read:

Subd. 2. [RULEMAKING EXEMPTION.] Designations of forest trails and changes to the designations by the commissioner shall be by written order published in the State Register. Designations and changes to designations are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. Before designating or changing a designation of forest trails, the commissioner shall hold a public meeting in the county where the largest portion of the forest lands are located to provide information to and receive comment from the public regarding the proposed trail designation or change in designation. Sixty days before the public meeting, notice of the proposed forest trail designation or change in designation shall be published in the legal newspapers that serve the counties in which the lands are located, in a statewide Department of Natural Resources news release, and in the State Register.

Sec. 71. Minnesota Statutes 2004, section 89.37, is amended by adding a subdivision to read:

Subd. 4a. [SURCHARGE.] For tree seedlings sold according to this section, the commissioner may assess a 2.5 cent surcharge on each tree seedling. All surcharges collected under this subdivision must be deposited in the state treasury and credited to the forest nursery account and are annually appropriated to the commissioner for the purpose of forestry education and technical assistance.

Sec. 72. Minnesota Statutes 2004, section 92.03, subdivision 4, is amended to read:

Subd. 4. [INTERNAL IMPROVEMENT LANDS.] When lands donated to the state under the eighth section of an act of Congress entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant preemption rights," approved September 4, 1841, ~~must be~~ are sold and, the money derived from its sale must be invested, as provided by the Minnesota Constitution, article XI, section 8.

Sec. 73. [92.685] [LAND MANAGEMENT ACCOUNT.]

The land management account is created in the natural resources fund. Money credited to the account is appropriated annually to the commissioner of natural resources for the Lands and Minerals Division to administer the road easement program under section 84.631.

Sec. 74. Minnesota Statutes 2004, section 93.22, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] (a) All payments under sections 93.14 to 93.285 shall be made to the Department of Natural Resources and shall be credited according to this section.

~~(a)~~ (b) Twenty percent of all payments under sections 93.14 to 93.285 shall be credited to the minerals management account in the natural resources fund as costs for the administration and management of state mineral resources by the commissioner of natural resources.

(c) The remainder of the payments shall be credited as follows:

(1) if the lands or minerals and mineral rights covered by a lease are held by the state by virtue of an act of Congress, payments made under the lease shall be credited to the permanent fund of the class of land to which the leased premises belong;

~~(b)~~ (2) if a lease covers the bed of navigable waters, payments made under the lease shall be credited to the permanent school fund of the state;

~~(e)~~ (3) if the lands or minerals and mineral rights covered by a lease are held by the state in trust for the taxing districts, payments made under the lease shall be distributed annually on the first day of September ~~as follows:~~

~~(1) 20 percent to the general fund; and~~

~~(2) 80 percent to the respective counties in which the lands lie, to be apportioned among the taxing districts interested therein as follows: county, three-ninths; town or city, two-ninths; and school district, four-ninths;~~

~~(4) if the lands or mineral rights covered by a lease became the absolute property of the state under the provisions of chapter 84A, payments made under the lease shall be distributed as follows: county containing the land from which the income was derived, five-eighths; and general fund of the state, three-eighths; and~~

~~(d)~~ (5) Except as provided under this section and except where the disposition of payments may be otherwise directed by law, ~~all~~ payments made under a lease shall be paid into the general fund of the state.

Sec. 75. [93.2236] [MINERALS MANAGEMENT ACCOUNT.]

(a) The minerals management account is created as an account in the natural resources fund. Interest earned on money in the account accrues to the account. Money in the account may be spent or distributed only as provided in paragraphs (b) and (c).

(b) If the balance in the minerals management account exceeds \$3,000,000 on June 30, the amount exceeding \$3,000,000 must be distributed to the permanent school fund and the permanent university fund. The amount distributed to each fund must be in the same proportion as the total mineral lease revenue received in the previous biennium from school trust lands and university lands.

(c) Subject to appropriation by the legislature, money in the minerals management account may be spent by the commissioner of natural resources for mineral resource management and projects to enhance future mineral income and promote new mineral resource opportunities.

Sec. 76. Minnesota Statutes 2004, section 94.342, subdivision 1, is amended to read:

Subdivision 1. [CLASS A.] All land owned by the state and controlled or administered by the commissioner or by any division ~~or agency~~ of the Department of Natural Resources shall be known as Class A land for the purposes of sections 94.341 to 94.347. Class A land shall include school, swamp, internal improvement, and other land granted to the state by acts of Congress, state forest land, tax-forfeited land held by the state free from any trust in favor of taxing districts, and other land acquired by the state in any manner and controlled or administered as aforesaid; but this enumeration shall not be deemed exclusive.

Sec. 77. Minnesota Statutes 2004, section 94.342, subdivision 3, is amended to read:

Subd. 3. [CLASS C ADDITIONAL RESTRICTIONS ON RIPARIAN LAND.] Land bordering on or adjacent to any meandered or other public waters and withdrawn from sale by law is ~~Class C riparian~~ land. ~~Class C Riparian~~ land may not be given in exchange unless expressly authorized by the legislature or unless through the same

exchange the state acquires land on the same or other public waters in the same general vicinity affording at least equal opportunity for access to the waters and other riparian use by the public; provided, that any exchange with the United States or any agency thereof may be made free from this limitation upon condition that the state land given in exchange bordering on public waters shall be subject to reservations by the state for public travel along the shores as provided by section 92.45, unless waived as provided in this subdivision, and that there shall be reserved by the state such additional rights of public use upon suitable portions of such state land as the commissioner of natural resources, with the approval of the Land Exchange Board, may deem necessary or desirable for camping, hunting, fishing, access to the water, and other public uses. In regard to Class B or ~~Class C~~ riparian land that is contained within that portion of the Superior National Forest that is designated as the Boundary Waters Canoe Area Wilderness, the condition that state land given in exchange bordering on public waters must be subject to the public travel reservations provided in section 92.45, may be waived by the Land Exchange Board upon the recommendation of the commissioner of natural resources and, if the land is Class B land, the additional recommendation of the county board in which the land is located.

Sec. 78. Minnesota Statutes 2004, section 94.342, subdivision 4, is amended to read:

Subd. 4. [ADDITIONAL RESTRICTIONS ON STATE PARK LAND.] Land specifically designated by law as a state park may not be given in exchange unless the land is school trust land that is exchanged for Class A ~~or Class C~~ land located outside a state park.

Sec. 79. Minnesota Statutes 2004, section 94.342, subdivision 5, is amended to read:

Subd. 5. [ADDITIONAL RESTRICTIONS ON SCHOOL TRUST LAND.] School trust land may be exchanged with other ~~state~~ Class A land only if the Permanent School Fund Advisory Committee is appointed as temporary trustee of the school trust land for purposes of the exchange. The committee shall provide independent legal counsel to review the exchanges.

Sec. 80. Minnesota Statutes 2004, section 94.343, subdivision 1, is amended to read:

Subdivision 1. [GENERAL EXCHANGE PROVISIONS.] ~~Except as otherwise herein provided,~~ (a) Any Class A land may, with the unanimous approval of the board, be exchanged for any publicly held or privately owned land in the manner and subject to the conditions herein prescribed. Class A land may be exchanged only if it meets the requirements of subdivision 3 or 5.

(b) The commissioner, with the approval of the board, shall formulate general programs of exchange of Class A land designed to serve the best interests of the state in the acquisition, development, and use of lands for purposes within the province of the Department of Natural Resources.

Sec. 81. Minnesota Statutes 2004, section 94.343, is amended by adding a subdivision to read:

Subd. 2a. [VALUATION OF LAND.] The commissioner shall cause the state land and the land proposed to be exchanged therefor to be examined and value determined as provided in section 84.0272; provided, that in exchanges with the United States or any agency thereof the examination and value determination may be made in such manner as the Land Exchange Board may direct. The determined values shall not be conclusive, but shall be taken into consideration by the commissioner and the board, together with such other matters as they deem material, in determining the values for the purposes of exchange.

Sec. 82. Minnesota Statutes 2004, section 94.343, subdivision 3, is amended to read:

Subd. 3. [EXCHANGING LAND OF SUBSTANTIALLY EQUAL VALUE REQUIRED OR LOWER VALUE.] (a) Except as otherwise ~~herein~~ provided, Class A land shall be exchanged only for land of at least substantially equal value to the state, as determined by the commissioner, with the approval of the board. ~~For the~~

~~purposes of such determination, the commissioner shall cause the state land and the land proposed to be exchanged therefor to be examined and appraised by qualified state appraisers as provided in section 84.0272; provided, that in exchanges with the United States or any agency thereof the examination and appraisal may be made in such manner as the Land Exchange Board may direct. The appraisers shall determine the fair market value of the lands involved, disregarding any minimum value fixed for state land by the state Constitution or by law, and shall make a report thereof, together with such other pertinent information respecting the use and value of the lands to the state as they deem pertinent or as the commissioner or the board may require. Such reports shall be filed and preserved in the same manner as other reports of appraisal of state lands. The appraised values shall not be conclusive, but shall be taken into consideration by the commissioner and the board, together with such other matters as they deem material, in determining the values for the purposes of exchange.~~

(b) For the purposes of this subdivision, "substantially equal value" means:

(1) where the lands being exchanged are both over 100 acres, their values do not differ by more than ten percent; and

(2) in other cases, the values of the exchanged lands do not differ by more than 20 percent.

(c) Other than school trust land, Class A land may be exchanged for land of lesser value if the other party to the exchange pays to the state the amount of the difference in value. Money received by the commissioner in such cases shall be credited to the same fund as in the case of sale of the land, if such a fund exists, otherwise to the special fund, if any, from which the cost of the land was paid, otherwise to the general fund.

Sec. 83. Minnesota Statutes 2004, section 94.343, subdivision 7, is amended to read:

Subd. 7. [PUBLIC HEARING.] Before giving final approval to any exchange of Class A land, the ~~board~~ commissioner shall hold a public hearing thereon at the capital city or at some place which it may designate in the general area where the lands involved are situated; ~~provided, that the board may direct such hearing to be held in its behalf by any of its members or by the commissioner or by a referee appointed by the board.~~ The commissioner shall furnish to the auditor of each county affected a notice of the hearing signed by the ~~state auditor as secretary of the board~~ commissioner, together with a list of all the lands proposed to be exchanged and situated in the county, and the county auditor shall post the same in the auditor's office at least two weeks before the hearing. The ~~county auditor~~ commissioner shall also cause a copy of the notice, referring to the list of lands posted, to be published at least two weeks before the hearing in a legal newspaper published in the county. The cost of publication of the notice shall be paid by the ~~state out of any moneys appropriated for the expenses of the board~~ commissioner.

Sec. 84. Minnesota Statutes 2004, section 94.343, subdivision 8, is amended to read:

Subd. 8. [PROPOSALS FOR EXCHANGE.] The commissioner, with the approval of the board, may submit a proposal for exchange of Class A land to any land owner concerned. Any land owner may submit to the commissioner and the board a proposal for exchange in such form as the commissioner, ~~with the approval of the board,~~ may prescribe.

Sec. 85. Minnesota Statutes 2004, section 94.343, is amended by adding a subdivision to read:

Subd. 8a. [FEES.] (a) When a private landowner or governmental unit, except the state, presents to the commissioner an offer to exchange privately or publicly held land for Class A land, the private landowner or governmental unit shall pay to the commissioner a determination of value fee and survey fee of not less than one-half of the cost of the determination of value and survey fees as determined by the commissioner.

(b) Except as provided in paragraph (c), any payment made under paragraph (a) shall be credited to the account from which the expenses are paid and is appropriated for expenditure in the same manner as other money in the account.

(c) The fees shall be refunded if the land exchange offer is withdrawn by a private landowner or governmental unit before the money is obligated to be spent.

Sec. 86. Minnesota Statutes 2004, section 94.343, subdivision 10, is amended to read:

Subd. 10. [CONVEYANCE.] Conveyance of Class A land given in exchange shall be made by deed executed by the commissioner in the name of the state, ~~with a certificate of unanimous approval by the board appended.~~ All such deeds received by the state shall be recorded or registered in the county in which the lands lie, ~~and all recorded deeds and certificates of registered title shall be filed in the office having custody of the state public land records in the Department of Natural Resources.~~

Sec. 87. Minnesota Statutes 2004, section 94.344, subdivision 1, is amended to read:

Subdivision 1. [GENERAL EXCHANGE PROVISIONS.] ~~Except as otherwise provided,~~ Class B land, by resolution of the county board of the county where the land is located and with the unanimous approval of the Land Exchange Board, may be exchanged for any publicly held or privately owned land in the same county. Class B land may be exchanged only if it meets the requirements of subdivision 3 or 5.

Sec. 88. Minnesota Statutes 2004, section 94.344, is amended by adding a subdivision to read:

Subd. 2a. [VALUATION OF LANDS.] For an exchange involving Class B land for Class A land, the value of the lands shall be determined by the commissioner, with approval of the Land Exchange Board. For purposes of the determination, the commissioner shall determine the value of the state and tax-forfeited land proposed to be exchanged in the same manner as Class A land. For all other purposes, the county board shall appraise the state land and the land in the proposed exchange in the same manner as tax-forfeited land to be offered for sale. The determined values shall not be conclusive, but shall be taken into consideration, together with such other matters as may be deemed material, in determining the values for the purposes of exchange.

Sec. 89. Minnesota Statutes 2004, section 94.344, subdivision 3, is amended to read:

Subd. 3. [EXCHANGING LAND OF SUBSTANTIALLY EQUAL VALUE REQUIRED OR LOWER VALUE.] (a) Except as otherwise provided, Class B land may be exchanged only for land of substantially equal value ~~or greater value~~ to the state, as determined by the county board, with the approval of the commissioner and the Land Exchange Board. ~~For an exchange involving Class B land for Class A or Class C land, the value of the lands shall be determined by the commissioner, with approval of the Land Exchange Board. For purposes of the determination, the commissioner shall appraise the state and tax forfeited land proposed to be exchanged in the same manner as Class A land. For all other purposes, the county board shall appraise the state land and the land in the proposed exchange in the same manner as tax forfeited land to be offered for sale. The appraised values shall not be conclusive, but shall be taken into consideration, together with such other matters as may be deemed material, in determining the values for the purposes of exchange.~~

(b) For the purposes of this subdivision, "substantially equal value" means:

(1) where the lands being exchanged are both over 100 acres, their values do not differ by more than ten percent; and

(2) in other cases, the values of the exchanged lands do not differ by more than 20 percent.

(c) Class B land may be exchanged for land of lesser value if the other party to the exchange pays to the state the amount of the difference in value. Money received by the county treasurer shall be disposed of in like manner as the proceeds of a sale of tax-forfeited land.

Sec. 90. Minnesota Statutes 2004, section 94.344, subdivision 5, is amended to read:

Subd. 5. ~~[OBTAINING EXCHANGING LAND OF GREATER VALUE.]~~ (a) Class B land may be exchanged for land of greater value ~~only in case if~~ the other party to the exchange ~~shall waive~~ waives payment for the difference.

(b) Except for Class A school trust land, Class B land may be exchanged for Class A land of greater value if the county pays to the state the difference in value.

(c) Class B land may be exchanged for United States-owned land of greater value if the county agrees to pay the difference in value.

Sec. 91. Minnesota Statutes 2004, section 94.344, subdivision 8, is amended to read:

Subd. 8. [PROPOSALS FOR EXCHANGE.] By direction of the county board, the county auditor may submit a proposal for exchange of Class B land to any land owner concerned. Any land owner may file with the county auditor a proposal for exchange for consideration by the county board. ~~Forms for such proposals shall be prescribed by the commissioner.~~

Sec. 92. Minnesota Statutes 2004, section 94.344, subdivision 10, is amended to read:

Subd. 10. [APPROVAL; CONVEYANCE.] After approval by the county board, every proposal for the exchange of Class B land shall be transmitted to the commissioner in such form and with such information as the commissioner may prescribe for consideration by the commissioner and by the board. The county attorney's opinion on the title, with the abstract and other evidence of title, if any, shall accompany the proposal. If the proposal ~~be is~~ approved by the commissioner and the board and the title ~~be is~~ approved by the attorney general, the same shall be certified to the commissioner of revenue, who shall execute a deed in the name of the state conveying the land given in exchange, ~~with a certificate of unanimous approval by the board appended,~~ and transmit the deed to the county auditor to be delivered upon receipt of a deed conveying to the state the land received in exchange, approved by the county attorney; provided, that if any amount is due the state under the terms of the exchange, the deed from the state shall not be executed or delivered until such amount is paid in full and a certificate thereof by the county auditor is filed with the commissioner of revenue. The county auditor shall cause all deeds received by the state in such exchanges to be recorded or registered, ~~and thereafter shall file the deeds or the certificates of registered title in the auditor's office.~~ If the land received by the county in the exchange is ~~either Class A or Class C~~ land, the commissioner of revenue shall deliver the deed for the Class B land to the commissioner of natural resources and following the recording of this deed, the commissioner of natural resources shall deliver to the county auditor a deed conveying the Class A ~~or Class C~~ land to the county auditor to be recorded or registered, ~~and afterwards file the deeds or the certificate of registered title in the auditor's office.~~

Sec. 93. Minnesota Statutes 2004, section 97A.055, subdivision 4b, is amended to read:

Subd. 4b. [CITIZEN OVERSIGHT SUBCOMMITTEES.] (a) The commissioner shall appoint subcommittees of affected persons to review the reports prepared under subdivision 4; review the proposed work plans and budgets for the coming year; propose changes in policies, activities, and revenue enhancements or reductions; review other relevant information; and make recommendations to the legislature and the commissioner for improvements in the management and use of money in the game and fish fund.

(b) The commissioner shall appoint the following subcommittees, each comprised of at least three affected persons:

(1) a Fisheries Operations Subcommittee to review fisheries funding, excluding activities related to trout and salmon stamp funding;

(2) a Wildlife Operations Subcommittee to review wildlife funding, excluding activities related to migratory waterfowl, pheasant, and turkey stamp funding and excluding review of the amounts available under section 97A.075, subdivision 1, paragraphs (b) and (c);

(3) a Big Game Subcommittee to review the report required in subdivision 4, paragraph (a), clause (2);

(4) an Ecological Services Operations Subcommittee to review ecological services funding;

(5) a subcommittee to review game and fish fund funding of enforcement, support services, and Department of Natural Resources administration;

(6) a subcommittee to review the trout and salmon stamp report and address funding issues related to trout and salmon;

(7) a subcommittee to review the report on the migratory waterfowl stamp and address funding issues related to migratory waterfowl;

(8) a subcommittee to review the report on the pheasant stamp and address funding issues related to pheasants; and

(9) a subcommittee to review the report on the turkey stamp and address funding issues related to wild turkeys.

(c) The chairs of each of the subcommittees shall form a Budgetary Oversight Committee to coordinate the integration of the subcommittee reports into an annual report to the legislature; recommend changes on a broad level in policies, activities, and revenue enhancements or reductions; provide a forum to address issues that transcend the subcommittees; and submit a report for any subcommittee that fails to submit its report in a timely manner.

(d) The Budgetary Oversight Committee shall develop recommendations for a biennial budget plan and report for expenditures on game and fish activities. By August 15 of each even-numbered year, the committee shall submit the budget plan recommendations to the commissioner and to the senate and house committees with jurisdiction over natural resources finance.

(e) Each subcommittee shall choose its own chair, except that the chair of the Budgetary Oversight Committee shall be appointed by the commissioner and may not be the chair of any of the subcommittees.

(f) The Budgetary Oversight Committee must make recommendations to the commissioner and to the senate and house committees with jurisdiction over natural resources finance for outcome goals from expenditures.

(g) Notwithstanding section 15.059, subdivision 5, or other law to the contrary, the Budgetary Oversight Committee and subcommittees do not expire until June 30, ~~2005~~ 2010.

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

Sec. 94. Minnesota Statutes 2004, section 97A.061, is amended by adding a subdivision to read:

Subd. 6. [ANNUAL APPROPRIATION FOR FISCAL YEAR 2007 AND EACH YEAR THEREAFTER.] Notwithstanding subdivision 1, paragraph (c), for the payment made in fiscal year 2007 and each year thereafter, the appraised value of the land acquired prior to July 1, 2004, shall be the value used for the payment made in fiscal year 2006.

Sec. 95. Minnesota Statutes 2004, section 97A.071, subdivision 2, is amended to read:

Subd. 2. [REVENUE FROM SMALL GAME LICENSE SURCHARGE AND LIFETIME LICENSES.] Revenue from the small game surcharge and \$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 is annually appropriated to 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.

Sec. 96. Minnesota Statutes 2004, section 97A.075, subdivision 3, is amended to read:

Subd. 3. [TROUT AND SALMON STAMP.] (a) Ninety percent of the revenue from trout and salmon stamps must be credited to the trout and salmon management account. Money in the account may be used only for:

(1) the development, restoration, maintenance, improvement, protection, and preservation of habitat for trout and salmon in trout streams and lakes, including, but not limited to, evaluating habitat; stabilizing eroding stream banks; adding fish cover; modifying stream channels; managing vegetation to protect, shade, or reduce runoff on stream banks; and purchasing equipment to accomplish these tasks;

(2) rearing of trout and salmon and, including utility and service costs associated with coldwater hatchery buildings and systems; stocking of trout and salmon in streams and lakes and Lake Superior; and monitoring and evaluating stocked trout and salmon;

(3) acquisition of easements and fee title along trout waters;

(4) identifying easement and fee title areas along trout waters; and

(5) research and special management projects on trout streams, trout lakes, and Lake Superior and the anadromous portions of its tributaries.

(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) or, to specific fish rearing activities under paragraph (a), clause (2), or for costs associated with supplies and equipment to implement trout and salmon management activities under paragraph (a).

Sec. 97. Minnesota Statutes 2004, section 97A.135, subdivision 2a, is amended to read:

Subd. 2a. [DISPOSAL OF LAND IN WILDLIFE MANAGEMENT AREAS.] (a) The commissioner may sell or exchange land in a wildlife management area authorized by designation under section 86A.07, subdivision 3, 97A.133, or 97A.145 if the commissioner vacates the designation before the sale or exchange in accordance with this subdivision. The designation may be vacated only if the commissioner finds, after a public hearing, that the disposal of the land is in the public interest.



(b) A sale under this subdivision is subject to sections 94.09 to 94.16. An exchange under this subdivision is subject to sections 94.341 to ~~94.348~~ 94.347.

(c) Revenue received from a sale authorized under paragraph (a) is appropriated to the commissioner for acquisition of replacement wildlife management lands.

(d) Land acquired by the commissioner under this subdivision must meet the criteria in section 86A.05, subdivision 8, and as soon as possible after the acquisition must be designated as a wildlife management area under section 86A.07, subdivision 3, 97A.133, or 97A.145.

(e) In acquiring land under this subdivision, the commissioner must give priority to land within the same geographic region of the state as the land conveyed.

Sec. 98. Minnesota Statutes 2004, section 97A.4742, subdivision 4, is amended to read:

Subd. 4. [ANNUAL REPORT.] By December 15 each year, the commissioner shall submit a report to the legislative committees having jurisdiction over environment and natural resources appropriations and environment and natural resources policy. The report shall state the amount of revenue received in and expenditures made from revenue transferred from the lifetime fish and wildlife trust fund to the game and fish fund ~~and shall describe projects funded, locations of the projects, and results and benefits from the projects.~~ The report may be included in the game and fish fund report required by section 97A.055, subdivision 4. The commissioner shall make the annual report available to the public.

Sec. 99. Minnesota Statutes 2004, section 97A.485, subdivision 6, is amended to read:

Subd. 6. [LICENSES TO BE SOLD AND ISSUING FEES.] (a) Persons authorized to sell licenses under this section must issue the following licenses for the license fee and the following issuing fees:

(1) to take deer or bear with firearms and by archery, the issuing fee is \$1;

(2) Minnesota sporting, the issuing fee is \$1; and

(3) to take small game, to take fish by angling or by spearing, and to trap fur-bearing animals, the issuing fee is \$1;

(4) for a ~~trout and salmon~~ stamp that is not issued simultaneously with ~~an angling or sporting~~ a license, an issuing fee of 50 cents may be charged at the discretion of the authorized seller;

(5) for stamps ~~other than a trout and salmon stamp, and for a special season Canada goose license issued simultaneously with a license,~~ there is no fee; ~~and~~

(6) for licenses, seals, tags, or coupons issued without a fee under section 97A.441 or 97A.465, ~~there is no an~~ issuing fee of 50 cents may be charged at the discretion of the authorized seller;

(7) for lifetime licenses, there is no fee; and

(8) for all other licenses, permits, renewals, or applications or any other transaction through the electronic licensing system under this chapter or any other chapter when an issuing fee is not specified, an issuing fee of 50 cents may be charged at the discretion of the authorized seller.

(b) An issuing fee may not be collected for issuance of a trout and salmon stamp if a stamp validation is issued simultaneously with the related angling or sporting license. Only one issuing fee may be collected when selling more than one trout and salmon stamp in the same transaction after the end of the season for which the stamp was issued.

(c) The agent shall keep the issuing fee as a commission for selling the licenses.

(d) The commissioner shall collect the issuing fee on licenses sold by the commissioner.

(e) A license, except stamps, must state the amount of the issuing fee and that the issuing fee is kept by the seller as a commission for selling the licenses.

(f) For duplicate licenses, including licenses issued without a fee, the issuing fees are:

(1) for licenses to take big game, 75 cents; and

(2) for other licenses, 50 cents.

(g) The commissioner may issue one-day angling licenses in books of ten licenses each to fishing guides operating charter boats upon receipt of payment of all license fees, excluding the issuing fee required under this section. Copies of sold and unsold licenses shall be returned to the commissioner. The commissioner shall refund the charter boat captain for the license fees of all unsold licenses. Copies of sold licenses shall be maintained by the commissioner for one year.

Sec. 100. Minnesota Statutes 2004, section 97A.485, subdivision 7, is amended to read:

Subd. 7. [ELECTRONIC LICENSING SYSTEM COMMISSION.] The commissioner shall retain for the operation of the electronic licensing system ~~a commission of 4.7 percent of the commission established under section 84.027, subdivision 15, and issuing fees collected by the commissioner on~~ all license fees collected, excluding:

(1) the small game surcharge; and

(2) ~~all issuing fees; and~~

~~(3)~~ \$2.50 of the license fee for the licenses in section 97A.475, subdivisions 6, clauses (1), (2), and (4), 7, 8, 12, and 13.

[EFFECTIVE DATE.] This section is effective July 6, 2005.

Sec. 101. Minnesota Statutes 2004, section 97A.551, is amended by adding a subdivision to read:

Subd. 6. [TAGGING AND REGISTRATION.] The commissioner may, by rule, require persons taking, possessing, and transporting certain species of fish to tag the fish with a special fish management tag and may require registration of tagged fish. A person may not possess or transport a fish species taken in the state for which a special fish management tag is required unless a tag is attached to the fish in a manner prescribed by the commissioner. The commissioner shall prescribe the manner of issuance and the type of tag as authorized under section 97C.087. The tag must be attached to the fish as prescribed by the commissioner immediately upon reducing the fish in possession and must remain attached to the fish until the fish is processed or consumed. Species for which a special fish management tag is required must be transported undressed.

Sec. 102. Minnesota Statutes 2004, section 97B.015, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] The commissioner shall ~~make rules establishing~~ establish a statewide course in the safe use of firearms and identification of wild mammals and birds. ~~At least one course must be held within the boundary of each school district.~~ The courses must be conducted by the commissioner in cooperation with other organizations. The courses must instruct youths in commonly accepted principles of safety in hunting and handling common hunting firearms and identification of various species of wild mammals and birds by sight and other unique characteristics.

Sec. 103. Minnesota Statutes 2004, section 97B.015, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATION, SUPERVISION, AND ENFORCEMENT.] (a) The commissioner shall appoint a qualified person from the Enforcement Division under civil service rules as supervisor of hunting safety and prescribe the duties and responsibilities of the position. The commissioner shall determine and provide the Enforcement Division with the necessary personnel for this section.

(b) ~~The commissioner may appoint one or more county directors of hunting safety in each county. An appointed county director is responsible to the Enforcement Division.~~ The Enforcement Division may appoint instructors necessary for this section. ~~County directors and~~ Instructors shall serve on a voluntary basis without compensation. The Enforcement Division must supply the materials necessary for the course. School districts may cooperate with the commissioner and volunteer instructors to provide space for the classroom portion of the training.

Sec. 104. Minnesota Statutes 2004, section 97B.015, subdivision 5, is amended to read:

Subd. 5. [FIREARMS SAFETY CERTIFICATE.] The commissioner shall issue a firearms safety certificate to a person that satisfactorily completes the required course of instruction. A person must be at least age 11 to take the firearms safety course and may receive a firearms safety certificate, but the certificate is not valid for hunting until the person is at least reaches age 12. A person who is age 11 and has a firearms safety certificate may purchase a deer, bear, turkey, or prairie chicken license that will become valid when the person reaches age 12. A firearms safety certificate issued to a person under age 12 by another state as provided in section 97B.020 is not valid for hunting in Minnesota until the person reaches age 12. The form and content of the firearms safety certificate shall be prescribed by the commissioner.

Sec. 105. Minnesota Statutes 2004, section 97B.015, subdivision 7, is amended to read:

Subd. 7. [FEE FOR DUPLICATE CERTIFICATE.] The commissioner shall collect a fee, to include a \$1 issuing fee for licensing agents, for issuing a duplicate firearms safety certificate. The commissioner shall establish a fee that neither significantly overrecovers nor underrecovers costs, including overhead costs, involved in providing the service. The fee is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. The commissioner may establish the fee notwithstanding section 16A.1283. The duplicate certificate fees, except for the issuing fee for licensing agents under this subdivision, shall be deposited in the game and fish fund and, except for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, and issuing fees collected by the commissioner, are appropriated annually to the Enforcement Division of the Department of Natural Resources for the administration of the firearm safety course program.

**[EFFECTIVE DATE.]** This section is effective July 6, 2005.

Sec. 106. Minnesota Statutes 2004, section 97B.020, is amended to read:

97B.020 [FIREARMS SAFETY CERTIFICATE REQUIRED.]

(a) Except as provided in this section and section 97A.451, subdivision 3a, a person born after December 31, 1979, may not obtain an annual license to take wild animals by firearms unless the person has:

(1) a firearms safety certificate or equivalent certificate;

(2) a driver's license or identification card with a valid firearms safety qualification indicator issued under section 171.07, subdivision 13;

(3) a previous hunting license, with a valid firearms safety qualification indicator; or

(4) other evidence indicating that the person has completed in this state or in another state a hunter safety course recognized by the department under a reciprocity agreement or certified by the department as substantially similar.

(b) A person who is on active duty and has successfully completed basic training in the United States armed forces, reserve component, or National Guard may obtain a hunting license or approval authorizing hunting regardless of whether the person is issued a firearms safety certificate.

~~(b)~~ (c) A person born after December 31, 1979, may not use a lifetime license to take wild animals by firearms, unless the person meets the requirements for obtaining an annual license under paragraph (a) or (b).

Sec. 107. Minnesota Statutes 2004, section 97B.025, is amended to read:

97B.025 [HUNTER AND TRAPPER EDUCATION.]

(a) The commissioner may establish education courses for hunters and trappers. The commissioner shall collect a fee from each person attending a course. A fee, to include a \$1 issuing fee for licensing agents, shall be collected for issuing a duplicate certificate. The commissioner shall establish the fees in a manner that neither significantly overrecovers nor underrecovers costs, including overhead costs, involved in providing the services. The fees are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. The commissioner may establish the fees notwithstanding section 16A.1283. The fees, except for the issuing fee for licensing agents under this subdivision, shall be deposited in the game and fish fund and the amount thereof, except for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, is appropriated annually to the Enforcement Division of the Department of Natural Resources for the administration of the program. In addition to the fee established by the commissioner for each course, instructors may charge each person up to the established fee amount for class materials and expenses. School districts may cooperate with the commissioner and volunteer instructors to provide space for the classroom portion of the training.

(b) The commissioner shall enter into an agreement with a statewide nonprofit trappers association to conduct a trapper education program. At a minimum, the program must include at least six hours of classroom and in the field training. The program must include a review of state trapping laws and regulations, trapping ethics, the setting and tending of traps and snares, tagging and registration requirements, and the preparation of pelts. The association shall be responsible for all costs of conducting the education program, and shall not charge any fee for attending the course.

[EFFECTIVE DATE.] This section is effective July 6, 2005.

Sec. 108. Minnesota Statutes 2004, section 97C.085, is amended to read:

97C.085 [PERMIT REQUIRED FOR TAGGING FISH.]

A person may not tag or otherwise mark a live fish for identification without a permit from the commissioner, except for special fish management tags as authorized under section 97A.551.

Sec. 109. [97C.087] [SPECIAL FISH MANAGEMENT TAGS.]

Subdivision 1. [TAGS TO BE ISSUED.] If the commissioner determines it is necessary to require that a species of fish be tagged with a special fish management tag, the commissioner shall prescribe, by rule, the species to be tagged, tagging procedures, and eligibility requirements.

Subd. 2. [APPLICATION FOR TAG.] Application for special fish management tags must be accompanied by a \$5, nonrefundable application fee for each tag. A person may not make more than one tag application each year. If a person makes more than one application, the person is ineligible for a special fish management tag for that season after determination by the commissioner, without a hearing.

Sec. 110. Minnesota Statutes 2004, section 97C.327, is amended to read:

97C.327 [MEASUREMENT OF FISH LENGTH.]

For the purpose of determining compliance with size limits for fish in this chapter or in rules of the commissioner, the length of a fish must be measured from the tip of the nose or jaw, whichever is longer, to the farthest tip of the tail when fully extended.

Sec. 111. Minnesota Statutes 2004, section 97C.395, subdivision 1, is amended to read:

Subdivision 1. [DATES FOR CERTAIN SPECIES.] (a) The open seasons to take fish by angling are as follows:

(1) for walleye, sauger, northern pike, muskellunge, largemouth bass, and smallmouth bass, the Saturday two weeks prior to the Saturday of Memorial Day weekend to the ~~third~~ last Sunday in February;

(2) for lake trout, from January 1 to October 31;

(3) for brown trout, brook trout, rainbow trout, and splake, between January 1 to October 31 as prescribed by the commissioner by rule except as provided in section 97C.415, subdivision 2; and

(4) for salmon, as prescribed by the commissioner by rule.

(b) The commissioner shall close the season in areas of the state where fish are spawning and closing the season will protect the resource.

Sec. 112. Minnesota Statutes 2004, section 103F.535, subdivision 1, is amended to read:

Subdivision 1. [RESERVATION OF MARGINAL LAND AND WETLANDS.] (a) Marginal land and wetlands are withdrawn from sale or exchange unless:

(1) notice of the existence of the nonforested marginal land or wetlands, in a form prescribed by the Board of Water and Soil Resources, is provided to prospective purchasers; and

(2) the deed contains a restrictive covenant, in a form prescribed by the Board of Water and Soil Resources, that precludes enrollment of the land in a state-funded program providing compensation for conservation of marginal land or wetlands.

(b) This section does not apply to transfers of land by the Board of Water and Soil Resources to correct errors in legal descriptions under section 103F.515, subdivision 8, or to transfers by the commissioner of natural resources for:

(1) land that is currently in nonagricultural commercial use if a restrictive covenant would interfere with the commercial use;

(2) land in platted subdivisions;

(3) conveyances of land to correct errors in legal descriptions under section 84.0273;

(4) exchanges of nonagricultural land with the federal government, or exchanges of Class A, Class B, and ~~Class C~~ riparian nonagricultural land with local units of government under sections 94.342, 94.343, and 94.344, ~~and 94.349~~;

(5) land transferred to political subdivisions for public purposes under sections 84.027, subdivision 10, and 94.10; and

(6) land not needed for trail purposes that is sold to adjacent property owners and lease holders under section 85.015, subdivision 1, paragraph (b).

(c) This section does not apply to transfers of land by the commissioner of administration or transportation or by the Minnesota Housing Finance Agency, or to transfers of tax-forfeited land under chapter 282 if:

(1) the land is in platted subdivisions; or

(2) the conveyance is a transfer to correct errors in legal descriptions.

(d) This section does not apply to transfers of land by the commissioner of administration or by the Minnesota Housing Finance Agency for:

(1) land that is currently in nonagricultural commercial use if a restrictive covenant would interfere with the commercial use; or

(2) land transferred to political subdivisions for public purposes under sections 84.027, subdivision 10, and 94.10.

Sec. 113. Minnesota Statutes 2004, 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 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) \$101 for amounts not exceeding 50,000,000 gallons per year;

(2) \$3 per 1,000,000 gallons for amounts greater than 50,000,000 gallons but less than 100,000,000 gallons per year;

(3) \$3.50 per 1,000,000 gallons for amounts greater than 100,000,000 gallons but less than 150,000,000 gallons per year;

(4) \$4 per 1,000,000 gallons for amounts greater than 150,000,000 gallons but less than 200,000,000 gallons per year;

(5) \$4.50 per 1,000,000 gallons for amounts greater than 200,000,000 gallons but less than 250,000,000 gallons per year;

(6) \$5 per 1,000,000 gallons for amounts greater than 250,000,000 gallons but less than 300,000,000 gallons per year;

(7) \$5.50 per 1,000,000 gallons for amounts greater than 300,000,000 gallons but less than 350,000,000 gallons per year;

(8) \$6 per 1,000,000 gallons for amounts greater than 350,000,000 gallons but less than 400,000,000 gallons per year;

(9) \$6.50 per 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, \$150 per 1,000,000 gallons; and

(2) for all other users, ~~\$200~~ \$300 per 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 \$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 \$250,000 per year;

(2) the fee for other entities for any permitted use may not exceed:

(i) \$50,000 per year for an entity holding three or fewer permits;

(ii) \$75,000 per year for an entity holding four or five permits;

(iii) \$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 \$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. A surcharge of \$20 per million gallons in addition to the fee prescribed in paragraph (a) shall be applied to the volume of water used in June, July, and August that exceeds the volume of water used in January for municipal water use, irrigation of golf courses, and landscape irrigation.~~

Sec. 114. Minnesota Statutes 2004, section 103G.301, subdivision 2, is amended to read:

Subd. 2. [PERMIT APPLICATION FEES.] (a) An application for a permit authorized under this chapter, and each request to amend or transfer an existing permit, must be accompanied by a permit application fee to defray the costs of receiving, recording, and processing the application or request to amend or transfer.

(b) The fee to apply for a permit to appropriate water, a permit to construct or repair a dam that is subject to dam safety inspection, or a state general permit or to apply for the state water bank program is ~~\$75~~ \$150. The application fee for a permit to work in public waters or to divert waters for mining must be at least ~~\$75~~ \$150, but not more than ~~\$500~~ \$1,000, according to a schedule of fees adopted under section 16A.1285.

Sec. 115. Minnesota Statutes 2004, section 103G.615, subdivision 2, is amended to read:

Subd. 2. [FEES.] (a) The commissioner shall establish a fee schedule for permits to control or harvest aquatic plants other than wild rice. The fees must be set by rule, and section 16A.1283 does not apply. The fees may not exceed \$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 the control of rooted aquatic vegetation is \$35 for each contiguous parcel of shoreline owned by an owner. This fee may not be charged for permits issued in connection with purple loosestrife control or 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~~ water recreation account.

Sec. 116. Minnesota Statutes 2004, section 103I.681, subdivision 11, is amended to read:

Subd. 11. [PERMIT FEE SCHEDULE.] (a) The commissioner of natural resources shall adopt a permit fee schedule under chapter 14. The schedule may provide minimum fees for various classes of permits, and additional fees, which may be imposed subsequent to the application, based on the cost of receiving, processing, analyzing, and issuing the permit, and the actual inspecting and monitoring of the activities authorized by the permit, including costs of consulting services.



(b) A fee may not be imposed on a state or federal governmental agency applying for a permit.

(c) The fee schedule may provide for the refund of a fee, in whole or in part, under circumstances prescribed by the commissioner of natural resources. ~~Permit~~ Fees received must be deposited in the state treasury and credited to the general fund. ~~The amount of money necessary to pay the refunds is~~ Permit fees received are appropriated annually from the general fund to the commissioner of natural resources for the costs of inspecting and monitoring the activities authorized by the permit, including costs of consulting services.

Sec. 117. Minnesota Statutes 2004, section 115.06, subdivision 4, is amended to read:

Subd. 4. [CITIZEN MONITORING OF WATER QUALITY.] (a) The agency may encourage citizen monitoring of ambient water quality for public waters by:

(1) providing technical assistance to citizen and local group water quality monitoring efforts;

(2) integrating citizen monitoring data into water quality assessments and agency programs, provided that the data adheres to agency quality assurance and quality control protocols; and

(3) seeking public and private funds to:

(i) collaboratively develop clear guidelines for water quality monitoring procedures and data management practices for specific data and information uses;

(ii) distribute the guidelines to citizens, local governments, and other interested parties;

(iii) improve and expand water quality monitoring activities carried out by the agency; and

(iv) continue to improve electronic and Web access to water quality data and information about public waters that have been either fully or partially assessed.

(b) This subdivision does not authorize a citizen to enter onto private property for any purpose.

(c) By January 15 of each odd-numbered year, the commissioner shall report to the senate and house of representatives committees with jurisdiction over environmental policy and finance on activities under this section.

~~(d) This subdivision shall sunset June 30, 2005.~~

Sec. 118. Minnesota Statutes 2004, section 115.551, is amended to read:

115.551 [TANK FEE.]

(a) An installer shall pay a fee of \$25 for each septic system tank installed in the previous calendar year. The fees required under this section must be paid to the commissioner by January 30 of each year. The revenue derived from the fee imposed under this section shall be deposited in the environmental fund and is exempt from section 16A.1285.

(b) Notwithstanding paragraph (a), for the purposes of performance-based individual sewage treatment systems, the tank fee is limited to \$25 per household system installation.

Sec. 119. Minnesota Statutes 2004, section 115A.03, subdivision 21, is amended to read:

Subd. 21. [MIXED MUNICIPAL SOLID WASTE.] (a) "Mixed municipal solid waste" means garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection, except as provided in paragraph (b).

(b) Mixed municipal solid waste does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams, but does include source-separated ~~compostable~~ organic materials.

Sec. 120. Minnesota Statutes 2004, section 115A.03, subdivision 32a, is amended to read:

Subd. 32a. [SOURCE-SEPARATED COMPOSTABLE MATERIALS.] "Source-separated ~~compostable~~ organic materials" means mixed municipal solid waste that:

(1) is separated at the source by waste generators for the purpose of preparing it for use as food for animals, or compost;

(2) is collected separately from other mixed municipal solid wastes;

(3) is comprised of food wastes, fish and animal waste, plant materials, yard waste, diapers, sanitary products, and paper that is not recyclable because the director has determined that no other person is willing to accept the paper for recycling; and

(4) ~~is delivered to a facility to undergo~~ undergoes one of the following processes:

(i) controlled microbial degradation to yield a humus-like product meeting the agency's class I or class II, or equivalent, compost standards and where process residues do not exceed 15 percent by weight of the total material delivered to the facility; or

(ii) controlled packaging separation followed by (A) treatment, including heating and drying the material to less than ten percent moisture, to insure that it meets the requirements of chapter 25 to be sold as commercial feed; or (B) treatment in accordance with Minnesota Rules, part 1720.0930, to allow its use as food for livestock and poultry.

Sec. 121. Minnesota Statutes 2004, section 115A.072, subdivision 1, is amended to read:

Subdivision 1. [ENVIRONMENTAL EDUCATION ADVISORY BOARD.] (a) The director shall provide for the development and implementation of environmental education programs that are designed to meet the goals listed in section 115A.073.

(b) The Environmental Education Advisory Board shall advise the director in carrying out the director's responsibilities under this section. The board consists of 20 members as follows:

(1) a representative of the Pollution Control Agency, appointed by the commissioner of the agency;

(2) a representative of the Department of Education, appointed by the commissioner of education;

(3) a representative of the Department of Agriculture, appointed by the commissioner of agriculture;

(4) a representative of the Department of Health, appointed by the commissioner of health;

(5) a representative of the Department of Natural Resources, appointed by the commissioner of natural resources;

(6) a representative of the Board of Water and Soil Resources, appointed by that board;

(7) a representative of the Environmental Quality Board, appointed by that board;

(8) a representative of the Board of Teaching, appointed by that board;

(9) a representative of the University of Minnesota Extension Service, appointed by the director of the service;

(10) a citizen member from each congressional district, of which two must be licensed teachers currently teaching in the K-12 system, appointed by the director; and

(11) three at-large citizen members, appointed by the director.

The citizen members shall serve two-year terms. Compensation of board members is governed by section 15.059, subdivision 6. The board expires on June 30, ~~2003~~ 2008.

Sec. 122. Minnesota Statutes 2004, section 115A.12, is amended to read:

115A.12 [ADVISORY COUNCILS.]

(a) The director shall establish ~~a Solid Waste Management Advisory Council and a Prevention, Reduction, and Recycling~~ an Environmental Innovations Advisory Council that ~~are~~ is broadly representative of the geographic areas and interests of the state.

~~(b) The solid waste council shall have not less than nine nor more than 21 members. The membership of the solid waste council shall consist of one third citizen representatives, one third representatives from local government units, and one third representatives from private solid waste management firms. The solid waste council shall contain at least three members experienced in the private recycling industry and at least one member experienced in each of the following areas: state and municipal finance; solid waste collection, processing, and disposal; and solid waste reduction and resource recovery.~~

~~(c) The Prevention, Reduction, and Recycling Environmental Innovations Advisory Council shall have not less than nine nor or more than 24 members. The membership shall consist of one third citizen representatives, one third representatives of government, institutional, and one third representatives of business and industry representatives. The director may appoint nonvoting members from other environmental and business assistance providers in the state.~~

~~(d) (c) The chairs chair of the advisory councils council shall be appointed by the director. The director shall provide administrative and staff services for the advisory councils council. The advisory councils council shall have such duties as are assigned by law or the director. The Solid Waste Advisory Council shall make recommendations to the office on its solid waste management activities. The Prevention, Reduction, and Recycling Environmental Innovations Advisory Council shall make recommendations to the office on policy, programs, and legislation in pollution prevention, waste reduction, reuse and, recycling, and resource conservation, and the management of hazardous waste. The Environmental Innovations Advisory Council shall focus on developing and implementing innovative programs that improve Minnesota's environment by emphasizing front-end preventative, and resource conservation approaches to preventing waste and pollution. The council shall emphasize partnerships of government, citizens, institutions, and business to develop and implement these programs. Members of the advisory councils council shall serve without compensation but shall be reimbursed for their reasonable expenses as determined by the director. Notwithstanding section 15.059, subdivision 5, the Solid Waste Management Advisory Council and the Prevention, Reduction, and Recycling Environmental Innovations Advisory Council expire expires June 30, 2003 2009.~~

Sec. 123. Minnesota Statutes 2004, section 115A.545, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] (a) For the purpose of this section, the following terms have the meanings given them.

(b) "Processed" means mixed municipal solid waste that has been:

(1) burned for energy recovery; ~~or~~

(2) recovered for animals; or

(3) processed into usable compost or refuse derived fuel.

(c) "Processing facility" means a facility designed to burn mixed municipal solid waste for energy recovery or designed to process mixed municipal solid waste into usable compost or refuse-derived fuel.

(d) "County" includes a consortium of counties operating under a solid waste management joint powers agreement.

Sec. 124. Minnesota Statutes 2004, 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. 125. Minnesota Statutes 2004, section 116P.02, is amended by adding a subdivision to read:

Subd. 4a. [COUNCIL.] "Council" means the Minnesota Conservation Heritage Council.

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

Sec. 126. Minnesota Statutes 2004, section 116P.03, is amended to read:

## 116P.03 [TRUST FUND NOT TO SUPPLANT EXISTING FUNDING.]

(a) The trust fund may not be used as a substitute for traditional sources of funding environmental and natural resources activities, but the trust fund shall supplement the traditional sources, including those sources used to support the criteria in section 116P.08, subdivision 1a. The trust fund must be used primarily to support activities whose benefits become available only over an extended period of time.

~~(b) The commission must determine the amount of the state budget spent from traditional sources to fund environmental and natural resources activities before and after the trust fund is established and include a comparison of the amount in the report under section 116P.09, subdivision 7.~~

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

Sec. 127. Minnesota Statutes 2004, section 116P.04, subdivision 5, is amended to read:

Subd. 5. [AUDITS REQUIRED.] The legislative auditor shall audit trust fund expenditures to ensure that the money is spent for the purposes provided in ~~the commission's budget plan~~ the Minnesota Constitution, article XI, section 14, and the council's strategic plan developed under section 116P.08. In addition, the legislative auditor shall audit the books and records of the council on an annual basis under sections 3.971 and 3.972, subject to the resources of the legislative auditor, to ensure that the expenditures and operations of the council are consistent with the requirements of this chapter. The legislative auditor may recoup the expenses for audits under this subdivision from amounts available to the council under section 116P.061, subdivision 6.

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

Sec. 128. Minnesota Statutes 2004, 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 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 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, and comply with applicable reporting requirements under section 116P.16. 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 oil overcharge money under section 4.071, subdivision 2.

(e) The commission may adopt operating procedures to fulfill its duties under chapter 116P.

[EFFECTIVE DATE.] This section is effective for interests in land acquired after June 30, 2005.

## Sec. 129. [116P.061] [MINNESOTA CONSERVATION HERITAGE COUNCIL.]

Subdivision 1. [MEMBERSHIP.] (a) The Minnesota Conservation Heritage Council is created pursuant to section 15.012, paragraph (a), and is governed by a council of 11 members. The terms of members are six years and until their successors have been appointed. Each member shall be appointed by the governor with the advice and consent of the senate. Not more than six members shall belong to the same political party. The governor shall select at least one member from each congressional district.

(b) To be eligible for appointment to the council, a prospective member must demonstrate expertise and experience in the science, policy, or practice of the protection, conservation, preservation, and enhancement of the state's air, water, land, fish, wildlife, and other natural resources. Prior service on multimember boards with grant-making responsibilities or prior experience in the management of a business enterprise is also recommended.

(c) Except as provided in this section, the terms, compensation, and removal of members and filling of vacancies on the council shall be as provided in section 15.0575. A member may be removed from the council upon a supermajority of eight votes in favor of the removal of that member.

Subd. 2. [CHAIR; VICE CHAIR.] The governor shall select a member to serve as chair for a term concurrent with that of the governor. If a vacancy occurs in the position of chair, the governor shall select a new chair to complete the unexpired term. The chair shall be the principal executive officer of the council and shall preside at meetings of the council. The chair shall organize the work of the council and may make assignments to members, appoint committees, and give direction to the staff. The members of the council shall select a vice chair.

Subd. 3. [QUORUM.] Except when otherwise specified, a majority of the council shall constitute a quorum and the act or decision of a majority of members present, if at least a quorum is present, shall be the act or decision of the council. If a vacancy exists on the council, a majority of the remaining members constitutes a quorum. A supermajority of eight members in favor is required for: (1) hiring or removing an executive director for the council, if any; or (2) using funds for debt service on bonds.

Subd. 4. [GIFTS.] The council may accept and use grants of money or property from the United States or other grantors for any purpose pertaining to the activities of the council. Any money or property so received is appropriated and dedicated for the purposes for which it is granted and shall be expended or used solely for such purposes according to federal laws and regulations pertaining thereto, subject to applicable state laws and rules as to manner of expenditure or use. The council 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 comply with this section. Lands and interests in lands received may be sold or exchanged according to chapter 94.

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

Sec. 130. Minnesota Statutes 2004, section 116P.07, is amended to read:

## 116P.07 [INFORMATION GATHERING.]

Subdivision 1. [PUBLIC FORUMS.] The ~~commission~~ council may convene public forums or employ other methods to gather information for establishing priorities for funding.

Subd. 2. [TECHNICAL ADVISORY COMMITTEE.] The council shall make use of available expertise from educational, research, and technical organizations, and state and federal environmental agencies, including the University of Minnesota and other higher education institutions, to provide appropriate independent expert advice on identifying natural resource priorities during development of the strategic plan provided for in section 116P.08. The

technical advisory committee shall also review funding proposals and advise the council on funding recommendations. The council shall appoint the technical advisory committee and designate a chair. Compensation of advisory committee members is governed by section 15.059, subdivision 3.

Subd. 3. [STATE AGENCY LONG-TERM PRIORITIES.] State agencies with environmental programs and responsibilities shall submit long-term priorities based on agency plans to the council. The council may integrate agency long-term priorities into the development of its strategic plan as provided for in section 116P.08.

Subd. 4. [PUBLIC PRIORITIES.] The council shall ask conservation and environmental organizations to submit their long-term priorities and plans to the council, which may be integrated into the council's strategic plan as provided for in section 116P.08.

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

Sec. 131. Minnesota Statutes 2004, section 116P.08, is amended by adding a subdivision to read:

Subd. 1a. [APPROPRIATION AND EXPENDITURES.] (a) For the fiscal biennium beginning July 1, 2007, and each biennium thereafter, the amount of the environment and natural resources trust fund that is available for appropriation under the terms of the Minnesota Constitution, article XI, section 14, shall be appropriated by a law passed by the legislature and signed by the governor to the council for expenditures to be made according to the provisions of this section.

(b) The amount appropriated from the environment and natural resources trust fund may be spent only for the public purpose of protection, conservation, preservation, and enhancement of the state's air, water, land, fish, wildlife, and other natural resources. Expenditures made by the council under this section must be consistent with the Minnesota Constitution, article XI, section 14, and the strategic plan adopted under subdivision 3 and must demonstrate a direct benefit to the state's natural resources.

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

Sec. 132. Minnesota Statutes 2004, section 116P.08, is amended by adding a subdivision to read:

Subd. 1b. [WORK PROGRAM; PROGRESS REPORTS.] It is a condition of acceptance of the appropriations made from the Minnesota environment and natural resources trust fund that the agency or entity receiving the appropriation must submit a work program and semiannual progress reports in the form determined by the council. None of the money provided may be spent unless the council has approved the pertinent work program.

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

Sec. 133. Minnesota Statutes 2004, section 116P.08, subdivision 3, is amended to read:

Subd. 3. [STRATEGIC PLAN REQUIRED.] (a) The ~~commission~~ council shall adopt a strategic plan for making expenditures from the trust fund, including identifying the priority areas for funding for the next ~~six~~ ten years. The strategic plan must be updated every two years. ~~The plan is advisory only.~~ The council shall make funding allocation decisions on at least an annual basis.

(b) The ~~commission~~ council shall submit the plan, as a recommendation, to the ~~house of representatives Ways and Means and senate Finance Committees~~ chairs of the house of representatives and senate committees with jurisdiction over environment and natural resources policy and finance by January 15 of each odd-numbered year according to section 116P.09, subdivision 7.

~~(b) The commission may accept or modify the draft of the strategic plan submitted to it by the advisory committee before voting on the plan's adoption.~~

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

Sec. 134. Minnesota Statutes 2004, section 116P.08, subdivision 5, is amended to read:

Subd. 5. [PUBLIC MEETINGS.] All ~~advisory committee and commission~~ council meetings must be open to the public. ~~The commission shall attempt to meet at least once in each of the state's congressional districts during each biennium.~~

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

Sec. 135. Minnesota Statutes 2004, section 116P.08, subdivision 6, is amended to read:

Subd. 6. [PEER REVIEW.] (a) Research proposals must include a stated purpose, timeline, potential outcomes, and an explanation of the need for the research. All research proposals must be ~~reviewed by a peer review panel~~ peer-reviewed before receiving an appropriation. Peer reviews shall be considered by the council in evaluating a research project proposal. The council shall establish a peer review panel under subdivision 7 to assist its work.

~~(b) In conducting research proposal reviews, the peer review panel~~ A peer review report on a proposed research project, prepared for a research proposal review, shall:

(1) comment on the methodology proposed and whether it can be expected to yield appropriate and useful information and data; and

(2) comment on the need for the research and about similar existing information available, if any; ~~and~~

(3) ~~report to the commission and advisory committee on clauses (1) and (2).~~

~~(c) The peer review panel also must review completed research proposals that have received an appropriation and comment and report upon whether the project reached the intended goals.~~

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

Sec. 136. Minnesota Statutes 2004, section 116P.08, subdivision 7, is amended to read:

Subd. 7. [PEER REVIEW PANEL MEMBERSHIP.] (a) The peer review panel must consist of at least five members who are knowledgeable in general research methods in the areas of environment and natural resources. Not more than two members of the panel may be employees of state agencies in Minnesota.

(b) ~~The commission~~ council shall select a chair every two years who shall be responsible for convening meetings of the panel as often as is necessary to fulfill its duties as prescribed in this section. Compensation of panel members is governed by section 15.059, subdivision 3.

~~(c) The peer review panel must review completed research proposals that have received an appropriation and comment and report upon whether the project reached the intended goals.~~

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



Sec. 137. Minnesota Statutes 2004, section 116P.09, is amended to read:

116P.09 [ADMINISTRATION.]

Subdivision 1. [ADMINISTRATIVE AUTHORITY.] The ~~commission council~~ may appoint legal and other personnel and consultants necessary to carry out functions and duties of the ~~commission council~~. Permanent employees shall be in the unclassified service. In addition, the ~~commission council~~ may request staff assistance and data from any other agency of state government as needed for the execution of the responsibilities of the ~~commission and advisory committee council~~ and an agency must promptly furnish it.

Subd. 2. [LIAISON OFFICERS.] The ~~commission council~~ shall request each department or agency head of all state agencies with a direct interest and responsibility in any phase of environment and natural resources to appoint, and the latter shall appoint for the agency, a liaison officer who shall work closely with the ~~commission council~~ and its staff.

Subd. 3. [APPRAISAL AND EVALUATION.] The ~~commission council~~ shall obtain and appraise information available through private organizations and groups, utilizing to the fullest extent possible studies, data, and reports previously prepared or currently in progress by public agencies, private organizations, groups, and others, concerning future trends in the protection, conservation, preservation, and enhancement of the state's air, water, land, forests, fish, wildlife, native vegetation, and other natural resources. Any data compiled by the ~~commission council~~ shall be made available to any standing or interim committee of the legislature upon the request of the chair of the respective committee.

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 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~~ 116P.08, subdivision 2, paragraph (e) 1b.

Subd. 5. [ADMINISTRATIVE EXPENSE.] The prorated expenses related to ~~commission council~~ administration of the trust fund may not exceed an amount equal to four percent of the amount available for appropriation of the trust fund for the biennium.

Subd. 6. [CONFLICT OF INTEREST.] (a) A ~~commission council~~ member, ~~advisory committee member~~, a peer review panelist, or an employee of the ~~commission council~~ may not participate in or vote on a decision of the ~~commission, advisory committee, council~~ or a peer review panel relating to an organization in which the member, panelist, or employee has either a direct or indirect personal financial interest. While serving on the ~~legislative commission, advisory committee, council~~ or peer review panel; or ~~being while~~ an employee of the ~~commission council~~, a person shall avoid any potential conflict of interest. A conflict of interest exists if the person:

(1) would receive a direct or indirect personal financial benefit from an entity proposing a project for funding by the council or from a proposal under review for funding by the council;

(2) serves as an employee, consultant, or governing board member of an entity proposing a project for funding by the council; or

(3) has a family relationship with a project proposer or a staff or board member of an entity proposing a project for funding by the council.

(b) The council must develop procedures to identify a conflict of interest during the initial proposal review process. If a conflict is found to exist, the person must notify the council in writing and may not advocate for or against the proposal or vote on the proposal.

Subd. 7. [REPORT REQUIRED.] The ~~commission~~ council shall, by January 15 of each odd-numbered year, submit a report to the governor, the chairs of the house of representatives appropriations and senate finance committees, and the chairs of the house of representatives and senate committees ~~on~~ with jurisdiction over environment and natural resources policy and finance. Copies of the report must be available to the public. The report must include a summary of the council's conservation achievements during the reporting period and:

- (1) a copy of the current strategic plan;
- (2) a description of each project receiving money from the trust fund during the preceding biennium and how the project relates to the constitutional dedication of the trust fund and to the council's current strategic plan;
- (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~~ council, descriptions of the projects anticipated to be supported by the trust fund during the next biennium;
- (6) the source and amount of all revenues collected and distributed by the ~~commission~~ council, including all administrative and other expenses;
- (7) a description of the assets and liabilities of the trust 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.

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

Sec. 138. Minnesota Statutes 2004, section 116P.10, is amended to read:

**116P.10 [ROYALTIES, COPYRIGHTS, PATENTS.]**

This section applies to projects supported by the trust 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 trust fund owns and shall take title to the percentage of a royalty, copyright, or patent resulting from a project supported by the trust fund equal to the percentage of the project's total funding provided by the trust fund. Cash receipts resulting from a royalty, copyright, or patent, or the sale of the trust fund's rights to a royalty, copyright, or patent, must be credited immediately to the principal of the trust fund. Receipts from Minnesota future resources fund projects must be

credited to the trust fund. Before the council decides to fund a project ~~is included in the budget plan~~, the ~~commission council~~ may vote to relinquish the ownership or rights to a royalty, copyright, or patent resulting from a project supported by the trust fund to the project's proposer when the amount of the original grant or loan, plus interest, has been repaid to the trust fund.

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

Sec. 139. Minnesota Statutes 2004, section 116P.11, is amended to read:

116P.11 [AVAILABILITY OF FUNDS FOR DISBURSEMENT.]

(a) The amount biennially available from the trust fund for the budget plan developed by the ~~commission council~~ is as defined in the Minnesota Constitution, article XI, section 14.

(b) Any appropriated funds not encumbered in the biennium in which they are appropriated cancel and must be credited to the principal of the trust fund.

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

Sec. 140. Minnesota Statutes 2004, section 116P.12, subdivision 2, is amended to read:

Subd. 2. [APPLICATION AND ADMINISTRATION.] (a) The ~~commission council~~ must adopt a procedure for the issuance of the water system improvement loans by the Public Facilities Authority.

(b) The ~~commission council~~ also must ensure that the loans are administered according to its fiduciary standards and requirements.

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

Sec. 141. Minnesota Statutes 2004, section 116P.15, subdivision 2, is amended to read:

Subd. 2. [RESTRICTIONS; MODIFICATION PROCEDURE.] (a) An interest in real property acquired with an appropriation from the trust fund or the Minnesota future resources fund must be used in perpetuity or for the specific term of an easement interest for the purpose for which the appropriation was made.

(b) A recipient of funding who acquires an interest in real property subject to this section may not alter the intended use of the interest in real property or convey any interest in the real property acquired with the appropriation without the prior review and approval of the ~~commission council~~. The ~~commission council~~ shall establish procedures to review requests from recipients to alter the use of or convey an interest in real property. These procedures shall allow for the replacement of the interest in real property with another interest in real property meeting the following criteria:

(1) the interest is at least equal in fair market value, as certified by the commissioner of natural resources, to the interest being replaced; and

(2) the interest is in a reasonably equivalent location, and has a reasonably equivalent usefulness compared to the interest being replaced.

(c) A recipient of funding who acquires an interest in real property under paragraph (a) must separately record a notice of funding restrictions in the appropriate local government office where the conveyance of the interest in real property is filed. The notice of funding agreement must contain:

- (1) a legal description of the interest in real property covered by the funding agreement;
- (2) a reference to the underlying funding agreement;
- (3) a reference to this section; and
- (4) the following statement:

"This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement or work program controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the ~~Legislative Commission on Minnesota Resources~~ council or its successor. If the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or work program, ownership of the interest in real property shall transfer to this state."

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

Sec. 142. [116P.16] [REAL PROPERTY INTEREST REPORT.]

By December 1 each year, a recipient of an appropriation from the trust fund, that is used for the acquisition of an interest in real property, must submit annual reports on the status of the real property to the Legislative Commission on Minnesota Resources in a form determined by the commission. The responsibility for reporting under this section may be transferred by the recipient of the appropriation to another person who holds the interest in the real property. To complete the transfer of reporting responsibility, the recipient of the appropriation must:

- (1) inform the person to whom the responsibility is transferred of that person's reporting responsibility;
- (2) inform the person to whom the responsibility is transferred of the property restrictions under section 116P.15; and
- (3) provide written notice to the commission of the transfer of reporting responsibility, including contact information for the person to whom the responsibility is transferred.

After the transfer, the person who holds the interest in the real property is responsible for reporting requirements under this section.

**[EFFECTIVE DATE.]** This section is effective for interests in land acquired after June 30, 2005.

Sec. 143. Minnesota Statutes 2004, section 168.1296, subdivision 1, is amended to read:

Subdivision 1. [GENERAL REQUIREMENTS AND PROCEDURES.] (a) The registrar shall issue special critical habitat license plates to an applicant who:

- (1) is an owner or joint owner of a passenger automobile, pickup truck, or van or of recreational equipment;
- (2) pays a fee of \$10 to cover the costs of handling and manufacturing the plates;
- (3) pays the registration tax required under section 168.013;
- (4) pays the fees required under this chapter;

(5) contributes a minimum of \$30 annually to the Minnesota critical habitat private sector matching account established in section 84.943; and

(6) complies with laws and rules governing registration and licensing of vehicles and drivers.

(b) The critical habitat license application form must clearly indicate that the annual contribution specified under paragraph (a), clause (5), is a minimum contribution to receive the license plate and that the applicant may make an additional contribution to the account.

(c) Owners of recreational equipment under paragraph (a), clause (1), are eligible only for special critical habitat license plates for which the designs are approved by the commissioner on or after January 1, 2006.

(d) Special critical habitat license plates, the designs for which are approved by the commissioner on or after January 1, 2006, may be personalized according to section 168.12, subdivision 2a.

Sec. 144. Minnesota Statutes 2004, section 169A.63, subdivision 6, is amended to read:

Subd. 6. [VEHICLE SUBJECT TO FORFEITURE.] (a) A motor vehicle is subject to forfeiture under this section if it was used in the commission of a designated offense or was used in conduct resulting in a designated license revocation.

(b) Motorboats subject to seizure and forfeiture under this section also include their trailers.

Sec. 145. Minnesota Statutes 2004, section 216B.2424, subdivision 1, is amended to read:

Subdivision 1. [FARM-GROWN CLOSED-LOOP BIOMASS.] (a) For the purposes of this section, "farm-grown closed-loop biomass" means biomass, as defined in section 216C.051, subdivision 7, that:

(1) is intentionally cultivated, harvested, and prepared for use, in whole or in part, as a fuel for the generation of electricity;

(2) when combusted, releases an amount of carbon dioxide that is less than or approximately equal to the carbon dioxide absorbed by the biomass fuel during its growing cycle; and

(3) is fired in a new or substantially retrofitted electric generating facility that is:

(i) located within 400 miles of the site of the biomass production; and

(ii) designed to use biomass to meet at least 75 percent of its fuel requirements.

(b) The legislature finds that the negative environmental impacts within 400 miles of the facility resulting from transporting and combusting the biomass are offset in that region by the environmental benefits to air, soil, and water of the biomass production.

(c) Among the biomass fuel sources that meet the requirements of paragraph (a), ~~clause clauses (1) and (2) are~~ poplar, aspen, willow, switch grass, sorghum, alfalfa, ~~and~~ cultivated prairie grass and sustainably managed woody biomass.

(d) For the purpose of this section, "sustainably managed woody biomass" means:

(1) brush, trees, and other biomass harvested from within designated utility, railroad, and road rights-of-way;

(2) upland and lowland brush harvested from lands incorporated into brushland habitat management activities of the Minnesota Department of Natural Resources;

(3) upland and lowland brush harvested from lands managed in accordance with Minnesota Department of Natural Resources "Best Management Practices for Managing Brushlands";

(4) logging slash or waste wood that is created by harvest, precommercial timber stand improvement to meet silvicultural objectives, or by fire, disease, or insect control treatments, and that is managed in compliance with the Minnesota Forest Resources Council's "Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers" as modified by the requirement of this subdivision; and

(5) trees or parts of trees that do not meet the utilization standards for pulpwood, posts, bolts, or sawtimber as described in the Minnesota Department of Natural Resources Division of Forestry Timber Sales Manual, 1998, as amended as of May 1, 2005, and the Minnesota Department of Natural Resources Timber Scaling Manual, 1981, as amended as of May 1, 2005, except as provided in paragraph (a), clause (1), and this paragraph, clauses (1) to (3).

Sec. 146. Minnesota Statutes 2004, section 216B.2424, is amended by adding a subdivision to read:

Subd. 1a. [MUNICIPAL WASTE-TO-ENERGY PROJECT.] (a) This subdivision applies only to a biomass project owned or controlled, directly or indirectly, by two municipal utilities as described in subdivision 5a, paragraph (b).

(b) Woody biomass from state-owned land must be harvested in compliance with an adopted management plan and a program of ecologically based third-party certification.

(c) The project must prepare a fuel plan on an annual basis after commercial operation of the project as described in the power contract between the project and the public utility, and must also prepare annually certificates reflecting the types of fuel used in the preceding year by the project, as described in the power contract. The fuel plans and certificates shall also be filed with the Minnesota Department of Natural Resources and the Minnesota Department of Commerce within 30 days after being provided to the public utility, as provided by the power contract. Any person who believes the fuel plans, as amended, and certificates show that the project does not or will not comply with the fuel requirements of this subdivision may file a petition with the commission seeking such a determination.

(d) The wood procurement process must utilize third-party audit certification systems to verify that applicable best management practices were utilized in the procurement of the sustainably managed biomass. If there is a failure to so verify in any two consecutive years during the original contract term, the farm-grown closed-loop biomass requirements of subdivision 2 must be increased to 50 percent for the remaining contract term period; however, if in two consecutive subsequent years after the increase has been implemented, it is verified that the conditions in this subdivision have been met, then for the remaining original contract term the closed-loop biomass mandate reverts to 25 percent. If there is a subsequent failure to verify in a year after the first failure and implementation of the 50 percent requirement, then the closed-loop percentage shall remain at 50 percent for each remaining year of the contract term.

(e) In the closed-loop plantation, no transgenic plants may be used.

(f) No wood may be harvested from any lands identified by the final or preliminary Minnesota County Biological Survey as having statewide significance as native plant communities, large populations or concentrations of rare species, or critical animal habitat.

(g) A wood procurement plan must be prepared every five years and public meetings must be held and written comments taken on the plan and documentation must be provided on why or why not the public inputs were used.

(h) Guidelines or best management practices for sustainably managed woody biomass must be adopted by:

(1) the Minnesota Department of Natural Resources for managing and maintaining brushland and open land habitat on public and private lands, including, but not limited to, provisions of sections 84.941, 84.942, and 97A.125; and

(2) the Minnesota Forest Resources Council for logging slash, using the most recent available scientific information regarding the removal of woody biomass from forest lands, to sustain the management of forest resources as defined by section 89.001, subdivisions 8 and 9, with particular attention to soil productivity, biological diversity as defined by section 89A.01, subdivision 3, and wildlife habitat.

These guidelines must be completed by July 1, 2007, and the process of developing them must incorporate public notification and comment.

(i) The University of Minnesota Initiative for Renewable Energy and the Environment is encouraged to solicit and fund high-quality research projects to develop and consolidate scientific information regarding the removal of woody biomass from forest and brush lands, with particular attention to the environmental impacts on soil productivity, biological diversity, and sequestration of carbon. The results of this research shall be made available to the public.

(j) The two utilities owning or controlling, directly or indirectly, the biomass project described in subdivision 5a, paragraph (b), fund or obtain funding of \$150,000 by April 1, 2006, to complete the guidelines or best management practices described in paragraph (h). The expenditures to be funded under this paragraph do not include any of the expenditures to be funded under paragraph (i).

Sec. 147. Minnesota Statutes 2004, section 216B.2424, subdivision 2, is amended to read:

Subd. 2. [INTERIM EXEMPTION.] (a) A biomass project proposing to use, as its primary fuel over the life of the project, short-rotation woody crops, may use as an interim fuel agricultural waste and other biomass which is not farm-grown closed-loop biomass for up to six years after the project's electric generating facility becomes operational; provided, the project developer demonstrates the project will use the designated short-rotation woody crops as its primary fuel after the interim period and provided the location of the interim fuel production meets the requirements of subdivision 1, paragraph (a), clause (3).

(b) A biomass project proposing to use, as its primary fuel over the life of the project, short-rotation woody crops, may use as an interim fuel agricultural waste and other biomass which is not farm-grown closed-loop biomass for up to three years after the project's electric generating facility becomes operational; provided, the project developer demonstrates the project will use the designated short-rotation woody crops as its primary fuel after the interim period.

(c) A biomass project that uses an interim fuel under the terms of paragraph (b) may, in addition, use an interim fuel under the terms of paragraph (a) for six years less the number of years that an interim fuel was used under paragraph (b).

(d) A project developer proposing to use an exempt interim fuel under paragraphs (a) and (b) must demonstrate to the public utility that the project will have an adequate supply of short-rotation woody crops which meet the requirements of subdivision 1 to fuel the project after the interim period.

(e) If a biomass project using an interim fuel under this subdivision is or becomes owned or controlled, directly or indirectly, by two municipal utilities as described in subdivision 5a, paragraph (b), the project is deemed to comply with the requirement under this subdivision to use farm-grown closed-loop biomass as its primary fuel if farm-grown closed-loop biomass comprises no less than 25 percent of the fuel used over the life of the project. For purposes of this subdivision, "life of the project" means 20 years from the date the project becomes operational or the term of the applicable power purchase agreement between the project owner and the public utility, whichever is longer.

Sec. 148. Minnesota Statutes 2004, section 216B.2424, subdivision 5a, is amended to read:

Subd. 5a. [REDUCTION OF BIOMASS MANDATE.] (a) Notwithstanding subdivision 5, the biomass electric energy mandate ~~shall~~ must be reduced from 125 megawatts to 110 megawatts.

(b) The Public Utilities Commission shall approve a request pending before the ~~Public Utilities~~ commission as of May 15, 2003, for ~~an amendment~~ amendments to and assignment of a ~~contract for power from~~ power purchase agreement with the owner of a facility that uses short-rotation, woody crops as its primary fuel previously approved to satisfy a portion of the biomass mandate if the ~~developer~~ owner of the project agrees to reduce the size of its project from 50 megawatts to 35 megawatts, while maintaining ~~a~~ an average price for energy at or below the current contract price, in nominal dollars measured over the term of the power purchase agreement at or below \$104 per megawatt-hour, exclusive of any price adjustments that may take effect subsequent to commission approval of the power purchase agreement, as amended. The commission shall also approve, as necessary, any subsequent assignment or sale of the power purchase agreement or ownership of the project to an entity owned or controlled, directly or indirectly, by two municipal utilities located north of Constitutional Route No. 8, as described in section 161.114, which currently own electric and steam generation facilities using coal as a fuel and which propose to retrofit their existing municipal electrical generating facilities to utilize biomass fuels in order to perform the power purchase agreement.

(c) If the power purchase agreement described in paragraph (b) is assigned to an entity that is, or becomes, owned or controlled, directly or indirectly, by two municipal entities as described in paragraph (b), and the power purchase agreement meets the price requirements of paragraph (b), the commission shall approve any amendments to the power purchase agreement necessary to reflect the changes in project location and ownership and any other amendments made necessary by those changes. The commission shall also specifically find that:

(1) the power purchase agreement complies with and fully satisfies the provisions of this section to the full extent of its 35-megawatt capacity;

(2) all costs incurred by the public utility and all amounts to be paid by the public utility to the project owner under the terms of the power purchase agreement are fully recoverable pursuant to section 216B.1645;

(3) subject to prudence review by the commission, the public utility may recover from its Minnesota retail customers the Minnesota jurisdictional portion of the amounts that may be incurred and paid by the public utility during the full term of the power purchase agreement; and

(4) if the purchase power agreement meets the requirements of this subdivision, it is reasonable and in the public interest.

(d) The commission shall specifically approve recovery by the public utility of any and all Minnesota jurisdictional costs incurred by the public utility to improve, construct, install, or upgrade transmission, distribution, or other electrical facilities owned by the public utility or other persons in order to permit interconnection of the retrofitted biomass-fueled generating facilities or to obtain transmission service for the energy provided by the facilities to the public utility pursuant to section 216B.1645, and shall disapprove any provision in the power



purchase agreement that requires the developer or owner of the project to pay the jurisdictional costs or that permit the public utility to terminate the power purchase agreement as a result of the existence of those costs or the public utility's obligation to pay any or all of those costs.

Sec. 149. Minnesota Statutes 2004, section 216B.2424, subdivision 6, is amended to read:

Subd. 6. [REMAINING MEGAWATT COMPLIANCE PROCESS.] (a) If there remain megawatts of biomass power generating capacity to fulfill the mandate in subdivision 5 after the commission has taken final action on all contracts filed by September 1, 2000, by a public utility, as amended and assigned, this subdivision governs final compliance with the biomass energy mandate in subdivision 5 subject to the requirements of subdivisions 7 and 8.

(b) To the extent not inconsistent with this subdivision, the provisions of subdivisions 2, 3, 4, and 5 apply to proposals subject to this subdivision.

(c) A public utility must submit proposals to the commission to complete the biomass mandate. The commission shall require a public utility subject to this section to issue a request for competitive proposals for projects for electric generation utilizing biomass as defined in paragraph (f) of this subdivision to provide the remaining megawatts of the mandate. The commission shall set an expedited schedule for submission of proposals to the utility, selection by the utility of proposals or projects, negotiation of contracts, and review by the commission of the contracts or projects submitted by the utility to the commission.

(d) Notwithstanding the provisions of subdivisions 1 to 5 but subject to the provisions of subdivisions 7 and 8, a new or existing facility proposed under this subdivision that is fueled either by biomass or by co-firing biomass with nonbiomass may satisfy the mandate in this section. Such a facility need not use biomass that complies with the definition in subdivision 1 if it uses biomass as defined in paragraph (f) of this subdivision. Generating capacity produced by co-firing of biomass that is operational as of April 25, 2000, does not meet the requirements of the mandate, except that additional co-firing capacity added at an existing facility after April 25, 2000, may be used to satisfy this mandate. Only the number of megawatts of capacity at a facility which co-fires biomass that are directly attributable to the biomass and that become operational after April 25, 2000, count toward meeting the biomass mandate in this section.

(e) Nothing in this subdivision precludes a facility proposed and approved under this subdivision from using fuel sources that are not biomass in compliance with subdivision 3.

(f) Notwithstanding the provisions of subdivision 1, for proposals subject to this subdivision, "biomass" includes farm-grown closed-loop biomass; agricultural wastes, including animal, poultry, and plant wastes; and waste wood, including chipped wood, bark, brush, residue wood, and sawdust.

(g) Nothing in this subdivision affects in any way contracts entered into as of April 25, 2000, to satisfy the mandate in subdivision 5.

(h) Nothing in this subdivision requires a public utility to retrofit its own power plants for the purpose of co-firing biomass fuel, nor is a utility prohibited from retrofitting its own power plants for the purpose of co-firing biomass fuel to meet the requirements of this subdivision.

Sec. 150. Minnesota Statutes 2004, section 216B.2424, subdivision 8, is amended to read:

Subd. 8. [AGRICULTURAL BIOMASS REQUIREMENT.] Of the 125 megawatts mandated in subdivision 5, or 110 megawatts mandated in subdivision 5a, at least 75 megawatts of the generating capacity must be generated by facilities that use agricultural biomass as the principal fuel source. For purposes of this subdivision, agricultural biomass includes only farm-grown closed-loop biomass and agricultural waste, including animal, poultry, and plant

wastes. For purposes of this subdivision, "principal fuel source" means a fuel source that satisfies at least 75 percent of the fuel requirements of an electric power generating facility. Nothing in this subdivision is intended to expand the fuel source requirements of subdivision 5.

Sec. 151. Minnesota Statutes 2004, section 282.08, is amended to read:

282.08 [APPORTIONMENT OF PROCEEDS TO TAXING DISTRICTS.]

The net proceeds from the sale or rental of any parcel of forfeited land, or from the sale of products from the forfeited land, must be apportioned by the county auditor to the taxing districts interested in the land, as follows:

(1) the amounts necessary to pay the state general tax levy against the parcel for taxes payable in the year for which the tax judgment was entered, and for each subsequent payable year up to and including the year of forfeiture, must be apportioned to the state;

(2) the portion required to pay any amounts included in the appraised value under section 282.01, subdivision 3, as representing increased value due to any public improvement made after forfeiture of the parcel to the state, but not exceeding the amount certified by the clerk of the municipality must be apportioned to the municipal subdivision entitled to it;

(3) the portion required to pay any amount included in the appraised value under section 282.019, subdivision 5, representing increased value due to response actions taken after forfeiture of the parcel to the state, but not exceeding the amount of expenses certified by the Pollution Control Agency or the commissioner of agriculture, must be apportioned to the agency or the commissioner of agriculture and deposited in the fund from which the expenses were paid;

(4) the portion of the remainder required to discharge any special assessment chargeable against the parcel for drainage or other purpose whether due or deferred at the time of forfeiture, must be apportioned to the municipal subdivision entitled to it; and

(5) any balance must be apportioned as follows:

(i) The county board may annually by resolution set aside no more than 30 percent of the receipts remaining to be used for ~~timber forest~~ development on tax-forfeited land and dedicated memorial forests, to be expended under the supervision of the county board. It must be expended only on projects ~~approved by the commissioner of natural resources~~ improving the health and management of the forest resource.

(ii) The county board may annually by resolution set aside no more than 20 percent of the receipts remaining to be used for the acquisition and maintenance of county parks or recreational areas as defined in sections 398.31 to 398.36, to be expended under the supervision of the county board.

(iii) Any balance remaining must be apportioned as follows: county, 40 percent; town or city, 20 percent; and school district, 40 percent, provided, however, that in unorganized territory that portion which would have accrued to the township must be administered by the county board of commissioners.

Sec. 152. Minnesota Statutes 2004, section 282.38, subdivision 1, is amended to read:

Subdivision 1. [DEVELOPMENT.] In any county where the county board by proper resolution sets aside funds for ~~timber forest~~ development pursuant to section 282.08, clause ~~(3)(a)~~ (5), ~~item~~ item (i), or section 459.06, subdivision 2, the ~~Commissioner~~ commissioner of Iron Range resources and rehabilitation may upon request of the county board assist said county in carrying out any project for the long range development of its ~~timber forest~~ resources through matching of funds or otherwise, ~~provided that any such project shall first be approved by the commissioner of natural resources.~~

Sec. 153. Minnesota Statutes 2004, section 296A.18, subdivision 2, is amended to read:

Subd. 2. [MOTORBOAT.] Approximately 1-1/2 percent of all gasoline received in this state and 1-1/2 percent of all gasoline produced or brought into this state, except gasoline used for aviation purposes, is being used as fuel for the operation of motorboats on the waters of this state and of the total revenue derived from the imposition of the gasoline fuel tax for uses other than for aviation purposes, 1-1/2 percent of such revenues is the amount of tax on fuel used in motorboats operated on the waters of this state. The amount of unrefunded tax paid on gasoline used for motor boat purposes as computed in this chapter shall be paid into the state treasury and credited to a water recreation account in the special revenue fund for acquisition, development, maintenance, and rehabilitation of sites for public access and boating facilities on public waters; lake and river improvement; ~~state park development~~; and boat and water safety.

Sec. 154. Minnesota Statutes 2004, 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 diem 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 diem;

(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; projects or activities approved by the commissioner of natural resources for:~~

~~(i) wildlife management projects that benefit the public at large;~~

~~(ii) grant-in-aid trail maintenance and grooming established under sections 84.83 and 84.927 and other trails open to public use, including purchase or lease of equipment for this purpose; or~~

~~(iii) supplies and materials for safety training and educational programs coordinated by the Department of Natural Resources, including the Enforcement Division;~~

~~(15) (14) conducting nutritional programs, food shelves, and congregate dining programs primarily for persons who are age 62 or older or disabled;~~

~~(16) (15) 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) (16) an expenditure by a licensed veterans organization for payment of water, fuel for heating, electricity, and sewer costs for a building wholly owned or wholly leased by and used as the primary headquarters of the licensed veterans organization;~~

~~(18) (17) expenditure by a licensed 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. No more than \$5,000 can be expended in total per calendar year under this clause by all licensed veterans organizations sharing the same veterans post home; or~~

~~(49)~~ (18) 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. 155. Minnesota Statutes 2004, section 462.357, subdivision 1e, is amended to read:

Subd. 1e. [NONCONFORMITIES.] (a) Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

(1) the nonconformity or occupancy is discontinued for a period of more than one year; or

(2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

(b) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.

(c) Notwithstanding paragraph (a), a municipality shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.

Sec. 156. [473.1565] [METROPOLITAN AREA WATER SUPPLY PLANNING ACTIVITIES; ADVISORY COMMITTEE.]

Subdivision 1. [PLANNING ACTIVITIES.] (a) The Metropolitan Council must carry out planning activities addressing the water supply needs of the metropolitan area as defined in section 473.121, subdivision 2. The planning activities must include, at a minimum:

(1) development and maintenance of a base of technical information needed for sound water supply decisions including surface and groundwater availability analyses, water demand projections, water withdrawal and use impact analyses, modeling, and similar studies;

(2) development and periodic update of a metropolitan area master water supply plan that:

(i) provides guidance for local water supply systems and future regional investments;

(ii) emphasizes conservation, interjurisdictional cooperation, and long-term sustainability; and

(iii) addresses the reliability, security, and cost-effectiveness of the metropolitan area water supply system and its local and subregional components;

(3) recommendations for clarifying the appropriate roles and responsibilities of local, regional, and state government in metropolitan area water supply;

(4) recommendations for streamlining and consolidating metropolitan area water supply decision-making and approval processes; and

(5) recommendations for the ongoing and long-term funding of metropolitan area water supply planning activities and capital investments.

(b) The council must carry out the planning activities in this subdivision in consultation with the metropolitan area water supply advisory committee established in subdivision 2.

Subd. 2. [ADVISORY COMMITTEE.] (a) A metropolitan area water supply advisory committee is established to assist the council in its planning activities in subdivision 1. The advisory committee has the following membership:

(1) the commissioner of agriculture or the commissioner's designee;

(2) the commissioner of health or the commissioner's designee;

(3) the commissioner of natural resources or the commissioner's designee;

(4) the commissioner of the pollution control agency or the commissioner's designee;

(5) two officials of counties that are located in the metropolitan area, appointed by the governor;

(6) five officials of noncounty local governmental units that are located in the metropolitan area, appointed by the governor; and

(7) the chair of the Metropolitan Council or the chair's designee, who is chair of the advisory committee.

A local government unit in each of the seven counties in the metropolitan area must be represented in the seven appointments made under clauses (5) and (6).

(b) Members of the advisory committee appointed by the governor serve at the pleasure of the governor. Members of the advisory committee serve without compensation but may be reimbursed for their reasonable expenses as determined by the Metropolitan Council. The advisory committee expires December 31, 2007.

(c) The council must consider the work and recommendations of the advisory committee when the council is preparing its regional development framework.

Subd. 3. [REPORTS TO LEGISLATURE.] The council must submit reports to the legislature regarding its findings, recommendations, and continuing planning activities under subdivision 1. The first report must be submitted to the legislature by the date the legislature convenes in 2007 and subsequent reports must be submitted by such date every five years thereafter.

[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. 157. Minnesota Statutes 2004, section 473.197, subdivision 4, is amended to read:

Subd. 4. [DEBT RESERVE; LEVY.] To provide money to pay debt service on bonds issued under the credit enhancement program ~~if pledged revenues are insufficient to pay debt service in repealed subdivision 1 of Minnesota Statutes 2004, section 473.197, the council must maintain a debt reserve fund in the manner and with the effect provided by section 118A.04 for public funds until such a reserve is no longer pledged or otherwise needed to pay debt service on such bonds.~~ To provide funds for the debt reserve fund, the council may use up to \$3,000,000 of the proceeds of solid waste bonds issued by the council under section 473.831 before its repeal. To provide additional funds for the debt reserve fund, the council may levy a tax on all taxable property in the metropolitan area and must levy the tax. If sums in the debt reserve fund are insufficient to cure any deficiency in the debt service fund established for the bonds, the council must levy a tax on all taxable property in the metropolitan area in the amount needed to cure the deficiency. The tax authorized by this section does not affect the amount or rate of taxes that may be levied by the council for other purposes and is not subject to limit as to rate or amount.

[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. 158. Minnesota Statutes 2004, section 477A.12, is amended by adding a subdivision to read:

Subd. 4. [ANNUAL APPROPRIATION FOR FISCAL YEAR 2007 AND EACH YEAR THEREAFTER.] Notwithstanding subdivision 3, for the payment made in fiscal year 2007 and each year thereafter, the appraised value of acquired natural resources land that was acquired or received prior to July 1, 2004, shall be the value used for the payment made in fiscal year 2006.

Sec. 159. Minnesota Statutes 2004, section 477A.145, is amended to read:

477A.145 [INFLATION ADJUSTMENT.]

Subdivision 1. [INFLATION ADJUSTMENT CALCULATION.] In 2001 and each year thereafter, the amounts required to be adjusted for inflation in sections 477A.12 and 477A.14 shall be increased to an amount equal to: (1) the amount before the inflation adjustment multiplied by (2) one plus the percentage increase in the implicit price deflator for government consumption expenditures and gross investment for state and local governments prepared by the Bureau of Economic Analysis of the United States Department of Commerce for the period indicated below:

(i) the period starting with the first quarter of 1994 and ending with the third quarter of the calendar year prior to the year in which aid is paid, provided that lands acquired by the state under chapter 84A that are designated as state parks, state recreation areas, scientific and natural areas, or wildlife management areas are included in the definition of acquired natural resource land under section 477A.11 for calculating payments in calendar year 2001 and thereafter;

(ii) otherwise the period starting with the first quarter of 1987 and ending with the third quarter of the calendar year prior to the year in which the aid is paid.

These adjusted amounts must be rounded to the nearest one-tenth of a cent.

Subd. 2. [ADJUSTMENTS FOR FISCAL YEAR 2007 AND EACH YEAR THEREAFTER.] Notwithstanding subdivision 1, for the payments made in fiscal year 2007 and each year thereafter, the inflation adjustments shall be the amounts determined for the payment made in fiscal year 2006.

Sec. 160. Laws 2003, chapter 128, article 1, section 9, subdivision 6, is amended to read:

Subd. 6. Recreation	7,622,000	5,870,000
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Summary by Fund

Trust Fund	5,622,000	5,870,000
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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, 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

\$1,290,000 the first year and \$1,289,000 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.

(e) Local and Regional Trail Grant Initiative Program

\$160,000 the first year and \$160,000 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

\$450,000 the first year and \$700,000 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.

(i) Linking Communities Design, Technology, and DNR Trail Resources

\$92,000 the first year and \$92,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with the University of Minnesota to provide designs for up to three state trails incorporating recreation, natural, and cultural features.

(j) Ft. Ridgley Historic Site Interpretive Trail

\$75,000 the first year and \$75,000 the second year are from the trust fund to the Minnesota historical society to construct a trail through the original fort site and install interpretive markers. 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.

(k) 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.

(l) 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 land~~ from willing sellers. 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.

Sec. 161. Laws 2003, chapter 128, article 1, section 167, subdivision 1, is amended to read:

Subdivision 1. [FOREST CLASSIFICATION STATUS REVIEW.] (a) By December 31, 2006, the commissioner of natural resources shall complete a review of the forest classification status of all state forests classified as managed or limited, all forest lands under the authority of the commissioner as defined in Minnesota Statutes, section 89.001, subdivision 13, and lands managed by the commissioner under Minnesota Statutes, section 282.011. The review must be conducted on a forest-by-forest and area-by-area basis in accordance with the process and criteria under Minnesota Rules, part 6100.1950. After each forest is reviewed, the commissioner must change its status to limited or closed, and must provide a similar status for each of the other areas subject to review under this section after each individual review is completed.

(b) If the commissioner determines on January 1, 2005, that the review required under this section cannot be completed by December 31, 2006, the completion date for the review shall be extended to December 31, 2008. By January 15, 2005, the commissioner shall report to the chairs of the legislative committees with jurisdiction over natural resources policy and finance regarding the status of the process required by this section.

(c) Until December 31, 2010, the state forests and areas subject to review under this section are exempt from Minnesota Statutes, section 84.777, unless an individual forest or area has been classified as limited or closed.

(d) This subdivision does not apply to forest lands north of U.S. Highway 2. All forest lands under the authority of the commissioner as defined in Minnesota Statutes, section 89.001, subdivision 13, and lands managed by the commissioner under Minnesota Statutes, section 282.011, that are north of U.S. Highway 2 shall maintain their present classification unless the commissioner reclassifies the lands under Minnesota Rules, part 6100.1950.

Sec. 162. Laws 2004, chapter 220, section 1, is amended to read:

Section 1. [ENVIRONMENTAL REVIEW; IRON NUGGET PRODUCTION SCALE DEMONSTRATION FACILITY EXEMPTION.]

(a) The first iron nugget production scale demonstration facility that meets all of the criteria in this section shall be exempt from environmental review under Minnesota Statutes, chapter 116D and Minnesota Rules, chapter 4410. The qualifying project must:

(1) be the first iron nugget production scale demonstration facility in Minnesota;

(2) involve a single rotary hearth furnace of maximum ~~outside pitch circle~~ pitch circle diameter, as measured from the midpoint of hearth to the midpoint of hearth, of 60 meters;

(3) be located outside the area adjacent to the north shore of Lake Superior classified as the lake orientation zone in the Department of Natural Resources report entitled "North Shore Characterization Study"; and

(4) have complete permit applications submitted to the appropriate state agencies ~~in calendar year 2004~~ by June 30, 2005, for all permits required to construct and operate the facility.

(b) The Department of Natural Resources, the Environmental Quality Board, the Pollution Control Agency, and any other state agency with applicable permit-granting authority shall provide public notice for any necessary permits for the iron nugget production scale demonstration facility within four months of receiving complete applications.

(c) If the first iron nugget production scale demonstration facility to qualify for this exemption is proposed at a stationary source that has permitted taconite pellet furnaces, permanent shutdown of those pellet furnaces, prior to start-up of the iron nugget production scale demonstration facility, shall be a requirement in the iron nugget production scale demonstration facility air quality permit. The shutdown of these furnaces shall not be creditable in calculating the "net emissions increase," as defined in Code of Federal Regulations, title 40, section 52.21, for this project.

(d) The Pollution Control Agency shall strive in the permitting process to assure the lowest mercury emissions reasonably possible.

(e) Permit applications must comply with applicable law, except that an iron nugget production scale demonstration facility that meets the criteria in this section is exempt from environmental review under Minnesota Statutes, chapter 116D and Minnesota Rules, chapter 4410, and the company is not required to perform an environmental review before permits are issued for the iron nugget production scale demonstration facility.

(f) The construction and operation of the iron nugget production scale demonstration facility will demonstrate whether the technology is technically and economically feasible at this larger scale. Environmental data from the operation of the iron nugget production scale demonstration facility may be used in the environmental review and permitting of commercial scale facilities built elsewhere in Minnesota.

(g) The exemption does not affect any existing permit requirement that may require environmental review for a commercial scale iron nugget facility at an existing taconite facility located within the area adjacent to the north shore of Lake Superior classified as the lake orientation zone in the Department of Natural Resources report entitled "North Shore Characterization Study."

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

Sec. 163. [CONTINUATION OF AGREEMENTS.]

An agreement entered into between the Metropolitan Council and a participant in the credit enhancement program under Minnesota Statutes 2004, section 473.197, subdivision 5, with respect to bonds issued prior to the effective date of this section, shall continue in effect in accordance with its terms; provided that no provision in such agreement shall be construed to require or allow the council to pledge its full faith and credit and taxing powers to the payment of additional bonds issued after the effective date of this section.

**[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. 164. [USE OF CREDIT ENHANCEMENT PROGRAM FUNDS.]

The Metropolitan Council must transfer any funds originating from the proceeds of solid waste bonds and available for the credit enhancement program under Minnesota Statutes 2004, section 473.197, subdivision 4, to the council's general fund to the extent such funds are no longer pledged or otherwise needed by the council to maintain a debt reserve fund as provided for in ongoing Minnesota Statutes, section 473.197, subdivision 4. The council must first use the transferred funds for carrying out the metropolitan area water supply planning activities required by Minnesota Statutes, section 473.1565, for staff support of the advisory committee established under that section, and for related purposes. If the council determines that the transferred funds are no longer needed for such purposes, the council may use any such funds for any general purposes of the council.

**[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. 165. [REQUIRED RULEMAKING.]

(a) The commissioner of natural resources shall amend Minnesota Rules, part 6232.0300, subpart 7, to permit an individual to operate an all-terrain vehicle on privately owned land in an area open to taking deer by firearms during the legal shooting hours of the deer season, regardless of whether the individual is licensed to take deer on the day of operation, if the individual is:

(1) pursuing an occupation when operating the all-terrain vehicle;

(2) not in possession of a firearm; and

(3) the owner of the land on which the all-terrain vehicle is operated, an employee of the land owner, or an immediate family member of the land owner.

(b) The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), in amending the rule under paragraph (a). Minnesota Statutes, section 14.386, does not apply, except to the extent provided under Minnesota Statutes, section 14.388.

Sec. 166. [INITIAL CITIZEN APPOINTMENTS.]

The governor shall make the initial appointments of citizen members to the Minnesota Conservation Heritage Council according to the following schedule of terms:

(1) the chair to serve a full six-year term;

(2) three members to serve five-year terms;

(3) three members to serve four-year terms;

(4) two members to serve three-year terms; and

(5) two members to serve two-year terms.

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

Sec. 167. [TRANSITION.]

(a) The staff of the Legislative Commission on Minnesota Resources shall provide administrative and technical assistance to the council.

(b) Administrative expenses saved through the elimination of the Citizens Advisory Committee shall be used for the administrative expenses of the council or other citizen advisory committees created by the council.

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

Sec. 168. [CONFORMING CHANGES; RULES.]

The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to amend rules to conform to Minnesota Statutes, sections 97C.327 and 97C.395, subdivision 1, as amended in this article. Minnesota Statutes, section 14.386, does not apply to the rulemaking under this section except to the extent provided under Minnesota Statutes, section 14.388.

Sec. 169. [GROOMING RATES AND MAINTENANCE REIMBURSEMENTS.]

The commissioner of natural resources must work with trail providers to increase grooming rates and maintenance reimbursements, consistent with funding appropriated by the legislature, for grants provided under Minnesota Statutes, section 84.83.

## Sec. 170. [REPEALERS.]

Subdivision 1. [STATE PARK PERMIT EXEMPTIONS.] Minnesota Statutes 2004, section 85.054, subdivision 1, is repealed.

Subd. 2. [OFF-HIGHWAY VEHICLE SAFETY AND CONSERVATION PROGRAM.] Minnesota Statutes 2004, section 84.901, is repealed.

Subd. 3. [MINNESOTA RESOURCES.] Minnesota Statutes 2004, sections 116P.02, subdivisions 2 and 4; 116P.05; 116P.06; and 116P.08, subdivision 4, are repealed.

Subd. 4. [METROPOLITAN COUNCIL.] Minnesota Statutes 2004, sections 473.156; and 473.197, subdivisions 1, 2, 3, and 5, are repealed.

Subd. 5. [STATE LANDS.] Minnesota Statutes 2004, sections 94.343, subdivision 6; 94.344, subdivision 6; 94.348; and 94.349, are repealed.

**[EFFECTIVE DATE.]** Subdivision 4 is effective the day following final enactment and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

## ARTICLE 2

## OPTION A FROM HOUSE RESOLUTION 8

## Section 1. [ENVIRONMENT AND NATURAL RESOURCES APPROPRIATIONS.]

These amounts are in adjustments to the appropriations in article 1 and are only effective if the house of representatives fails to pass H.F. 1664. The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another named fund, to the agencies and for the purposes specified in this article, to be available for the fiscal years indicated for each purpose. The figures "2006" and "2007," where used in this article, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 2006, or June 30, 2007, respectively. The term "first year" means the fiscal year ending June 30, 2006, and the term "second year" means the fiscal year ending June 30, 2007.

	APPROPRIATIONS	
	Available for the Year	
	Ending June 30	
	2006	2007
Sec. 2. Department of Environmental Protection	(500,000)	(500,000)
Sec. 3. Natural Resources Department	(3,810,000)	(3,810,000)

\$161,000 the first year and \$161,000 the second year are from the general fund for the reinvest in Minnesota wildlife program.

\$50,000 the first year and \$50,000 the second year are from the general fund for the reinvest in Minnesota fisheries program.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

\$135,000 the first year and \$134,000 the second year are from the general fund for the reinvest in Minnesota ecological services program.

Sec. 4. Minnesota Conservation Corps	(350,000)	(350,000)
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Sec. 5. Water and Soil Resources Board	(705,000)	(705,000)
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Of this amount (\$105,000) each year is a reduction to the Area 2 grant.

Sec. 6. Metropolitan Council	(300,000)	(300,000)
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Sec. 7. Science Museum	(35,000)	(35,000)
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### ARTICLE 3

#### ENVIRONMENTAL REORGANIZATION

Section 1. Minnesota Statutes 2004, 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 Education; the Department of Employment and Economic Development; the Department of Environmental Protection; 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 2004, section 115A.06, subdivision 5, is amended to read:

Subd. 5. [RIGHT OF ACCESS.] Whenever the ~~office or the director acting on behalf of the office~~ commissioner deems it necessary to the accomplishment of ~~its department~~ purposes, the ~~office~~ commissioner or any member, employee, or agent ~~thereof of the department~~, when authorized by ~~it or the director~~ commissioner, may enter upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations, provided that the entrance and activity is undertaken after reasonable notice and during normal business hours and provided that compensation is made for any damages to the property caused by the entrance and activity. The ~~office~~ commissioner may pay a reasonable estimate of the damages ~~it~~ the commissioner believes will be caused by the entrance and activity before entering any property.



Sec. 3. Minnesota Statutes 2004, section 115A.07, subdivision 1, is amended to read:

Subdivision 1. [INTERAGENCY COORDINATION.] The ~~director~~ commissioner shall inform the commissioner of employment and economic development of the ~~office's~~ department's activities, ~~solicit the advice and recommendations of the agency, and coordinate its work with the regulatory and enforcement activities of the agency.~~

Sec. 4. Minnesota Statutes 2004, section 115A.15, subdivision 7, is amended to read:

Subd. 7. [WASTE REDUCTION PROCUREMENT MODEL.] To reduce the amount of solid waste generated by the state and to provide a model for other public and private procurement systems, the commissioner, ~~in cooperation with the director of the Office of Waste Management,~~ shall ~~develop~~ continue to implement waste reduction procurement programs, including an expanded life cycle costing system for procurement of durable and repairable items ~~by November 1, 1994. On implementation of the model procurement system,~~ The commissioner, ~~in cooperation with the director,~~ shall develop and distribute informational materials for the purpose of promoting the procurement model to other public and private entities under section 115A.072, subdivision 4.

Sec. 5. Minnesota Statutes 2004, section 115A.38, subdivision 1, is amended to read:

Subdivision 1. [REPORTS TO ~~LEGISLATIVE COMMISSION~~ COMMITTEES.] At least 30 days before making a final decision under section 115A.37 in a review brought pursuant to section 115A.33, clause (d), the ~~chair of the board~~ commissioner may report to the legislative ~~commission~~ committees with jurisdiction over environment and natural resources policy and finance describing permit conditions or requirements being considered which are not within the existing authority of the ~~agency or the board~~ department or which would require legislation or public financial assistance. In any such report the ~~chair of the board~~ commissioner may request intervention in the review pursuant to subdivisions 2 and 3.

Sec. 6. [116.012] [DEPARTMENT OF ENVIRONMENTAL PROTECTION; CREATION AND POWERS.]

The Department of Environmental Protection is created. The responsibilities of the Office of Environmental Assistance and the Pollution Control Agency are transferred to the Department of Environmental Protection under section 15.039. The offices of commissioner and members of the Environmental Protection Board are continuations of those offices in the Pollution Control Agency. In addition to the provisions of section 15.039, no employee in the classified service shall suffer job loss, have a salary reduced, or have employment benefits reduced as a result of the reorganization in this act.

Sec. 7. Minnesota Statutes 2004, section 116.03, subdivision 1, is amended to read:

Subdivision 1. [OFFICE.] (a) The office of commissioner of ~~the Pollution Control Agency~~ environmental protection is created ~~and is under the supervision and control of the commissioner, who.~~ The commissioner is the chief executive officer of the department and is appointed by the governor under the provisions of section 15.06.

(b) The commissioner may appoint a deputy commissioner and assistant commissioners who shall be in the unclassified service.

(c) The commissioner shall make all decisions on behalf of the ~~agency~~ department that are not required to be made by the ~~agency~~ board under section 116.02.

Sec. 8. Minnesota Statutes 2004, section 116.07, subdivision 4b, is amended to read:

Subd. 4b. [PERMITS; HAZARDOUS WASTE FACILITIES.] (a) ~~The agency shall provide to the Office of Environmental Assistance established in section 115A.055, copies of each permit application for a hazardous waste facility immediately upon its submittal to the agency. The agency shall request recommendations on each permit application from the office and shall consult with the office on the agency's intended disposition of the recommendations.~~ Except as otherwise provided in sections 115A.18 to 115A.30, the agency department shall commence any environmental review required under chapter 116D within 120 days of its acceptance of a completed permit application. The agency department shall respond to a permit application for a hazardous waste facility within 120 days following a decision not to prepare environmental documents or following the acceptance of a negative declaration notice or an environmental impact statement. Except as otherwise provided in sections 115A.18 to 115A.30, within 60 days following the submission of a final permit application for a hazardous waste facility, unless a time extension is agreed to by the applicant, the agency department shall issue or deny all permits needed for the construction of the proposed facility.

(b) The agency department shall promulgate rules pursuant to chapter 14 for all hazardous waste facilities. The rules shall require:

(1) contingency plans for all hazardous waste facilities which provide for effective containment and control in any emergency condition;

(2) the establishment of a mechanism to assure that money to cover the costs of closure and postclosure monitoring and maintenance of hazardous waste facilities will be available;

(3) the maintenance of liability insurance by the owner or operator of hazardous waste facilities during the operating life of the facility.

Sec. 9. Minnesota Statutes 2004, section 297H.13, subdivision 2, is amended to read:

Subd. 2. [ALLOCATION OF REVENUES.] (a) ~~\$22,000,000~~ \$33,760,000, or ~~50~~ 70 percent, whichever is greater, of the amounts remitted under this chapter must be credited to the environmental fund established in section 16A.531, subdivision 1.

(b) The remainder must be deposited into the general fund.

Sec. 10. Minnesota Statutes 2004, section 473.846, is amended to read:

473.846 [REPORT TO LEGISLATURE.]

~~The agency and the director commissioner 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 committees with jurisdiction over environment and natural resources, and the house of representatives Committee on Environment and Natural Resources policy and finance separate reports describing the activities for which money for landfill abatement has been spent under sections 473.844 and 473.845. The agency commissioner 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 commissioner shall make recommendations to the Environment and Natural Resources legislative 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. 11. [REVISOR'S INSTRUCTION.]

Except as otherwise provided in this article, the revisor shall make the following changes, with appropriate grammatical corrections, in Minnesota Statutes and Minnesota Rules:

(1) delete references to the Pollution Control Agency or its commissioner or the Office of Environmental Assistance or its director and insert references to the Department of Environmental Protection or its commissioner;

(2) delete references to the Pollution Control Agency where it means the Pollution Control Agency Board and insert references to the board;

(3) delete language that is made superfluous by the merger of the agency and the office;

(4) in Minnesota Statutes, chapters 115A to 116, delete references to obsolete names of committees in the senate and house of representatives and insert generic references to committees with jurisdiction over the specified areas of governance; and

(5) in Minnesota Statutes, chapters 115A to 116, delete obsolete references to reports required to be submitted to the legislature.

## Sec. 12. [REPEALER.]

Minnesota Statutes 2004, sections 115A.03, subdivisions 8a and 22a; 115A.055, subdivision 1; 115A.158, subdivision 3; 115D.03, subdivision 4; 116.02, subdivision 5; 116.04; and 473.801, subdivision 6, are repealed.

## ARTICLE 4

## CLEAN WATER LEGACY

## Section 1. [114D.05] [CITATION.]

This chapter may be cited as the "Clean Water Legacy Act."

## Sec. 2. [114D.10] [LEGISLATIVE PURPOSE.]

The purpose of the Clean Water Legacy Act is to restore, protect, and preserve the quality of Minnesota's surface waters by providing authority, direction, and resources to restore and maintain water quality standards for surface waters as required by section 303(d) of the federal Clean Water Act, United States Code, title 42, section 1313(d), and applicable federal regulations.

## Sec. 3. [114D.15] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] The definitions provided in this section apply to the terms used in this chapter.

Subd. 2. [CITIZEN MONITORING.] "Citizen monitoring" means monitoring of surface water quality by individuals and nongovernmental organizations that is consistent with Pollution Control Agency guidance on monitoring procedures, quality assurance protocols, and data management.

Subd. 3. [CLEAN WATER COUNCIL.] "Clean Water Council" or "council" means the Clean Water Council created pursuant to section 114D.30, subdivision 1.

Subd. 4. [FEDERAL TMDL REQUIREMENTS.] "Federal TMDL requirements" means the requirements of section 303(d) of the Clean Water Act, United States Code, title 42, section 1313(d), and associated regulations and guidance.

Subd. 5. [IMPAIRED WATER.] "Impaired water" means surface water that does not meet applicable water quality standards.

Subd. 6. [PUBLIC AGENCIES.] "Public agencies" means all state agencies, political subdivisions, joint powers organizations, and special purpose units of government with authority, responsibility, or expertise in protecting, restoring, or preserving the quality of surface waters, managing or planning for surface waters and related lands, or financing waters-related projects. "Public agencies" also includes the University of Minnesota and other public education institutions.

Subd. 7. [RESTORATION.] "Restoration" means actions, including effectiveness monitoring, that are taken to restore and maintain water quality standards for impaired waters in accordance with a TMDL that has been approved by the United States Environmental Protection Agency under federal TMDL requirements.

Subd. 8. [SURFACE WATERS.] "Surface waters" means waters of the state as defined in section 115.01, subdivision 22, excluding groundwater as defined in section 115.01, subdivision 6.

Subd. 9. [THIRD-PARTY TMDL.] "Third-party TMDL" means a TMDL that is developed in whole or in part cooperatively between representatives from local units of government where the TMDL is being completed and a qualified public or private nonprofit entity other than the Pollution Control Agency consistent with the goals, policies, and priorities in section 114D.20.

Subd. 10. [TOTAL MAXIMUM DAILY LOAD OR TMDL.] "Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a pollutant that may be introduced into a surface water and still ensure that applicable water quality standards for that water are restored and maintained. A TMDL is the sum of the pollutant load allocations for all sources of the pollutant, including a wasteload allocation for point sources, a load allocation for nonpoint sources and natural background, an allocation for future growth of point and nonpoint sources, and a margin of safety to account for uncertainty about the relationship between pollutant loads and the quality of the receiving surface water. "Natural background" means characteristics of the water body resulting from the multiplicity of factors in nature, including climate and ecosystem dynamics, that affect the physical, chemical, or biological conditions in a water body, but does not include measurable and distinguishable pollution that is attributable to human activity or influence. A TMDL must take into account seasonal variations.

Subd. 11. [WATER QUALITY STANDARDS.] "Water quality standards" for Minnesota surface waters are found in Minnesota Rules, chapters 7050 and 7052.

#### Sec. 4. [114D.20] [IMPLEMENTATION; COORDINATION; GOALS; POLICIES; AND PRIORITIES.]

Subdivision 1. [COORDINATION AND COOPERATION.] In implementing this chapter, public agencies and private entities shall take into consideration the relevant provisions of local and other applicable water management, conservation, land use, land management, and development plans and programs. Public agencies with authority for local water management, conservation, land use, land management, and development plans shall take into consideration the manner in which their plans affect the implementation of this chapter. Public agencies shall identify opportunities to participate and assist in the successful implementation of this chapter, including the funding or technical assistance needs, if any, that may be necessary. In implementing this chapter, public agencies shall endeavor to engage the cooperation of organizations and individuals whose activities affect the quality of surface waters, including point and nonpoint sources of pollution, and who have authority and responsibility for water management, planning, and protection. To the extent practicable, public agencies shall endeavor to enter into formal

and informal agreements and arrangements with federal agencies and departments to jointly utilize staff and resources to deliver programs or conduct activities to achieve the intent of this chapter, including efforts under the federal Clean Water Act and other federal farm and soil and water conservation programs.

Subd. 2. [GOALS FOR IMPLEMENTATION.] The following goals must guide the implementation of this chapter:

(1) to identify impaired waters in accordance with federal TMDL requirements within ten years after the effective date of this section and thereafter to ensure continuing evaluation of surface waters for impairments;

(2) to submit TMDL's to the United States Environmental Protection Agency for all impaired waters in a timely manner in accordance with federal TMDL requirements;

(3) to set a reasonable time for implementing restoration of each identified impaired water;

(4) to provide assistance and incentives to prevent waters from becoming impaired and to improve the quality of waters which are listed as impaired but have no approved TMDL addressing the impairment; and

(5) to promptly seek the delisting of waters from the impaired waters list when those waters are shown to achieve the designated uses applicable to the waters.

Subd. 3. [IMPLEMENTATION POLICIES.] The following policies must guide the implementation of this chapter:

(1) develop regional and watershed TMDL's, and TMDL's for multiple pollutants, where reasonable and feasible;

(2) maximize use of available organizational, technical, and financial resources to perform sampling, monitoring, and other activities to identify impaired waters, including use of citizen monitoring;

(3) maximize opportunities for restoration of impaired waters, by prioritizing and targeting of available programmatic, financial, and technical resources and by providing additional state resources to complement and leverage available resources;

(4) use existing regulatory authorities to achieve restoration for point and nonpoint sources of pollution where applicable, and promote the development and use of effective nonregulatory measures to address pollution sources for which regulations are not applicable;

(5) use restoration methods that have a demonstrated effectiveness in reducing impairments and provide the greatest long-term positive impact on water quality protection and improvement while incorporating innovative approaches on a case-by-case basis;

(6) identify for the legislature any innovative approaches that may strengthen or complement existing programs; and

(7) identify and encourage implementation of measures to prevent waters from becoming impaired and to improve the quality of waters that are listed as impaired but have no approved TMDL addressing the impairment.

Subd. 4. [PRIORITIES FOR IDENTIFYING IMPAIRED WATERS.] The Pollution Control Agency, in accordance with federal TMDL requirements, shall set priorities for identifying impaired waters, giving consideration to:

(1) waters where impairments would pose the greatest potential risk to human or aquatic health; and

(2) waters where data developed through public agency or citizen monitoring or other means provides evidence that an impaired condition exists.

Subd. 5. [PRIORITIES FOR PREPARATION OF TMDL'S.] The Clean Water Council shall recommend priorities for scheduling and preparing TMDL's taking into account the severity of the impairment, the designated uses of those waters, and other applicable federal TMDL requirements. In recommending priorities, the council shall also give consideration to waters and watersheds:

(1) with impairments that pose the greatest potential risk to human health;

(2) with impairments that pose the greatest potential risk to aquatic health;

(3) where other public agencies and participating organizations and individuals, especially local, basinwide, or regional agencies or organizations, have demonstrated readiness to assist in carrying out the responsibilities, including availability and organization of human, technical, and financial resources necessary to undertake the work; and

(4) where there is demonstrated coordination and cooperation among cities, counties, watershed districts, and soil and water conservation districts in planning and implementation of activities that will assist in carrying out the responsibilities.

Subd. 6. [PRIORITIES FOR RESTORATION OF IMPAIRED WATERS.] In implementing restoration of impaired waters, in addition to the priority considerations in subdivision 5, the Clean Water Council shall give priority in its recommendations for restoration funding from the clean water legacy account to restoration projects that:

(1) coordinate with and utilize existing local authorities and infrastructure for implementation;

(2) can be implemented in whole or in part by providing support for existing or ongoing restoration efforts; and

(3) most effectively leverage other sources of restoration funding, including federal, state, local, and private sources of funds; and

(4) show a high potential for early restoration and delisting based upon data developed through public agency or citizen monitoring or other means.

Subd. 7. [PRIORITIES FOR FUNDING PREVENTION ACTIONS.] The Clean Water Council shall apply the priorities applicable under subdivision 6, as far as practicable, when recommending priorities for funding actions to prevent waters from becoming impaired and to improve the quality of waters which are listed as impaired but have no approved TMDL.

Sec. 5. [114D.25] [ADMINISTRATION; POLLUTION CONTROL AGENCY.]

Subdivision 1. [GENERAL DUTIES AND AUTHORITIES.] (a) The Pollution Control Agency, in accordance with federal TMDL requirements, shall identify impaired waters and propose a list of the waters for review and approval by the United States Environmental Protection Agency, develop and approve TMDL's for listed impaired waters and submit the approved TMDL's to the United States Environmental Protection Agency for final approval, and propose to delist waters from the Environmental Protection Agency impaired waters list.

(b) A TMDL must include a statement of the facts and scientific data supporting the TMDL and a list of potential implementation options, including a range of estimates of the cost of implementation and individual wasteload data for any point sources addressed by the TMDL.

(c) The implementation information need not be sent to the United States Environmental Protection Agency for review and approval.

Subd. 2. [ADMINISTRATIVE PROCEDURES FOR TMDL APPROVAL.] The approval of a TMDL by the Pollution Control Agency is a final decision of the agency for purposes of section 115.05, and is subject to the contested case procedures of sections 14.57 to 14.62 in accordance with agency procedural rules. The agency shall not submit an approved TMDL to the United States Environmental Protection Agency until the time for commencing judicial review has run or the judicial review process has been completed. A TMDL is not subject to the rulemaking requirements of chapter 14, including section 14.386.

Subd. 3. [TMDL SUBMITTAL REQUIREMENT.] Before submitting a TMDL to the United States Environmental Protection Agency, the Pollution Control Agency shall comply with the notice and procedure requirements of this section. If a contested case proceeding is not required for a proposed TMDL, the agency may submit the TMDL to the United States Environmental Protection Agency no earlier than 30 days after the notice required in subdivision 4. If a contested case proceeding is required for a TMDL, the TMDL may be submitted to the United States Environmental Protection Agency after the contested case proceeding and appeal process is completed.

Subd. 4. [TMDL NOTICE; CONTENTS.] The Pollution Control Agency shall give notice of its intention to submit a TMDL to the United States Environmental Protection Agency. The notice must be given by publication in the State Register and by United States mail to persons who have registered their names with the agency. The notice must include either a copy of the proposed TMDL or an easily readable and understandable description of its nature and effect and an announcement of how free access to the proposed TMDL can be obtained. In addition, the agency shall make reasonable efforts to notify persons or classes of persons who may be significantly affected by the TMDL by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication. The notice must include a statement informing the public:

(1) that the public has 30 days in which to submit comment in support of or in opposition to the proposed TMDL and that comment is encouraged;

(2) that each comment should identify the portion of the proposed TMDL addressed, the reason for the comment, and any change proposed;

(3) of the manner in which persons must request a contested case proceeding on the proposed TMDL;

(4) that the proposed TMDL may be modified if the modifications are supported by the data and views submitted; and

(5) the date on which the 30-day comment period ends.

Subd. 5. [THIRD-PARTY TMDL DEVELOPMENT.] The Pollution Control Agency may enter into agreements with any qualified public or private nonprofit entity setting forth the terms and conditions under which that entity is authorized to develop a third-party TMDL. Before entering into an agreement with an entity to develop a third-party TMDL, the Pollution Control Agency must make reasonable efforts to notify cities, counties, townships, soil and water conservation districts, and watershed districts in the area that would be affected by the TMDL. An agreement with a third party for a TMDL must ensure that the technical committee consist of at least 60 percent local elected officials or their designees. In determining whether an entity is qualified to develop a third-party TMDL, the agency

shall consider the technical and administrative qualifications of the entity and may not enter into an agreement with a third-party entity that has a conflict of interest with respect to the development of the third-party TMDL. A third-party TMDL is subject to modification and approval by the Pollution Control Agency, and must be approved by the Pollution Control Agency before it is submitted to the United States Environmental Protection Agency. Before submitting a third-party TMDL to the Environmental Protection Agency, the Pollution Control Agency must comply with the notice and procedure requirements of subdivision 3. Approval of a third-party TMDL by the Pollution Control Agency is subject to judicial review and contested case procedures in the same manner as approval of any other TMDL by the Pollution Control Agency. The Pollution Control Agency shall consider authorizing the development of third-party TMDL's consistent with the goals, policies, and priorities determined under this section.

Sec. 6. [114D.30] [CLEAN WATER COUNCIL.]

Subdivision 1. [CREATION; DUTIES.] A Clean Water Council is created to advise on the administration and implementation of this chapter, and foster coordination and cooperation as described in section 114D.20, subdivision 1. The council may also advise on the development of appropriate processes for expert scientific review as described in section 114D.35, subdivision 2. The Pollution Control Agency shall provide administrative support for the council with the support of other member agencies. The members of the council shall elect a chair from the nonagency members of the council.

Subd. 2. [MEMBERSHIP; APPOINTMENT.] The governor must appoint the members of the council. The governor must appoint one person from each of the following agencies: the Department of Natural Resources, the Department of Agriculture, the Pollution Control Agency, and the Board of Water and Soil Resources. The governor must appoint 14 additional nonagency members of the council as follows:

- (1) two members representing statewide farm organizations;
- (2) two members representing business organizations;
- (3) two members representing environmental organizations;
- (4) one member representing soil and water conservation districts;
- (5) one member representing watershed districts;
- (6) one member representing organizations focused on improvement of Minnesota lakes or streams;
- (7) one member representing an organization of county governments;
- (8) two members representing organizations of city governments;
- (9) one member representing the Metropolitan Council established under section 473.123; and
- (10) one member representing an organization of township governments.

In making appointments, the governor must attempt to provide for geographic balance.

Subd. 3. [TERMS; COMPENSATION; REMOVAL.] The initial terms of members representing state agencies and the Metropolitan Council expire on the first Monday in January, 2007. Thereafter, the terms of members representing the state agencies and the Metropolitan Council are four years and are coterminous with the governor. The terms of other members of the council shall be as provided in section 15.059, subdivision 2. Members may serve until their successors are appointed and qualify. Compensation and removal of council members is as provided in section 15.059, subdivisions 3 and 4. A vacancy on the council may be filled by the appointing authority provided in subdivision 1 for the remainder of the unexpired term.



Subd. 4. [IMPLEMENTATION PLAN.] The Clean Water Council shall prepare a plan for implementation of this chapter. The plan shall address general procedures and timeframes for implementing this chapter, and shall include a more specific implementation work plan for the next fiscal biennium and a framework for setting priorities to address impaired waters consistent with section 114D.45, subdivisions 2 to 7. The council shall issue the first implementation plan under this subdivision by December 1, 2005, and shall issue a revised work plan by December 1 of each even-numbered year thereafter.

Subd. 5. [RECOMMENDATIONS ON APPROPRIATION OF FUNDS.] The Clean Water Council shall recommend to the governor the manner in which money from the clean water legacy account should be appropriated for the purposes identified in section 114D.45, subdivision 3. The council's recommendations must be consistent with the purposes, policies, goals, and priorities in sections 114D.05 to 114D.35, and shall allocate adequate support and resources to identify impaired waters, develop TMDL's, implement restoration of impaired waters, and provide assistance and incentives to prevent waters from becoming impaired and improve the quality of waters which are listed as impaired but have no approved TMDL. The council must recommend methods of ensuring that awards of grants, loans, or other funds from the clean water legacy account specify the outcomes to be achieved as a result of the funding, and specify standards to hold the recipient accountable for achieving the desired outcomes.

Subd. 6. [BIENNIAL REPORT TO LEGISLATURE.] By December 1 of each even-numbered year, the council shall submit a report to the legislature on the activities for which money from the clean water legacy account has been or will be spent for the current biennium, and the activities for which money from the account is recommended to be spent in the next biennium. The report due on December 1, 2014, must include an evaluation of the progress made through June 30, 2014, in implementing this chapter, the need for funding of future implementation of those sections, and recommendations for the sources of such funding.

Sec. 7. [114D.35] [PUBLIC AND STAKEHOLDER PARTICIPATION; SCIENTIFIC REVIEW; EDUCATION.]

Subdivision 1. [PUBLIC AND STAKEHOLDER PARTICIPATION.] Public agencies and private entities involved in the implementation of this chapter shall encourage participation by the public and stakeholders, including local citizens, land owners and managers, and public and private organizations, in the identification of impaired waters, in developing TMDL's, and in planning and implementing restoration of impaired waters. In particular, the Pollution Control Agency shall make reasonable efforts to provide timely information to the public and to stakeholders about impaired waters that have been identified by the agency. The agency shall seek broad and early public and stakeholder participation in scoping the activities necessary to develop a TMDL, including the scientific models, methods, and approaches to be used in TMDL development, and to implement restoration pursuant to section 114D.15, subdivision 7.

Subd. 2. [EXPERT SCIENTIFIC ADVICE.] The Clean Water Council and public agencies and private entities shall make use of available expertise from educational, research, and technical organizations, including the University of Minnesota and other higher education institutions, to provide appropriate independent expert advice on models, methods, and approaches used in identifying impaired waters, developing TMDL's, and implementing prevention and restoration.

Subd. 3. [EDUCATION.] The Clean Water Council shall develop strategies for informing, educating, and encouraging the participation of citizens, stakeholders, and others regarding the identification of impaired waters, development of TMDL's, and development and implementation of restoration for impaired waters. Public agencies shall be responsible for implementing the strategies."

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; reorganizing environmental agencies; providing for regulation of certain activities and practices; providing for accounts, assessments, and fees; creating the Clean Water Legacy Act; amending Minnesota Statutes 2004, sections 15.01; 16A.125, subdivision 5; 84.027, subdivisions 12, 15, by adding a subdivision; 84.0274, by adding subdivisions; 84.0911, subdivision 2; 84.631; 84.775, subdivision 1; 84.788, subdivision 3, by adding a subdivision; 84.789, by adding a subdivision; 84.791, subdivisions 1, 2; 84.798, subdivision 1, by adding a subdivision; 84.804, subdivision 3; 84.82, subdivision 2, by adding a subdivision; 84.8205, subdivisions 1, 3, 4, 6; 84.83, subdivision 3, by adding a subdivision; 84.86, subdivision 1; 84.91, subdivision 1; 84.922, subdivision 2, by adding a subdivision; 84.925, subdivision 1, by adding a subdivision; 84.9256, subdivision 1; 84.9257; 84.926; 84.928, subdivision 2; 84D.03, subdivision 4; 85.053, subdivisions 1, 2; 85.055, subdivision 2, by adding a subdivision; 85.42; 85.43; 86B.415, subdivisions 1, 2, 3, 4, 5, 6, by adding a subdivision; 88.17, subdivision 1, by adding subdivisions; 88.6435, subdivision 4; 89.039, subdivision 1; 89.19, subdivision 2; 89.37, by adding a subdivision; 92.03, subdivision 4; 93.22, subdivision 1; 94.342, subdivisions 1, 3, 4, 5; 94.343, subdivisions 1, 3, 7, 8, 10, by adding subdivisions; 94.344, subdivisions 1, 3, 5, 8, 10, by adding a subdivision; 97A.055, subdivision 4b; 97A.061, by adding a subdivision; 97A.071, subdivision 2; 97A.075, subdivision 3; 97A.135, subdivision 2a; 97A.4742, subdivision 4; 97A.485, subdivisions 6, 7; 97A.551, by adding a subdivision; 97B.015, subdivisions 1, 2, 5, 7; 97B.020; 97B.025; 97C.085; 97C.327; 97C.395, subdivision 1; 103F.535, subdivision 1; 103G.271, subdivision 6; 103G.301, subdivision 2; 103G.615, subdivision 2; 103I.681, subdivision 11; 115.06, subdivision 4; 115.551; 115A.03, subdivisions 21, 32a; 115A.06, subdivision 5; 115A.07, subdivision 1; 115A.072, subdivision 1; 115A.12; 115A.15, subdivision 7; 115A.38, subdivision 1; 115A.545, subdivision 1; 115A.929; 116.03, subdivision 1; 116.07, subdivision 4b; 116P.02, by adding a subdivision; 116P.03; 116P.04, subdivision 5; 116P.05, subdivision 2; 116P.07; 116P.08, subdivisions 3, 5, 6, 7, by adding subdivisions; 116P.09; 116P.10; 116P.11; 116P.12, subdivision 2; 116P.15, subdivision 2; 168.1296, subdivision 1; 169A.63, subdivision 6; 216B.2424, subdivisions 1, 2, 5a, 6, 8, by adding a subdivision; 282.08; 282.38, subdivision 1; 296A.18, subdivision 2; 297H.13, subdivision 2; 349.12, subdivision 25; 462.357, subdivision 1e; 473.197, subdivision 4; 473.846; 477A.12, by adding a subdivision; 477A.145; Laws 2003, chapter 128, article 1, section 9, subdivision 6; Laws 2003, chapter 128, article 1, section 167, subdivision 1; Laws 2004, chapter 220, section 1; proposing coding for new law in Minnesota Statutes, chapters 84; 86B; 92; 93; 97C; 116; 116P; 473; proposing coding for new law as Minnesota Statutes, chapter 114D; repealing Minnesota Statutes 2004, sections 84.901; 85.054, subdivision 1; 94.343, subdivision 6; 94.344, subdivision 6; 94.348; 94.349; 115A.03, subdivisions 8a, 22a; 115A.055, subdivision 1; 115A.158, subdivision 3; 115D.03, subdivision 4; 116.02, subdivision 5; 116.04; 116P.02, subdivisions 2, 4; 116P.05; 116P.06; 116P.08, subdivision 4; 473.156; 473.197, subdivisions 1, 2, 3, 5; 473.801, subdivision 6."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Wilkin from the Committee on Commerce and Financial Institutions to which was referred:

H. F. No. 944, A bill for an act relating to state government; allowing certain boards to conduct meetings by telephone or other electronic means; amending Minnesota Statutes 2004, sections 116J.68, by adding a subdivision; 116L.03, by adding a subdivision; 116L.665, by adding a subdivision; 116M.15, by adding a subdivision; 116U.25; proposing coding for new law in Minnesota Statutes, chapter 41A.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

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

H. F. No. 1422, A bill for an act relating to operation of state government; modifying license fees for waived services programs serving persons with developmental disabilities; changing provisions for state-operated services; health care; nursing facility reimbursement; making changes to programs for children and families; modifying certain fees; modifying license provisions for exploratory borings; modifying health professional education loan forgiveness program; modifying Vital Statistics Act; modifying environmental laboratory certification provisions; providing for positive abortion alternatives; modifying funding for suicide prevention; modifying provisions for food, beverage, and lodging establishments; requiring rulemaking; repealing regulation of complementary and alternative health care practices; appropriating money; amending Minnesota Statutes 2004, sections 16A.724; 103I.101, subdivision 6; 103I.208, subdivisions 1, 2; 103I.235, subdivision 1; 103I.601, subdivision 2; 119B.13, subdivision 1; 144.122; 144.1501, subdivisions 1, 2, 3, 4; 144.226, subdivisions 1, 4, by adding subdivisions; 144.3831, subdivision 1; 144.98, subdivision 3; 145.56, subdivisions 2, 5; 147A.08; 157.15, by adding a subdivision; 157.16, subdivisions 2, 3, by adding subdivisions; 157.20, subdivisions 2, 2a; 214.01, subdivision 2; 245.4661, subdivisions 2, 6; 245A.10, subdivision 5; 245C.10, subdivisions 2, 3; 245C.32, subdivision 2; 246.0136, subdivision 1; 253.20; 256.01, subdivision 2, by adding subdivisions; 256.019, subdivision 1; 256.045, subdivision 3; 256.046, subdivision 1; 256.741, subdivision 4; 256.9657, by adding a subdivision; 256.969, subdivision 3a; 256B.04, by adding a subdivision; 256B.0575; 256B.0595, subdivision 2; 256B.0625, subdivisions 13, 13a, 13c, 13e, 13f, by adding subdivisions; 256B.32, subdivision 1; 256B.431, subdivisions 28, 29, 30, 35, by adding a subdivision; 256B.432, subdivisions 1, 2, 5, by adding subdivisions; 256B.434, subdivisions 3, 4, 4a, 4b, 4c, 4d, by adding a subdivision; 256B.438, subdivision 3; 256B.47, subdivision 2; 256B.69, by adding a subdivision; 256B.75; 256D.03, subdivisions 3, 4, by adding a subdivision; 256D.06, subdivisions 5, 7, by adding a subdivision; 256J.12, subdivision 1, by adding a subdivision; 256J.95, by adding subdivisions; 256L.03, subdivisions 1, 3; 256L.04, subdivisions 1, 8; 256L.05, subdivision 5; 256L.07, subdivisions 1, 3; 256L.09, subdivision 2; 256L.11, subdivision 6; 256L.12, subdivision 6, by adding a subdivision; 326.42, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 145; 256B; 256K; 501B; repealing Minnesota Statutes 2004, sections 13.383, subdivision 3; 13.411, subdivision 3; 119B.074; 144.1502; 146A.01; 146A.02; 146A.025; 146A.03; 146A.04; 146A.05; 146A.06; 146A.07; 146A.08; 146A.09; 146A.10; 146A.11; 157.215; 256.955; 256D.54, subdivision 3; 256L.035; 256L.04, subdivision 7; 256L.09, subdivisions 1, 4, 5, 6, 7; 295.581; Laws 2003, First Special Session chapter 14, article 9, section 34; Minnesota Rules, parts 9500.1254; 9500.1256.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

## "ARTICLE 1

### LICENSING

Section 1. Minnesota Statutes 2004, section 245A.10, subdivision 5, is amended to read:

Subd. 5. [ANNUAL LICENSE OR CERTIFICATION FEE FOR PROGRAMS WITHOUT A LICENSED CAPACITY.] (a) Except as provided in ~~paragraph~~ paragraphs (b) and (c), 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.

(c) A program licensed to provide residential-based habilitation services under the home and community-based waiver for persons with developmental disabilities shall pay an annual license fee that includes a base rate of \$250 plus \$38 times the number of clients served on the first day of August of the current license year. State-operated programs are exempt from the license fee under this paragraph.

Sec. 2. Minnesota Statutes 2004, section 245C.10, subdivision 2, is amended to read:

Subd. 2. [SUPPLEMENTAL NURSING SERVICES AGENCIES.] The commissioner shall recover the cost of the background studies initiated by supplemental nursing services agencies registered under section 144A.71, subdivision 1, through a fee of no more than ~~\$8~~ \$20 per study charged to the agency. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 3. Minnesota Statutes 2004, section 245C.10, subdivision 3, is amended to read:

Subd. 3. [PERSONAL CARE PROVIDER ORGANIZATIONS.] The commissioner shall recover the cost of background studies initiated by a personal care provider organization under section 256B.0627 through a fee of no more than ~~\$12~~ \$20 per study charged to the organization responsible for submitting the background study form. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 4. Minnesota Statutes 2004, section 245C.32, subdivision 2, is amended to read:

Subd. 2. [USE.] (a) The commissioner may also use these systems and records to obtain and provide criminal history data from the Bureau of Criminal Apprehension, criminal history data held by the commissioner, and data about substantiated maltreatment under section 626.556 or 626.557, for other purposes, provided that:

(1) the background study is specifically authorized in statute; or

(2) the request is made with the informed consent of the subject of the study as provided in section 13.05, subdivision 4.

(b) An individual making a request under paragraph (a), clause (2), must agree in writing not to disclose the data to any other individual without the consent of the subject of the data.

(c) The commissioner may recover the cost of obtaining and providing background study data by charging the individual or entity requesting the study a fee of no more than ~~\$12~~ \$20 per study. The fees collected under this paragraph are appropriated to the commissioner for the purpose of conducting background studies.

## ARTICLE 2

### STATE-OPERATED SERVICES

Section 1. Minnesota Statutes 2004, section 245.4661, subdivision 2, is amended to read:

Subd. 2. [PROGRAM DESIGN AND IMPLEMENTATION.] (a) The pilot projects shall be established to design, plan, and improve the mental health service delivery system for adults with serious and persistent mental illness that would:

(1) provide an expanded array of services from which clients can choose services appropriate to their needs;

(2) be based on purchasing strategies that improve access and coordinate services without cost shifting;

(3) incorporate existing state facilities and resources into the community mental health infrastructure through creative partnerships with local vendors; and

(4) utilize existing categorical funding streams and reimbursement sources in combined and creative ways, except appropriations to regional treatment centers and all funds that are attributable to the operation of state-operated services are excluded unless appropriated specifically by the legislature for a purpose consistent with this section or section 246.0136, subdivision 1.

(b) All projects funded by January 1, 1997, must complete the planning phase and be operational by June 30, 1997; all projects funded by January 1, 1998, must be operational by June 30, 1998.

Sec. 2. Minnesota Statutes 2004, section 245.4661, subdivision 6, is amended to read:

Subd. 6. [DUTIES OF COMMISSIONER.] (a) For purposes of the pilot projects, the commissioner shall facilitate integration of funds or other resources as needed and requested by each project. These resources may include:

(1) residential services funds administered under Minnesota Rules, parts 9535.2000 to 9535.3000, in an amount to be determined by mutual agreement between the project's managing entity and the commissioner of human services after an examination of the county's historical utilization of facilities located both within and outside of the county and licensed under Minnesota Rules, parts 9520.0500 to 9520.0690;

(2) community support services funds administered under Minnesota Rules, parts 9535.1700 to 9535.1760;

(3) other mental health special project funds;

(4) medical assistance, general assistance medical care, MinnesotaCare and group residential housing if requested by the project's managing entity, and if the commissioner determines this would be consistent with the state's overall health care reform efforts; and

(5) regional treatment center ~~nonfiscal resources to the extent agreed to by the project's managing entity and the regional treatment center~~ consistent with section 246.0136, subdivision 1.

(b) The commissioner shall consider the following criteria in awarding start-up and implementation grants for the pilot projects:

(1) the ability of the proposed projects to accomplish the objectives described in subdivision 2;

(2) the size of the target population to be served; and

(3) geographical distribution.

(c) The commissioner shall review overall status of the projects initiatives at least every two years and recommend any legislative changes needed by January 15 of each odd-numbered year.

(d) The commissioner may waive administrative rule requirements which are incompatible with the implementation of the pilot project.

(e) The commissioner may exempt the participating counties from fiscal sanctions for noncompliance with requirements in laws and rules which are incompatible with the implementation of the pilot project.

(f) The commissioner may award grants to an entity designated by a county board or group of county boards to pay for start-up and implementation costs of the pilot project.

Sec. 3. Minnesota Statutes 2004, section 246.0136, subdivision 1, is amended to read:

Subdivision 1. [PLANNING FOR ENTERPRISE ACTIVITIES.] The commissioner of human services is directed to study and make recommendations to the legislature on establishing enterprise activities within state-operated services. Before implementing an enterprise activity, the commissioner must obtain statutory authorization for its implementation, except that the commissioner has authority to implement enterprise activities for adult mental health, adolescent services, and to establish a public group practice without statutory authorization. Enterprise activities are defined as the range of services, which are delivered by state employees, needed by people with disabilities and are fully funded by public or private third-party health insurance or other revenue sources available to clients that provide reimbursement for the services provided. Enterprise activities within state-operated services shall specialize in caring for vulnerable people for whom no other providers are available or for whom state-operated services may be the provider selected by the payer. In subsequent biennia after an enterprise activity is established within a state-operated service, the base state appropriation for that state-operated service shall be reduced proportionate to the size of the enterprise activity.

Sec. 4. Minnesota Statutes 2004, section 253.20, is amended to read:

253.20 [MINNESOTA SECURITY HOSPITAL.]

The commissioner of human services shall erect, equip, and maintain in St. Peter ~~and~~ and other geographic locations under the control of the commissioner of human services suitable ~~building~~ buildings to be known as the Minnesota Security Hospital, for the purpose of providing a secure treatment facility as defined in section 253B.02, subdivision 18a, for persons who may be committed there by courts, or otherwise, or transferred there by the commissioner of human services, and for persons who are found to be mentally ill while confined in any correctional facility, or who may be found to be mentally ill and dangerous, and the commissioner shall supervise and manage the same as in the case of other state hospitals.

Sec. 5. [AUTHORIZATION TO CLOSE AND VACATE REGIONAL TREATMENT CENTER AND STATE-OPERATED NURSING HOME CAMPUSES.]

Effective the day following final enactment, the commissioner of human services is authorized to vacate and close the regional treatment center programs and campuses and state-operated nursing home programs and campuses, upon notification of the chairs of the house and senate committees having jurisdiction over human services, once the commissioner has determined that the criteria established under Laws 2003, First Special Session chapter 14, article 6, section 64, have been met.

### ARTICLE 3

#### HEALTH CARE

Section 1. Minnesota Statutes 2004, section 16A.724, is amended to read:

16A.724 [HEALTH CARE ACCESS FUND.]

Subdivision 1. [CREATION OF FUND.] (a) 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.

(b) Effective July 1, 2006, the commissioner of finance shall deposit revenues collected from section 256.9657, subdivisions 2 and 3, into the health care access fund.

Subd. 2. [TRANSFERS.] To the extent available resources in the health care access fund exceed expenditures in that fund, starting in fiscal year 2005, the commissioner of finance shall transfer the excess funds from the health care access fund to the general fund on June 30 of each year.

(a) In fiscal year 2005, transfers may not exceed \$192,442,000. For fiscal year 2008 and thereafter, the transfer may not exceed \$50,000,000.

(b) For fiscal years 2005 to 2007, MinnesotaCare shall be a forecasted program and, if necessary, the commissioner shall reduce transfers to meet expenditures and shall transfer sufficient funds from the general fund to the health care access fund to meet annual expenditures.

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

Sec. 2. Minnesota Statutes 2004, 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 carry out the specific duties in paragraphs (a) through ~~(aa)~~ (cc):

(a) 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:

(1) require county agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(2) 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;

(3) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(4) 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;

(5) 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;

(6) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds; and

(7) 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(h) 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.

(i) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.



(j) 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.

(k) 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.

(l) 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:

(1) 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; and

(2) a comprehensive plan, including estimated project costs, shall be approved by the Legislative Advisory Commission and filed with the commissioner of administration.

(m) 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.

(n) 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:

(1) 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; and

(2) notwithstanding the provisions of clause (1), 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 clause (1), 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 clause (1).

(o) 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.

(p) 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.

(q) Have the authority to establish and enforce the following county reporting requirements:

(1) 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;

(2) 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;

(3) if the required reports are not received by the deadlines established in clause (2), 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;

(4) 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;

(5) 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;

(6) the commissioner may not delay payments, withhold funds, or require repayment under clause (3) or (5) 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 clause (3) or (5), the county board may appeal the action according to sections 14.57 to 14.69; and

(7) counties subject to withholding of funds under clause (3) or forfeiture or repayment of funds under clause (5) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under clause (3) or (5).

(r) 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.

(s) 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.

(t) 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.

(u) 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 rebate as defined for purposes of the federal rebate program in United States Code, title 42, section 1396r-8. 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.

(v) 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.

(w) 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.

(x) 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.

(y) 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.

(z) Designate community information and referral call centers and incorporate cost reimbursement claims from the designated community information and referral call centers into the federal cost reimbursement claiming processes of the department according to federal law, rule, and regulations. Existing information and referral centers provided by Greater Twin Cities United Way or existing call centers for which Greater Twin Cities United Way has legal authority to represent, shall be included in these designations upon review by the commissioner and assurance that these services are accredited and in compliance with national standards. Any reimbursement is appropriated to the commissioner and all designated information and referral centers shall receive payments according to normal department schedules established by the commissioner upon final approval of allocation methodologies from the United States Department of Health and Human Services Division of Cost Allocation or other appropriate authorities.

(aa) 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.

(bb) Have the authority to administer a drug rebate program for drugs purchased for persons eligible for general assistance medical care under section 256D.03, subdivision 3. The commissioner shall require a rebate agreement from all manufacturers of covered drugs as defined in section 256B.0625, subdivisions 13 and 13d. 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 manufacturers must provide payment within the terms and conditions used for the federal rebate program established under 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 under section 1927 of title XIX of the Social Security Act.

Effective January 1, 2006, drug coverage under general assistance medical care shall be limited to those prescription drugs that:

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

(2) are provided by manufacturers that have fully executed general assistance medical care rebate agreements with the commissioner and comply with such agreements. Prescription drug coverage under general assistance medical care shall conform to coverage under the medical assistance program according to section 256B.0625, subdivisions 13 to 13g.

The rebate revenues collected under the drug rebate program are dedicated to funding the pharmaceutical assistance program established under paragraph (cc).

(cc) Have the authority to administer a pharmaceutical assistance program. The pharmaceutical assistance program may include:

(1) a drug discount card;

(2) assistance to the program administered by the Minnesota Board on Aging under section 256.975, subdivision 9; and

(3) other efforts designed to assist citizens of the state who are not eligible for prescription drug coverage to obtain free or discounted prescription drugs.

The commissioner shall have authority to administer a drug rebate program for any discount card program established under this paragraph. The rebates collected under this paragraph shall be used to provide a discount on the prescription drugs dispensed to enrollees of the discount card program.

Sec. 3. Minnesota Statutes 2004, section 256.01, is amended by adding a subdivision to read:

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

Sec. 4. Minnesota Statutes 2004, section 256.019, subdivision 1, is amended to read:

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

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

Sec. 5. Minnesota Statutes 2004, section 256.045, subdivision 3, is amended to read:

Subd. 3. [STATE AGENCY HEARINGS.] (a) State agency hearings are available for the following: (1) any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid; (2) any patient or relative aggrieved by an order of the commissioner under section 252.27; (3) a party aggrieved by a ruling of a prepaid health plan; (4) except as provided under chapter

245C, any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557; (5) any person whose claim for foster care payment according to a placement of the child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness, regardless of funding source; (6) any person to whom a right of appeal according to this section is given by other provision of law; (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15; (8) an applicant aggrieved by an adverse decision to an application or redetermination for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a; (9) except as provided under chapter 245A, an individual or facility determined to have maltreated a minor under section 626.556, after the individual or facility has exercised the right to administrative reconsideration under section 626.556; or ~~(9)~~ (10) except as provided under chapter 245C, an individual disqualified under sections 245C.14 and 245C.15, on the basis of serious or recurring maltreatment; a preponderance of the evidence that the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment determination under clause (4) or ~~(8)~~ (9) and a disqualification under this clause in which the basis for a disqualification is serious or recurring maltreatment, which has not been set aside under sections 245C.22 and 245C.23, shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services referee shall include both the maltreatment determination and the disqualification. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under clause (4), ~~(8)~~ (9), or ~~(9)~~ (10) is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under clause (4) apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under clause ~~(8)~~ (9) apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under clause ~~(8)~~ (9) is only available when there is no juvenile court or adult criminal action pending. If such action is filed in either court while an administrative review is pending, the administrative review must be suspended until the judicial actions are completed. If the juvenile court action or criminal charge is dismissed or the criminal action overturned, the matter may be considered in an administrative hearing.

For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

The scope of hearings involving claims to foster care payments under clause (5) shall be limited to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

(b) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(c) An applicant or recipient is not entitled to receive social services beyond the services included in the amended community social services plan.

(d) The commissioner may summarily affirm the county or state agency's proposed action without a hearing when the sole issue is an automatic change due to a change in state or federal law.

Sec. 6. Minnesota Statutes 2004, section 256.045, subdivision 3a, is amended to read:

Subd. 3a. [PREPAID HEALTH PLAN APPEALS.] (a) All prepaid health plans under contract to the commissioner under chapter 256B or 256D must provide for a complaint system according to section 62D.11. When a prepaid health plan denies, reduces, or terminates a health service or denies a request to authorize a previously authorized health service, the prepaid health plan must notify the recipient of the right to file a complaint or an appeal. The notice must include the name and telephone number of the ombudsman and notice of the recipient's right to request a hearing under paragraph (b). ~~When a complaint is filed, the prepaid health plan must notify the ombudsman within three working days.~~ Recipients may request the assistance of the ombudsman in the complaint system process. The prepaid health plan must issue a written resolution of the complaint to the recipient within 30 days after the complaint is filed with the prepaid health plan. A recipient is not required to exhaust the complaint system procedures in order to request a hearing under paragraph (b).

(b) Recipients enrolled in a prepaid health plan under chapter 256B or 256D may contest a prepaid health plan's denial, reduction, or termination of health services, a prepaid health plan's denial of a request to authorize a previously authorized health service, or the prepaid health plan's written resolution of a complaint by submitting a written request for a hearing according to subdivision 3. A state human services referee shall conduct a hearing on the matter and shall recommend an order to the commissioner of human services. The commissioner need not grant a hearing if the sole issue raised by a recipient is the commissioner's authority to require mandatory enrollment in a prepaid health plan in a county where prepaid health plans are under contract with the commissioner. The state human services referee may order a second medical opinion from the prepaid health plan or may order a second medical opinion from a nonprepaid health plan provider at the expense of the prepaid health plan. Recipients may request the assistance of the ombudsman in the appeal process.

(c) In the written request for a hearing to appeal from a prepaid health plan's denial, reduction, or termination of a health service, a prepaid health plan's denial of a request to authorize a previously authorized service, or the prepaid health plan's written resolution to a complaint, a recipient may request an expedited hearing. If an expedited appeal is warranted, the state human services referee shall hear the appeal and render a decision within a time commensurate with the level of urgency involved, based on the individual circumstances of the case.

Sec. 7. Minnesota Statutes 2004, 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, the diversionary work program, child care assistance programs, general assistance, family general assistance program formerly codified in section 256D.05, subdivision 1, clause (15), Minnesota supplemental aid, food stamp programs, general assistance medical care, MinnesotaCare for adults without children, and upon federal approval, all categories of medical assistance and remaining categories of MinnesotaCare except for children through age 18. The Department of Human Services, in lieu of a local agency, may initiate an administrative fraud disqualification hearing when the state agency is directly responsible for administration of the health care program for which benefits were wrongfully obtained. The hearing is subject to the requirements of section 256.045 and the requirements in Code of Federal Regulations, title 7, section 273.16, for the food stamp program and title 45, section 235.112, as of September 30, 1995, for the cash grant, medical care programs, and child care assistance under chapter 119B.

Sec. 8. Minnesota Statutes 2004, section 256.9657, is amended by adding a subdivision to read:

Subd. 7a. [WITHHOLDING.] If any provider obligated to pay an annual surcharge under this section is more than two months delinquent in the timely payment of a monthly surcharge installment payment, the provisions in paragraphs (a) to (f) apply.

(a) The department may withhold some or all of the amount of the delinquent surcharge, together with any interest and penalties due and owing on those amounts, from any money the department owes to the provider. The department may, at its discretion, also withhold future surcharge installment payments from any money the department owes the provider as those installments become due and owing. The department may continue this withholding until the department determines there is no longer any need to do so.

(b) The department shall give prior notice of the department's intention to withhold by mailing a written notice to the provider at the address to which remittance advices are mailed or faxing a copy of the notice to the provider at least ten business days before the date of the first payment period for which the withholding begins. The notice may be sent by ordinary or certified mail, or facsimile, and shall be deemed received as of the date of mailing or receipt of the facsimile. The notice shall:

(i) state the amount of the delinquent surcharge;

(ii) state the amount of the withholding per payment period;

(iii) state the date on which the withholding is to begin;

(iv) state whether the department intends to withhold future installments of the provider's surcharge payments;

(v) inform the provider of their rights to informally object to the proposed withholding and to appeal the withholding as provided for in this subdivision;

(vi) state that the provider may prevent the withholding during the pendency of their appeal by posting a bond; and

(vii) state other contents as the department deems appropriate.

(c) The provider may informally object to the withholding in writing anytime before the withholding begins. An informal objection shall not stay or delay the commencement of the withholding. The department may postpone the commencement of the withholding as deemed appropriate and shall not be required to give another notice at the end of the postponement and before commencing the withholding. The provider shall have the right to appeal any withholding from remittances by filing an appeal with Ramsey County District Court and serving notice of the appeal on the department within 30 days of the date of the written notice of the withholding. Notice shall be given and the appeal shall be heard no later than 45 days after the appeal is filed. In a hearing of the appeal, the department's action shall be sustained if the department proves the amount of the delinquent surcharges or overpayment the provider owes, plus any accrued interest and penalties, has not been repaid. The department may continue withholding for delinquent and current surcharge installment payments during the pendency of an appeal unless the provider posts a bond from a surety company licensed to do business in Minnesota in favor of the department in an amount equal to two times the provider's total annual surcharge payment for the fiscal year in which the appeal is filed with the department.

(d) The department shall refund any amounts due to the provider under any final administrative or judicial order or decree which fully and finally resolves the appeal together with interest on those amounts at the rate of three percent per annum simple interest computed from the date of each withholding, as soon as practical after entry of the order or decree.



(e) The commissioner, or the commissioner's designee, may enter into written settlement agreements with a provider to resolve disputes and other matters involving unpaid surcharge installment payments or future surcharge installment payments.

(f) Notwithstanding any law to the contrary, all unpaid surcharges, plus any accrued interest and penalties, shall be overpayments for purposes of section 256B.0641.

Sec. 9. Minnesota Statutes 2004, 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 five 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.

(d) In addition to the reduction in paragraphs (b) and (c) and section 256D.03, subdivision 4, paragraph (k), the total payment for fee-for-service admissions occurring on or after July 1, 2005, made to hospitals for inpatient services before third-party liability and spenddown, is reduced five 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. 10. Minnesota Statutes 2004, section 256B.02, subdivision 12, is amended to read:

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

Sec. 11. Minnesota Statutes 2004, section 256B.04, is amended by adding a subdivision to read:

Subd. 4a. [MEDICARE PRESCRIPTION DRUG SUBSIDY.] The commissioner shall perform all duties necessary to administer eligibility determinations for the Medicare Part D prescription drug subsidy and facilitate the enrollment of eligible medical assistance recipients into Medicare prescription drug plans as required by the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA), Public Law 108-173, and Code of Federal Regulations, title 42, sections 423.30 through 423.56 and 423.771 through 423.800.

Sec. 12. Minnesota Statutes 2004, section 256B.056, is amended by adding a subdivision to read:

Subd. 3d. [REDUCTION OF EXCESS ASSETS.] Assets in excess of the limits set forth in subdivisions 3 to 3c may be reduced to allowable limits as follows:

(a) Assets may be reduced in any of the three calendar months before the month of application in which the applicant seeks coverage by:

(1) designating burial funds up to \$1500 for each applicant, spouse, and MA-eligible dependent child; and

(2) paying health service bills incurred in the retroactive period for which the applicant seeks eligibility, starting with the oldest bill. After assets are reduced to allowable limits, eligibility begins with the next dollar of MA-covered health services incurred in the retroactive period. Applicants reducing assets under this subdivision who also have excess income shall first spend excess assets to pay health service bills and may meet the income spenddown on remaining bills.

(b) Assets may be reduced beginning the month of application by:

(1) paying bills for health services that would otherwise be paid by medical assistance; and

(2) using any means other than a transfer of assets for less than fair market value as defined in section 256B.0595, subdivision 1, paragraph (b).

Sec. 13. Minnesota Statutes 2004, section 256B.056, subdivision 5, is amended to read:

Subd. 5. [EXCESS INCOME.] A person who has excess income is eligible for medical assistance if the person has expenses for medical care that are more than the amount of the person's excess income, computed by deducting incurred medical expenses from the excess income to reduce the excess to the income standard specified in subdivision 5c. The person shall elect to have the medical expenses deducted at the beginning of a one-month budget period or at the beginning of a six-month budget period. The commissioner shall allow persons eligible for assistance on a one-month spenddown basis under this subdivision to elect to pay the monthly spenddown amount in advance of the month of eligibility to the state agency in order to maintain eligibility on a continuous basis. If the recipient does not pay the spenddown amount on or before the 20th last business day of the month, the recipient is ineligible for this option for the following month. The local agency shall code the Medicaid Management

Information System (MMIS) to indicate that the recipient has elected this option. The state agency shall convey recipient eligibility information relative to the collection of the spenddown to providers through the Electronic Verification System (EVS). A recipient electing advance payment must pay the state agency the monthly spenddown amount on or before noon on the 20th last business day of the month in order to be eligible for this option in the following month.

**[EFFECTIVE DATE.]** This section is effective March 1, 2006, or upon HealthMatch implementation, whichever is later.

Sec. 14. Minnesota Statutes 2004, section 256B.056, subdivision 5a, is amended to read:

Subd. 5a. [INDIVIDUALS ON FIXED OR EXCLUDED INCOME.] Recipients of medical assistance who receive only fixed unearned or excluded income, when that income is excluded from consideration as income or unvarying in amount and timing of receipt throughout the year, shall report and verify their income ~~annually~~ every 12 months. The 12-month period begins with the month of application.

**[EFFECTIVE DATE.]** This section is effective March 1, 2006, or upon HealthMatch implementation, whichever is later.

Sec. 15. Minnesota Statutes 2004, section 256B.056, subdivision 5b, is amended to read:

Subd. 5b. [INDIVIDUALS WITH LOW INCOME.] Recipients of medical assistance not residing in a long-term care facility who have slightly fluctuating income which is below the medical assistance income limit shall report and verify their income ~~on a semiannual basis~~ every six months. The six-month period begins the month of application.

**[EFFECTIVE DATE.]** This section is effective March 1, 2006, or upon HealthMatch implementation, whichever is later.

Sec. 16. Minnesota Statutes 2004, section 256B.056, subdivision 7, is amended to read:

Subd. 7. [PERIOD OF ELIGIBILITY.] Eligibility is available for the month of application and for three months prior to application if the person was eligible in those prior months. Eligibility for months prior to application is determined independently from eligibility for the month of application and future months. A redetermination of eligibility must occur every 12 months. The 12-month period begins with the month of application.

**[EFFECTIVE DATE.]** This section is effective March 1, 2006, or upon HealthMatch implementation, whichever is later.

Sec. 17. Minnesota Statutes 2004, section 256B.056, is amended by adding a subdivision to read:

Subd. 9. [NOTICE.] The state agency must be given notice of monetary claims against a person, entity, or corporation that may be liable to pay all or part of the cost of medical care when the state agency has paid or becomes liable for the cost of that care. Notice must be given according to paragraphs (a) to (d).

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

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

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

(1) when a claim is filed;

(2) when an action is commenced; and

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

(d) Every party involved in any stage of a claim under this subdivision is required to provide notice to the state agency at that stage of the claim. However, when one of the parties to the claim provides notice at that stage, every other party to the claim is deemed to have provided the required notice for that stage of the claim. If the required notice under this paragraph is not provided to the state agency, all parties to the claim are deemed to have failed to provide the required notice. A party to the claim includes the injured person or the person's legal representative, the plaintiff, the defendants, or persons alleged to be responsible for compensating the injured person or plaintiff, and any other party to the cause of action or claim, regardless of whether the party knows the state agency has a potential or actual assignment claim.

Sec. 18. Minnesota Statutes 2004, section 256B.056, is amended by adding a subdivision to read:

Subd. 10. [ELIGIBILITY VERIFICATION.] (a) The commissioner shall require women who are applying for the continuation of medical assistance coverage following the end of the 60-day postpartum period to complete a renewal form and verify assets.

(b) The commissioner shall determine the eligibility of private-sector health care coverage for infants less than one year of age eligible under section 256B.055, subdivision 10, or 256B.057, subdivision 1, paragraph (d), and shall pay for private-sector coverage if this is determined to be cost-effective.

(c) The commissioner shall modify the application for Minnesota health care programs to require more detailed information related to verification of assets and income, and shall verify assets and income for all applicants, and for all recipients upon renewal.

(d) The commissioner shall require recipients to report and verify new employment income within ten days of the change, and shall disenroll recipients who fail to provide verification.

[EFFECTIVE DATE.] This section is effective July 1, 2005. Prior to the implementation of HealthMatch, the commissioner shall implement this section to the fullest extent possible, including the use of manual processing. Upon implementation of HealthMatch, the commissioner shall implement this section in a manner consistent with the procedures and requirements of HealthMatch.

Sec. 19. Minnesota Statutes 2004, section 256B.0575, is amended to read:

256B.0575 [AVAILABILITY OF INCOME FOR INSTITUTIONALIZED PERSONS.]

When an institutionalized person is determined eligible for medical assistance, the income that exceeds the deductions in paragraphs (a) and (b) must be applied to the cost of institutional care.

(a) The following amounts must be deducted from the institutionalized person's income in the following order:

(1) the personal needs allowance under section 256B.35 or, for a veteran who does not have a spouse or child, or a surviving spouse of a veteran having no child, the amount of an improved pension received from the veteran's administration not exceeding \$90 per month;

(2) the personal allowance for disabled individuals under section 256B.36;

(3) if the institutionalized person has a legally appointed guardian or conservator, five percent of the recipient's gross monthly income up to \$100 as reimbursement for guardianship or conservatorship services;

(4) a monthly income allowance determined under section 256B.058, subdivision 2, but only to the extent income of the institutionalized spouse is made available to the community spouse;

(5) a monthly allowance for children under age 18 which, together with the net income of the children, would provide income equal to the medical assistance standard for families and children according to section 256B.056, subdivision 4, for a family size that includes only the minor children. This deduction applies only if the children do not live with the community spouse and only to the extent that the deduction is not included in the personal needs allowance under section 256B.35, subdivision 1, as child support garnished under a court order;

(6) a monthly family allowance for other family members, equal to one-third of the difference between 122 percent of the federal poverty guidelines and the monthly income for that family member;

(7) reparations payments made by the Federal Republic of Germany and reparations payments made by the Netherlands for victims of Nazi persecution between 1940 and 1945;

(8) all other exclusions from income for institutionalized persons as mandated by federal law; and

(9) amounts for reasonable expenses incurred for necessary medical or remedial care for the institutionalized person that are not medical assistance covered expenses and that are not subject to payment by a third party.

Reasonable expenses are limited to expenses that have not been previously used as a deduction from income and are incurred during the enrollee's current period of eligibility, including retroactive months associated with the current period of eligibility, for medical assistance payment of long-term care services.

For purposes of clause (6), "other family member" means a person who resides with the community spouse and who is a minor or dependent child, dependent parent, or dependent sibling of either spouse. "Dependent" means a person who could be claimed as a dependent for federal income tax purposes under the Internal Revenue Code.

(b) Income shall be allocated to an institutionalized person for a period of up to three calendar months, in an amount equal to the medical assistance standard for a family size of one if:

(1) a physician certifies that the person is expected to reside in the long-term care facility for three calendar months or less;

(2) if the person has expenses of maintaining a residence in the community; and

(3) if one of the following circumstances apply:

(i) the person was not living together with a spouse or a family member as defined in paragraph (a) when the person entered a long-term care facility; or

(ii) the person and the person's spouse become institutionalized on the same date, in which case the allocation shall be applied to the income of one of the spouses.

For purposes of this paragraph, a person is determined to be residing in a licensed nursing home, regional treatment center, or medical institution if the person is expected to remain for a period of one full calendar month or more.

Sec. 20. Minnesota Statutes 2004, section 256B.0595, subdivision 2, is amended to read:

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

(b) For uncompensated transfers made after August 10, 1993, the number of months of ineligibility for long-term care services shall be the total uncompensated value of the resources transferred divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the first day of the month after the month in which the assets were transferred except that if one or more uncompensated transfers are made during a period of ineligibility, the total assets transferred during the ineligibility period shall be combined and a penalty period calculated to begin on the first day of the month after the month in which the first uncompensated transfer was made. If the transfer was reported to the local agency after the date that advance notice of a period of ineligibility that affects the next month could be provided to the recipient and the recipient received medical assistance services or the transfer was not reported to the local agency, and the applicant or recipient received medical assistance services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of medical assistance services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received. Effective for transfers made on or after March 1, 1996, involving persons who apply for medical assistance on or after April 13, 1996, no cause of action exists for a transfer unless:

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

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

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

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

**[EFFECTIVE DATE.]** This section is effective for transfers occurring on or after July 1, 2005.

Sec. 21. Minnesota Statutes 2004, section 256B.06, subdivision 4, is amended to read:

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

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

- (1) admitted for lawful permanent residence according to United States Code, title 8;
- (2) admitted to the United States as a refugee according to United States Code, title 8, section 1157;
- (3) granted asylum according to United States Code, title 8, section 1158;
- (4) granted withholding of deportation according to United States Code, title 8, section 1253(h);
- (5) paroled for a period of at least one year according to United States Code, title 8, section 1182(d)(5);
- (6) granted conditional entrant status according to United States Code, title 8, section 1153(a)(7);

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

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

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

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

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

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

- (i) refugees admitted to the United States according to United States Code, title 8, section 1157;

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

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

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

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

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

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

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

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

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

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



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

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

Sec. 22. Minnesota Statutes 2004, section 256B.0625, is amended by adding a subdivision to read:

Subd. 1a. [SERVICES PROVIDED IN A HOSPITAL EMERGENCY ROOM.] Medical assistance does not cover visits to a hospital emergency room that are not for emergency and emergency poststabilization care or urgent care, and does not pay for any services provided in a hospital emergency room that are not for emergency and emergency poststabilization care or urgent care.

Sec. 23. Minnesota Statutes 2004, section 256B.0625, subdivision 3a, is amended to read:

Subd. 3a. [GENDER SEX REASSIGNMENT SURGERY.] Gender Sex reassignment surgery and other gender reassignment medical procedures including drug therapy for gender reassignment are is not covered unless the individual began receiving gender reassignment services prior to July 1, 1998.

Sec. 24. Minnesota Statutes 2004, section 256B.0625, is amended by adding a subdivision to read:

Subd. 3c. [CIRCUMCISION FOR NEWBORNS.] Newborn circumcision is not covered, unless the procedure is medically necessary or required because of a well-established religious practice.

[EFFECTIVE DATE.] This section is effective July 1, 2005, and applies to services provided on or after that date.

Sec. 25. Minnesota Statutes 2004, section 256B.0625, is amended by adding a subdivision to read:

Subd. 3d. [HEALTH SERVICES POLICY COMMITTEE.] The commissioner, after receiving recommendations from professional physician associations, professional associations representing licensed nonphysician health care professionals, and consumer groups, shall establish an 11-member Health Services Policy Committee which will consist of ten voting members and one nonvoting member. The Health Services Policy Committee will advise the commissioner regarding health services issues pertaining to the administration of health care benefits covered under the medical assistance, general assistance medical care, and MinnesotaCare programs. The Health Services Policy Committee shall meet at least quarterly. The Health Services Policy Committee shall annually elect a physician chair from among its members, who will work directly with the commissioner's medical director, to establish the agenda for each meeting.

Sec. 26. Minnesota Statutes 2004, section 256B.0625, is amended by adding a subdivision to read:

Subd. 3e. [HEALTH SERVICES POLICY COMMITTEE MEMBERS.] The Health Services Policy Committee shall be comprised of:

(1) six voting members who are licensed physicians actively engaged in the practice of medicine in Minnesota, one of whom must be actively engaged in the treatment of persons with mental illness and three of whom must represent health plans currently under contract to serve medical assistance recipients;

(2) three voting members who are nonphysician health care professionals licensed in their profession and actively engaged in the practice of their profession in Minnesota;

(3) the commissioner's medical director who will serve as a nonvoting member; and

(4) one consumer who shall serve as a voting member.

Members of the Health Services Policy Committee shall not be employed by the Department of Human Services, except for the medical director.

Sec. 27. Minnesota Statutes 2004, section 256B.0625, is amended by adding a subdivision to read:

Subd. 3f. [HEALTH SERVICES POLICY COMMITTEE TERMS AND COMPENSATION.] Committee members shall serve staggered three-year terms, with one-third of the voting members' terms expiring annually. Members may be reappointed by the commissioner. The commissioner may require more frequent Health Services Policy Committee meetings as needed. An honorarium of \$200 per meeting and reimbursement for mileage and parking shall be paid to each committee member in attendance except the medical director. The Health Services Policy Committee does not expire as provided in section 15.059, subdivision 6.

Sec. 28. Minnesota Statutes 2004, 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 authorized by the commissioner.

(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 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. 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) Effective January 1, 2006, medical assistance shall not cover drugs that are coverable under Medicare Part D as defined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, section 1860D-2(e), for individuals eligible for drug coverage as defined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, section 1860D-1(a)(3)(A). For such individuals, medical assistance may cover drugs from the drug classes listed in United States Code, title 42, section 1396r-8(d)(2), subject to the provisions of this subdivision and subdivisions 13a to 13g, except that drugs listed in United States Code, title 42, section 1396r-8(d)(2)(E), shall not be covered.

Sec. 29. Minnesota Statutes 2004, section 256B.0625, subdivision 13a, is amended to read:

Subd. 13a. [DRUG UTILIZATION REVIEW BOARD.] The commissioner, after receiving recommendations from professional medical associations, professional pharmacy associations, and consumer groups shall designate a nine-member Drug Utilization Review Board ~~is established~~. The board ~~is~~ shall be comprised of 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. The board shall be staffed by an employee of the department who shall serve as an ex officio nonvoting member of the board. The department's medical director shall also serve as an ex officio, nonvoting member of the board. The members of the board shall be appointed by the commissioner and shall serve three-year terms. ~~The members shall be selected from lists submitted by professional associations.~~ The commissioner shall appoint the initial members of the board for terms expiring as follows: three members for terms expiring June 30, 1996; three members for terms expiring June 30, 1997; and three members for terms expiring June 30, 1998. Members may be reappointed ~~once~~ by the commissioner. The board shall annually elect a chair from among the members.

The commissioner shall, with the advice of the board:

(1) implement a medical assistance retrospective and prospective drug utilization review program as required by United States Code, title 42, section 1396r-8(g)(3);

(2) develop and implement the predetermined criteria and practice parameters for appropriate prescribing to be used in retrospective and prospective drug utilization review;

(3) develop, select, implement, and assess interventions for physicians, pharmacists, and patients that are educational and not punitive in nature;

(4) establish a grievance and appeals process for physicians and pharmacists under this section;

(5) publish and disseminate educational information to physicians and pharmacists regarding the board and the review program;

(6) adopt and implement procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the review program that identifies individual physicians, pharmacists, or recipients;

(7) establish and implement an ongoing process to (i) receive public comment regarding drug utilization review criteria and standards, and (ii) consider the comments along with other scientific and clinical information in order to revise criteria and standards on a timely basis; and

(8) adopt any rules necessary to carry out this section.

The board may establish advisory committees. The commissioner may contract with appropriate organizations to assist the board in carrying out the board's duties. The commissioner may enter into contracts for services to develop and implement a retrospective and prospective review program.

The board shall report to the commissioner annually on the date the Drug Utilization Review Annual Report is due to the Centers for Medicare and Medicaid Services. This report is to cover the preceding federal fiscal year. The commissioner shall make the report available to the public upon request. The report must include information on the activities of the board and the program; the effectiveness of implemented interventions; administrative costs; and any fiscal impact resulting from the program. An honorarium of \$100 per meeting and reimbursement for mileage shall be paid to each board member in attendance.

Sec. 30. Minnesota Statutes 2004, section 256B.0625, subdivision 13c, is amended to read:

Subd. 13c. [FORMULARY COMMITTEE.] The commissioner, after receiving recommendations from professional medical associations and professional pharmacy associations, and consumer groups shall designate a Formulary Committee to carry out duties as described in subdivisions 13 to 13g. The Formulary Committee shall be comprised of four licensed physicians actively engaged in the practice of medicine in Minnesota one of whom must be actively engaged in the treatment of persons with mental illness; 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. Members of the Formulary Committee shall not be employed by the Department of Human Services, but the committee shall be staffed by an employee of the department who shall serve as an ex officio, nonvoting member of the board. The department's medical director shall also serve as an ex officio, nonvoting member for the committee. Committee members shall serve three-year terms and may be reappointed by the commissioner. The Formulary Committee shall meet at least quarterly. The commissioner may require more frequent Formulary Committee meetings as needed. An honorarium of \$100 per meeting and reimbursement for mileage shall be paid to each committee member in attendance.

Sec. 31. Minnesota Statutes 2004, section 256B.0625, subdivision 13e, is amended to read:

Subd. 13e. [PAYMENT RATES.] (a) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee; the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee; or the usual and customary price charged to the public. The amount of payment basis must be reduced to reflect all discount amounts applied to the charge by any provider/insurer agreement or contract for submitted charges to medical assistance programs. The net submitted charge may not be greater than the patient liability for the service. The pharmacy dispensing fee shall be \$3.65, except that the dispensing fee for intravenous solutions which must be compounded by the pharmacist shall be \$8 per bag, \$14 per bag for cancer chemotherapy products, and \$30 per bag for total parenteral nutritional products dispensed in one liter quantities, or \$44 per bag for total parenteral nutritional products dispensed in quantities greater than one liter. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug shall be estimated by the commissioner, at average wholesale price minus ~~11.5~~ 12 percent, ~~except that where a drug has had its wholesale price reduced as a result of the actions of the National Association of Medicaid Fraud Control Units, the estimated actual acquisition cost shall be the reduced average wholesale price, without the 11.5 percent deduction.~~ The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third-party payors in this state who have maximum allowable cost programs. Establishment of the amount of payment for drugs shall not be subject to the requirements of the Administrative Procedure Act.

(b) An additional dispensing fee of \$.30 may be added to the dispensing fee paid to pharmacists for legend drug prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Over-the-counter medications must be dispensed in the manufacturer's unopened package. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply.

(c) Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, or on the maximum allowable cost established by the commissioner.

(d) The basis for determining the amount of payment for drugs administered in an outpatient setting shall be the lower of the usual and customary cost submitted by the provider, ~~the average wholesale price minus five percent, or the maximum allowable cost set by the federal government under United States Code, title 42, chapter 7, section 1396r-8(e), and Code of Federal Regulations, title 42, section 447.332, or by the commissioner under paragraphs (a) to (e) or the amount established for Medicare by the United States Department of Health and Human Services pursuant to the Social Security Act, title XVIII, section 1847a.~~

(e) The commissioner may negotiate lower reimbursement rates for specialty pharmacy products than the rates specified in paragraph (a). The commissioner may require individuals enrolled in the health care programs administered by the department to obtain specialty pharmacy products from providers with whom the commissioner has negotiated lower reimbursement rates. Specialty pharmacy products are defined as those used by a small number of recipients or recipients with complex and chronic diseases that require expensive and challenging drug regimens. Examples of such conditions include, but are not limited to: multiple sclerosis, HIV/AIDS, transplantation, hepatitis C, growth hormone deficiency, Crohn's Disease, rheumatoid arthritis, and certain forms of cancer. Specialty pharmaceutical products commonly include injectable and infusion therapies, biotechnology drugs, high-cost therapies, and therapies that require complex care. The commissioner shall consult with the formulary committee to develop a list of specialty pharmacy products subject to this paragraph.

(f) The commissioner may require individuals enrolled in the health care programs administered by the department to obtain drugs used to treat hemophilia from a comprehensive hemophilia diagnostic treatment center as defined in United States Code, title 42, section 256b(a)(4)(G); provided that the hemophilia treatment center is enrolled as a covered entity in the drug pricing program, commonly known as the 340B program, that is established under that section.

Sec. 32. Minnesota Statutes 2004, section 256B.0625, subdivision 13f, is amended to read:

Subd. 13f. [PRIOR AUTHORIZATION.] (a) The Formulary Committee shall review and recommend drugs which require prior authorization. The Formulary 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.

(b) Prior authorization may be required by the commissioner before certain formulary drugs are eligible for payment. The Formulary Committee may recommend drugs for prior authorization directly to the commissioner. The commissioner may also request that the Formulary Committee review a drug for prior authorization. Before the commissioner may require prior authorization for a drug:

(1) the commissioner must provide information to the Formulary Committee on the impact that placing the drug on prior authorization may have on the quality of patient care and on program costs, information regarding whether the drug is subject to clinical abuse or misuse, and relevant data from the state Medicaid program if such data is available;

(2) the Formulary Committee must review the drug, taking into account medical and clinical data and the information provided by the commissioner; and

(3) the Formulary Committee must hold a public forum and receive public comment for an additional 15 days.

The commissioner must provide a 15-day notice period before implementing the prior authorization.

(c) Prior authorization shall not be required or utilized for any atypical antipsychotic drug prescribed for the treatment of mental illness if:

- (1) there is no generically equivalent drug available; and
- (2) the drug was initially prescribed for the recipient prior to July 1, 2003; or
- (3) the drug is part of the recipient's current course of treatment.

This paragraph applies to any multistate preferred drug list or supplemental drug rebate program established or administered by the commissioner. Prior authorization shall automatically be granted for 60 days for brand name drugs prescribed for treatment of mental illness within 60 days of when a generically equivalent drug becomes available.

(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 if the prior authorization is used in conjunction with any supplemental drug rebate program or multistate preferred drug list established or administered by the commissioner. ~~This paragraph expires July 1, 2005.~~

(e) The commissioner may require prior authorization for brand name drugs whenever a generically equivalent product is available, even if the prescriber specifically indicates "dispense as written-brand necessary" on the prescription as required by section 151.21, subdivision 2.

(f) Notwithstanding the provisions of this subdivision, the commissioner may automatically require prior authorization, for a period not to exceed 180 days, for any drug that is approved by the United States Food and Drug Administration on or after July 1, 2005. The 180-day period shall begin no later than the first day that a drug is available for shipment to pharmacies within the state. The Formulary Committee shall recommend to the commissioner general criteria to be used for the prior authorization of such drugs, but the committee is not required to review each individual drug. In order to continue prior authorizations for a drug after the 180-day period has expired, the commissioner must follow the provisions of this subdivision.

**[EFFECTIVE DATE.]** The amendment to paragraph (d) is effective June 30, 2005.

Sec. 33. Minnesota Statutes 2004, section 256B.0625, is amended by adding a subdivision to read:

Subd. 13h. [MEDICATION THERAPY MANAGEMENT CARE.] (a) Medical assistance and general assistance medical care cover medication therapy management services for a recipient taking four or more prescriptions to treat or prevent two or more chronic medical conditions, or a recipient with a drug therapy problem that is identified or prior authorized by the commissioner that has resulted or is likely to result in significant nondrug program costs. The commissioner may cover medical therapy management services under MinnesotaCare if the commissioner determines this is cost-effective. For purposes of this subdivision, "medication therapy management" means the provision of the following pharmaceutical care services by a licensed pharmacist to optimize the therapeutic outcomes of the patient's medications:

- (1) performing or obtaining necessary assessments of the patient's health status;
- (2) formulating a medication treatment plan;
- (3) monitoring and evaluating the patient's response to therapy, including safety and effectiveness;
- (4) performing a comprehensive medication review to identify, resolve, and prevent medication-related problems, including adverse drug events;

(5) documenting the care delivered and communicating essential information to the patient's other primary care providers;

(6) providing verbal education and training designed to enhance patient understanding and appropriate use of the patient's medications;

(7) providing information, support services, and resources designed to enhance patient adherence with the patient's therapeutic regimens; and

(8) coordinating and integrating medication therapy management services within the broader health care management services being provided to the patient.

Nothing in this subdivision shall be construed to expand or modify the scope of practice of the pharmacist as defined in section 151.01, subdivision 27.

(b) To be eligible for reimbursement for services under this subdivision, a pharmacist must meet the following requirements:

(1) have a valid license issued under chapter 151;

(2) have graduated from an accredited college of pharmacy on or after May 1996, or completed a structured and comprehensive education program approved by the Board of Pharmacy and the American Council of Pharmaceutical Education for the provision and documentation of pharmaceutical care management services that has both clinical and didactic elements;

(3) be practicing in an ambulatory care setting as part of a multidisciplinary team or have developed a structured patient care process that is offered in a private or semiprivate patient care area that is separate from the commercial business that also occurs in the setting; and

(4) make use of an electronic patient record system that meets state standards.

(c) For purposes of reimbursement for medication therapy management services, the commissioner may enroll individual pharmacists as medical assistance and general assistance medical care providers. The commissioner may also establish contact requirements between the pharmacist and recipient, including limiting the number of reimbursable consultations per recipient.

(d) The commissioner, after receiving recommendations from professional medical associations, professional pharmacy associations, and consumer groups, shall convene an 11-member Medication Therapy Management Advisory Committee to advise the commissioner on the implementation and administration of medication therapy management services. The committee shall be comprised of: two licensed physicians; two licensed pharmacists; two consumer representatives; two health plan company representatives; and three members with expertise in the area of medication therapy management, who may be licensed physicians or licensed pharmacists. The committee is governed by section 15.059, except that committee members do not receive compensation or reimbursement for expenses. The advisory committee expires on June 30, 2007.

(e) The commissioner shall evaluate the effect of medication therapy management on quality of care, patient outcomes, and program costs, and shall include a description of any savings generated in the medical assistance and general assistance medical care programs that can be attributable to this coverage. The evaluation shall be submitted to the legislature by December 15, 2007. The commissioner may contract with a vendor or an academic institution that has expertise in evaluating health care outcomes for the purpose of completing the evaluation.

Sec. 34. Minnesota Statutes 2004, 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 eligible persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services.

(b) Medical assistance covers special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, if 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.

The commissioner may use an order by the recipient's attending physician to certify that the recipient requires special transportation services. 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. Special transportation providers must obtain written documentation from the health care service provider who is serving the recipient being transported, identifying the time that the recipient arrived. Special transportation providers may not bill for separate base rates for the continuation of a trip beyond the original destination. Special transportation providers must take recipients to the nearest appropriate health care provider, using the most direct route available. The maximum medical assistance reimbursement rates for special transportation services are:

(1) \$18 for the base rate and \$1.40 per mile for services to eligible persons who need a wheelchair-accessible van;

(2) \$12 for the base rate and \$1.35 per mile for services to eligible persons who do not need a wheelchair-accessible van; and

(3) ~~\$36~~ \$60 for the base rate and ~~\$1.40~~ \$2.40 per mile, and an attendant rate of \$9 per trip, for services to eligible persons who need a stretcher-accessible vehicle.

Sec. 35. [256B.0632] [MEDICALLY NECESSARY ITEMS AND SERVICES.]

Subdivision 1. [GENERAL REQUIREMENT FOR COVERAGE.] Enrollees under the medical assistance program are eligible to receive, and medical assistance shall provide payment for, only those medical items and services that are:

(1) within the scope of defined benefits for which the enrollee is eligible under the medical assistance program; and

(2) determined by the medical assistance program to be medically necessary.

Subd. 2. [MEDICAL NECESSITY.] (a) To be determined to be medically necessary, a medical item or service must be recommended by a physician who is treating the enrollee or other licensed health care provider practicing within the scope of the physician's license who is treating the enrollee and must satisfy each of the criteria in this section.

(b) It must be required in order to diagnose or treat an enrollee's medical condition. The convenience of an enrollee, the enrollee's family, or a provider, shall not be a factor or justification in determining that a medical item or service is medically necessary.



(c) It must be safe and effective. To qualify as safe and effective, the type and level of medical item or service must be consistent with the symptoms or diagnosis and treatment of the particular medical condition, and the reasonably anticipated medical benefits of the item or service must outweigh the reasonably anticipated medical risks based on the enrollee's condition and scientifically supported evidence.

(d) It must be the least costly alternative course of diagnosis or treatment that is adequate for the medical condition of the enrollee. When applied to medical items or services delivered in an inpatient setting, it further means that the medical item or service cannot be safely provided for the same or lesser cost to the person in an outpatient setting. Where there are less costly alternative courses of diagnosis or treatment, including less costly alternative settings, that are adequate for the medical condition of the enrollee, more costly alternative courses of diagnosis or treatment are not medically necessary. An alternative course of diagnosis or treatment may include observation, lifestyle or behavioral changes, or where appropriate, no treatment at all.

Subd. 3. [DETERMINATION OF COMMISSIONER.] It is the responsibility of the commissioner ultimately to determine what medical items and services are medically necessary for the medical assistance program. The fact that a provider has prescribed, recommended, or approved a medical item or service does not, in itself, make such item or service medically necessary.

Subd. 4. [APPLICABILITY.] The medical necessity standard in this section shall govern the delivery of all services and items to all enrollees or classes of beneficiaries in the medical assistance program. The commissioner is authorized to make limited special provisions for particular items or services, such as long-term care, or such as may be required for compliance with federal law.

Subd. 5. [MEDICAL PROTOCOLS.] Medical protocols developed using evidence-based medicine that are authorized by the commissioner shall satisfy the standard of medical necessity. Such protocols shall be appropriately published to all medical assistance providers and managed care organizations.

Subd. 6. [RULEMAKING.] The commissioner is authorized to adopt any rules necessary to implement this section.

Sec. 36. [256B.0633] [LIMITING COVERAGE OF HEALTH CARE SERVICES FOR PUBLIC PROGRAMS.]

Subdivision 1. [PRIOR AUTHORIZATION OF SERVICES.] (a) Effective July 1, 2005, prior authorization is required for the services described in subdivision 2 for reimbursement under chapters 256B, 256D, and 256L. Effective July 1, 2005, prepaid health plans shall use prior authorization for the services described in subdivision 2 unless the prepaid health plan is otherwise using evidence-based practices to address these services.

(b) Prior authorization shall be conducted by the medical director of the Department of Human Services in conjunction with a medical policy advisory council. To the extent available, the medical director shall use publicly available evidence-based guidelines developed by an independent, nonprofit organization or by the professional association of the specialty that typically provides the service or by a multistate Medicaid evidence-based practice center. If the commissioner does not have a medical director and medical policy in place, the commissioner shall contract prior authorization to a Minnesota-licensed utilization review organization.

Subd. 2. [SERVICES REQUIRING PRIOR AUTHORIZATION.] The following services require prior authorization:

(1) elective outpatient high technology imaging to include positive emission tomography (PET) scans, magnetic resonance imaging (MRI), computed tomography (CT), and nuclear cardiology;

(2) spinal fusion, unless in an emergency situation related to trauma;

(3) bariatric surgery;

(4) orthodontia;

(5) cesarean section or insertion of tympanostomy tubes except in an emergency situation; and

(6) hysterectomy.

Sec. 37. Minnesota Statutes 2004, section 256B.0644, is amended to read:

256B.0644 [PARTICIPATION REQUIRED FOR REIMBURSEMENT UNDER OTHER STATE HEALTH CARE PROGRAMS.]

A vendor of medical care, as defined in section 256B.02, subdivision 7, and a health maintenance organization, as defined in chapter 62D, must participate as a provider or contractor in the medical assistance program, general assistance medical care program, and MinnesotaCare as a condition of participating as a provider in health insurance plans and programs or contractor for state employees established under section 43A.18, the public employees insurance program under section 43A.316, for health insurance plans offered to local statutory or home rule charter city, county, and school district employees, the workers' compensation system under section 176.135, and insurance plans provided through the Minnesota Comprehensive Health Association under sections 62E.01 to 62E.19. This section does not apply to any person providing dental services. The limitations on insurance plans offered to local government employees shall not be applicable in geographic areas where provider participation is limited by managed care contracts with the Department of Human Services. For providers other than health maintenance organizations, participation in the medical assistance program means that ~~(1) the provider accepts new medical assistance, general assistance medical care, and MinnesotaCare patients or (2) for providers other than dental service providers, and~~ at least 20 percent of the provider's patients are covered by medical assistance, general assistance medical care, and MinnesotaCare as their primary source of coverage, ~~or (3) for dental service providers, at least ten percent of the provider's patients are covered by medical assistance, general assistance medical care, and MinnesotaCare as their primary source of coverage.~~ Patients seen on a volunteer basis by the provider at a location other than the provider's usual place of practice may be considered in meeting this participation requirement. The commissioner shall establish participation requirements for health maintenance organizations. The commissioner shall provide lists of participating medical assistance providers on a quarterly basis to the commissioner of employee relations, the commissioner of labor and industry, and the commissioner of commerce. Each of the commissioners shall develop and implement procedures to exclude as participating providers in the program or programs under their jurisdiction those providers who do not participate in the medical assistance program. The commissioner of employee relations shall implement this section through contracts with participating health ~~and dental~~ carriers.

Sec. 38. Minnesota Statutes 2004, section 256B.075, subdivision 2, is amended to read:

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

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

(c) The commissioner shall develop and implement a pilot intensive care management program for medical assistance children with complex and chronic medical issues who are not able to participate in the metro-based U Special Kids program due to geographic distance.

Sec. 39. Minnesota Statutes 2004, section 256B.15, subdivision 1, is amended to read:

Subdivision 1. [POLICY, APPLICABILITY, PURPOSE, AND CONSTRUCTION; DEFINITION.] (a) It is the policy of this state that individuals or couples, either or both of whom participate in the medical assistance program, use their own assets to pay their share of the total cost of their care during or after their enrollment in the program according to applicable federal law and the laws of this state. The following provisions apply:

(1) subdivisions 1c to 1k shall not apply to claims arising under this section which are presented under section 525.313;

(2) the provisions of subdivisions 1c to 1k expanding the interests included in an estate for purposes of recovery under this section give effect to the provisions of United States Code, title 42, section 1396p, governing recoveries, but do not give rise to any express or implied liens in favor of any other parties not named in these provisions;

(3) the continuation of a recipient's life estate or joint tenancy interest in real property after the recipient's death for the purpose of recovering medical assistance under this section modifies common law principles holding that these interests terminate on the death of the holder;

(4) all laws, rules, and regulations governing or involved with a recovery of medical assistance shall be liberally construed to accomplish their intended purposes;

(5) a deceased recipient's life estate and joint tenancy interests continued under this section shall be owned by the remaindermen or surviving joint tenants as their interests may appear on the date of the recipient's death. They shall not be merged into the remainder interest or the interests of the surviving joint tenants by reason of ownership. They shall be subject to the provisions of this section. Any conveyance, transfer, sale, assignment, or encumbrance by a remainderman, a surviving joint tenant, or their heirs, successors, and assigns shall be deemed to include all of their interest in the deceased recipient's life estate or joint tenancy interest continued under this section; and

(6) the provisions of subdivisions 1c to 1k continuing a recipient's joint tenancy interests in real property after the recipient's death do not apply to a homestead owned of record, on the date the recipient dies, by the recipient and the recipient's spouse as joint tenants with a right of survivorship. Homestead means the real property occupied by the surviving joint tenant spouse as their sole residence on the date the recipient dies and classified and taxed to the recipient and surviving joint tenant spouse as homestead property for property tax purposes in the calendar year in which the recipient dies. For purposes of this exemption, real property the recipient and their surviving joint tenant spouse purchase solely with the proceeds from the sale of their prior homestead, own of record as joint tenants, and qualify as homestead property under section 273.124 in the calendar year in which the recipient dies and prior to the recipient's death shall be deemed to be real property classified and taxed to the recipient and their surviving joint tenant spouse as homestead property in the calendar year in which the recipient dies. The surviving spouse, or any person with personal knowledge of the facts, may provide an affidavit describing the homestead property affected by this clause and stating facts showing compliance with this clause. The affidavit shall be prima facie evidence of the facts it states.

(b) For purposes of this section, "medical assistance" includes the medical assistance program under this chapter and the general assistance medical care program under chapter 256D and alternative care for nonmedical assistance recipients under section 256B.0913.

(c) All provisions in this subdivision, and subdivisions 1d, 1f, 1g, 1h, 1i, and 1j, related to the continuation of a recipient's life estate or joint tenancy interests in real property after the recipient's death for the purpose of recovering medical assistance, are effective only for life estates and joint tenancy interests established on or after August 1, 2003.

**[EFFECTIVE DATE.]** This section is effective retroactively from August 1, 2003.

Sec. 40. Minnesota Statutes 2004, 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 five percent from the current statutory rates. Facilities defined under section 256.969, subdivision 16, are excluded from this paragraph.

(d) In addition to the reduction in paragraphs (b) and (c) and section 256D.03, subdivision 4, paragraph (k), the total payment for fee-for-service services provided on or after July 1, 2005, made to hospitals for outpatient hospital facility services before third-party liability and spenddown, is reduced five percent from the current statutory rates. Facilities defined under section 256.969, subdivision 16, are excluded from this paragraph.

Sec. 41. Minnesota Statutes 2004, section 256B.69, subdivision 4, is amended to read:

Subd. 4. [LIMITATION OF CHOICE.] (a) The commissioner shall develop criteria to determine when limitation of choice may be implemented in the experimental counties. The criteria shall ensure that all eligible individuals in the county have continuing access to the full range of medical assistance services as specified in subdivision 6.

(b) The commissioner shall exempt the following persons from participation in the project, in addition to those who do not meet the criteria for limitation of choice:

(1) persons eligible for medical assistance according to section 256B.055, subdivision 1;

(2) persons eligible for medical assistance due to blindness or disability as determined by the Social Security Administration or the state medical review team, unless:

(i) they are 65 years of age or older; or

(ii) they reside in Itasca County or they reside in a county in which the commissioner conducts a pilot project under a waiver granted pursuant to section 1115 of the Social Security Act;

(3) recipients who currently have private coverage through a health maintenance organization;

(4) recipients who are eligible for medical assistance by spending down excess income for medical expenses other than the nursing facility per diem expense;

(5) recipients who receive benefits under the Refugee Assistance Program, established under United States Code, title 8, section 1522(e);

(6) children who are both determined to be severely emotionally disturbed and receiving case management services according to section 256B.0625, subdivision 20;

(7) adults who are both determined to be seriously and persistently mentally ill and received case management services according to section 256B.0625, subdivision 20;

(8) persons eligible for medical assistance according to section 256B.057, subdivision 10; and

(9) persons with access to cost-effective employer-sponsored private health insurance or persons enrolled in ~~an~~ a non-Medicare individual health plan determined to be cost-effective according to section 256B.0625, subdivision 15.

Children under age 21 who are in foster placement may enroll in the project on an elective basis. Individuals excluded under clauses (1), (6), and (7) may choose to enroll on an elective basis. The commissioner may enroll recipients in the prepaid medical assistance program for seniors who are (1) age 65 and over, and (2) eligible for medical assistance by spending down excess income.

(c) The commissioner may allow persons with a one-month spenddown who are otherwise eligible to enroll to voluntarily enroll or remain enrolled, if they elect to prepay their monthly spenddown to the state.

(d) The commissioner may require those individuals to enroll in the prepaid medical assistance program who otherwise would have been excluded under paragraph (b), clauses (1), (3), and (8), and under Minnesota Rules, part 9500.1452, subpart 2, items H, K, and L.

(e) Before limitation of choice is implemented, eligible individuals shall be notified and after notification, shall be allowed to choose only among demonstration providers. The commissioner may assign an individual with private coverage through a health maintenance organization, to the same health maintenance organization for medical assistance coverage, if the health maintenance organization is under contract for medical assistance in the individual's county of residence. After initially choosing a provider, the recipient is allowed to change that choice only at specified times as allowed by the commissioner. If a demonstration provider ends participation in the project for any reason, a recipient enrolled with that provider must select a new provider but may change providers without cause once more within the first 60 days after enrollment with the second provider.

(f) An infant born to a woman who is eligible for and receiving medical assistance and who is enrolled in the prepaid medical assistance program shall be retroactively enrolled to the month of birth in the same managed care plan as the mother once the child is enrolled in medical assistance unless the child is determined to be excluded from enrollment in a prepaid plan under this section.

Sec. 42. Minnesota Statutes 2004, section 256B.69, is amended by adding a subdivision to read:

Subd. 5i. [PAYMENT REDUCTION.] In addition to the reduction in subdivisions 5g and 5h and section 256D.03, subdivision 4, paragraph (m), the total payment made to managed care plans is reduced 2.01 percent under the medical assistance program and 2.20 percent under the general assistance medical care program for services provided on or after January 1, 2006. This provision excludes payments for nursing home services, home and community-based waivers, and payments to demonstration projects for persons with disabilities.

Sec. 43. Minnesota Statutes 2004, 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 five percent from the current statutory rates. Facilities defined under section 256.969, subdivision 16, are excluded from this paragraph.

(f) In addition to the reduction in paragraphs (d) and (e) and section 256D.03, subdivision 4, paragraph (k), the total payment for fee-for-service services provided on or after July 1, 2005, made to hospitals for outpatient hospital facility services before third-party liability and spenddown, is reduced five percent from the current statutory rates. Facilities defined under section 256.969, subdivision 16, are excluded from this paragraph.

Sec. 44. Minnesota Statutes 2004, section 256D.03, subdivision 3, is amended to read:

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

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

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

(ii) who has gross countable income ~~above 75 percent~~ not in excess of 75 percent of the federal poverty guidelines ~~but not in excess of 175 percent of the federal poverty guidelines~~ for the family size, using a six-month budget period, or whose equity in assets is not in excess of the limits in section 256B.056, subdivision 3e, ~~and who applies during an inpatient hospitalization~~ excess income is spent down to 50 percent of the federal poverty guidelines using a six-month budget period.

(b) General assistance medical care may not be paid for applicants or recipients who meet all eligibility requirements of MinnesotaCare as defined in sections 256L.01 to 256L.16, and are adults with dependent children under 21 whose gross family income is equal to or less than ~~275~~ 175 percent of the federal poverty guidelines.

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

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

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

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

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

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

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

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

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

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

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

Sec. 45. Minnesota Statutes 2004, section 256D.03, subdivision 4, is amended to read:

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

(1) inpatient hospital services;

(2) outpatient hospital services;

(3) services provided by Medicare certified rehabilitation agencies;

(4) prescription drugs and other products recommended through the process established in section 256B.0625, subdivision 13;



(5) equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level;

(6) eyeglasses and eye examinations provided by a physician or optometrist;

(7) hearing aids;

(8) prosthetic devices;

(9) laboratory and X-ray services;

(10) physician's services;

(11) medical transportation except special transportation;

(12) chiropractic services as covered under the medical assistance program;

(13) podiatric services;

(14) dental services and dentures, subject to the limitations specified in section 256B.0625, subdivision 9;

(15) outpatient services provided by a mental health center or clinic that is under contract with the county board and is established under section 245.62;

(16) day treatment services for mental illness provided under contract with the county board;

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

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

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

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

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

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

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

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

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

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

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

(2) \$25 for eyeglasses;

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

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

(5) 50 percent coinsurance on restorative dental services.

(e) Co-payments shall be limited to one per day per provider for nonpreventive visits, eyeglasses, and nonemergency visits to a hospital-based emergency room. Recipients of general assistance medical care are responsible for all co-payments in this subdivision. The general assistance medical care reimbursement to the provider shall be reduced by the amount of the co-payment, except that reimbursement for prescription drugs shall not be reduced once a recipient has reached the \$20 per month maximum for prescription drug co-payments. The provider collects the co-payment from the recipient. Providers may not deny services to recipients who are unable to pay the co-payment, except as provided in paragraph (f).

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

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

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

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

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

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

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

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

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

**[EFFECTIVE DATE.]** This section is effective July 1, 2005, except the amendment to paragraph (a), item (ii), is effective October 1, 2005.

Sec. 46. Minnesota Statutes 2004, section 256D.03, is amended by adding a subdivision to read:

Subd. 4a. [GENERAL ASSISTANCE MEDICAL CARE; MEDICAL NECESSITY.] In order to be covered under general assistance medical care, a medical item or service must meet the medical necessity standards in section 256B.0632.

Sec. 47. Minnesota Statutes 2004, section 256D.03, is amended by adding a subdivision to read:

Subd. 10. [PAYMENTS AFTER OCTOBER 1, 2005.] General assistance medical care payments made on or after October 1, 2005, shall be made from the health care access fund.

Sec. 48. Minnesota Statutes 2004, section 256D.045, is amended to read:

256D.045 [SOCIAL SECURITY NUMBER REQUIRED.]

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

**[EFFECTIVE DATE.]** This section is effective March 1, 2006, or upon HealthMatch implementation, whichever is later.

Sec. 49. Minnesota Statutes 2004, section 256L.01, subdivision 1a, is amended to read:

Subd. 1a. [CHILD.] (a) "Child" means an individual under 21 years of age who is not enrolled in a program of study at a postsecondary education institution, including the unborn child of a pregnant woman, an emancipated minor, and an emancipated minor's spouse.

(b) For an individual enrolled in a program of study at a postsecondary education institution, child means an individual under 19 years of age, including an emancipated minor, and an emancipated minor's spouse, except that an individual with access to health coverage through the postsecondary education institution or the individual's parent does not qualify as a child under this paragraph.

[EFFECTIVE DATE.] This section is effective July 1, 2005, or upon federal approval, whichever is later. Prior to the implementation of HealthMatch, the commissioner shall implement this section to the fullest extent possible, including the use of manual processing. Upon implementation of HealthMatch, the commissioner shall implement this section in a manner consistent with the procedures and requirements of HealthMatch.

Sec. 50. Minnesota Statutes 2004, section 256L.01, subdivision 4, is amended to read:

Subd. 4. [GROSS INDIVIDUAL OR GROSS FAMILY INCOME.] (a) "Gross individual or gross family income" for nonfarm self-employed means income calculated for the six-month period of eligibility using as the baseline the adjusted gross income reported on the applicant's federal income tax form for the previous year and ~~adding back in reported depreciation, carryover loss, and net operating loss amounts that apply to the business in which the family is currently engaged~~ using medical assistance methodology for determining allowable and nonallowable expenses and countable income.

(b) "Gross individual or gross family income" for farm self-employed means income calculated for the six-month period of eligibility using as the baseline the adjusted gross income reported on the applicant's federal income tax form for the previous year and adding back in reported depreciation amounts that apply to the business in which the family is currently engaged.

(c) ~~Applicants shall report the most recent financial situation of the family if it has changed from the period of time covered by the federal income tax form. The report may be in the form of percentage increase or decrease~~ "Gross individual or gross family income" means the total income for all family members, calculated for the six-month period of eligibility.

[EFFECTIVE DATE.] This section is effective March 1, 2006, or upon HealthMatch implementation, whichever is later.

Sec. 51. Minnesota Statutes 2004, section 256L.01, subdivision 5, is amended to read:

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

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

[EFFECTIVE DATE.] This section is effective July 1, 2005, except that the amendment to paragraph (a) is effective July 1, 2005, or upon federal approval, whichever is later. Prior to the implementation of HealthMatch, the commissioner shall implement this section to the fullest extent possible, including the use of manual processing. Upon completion of HealthMatch conversion, the commissioner shall implement this section in a manner consistent with the procedures and requirements of HealthMatch.

Sec. 52. Minnesota Statutes 2004, section 256L.03, subdivision 1, is amended to read:

Subdivision 1. [COVERED HEALTH SERVICES.] ~~For individuals under section 256L.04, subdivision 7, with income no greater than 75 percent of the federal poverty guidelines or~~ For families with children under section 256L.04, subdivision 1, all subdivisions of this section apply. "Covered health services" means the health services reimbursed under chapter 256B, with the exception of inpatient hospital services, special education services, private duty nursing services, adult dental care services other than services 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. Outpatient mental health services covered under the MinnesotaCare program are limited to diagnostic assessments, psychological testing, explanation of findings, medication management by a physician, day treatment, partial hospitalization, and individual, family, and group psychotherapy.

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

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

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

Sec. 53. Minnesota Statutes 2004, 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.~~

(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.

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

Sec. 54. Minnesota Statutes 2004, section 256L.03, subdivision 5, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

[EFFECTIVE DATE.] This section is effective January 1, 2006, except the amendment to paragraph (b) is effective October 1, 2005.

Sec. 55. Minnesota Statutes 2004, section 256L.03, is amended by adding a subdivision to read:

Subd. 7. [MEDICAL NECESSITY.] In order to be covered under MinnesotaCare, a medical item or service must meet the medical necessity standards in section 256B.0632.

Sec. 56. Minnesota Statutes 2004, section 256L.04, subdivision 1, is amended to read:

Subdivision 1. [FAMILIES WITH CHILDREN.] (a) Through September 30, 2005, 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. Beginning October 1, 2005, children and pregnant women 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. Beginning October 1, 2005, parents, grandparents, foster parents, relative caretakers, and legal guardians ages 21 and over are not eligible for MinnesotaCare if their gross income exceeds 175 percent of the federal poverty guidelines for the applicable family size. 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, if the children are eligible. Children 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 October 1, 2003, 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, or upon federal approval, whichever is later, parents are not eligible for MinnesotaCare if their gross income exceeds \$50,000.

Sec. 57. Minnesota Statutes 2004, section 256L.04, is amended by adding a subdivision to read:

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

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

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

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

[EFFECTIVE DATE.] This section is effective March 1, 2006, or upon HealthMatch implementation, whichever is later.

Sec. 58. Minnesota Statutes 2004, section 256L.04, subdivision 2, is amended to read:

Subd. 2. [COOPERATION IN ESTABLISHING THIRD-PARTY LIABILITY, PATERNITY, AND OTHER MEDICAL SUPPORT.] (a) To be eligible for MinnesotaCare, individuals and families must cooperate with the state agency to identify potentially liable third-party payers and assist the state in obtaining third-party payments. "Cooperation" includes, but is not limited to, complying with the notice requirements in section 256B.056, subdivision 9, identifying any third party who may be liable for care and services provided under MinnesotaCare to the enrollee, providing relevant information to assist the state in pursuing a potentially liable third party, and completing forms necessary to recover third-party payments.

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

Sec. 59. Minnesota Statutes 2004, section 256L.04, is amended by adding a subdivision to read:

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

[EFFECTIVE DATE.] This section is effective March 1, 2006, or upon HealthMatch implementation, whichever is later.

Sec. 60. Minnesota Statutes 2004, section 256L.04, subdivision 8, is amended to read:

~~Subd. 8. [APPLICANTS POTENTIALLY ELIGIBLE FOR MEDICAL ASSISTANCE.] (a) Individuals who receive supplemental security income or retirement, survivors, or disability benefits due to a disability, or other disability-based pension, who qualify under subdivision 7, but who are potentially eligible for medical assistance without a spenddown shall be allowed to enroll in MinnesotaCare for a period of 60 days, so long as the applicant meets all other conditions of eligibility. The commissioner shall identify and refer the applications of such individuals to their county social service agency. The county and the commissioner shall cooperate to ensure that the individuals obtain medical assistance coverage for any months for which they are eligible.~~

~~(b) The enrollee must cooperate with the county social service agency in determining medical assistance eligibility within the 60 day enrollment period. Enrollees who do not cooperate with medical assistance within the 60 day enrollment period shall be disenrolled from the plan within one calendar month. Persons disenrolled for nonapplication for medical assistance may not reenroll until they have obtained a medical assistance eligibility determination. Persons disenrolled for noncooperation with medical assistance may not reenroll until they have cooperated with the county agency and have obtained a medical assistance eligibility determination.~~

~~(c) Beginning January 1, 2000, counties that choose to become MinnesotaCare enrollment sites shall consider MinnesotaCare applications to also be applications for medical assistance. Applicants who are potentially eligible for medical assistance, except for those described in paragraph (a), may choose to enroll in either MinnesotaCare or medical assistance.~~

~~(d) The commissioner shall redetermine provider payments made under MinnesotaCare to the appropriate medical assistance payments for those enrollees who subsequently become eligible for medical assistance.~~

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

Sec. 61. Minnesota Statutes 2004, section 256L.05, subdivision 2, is amended to read:

Subd. 2. [COMMISSIONER'S DUTIES.] (a) The commissioner or county agency shall use electronic verification as the primary method of income verification. If there is a discrepancy between reported income and electronically verified income, an individual may be required to submit additional verification. In addition, the commissioner shall perform random audits to verify reported income and eligibility. The commissioner may execute data sharing arrangements with the Department of Revenue and any other governmental agency in order to perform income verification related to eligibility and premium payment under the MinnesotaCare program.



(b) In determining eligibility for MinnesotaCare, the commissioner shall require applicants and enrollees seeking renewal of eligibility to verify both earned and unearned income. The commissioner shall also require applicants and enrollees to submit to their employers, if employed, a form to verify whether the applicant or enrollee, and any dependents, are eligible for employer subsidized coverage.

[EFFECTIVE DATE.] This section is effective July 1, 2005. Prior to the implementation of HealthMatch, the commissioner shall implement this section to the fullest extent possible, including the use of manual processing. Upon implementation of HealthMatch, the commissioner shall implement this section in a manner consistent with the procedures and requirements of HealthMatch.

Sec. 62. Minnesota Statutes 2004, 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~~ month of placement or the month placement is reported, whichever is later. The effective date of coverage for other new ~~recipients~~ members added to the family ~~receiving covered health services~~ is the first day of the month following the month in which ~~eligibility is approved or at renewal, whichever the family receiving covered health services prefers~~ the change is reported. All eligibility criteria must be met by the family at the time the new family member is added. The income of the new family member is included with the family's gross income and the adjusted premium begins in the month the new family member is added.

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

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

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

[EFFECTIVE DATE.] This section is effective March 1, 2006, or upon HealthMatch implementation, whichever is later.

Sec. 63. Minnesota Statutes 2004, 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~~ received by the commissioner. The effective date of coverage within the first six-month period of eligibility is as provided in section 256L.05, subdivision 3. 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.

[EFFECTIVE DATE.] This section is effective March 1, 2006, or upon HealthMatch implementation, whichever is later.

Sec. 64. Minnesota Statutes 2004, section 256L.05, subdivision 5, is amended to read:

Subd. 5. [AVAILABILITY OF PRIVATE INSURANCE.] The commissioner, in consultation with the commissioners of health and commerce, shall provide information regarding the availability of private health insurance coverage and the possibility of disenrollment under section 256L.07, subdivision 1, ~~paragraphs (b) and (c), to all: (1) to families enrolled in the MinnesotaCare program whose gross family income is equal to or more than 225 percent of the federal poverty guidelines; and (2) single adults and households without children enrolled in the MinnesotaCare program whose gross family income is equal to or more than 165 percent of the federal poverty guidelines.~~ This information must be provided upon initial enrollment and annually thereafter. The commissioner shall also include information regarding the availability of private health insurance coverage in the notice of ineligibility provided to persons subject to disenrollment under section 256L.07, subdivision 1, ~~paragraphs (b) and (c).~~

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

Sec. 65. Minnesota Statutes 2004, 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 both increases and decreases~~ in enrollee income, at the time the change in income is reported; 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 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 July 1, 2005. Prior to the implementation of HealthMatch, the commissioner shall implement this section to the fullest extent possible, including the use of manual processing. Upon implementation of HealthMatch, the commissioner shall implement this section in a manner consistent with the procedures and requirements of HealthMatch.

Sec. 66. Minnesota Statutes 2004, section 256L.07, subdivision 1, is amended to read:

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

(b) Through September 30, 2005, 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~~ Beginning October 1, 2005, children enrolled in MinnesotaCare under section 256L.04, subdivision 7 1, whose income increases above ~~475~~ 275 percent of the federal poverty guidelines, are no longer eligible for the program and shall be disenrolled by the commissioner. Pregnant women enrolled in MinnesotaCare whose income increases above 275 percent of the federal poverty guidelines remain eligible through the end of the 60-day postpartum period. Beginning October 1, 2005, parents, grandparents, foster parents, relative caretakers, and legal guardians ages 21 and over are no longer eligible for MinnesotaCare if their gross income exceeds 175 percent of the federal poverty guidelines for the applicable family size. For persons disenrolled under this subdivision, MinnesotaCare coverage terminates the last day of the calendar month following the month in which the commissioner determines that the income of a family or individual exceeds program income limits.

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

~~(2)~~ Effective February 1, 2004, notwithstanding paragraph (b), children may remain enrolled in MinnesotaCare if ten percent of their ~~annual gross individual or gross family income as defined in section 256L.01, subdivision 4~~, is less than the ~~annual~~ premium for a ~~six-month~~ 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~~ six-month notice period from the date that ineligibility is determined before disenrollment. The premium for children remaining eligible under this clause shall be the maximum premium determined under section 256L.15, subdivision 2, paragraph (b).

(d) Effective July 1, 2003, notwithstanding paragraphs (b) and (c), parents are no longer eligible for MinnesotaCare if gross household income exceeds ~~\$50,000~~ \$25,000 for the six-month period of eligibility.

**[EFFECTIVE DATE.]** This section is effective March 1, 2006, or upon HealthMatch implementation, whichever is later.

Sec. 67. Minnesota Statutes 2004, section 256L.07, subdivision 3, is amended to read:

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

(1) lacks two or more of the following:

- (i) basic hospital insurance;
- (ii) medical-surgical insurance;
- (iii) prescription drug coverage;
- (iv) dental coverage; or
- (v) vision coverage;

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

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

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

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

(c) For purposes of this subdivision, an applicant or enrollee who is entitled to Medicare Part A or enrolled in Medicare Part B coverage under title XVIII of the Social Security Act, United States Code, title 42, sections 1395c to 1395w-4 1395w-152, is considered to have health coverage. An applicant or enrollee who is entitled to premium free Medicare Part A may not refuse to apply for or enroll in 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 that was paid for by medical assistance are exempt from is not considered health coverage for purposes of the four-month requirement under this section, except if the insurance continued after medical assistance no longer considered it cost-effective or after medical assistance closed.

Sec. 68. Minnesota Statutes 2004, section 256L.07, is amended by adding a subdivision to read:

Subd. 5. [VOLUNTARY DISENROLLMENT FOR MEMBERS OF MILITARY.] Notwithstanding section 256L.05, subdivision 3b, MinnesotaCare enrollees who are members of the military and their families, who choose to voluntarily disenroll from the program when one or more family members are called to active duty, may reenroll during or following that member's tour of active duty. Those individuals and families shall be considered to have good cause for voluntary termination under section 256L.06, subdivision 3, paragraph (d). Income and asset increases reported at the time of reenrollment shall be disregarded. All provisions of sections 256L.01 to 256L.18, shall apply to individuals and families enrolled under this subdivision upon six-month renewal.

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

Sec. 69. Minnesota Statutes 2004, section 256L.09, subdivision 2, is amended to read:

Subd. 2. [RESIDENCY REQUIREMENT.] ~~(a) To be eligible for health coverage under the MinnesotaCare program, adults without children must be permanent residents of Minnesota.~~

~~(b) To be eligible for health coverage under the MinnesotaCare program, pregnant women, families, and children must meet the residency requirements as provided by Code of Federal Regulations, title 42, section 435.403, except that the provisions of section 256B.056, subdivision 1, shall apply upon receipt of federal approval.~~

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

Sec. 70. Minnesota Statutes 2004, section 256L.11, subdivision 6, is amended to read:

Subd. 6. [ENROLLEES 18 OR OLDER.] ~~Payment by the MinnesotaCare program for inpatient hospital services provided to MinnesotaCare enrollees eligible 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, who are 18 years old or older on the date of admission to the inpatient hospital must be in accordance with paragraphs (a) and (b). Payment for adults who are not pregnant and are eligible under section 256L.04, subdivisions 1 and 2, and whose incomes are equal to or less than 175 percent of the federal poverty guidelines, shall be as provided for under paragraph (c) this subdivision.~~

~~(a) If the medical assistance rate minus any co-payment required under section 256L.03, subdivision 4, is less than or equal to the amount remaining in the enrollee's benefit limit under section 256L.03, subdivision 3, payment must be the medical assistance rate minus any co-payment required under section 256L.03, subdivision 4. The hospital must not seek payment from the enrollee in addition to the co-payment. The MinnesotaCare payment plus the co-payment must be treated as payment in full.~~

~~(b) If the medical assistance rate minus any co-payment required under section 256L.03, subdivision 4, is greater than the amount remaining in the enrollee's benefit limit under section 256L.03, subdivision 3, payment must be the lesser of:~~

~~(1) the amount remaining in the enrollee's benefit limit; or~~

~~(2) charges submitted for the inpatient hospital services less any co-payment established under section 256L.03, subdivision 4.~~

~~The hospital may seek payment from the enrollee for the amount by which usual and customary charges exceed the payment under this paragraph. If payment is reduced under section 256L.03, subdivision 3, paragraph (b), the hospital may not seek payment from the enrollee for the amount of the reduction.~~

~~(c) For admissions occurring during the period of July 1, 1997, through June 30, 1998, for adults who are not pregnant and are eligible under section 256L.04, subdivisions 1 and 2, and whose incomes are equal to or less than 175 percent of the federal poverty guidelines, the commissioner shall pay hospitals directly, up to the medical assistance payment rate, for inpatient hospital benefits in excess of the \$10,000 annual inpatient benefit limit.~~

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

Sec. 71. Minnesota Statutes 2004, section 256L.12, subdivision 6, is amended to read:

Subd. 6. [CO-PAYMENTS AND BENEFIT LIMITS.] Enrollees are responsible for all co-payments in ~~sections~~ section 256L.03, subdivision 5, ~~and 256L.035,~~ and shall pay co-payments to the managed care plan or to its participating providers. The enrollee is also responsible for payment of inpatient hospital charges which exceed the MinnesotaCare benefit limit.

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

Sec. 72. Minnesota Statutes 2004, section 256L.12, is amended by adding a subdivision to read:

Subd. 9b. [RATE SETTING; RATABLE REDUCTION.] In addition to the reduction in subdivision 9a, the total payment made to managed care plans under the MinnesotaCare program is reduced 1.83 percent for services provided on or after January 1, 2006.

Sec. 73. Minnesota Statutes 2004, section 256L.15, subdivision 2, is amended to read:

Subd. 2. [SLIDING FEE SCALE TO DETERMINE PERCENTAGE OF MONTHLY GROSS INDIVIDUAL OR FAMILY INCOME.] (a) The commissioner shall establish a sliding fee scale to determine the percentage of monthly 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 monthly 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 monthly 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 enrollees with income 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 at the time the change in income is reported.~~

(b)(1) Enrolled 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 February 1, 2004, children in families whose gross income is above 275 percent of the federal poverty guidelines shall pay the maximum premium.

(3) 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) After calculating the percentage of premium each enrollee shall pay under paragraph (a), ten percent shall be added to the premium effective July 1, 2005.

**[EFFECTIVE DATE.]** The amendment to paragraph (a) changing gross family or individual income to monthly gross family or individual income is effective March 1, 2006, or upon implementation of HealthMatch, whichever is later. The amendment to paragraph (a) related to premium adjustments and changes of income is effective July 1, 2005. Prior to the implementation of HealthMatch, the commissioner shall implement this section to the fullest extent possible, including the use of manual processing. Upon implementation of HealthMatch, the commissioner shall implement this section in a manner consistent with the procedures and requirements of HealthMatch.

Sec. 74. Minnesota Statutes 2004, 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 below 150 percent of the federal poverty guidelines pay a monthly premium of \$5.

**[EFFECTIVE DATE.]** This section is effective March 1, 2006, or upon implementation of HealthMatch, whichever is later.

Sec. 75. [501B.895] **[PUBLIC HEALTH CARE PROGRAMS AND CERTAIN TRUSTS.]**

(a) It is the public policy of this state that individuals use all available resources to pay for the cost of long-term care services, as defined in section 256B.0595, before turning to Minnesota health care program funds, and that trust instruments should not be permitted to shield available resources of an individual or an individual's spouse from such use. Any irrevocable inter-vivos trust or any legal instrument, device, or arrangement similar to an irrevocable inter-vivos trust created on or after July 1, 2005, containing assets or income of an individual or an individual's spouse, including those created by a person, court, or administrative body with legal authority to act in place of, at the direction of, upon the request of, or on behalf of the individual or individual's spouse, becomes revocable by operation of law for the sole purpose of a state or local human services agency determination on an application by the individual or the individual's spouse for payment of long-term care services through a Minnesota public health care program pursuant to chapter 256B. For purposes of this section, any inter-vivos trust and any legal instrument, device, or arrangement similar to an inter-vivos trust:

(1) shall be deemed to be located in and subject to the laws of this state; and

(2) is created as of the date it is fully executed by or on behalf of all of the settlors or others.

(b) For purposes of this section, a legal instrument, device, or arrangement similar to an irrevocable inter-vivos trust means any instrument, device, or arrangement which involves a grantor who transfers or whose property is transferred by another including, but not limited to, any court, administrative body, or anyone else with authority to act on their behalf or at their direction, to an individual or entity with fiduciary, contractual, or legal obligations to the grantor or others to be held, managed, or administered by the individual or entity for the benefit of the grantor or others. These legal instruments, devices, or other arrangements are irrevocable inter-vivos trusts for purposes of this section.

(c) In the event of a conflict between this section and the provisions of an irrevocable trust created on or after July 1, 2005, this section shall control.

(d) This section does not apply to trusts that qualify as supplemental needs trusts under section 501B.89 or to trusts meeting the criteria of United States Code, title 42, section 1396p (d)(4)(a) and (c) for purposes of eligibility for medical assistance.

(e) This section applies to all trusts first created on or after July 1, 2005, and to all interests in real or personal property regardless of the date on which the interest was created, reserved, or acquired.

Sec. 76. Minnesota Statutes 2004, section 514.981, subdivision 6, is amended to read:

Subd. 6. [TIME LIMITS; CLAIM LIMITS; LIENS ON LIFE ESTATES AND JOINT TENANCIES.] (a) A medical assistance lien is a lien on the real property it describes for a period of ten years from the date it attaches according to section 514.981, subdivision 2, paragraph (a), except as otherwise provided for in sections 514.980 to 514.985. The agency may renew a medical assistance lien for an additional ten years from the date it would otherwise expire by recording or filing a certificate of renewal before the lien expires. The certificate shall be recorded or filed in the office of the county recorder or registrar of titles for the county in which the lien is recorded or filed. The certificate must refer to the recording or filing data for the medical assistance lien it renews. The certificate need not be attested, certified, or acknowledged as a condition for recording or filing. The registrar of titles or the recorder shall file, record, index, and return the certificate of renewal in the same manner as provided for medical assistance liens in section 514.982, subdivision 2.

(b) A medical assistance lien is not enforceable against the real property of an estate to the extent there is a determination by a court of competent jurisdiction, or by an officer of the court designated for that purpose, that there are insufficient assets in the estate to satisfy the agency's medical assistance lien in whole or in part because of the homestead exemption under section 256B.15, subdivision 4, the rights of the surviving spouse or minor children under section 524.2-403, paragraphs (a) and (b), or claims with a priority under section 524.3-805, paragraph (a), clauses (1) to (4). For purposes of this section, the rights of the decedent's adult children to exempt property under section 524.2-403, paragraph (b), shall not be considered costs of administration under section 524.3-805, paragraph (a), clause (1).

(c) Notwithstanding any law or rule to the contrary, the provisions in clauses (1) to (7) apply if a life estate subject to a medical assistance lien ends according to its terms, or if a medical assistance recipient who owns a life estate or any interest in real property as a joint tenant that is subject to a medical assistance lien dies.

(1) The medical assistance recipient's life estate or joint tenancy interest in the real property shall not end upon the recipient's death but shall merge into the remainder interest or other interest in real property the medical assistance recipient owned in joint tenancy with others. The medical assistance lien shall attach to and run with the remainder or other interest in the real property to the extent of the medical assistance recipient's interest in the property at the time of the recipient's death as determined under this section.

(2) If the medical assistance recipient's interest was a life estate in real property, the lien shall be a lien against the portion of the remainder equal to the percentage factor for the life estate of a person the medical assistance recipient's age on the date the life estate ended according to its terms or the date of the medical assistance recipient's death as listed in the Life Estate Mortality Table in the health care program's manual.

(3) If the medical assistance recipient owned the interest in real property in joint tenancy with others, the lien shall be a lien against the portion of that interest equal to the fractional interest the medical assistance recipient would have owned in the jointly owned interest had the medical assistance recipient and the other owners held title to that interest as tenants in common on the date the medical assistance recipient died.

(4) The medical assistance lien shall remain a lien against the remainder or other jointly owned interest for the length of time and be renewable as provided in paragraph (a).

(5) Subdivision 5, paragraph (a), clause (4), paragraph (b), clauses (1) and (2); and subdivision 6, paragraph (b), do not apply to medical assistance liens which attach to interests in real property as provided under this subdivision.



(6) The continuation of a medical assistance recipient's life estate or joint tenancy interest in real property after the medical assistance recipient's death for the purpose of recovering medical assistance provided for in sections 514.980 to 514.985 modifies common law principles holding that these interests terminate on the death of the holder.

(7) Notwithstanding any law or rule to the contrary, no release, satisfaction, discharge, or affidavit under section 256B.15 shall extinguish or terminate the life estate or joint tenancy interest of a medical assistance recipient subject to a lien under sections 514.980 to 514.985 on the date the recipient dies.

(8) The provisions of clauses (1) to (7) do not apply to a homestead owned of record, on the date the recipient dies, by the recipient and the recipient's spouse as joint tenants with a right of survivorship. Homestead means the real property occupied by the surviving joint tenant spouse as their sole residence on the date the recipient dies and classified and taxed to the recipient and surviving joint tenant spouse as homestead property for property tax purposes in the calendar year in which the recipient dies. For purposes of this exemption, real property the recipient and their surviving joint tenant spouse purchase solely with the proceeds from the sale of their prior homestead, own of record as joint tenants, and qualify as homestead property under section 273.124 in the calendar year in which the recipient dies and prior to the recipient's death shall be deemed to be real property classified and taxed to the recipient and their surviving joint tenant spouse as homestead property in the calendar year in which the recipient dies. The surviving spouse, or any person with personal knowledge of the facts, may provide an affidavit describing the homestead property affected by this clause and stating facts showing compliance with this clause. The affidavit shall be prima facie evidence of the facts it states. All provisions in this paragraph related to the continuation of a recipient's life estate or joint tenancy interests in real property after the recipient's death, for the purpose of recovering medical assistance, are effective only for life estates and joint tenancy interests established on or after August 1, 2003.

**[EFFECTIVE DATE.]** This section is effective retroactively from August 1, 2003.

Sec. 77. Laws 2003, First Special Session chapter 14, article 12, section 93, is amended to read:

Sec. 93. ~~[REVIEW OF SPECIAL TRANSPORTATION ELIGIBILITY CRITERIA AND POTENTIAL COST SAVINGS USE OF A BROKER TO MANAGE SPECIAL TRANSPORTATION SERVICES.]~~

~~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;~~
- ~~(3) restricting special transportation service from being provided solely for trips to pharmacies;~~
- ~~(4) modifying eligibility for special transportation;~~
- ~~(5) expanding alternatives to the use of special transportation services;~~
- ~~(6) improving the process of certifying persons as eligible for special transportation services; and~~

~~(7) examining the feasibility and benefits of licensing special transportation providers.~~

~~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 for fee-for-service enrollees residing in a nursing home licensed under Minnesota Statutes, chapter 144A, until July 1, 2006, and for all other fee-for-service enrollees until July 1, 2005, except for the purposes of checking for recipient eligibility, authorizing recipients for appropriate level of transportation, and monitoring provider compliance with Minnesota Statutes, section 256B.0625, subdivision 17. This prohibition does not apply to the purchase or management of common carrier transportation.~~

Sec. 78. [ADVISORY COMMITTEE ON NONEMERGENCY TRANSPORTATION SERVICES.]

The commissioner of human services shall establish a seven-member advisory committee on medical assistance nonemergency transportation services. The committee shall consist of: a representative of the commissioner of human services, who shall serve as chair; two special transportation service providers, appointed by the trade associations representing special transportation service providers; one representative of nursing facilities; one representative of the disability community; and one house and one senate member, appointed respectively by the chairs of the house and senate committees with jurisdiction over medical assistance funding. The advisory committee shall monitor and evaluate the provision of medical assistance nonemergency medical transportation services, and present recommendations for any necessary changes to the commissioner.

Sec. 79. [PLANNING PROCESS FOR MANAGED CARE.]

The commissioner of human services shall develop a planning process for the purposes of implementing at least one additional managed care arrangement to provide medical assistance services, excluding continuing care services, to recipients enrolled in the medical assistance fee-for-service program, effective January 1, 2007. This planning process shall include an advisory committee composed of current fee-for-service consumers, consumer advocates, and providers, as well as representatives of health plans and other provider organizations qualified to provide basic health care services to persons with disabilities. The department shall seek any additional federal authority necessary to provide basic health care services through contracted managed care arrangements.

Sec. 80. [FEDERAL APPROVAL RELATED TO MEDICAL ASSISTANCE INCOME LIMIT FOR PREGNANT WOMEN AND SPECIAL WORK EXPENSE DEDUCTION.]

The commissioner of human services, by July 1, 2005, shall apply for any federal waivers and approvals necessary to retain the medical assistance income limit for pregnant women at 200 percent of the federal poverty guidelines, and to not apply the special work expense deductions for infants and pregnant women. The commissioner shall update the chairs and ranking minority members of the house and senate committees with jurisdiction over the medical assistance program of the status of the request for federal waivers and approvals.

Sec. 81. [FEDERAL APPROVAL.]

(a) The commissioner of human services shall seek federal waivers and approvals necessary to allow the commissioner to charge medical assistance recipients sliding scale premiums, based on the sliding scale used for the MinnesotaCare program under Minnesota Statutes, section 256L.15.

(b) The commissioner of human services shall seek federal approval to fully implement the amendments to Minnesota Statutes, section 256L.01, subdivision 5.

## Sec. 82. [HEALTH CARE FINANCING REPORT.]

The commissioner of human services shall develop recommendations on simplifying publicly funded health care program financing. The commissioner shall report the recommendations to the chairs of the house and senate committees with jurisdiction over health care financing during the 2007 legislative session.

## Sec. 83. [GENERAL PROVISIONS GOVERNING CHANGE IN EFFECTIVE DATE FOR LIFE ESTATE AND JOINT TENANCY INTEREST PROVISIONS.]

Subdivision 1. [ESTABLISHMENT OF LIFE ESTATE OR JOINT TENANCY INTEREST.] For purposes of the amendments to Minnesota Statutes, sections 256B.15, subdivision 1, and 514.981, subdivision 6, a life estate or joint tenancy interest is established upon the earlier of:

(1) the date the instrument creating the interest is recorded or filed in the office of the county recorder or registrar of titles where the real estate interest it describes is located;

(2) the date of delivery by the grantor to the grantee of the signed instrument as stated in an affidavit made by a person with knowledge of the facts;

(3) the date on which the judicial order creating the interest was issued by the court; or

(4) the date upon which the interest devolves under Minnesota Statutes, section 524.3-101.

Subd. 2. [MEDICAL ASSISTANCE.] For purposes of the amendments to Minnesota Statutes, sections 256B.15, subdivision 1, and 514.981, subdivision 6, the term medical assistance means medical assistance as defined in Minnesota Statutes 2004, section 256B.15, subdivision 1.

Subd. 3. [LIEN NOTICES.] Medical assistance liens and liens under notices of potential claims that are of record against life estate or joint tenancy interests established prior to August 1, 2003, shall end and become unenforceable upon the death of the person named in the lien, or a notice of potential claim shall be disregarded by examiners of title after the death of the life tenant or joint tenant, and shall not be carried forward to a subsequent certificate of title. This subdivision shall not apply to life estates that continue to exist after the death of the person named in the lien or notice of potential claim under the terms of the instrument creating or reserving the life estate until the life estate ends as provided for in the instrument.

**[EFFECTIVE DATE.]** This section is effective retroactively from August 1, 2003.

## Sec. 84. [COMMISSIONER'S DUTIES RELATED TO CHANGE IN EFFECTIVE DATE FOR LIFE ESTATE AND JOINT TENANCY INTEREST PROVISIONS.]

(a) The commissioner of human services or a county agency that has recovered medical assistance or alternative care payments for recipients after they die from their life estates or jointly owned interests in real property that were established prior to August 1, 2003, and that were continued in existence or merged into another interest in real property after their death due solely to the provisions of section 256B.15 or 514.981, subdivision 6, paragraph (c), as those provisions existed prior to the amendments in this act, shall refund those recoveries, without interest. The refunds shall be paid to the surviving record owners of the real property in which the recipient had a life estate or a jointly owned interest on the date of the recipient's death in proportion to their record interests on that date. The commissioner and a county agency are not required to refund any other recoveries attributable to any other interests or assets of the deceased recipient.

(b) If the commissioner of human services or a county agency determines a person entitled to any refund under this act is dead, they may pay the refund due that person to their estate if it is still open. If the person's estate is closed or if a court has entered a decree of distribution for that person under section 525.312 that is a final decree, the commissioner or the county agency may, in their absolute discretion, pay the person's refund to their heirs or devisees as finally determined in any completed probate or under any final decree of distribution. In all other cases including, but not limited to, those in which the commissioner or a county agency determines they cannot identify or locate a person entitled to a refund under this section, they may, at their discretion, declare such person's refund to be abandoned property and pay and deliver it to the commissioner of commerce. The commissioner of commerce shall administer and dispose of the refunds according to sections 345.31 to 345.60. Neither the commissioner of human services, the Department of Human Services, a county agency, or the employees of the department or agency, shall be liable to anyone with respect to the refund after paying or delivering the refund as provided for in this section.

**[EFFECTIVE DATE.]** This section is effective retroactively from August 1, 2003.

Sec. 85. [IMMUNITY.]

The commissioner of human services, county agencies, and elected officials and their employees are immune from all liability for any action taken implementing Laws 2003, First Special Session chapter 14, article 12, sections 40 to 52 and 90, as those laws existed at the time the action was taken, and sections 1 to 4 of this act.

**[EFFECTIVE DATE.]** This section is effective retroactively from August 1, 2003.

Sec. 86. [REPEALER.]

(a) Minnesota Statutes 2004, sections 256L.035; 256L.04, subdivision 7; and 256L.09, subdivisions 1, 4, 5, 6, and 7, are repealed effective October 1, 2005.

(b) Minnesota Statutes 2004, section 256.955, is repealed effective January 1, 2006.

(c) Minnesota Statutes 2004, sections 256B.075, subdivision 5, and 295.581, are repealed the day following final enactment.

(d) Minnesota Statutes 2004, section 256L.04, subdivision 11, MinnesotaCare outreach grants, is repealed effective July 1, 2005.

#### ARTICLE 4

##### NURSING FACILITY REIMBURSEMENT SYSTEM AND OTHER PROVISIONS

Section 1. Minnesota Statutes 2004, 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.

(jj)(1) A facility in Columbia Heights with 122 beds on January 1, 2005, may remove from layaway status up to 35 of 98 beds placed in layaway status in paragraph (ii), and relicense and recertify these beds in stages in a newly constructed nursing facility in Ramsey located on a long-term care campus that provides a continuum of housing and health care options and services, ranging from independent living to skilled nursing services. The beds may be relicensed and recertified in two stages.

(2) A facility in Anoka with 57 beds on January 1, 2005, may remove from layaway status an additional 33 of the 98 beds placed in layaway status in paragraph (ii) and relicense and recertify these beds in a newly constructed nursing facility located in Anoka County, north of State Highway 242 and at a site not closer than five miles from any other licensed and certified nursing facility, along with up to 57 beds that may be relocated from the facility in Anoka.

(3) Notwithstanding the five-year duration after which beds may no longer remain in layaway and still be placed in active service, as specified in subdivision 4b, the beds must be relicensed and recertified prior to June 30, 2009.

(4) For the facility in clause (1), the total payment rates shall be equal to those of the 122-bed facility in Columbia Heights. For the facility in clause (2), the total payment rates shall be equal to those of the 57-bed facility in Anoka.

(5) The facilities in clauses (1) and (2) may annually certify to the commissioner of human services, on a form and in a manner specified by the commissioner, beginning no later than one year after they are licensed and certified, that they are discharging eight or more individuals per year for each newly licensed bed. If, in the certification, the facility reports that they are discharging fewer than eight individuals per year for each newly licensed bed, the commissioner shall reduce the facility's payment rates under medical assistance by three percent for each one discharge per year for each newly licensed bed, or portion thereof, less than eight, times the portion of the facility's licensed and certified beds that are newly licensed and certified. If the facility fails to provide this annual certification, the commissioner shall assume two discharges per year for each newly licensed bed and reduce the facility's payment rates under medical assistance by three percent for each one discharge per year for each newly licensed bed, less than eight.

Sec. 2. Minnesota Statutes 2004, section 144A.073, is amended by adding a subdivision to read:

Subd. 10a. [EXTENSION OF APPROVAL FOR A FACILITY IN OTTER TAIL COUNTY.] Notwithstanding subdivisions 3 and 10, the commissioner of health shall extend project approval for an additional 24 months for an exception to the nursing home licensure and certification moratorium proposed by a nursing facility in Otter Tail County and originally approved by the commissioner on December 20, 2002.

Sec. 3. Minnesota Statutes 2004, section 256B.431, subdivision 28, is amended to read:

Subd. 28. [NURSING FACILITY RATE INCREASES BEGINNING JULY 1, 1999, AND JULY 1, 2000.] (a) For the rate years beginning July 1, 1999, and July 1, 2000, the commissioner shall make available to each nursing facility reimbursed under this section or section 256B.434 an adjustment to the total operating payment rate. For nursing facilities reimbursed under this section or section 256B.434, the July 1, 2000, operating payment rate increases provided in this subdivision shall be applied to each facility's June 30, 2000, operating payment rate. For each facility, total operating costs shall be separated into costs that are compensation related and all other costs. Compensation-related costs include salaries, payroll taxes, and fringe benefits for all employees except management fees, the administrator, and central office staff.

(b) For the rate year beginning July 1, 1999, the commissioner shall make available a rate increase for compensation-related costs of 4.843 percent and a rate increase for all other operating costs of 3.446 percent.

(c) For the rate year beginning July 1, 2000, the commissioner shall make available:

(1) a rate increase for compensation-related costs of 3.632 percent;

(2) an additional rate increase for each case mix payment rate which must be used to increase the per-hour pay rate of all employees except management fees, the administrator, and central office staff by an equal dollar amount and to pay associated costs for FICA, the Medicare tax, workers' compensation premiums, and federal and state unemployment insurance, to be calculated according to clauses (i) to (iii):

(i) the commissioner shall calculate the arithmetic mean of the 11 June 30, 2000, operating rates for each facility;

(ii) the commissioner shall construct an array of nursing facilities from highest to lowest, according to the arithmetic mean calculated in clause (i). A numerical rank shall be assigned to each facility in the array. The facility with the highest mean shall be assigned a numerical rank of one. The facility with the lowest mean shall be assigned a numerical rank equal to the total number of nursing facilities in the array. All other facilities shall be assigned a numerical rank in accordance with their position in the array;

(iii) the amount of the additional rate increase shall be \$1 plus an amount equal to \$3.13 multiplied by the ratio of the facility's numeric rank divided by the number of facilities in the array; and

(3) a rate increase for all other operating costs of 2.585 percent.

Money received by a facility as a result of the additional rate increase provided under clause (2) shall be used only for wage increases implemented on or after July 1, 2000, and shall not be used for wage increases implemented prior to that date.

(d) The payment rate adjustment for each nursing facility must be determined under clause (1) or (2):

(1) for each nursing facility that reports salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the commissioner shall determine the payment rate adjustment using the categories specified in paragraph (a) multiplied by the rate increases specified in paragraph (b) or (c), and then dividing the resulting amount by the nursing facility's actual resident days. In determining the amount of a payment rate adjustment for a nursing facility reimbursed under section 256B.434, the commissioner shall determine the proportions of the facility's rates that are compensation-related costs and all other operating costs based on the facility's most recent cost report; and

(2) for each nursing facility that does not report salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the payment rate adjustment shall be computed using the facility's total operating costs, separated into the categories specified in paragraph (a) in proportion to the weighted average of all facilities determined under clause (1), multiplied by the rate increases specified in paragraph (b) or (c), and then dividing the resulting amount by the nursing facility's actual resident days.

(e) A nursing facility may apply for the compensation-related payment rate adjustment calculated under this subdivision. The application must be made to the commissioner and contain a plan by which the nursing facility will distribute the compensation-related portion of the payment rate adjustment to employees of the nursing facility. For nursing facilities in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan. For the second rate year, a negotiated agreement constitutes the plan only if the agreement is finalized after the date of enactment of all rate increases for the second rate year. The commissioner shall review the plan to ensure that the

payment rate adjustment per diem is used as provided in paragraphs (a) to (c). To be eligible, a facility must submit its plan for the compensation distribution by December 31 each year. A facility may amend its plan for the second rate year by submitting a revised plan by December 31, 2000. If a facility's plan for compensation distribution is effective for its employees after July 1 of the year that the funds are available, the payment rate adjustment per diem shall be effective the same date as its plan.

(f) A copy of the approved distribution plan must be made available to all employees. This must be done by giving each employee a copy or by posting it in an area of the nursing facility to which all employees have access. If an employee does not receive the compensation adjustment described in their facility's approved plan and is unable to resolve the problem with the facility's management or through the employee's union representative, the employee may contact the commissioner at an address or phone number provided by the commissioner and included in the approved plan.

(g) If the reimbursement system under section 256B.435 is not implemented until July 1, 2001, the salary adjustment per diem authorized in subdivision 2i, paragraph (c), shall continue until June 30, 2001.

(h) For the rate year beginning July 1, 1999, the following nursing facilities shall be allowed a rate increase equal to 67 percent of the rate increase that would be allowed if subdivision 26, paragraph (a), was not applied:

- (1) a nursing facility in Carver County licensed for 33 nursing home beds and four boarding care beds;
- (2) a nursing facility in Faribault County licensed for 159 nursing home beds on September 30, 1998; and
- (3) a nursing facility in Houston County licensed for 68 nursing home beds on September 30, 1998.

(i) For the rate year beginning July 1, 1999, the following nursing facilities shall be allowed a rate increase equal to 67 percent of the rate increase that would be allowed if subdivision 26, paragraphs (a) and (b), were not applied:

- (1) a nursing facility in Chisago County licensed for 135 nursing home beds on September 30, 1998; and
- (2) a nursing facility in Murray County licensed for 62 nursing home beds on September 30, 1998.

(j) For the rate year beginning July 1, 1999, a nursing facility in Hennepin County licensed for 134 beds on September 30, 1998, shall:

- (1) have the prior year's allowable care-related per diem increased by \$3.93 and the prior year's other operating cost per diem increased by \$1.69 before adding the inflation in subdivision 26, paragraph (d), clause (2); and
- (2) be allowed a rate increase equal to 67 percent of the rate increase that would be allowed if subdivision 26, paragraphs (a) and (b), were not applied.

The increases provided in paragraphs (h), (i), and (j) shall be included in the facility's total payment rates for the purposes of determining future rates under this section ~~or any other section~~.

(k) For the rate years beginning on or after July 1, 2000, a nursing home facility in Goodhue County that was licensed for 104 beds on February 1, 2000, shall have its employee pension benefit costs reported on its Rule 50 cost report treated as PERA contributions for the purpose of computing its payment rates.

Sec. 4. Minnesota Statutes 2004, section 256B.431, subdivision 29, is amended to read:

Subd. 29. [FACILITY RATE INCREASES EFFECTIVE JULY 1, 2000.] Following the determination under subdivision 28 of the payment rate for the rate year beginning July 1, 2000, for a facility in Roseau County licensed for 49 beds, the facility's operating cost per diem shall be increased by the following amounts:

- (1) case mix class A, \$1.97;
- (2) case mix class B, \$2.11;
- (3) case mix class C, \$2.26;
- (4) case mix class D, \$2.39;
- (5) case mix class E, \$2.54;
- (6) case mix class F, \$2.55;
- (7) case mix class G, \$2.66;
- (8) case mix class H, \$2.90;
- (9) case mix class I, \$2.97;
- (10) case mix class J, \$3.10; and
- (11) case mix class K, \$3.36.

These increases shall be included in the facility's total payment rates for the purpose of determining future rates under this section ~~or any other section~~.

Sec. 5. Minnesota Statutes 2004, section 256B.431, subdivision 35, is amended to read:

Subd. 35. [EXCLUSION OF RAW FOOD COST ADJUSTMENT.] For rate years beginning on or after July 1, 2001, in calculating a nursing facility's operating cost per diem for the purposes of constructing an array, determining a median, or otherwise performing a statistical measure of nursing facility payment rates to be used to determine future rate increases under this section, section 256B.434, or any other section, the commissioner shall exclude adjustments for raw food costs under subdivision 2b, paragraph (h), that are related to providing special diets based on religious beliefs. For rates determined under section 256B.441, the amount determined under subdivision 2b, paragraph (h), shall not be included in the support services per diem cost determined in section 256B.441, subdivision 45, and shall be added to the external fixed cost costs payment rate determined in section 256B.441, subdivision 52, paragraph (i).

Sec. 6. Minnesota Statutes 2004, section 256B.431, is amended by adding a subdivision to read:

Subd. 41. [NURSING FACILITY RATE INCREASES BEGINNING OCTOBER 1, 2005, AND OCTOBER 1, 2006.] (a) For the rate years beginning October 1, 2005, and October 1, 2006, the commissioner shall provide nursing facilities reimbursed under this section or section 256B.434 and for rates determined under section 256B.441 with an adjustment to the total operating payment rate of two percent. At least two-thirds of each year's adjustment must be used for increased costs of employee salaries and benefits and associated costs for FICA, the Medicare tax, workers' compensation premiums, and federal and state unemployment insurance. Each facility receiving an adjustment shall report to the commissioner, in the form and manner specified by the commissioner, on how the additional funding was used.

(b) Costs for salary and employee benefits increases incurred by nursing facilities since July 1, 2003, can be counted towards the amount required to be spent on salaries and benefits under paragraph (a). These costs should be reported in the form and manner specified by the commissioner along with the information required under paragraph (a).

Sec. 7. Minnesota Statutes 2004, section 256B.431, is amended by adding a subdivision to read:

Subd. 42. [RATE INCREASE FOR FACILITIES IN STEARNS, SHERBURNE, AND BENTON COUNTIES.] Effective October 1, 2005, before determining any other rate adjustment effective on that date, operating payment rates of nursing facilities in Stearns County, Sherburne County, and Benton County, reimbursed under this section or section 256B.434, shall be increased to be equal, for a RUGs rate with a weight of 1.00, to the 30th percentile of the geographic group III rate for the same RUGs weight. The percentage of the operating payment rate for each facility to be case-mix adjusted shall be equal to the percentage that is case-mix adjusted in that facility's September 30, 2005, operating payment rate. This subdivision shall apply only if it results in a rate increase. Increases provided by this subdivision shall be added to the rate determined under any new reimbursement system established under section 256B.440.

Sec. 8. Minnesota Statutes 2004, section 256B.432, subdivision 1, is amended to read:

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

(a) "Management agreement" means an agreement in which one or more of the following criteria exist:

(1) the central, affiliated, or corporate office has or is authorized to assume day-to-day operational control of the nursing facility for any six-month period within a 24-month period. "Day-to-day operational control" means that the central, affiliated, or corporate office has the authority to require, mandate, direct, or compel the employees of the nursing facility to perform or refrain from performing certain acts, or to supplant or take the place of the top management of the nursing facility. "Day-to-day operational control" includes the authority to hire or terminate employees or to provide an employee of the central, affiliated, or corporate office to serve as administrator of the nursing facility;

(2) the central, affiliated, or corporate office performs or is authorized to perform two or more of the following: the execution of contracts; authorization of purchase orders; signature authority for checks, notes, or other financial instruments; requiring the nursing facility to use the group or volume purchasing services of the central, affiliated, or corporate office; or the authority to make annual capital expenditures for the nursing facility exceeding \$50,000, or \$500 per licensed bed, whichever is less, without first securing the approval of the nursing facility board of directors;

(3) the central, affiliated, or corporate office becomes or is required to become the licensee under applicable state law;

(4) the agreement provides that the compensation for services provided under the agreement is directly related to any profits made by the nursing facility; or

(5) the nursing facility entering into the agreement is governed by a governing body that meets fewer than four times a year, that does not publish notice of its meetings, or that does not keep formal records of its proceedings.

(b) "Consulting agreement" means any agreement the purpose of which is for a central, affiliated, or corporate office to advise, counsel, recommend, or suggest to the owner or operator of the nonrelated nursing facility measures and methods for improving the operations of the nursing facility.

(c) "Nursing facility" means a ~~nursing facility whose medical assistance rates are determined according to section 256B.431 with a medical assistance provider agreement that is licensed as a nursing home under chapter 144A or as a boarding care home under sections 144.50 to 144.56.~~

Sec. 9. Minnesota Statutes 2004, section 256B.432, subdivision 2, is amended to read:

Subd. 2. [EFFECTIVE DATE.] For rate years beginning on or after July 1, 1990, the central, affiliated, or corporate office cost allocations in subdivisions 3 to 6 must be used when determining medical assistance rates under section 256B.431, 256B.434, or 256B.441.

Sec. 10. Minnesota Statutes 2004, section 256B.432, is amended by adding a subdivision to read:

Subd. 4a. [ALLOCATION; COSTS ALLOCABLE ON A FUNCTIONAL BASIS.] (a) Costs that have not been directly identified must be allocated to nursing facilities on a basis designed to equitably allocate the costs to the nursing facilities or activities receiving the benefits of the costs. This allocation must be made in a manner reasonably related to the services received by the nursing facilities. Where practical and the amounts are material, these costs must be allocated on a functional basis. The functions, or cost centers used to allocate central office costs, and the unit bases used to allocate the costs, including those central office costs allocated according to subdivision 5, must be used consistently from one central office accounting period to another.

(b) If the central office wishes to change its allocation bases and believes the change will result in more appropriate and more accurate allocations, the central office must make a written request, with its justification, to the commissioner for approval of the change no later than 120 days after the beginning of the central office accounting period to which the change is to apply. The commissioner's approval of a central office request will be furnished to the central office in writing. Where the commissioner approves the central office request, the change must be applied to the accounting period for which the request was made, and to all subsequent central office accounting periods unless the commissioner approves a subsequent request for change by the central office. The effective date of the change will be the beginning of the accounting period for which the request was made.

Sec. 11. Minnesota Statutes 2004, section 256B.432, subdivision 5, is amended to read:

Subd. 5. [ALLOCATION OF REMAINING COSTS; ALLOCATION RATIO.] (a) After the costs that can be directly identified according to subdivisions 3 and 4 have been allocated, the remaining central, affiliated, or corporate office costs must be allocated between the nursing facility operations and the other activities or facilities unrelated to the nursing facility operations based on the ratio of total operating costs. However, in the event that these remaining costs are partially attributable to the start-up of home and community-based services intended to fill a gap identified by the local agency, the facility may assign these remaining costs to the appropriate cost category of the facility for a period not to exceed two years.

(b) For purposes of allocating these remaining central, affiliated, or corporate office costs, the numerator for the allocation ratio shall be determined as follows:

(1) for nursing facilities that are related organizations or are controlled by a central, affiliated, or corporate office under a management agreement, the numerator of the allocation ratio shall be equal to the sum of the total operating costs incurred by each related organization or controlled nursing facility;

(2) for a central, affiliated, or corporate office providing goods or services to related organizations that are not nursing facilities, the numerator of the allocation ratio shall be equal to the sum of the total operating costs incurred by the nonnursing facility related organizations;

(3) for a central, affiliated, or corporate office providing goods or services to unrelated nursing facilities under a consulting agreement, the numerator of the allocation ratio shall be equal to the greater of directly identified central, affiliated, or corporate costs or the contracted amount; or

(4) for business activities that involve the providing of goods or services to unrelated parties which are not nursing facilities, the numerator of the allocation ratio shall be equal to the greater of directly identified costs or revenues generated by the activity or function.

(c) The denominator for the allocation ratio is the sum of the numerators in paragraph (b), clauses (1) to (4).

Sec. 12. Minnesota Statutes 2004, section 256B.432, is amended by adding a subdivision to read:

Subd. 6a. [RELATED ORGANIZATION COSTS.] (a) Costs applicable to services, capital assets, and supplies directly or indirectly furnished to the nursing facility by any related organization are includable in the allowable cost of the nursing facility at the purchase price paid by the related organization for capital assets or supplies and at the cost incurred by the related organization for the provision of services to the nursing facility if these prices or costs do not exceed the price of comparable services, capital assets, or supplies that could be purchased elsewhere. For this purpose, the related organization's costs must not include an amount for markup or profit.

(b) If the related organization in the normal course of business sells services, capital assets, or supplies to nonrelated organizations, the cost to the nursing facility shall be the nonrelated organization's price provided that sales to nonrelated organizations constitute at least 50 percent of total annual sales of similar services, capital assets, or supplies.

Sec. 13. Minnesota Statutes 2004, section 256B.434, subdivision 3, is amended to read:

Subd. 3. [DURATION AND TERMINATION OF CONTRACTS.] (a) Subject to available resources, the commissioner may begin to execute contracts with nursing facilities November 1, 1995.

(b) All contracts entered into under this section are for a term ~~of one year~~ not to exceed four years. Either party may terminate a contract at any time without cause by providing 90 calendar days advance written notice to the other party. The decision to terminate a contract is not appealable. Notwithstanding section 16C.05, subdivision 2, paragraph (a), clause (5), the contract shall be renegotiated for additional ~~one-year~~ four-year terms, unless either party provides written notice of termination. The provisions of the contract shall be renegotiated ~~annually~~ at a minimum of every four years 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.

(c) 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, the contract payment remains in effect for the remainder of the rate year in which the contract was terminated, but in all other respects the provisions of this section do not apply to that facility effective the date the contract is terminated. The contract shall contain a provision governing the transition back to the cost-based reimbursement system established under section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080. A contract entered into under this section may be amended by mutual agreement of the parties.

Sec. 14. Minnesota Statutes 2004, section 256B.434, subdivision 4, is amended to read:

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



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

(c) A nursing facility's case mix payment rates for the second and subsequent years of a facility's contract under this section are the previous rate year's contract payment rates plus an inflation adjustment and, for facilities reimbursed under this section or section 256B.431, an adjustment to include the cost of any increase in Health Department licensing fees for the facility taking effect on or after July 1, 2001. The index for the inflation adjustment must be based on the change in the Consumer Price Index-All Items (United States City average) (CPI-U) forecasted by the commissioner of finance's national economic consultant, as forecasted in the fourth quarter of the calendar year preceding the rate year. The inflation adjustment must be based on the 12-month period from the midpoint of the previous rate year to the midpoint of the rate year for which the rate is being determined. For the rate years beginning on July 1, 1999, July 1, 2000, July 1, 2001, July 1, 2002, July 1, 2003, ~~and July 1, 2004,~~ July 1, 2005, July 1, 2006, July 1, 2007, July 1, 2008, and July 1, 2009, 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. Beginning in 2005, adjustment to the property payment rate under this section and section 256B.431 shall be effective on October 1. 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. 15. Minnesota Statutes 2004, section 256B.434, subdivision 4a, is amended to read:

Subd. 4a. [FACILITY RATE INCREASES.] For the rate year beginning July 1, 1999, the nursing facilities described in clauses (1) to (5) shall receive the rate increases indicated. The increases provided under this subdivision shall be included in the facility's total payment rates for the purpose of determining future rates under this section ~~or any other section~~:

(1) a nursing facility in Becker County licensed for 102 nursing home beds on September 30, 1998, shall receive an increase of \$1.30 in its case mix class A payment rate; an increase of \$1.33 in its case mix class B payment rate; an increase of \$1.36 in its case mix class C payment rate; an increase of \$1.39 in its case mix class D payment rate; an increase of \$1.42 in its case mix class E payment rate; an increase of \$1.42 in its case mix class F payment rate; an increase of \$1.45 in its case mix class G payment rate; an increase of \$1.49 in its case mix class H payment rate; an increase of \$1.51 in its case mix class I payment rate; an increase of \$1.54 in its case mix class J payment rate; and an increase of \$1.59 in its case mix class K payment rate;

(2) a nursing facility in Chisago County licensed for 101 nursing home beds on September 30, 1998, shall receive an increase of \$3.67 in each case mix payment rate;

(3) a nursing facility in Canby, licensed for 75 beds shall have its property-related per diem rate increased by \$1.21. This increase shall be recognized in the facility's contract payment rate under this section;

(4) a nursing facility in Golden Valley with all its beds licensed to provide residential rehabilitative services to young adults under Minnesota Rules, parts 9570.2000 to 9570.3400, shall have the payment rate computed according to this section increased by \$14.83; and

(5) a county-owned 130-bed nursing facility in Park Rapids shall have its per diem contract payment rate increased by \$1.02 for costs related to compliance with comparable worth requirements.

Sec. 16. Minnesota Statutes 2004, section 256B.434, subdivision 4b, is amended to read:

Subd. 4b. [FACILITY RATE INCREASES EFFECTIVE JULY 1, 2000.] For the rate year beginning July 1, 2000, the nursing facilities described in clauses (1) to (6) shall receive the rate increases indicated. The increases under this subdivision shall be added following the determination under section 256B.431, subdivision 28, of the payment rate for the rate year beginning July 1, 2000, and shall be included in the facility's total payment rates for the purposes of determining future rates under this section ~~or any other section~~:

(1) a nursing facility in Hennepin County licensed for 290 beds shall receive an operating cost per diem increase of 5.9 percent, provided that the facility delicensures, decertifies, or places on layaway status, if that status is otherwise permitted by law, 70 beds;

(2) a nursing facility in Goodhue County licensed for 84 beds shall receive an increase of \$1.54 in each case mix payment rate;

(3) a nursing facility located in Rochester and licensed for 103 beds on January 1, 2000, shall receive an increase in its case mix resident class A payment of \$3.78, and an increase in the payment rate for all other case mix classes of that amount multiplied by the class weight for that case mix class established in Minnesota Rules, part 9549.0058, subpart 3;

(4) a nursing facility in Wright County licensed for 154 beds shall receive an increase of \$2.03 in each case mix payment rate to be used for employee wage and benefit enhancements;

(5) a facility in Todd County licensed for 78 beds, shall have its operating cost per diem increased by the following amounts:

(i) case mix class A, \$1.16;

(ii) case mix class B, \$1.50;

(iii) case mix class C, \$1.89;

(iv) case mix class D, \$2.26;

(v) case mix class E, \$2.63;

(vi) case mix class F, \$2.65;

- (vii) case mix class G, \$2.96;
- (viii) case mix class H, \$3.55;
- (ix) case mix class I, \$3.76;
- (x) case mix class J, \$4.08; and
- (xi) case mix class K, \$4.76; and

(6) a nursing facility in Pine City that decertified 22 beds in calendar year 1999 shall have its property-related per diem payment rate increased by \$1.59.

Sec. 17. Minnesota Statutes 2004, section 256B.434, subdivision 4c, is amended to read:

Subd. 4c. [FACILITY RATE INCREASES EFFECTIVE JANUARY 1, 2002.] For the rate period beginning January 1, 2002, and for the rate year beginning July 1, 2002, a nursing facility in Morrison County licensed for 83 beds as of March 1, 2001, shall receive an increase of \$2.54 in each case mix payment rate to offset property tax payments due as a result of the facility's conversion from nonprofit to for-profit status. The increase under this subdivision shall be added following the determination under this chapter of the payment rate for the rate year beginning July 1, 2001, and shall be included in the facility's total payment rates for the purposes of determining future rates under this section ~~or any other section~~.

Sec. 18. Minnesota Statutes 2004, section 256B.434, subdivision 4d, is amended to read:

Subd. 4d. [FACILITY RATE INCREASES EFFECTIVE JULY 1, 2001.] For the rate year beginning July 1, 2001, a nursing facility in Hennepin County licensed for 302 beds shall receive an increase of 29 cents in each case mix payment rate to correct an error in the cost-reporting system that occurred prior to the date that the facility entered the alternative payment demonstration project. The increase under this subdivision shall be added following the determination under this chapter of the payment rate for the rate year beginning July 1, 2001, and shall be included in the facility's total payment rates for the purposes of determining future rates under this section ~~or any other section~~.

Sec. 19. Minnesota Statutes 2004, section 256B.434, is amended by adding a subdivision to read:

Subd. 18. [PHASE-OUT OF ALTERNATIVE PAYMENT SYSTEM CONTRACTS.] Nursing facilities that have entered into a contract with the commissioner under the provisions of this section will cease their contractual agreement with the commissioner effective October 1, 2009. Nursing facilities with a contract in effect on September 30, 2006, shall be paid the contract payment rate for the remainder of the phase-in period according to the provisions of section 256B.441, subdivision 53.

Sec. 20. Minnesota Statutes 2004, section 256B.438, subdivision 3, is amended to read:

Subd. 3. [CASE MIX INDICES.] (a) The commissioner of human services shall assign a case mix index to each resident class based on the Centers for Medicare and Medicaid Services staff time measurement study and adjusted for Minnesota-specific wage indices. The case mix indices assigned to each resident class shall be published in the Minnesota State Register at least 120 days prior to the implementation of the 34 group, RUG-III resident classification system.

- (b) An index maximization approach shall be used to classify residents.

(c) After implementation of the revised case mix system, the commissioner of human services may annually rebase case mix indices and base rates using more current data on average wage rates and staff time measurement studies. This rebasing shall be calculated under subdivision 7, paragraph (b). The commissioner shall publish in the Minnesota State Register adjusted case mix indices at least 45 days prior to the effective date of the adjusted case mix indices. In the event that new case mix indices are implemented together with a new payment system, rebasing of rates under subdivision 7, paragraph (b), shall not apply.

Sec. 21. [256B.441] [NURSING FACILITY REIMBURSEMENT SYSTEM EFFECTIVE OCTOBER 1, 2005.]

Subdivision 1. [IN GENERAL.] (a) The commissioner shall establish a value-based nursing facility reimbursement system which will provide facility-specific, prospective rates for nursing facilities participating in the medical assistance program. The rates shall be determined using an annual statistical and cost report filed by each nursing facility. The total payment rate shall be composed of four rate components: direct care services, support services, external fixed, and property-related rate components. The payment rate shall be derived from statistical measures of actual costs incurred in facility operation of nursing facilities. From this cost basis, the components of the total payment rate shall be adjusted for quality of services provided, recognition of staffing levels, geographic variation in labor costs, and resident acuity.

(b) Rates shall be rebased annually. Each cost reporting year shall begin on October 1 and end on the following September 30. Beginning in 2006, a statistical and cost report shall be filed by each nursing facility by January 15. Notice of rates shall be distributed by August 15 and the rates shall go into effect on October 1 for one year.

(c) The commissioner shall begin to phase in the new reimbursement system beginning October 1, 2006. Full phase-in shall be completed by October 1, 2010.

Subd. 2. [DEFINITIONS.] For purposes of this section, the terms in subdivisions 3 to 42 have the meanings given unless otherwise provided for in this section.

Subd. 3. [ACTIVE BEDS.] "Active beds" means licensed beds that are not currently in layaway status.

Subd. 4. [ACTIVITIES COSTS.] "Activities costs" means the costs for the salaries and wages of the supervisor and other activities workers, associated fringe benefits and payroll taxes, supplies, services, and consultants.

Subd. 5. [ADMINISTRATIVE COSTS.] "Administrative costs" means the direct costs for administering the overall activities of the nursing home. These costs include salaries and wages of the administrator, assistant administrator, business office employees, security guards, and associated fringe benefits and payroll taxes, fees, contracts, or purchases related to business office functions, licenses, and permits except as provided in the external fixed costs category, employee recognition, travel including meals and lodging, training, voice and data communication or transmission, office supplies, liability insurance and other forms of insurance not designated to other areas, personnel recruitment, legal services, accounting services, management or business consultants, data processing, central or home office costs, business meetings and seminars, postage, fees for professional organizations, subscriptions, security services, advertising, board of director's fees, working capital interest expense, and bad debts and bad debt collection fees.

Subd. 6. [ALLOWED COSTS.] "Allowed costs" means the amounts reported by the facility which are necessary for the operation of the facility and the care of residents and which are reviewed by the department for accuracy, reasonableness, and compliance with this section and generally accepted accounting principles.

Subd. 7. [CENTER FOR MEDICARE AND MEDICAID SERVICES.] "Center for Medicare and Medicaid services" means the federal agency, in the United States Department of Health and Human Services that administers Medicaid, also referred to as "CMS."

Subd. 8. [COMMISSIONER.] "Commissioner" means the commissioner of human services unless specified otherwise.

Subd. 9. [DESK AUDIT.] "Desk audit" means the establishment of the payment rate based on the commissioner's review and analysis of required reports, supporting documentation, and work sheets submitted by the nursing facility.

Subd. 10. [DIETARY COSTS.] "Dietary costs" means the costs for the salaries and wages of the dietary supervisor, dietitians, chefs, cooks, dishwashers, and other employees assigned to the kitchen and dining room, and associated fringe benefits and payroll taxes. Dietary costs also includes the salaries or fees of dietary consultants, direct costs of raw food (both normal and special diet food), dietary supplies, and food preparation and serving. Also included are special dietary supplements used for tube feeding or oral feeding, such as elemental high nitrogen diet, even if written as a prescription item by a physician.

Subd. 11. [DIRECT CARE COSTS CATEGORY.] "Direct care costs category" means costs for nursing services, activities, and social services.

Subd. 12. [ECONOMIC DEVELOPMENT REGIONS.] "Economic development regions" are as defined in section 462.385, subdivision 1.

Subd. 13. [EXTERNAL FIXED COSTS CATEGORY.] "External fixed costs category" means costs related to the nursing home surcharge under section 256.9657, subdivision 1; licensure fees under section 144.122; long-term care consultation fees under section 256B.0911, subdivision 6; family advisory council fee under section 144A.35; scholarships under section 256B.431, subdivision 36; planned closure rate adjustments under section 256B.437; property taxes and property insurance; and PERA.

Subd. 14. [FACILITY AVERAGE CASE MIX INDEX (CMI).] "Facility average case mix index" or "CMI" means a numerical value score that describes the relative resource use for all residents within the groups under the resource utilization group (RUG-III) classification system prescribed by the commissioner based on an assessment of each resident. The facility average CMI shall be computed as the standardized days divided by total days for all residents in the facility.

Subd. 15. [FIELD AUDIT.] "Field audit" means the examination, verification, and review of the financial records, statistical records, and related supporting documentation on the nursing home and any related organization.

Subd. 16. [FINAL RATE.] "Final rate" means the rate established after any adjustment by the commissioner, including, but not limited to, adjustments resulting from audits.

Subd. 17. [FRINGE BENEFIT COSTS.] "Fringe benefit costs" means the costs for group life, health, dental, workers' compensation, and other employee insurances and pension, profit-sharing, and retirement plans for which the employer pays all or a portion of the costs and that are available to at least all employees who work at least 20 hours per week.

Subd. 18. [GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.] "Generally Accepted Accounting Principles" means the body of pronouncements adopted by the American Institute of Certified Public Accountants regarding proper accounting procedures, guidelines, and rules.

Subd. 19. [HOSPITAL-ATTACHED NURSING FACILITY STATUS.] (a) For the purpose of setting rates under this section, for rate years beginning after September 30, 2006, "hospital-attached nursing facility" means a nursing facility which meets the requirements of clauses (1) and (2); or (3); or (4), or had hospital-attached status prior to January 1, 1995, and has been recognized as having hospital-attached status by CMS continuously since that date:

(1) the nursing facility is recognized by the federal Medicare program to be a hospital-based nursing facility;

(2) the hospital and nursing facility are physically attached or connected by a corridor;

(3) a nursing facility and hospital, which have applied for hospital-based nursing facility status under the federal Medicare program during the reporting year, shall be considered a hospital-attached nursing facility for purposes of setting payment rates under this section. The nursing facility must file its cost report for that reporting year using Medicare principles and Medicare's recommended cost allocation methods had the Medicare program's hospital-based nursing facility status been granted to the nursing facility. For each subsequent rate year, the nursing facility must meet the definition requirements in clauses (1) and (2). If the nursing facility is denied hospital-based nursing facility status under the Medicare program, the nursing facility's payment rates for the rate years the nursing facility was considered to be a hospital-attached nursing facility according to this paragraph shall be recalculated treating the nursing facility as a non-hospital-attached nursing facility;

(4) if a nonprofit or community-operated hospital and attached nursing facility suspend operation of the hospital, the remaining nursing facility must be allowed to continue its status as hospital-attached for rate calculations in the three rate years subsequent to the one in which the hospital ceased operations.

(b) The nursing facility's cost report filed as hospital-attached facility shall use the same cost allocation principles and methods used in the reports filed for the Medicare program. Direct identification of costs to the nursing facility cost center will be permitted only when the comparable hospital costs have also been directly identified to a cost center which is not allocated to the nursing facility.

Subd. 20. [HOUSEKEEPING COSTS.] "Housekeeping costs" means the costs for the salaries and wages of the housekeeping supervisor, housekeepers, and other cleaning employees and associated fringe benefits and payroll taxes. It also includes the cost of housekeeping supplies, including cleaning and lavatory supplies and contract services.

Subd. 21. [LABOR-RELATED PORTION.] The "labor-related portion" of direct care costs and of support service costs shall be that portion of costs that is attributable to wages for all compensated hours, payroll taxes, and fringe benefits.

Subd. 22. [LAUNDRY COSTS.] "Laundry costs" means the costs for the salaries and wages of the laundry supervisor and other laundry employees, associated fringe benefits, and payroll taxes. It also includes the costs of linen and bedding, the laundering of resident clothing, laundry supplies, and contract services.

Subd. 23. [LICENSEE.] "Licensee" means the individual or organization listed on the form issued by the Minnesota Department of Health under chapter 144A or sections 144.50 to 144.56.

Subd. 24. [MAINTENANCE AND PLANT OPERATIONS COSTS.] "Maintenance and plant operations costs" means the costs for the salaries and wages of the maintenance supervisor, engineers, heating-plant employees, and other maintenance employees and associated fringe benefits and payroll taxes. It also includes direct costs for maintenance and operation of the building and grounds, including fuel, electricity, medical waste and garbage removal, water, sewer, supplies, tools, and repairs.

Subd. 25. [NORMALIZED DIRECT CARE COSTS PER DAY.] "Normalized direct care costs per day" means direct care costs divided by standardized days. It is the costs per day for direct care services associated with a RUG's index of 1.00.

Subd. 26. [NURSING COSTS.] "Nursing costs" means the costs for the wages of nursing administration, staff education, and direct care registered nurses, licensed practical nurses, certified nursing assistants, and trained medication aides; mental health workers and other direct care employees, and associated fringe benefits and payroll taxes; services from a supplemental nursing services agency and supplies that are stocked at nursing stations or on the floor and distributed or used individually, including: alcohol, applicators, cotton balls, incontinence pads, disposable ice bags, dressings, bandages, water pitchers, tongue depressors, disposable gloves, enemas, enema equipment, soap, medication cups, diapers, plastic waste bags, sanitary products, thermometers, hypodermic needles and syringes, and clinical reagents or similar diagnostic agents, and drugs which are not paid on a separate fee schedule by the medical assistance program or any other payer.

Subd. 27. [NURSING FACILITY.] "Nursing facility" means a facility with a medical assistance provider agreement that is licensed as a nursing home under chapter 144A or as a boarding care home under sections 144.50 to 144.56.

Subd. 28. [OPERATING COSTS.] "Operating costs" means costs associated with the direct care costs category and the support services costs category.

Subd. 29. [PAYROLL TAXES.] "Payroll taxes" means the costs for the employer's share of the FICA and Medicare withholding tax, and state and federal unemployment compensation taxes.

Subd. 30. [PEER GROUPS.] Facilities shall be classified into three groups, called "peer groups," which shall consist of:

(1) C&NC/Short Stay/R80 - facilities that have three or more admissions per bed per year, are hospital-attached, or are licensed under Minnesota Rules, parts 9570.2000 to 9570.3600;

(2) boarding care homes - facilities that have more than 50 percent of their beds licensed as boarding care homes; and

(3) standard - all other facilities.

Subd. 31. [PRIOR RATE-SETTING METHOD.] "Prior rate-setting method" means the rate determination process in effect prior to October 1, 2006, under Minnesota Rules and Minnesota Statutes.

Subd. 32. [PRIVATE PAYING RESIDENT.] "Private paying resident" means a nursing facility resident who is not a medical assistance recipient and whose payment rate is not established by another third party, including the veterans administration or Medicare.

Subd. 33. [RATE YEAR.] "Rate year" means the 12-month period beginning on October 1 following the second most recent reporting year.

Subd. 34. [RELATED ORGANIZATION.] "Related organization" means a person that furnishes goods or services to a nursing facility and that is a close relative of a nursing facility, an affiliate of a nursing facility, a close relative of an affiliate of a nursing facility, or an affiliate of a close relative of an affiliate of a nursing facility. As used in this subdivision, paragraphs (a) to (d) apply:

(a) "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.

(b) "Person" means an individual, a corporation, a partnership, an association, a trust, an unincorporated organization, or a government or political subdivision.

(c) "Close relative of an affiliate of a nursing facility" means an individual whose relationship by blood, marriage, or adoption to an individual who is an affiliate of a nursing facility is no more remote than first cousin.

(d) "Control" including the terms "controlling," "controlled by," and "under common control with" 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, or to influence in any manner other than through an arms length, legal transaction.

Subd. 35. [REPORTING PERIOD.] "Reporting period" means the one-year period beginning on October 1 and ending on the following September 30 during which incurred costs are accumulated and then reported on the statistical and cost report.

Subd. 36. [RESIDENT DAY OR ACTUAL RESIDENT DAY.] "Resident day" or "actual resident day" means a day for which nursing services are rendered and billable, or a day for which a bed is held and billed. The day of admission is considered a resident day, regardless of the time of admission. The day of discharge is not considered a resident day, regardless of the time of discharge.

Subd. 37. [SALARIES AND WAGES.] "Salaries and wages" means amounts earned by and paid to employees or on behalf of employees to compensate for necessary services provided. Salaries and wages include accrued vested vacation and accrued vested sick leave pay. Salaries and wages must be paid within 30 days of the end of the reporting period in order to be allowable costs of the reporting period.

Subd. 38. [SOCIAL SERVICES COSTS.] "Social services costs" means the costs for the salaries and wages of the supervisor and other social work employees, associated fringe benefits and payroll taxes, supplies, services, and consultants.

Subd. 39. [STAKEHOLDERS.] "Stakeholders" means individuals and representatives of organizations interested in long-term care, including nursing homes, consumers, and labor unions.

Subd. 40. [STANDARDIZED DAYS.] "Standardized days" means the sum of resident days by case mix category multiplied by the RUG index for each category.

Subd. 41. [STATISTICAL AND COST REPORT.] "Statistical and cost report" means the forms supplied by the commissioner for annual reporting of nursing facility expenses and statistics, including instructions and definitions of items in the report.

Subd. 42. [SUPPORT SERVICES COSTS CATEGORY.] "Support services costs category" means the costs for dietary, housekeeping, laundry, maintenance, and administration.

Subd. 43. [REPORTING OF STATISTICAL AND COST INFORMATION.] (a) Beginning in 2006, all nursing facilities shall provide information annually to the commissioner on a form and in a manner determined by the commissioner. The commissioner may also require nursing facilities to provide statistical and cost information for a subset of the items in the annual report on a semiannual basis. Nursing facilities shall report only costs directly related to the operation of the nursing facility. The facility shall not include costs which are separately reimbursed by residents, medical assistance, or other payors. Allocations of costs from central, affiliated, or corporate office and related organization transactions shall be reported according to section 256B.432. The commissioner may grant to facilities one extension of up to 15 days for the filing of this report if the extension is requested by December 15 and the commissioner determines that the extension will not prevent the commissioner from establishing rates in a timely manner required by law. The commissioner may separately require facilities to submit in a manner specified by the commissioner documentation of statistical and cost information included in the report to ensure accuracy in establishing payment rates and to perform audit and appeal review functions under this section. Facilities shall



retain all records necessary to document statistical and cost information on the report for a period of no less than seven years. The commissioner may amend information in the report according to subdivision 54. The commissioner may reject a report filed by a nursing facility under this section if the commissioner determines that the report has been filed in a form that is incomplete or inaccurate and the information is insufficient to establish accurate payment rates. In the event that a complete report is not submitted in a timely manner, the commissioner shall reduce the reimbursement payments to a nursing facility to 85 percent of amounts due until the information is filed. The release of withheld payments shall be retroactive for no more than 90 days. A nursing facility that does not submit a report or whose report is filed in a timely manner but determined to be incomplete shall be given written notice that a payment reduction is to be implemented and allowed ten days to complete the report prior to any payment reduction. The commissioner may delay the payment withhold under exceptional circumstances to be determined at the sole discretion of the commissioner.

(b) Nursing facilities may, within 12 months of the due date of a statistical and cost report, file an amendment when errors or omissions in the annual statistical and cost report are discovered and an amendment would result in a rate increase of at least 0.15 percent of the statewide weighted average operating payment rate and shall, at any time, file an amendment which would result in a rate reduction of at least 0.15 percent of the statewide weighted average operating payment rate. The commissioner shall make retroactive adjustments to the total payment rate of a nursing facility if an amendment is accepted. Where a retroactive adjustment is to be made as a result of an amended report, audit findings, or other determination of an incorrect payment rate, the commissioner may settle the payment error through a negotiated agreement with the facility and a gross adjustment of the payments to the facility. Retroactive adjustments shall not be applied to private pay residents. An error or omission for purposes of this item does not include a nursing facility's determination that an election between permissible alternatives was not advantageous and should be changed.

(c) If the commissioner determines that a nursing facility knowingly supplied inaccurate or false information or failed to file an amendment to a statistical and cost report that resulted in or would result in an overpayment, the commissioner shall immediately adjust the nursing facility's payment rate and recover the entire overpayment. The commissioner may also terminate the commissioner's agreement with the nursing facility and prosecute under applicable state or federal law.

Subd. 44. [CALCULATION OF DIRECT CARE PER DIEM COSTS.] The commissioner shall calculate, for each nursing facility, the normalized per diem cost for direct care services by dividing the total allowable reported costs for direct care services by the number of standardized days for the same reporting period.

Subd. 45. [CALCULATION OF SUPPORT SERVICES PER DIEM COSTS.] The commissioner shall calculate, for each nursing facility, the per diem cost for support services by dividing the total allowable reported costs for support services by the number of resident days for the same reporting period.

Subd. 46. [CALCULATION OF A QUALITY SCORE.] (a) The commissioner shall determine a quality score for each nursing facility using quality measures established in section 256B.439, according to methods determined by the commissioner in consultation with stakeholders and experts. These methods shall be exempt from the rulemaking requirements under chapter 14.

(b) For each quality measure, a score shall be determined with a maximum number of points available and number of points assigned as determined by the commissioner using the methodology established according to this subdivision. The scores determined for all quality measures shall be totaled. The determination of the quality measures to be used and the methods of calculating scores may be revised annually by the commissioner.

(c) For the initial rate year under the new payment system, the quality measures shall include:

(1) staff turnover;

(2) staff retention;

(3) use of pool staff;

(4) quality indicators from the minimum data set; and

(5) survey deficiencies.

(d) For rate years beginning after October 1, 2006, when making revisions to the quality measures or method for calculating scores, the commissioner shall publish the methodology in the State Register at least 15 months prior to the start of the rate year for which the revised methodology is to be used for rate-setting purposes. The quality score used to determine payment rates shall be established for a rate year using data submitted in the statistical and cost report from the associated reporting year, and using data from other sources related to a period beginning no more than six months prior to the associated reporting year.

Subd. 47. [CALCULATION OF PAYMENT RATE FOR DIRECT CARE SERVICES.] For each rate year, the payment rate for direct care services shall be a variable amount, determined annually, based on the facility's staffing level in the reporting year, adjusted for peer group, geography, and case mix.

(a) For each facility, determine the geographic normalized direct care costs per standardized day according to clauses (1) to (7):

(1) for the costs determined in subdivision 44, for each facility, determine the portion, as a percent, that is labor-related;

(2) array the values in clause (1) by peer group and select the median for each peer group;

(3) for each facility, multiply the costs determined in subdivision 44 by the value determined in clause (2) for its peer group;

(4) divide the value determined in clause (3) by the geographic adjuster determined in subdivision 50;

(5) for each facility, multiply the costs determined in subdivision 44 by the value of one minus the value determined in clause (2) for its peer group;

(6) add the value determined in clause (4) to the value determined in clause (5); and

(7) divide the value determined in clause (6) by the average RUG's index for the facility. This value is the geographic normalized direct care costs per standardized day.

(b) For each facility, determine the wage adjusted direct care hours per standardized day according to clauses (1) to (4):

(1) determine the statewide average wage rate for each category of direct care worker;

(2) for each category of direct care worker, determine the ratio of its weighted average hourly wage rate to the weighted average hourly wage rate of certified nursing assistants;

(3) for each facility, determine the sum of the compensated hours for each category of direct care worker times the ratio determined in clause (2) for that category of direct care worker; and

(4) divide the value in clause (3) by the number of standardized days in the facility during the reporting period. This value is the wage adjusted direct care hours per standardized day. If this value exceeds the value determined in the prior year, the value to be used shall be the value that was used in the prior year, except to the extent an appropriation is made to allow an increase in the value.

(c) For each peer group, array the values determined in paragraph (b).

(d) In each of the arrays determined in paragraph (c), select the facilities between the tenth and 20th percentiles inclusive and determine the average, for these facilities, of the geographic normalized direct care costs per standardized day determined in paragraph (a), clause (7). This is the minimum unadjusted direct care price.

(e) In each of the arrays determined in paragraph (c), select the facilities between the 80th and the 90th percentiles inclusive and determine the average, for these facilities, of the geographic normalized direct care costs per standardized day determined in paragraph (a), clause (7). This is the maximum unadjusted direct care price.

(f) The commissioner is authorized to apply multipliers to the values determined in paragraphs (d) and (e) to assure that expenditures are within the limits of the appropriation and that funds are not shifted between peer groups.

(g) Determine the unadjusted direct care price for each facility according to clauses (1) to (3):

(1) for each facility at the 20th percentile or less in the arrays in paragraph (c), the unadjusted direct care price shall be the unadjusted minimum direct care price for that peer group determined in paragraph (d) as adjusted according to paragraph (f);

(2) for each facility above the 20th percentile and not above the 80th percentile in the arrays in paragraph (c), the unadjusted direct care price shall be prorated between the minimum and maximum unadjusted direct care prices for that peer group as adjusted according to paragraph (f); and

(3) for each facility above the 80th percentile in the arrays in paragraph (c), the unadjusted direct care price shall be the unadjusted maximum direct care price for that peer group determined in paragraph (e), as adjusted according to paragraph (f).

(h) The direct care price for each facility shall be the value determined in paragraph (g) adjusted for the geographic adjuster of the facility according to clauses (1) to (4):

(1) the value determined in paragraph (g) shall be multiplied by the value determined in paragraph (a), clause (2), for the facility's peer group;

(2) multiply the value determined in clause (1) by the geographic adjuster determined in subdivision 50;

(3) for each facility, multiply the value determined in paragraph (g) by the value of one minus the value determined in paragraph (a), clause (2), for the facility's peer group; and

(4) add the value determined in clause (2) to the value determined in clause (3). This value shall be multiplied by the index associated with each RUG's group to determine the direct care services payment rate for each RUG's group.

Subd. 48. [CALCULATION OF PAYMENT RATE FOR SUPPORT SERVICES.] The payment rate for support services shall be a fixed amount adjusted for the facility's peer group and geography.

(a) For each facility, determine the geographic normalized support services costs per standardized day according to clauses (1) to (7):

(1) for the costs determined in subdivision 45, for each facility, determine the portion, as a percent, that is labor-related;

(2) array the values in clause (1) by peer group and select the median for each peer group;

(3) for each facility, multiply the costs determined in subdivision 45 by the value determined in clause (2) for its peer group;

(4) divide the value determined in clause (3) by the geographic adjuster determined in subdivision 50;

(5) for each facility, multiply the costs determined in subdivision 45 by the value of one minus the value determined in clause (2) for its peer group;

(6) add the value determined in clause (4) to the value determined in clause (5);

(7) array the values determined in clause (6) for each peer group, and select the 40th percentile; and

(8) the commissioner is authorized to apply multipliers to the values determined in clause (7) to assure that expenditures are within the limits of the appropriation and that funds are not shifted between peer groups. These values shall be the unadjusted support services payment rate for the three peer groups.

(b) The support services price for each facility shall be the value determined in paragraph (a), clause (8), adjusted by the geographic adjuster of the facility according to clauses (1) to (4):

(1) the value determined in paragraph (a), clause (8), shall be multiplied by the value determined in paragraph (a), clause (2), for the facility's peer group;

(2) multiply the value determined in clause (1) by the geographic adjuster determined in subdivision 50;

(3) for each facility, multiply the value determined in paragraph (a), clause (8), by the value of one minus the value determined in paragraph (a), clause (2), for the facility's peer group;

(4) add the value determined in clause (2) to the value determined in clause (3). This value shall be the support services payment rate for each facility; and

(c) For rate years beginning on or after October 1, 2007, the value determined in paragraph (b), clause (4), shall not be less than the value used for the rate year beginning October 1, 2006.

Subd. 49. [CALCULATION OF QUALITY ADD-ON.] The payment rate for the quality add-on shall be a variable amount based on each facility's quality score.

(a) For the rate year beginning October 1, 2006, the maximum quality add-on percent shall be five percent. When new quality measures are incorporated into the quality score methodology and when existing quality measures are updated or improved, the commissioner may increase the maximum quality add-on percent.

(b) For each facility, determine the sum of the values determined in subdivisions 47 and 48.

(c) For each facility determine a ratio of the quality score of the facility determined in subdivision 46, less 40 and then divided by 60. If this value is less than zero, use the value zero.

(d) For each facility, the quality add-on shall be the value determined in paragraph (b) times the value determined in paragraph (c) times the maximum quality add-on percent.

Subd. 50. [GEOGRAPHIC ADJUSTMENTS OF LABOR-RELATED COSTS.] The commissioner shall determine adjusters for the labor-related share of the operating rate which shall be the ratio calculated in paragraphs (a) to (c), using data reported under subdivision 43. In paragraphs (a) and (b), use direct care costs and direct care compensated hours and use only facilities that have reported both.

(a) Calculate the sum of compensation for all facilities in each economic development region divided by the facilities total compensated hours.

(b) Calculate the sum of compensation for all facilities in the state divided by total reported compensated hours of all facilities in the state.

(c) For each economic development region, divide the value in paragraph (a) by the value in paragraph (b). These ratios shall be the geographic adjusters for the economic development regions.

Subd. 51. [ADJUSTER FOR OPERATING PAYMENT RATES.] (a) The commissioner shall provide information to the appropriate committee chairs of the legislature by January 15 of each year specifying adjusters that may be multiplied by the uninflated payment rates, or by any other factor the commissioner deems appropriate, for direct care and support service costs determined in subdivisions 47 and 48. The information shall include:

(1) the projected change in the CPI-U, between the midpoint of the reporting year and the midpoint of the rate year, as determined by the national economic consultant used by the commissioner of finance, for the next rate year; and

(2) the costs or savings to the state of adjusting payment rates according to clause (1).

(b) The commissioner may also describe other factors or methods that may be considered in adjusting rates.

Subd. 52. [CALCULATION OF PAYMENT RATE FOR EXTERNAL FIXED COSTS.] The commissioner shall calculate a payment rate for external fixed costs.

(a) For facilities licensed as nursing homes, the portion related to section 256.9657 shall be equal to \$8.86. For facilities licensed as both nursing homes and boarding care homes, the portion related to section 256.9657 shall be equal to \$8.86 multiplied by the ratio of their number of nursing home beds divided by their total number of active licensed and certified nursing home and boarding care beds.

(b) The portion related to the licensure fee under section 144.122, paragraph (d), shall be the amount of the fee divided by actual resident days.

(c) The portion related to scholarships shall be determined under section 256B.431, subdivision 36.

(d) The portion related to long-term care consultation shall be determined according to section 256B.0911, subdivision 6.

(e) The portion related to development and education of resident and family advisory councils under section 144A.33 shall be \$5 divided by 365.

(f) The portion related to planned closure rate adjustments shall be as determined under section 256B.437.

(g) The portions related to property insurance, real estate taxes, special assessments, and payments made in lieu of real estate taxes directly identified or allocated to the nursing facility shall be the actual amounts divided by actual resident days.

(h) The portion related to PERA shall be actual costs divided by actual resident days.

(i) The payment rate for external fixed costs shall be the sum of the amounts in paragraphs (a) to (h).

Subd. 53. [PHASE-IN.] The commissioner shall implement the operating payment rate-setting methods in this section according to paragraphs (a) to (j).

(a) Total payment rates effective on June 30, 2006, shall remain in effect through September 30, 2006.

(b) By August 15 of 2006, 2007, and 2008, the commissioner shall notify nursing facilities of the operating payment rates they will receive under both this section and under the prior rate-setting method, of the blended operating payment rates that will apply based on paragraphs (c) to (i), and the actual operating payment rate that will result from application of paragraph (j). For purposes of determining payment rates under the prior rate-setting method, the RUG's indices determined under section 256B.438, subdivision 3, paragraph (a), shall be used. For purposes of determining payment rates under the new rate-setting method, the RUG's indices determined under section 256B.438, subdivision 3, paragraph (c), shall be used.

(c) For facilities reimbursed under section 256B.434 on September 30, 2006, for purposes of determining payment rates under the prior rate-setting method, and under this section for rate years beginning after June 30, 2006, the rate adjustment under section 256B.434, subdivision 4, paragraph (c), shall apply only to the property-related payment rate. For facilities reimbursed under section 256B.431 on September 30, 2006, for rate years beginning on and after October 1, 2006, property rates shall continue to be determined under Minnesota Rules, parts 9549.0010 to 9549.0080.

(d) For the rate year beginning October 1, 2006, for the operating rate components under the prior rate-setting method, the commissioner shall use the amounts in effect on June 30, 2006. For the rate years beginning on October 1, 2007, and October 1, 2008, the commissioner shall use the amounts in effect on the prior September 30.

(e) For RUG's classifications with an effective date prior to October 1, 2007, the commissioner of health shall apply index maximization using the indices determined under section 256B.438, subdivision 3, paragraph (a). For RUG's classifications with an effective date on or after October 1, 2007, the commissioner of health shall apply index maximization using the indices determined under section 256B.438, subdivision 3, paragraph (c).

(f) The blended total payment rate that will apply on October 1, 2006, shall consist of ten percent of the amount determined under this section and 90 percent of the amount determined under the prior rate-setting method.

(g) The blended total payment rate that will apply on October 1, 2007, shall consist of 40 percent of the amount determined under this section and 60 percent of the amount determined under the prior rate-setting method.

(h) The blended total payment rate that will apply on October 1, 2008, shall consist of 70 percent of the amount determined under this section and 30 percent of the amount determined under the prior rate-setting method.

(i) The blended total payment rate that will apply on October 1, 2009, shall be the amount determined under this section.

(j) For rate years beginning October 1 of 2006, 2007, and 2008, for facilities for which the rate determined under this subdivision as adjusted according to section 256B.431, subdivision 41, is less than the rate that was in effect on September 30, 2006, the actual operating payment rate shall be the rate that was in effect on September 30, 2006. For the rate year beginning October 1, 2009, for facilities for which the rate determined under this section is less than the rate determined under the prior rate-setting method, the actual operating payment rate shall be the rate determined under this section but shall be no more than \$10 less than the rate that was in effect on September 30, 2006. For rate years beginning on or after October 1, 2010, for facilities for which the rate determined under this section is less than the rate that was in effect on September 30, 2010, the actual operating payment rate shall be the rate determined under this section.

Subd. 54. [AUDIT AUTHORITY.] (a) The commissioner may subject reports and supporting documentation to desk and field audits to determine compliance with this section. Retroactive adjustments shall be made as a result of desk or field audit findings if the cumulative impact of the finding would result in a rate adjustment of at least 0.15 percent of the statewide weighted average operating payment rate. If a field audit reveals inadequacies in a nursing facility's record keeping or accounting practices, the commissioner may require the nursing facility to engage competent professional assistance to correct those inadequacies within 90 days so that the field audit may proceed.

(b) Field audits may cover the four most recent annual statistical and cost reports for which desk audits have been completed and payment rates have been established. The field audit must be an independent review of the nursing facility's statistical and cost report. All transactions, invoices, or other documentation that support or relate to the statistics and costs claimed on the annual statistical and cost reports are subject to review by the field auditor. If the provider fails to provide the field auditor access to supporting documentation related to the information reported on the statistical and cost report within the time period specified by the commissioner, the commissioner shall calculate the total payment rate by disallowing the cost of the items for which access to the supporting documentation is not provided.

(c) Changes in the total payment rate which result from desk or field audit adjustments to statistical and cost reports for reporting years earlier than the four most recent annual cost reports must be made to the four most recent annual statistical and cost reports, the current statistical and cost report, and future statistical and cost reports to the extent that those adjustments affect the total payment rate established by those reporting years.

(d) The commissioner shall extend the period for retention of records under subdivision 43 for purposes of performing field audits as necessary to enforce section 256B.48 with written notice to the facility postmarked no later than 90 days prior to the expiration of the record retention requirement.

Subd. 55. [REMEDIES FOR DISPUTES.] The commissioner shall provide remedies for disputes under this section.

(a) A provider may appeal a determination of a payment rate established under this section if the appeal, if successful, would result in a change to the provider's payment rate of at least 0.15 percent of the statewide weighted average operating payment rate. Appeals must be filed according to procedures in this subdivision.

(b) To appeal, the provider shall file with the commissioner a written notice of appeal and the appeal must be postmarked or received by the commissioner within 60 days of the date the determination of the payment rate was mailed or personally received by a provider, whichever is earlier.

(c) The notice of appeal must specify:

(1) each disputed item;

(2) the reason for the dispute;

(3) the computation that the provider believes is correct;

(4) the impact upon the facility's payment rate if the appeal is successful;

(5) the authority in statute or rule upon which the provider relies for each disputed item;

(6) the name and address of the person or firm with whom contacts may be made regarding the appeal; and

(7) additional information the provider wishes to offer with the appeal to support the provider's position. The commissioner may request additional information to clarify the provider's position.

(d) The commissioner shall review appeals and issue a written appeal determination on each appealed item within 180 days of the due date of the appeal. Upon mutual agreement, the commissioner and the provider may extend the time for issuing a determination for a specified period. The appeal determination takes effect 30 days following the date of issuance specified in the determination.

(e) For an appeal item on which the provider disagrees with the appeal determination, the provider may request reconsideration. A request for reconsideration must be postmarked or received by the commissioner within 30 days of the date of issuance of the determination. A request for reconsideration delays the date on which the determination takes effect. The appeal determination and any changes resulting from reconsideration shall be implemented 30 days following the issuance of the reconsideration response.

(f) For an appeal item on which the provider disagrees with the appeal determination and the reconsideration response, if any, the provider may file with the commissioner a written demand for a contested case hearing to determine the proper resolution of specified appeal items. The demand must be postmarked or received by the commissioner within 30 days of the date of issuance specified in the determination or within 30 days of the issuance of the reconsideration response, if reconsideration was requested. A demand for a contested case hearing for an appeal item nullifies the written appeal determination issued by the commissioner for that appeal item. The commissioner shall refer any demand for a contested case hearing to the Office of the Attorney General.

(g) A contested case hearing shall be heard by an administrative law judge according to sections 14.48 to 14.56. In any proceeding under this section, the appealing party must demonstrate by a preponderance of the evidence that the determination of a payment rate is incorrect.

(h) Regardless of any rate appeal, the rate established must be the rate paid and must remain in effect until final resolution of the appeal or a subsequent rate determination.

(i) A provider shall not use this process to challenge the method of determining a quality score under subdivision 46; or the commissioner's determination under subdivision 56 to negotiate rates. This process does not apply to a request from a resident or nursing facility for reconsideration of the classification of a resident under section 144.0722 or 144.0724.

Subd. 56. [INTERIM RATES.] (a) The commissioner shall determine interim payment rates for nursing facilities that have no cost history. The facilities shall provide statistical and cost information, according to subdivision 43, on a prospective basis. The commissioner shall establish an interim rate using the quality score of the nursing facility at the 60th percentile, direct care costs according to a budget negotiated with the provider and the methods provided in subdivision 47. The interim rate shall apply until a rate can be established under this section. Upon providing final information under subdivision 43 for the interim rate period, the commissioner shall determine that an overpayment has occurred if the interim payment rate for direct care costs exceeded the final rate for direct care costs by an amount greater than four percent, and shall recover any overpayment.



In the event of an overpayment, the commissioner may allow up to six months for complete repayment if the provider demonstrates that immediate repayment of the overpayment would result in an undue hardship to the operation of the facility.

(b) The commissioner may negotiate an interim rate with a nursing facility, according to the process in paragraph (a), when that facility has been purchased by an unrelated party within the last six months. In determining if negotiations shall be initiated, the commissioner shall consider:

(1) the potential inadequacy of current rates as evidenced by the position in the arrays of operating costs of the rates of the requesting facility;

(2) preventing closure of facilities in under-bedded areas of the state, as measured by the number of beds per 1,000 elderly in the county or in contiguous counties in which the facility is located;

(3) the ability of the purchaser to provide high quality services as evidenced by high quality scores of any other facility under the control of the purchaser operating in Minnesota;

(4) the ability of the purchasing entity to operate efficiently as evidenced by the difference between the operating costs and target prices of the other facility or facilities under the control of the purchaser operating in Minnesota;

(5) previous success of the purchaser with negotiated interim rates;

(6) the financial soundness of the purchaser;

(7) avoiding negotiating interim rates with purchasers who have sold facilities that then requested interim rate negotiation; and

(8) avoiding too much consolidation of the nursing facility industry within any small number of providers.

Sec. 22. Minnesota Statutes 2004, 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 change in the case-mix classification of the resident. If the state fails to set rates as required by section ~~256B.431~~ 256B.441, ~~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~~ 256B.441, ~~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. 23. Laws 2004, chapter 267, article 12, section 4, is amended to read:

Sec. 4. [EFFECTIVE DATE.]

(a) Section 1, relating to the Fair Oaks Lodge, Wadena, is effective upon the latter of:

(1) the day after the governing body of Todd County and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3; and

(2) the day after the governing body of Wadena County and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

(b) Section 1, relating to the RenVilla Nursing Home, is effective upon the latter of:

(1) the day after the governing body of the city of Renville and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, except that the certificate of approval must be filed before January 1, 2006; and

(2) the first day of the month next following certification to the governing body of the city of Renville by the executive director of the Public Employees Retirement Association that the actuarial accrued liability of the special benefit coverage proposed for extension to the privatized RenVilla Nursing Home employees under section 1 does not exceed the actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained by the Legislative Commission on Pensions and Retirement, or the actuary retained under Minnesota Statutes, section 356.214, whichever is applicable.

(c) The cost of the actuarial calculations must be borne by the city of Renville or the purchaser of the RenVilla Nursing Home.

(d) Section 1, relating to the St. Peter Community Healthcare Center, is effective upon the latter of:

(1) the day after the governing body of the city of St. Peter and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3; and

(2) the first day of the month next following certification to the governing body of the city of St. Peter by the executive director of the Public Employees Retirement Association that the actuarial accrued liability of the special benefit coverage proposed for extension to the privatized St. Peter Community Healthcare Center employees under section 1 does not exceed the actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained by the Legislative Commission on Pensions and Retirement, or the actuary retained under Minnesota Statutes, section 356.214, whichever is applicable.

(e) The cost of the actuarial calculations must be borne by the city of St. Peter or the purchaser of the St. Peter Community Healthcare Center.

(f) If the required actions under paragraphs (b) and (c) occur, section 1 applies retroactively to the RenVilla Nursing Home as of the date of privatization.

(g) If the required actions under paragraph (a) occur, section 1 applies retroactively to Fair Oaks Lodge, Wadena, as of January 1, 2004.

(h) Sections 2 and 3 are effective on the day following final enactment.

Sec. 24. [MORATORIUM PROJECT DEADLINE EXTENSION IN AITKIN COUNTY.]

Notwithstanding Minnesota Statutes, section 144A.073, subdivisions 3 and 10, the commissioner of health shall extend the project approval until December 31, 2006, for a nursing home moratorium exception project that was approved under Minnesota Statutes, section 144A.073, in 2002 to remodel a 48-bed facility in Aitkin County.

## Sec. 25. [MORATORIUM PROJECT DEADLINE EXTENSION IN RENVILLE COUNTY.]

Notwithstanding Minnesota Statutes, section 144A.073, subdivisions 3 and 10, the commissioner of health shall extend the project approval until December 31, 2006, for a nursing home moratorium exception project that was approved under Minnesota Statutes, section 144A.073, in 2002 to remodel a 60-bed facility in Renville County.

## Sec. 26. [RECOMMENDATIONS ON CRITERIA AND RATE NEGOTIATIONS FOR NURSING FACILITIES.]

The commissioner of human services shall provide recommendations to the legislature by December 15, 2006, defining criteria and rate negotiations for nursing facilities that provide specialized care or that have extenuating circumstances requiring a negotiated rate. The commissioner shall also provide recommendations to the legislature on changes to the current nursing facility property system by December 15, 2006.

## ARTICLE 5

## CONTINUING CARE FOR THE ELDERLY AND DISABLED

Section 1. Minnesota Statutes 2004, 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 to the cost of services used by making monthly payments on a sliding scale based on income, unless the child is married or has been married, parental rights have been terminated, or the child's adoption is subsidized according to section 259.67 or through title IV-E of the Social Security Act.

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

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

(2) if the adjusted gross income is equal to or greater than 175 percent of federal poverty guidelines and less than or equal to ~~375~~ 545 percent of federal poverty guidelines, the parental contribution shall be determined using a sliding fee scale established by the commissioner of human services which begins at one percent of adjusted gross income at 175 percent of federal poverty guidelines and increases to 7.5 percent of adjusted gross income for those with adjusted gross income up to ~~375~~ 545 percent of federal poverty guidelines;

(3) if the adjusted gross income is greater than ~~375~~ 545 percent of federal poverty guidelines and less than 675 percent of federal poverty guidelines, the parental contribution shall be 7.5 percent of adjusted gross income;

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

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

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

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

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

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

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

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

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

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

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

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

(2) the insurer denied insurance;

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

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

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

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

Sec. 2. [256B.0185] [REQUIRED REPORT.]

Subdivision 1. [PENDING APPLICATION.] By December 15 of both 2005 and 2006, the commissioner must deliver to the legislature a report that identifies:

(1) each county in which an application for medical assistance from a person identified as residing in a long-term care facility is or was pending, at any time between January 1 and December 1 of the calendar year to which the report relates, for more than 60 days in the case of a person who is disabled, or for more than 45 days in the case of a person who is age 65 or older; and

(2) for each of the identified counties: the number of applications described in clause (1), the average number of days the applications were pending, the distribution of days for applications that were pending, and what percentage of the applications, respectively, the county approved and denied.

Subd. 2. [TIME TO PROCESS APPLICATION.] The report must include specific recommendations for how counties, as a group, could shorten the time it takes to act on the applications described in subdivision 1, clause (1).

Sec. 3. Minnesota Statutes 2004, section 256B.057, subdivision 9, is amended to read:

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

(1) meets the definition of disabled under the supplemental security income program;

(2) is at least 16 but less than 65 years of age;

(3) meets the asset limits in paragraph (b); and

(4) effective November 1, 2003, pays a premium and other obligations under paragraph (d).

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Effective ~~November 1, 2003~~ July 1, 2005, for enrollees ~~whose income does not exceed 200 percent of the federal poverty guidelines and~~ who are also enrolled in Medicare, the commissioner must reimburse the enrollee for Medicare Part B premiums under section 256B.0625, subdivision 15, paragraph (a).

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

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

(f) Any required premium shall be determined at application and redetermined at the enrollee's six-month income review or when a change in income or household size is reported. Enrollees must report any change in income or household size within ten days of when the change occurs. A decreased premium resulting from a reported change in income or household size shall be effective the first day of the next available billing month after the change is reported. Except for changes occurring from annual cost-of-living increases, a change resulting in an increased premium shall not affect the premium amount until the next six-month review.

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

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

Sec. 4. [256B.0571] [LONG-TERM CARE PARTNERSHIP.]

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

Subd. 2. [HOME CARE SERVICE.] "Home care service" means care described in section 144A.43.

Subd. 3. [LONG-TERM CARE INSURANCE.] "Long-term care insurance" means a policy described in section 62S.01.

Subd. 4. [MEDICAL ASSISTANCE.] "Medical assistance" means the program of medical assistance established under section 256B.01.

Subd. 5. [NURSING HOME.] "Nursing home" means a nursing home as described in section 144A.01.

Subd. 6. [PARTNERSHIP POLICY.] "Partnership policy" means a long-term care insurance policy that meets the requirements under subdivision 10.

Subd. 7. [PARTNERSHIP PROGRAM.] "Partnership program" means the Minnesota partnership for long-term care program established under this section.

Subd. 8. [PROGRAM ESTABLISHED.] (a) The commissioner, in cooperation with the commissioner of commerce, shall establish the Minnesota partnership for long-term care program to provide for the financing of long-term care through a combination of private insurance and medical assistance.

(b) An individual who meets the requirements in this paragraph is eligible to participate in the partnership program. The individual must:

(1) be a Minnesota resident;

(2) purchase a partnership policy that is delivered, issued for delivery, or renewed on or after the effective date of this section, and maintain the partnership policy in effect throughout the period of participation in the partnership program; and

(3) exhaust the minimum benefits under the partnership policy as described in this section. Benefits received under a long-term care insurance policy before the effective date of this section do not count toward the exhaustion of benefits required in this subdivision.

Subd. 9. [MEDICAL ASSISTANCE ELIGIBILITY.] (a) Upon application of an individual who meets the requirements described in subdivision 8, the commissioner shall determine the individual's eligibility for medical assistance according to paragraphs (b) and (c).

(b) After disregarding financial assets exempted under medical assistance eligibility requirements, the commissioner shall disregard an additional amount of financial assets equal to the dollar amount of coverage utilized under the partnership policy.

(c) The commissioner shall consider the individual's income according to medical assistance eligibility requirements.

Subd. 10. [APPROVED POLICIES.] (a) A partnership policy must meet all of the requirements in paragraphs (b) to (h).

(b) Minimum coverage shall be for a period of not less than three years and for a dollar amount equal to 36 months of nursing home care at the minimum daily benefit rate determined and adjusted under paragraph (c). The policy shall provide for home health care benefits to be substituted for nursing home care benefits on the basis of two home health care days for one nursing home care day.

(c) Minimum daily benefits shall be \$150 for nursing home care or \$75 for home care, with inflation protection provided in the policy as described in section 62S.23, subdivision 1, clause (1). These minimum daily benefit amounts shall also be adjusted by the commissioner on October 1 of each year by a percentage equal to the inflation protection feature described in section 62S.23, subdivision 1, clause (1), for purposes of setting minimum requirements that a policy must meet in future years in order to initially qualify as an approved policy under this subdivision. Adjusted minimum daily benefit amounts shall be rounded to the nearest whole dollar.

(d) A third party designated by the insured shall be entitled to receive notice if the policy is about to lapse for nonpayment of premium, and an additional 30-day grace period for payment of premium shall be granted following notification to that person.

(e) The policy must cover all of the following services:

(1) nursing home stay;

(2) home care service;

(3) care management; and

(4) up to 14 days of nursing care in a hospital while the individual is waiting for long-term care placement.

(f) Payment for service under paragraph (e), clause (4), must not exceed the daily benefit amount for nursing home care.

(g) A partnership policy must offer, as an option for an adjusted premium, an elimination period of not more than 180 days.

(h) An issuer of a partnership policy must comply with any federal law authorizing partnership policies in Minnesota, including any federal regulations, as amended, adopted under that law. This paragraph does not require compliance with any provision of this federal law until the date upon which the law requires compliance with the provision. The commissioner has authority to enforce this paragraph.



Subd. 11. [LIMITATIONS ON ESTATE RECOVERY.] For an individual determined eligible for medical assistance under subdivision 9, the state shall not seek recovery under the provisions of section 256B.15 against the estate of the individual or individual's spouse for medical assistance benefits received by that individual.

Subd. 12. [EFFECTIVE DATE.] (a) If any provision of this section is prohibited by federal law, no provision shall become effective until federal law is changed to permit its full implementation. The commissioner of human services shall notify the revisor of statutes when federal law is enacted or other federal approval is received and publish a notice in the State Register. The commissioner must include the notice in the first State Register published after the effective date of the federal changes.

(b) If federal law is changed to permit a waiver of any provisions prohibited by federal law, the commissioner of human services shall apply to the federal government for a waiver of those prohibitions or other federal authority, and that provision shall become effective upon receipt of a federal waiver or other federal approval, notification to the revisor of statutes, and publication of a notice in the State Register to that effect.

Sec. 5. Minnesota Statutes 2004, section 256B.0621, subdivision 2, is amended to read:

Subd. 2. [TARGETED CASE MANAGEMENT; DEFINITIONS.] For purposes of subdivisions 3 to 10, the following terms have the meanings given them:

(1) "home care service recipients" means those individuals receiving the following services under section 256B.0627: skilled nursing visits, home health aide visits, private duty nursing, personal care assistants, or therapies provided through a home health agency;

(2) "home care targeted case management" means the provision of targeted case management services for the purpose of assisting home care service recipients to gain access to needed services and supports so that they may remain in the community;

(3) "institutions" means hospitals, consistent with Code of Federal Regulations, title 42, section 440.10; regional treatment center inpatient services, consistent with section 245.474; nursing facilities; and intermediate care facilities for persons with mental retardation;

(4) "relocation targeted case management" ~~means~~ includes the provision of both county targeted case management and public or private vendor service coordination services for the purpose of assisting recipients to gain access to needed services and supports if they choose to move from an institution to the community. Relocation targeted case management may be provided during the last 180 consecutive days of an eligible recipient's institutional stay; and

(5) "targeted case management" means case management services provided to help recipients gain access to needed medical, social, educational, and other services and supports.

Sec. 6. Minnesota Statutes 2004, section 256B.0621, subdivision 3, is amended to read:

Subd. 3. [ELIGIBILITY.] The following persons are eligible for relocation targeted case management or home ~~care targeted~~ care targeted case management:

(1) medical assistance eligible persons residing in institutions who choose to move into the community are eligible for relocation targeted case management services; and

(2) medical assistance eligible persons receiving home care services, who are not eligible for any other medical assistance reimbursable case management service, are eligible for home ~~care targeted~~ care targeted case management services beginning ~~January 1, 2003~~ July 1, 2005.

Sec. 7. Minnesota Statutes 2004, section 256B.0621, subdivision 4, is amended to read:

Subd. 4. [RELOCATION TARGETED COUNTY CASE MANAGEMENT PROVIDER QUALIFICATIONS.]

(a) A relocation targeted county 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 county 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. Counties must require that contracted providers must provide information on all conflicts of interest and obtain the recipient's informed consent or provide the recipient with alternatives.

Sec. 8. Minnesota Statutes 2004, section 256B.0621, subdivision 5, is amended to read:

Subd. 5. [HOME CARE TARGETED CASE MANAGEMENT AND RELOCATION SERVICE COORDINATION PROVIDER QUALIFICATIONS.] ~~The following qualifications and certification standards must be met by~~ Providers of home care targeted case management and relocation service coordination must meet the qualifications under subdivision 4 for county vendors or the qualifications and certification standards under paragraphs (a) and (b) for private vendors.

(a) The commissioner must certify each provider of home care targeted case management and relocation service coordination before enrollment. The certification process shall examine the provider's ability to meet the requirements in this subdivision and other state and federal requirements of this service.

(b) ~~A Both~~ home care targeted case management ~~provider is an~~ providers and relocation service coordination providers are enrolled medical assistance provider providers who ~~has~~ have a minimum of a bachelor's degree or a license in a health or human services field, or comparable training and two years of experience in human services, and ~~is~~ have been determined by the commissioner to have all of the following characteristics:

(1) the demonstrated capacity and experience to provide the components of case management to coordinate and link community resources needed by the eligible population;

(2) 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;

(3) a financial management system that provides accurate documentation of services and costs under state and federal requirements;

(4) the capacity to document and maintain individual case records under state and federal requirements; ~~and~~

(5) the capacity to coordinate with county administrative functions;

(6) have no financial interest in the provision of out-of-home residential services to persons for whom home care targeted case management or relocation service coordination is provided; and

(7) if a provider has a financial interest in services other than out-of-home residential services provided to persons for whom home care targeted case management or relocation service coordination is also provided, the county must determine each year that:

(i) any possible conflict of interest is explained annually at a face-to-face meeting and in writing and the person provides written informed consent consistent with section 256B.77, subdivision 2, paragraph (p); and

(ii) information on a range of other feasible service provider options has been provided.

Sec. 9. Minnesota Statutes 2004, section 256B.0621, subdivision 6, is amended to read:

Subd. 6. [ELIGIBLE SERVICES.] (a) Services eligible for medical assistance reimbursement as targeted case management include:

(1) assessment of the recipient's need for targeted case management services and for persons choosing to relocate, the county must provide service coordination provider options at the first contact and upon request;

(2) development, completion, and regular review of a written individual service plan, which is based upon the assessment of the recipient's needs and choices, and which will ensure access to medical, social, educational, and other related services and supports;

(3) routine contact or communication with the recipient, recipient's family, primary caregiver, legal representative, substitute care provider, service providers, or other relevant persons identified as necessary to the development or implementation of the goals of the individual service plan;

(4) coordinating referrals for, and the provision of, case management services for the recipient with appropriate service providers, consistent with section 1902(a)(23) of the Social Security Act;

(5) coordinating and monitoring the overall service delivery and engaging in advocacy as needed to ensure quality of services, appropriateness, and continued need;

(6) completing and maintaining necessary documentation that supports and verifies the activities in this subdivision;

(7) ~~traveling~~ assisting individuals in order to access needed services, including travel to conduct a visit with the recipient or other relevant person necessary to develop or implement the goals of the individual service plan; and

(8) coordinating with the institution discharge planner in the 180-day period before the recipient's discharge.

(b) Relocation targeted county case management includes services under paragraph (a), clauses (1), (2), and (4). Relocation service coordination includes services under paragraph (a), clauses (3) and (5) to (8). Home care targeted case management includes services under paragraph (a), clauses (1) to (8).

Sec. 10. Minnesota Statutes 2004, section 256B.0621, subdivision 7, is amended to read:

Subd. 7. [TIME LINES.] The following time lines must be met for assigning a case manager:

(a) For relocation targeted case management, an eligible recipient must be assigned a county case manager who visits the person within 20 working days of requesting a case manager from their county of financial responsibility as determined under chapter 256G.

(1) If a county agency, its contractor, or federally recognized tribe does not provide case management services as required, the recipient may obtain ~~targeted relocation case management services~~ relocation service coordination from ~~an alternative a provider of targeted case management services enrolled by the commissioner~~ qualified under subdivision 5.

(2) The commissioner may waive the provider requirements in subdivision 4, paragraph (a), clauses (1) and (4), to ensure recipient access to the assistance necessary to move from an institution to the community. The recipient or the recipient's legal guardian shall provide written notice to the county or tribe of the decision to obtain services from an alternative provider.

(3) Providers of relocation targeted case management enrolled under this subdivision shall:

(i) meet the provider requirements under subdivision 4 that are not waived by the commissioner;

(ii) be qualified to provide the services specified in subdivision 6;

(iii) coordinate efforts with local social service agencies and tribes; and

(iv) comply with the conflict of interest provisions established under subdivision 4, paragraph (c).

(4) Local social service agencies and federally recognized tribes shall cooperate with providers certified by the commissioner under this subdivision to facilitate the recipient's successful relocation from an institution to the community.

(b) For home care targeted case management, an eligible recipient must be assigned a case manager within 20 working days of requesting a case manager from a home care targeted case management provider, as defined in subdivision 5.

Sec. 11. Minnesota Statutes 2004, section 256B.0621, is amended by adding a subdivision to read:

Subd. 11. [DATA USE AGREEMENT AND NOTICE OF RELOCATION TARGETED CASE MANAGEMENT AVAILABILITY.] The commissioner shall execute a data use agreement with the Centers for Medicare and Medicaid Services to obtain the long-term care minimum data set data to assist residents of nursing facilities who have indicated a desire to live in the community. The commissioner shall in turn enter into agreements with the Centers for Independent Living to provide information about assistance for persons who want to move to the community.

Sec. 12. Minnesota Statutes 2004, section 256B.0625, subdivision 2, is amended to read:

Subd. 2. [SKILLED AND INTERMEDIATE NURSING CARE.] Medical assistance covers skilled nursing home services and services of intermediate care facilities, including training and habilitation services, as defined in section 252.41, subdivision 3, for persons with mental retardation or related conditions who are residing in intermediate care facilities for persons with mental retardation or related conditions. Medical assistance must not be used to pay the costs of nursing care provided to a patient in a swing bed as defined in section 144.562, unless (a) the facility in which the swing bed is located is eligible as a sole community provider, as defined in Code of Federal Regulations, title 42, section 412.92, or the facility is a public hospital owned by a governmental entity with 15 or fewer licensed acute care beds; (b) the Centers for Medicare and Medicaid Services approves the necessary state plan amendments; (c) the patient was screened as provided by law; (d) the patient no longer requires acute care services; and (e) no nursing home beds are available within 25 miles of the facility. The commissioner shall exempt a facility from compliance with the sole community provider requirement in clause (a) if, as of January 1, 2004, the facility had an agreement with the commissioner to provide medical assistance swing bed services. Medical assistance also covers up to ten days of nursing care provided to a patient in a swing bed if: (1) the patient's physician certifies that the patient has a terminal illness or condition that is likely to result in death within 30 days and that moving the patient would not be in the best interests of the patient and patient's family; (2) no open nursing home beds are available within 25 miles of the facility; and (3) no open beds are available in any Medicare hospice program within 50 miles of the facility. The daily medical assistance payment for nursing care for the patient in the swing bed is the statewide average medical assistance skilled nursing care per diem as computed annually by the commissioner on July 1 of each year.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to medical assistance payments for swing bed services provided on or after March 5, 2005.

Sec. 13. Minnesota Statutes 2004, 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 would be eligible for medical assistance within ~~180~~ 120 days of admission to a nursing facility and subject to subdivisions 4 to 13.

Sec. 14. Minnesota Statutes 2004, 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 ~~480~~ 120 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;

(6) the monthly cost of the alternative care services funded by the program for this person does not exceed 75 percent of the 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 fee.

A person is ineligible if payment of the fee is over 60 days past due, unless the person agrees to:

(i) the appointment of a representative payee;

(ii) automatic payment from a financial account;

(iii) the establishment of greater family involvement in the financial management of payments; or

(iv) another method acceptable to the county to ensure prompt fee payments.

The county shall extend the client's eligibility as necessary while making arrangements to facilitate payment of past-due amounts and future premium payments. Following disenrollment due to nonpayment of a monthly fee, eligibility shall not be reinstated for a period of 30 days.

(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, alternative care funds may not be used to pay for any service the cost of which: (i) is payable by medical assistance; (ii) is used by a recipient to meet a 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 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. 15. Minnesota Statutes 2004, section 256B.0916, is amended by adding a subdivision to read:

Subd. 10. [TRANSITIONAL SUPPORTS ALLOWANCE.] A transitional supports allowance shall be available to all persons under a home and community-based waiver who are moving from a licensed setting to a community setting. "Transitional supports allowance" means a onetime payment of up to \$3,000, to cover the costs, not covered by other sources, associated with moving from a licensed setting to a community setting. Covered costs include:

- (1) lease or rent deposits;
- (2) security deposits;
- (3) utilities set-up costs, including telephone;
- (4) essential furnishings and supplies; and
- (5) personal supports and transports needed to locate and transition to community settings.

[EFFECTIVE DATE.] This section is effective upon federal approval and to the extent approved as a federal waiver amendment.

Sec. 16. Minnesota Statutes 2004, section 256B.095, is amended to read:

256B.095 [QUALITY ASSURANCE SYSTEM ESTABLISHED.]

(a) Effective July 1, 1998, a quality assurance system for persons with developmental disabilities, which includes an alternative quality assurance licensing system for programs, 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 or may continue regulation of these programs under the licensing system operated by the commissioner. The project expires on June 30, ~~2007~~ 2009.

(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.

Sec. 17. Minnesota Statutes 2004, section 256B.0951, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The 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. 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, ~~2007~~ 2009.

Sec. 18. Minnesota Statutes 2004, section 256B.0952, subdivision 5, is amended to read:

Subd. 5. [QUALITY ASSURANCE TEAMS.] Quality assurance teams shall be comprised of county staff; providers; consumers, families, and their legal representatives; members of advocacy organizations; and other involved community members. Team members must satisfactorily complete the training program approved by the commission and must demonstrate performance-based competency. Team members are not considered to be county employees for purposes of workers' compensation, unemployment insurance, or state retirement laws solely on the basis of participation on a quality assurance team. The county may pay a per diem to team members ~~who do not receive a salary or wages from an employer~~ for time spent on alternative quality assurance process matters. All team members may be reimbursed for expenses related to their participation in the alternative process.

Sec. 19. Minnesota Statutes 2004, section 256B.0953, subdivision 1, is amended to read:

Subdivision 1. [PROCESS COMPONENTS.] (a) The quality assurance licensing process consists of an evaluation by a quality assurance team of the facility, program, or service according to outcome-based measurements. The process must include an evaluation of a random sample of program consumers. The sample must be representative of each service provided. The sample size must be at least five percent of consumers but not less than ~~three~~ two consumers.

(b) All consumers must be given the opportunity to be included in the quality assurance process in addition to those chosen for the random sample.

Sec. 20. Minnesota Statutes 2004, section 256B.19, subdivision 1, is amended to read:

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

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

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

(3) beginning July 1, 2004, ~~80~~ 95 percent state funds and ~~20~~ five percent county funds for the costs of placements that have exceeded 90 days in intermediate care facilities for persons with mental retardation or a related condition that have seven or more beds. This provision includes pass-through payments made under section 256B.5015; and

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



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

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

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

Sec. 21. Minnesota Statutes 2004, section 256B.49, subdivision 16, is amended to read:

Subd. 16. [SERVICES AND SUPPORTS.] (a) Services and supports included in the home and community-based waivers for persons with disabilities shall meet the requirements set out in United States Code, title 42, section 1396n. The services and supports, which are offered as alternatives to institutional care, shall promote consumer choice, community inclusion, self-sufficiency, and self-determination.

(b) Beginning January 1, 2003, the commissioner shall simplify and improve access to home and community-based waived services, to the extent possible, through the establishment of a common service menu that is available to eligible recipients regardless of age, disability type, or waiver program.

(c) Consumer directed community support services shall be offered as an option to all persons eligible for services under subdivision 11, by January 1, 2002.

(d) Services and supports shall be arranged and provided consistent with individualized written plans of care for eligible waiver recipients.

(e) A transitional supports allowance shall be available to all persons under a home and community-based waiver who are moving from a licensed setting to a community setting. "Transitional supports allowance" means a onetime payment of up to \$3,000, to cover the costs, not covered by other sources, associated with moving from a licensed setting to a community setting. Covered costs include:

(1) lease or rent deposits;

(2) security deposits;

(3) utilities set-up costs, including telephone;

(4) essential furnishings and supplies; and

(5) personal supports and transports needed to locate and transition to community settings.

(f) The state of Minnesota and county agencies that administer home and community-based waived services for persons with disabilities, shall not be liable for damages, injuries, or liabilities sustained through the purchase of supports by the individual, the individual's family, legal representative, or the authorized representative with funds received through the consumer-directed community support service under this section. Liabilities include but are not limited to: workers' compensation liability, the Federal Insurance Contributions Act (FICA), or the Federal Unemployment Tax Act (FUTA).

**[EFFECTIVE DATE.]** This section is effective upon federal approval and to the extent approved as a federal waiver amendment.

Sec. 22. Minnesota Statutes 2004, section 256B.5012, is amended by adding a subdivision to read:

Subd. 6. [ICF/MR RATE INCREASES BEGINNING OCTOBER 1, 2005, AND OCTOBER 1, 2006.] For the rate years beginning October 1, 2005, and October 1, 2006, the commissioner shall provide facilities reimbursed under this section an adjustment to the total operating payment rate of two percent. At least two-thirds of each year's adjustment must be used for increased costs of employee salaries and benefits and associated costs for FICA, the Medicare tax, workers' compensation premiums, and federal and state unemployment insurance. Each facility receiving an adjustment shall report to the commissioner, in the form and manner specified by the commissioner, on how the additional funding was used.

Sec. 23. Minnesota Statutes 2004, section 256B.69, subdivision 23, is amended to read:

Subd. 23. [ALTERNATIVE INTEGRATED LONG-TERM CARE SERVICES; ELDERLY AND DISABLED PERSONS.] (a) The commissioner may implement demonstration projects to create alternative integrated delivery systems for acute and long-term care services to elderly persons and persons with disabilities as defined in section 256B.77, subdivision 7a, that provide increased coordination, improve access to quality services, and mitigate future cost increases. The commissioner may seek federal authority to combine Medicare and Medicaid capitation payments for the purpose of such demonstrations. Medicare funds and services shall be administered according to the terms and conditions of the federal waiver and demonstration provisions. For the purpose of administering medical assistance funds, demonstrations under this subdivision are subject to subdivisions 1 to 22. The provisions of Minnesota Rules, parts 9500.1450 to 9500.1464, apply to these demonstrations, with the exceptions of parts 9500.1452, subpart 2, item B; and 9500.1457, subpart 1, items B and C, which do not apply to persons enrolling in demonstrations under this section. An initial open enrollment period may be provided. Persons who disenroll from demonstrations under this subdivision remain subject to Minnesota Rules, parts 9500.1450 to 9500.1464. When a person is enrolled in a health plan under these demonstrations and the health plan's participation is subsequently terminated for any reason, the person shall be provided an opportunity to select a new health plan and shall have the right to change health plans within the first 60 days of enrollment in the second health plan. Persons required to participate in health plans under this section who fail to make a choice of health plan shall not be randomly assigned to health plans under these demonstrations. Notwithstanding section 256L.12, subdivision 5, and Minnesota Rules, part 9505.5220, subpart 1, item A, if adopted, for the purpose of demonstrations under this subdivision, the commissioner may contract with managed care organizations, including counties, to serve only elderly persons eligible for medical assistance, elderly and disabled persons, or disabled persons only. For persons with primary diagnoses of mental retardation or a related condition, serious and persistent mental illness, or serious emotional disturbance, the commissioner must ensure that the county authority has approved the demonstration and contracting design. Enrollment in these projects for persons with disabilities shall be voluntary. The commissioner shall not implement any demonstration project under this subdivision for persons with primary diagnoses of mental retardation or a related condition, serious and persistent mental illness, or serious emotional disturbance, without approval of the county board of the county in which the demonstration is being implemented.

(b) Notwithstanding chapter 245B, sections 252.40 to 252.46, 256B.092, 256B.501 to 256B.5015, and Minnesota Rules, parts 9525.0004 to 9525.0036, 9525.1200 to 9525.1330, 9525.1580, and 9525.1800 to 9525.1930, the commissioner may implement under this section projects for persons with developmental disabilities. The commissioner may capitate payments for ICF/MR services, waived services for mental retardation or related conditions, including case management services, day training and habilitation and alternative active treatment services, and other services as approved by the state and by the federal government. Case management and active treatment must be individualized and developed in accordance with a person-centered plan. Costs under these projects may not exceed costs that would have been incurred under fee-for-service. Beginning July 1, 2003, and until two years after the pilot project implementation date, subcontractor participation in the long-term care developmental disability pilot is limited to a nonprofit long-term care system providing ICF/MR services, home and community-based waiver services, and in-home services to no more than 120 consumers with developmental disabilities in Carver, Hennepin, and Scott Counties. The commissioner shall report to the legislature prior to expansion of the developmental disability pilot project. This paragraph expires two years after the implementation date of the pilot project.

(c) Before implementation of a demonstration project for disabled persons, the commissioner must provide information to appropriate committees of the house of representatives and senate and must involve representatives of affected disability groups in the design of the demonstration projects.

(d) A nursing facility reimbursed under the alternative reimbursement methodology in section 256B.434 may, in collaboration with a hospital, clinic, or other health care entity provide services under paragraph (a). The commissioner shall amend the state plan and seek any federal waivers necessary to implement this paragraph.

(e) The commissioner, in consultation with the commissioners of commerce and health, may approve and implement programs for all-inclusive care for the elderly (PACE) according to federal laws and regulations governing that program and state laws or rules applicable to participating providers. The process for approval of these programs shall begin only after the commissioner receives grant money in an amount sufficient to cover the state share of the administrative and actuarial costs to implement the programs during state fiscal years 2006 through 2009. Grants for this purpose shall be deposited in an account in the special revenue fund and are appropriated to the commissioner to be used solely for the purpose of PACE administrative and actuarial costs. A PACE provider is not required to be licensed or certified as a health plan company as defined in section 62Q.01, subdivision 4. Persons age 55 and older who have been screened by the county and found to be eligible for services under the elderly waiver or community alternatives for disabled individuals or who are already eligible for Medicaid but meet level of care criteria for receipt of waiver services may choose to enroll in the PACE program. Medicare and Medicaid services will be provided according to this subdivision and federal Medicare and Medicaid requirements governing PACE providers and programs. PACE enrollees will receive Medicaid home and community-based services through the PACE provider as an alternative to services for which they would otherwise be eligible through home and community-based waiver programs and Medicaid State Plan Services. The commissioner shall establish Medicaid rates for PACE providers that do not exceed costs that would have been incurred under fee-for-service or other relevant managed care programs operated by the state.

(f) The commissioner shall seek federal approval to expand the Minnesota disability health options (MnDHO) program established under this subdivision in stages, first to regional population centers outside the seven-county metro area and then to all areas of the state.

(g) Notwithstanding section 256B.0261, health plans providing services under this section are responsible for home care targeted case management and relocation targeted case management. Services must be provided according to the terms of the waivers and contracts approved by the federal government.

Sec. 24. [256B.762] [REIMBURSEMENT FOR HEALTH CARE SERVICES.]

Effective for services provided on or after October 1, 2005, payment rates for the following services shall be increased by five percent over the rates in effect on September 30, 2005, when these services are provided as home health services under section 256B.0625, subdivision 6a:

- (1) skilled nursing visit;
- (2) physical therapy visit;
- (3) occupational therapy visit;
- (4) speech therapy visit; and
- (5) home health aide visit.

Sec. 25. Minnesota Statutes 2004, section 256B.765, is amended to read:

256B.765 [PROVIDER RATE INCREASES.]

Subdivision 1. [ANNUAL INFLATION ADJUSTMENTS.] (a) Effective July 1, 2001, within the limits of appropriations specifically for this purpose, the commissioner shall provide an annual inflation adjustment for the providers listed in ~~paragraph (e)~~ subdivision 2. The index for the inflation adjustment must be based on the change in the Employment Cost Index for Private Industry Workers - Total Compensation forecasted by Data Resources, Inc., as forecasted in the fourth quarter of the calendar year preceding the fiscal year. The commissioner shall increase reimbursement or allocation rates by the percentage of this adjustment, and county boards shall adjust provider contracts as needed.

(b) The commissioner of finance shall include an annual inflationary adjustment in reimbursement rates for the providers listed in ~~paragraph (e)~~ subdivision 2 using the inflation factor specified in paragraph (a) as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11.

~~(e)~~ Subd. 2. [ELIGIBLE PROVIDERS.] The annual adjustment under subdivision 1, paragraph (a), shall be provided for home and community-based waiver services for persons with mental retardation or related conditions under section 256B.501; home and community-based waiver services for the elderly under section 256B.0915; waived services under community alternatives for disabled individuals under section 256B.49; community alternative care waived services under section 256B.49; traumatic brain injury waived services under section 256B.49; nursing services and home health services under section 256B.0625, subdivision 6a; personal care services and nursing supervision of personal care services under section 256B.0625, subdivision 19a; private duty nursing services under section 256B.0625, subdivision 7; day training and habilitation services for adults with mental retardation or related conditions under sections 252.40 to 252.46; physical therapy services under sections 256B.0625, subdivision 8, and 256D.03, subdivision 4; occupational therapy services under sections 256B.0625, subdivision 8a, and 256D.03, subdivision 4; speech-language therapy services under section 256D.03, subdivision 4, and Minnesota Rules, part 9505.0390; respiratory therapy services under section 256D.03, subdivision 4, and Minnesota Rules, part 9505.0295; alternative care services under section 256B.0913; adult residential program grants under Minnesota Rules, parts 9535.2000 to 9535.3000; adult and family community support grants under Minnesota Rules, parts 9535.1700 to 9535.1760; semi-independent living services under section 252.275 including SILS funding under county social services grants formerly funded under chapter 256I; and community support services for deaf and hard-of-hearing adults with mental illness who use or wish to use sign language as their primary means of communication.

Subd. 3. [RATE INCREASE FOR RATE PERIODS BEGINNING OCTOBER 1, 2005.] For the rate periods beginning October 1, 2005, and October 1, 2006, the commissioner shall increase reimbursement rates for the providers listed in subdivision 2 by two percent. At least two-thirds of each year's adjustment must be used for increased costs of employee salaries and benefits and associated costs for FICA, the Medicare tax, workers' compensation premiums, and federal and state unemployment insurance. Each provider receiving an adjustment shall report to the commissioner, in the form and manner specified by the commissioner, on how the additional funding was used.

Sec. 26. [ICF/MR PLAN.]

The commissioner of human services shall consult with ICF/MR providers, advocates, counties, and consumer families to develop recommendations and legislation concerning the future services provided to people now served in ICFs/MR. The recommendations shall be reported to the house and senate committees with jurisdiction over health and human services policy and finance issues by January 15, 2006. In preparing the recommendations, the commissioner shall consider:

(1) consumer choice of services;

(2) consumers' service needs, including, but not limited to, active treatment;

(3) the total cost of providing services in ICFs/MR and alternative delivery systems for individuals currently residing in ICFs/MR;

(4) whether it is the policy of the state to maintain an ICF/MR system and, if so, the recommendations shall:

(i) define the purpose, types of services, and intended recipients of ICF/MR services;

(ii) define the capacity needed to maintain ICF/MR services for designated populations; and

(iii) assure that mechanisms are provided to adequately fund the transition to the defined services, maintain the designated capacity, and are adjustable to meet increased service demands; and

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

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

Sec. 27. [DIRECTION TO THE COMMISSIONER; LICENSING AND ALTERNATIVE QUALITY ASSURANCE STUDY.]

The commissioner of human services shall arrange for a study, including recommendations for statewide development and implementation of regional or local quality assurance models for disability services. The study shall include a review of current projects or models; make findings regarding the best components, role, and function of such models within a statewide quality assurance system; and shall estimate the cost and sources of funding for regional and local quality assurance models on a statewide basis. The study shall be done in consultation with counties, consumers of service, providers, and representatives of the Quality Assurance Commission under Minnesota Statutes, section 256B.0951, subdivision 1.

The study shall be submitted to the chairs of the legislative committees with jurisdiction over health and human services with recommendations on implementation of a statewide system of quality assurance and licensing by July 1, 2006. The commissioner shall submit proposed legislation for implementation of a statewide system of quality assurance to the chairs of the legislative committees with jurisdiction over health and human services by December 15, 2006.

Sec. 28. [CONSUMER-DIRECTED COMMUNITY SUPPORTS EXCEPTION.]

(a) Effective upon federal approval, for persons using the home and community-based waiver for persons with developmental disabilities consumer-directed community supports option whose budgets were reduced by the October 2004 state set budget methodology, the commissioner must allow exceptions to exceed the state set budget formula amount up to the daily average cost during calendar year 2004 or for persons who graduated from school during 2004, the average daily cost during July through December 2004, less one-half case management and home modifications over \$5,000, when the person's county of financial responsibility determines that: (1) necessary alternative services will cost the same or more than the person's current budget, and (2) administrative expenses or provider rates will result in fewer hours of needed staffing for the person than under the consumer-directed community supports option. Any exceptions the county grants must be within the county's allowable aggregate amount for the home and community-based waiver for persons with developmental disabilities.

(b) This section expires on the date the Department of Human Services implements a new consumer-directed community supports budget methodology that is based on reliable and accurate information about the services and supports intensity needs of persons using the option which adequately accounts for the increased costs of adults who graduate from school and need services funded by the waiver during the day.

Sec. 29. [COSTS ASSOCIATED WITH PHYSICAL ACTIVITIES.]

Effective upon federal approval, the expenses allowed for adults under the consumer-directed community supports option shall include the costs at the lowest rate available considering daily, monthly, semi-annual, annual, or membership rates, including transportation, associated with physical exercise or other physical activities to maintain or improve the person's health and functioning.

Sec. 30. [WAIVER AMENDMENT.]

The commissioner of human services shall submit an amendment to the Centers for Medicare and Medicaid Services consistent with sections 28 and 29 by August 1, 2005.

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

Sec. 31. [INDEPENDENT EVALUATION AND REVIEW OF UNALLOWABLE ITEMS.]

The commissioner of human services shall include in the independent evaluation of the consumer-directed community supports option provided through the home and community-based services waivers for persons with disabilities under 65 years of age: (1) provisions for ongoing, regular stakeholder representatives participation through June 30, 2007; (2) recommendations to the legislative committees with jurisdiction over human services policy and finance issues by January 15, 2006, on whether changes to the unallowable items should be made to meet the health, safety, or welfare needs of participants in the consumer-directed community supports option within the allowed budget amounts; and (3) a review of the statewide caseload changes for the disability waiver programs for persons under 65 years of age, which occurred after the state set budget methodology implementation on October 1, 2004, and recommendations on the fiscal impact of the budget methodology on use of the consumer-directed community supports option.

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

Sec. 32. [FEDERAL APPROVAL.]

By August 1, 2005, the commissioner of human services shall request any federal approval and plan amendments necessary to implement (1) the transitional supports allowance under Minnesota Statutes, sections 256B.0916, subdivision 10, and 256B.49, subdivision 16; and (2) the choice of case management service coordination provisions under Minnesota Statutes, section 256B.0621, subdivisions 4, 5, 6, and 7.

Sec. 33. [DENTAL ACCESS FOR PERSONS WITH DISABILITIES.]

The commissioner of human services shall study access to dental services for persons with disabilities and shall present recommendations for improving access to dental services to the legislature by January 15, 2006. The study must examine physical and geographic access, the willingness of dentists to serve persons with disabilities enrolled in state health care programs, reimbursement rates for dental service providers, and other factors identified by the commissioner as potential barriers to accessing dental services. The commissioner shall direct the Dental Access Advisory Committee, established under Minnesota Statutes, section 256B.55, to assist in this study.

Sec. 34. [DISABILITY SERVICES INTERAGENCY WORK GROUP.]

Subdivision 1. [MEMBERSHIP.] The Department of Human Services, the Minnesota Housing Finance Agency, and the Minnesota State Council on Disability shall convene an interagency work group which includes interested stakeholders including other state agencies, counties, public housing authorities, the Metropolitan Council, disability service providers, and representatives from disability advocacy organizations to identify barriers, strengthen coordination, recommend policy and funding changes, and pursue federal financing that will assist Minnesotans with disabilities who are attempting to relocate from or avoid placement in institutional settings.

Subd. 2. [WORK GROUP ACTIVITIES.] The work group shall make recommendations to the state agencies and the legislature related to:

(1) coordinating the availability of housing, transportation, and support services needed to discharge persons with disabilities from institutions;

(2) improving information and assistance needed to make an informed choice about relocating from an institutional placement to community-based services;

(3) identifying gaps in human services, transportation, or housing access which are barriers to moving to community services;

(4) identifying strategies which would result in earlier identification of persons most at risk of institutional placement in order to promote diversion to community service or reduce length of stay in an institutional facility;

(5) identifying funding mechanisms and financial strategies to assure a financially sustainable community support system that diverts and relocates individuals from institutional placement; and

(6) identifying state changes needed to address any federal changes affecting policies, benefits, or funding used to support persons with disabilities to avoid institutional placement.

Subd. 3. [RECOMMENDATIONS.] Recommendations of the work group will be submitted to each participating state agency and to the chairs of the health and human services policy and finance committees of the senate and house of representatives by October 15, 2006. This section expires October 15, 2006.

Sec. 35. [REPORT TO LEGISLATURE.]

The commissioner shall report to the legislature on the redesign of case management services. In preparing the report, the commissioner shall consult with representatives for consumers, consumer advocates, counties, and service providers. The report shall include draft legislation for case management changes that will:

(1) streamline administration;

(2) improve consumer access to case management services;

(3) address the use of a comprehensive universal assessment protocol for persons seeking community supports;

(4) establish case management performance measures;

(5) provide for consumer choice of the case management service vendor; and

(6) provide a method of payment for case management services that is cost-effective and best supports the draft legislation in clauses (1) to (5).

## ARTICLE 6

## MISCELLANEOUS

Section 1. Minnesota Statutes 2004, 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 carry out the specific duties in paragraphs (a) through ~~(aa)~~ (bb):

(a) 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:

(1) require county agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(2) 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;

(3) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(4) 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;

(5) 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;

(6) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds; and

(7) 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.

(b) 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.

(c) 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.



(d) 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.

(e) 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.

(f) 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.

(g) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(h) 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.

(i) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(j) 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.

(k) 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.

(l) 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:

(1) 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; and

(2) a comprehensive plan, including estimated project costs, shall be approved by the Legislative Advisory Commission and filed with the commissioner of administration.

(m) 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.

(n) 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:

(1) 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; and

(2) notwithstanding the provisions of clause (1), 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 clause (1), 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 clause (1).

(o) 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.

(p) 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.

(q) Have the authority to establish and enforce the following county reporting requirements:

(1) 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;

(2) 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;

(3) if the required reports are not received by the deadlines established in clause (2), 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;

(4) 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;

(5) 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;

(6) the commissioner may not delay payments, withhold funds, or require repayment under clause (3) or (5) 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 clause (3) or (5), the county board may appeal the action according to sections 14.57 to 14.69; and

(7) counties subject to withholding of funds under clause (3) or forfeiture or repayment of funds under clause (5) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under clause (3) or (5).

(r) 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.

(s) 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.

(t) 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.

(u) 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 rebate as defined for purposes of the federal rebate

program in United States Code, title 42, section 1396r-8. 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.

(v) 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.

(w) 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.

(x) 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.

(y) 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.

(z) Designate community information and referral call centers and incorporate cost reimbursement claims from the designated community information and referral call centers into the federal cost reimbursement claiming processes of the department according to federal law, rule, and regulations. Existing information and referral centers provided by Greater Twin Cities United Way or existing call centers for which Greater Twin Cities United Way has legal authority to represent, shall be included in these designations upon review by the commissioner and assurance that these services are accredited and in compliance with national standards. Any reimbursement is appropriated to the commissioner and all designated information and referral centers shall receive payments according to normal department schedules established by the commissioner upon final approval of allocation methodologies from the United States Department of Health and Human Services Division of Cost Allocation or other appropriate authorities.

(aa) 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.

(bb) Authorize the method of payment to or from the department as part of the human services programs administered by the department. This authorization includes the receipt or disbursement of funds held by the department in a fiduciary capacity as part of the human services programs administered by the department.

Sec. 2. Minnesota Statutes 2004, section 256.01, is amended by adding a subdivision to read:

Subd. 23. [ANNUAL REPORT.] Effective August 1, 2006, or on the date HealthMatch is fully implemented, whichever is later, the commissioner shall prepare an annual report of the number of eligible applicants who applied in the prior calendar year for Minnesota health care programs under chapters 256B, 256D, and 256L, and had not lived in Minnesota for the 12 months prior to the application month. The report shall indicate the number of applicants by state of prior residence or by the general category of foreign country.

Sec. 3. [DIRECTION TO COMMISSIONER; STUDY ON DEEMED INCOME OF SPONSORS OF NONCITIZENS.]

The commissioner of human services shall assess county compliance with deeming the income and assets of sponsors of noncitizens under Minnesota Statutes, sections 256B.06, subdivision 5; 256D.03, subdivision 3, paragraph (i); 256D.05, subdivision 3; 256J.37, subdivision 2; and 256L.04, subdivision 10a. The commissioner shall report findings on county compliance with these provisions and make recommendations to ensure compliance to the legislative committees with jurisdiction over human services by January 15, 2006.

## ARTICLE 7

### MENTAL HEALTH SERVICES

Section 1. Minnesota Statutes 2004, section 245.4885, subdivision 1, is amended to read:

Subdivision 1. ~~[SCREENING REQUIRED ADMISSION CRITERIA.]~~ The county board shall, prior to admission, except in the case of emergency admission, ~~screen~~ determine the needed level of care for all children referred for treatment of severe emotional disturbance ~~to in a treatment foster care setting, residential treatment facility, or informally admitted to a regional treatment center if public funds are used to pay for the services. The county board shall also screen~~ in a treatment foster care setting, residential treatment facility, or informally admitted to a regional treatment center if public funds are used to pay for the services. The county board shall also determine the needed level of care for all children admitted to an acute care hospital for treatment of severe emotional disturbance if public funds other than reimbursement under chapters 256B and 256D are used to pay for the services. ~~If a child is admitted to a residential treatment facility or acute care hospital for emergency treatment or held for emergency care by a regional treatment center under section 253B.05, subdivision 1, screening must occur within three working days of admission. Screening~~ The level of care determination shall determine whether the proposed treatment:

- (1) is necessary;
- (2) is appropriate to the child's individual treatment needs;
- (3) cannot be effectively provided in the child's home; and
- (4) provides a length of stay as short as possible consistent with the individual child's need.

When a ~~screening~~ level of care determination is conducted, the county board may not determine that referral or admission to a treatment foster care setting, residential treatment facility, or acute care hospital is not appropriate solely because services were not first provided to the child in a less restrictive setting and the child failed to make progress toward or meet treatment goals in the less restrictive setting. ~~Screening shall include both~~ The level of care

determination must be based on a diagnostic assessment and that includes a functional assessment which evaluates family, school, and community living situations; and an assessment of the child's need for care out of the home using a validated tool which assesses a child's functional status and assigns an appropriate level of care. The validated tool must be approved by the commissioner of human services. If a diagnostic assessment ~~or including~~ a functional assessment has been completed by a mental health professional within the past 180 days, a new diagnostic ~~or functional~~ assessment need not be completed unless in the opinion of the current treating mental health professional the child's mental health status has changed markedly since the assessment was completed. The child's parent shall be notified if an assessment will not be completed and of the reasons. A copy of the notice shall be placed in the child's file. Recommendations developed as part of the screening level of care determination process shall include specific community services needed by the child and, if appropriate, the child's family, and shall indicate whether or not these services are available and accessible to the child and family.

During the screening level of care determination process, the child, child's family, or child's legal representative, as appropriate, must be informed of the child's eligibility for case management services and family community support services and that an individual family community support plan is being developed by the case manager, if assigned.

~~Screening~~ The level of care determination shall ~~be in compliance~~ comply with section 260C.212. Wherever possible, the parent shall be consulted in the ~~screening~~ process, unless clinically inappropriate.

The ~~screening process~~ level of care determination, and placement decision, and recommendations for mental health services must be documented in the child's record.

An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards in clauses (1) to (4).

**[EFFECTIVE DATE.]** This section is effective July 1, 2006.

Sec. 2. Minnesota Statutes 2004, section 245.4885, is amended by adding a subdivision to read:

Subd. 1a. [EMERGENCY ADMISSION.] Effective July 1, 2006, if a child is admitted to a treatment foster care setting, residential treatment facility, or acute care hospital for emergency treatment or held for emergency care by a regional treatment center under section 253B.05, subdivision 1, the level of care determination must occur within three working days of admission.

Sec. 3. Minnesota Statutes 2004, section 245.4885, subdivision 2, is amended to read:

Subd. 2. [QUALIFICATIONS.] ~~No later than July 1, 1991, Screening Level of care determination~~ of children for treatment foster care, residential, and inpatient services must be conducted by a mental health professional. Where appropriate and available, culturally informed mental health consultants must participate in the screening level of care determination. Mental health professionals providing screening level of care determination for treatment foster care, inpatient, and residential services must not be financially affiliated with any ~~acute care inpatient hospital, residential treatment facility, or regional treatment center~~ nongovernment entity which may be providing those services. ~~The commissioner may waive this requirement for mental health professional participation after July 1, 1991, if the county documents that:~~

~~(1) mental health professionals or mental health practitioners are unavailable to provide this service; and~~

~~(2) services are provided by a designated person with training in human services who receives clinical supervision from a mental health professional.~~

**[EFFECTIVE DATE.]** This section is effective July 1, 2006.

Sec. 4. Minnesota Statutes 2004, section 253B.02, subdivision 7, is amended to read:

Subd. 7. [EXAMINER.] "Examiner" means a person who is knowledgeable, trained, and practicing in the diagnosis and assessment or in the treatment of the alleged impairment, and who is:

(1) a licensed physician; ~~or~~

(2) a licensed psychologist who has a doctoral degree in psychology or who became a licensed consulting psychologist before July 2, 1975; or

(3) an advanced practice registered nurse certified in mental health, except that only a physician or psychologist meeting these requirements may be appointed by the court to conduct an evaluation.

Sec. 5. Minnesota Statutes 2004, section 256B.0625, is amended by adding a subdivision to read:

Subd. 46. [MENTAL HEALTH TELEMEDICINE.] Effective January 1, 2006, and subject to federal approval, mental health services that are otherwise covered by medical assistance as direct face-to-face services may be provided via two-way interactive video. Use of two-way interactive video must be medically appropriate to the condition and needs of the person being served. Reimbursement is at the same rates and under the same conditions that would otherwise apply to the service. The interactive video equipment and connection must comply with Medicare standards in effect at the time the service is provided.

Sec. 6. Minnesota Statutes 2004, section 256B.0625, is amended by adding a subdivision to read:

Subd. 47. [TREATMENT FOSTER CARE SERVICES.] Effective July 1, 2006, and subject to federal approval, medical assistance covers treatment foster care services according to section 256B.0946.

Sec. 7. Minnesota Statutes 2004, section 256B.0625, is amended by adding a subdivision to read:

Subd. 48. [PSYCHIATRIC CONSULTATION TO PRIMARY CARE PRACTITIONERS.] Effective January 1, 2006, medical assistance covers consultation provided by a psychiatrist via telephone, e-mail, facsimile, or other means of communication to primary care practitioners, including pediatricians. The need for consultation and the receipt of the consultation must be documented in the patient record maintained by the primary care practitioner. If the patient consents, and subject to federal limitations and data privacy provisions, the consultation may be provided without the patient present.

Sec. 8. [256B.0946] [TREATMENT FOSTER CARE.]

Subdivision 1. [COVERED SERVICE.] (a) Effective July 1, 2006, and subject to federal approval, medical assistance covers medically necessary services described under paragraph (b) that are provided by a provider entity eligible under subdivision 3 to a client eligible under subdivision 2 who is placed in a treatment foster home licensed under Minnesota Rules, parts 2960.3000 to 2960.3340.

(b) Services to children with severe emotional disturbance residing in treatment foster care settings must meet the relevant standards for mental health services under sections 245.487 to 245.4887. In addition, specific service components reimbursed by medical assistance must meet the following standards:

(1) case management service component must meet the standards in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, excluding subparts 6 and 10;

(2) psychotherapy and skills training components must meet the standards for children's therapeutic services and supports in section 256B.0943; and

(3) family psychoeducation services under supervision of a mental health professional.

Subd. 2. [DETERMINATION OF CLIENT ELIGIBILITY.] A client's eligibility to receive treatment foster care under this section shall be determined by a diagnostic assessment, an evaluation of level of care needed, and development of an individual treatment plan, as defined in paragraphs (a) to (c).

(a) The diagnostic assessment must:

(1) be conducted by a psychiatrist, licensed psychologist, or licensed independent clinical social worker that is performed within 180 days prior to the start of service;

(2) include current diagnoses on all five axes of the client's current mental health status;

(3) determine whether or not a child meets the criteria for severe emotional disturbance in section 245.4871, subdivision 6, or for serious and persistent mental illness in section 245.462, subdivision 20; and

(4) 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 status and service needs.

(b) The evaluation of level of care must be conducted by the placing county with an instrument approved by the commissioner of human services. The commissioner shall update the list of approved level of care instruments annually.

(c) The individual treatment plan must be:

(1) based on the information in the client's diagnostic assessment;

(2) developed through a child-centered, family driven planning process that identifies service needs and individualized, planned, and culturally appropriate interventions that contain specific measurable treatment goals and objectives for the client and treatment strategies for the client's family and foster family;

(3) reviewed at least once every 90 days and revised; and

(4) 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.

Subd. 3. [ELIGIBLE PROVIDERS.] For purposes of this section, a provider agency must have an individual placement agreement for each recipient and must be a licensed child placing agency, under Minnesota Rules, parts 9543.0010 to 9543.0150, and either:

(1) a county;

(2) an Indian Health Services facility operated by a tribe or tribal organization under funding authorized by United States Code, title 25, sections 450f to 450n, or title 3 of the Indian Self-Determination Act, Public Law 93-638, section 638 (facilities or providers); or

(3) a noncounty entity under contract with a county board.



Subd. 4. [ELIGIBLE PROVIDER RESPONSIBILITIES.] (a) To be an eligible provider under this section, a provider must develop written policies and procedures for treatment foster care services consistent with subdivision 1, paragraph (b), clauses (1), (2), and (3).

(b) In delivering services under this section, a treatment foster care provider must ensure that staff caseload size reasonably enables the provider to play an active role in service planning, monitoring, delivering, and reviewing for discharge planning to meet the needs of the client, the client's foster family, and the birth family, as specified in each client's individual treatment plan.

Subd. 5. [SERVICE AUTHORIZATION.] The commissioner will administer authorizations for services under this section in compliance with section 256B.0625, subdivision 25.

Subd. 6. [EXCLUDED SERVICES.] (a) Services in clauses (1) to (4) are not eligible as components of treatment foster care services:

(1) treatment foster care services provided in violation of medical assistance policy in Minnesota Rules, part 9505.0220;

(2) service components of children's therapeutic services and supports simultaneously provided by more than one treatment foster care provider;

(3) home and community-based waiver services; and

(4) treatment foster care services provided to a child without a level of care determination according to section 245.4885, subdivision 1.

(b) Children receiving treatment foster care services are not eligible for medical assistance reimbursement for the following services while receiving treatment foster care:

(1) mental health case management services under section 256B.0625, subdivision 20; and

(2) psychotherapy and skill training components of children's therapeutic services and supports under section 256B.0625, subdivision 35b.

Sec. 9. [256B.0947] [TRANSITIONAL YOUTH INTENSIVE REHABILITATIVE MENTAL HEALTH SERVICES.]

Subdivision 1. [SCOPE.] Subject to federal approval, medical assistance covers medically necessary, intensive nonresidential 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 child rehabilitative mental health services as defined in section 256B.0943, except that these services are provided by a multidisciplinary staff using a total team approach consistent with assertive community treatment, or other evidence-based practices, and directed to recipients with a serious mental illness who require intensive services.

(b) "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.

(c) "Treatment team" means all staff who provide services to recipients under this section. At a minimum, this includes the clinical supervisor, mental health professionals, mental health practitioners, mental health behavioral aides, and a school representative familiar with the recipient's individual education plan (IEP) if applicable.

Subd. 3. [ELIGIBILITY FOR TRANSITIONAL YOUTH.] An eligible recipient under the age of 18 is an individual who:

(1) is age 16 or 17;

(2) is diagnosed with a medical condition, such as an emotional disturbance or traumatic brain injury, for which intensive nonresidential rehabilitative mental health services are needed;

(3) has substantial disability and functional impairment in three or more of the areas listed in section 245.462, subdivision 11a, so that self-sufficiency upon adulthood or emancipation is unlikely; and

(4) has had a recent diagnostic assessment by a qualified professional that documents that intensive nonresidential rehabilitative mental health services are medically necessary to address identified disability and functional impairments and individual recipient goals.

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 transition youth rehabilitative mental health services; and

(2) be certified by the commissioner as being in compliance with this section and section 256B.0943.

(b) 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 NONRESIDENTIAL PROVIDERS.] (a) Services must be provided by a certified provider entity as defined in section 256B.0943, subdivision 4 that meets the requirements in section 245B.0943, subdivisions 5 and 6.

(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 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. 7. [MEDICAL ASSISTANCE PAYMENT FOR INTENSIVE REHABILITATIVE MENTAL HEALTH SERVICES.] (a) Payment for 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, staff travel time to provide rehabilitative services under this section, and nonresidential crisis stabilization services under section 256B.0944.

(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 nonresidential intensive rehabilitative mental health 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; and

(5) the costs of other services that will be separately reimbursed.

(d) The rate for intensive rehabilitative mental health services must exclude medical assistance room and board rate, as defined in section 256I.03, subdivision 6, and services not covered under this section, such as partial hospitalization and inpatient services. Physician services are not a component of the treatment team and may be billed separately. 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.

(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. 8. [PROVIDER ENROLLMENT; RATE SETTING FOR COUNTY-OPERATED ENTITIES.] Effective July 1, 2006, 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.

Sec. 10. Minnesota Statutes 2004, section 256D.03, subdivision 4, is amended to read:

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

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

(15) outpatient services provided by a mental health center or clinic that is under contract with the county board and is established under section 245.62;

(16) day treatment services for mental illness provided under contract with the county board;

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

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

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

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

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

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

(23) mental health telemedicine and psychiatric consultation as covered under section 256B.0625, subdivisions 46 and 48.

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

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

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

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

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

(2) \$25 for eyeglasses;

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

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

(5) 50 percent coinsurance on restorative dental services.

(e) Co-payments shall be limited to one per day per provider for nonpreventive visits, eyeglasses, and nonemergency visits to a hospital-based emergency room. Recipients of general assistance medical care are responsible for all co-payments in this subdivision. The general assistance medical care reimbursement to the provider shall be reduced by the amount of the co-payment, except that reimbursement for prescription drugs shall not be reduced once a recipient has reached the \$20 per month maximum for prescription drug co-payments. The provider collects the co-payment from the recipient. Providers may not deny services to recipients who are unable to pay the co-payment, except as provided in paragraph (f).

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

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

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

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

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

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

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

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

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

**[EFFECTIVE DATE.]** This section is effective January 1, 2006.

Sec. 11. Minnesota Statutes 2004, section 256L.03, subdivision 1, is amended to read:

Subdivision 1. [COVERED HEALTH SERVICES.] For individuals under section 256L.04, subdivision 7, with income no greater than 75 percent of the federal poverty guidelines or for families with children under section 256L.04, subdivision 1, all subdivisions of this section apply. "Covered health services" means the health services reimbursed under chapter 256B, with the exception of inpatient hospital services, special education services, private duty nursing services, adult dental care services other than services 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. Outpatient mental health services covered under the MinnesotaCare program are limited to diagnostic assessments, psychological testing, explanation of findings, mental health telemedicine, psychiatric consultation, medication management by a physician, day treatment, partial hospitalization, and individual, family, and group psychotherapy.

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

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

**[EFFECTIVE DATE.]** This section is effective January 1, 2006.

## ARTICLE 8

### HEALTH POLICY

Section 1. Minnesota Statutes 2004, section 13.3806, is amended by adding a subdivision to read:

Subd. 21. [ABORTION NOTIFICATION DATA.] Classification of data in abortion notification reports is governed by section 144.3431.

Sec. 2. [62J.495] [HEALTH INFORMATION TECHNOLOGY AND INFRASTRUCTURE ADVISORY COMMITTEE.]

Subdivision 1. [LEGISLATIVE FINDINGS AND PURPOSE.] There is a need for coordination and collaboration among health care payers, providers, consumers, and government in designing and implementing a statewide interoperable health information infrastructure that includes standards for administrative data exchange, clinical support programs, quality performance measures, and maintenance of the security and confidentiality of individual patient data.

Subd. 2. [ESTABLISHMENT; MEMBERS; DUTIES.] (a) The commissioner shall establish a Health Information Technology and Infrastructure Advisory Committee governed by section 15.059 to advise the commissioner on the following matters:

(1) assessment of the use of health information technology by the state, licensed health care providers and facilities, and local public health agencies;

(2) recommendations for implementing a statewide interoperable health information infrastructure, to include estimates of necessary resources, and for determining standards for administrative data exchange, clinical support programs, and maintenance of the security and confidentiality of individual patient data; and

(3) other related issues as requested by the commissioner.

(b) The members of the Health Information Technology and Infrastructure Advisory Committee shall include the commissioners, or commissioners' designees, of health, human services, and commerce and additional members to be appointed by the commissioner to include persons representing Minnesota's local public health agencies, licensed hospitals and other licensed facilities and providers, private purchasers, the medical and nursing professions, health insurers and health plans, the state quality improvement organization, academic and research institutions, consumer advisory organizations with an interest and expertise in health information technology, and other stakeholders as identified by the Health Information Technology and Infrastructure Advisory Committee.

Subd. 3. [ANNUAL REPORT.] The commissioner shall prepare and issue an annual report not later than January 30 of each year outlining progress to date in implementing a statewide health information infrastructure and recommending future projects.

Subd. 4. [EXPIRATION.] Notwithstanding section 15.059, this section expires June 30, 2009.

Sec. 3. Minnesota Statutes 2004, section 103I.101, subdivision 6, is amended to read:

Subd. 6. [FEES FOR VARIANCES.] The commissioner shall charge a nonrefundable application fee of ~~\$150~~ \$175 to cover the administrative cost of processing a request for a variance or modification of rules adopted by the commissioner under this chapter.

**[EFFECTIVE DATE.]** This section is effective July 1, 2006.

Sec. 4. Minnesota Statutes 2004, section 103I.208, subdivision 1, is amended to read:

Subdivision 1. [WELL NOTIFICATION FEE.] The well notification fee to be paid by a property owner is:

(1) for a new well, ~~\$150~~ \$175, which includes the state core function fee;

(2) for a well sealing, ~~\$30~~ \$35 for each well, which includes the state core function fee, except that for monitoring wells constructed on a single property, having depths within a 25 foot range, and sealed within 48 hours of start of construction, a single fee of ~~\$30~~ \$35; and

(3) for construction of a dewatering well, ~~\$150~~ \$175, which includes the state core function fee, for each well except a dewatering project comprising five or more wells shall be assessed a single fee of ~~\$750~~ \$875 for the wells recorded on the notification.

**[EFFECTIVE DATE.]** This section is effective July 1, 2006.

Sec. 5. Minnesota Statutes 2004, section 103I.208, subdivision 2, is amended to read:

Subd. 2. [PERMIT FEE.] The permit fee to be paid by a property owner is:

(1) for a well that is not in use under a maintenance permit, ~~\$125~~ \$150 annually;

(2) for construction of a monitoring well, ~~\$150~~ \$175, which includes the state core function fee;



(3) for a monitoring well that is unsealed under a maintenance permit, ~~\$125~~ \$150 annually;

(4) for monitoring wells used as a leak detection device at a single motor fuel retail outlet, a single petroleum bulk storage site excluding tank farms, or a single agricultural chemical facility site, the construction permit fee is ~~\$150~~ \$175, which includes the state core function fee, per site regardless of the number of wells constructed on the site, and the annual fee for a maintenance permit for unsealed monitoring wells is ~~\$125~~ \$150 per site regardless of the number of monitoring wells located on site;

(5) for a groundwater thermal exchange device, in addition to the notification fee for wells, ~~\$150~~ \$175, which includes the state core function fee;

(6) for a vertical heat exchanger, ~~\$150~~ \$175;

(7) for a dewatering well that is unsealed under a maintenance permit, ~~\$125~~ \$150 annually for each well, except a dewatering project comprising more than five wells shall be issued a single permit for ~~\$625~~ \$750 annually for wells recorded on the permit; and

(8) for excavating holes for the purpose of installing elevator shafts, ~~\$150~~ \$175 for each hole.

**[EFFECTIVE DATE.]** This section is effective July 1, 2006.

Sec. 6. Minnesota Statutes 2004, section 103I.235, subdivision 1, is amended to read:

Subdivision 1. [DISCLOSURE OF WELLS TO BUYER.] (a) Before signing an agreement to sell or transfer real property, the seller must disclose in writing to the buyer information about the status and location of all known wells on the property, by delivering to the buyer either a statement by the seller that the seller does not know of any wells on the property, or a disclosure statement indicating the legal description and county, and a map drawn from available information showing the location of each well to the extent practicable. In the disclosure statement, the seller must indicate, for each well, whether the well is in use, not in use, or sealed.

(b) At the time of closing of the sale, the disclosure statement information, name and mailing address of the buyer, and the quartile, section, township, and range in which each well is located must be provided on a well disclosure certificate signed by the seller or a person authorized to act on behalf of the seller.

(c) A well disclosure certificate need not be provided if the seller does not know of any wells on the property and the deed or other instrument of conveyance contains the statement: "The Seller certifies that the Seller does not know of any wells on the described real property."

(d) If a deed is given pursuant to a contract for deed, the well disclosure certificate required by this subdivision shall be signed by the buyer or a person authorized to act on behalf of the buyer. If the buyer knows of no wells on the property, a well disclosure certificate is not required if the following statement appears on the deed followed by the signature of the grantee or, if there is more than one grantee, the signature of at least one of the grantees: "The Grantee certifies that the Grantee does not know of any wells on the described real property." The statement and signature of the grantee may be on the front or back of the deed or on an attached sheet and an acknowledgment of the statement by the grantee is not required for the deed to be recordable.

(e) This subdivision does not apply to the sale, exchange, or transfer of real property:

(1) that consists solely of a sale or transfer of severed mineral interests; or

(2) that consists of an individual condominium unit as described in chapters 515 and 515B.

(f) For an area owned in common under chapter 515 or 515B the association or other responsible person must report to the commissioner by July 1, 1992, the location and status of all wells in the common area. The association or other responsible person must notify the commissioner within 30 days of any change in the reported status of wells.

(g) For real property sold by the state under section 92.67, the lessee at the time of the sale is responsible for compliance with this subdivision.

(h) If the seller fails to provide a required well disclosure certificate, the buyer, or a person authorized to act on behalf of the buyer, may sign a well disclosure certificate based on the information provided on the disclosure statement required by this section or based on other available information.

(i) A county recorder or registrar of titles may not record a deed or other instrument of conveyance dated after October 31, 1990, for which a certificate of value is required under section 272.115, or any deed or other instrument of conveyance dated after October 31, 1990, from a governmental body exempt from the payment of state deed tax, unless the deed or other instrument of conveyance contains the statement made in accordance with paragraph (c) or (d) or is accompanied by the well disclosure certificate containing all the information required by paragraph (b) or (d). The county recorder or registrar of titles must not accept a certificate unless it contains all the required information. The county recorder or registrar of titles shall note on each deed or other instrument of conveyance accompanied by a well disclosure certificate that the well disclosure certificate was received. The notation must include the statement "No wells on property" if the disclosure certificate states there are no wells on the property. The well disclosure certificate shall not be filed or recorded in the records maintained by the county recorder or registrar of titles. After noting "No wells on property" on the deed or other instrument of conveyance, the county recorder or registrar of titles shall destroy or return to the buyer the well disclosure certificate. The county recorder or registrar of titles shall collect from the buyer or the person seeking to record a deed or other instrument of conveyance, a fee of ~~\$30~~ \$40 for receipt of a completed well disclosure certificate. By the tenth day of each month, the county recorder or registrar of titles shall transmit the well disclosure certificates to the commissioner of health. By the tenth day after the end of each calendar quarter, the county recorder or registrar of titles shall transmit to the commissioner of health ~~\$27.50~~ \$32.50 of the fee for each well disclosure certificate received during the quarter. The commissioner shall maintain the well disclosure certificate for at least six years. The commissioner may store the certificate as an electronic image. A copy of that image shall be as valid as the original.

(j) No new well disclosure certificate is required under this subdivision if the buyer or seller, or a person authorized to act on behalf of the buyer or seller, certifies on the deed or other instrument of conveyance that the status and number of wells on the property have not changed since the last previously filed well disclosure certificate. The following statement, if followed by the signature of the person making the statement, is sufficient to comply with the certification requirement of this paragraph: "I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate." The certification and signature may be on the front or back of the deed or on an attached sheet and an acknowledgment of the statement is not required for the deed or other instrument of conveyance to be recordable.

(k) The commissioner in consultation with county recorders shall prescribe the form for a well disclosure certificate and provide well disclosure certificate forms to county recorders and registrars of titles and other interested persons.

(l) Failure to comply with a requirement of this subdivision does not impair:

(1) the validity of a deed or other instrument of conveyance as between the parties to the deed or instrument or as to any other person who otherwise would be bound by the deed or instrument; or

(2) the record, as notice, of any deed or other instrument of conveyance accepted for filing or recording contrary to the provisions of this subdivision.

**[EFFECTIVE DATE.]** This section is effective July 1, 2006.

Sec. 7. Minnesota Statutes 2004, section 103I.601, subdivision 2, is amended to read:

Subd. 2. **[LICENSE REQUIRED TO MAKE BORINGS.]** (a) Except as provided in paragraph ~~(b)~~ (d), a person ~~may~~ must not make an exploratory boring without an ~~exploratory borer's~~ explorer's license. The fee for an explorer's license is \$75. The explorer's license is valid until the date prescribed in the license by the commissioner.

(b) A person must file an application and renewal application fee to renew the explorer's license by the date stated in the license. The renewal application fee is \$75.

(c) If the licensee submits an application fee after the required renewal date, the licensee:

(1) must include a late fee of \$75; and

(2) may not conduct activities authorized by an explorer's license until the renewal application, renewal application fee, late fee, and sealing reports required in subdivision 9 are submitted.

(d) An explorer ~~may~~ must designate a responsible individual to supervise and oversee the making of exploratory borings. Before an individual supervises or oversees an exploratory boring, the individual must file an application and application fee of \$75 to qualify as a responsible individual. The individual must take and pass an examination relating to construction, location, and sealing of exploratory borings. A professional engineer ~~registered or geoscientist licensed~~ certified under sections 326.02 to 326.15 or a ~~certified~~ certified professional geologist certified by the American Institute of Professional Geologists is not required to take the examination required in this subdivision, but must be ~~licensed~~ certified as a responsible individual to make supervise an exploratory boring.

Sec. 8. Minnesota Statutes 2004, section 144.122, is amended to read:

144.122 **[LICENSE, PERMIT, AND SURVEY FEES.]**

(a) The state commissioner of health, by rule, may prescribe reasonable procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner. The expiration dates of the various licenses, permits, registrations, and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued permit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses, registrations, and certifications when the application therefor is submitted during the last three months of the permit, license, registration, or certification period. Fees proposed to be prescribed in the rules shall be first approved by the Department of Finance. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be in an amount so that the total fees collected by the commissioner will, where practical, approximate the cost to the commissioner in administering the program. All fees collected shall be deposited in the state treasury and credited to the state government special revenue fund unless otherwise specifically appropriated by law for specific purposes.

(b) The commissioner may charge a fee for voluntary certification of medical laboratories and environmental laboratories, and for environmental and medical laboratory services provided by the department, without complying with paragraph (a) or chapter 14. Fees charged for environment and medical laboratory services provided by the department must be approximately equal to the costs of providing the services.

(c) The commissioner may develop a schedule of fees for diagnostic evaluations conducted at clinics held by the services for children with handicaps program. All receipts generated by the program are annually appropriated to the commissioner for use in the maternal and child health program.

(d) The commissioner shall set license fees for hospitals and nursing homes that are not boarding care homes at the following levels:

Joint Commission on Accreditation of Healthcare

Organizations (JCAHO hospitals)	<del>\$7,055</del> <u>\$7,555</u> plus <u>\$13</u> per bed
Non-JCAHO hospitals	<del>\$4,680</del> <u>\$5,180</u> plus <del>\$234</del> <u>\$247</u> per bed
Nursing home	\$183 plus \$91 per bed

The commissioner shall set license fees for outpatient surgical centers, boarding care homes, and supervised living facilities at the following levels:

Outpatient surgical centers	<del>\$1,512</del> <u>\$3,349</u>
Boarding care homes	\$183 plus \$91 per bed
Supervised living facilities	\$183 plus \$91 per bed.

(e) Unless prohibited by federal law, the commissioner of health shall charge applicants the following fees to cover the cost of any initial certification surveys required to determine a provider's eligibility to participate in the Medicare or Medicaid program:

Prospective payment surveys for hospitals	\$900
Swing bed surveys for nursing homes	\$1,200
Psychiatric hospitals	\$1,400
Rural health facilities	\$1,100
Portable x-ray providers	\$500
Home health agencies	\$1,800
Outpatient therapy agencies	\$800
End stage renal dialysis providers	\$2,100
Independent therapists	\$800
Comprehensive rehabilitation outpatient facilities	\$1,200
Hospice providers	\$1,700
Ambulatory surgical providers	\$1,800

Hospitals

\$4,200

Other provider categories or  
additional resurveys required  
to complete initial certification

Actual surveyor costs:  
average surveyor cost x  
number of hours for the  
survey process.

These fees shall be submitted at the time of the application for federal certification and shall not be refunded. All fees collected after the date that the imposition of fees is not prohibited by federal law shall be deposited in the state treasury and credited to the state government special revenue fund.

Sec. 9. Minnesota Statutes 2004, section 144.147, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] "Eligible rural hospital" means any nonfederal, general acute care hospital that:

(1) is either located in a rural area, as defined in the federal Medicare regulations, Code of Federal Regulations, title 42, section 405.1041, or located in a community with a population of less than ~~40,000~~ 15,000, according to United States Census Bureau statistics, outside the seven-county metropolitan area;

(2) has 50 or fewer beds; and

(3) is not for profit.

Sec. 10. Minnesota Statutes 2004, section 144.147, subdivision 2, is amended to read:

Subd. 2. [GRANTS AUTHORIZED.] The commissioner shall establish a program of grants to assist eligible rural hospitals. The commissioner shall award grants to hospitals and communities for the purposes set forth in paragraphs (a) and (b).

(a) Grants may be used by hospitals and their communities to develop strategic plans for preserving or enhancing access to health services. At a minimum, a strategic plan must consist of:

(1) a needs assessment to determine what health services are needed and desired by the community. The assessment must include interviews with or surveys of area health professionals, local community leaders, and public hearings;

(2) an assessment of the feasibility of providing needed health services that identifies priorities and timeliness for potential changes; and

(3) an implementation plan.

The strategic plan must be developed by a committee that includes representatives from the hospital, local public health agencies, other health providers, and consumers from the community.

(b) The grants may also be used by eligible rural hospitals that have developed strategic plans to implement transition projects to modify the type and extent of services provided, in order to reflect the needs of that plan. Grants may be used by hospitals under this paragraph to develop hospital-based physician practices that integrate hospital and existing medical practice facilities that agree to transfer their practices, equipment, staffing, and administration to the hospital. The grants may also be used by the hospital to establish a health provider cooperative, a telemedicine system, an electronic health records system, or a rural health care system or to cover expenses associated with being designated as a critical access hospital for the Medicare rural hospital flexibility program. Not more than one-third of any grant shall be used to offset losses incurred by physicians agreeing to transfer their practices to hospitals.

Sec. 11. [144.1476] [RURAL PHARMACY PLANNING AND TRANSITION GRANT PROGRAM.]

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

(b) "Eligible rural community" means:

(1) a Minnesota community that is located in a rural area, as defined in the federal Medicare regulations, Code of Federal Regulations, title 42, section 405.1041; or

(2) a Minnesota community that has a population of less than 10,000, according to the United States Bureau of Statistics, and that is outside the seven-county metropolitan area, excluding the cities of Duluth, Mankato, Moorhead, Rochester, and St. Cloud.

(c) "Health care provider" means a hospital, clinic, pharmacy, long-term care institution, or other health care facility that is licensed, certified, or otherwise authorized by the laws of this state to provide health care.

(d) "Pharmacist" means an individual with a valid license issued under chapter 151 to practice pharmacy.

(e) "Pharmacy" has the meaning given under section 151.01, subdivision 2.

Subd. 2. [GRANTS AUTHORIZED; ELIGIBILITY.] (a) The commissioner of health shall establish a program to award grants to eligible rural communities or health care providers in eligible rural communities for planning, establishing, keeping in operation, or providing health care services that preserve access to prescription medications and the skills of a pharmacist according to sections 151.01 to 151.40.

(b) To be eligible for a grant, an applicant must develop a strategic plan for preserving or enhancing access to prescription medications and the skills of a pharmacist. At a minimum, a strategic plan must consist of:

(1) a needs assessment to determine what pharmacy services are needed and desired by the community. The assessment must include interviews with or surveys of area and local health professionals, local community leaders, and public officials;

(2) an assessment of the feasibility of providing needed pharmacy services that identifies priorities and timelines for potential changes; and

(3) an implementation plan.

(c) A grant may be used by a recipient that has developed a strategic plan to implement transition projects to modify the type and extent of pharmacy services provided, in order to reflect the needs of the community. Grants may also be used by recipients:

(1) to develop pharmacy practices that integrate pharmacy and existing health care provider facilities; or

(2) to establish a pharmacy provider cooperative or initiatives that maintain local access to prescription medications and the skills of a pharmacist.

Subd. 3. [FUNDING.] In accordance with section 214.06, fee revenues collected by the Board of Pharmacy shall pay for:

(1) anticipated operating expenditures during the fiscal biennium; and

(2) appropriations for the rural pharmacy grant program administered by the Department of Health.

The commissioner of finance shall make available money in the state government special revenue fund for the operation and administration of the rural pharmacy grant program. No more than ten percent of the money appropriated for the rural pharmacy grant program may be used for administrative expenses.

Subd. 4. [CONSIDERATION OF GRANTS.] In determining which applicants shall receive grants under this section, the commissioner of health shall appoint a committee comprised of members with experience and knowledge about rural pharmacy issues including two rural pharmacists with a community pharmacy background, two health care providers from rural communities, one representative from a statewide pharmacist organization, and one representative of the Board of Pharmacy. A representative of the commissioner may serve on the committee in an ex officio status. In determining who shall receive a grant, the committee shall take into account:

(1) improving or maintaining access to prescription medications and the skills of a pharmacist;

(2) changes in service populations;

(3) the extent community pharmacy needs are not currently met by other providers in the area;

(4) the financial condition of the applicant;

(5) the integration of pharmacy services into existing health care services; and

(6) community support.

Subd. 5. [ALLOCATION OF GRANTS.] (a) The commissioner shall establish a deadline for receiving applications and must make a final decision on the funding of each application within 60 days of the deadline. An applicant must apply no later than March 1 of each fiscal year for grants awarded for that fiscal year. Each relevant community board has 30 days in which to review and comment to the commissioner on eligible applications.

(b) Any grant awarded must not exceed \$50,000 a year and may not exceed a one-year term.

(c) Applicants may apply to the program each year they are eligible.

(d) Project grants may not be used to retire debt incurred with respect to any capitol expenditure made prior to the date on which the project is initiated.

Subd. 6. [EVALUATION.] The grant program shall be evaluated annually in reports by the recipients of the grants. An academic institution that has the expertise in evaluating rural pharmacy outcomes may participate in the program evaluation if asked by a recipient or the commissioner.

Sec. 12. Minnesota Statutes 2004, section 144.148, subdivision 1, is amended to read:

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

(b) "Eligible rural hospital" means any nonfederal, general acute care hospital that:

(1) is either located in a rural area, as defined in the federal Medicare regulations, Code of Federal Regulations, title 42, section 405.1041, or located in a community with a population of less than ~~40,000~~ 15,000, according to United States Census Bureau statistics, outside the seven-county metropolitan area;

(2) has 50 or fewer beds; and

(3) is not for profit.

(c) "Eligible project" means a modernization project to update, remodel, or replace aging hospital facilities and equipment necessary to maintain the operations of a hospital, including establishing an electronic health records system.

Sec. 13. Minnesota Statutes 2004, 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)~~ 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;

~~(4)~~ (3) develop a statewide, coordinated recruitment strategy for health care personnel and maintain a database on health care personnel as required under section 144.1485;

~~(5)~~ (4) 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;

~~(6)~~ (5) 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;

~~(7)~~ (6) support efforts to ensure continued funding for medical and nursing education programs that will increase the number of health professionals serving in rural areas;

~~(8)~~ (7) support efforts to secure higher reimbursement for rural health care providers from the Medicare and medical assistance programs;

~~(9)~~ (8) coordinate the development of a statewide plan for emergency medical services, in cooperation with the Emergency Medical Services Advisory Council;

~~(10)~~ (9) 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

~~(H)~~ (10) carry out other activities necessary to address rural health problems.

Sec. 14. Minnesota Statutes 2004, section 144.1501, subdivision 1, is amended to read:

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

(b) "Dentist" means an individual who is licensed to practice dentistry.

(c) "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).

~~(e)~~ (d) "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)~~ (e) "Medical resident" means an individual participating in a medical residency in family practice, internal medicine, obstetrics and gynecology, pediatrics, or psychiatry.

~~(e)~~ (f) "Midlevel practitioner" means a nurse practitioner, nurse-midwife, nurse anesthetist, advanced clinical nurse specialist, or physician assistant.

~~(f)~~ (g) "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)~~ (h) "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)~~ (i) "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)~~ (j) "Pharmacist" means an individual with a valid license to practice pharmacy issued under chapter 151.

(k) "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)~~ (l) "Physician assistant" means a person registered under chapter 147A.

~~(k)~~ (m) "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.

~~(h)~~ (n) "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.

Sec. 15. Minnesota Statutes 2004, section 144.1501, subdivision 2, is amended to read:

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 dentists agreeing to deliver at least 25 percent of the dentist's yearly patient encounters to state public program enrollees or patients receiving sliding fee schedule discounts through a formal sliding fee schedule meeting the standards established by the United States Department of Health and Human Services under Code of Federal Regulations, title 42, section 51, chapter 303; 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, and for pharmacists who agree to practice in designated rural areas. Appropriations made to the account do not cancel and are available until expended, except that at the end of each biennium, any remaining balance in the account that is not committed by contract and not needed to fulfill existing commitments shall cancel to the fund.

Sec. 16. Minnesota Statutes 2004, section 144.1501, subdivision 3, is amended to read:

Subd. 3. [ELIGIBILITY.] (a) To be eligible to participate in the loan forgiveness program, an individual must:

(1) be a medical or dental resident or a licensed pharmacist or be enrolled in a dentist, midlevel practitioner, registered nurse, or a licensed practical nurse training program; and

(2) submit an application to the commissioner of health. If fewer applications are submitted by dental students or residents than there are dentist participant slots available, the commissioner may consider applications submitted by dental program graduates who are licensed dentists.

(b) An applicant selected to participate must sign a contract to agree to serve a minimum three-year full-time service obligation according to subdivision 2, which shall begin no later than March 31 following completion of required training.

Sec. 17. Minnesota Statutes 2004, section 144.1501, subdivision 4, is amended to read:

Subd. 4. [LOAN FORGIVENESS.] The commissioner of health may select applicants each year for participation in the loan forgiveness program, within the limits of available funding. The commissioner shall distribute available funds for loan forgiveness proportionally among the eligible professions according to the vacancy rate for each profession in the required geographic area, patient group, 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~~ any eligible profession, the remaining funds may be allocated ~~for rural physician loan forgiveness~~ proportionally among the other eligible professions according

to the vacancy rate for each profession in the required geographic area, patient group, or facility type specified in subdivision 2. 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.

Sec. 18. Minnesota Statutes 2004, section 144.226, subdivision 1, is amended to read:

Subdivision 1. [WHICH SERVICES ARE FOR FEE.] The fees for the following services shall be the following or an amount prescribed by rule of the commissioner:

(a) The fee for the issuance of a certified vital record or a certification that the vital record cannot be found is ~~\$8~~ \$9. No fee shall be charged for a certified birth or death record that is reissued within one year of the original issue, if an amendment is made to the vital record and if the previously issued vital record is surrendered. The fee is nonrefundable.

(b) The fee for processing a request for the replacement of a birth record for all events, except when filing a recognition of parentage pursuant to section 257.73, subdivision 1, is ~~\$20~~ \$40. The fee is payable at the time of application and is nonrefundable.

(c) The fee for processing a request for the filing of a delayed registration of birth or death is ~~\$20~~ \$40. The fee is payable at the time of application and is nonrefundable. This fee includes one subsequent review of the request if the request is not acceptable upon the initial receipt.

(d) The fee for processing a request for the amendment of any vital record when requested more than 45 days after the filing of the vital record is ~~\$20~~ \$40. No fee shall be charged for an amendment requested within 45 days after the filing of the vital record. The fee is payable at the time of application and is nonrefundable. This fee includes one subsequent review of the request if the request is not acceptable upon the initial receipt.

(e) The fee for processing a request for the verification of information from vital records is ~~\$8~~ \$9 when the applicant furnishes the specific information to locate the vital record. When the applicant does not furnish specific information, the fee is \$20 per hour for staff time expended. Specific information includes the correct date of the event and the correct name of the registrant. Fees charged shall approximate the costs incurred in searching and copying the vital records. The fee ~~shall be~~ is payable at the time of application and is nonrefundable.

(f) The fee for processing a request for the issuance of a copy of any document on file pertaining to a vital record or statement that a related document cannot be found is ~~\$8~~ \$9. The fee is payable at the time of application and is nonrefundable.

Sec. 19. Minnesota Statutes 2004, section 144.226, subdivision 4, is amended to read:

Subd. 4. [VITAL RECORDS SURCHARGE.] In addition to any fee prescribed under subdivision 1, there is a nonrefundable surcharge of ~~\$2~~ \$4 for each certified and noncertified birth or death record, and for a certification that the record cannot be found. The local or state registrar shall forward this amount to the commissioner of finance to be deposited into the state government special revenue fund. This surcharge shall not be charged under those circumstances in which no fee for a birth or death record is permitted under subdivision 1, paragraph (a).

Sec. 20. Minnesota Statutes 2004, section 144.226, is amended by adding a subdivision to read:

Subd. 5. [ELECTRONIC VERIFICATION.] A fee for the electronic verification of a vital event, when the information being verified is obtained from a certified birth or death record, shall be established through contractual or interagency agreements with interested local, state, or federal government agencies.

Sec. 21. Minnesota Statutes 2004, section 144.226, is amended by adding a subdivision to read:

Subd. 6. [ALTERNATIVE PAYMENT METHODS.] Notwithstanding subdivision 1, alternative payment methods may be approved and implemented by the state registrar or a local registrar.

Sec. 22. [144.3431] [ABORTION NOTIFICATION DATA.]

Subdivision 1. [REPORTING FORM.] (a) Within 90 days of the effective date of this section, the commissioner of health shall prepare a reporting form for use by physicians and facilities performing abortions.

(b) The form shall require the following information:

(1) the number of minors or women for whom a guardian has been appointed under sections 524.5-301 to 524.5-317 because of a finding of incompetency for whom the physician or an agent of the physician provided the notice described in section 144.343, subdivision 2; of that number, the number of notices provided personally as described in section 144.343, subdivision 2, paragraph (a), and the number of notices provided by mail as described in section 144.343, subdivision 2, paragraph (b); and of each of those numbers, the number who, to the best of the reporting physician's or reporting facility's information and belief, went on to obtain the abortion from the reporting physician or reporting physician's facility, or from the reporting facility;

(2) the number of minors or women for whom a guardian has been appointed under sections 524.5-301 to 524.5-317 because of a finding of incompetency upon whom the physician performed an abortion without providing the notice described in section 144.343, subdivision 2; and of that number, the number who were emancipated minors, and the number for whom section 144.343, subdivision 4, was applicable, itemized by each of the limitations identified in paragraphs (a), (b), and (c) of that subdivision;

(3) the number of abortions performed by the physician for which judicial authorization was received and for which the notification described in section 144.343, subdivision 2, was not provided;

(4) the county the female resides in; the county where the abortion was performed, if different from the female's residence; and, if a judicial bypass was obtained, the county it was obtained in, if different from the female's residence;

(5) the age of the female;

(6) the race of the female;

(7) the process the physician or the physician's agent used to inform the female of the judicial bypass; whether court forms were provided to her; and whether the physician or the physician's agent made the court arrangement for the female; and

(8) how soon after visiting the abortion facility the female went to court to obtain a judicial bypass.

Subd. 2. [FORMS TO PHYSICIANS AND FACILITIES.] Physicians and facilities required to report under subdivision 3 shall obtain reporting forms from the commissioner.

Subd. 3. [SUBMISSION.] (a) The following physicians or facilities must submit the forms to the commissioner no later than April 1 for abortions performed in the previous calendar year:

(1) a physician who provides, or whose agent provides, the notice described in section 144.343, subdivision 2, or the facility at which such notice is provided; and

(2) a physician who knowingly performs an abortion upon a minor or a woman for whom a guardian has been appointed according to sections 524.5-301 to 524.5-317 because of a finding of incompetency, or a facility at which such an abortion is performed.

(b) The commissioner shall maintain as confidential data which alone or in combination may constitute information that would reasonably lead, using epidemiologic principles, to the identification of:

(1) an individual who has had an abortion, who has received judicial authorization for an abortion, or to whom the notice described in section 144.343, subdivision 2, has been provided; or

(2) a physician or facility required to report under paragraph (a).

Subd. 4. [FAILURE TO REPORT AS REQUIRED.] (a) Reports that are not submitted more than 30 days following the due date shall be subject to a late fee of \$500 for each additional 30-day period or portion of a 30-day period overdue. If a physician or facility required to report under this section has not submitted a report, or has submitted only an incomplete report, more than one year following the due date, the commissioner of health shall bring an action in a court of competent jurisdiction for an order directing the physician or facility to submit a complete report within a period stated by court order or be subject to sanctions. If the commissioner brings such an action for an order directing a physician or facility to submit a complete report, the court may assess reasonable attorney fees and costs against the noncomplying party.

(b) Notwithstanding section 13.39, data related to actions taken by the commissioner to enforce any provision of this section is private data if the data, alone or in combination, may constitute information that would reasonably lead, using epidemiologic principles, to the identification of:

(1) an individual who has had an abortion, who has received judicial authorization for an abortion, or to whom the notice described in section 144.343, subdivision 2, has been provided; or

(2) a physician or facility required to report under subdivision 3.

Subd. 5. [PUBLIC RECORDS.] (a) By September 30 of each year, the commissioner of health shall issue a public report providing statistics for each item listed in subdivision 1 for the previous calendar year compiled from reports submitted according to this section. The report shall also include statistics, which shall be obtained from court administrators, that include:

(1) the total number of petitions or motions filed under section 144.343, subdivision 6, paragraph (c), clause (i);

(2) the number of cases in which the court appointed a guardian ad litem;

(3) the number of cases in which the court appointed counsel;

(4) the number of cases in which the judge issued an order authorizing an abortion without notification, including:

(i) the number of petitions or motions granted by the court because of a finding of maturity and the basis for that finding; and

(ii) the number of petitions or motions granted because of a finding that the abortion would be in the best interest of the minor and the basis for that finding;

(5) the number of denials from which an appeal was filed;

(6) the number of appeals that resulted in a denial being affirmed; and

(7) the number of appeals that resulted in reversal of a denial.

(b) The report shall provide the statistics for all previous calendar years for which a public report was required to be issued, adjusted to reflect any additional information from late or corrected reports.

(c) The commissioner shall ensure that all statistical information included in the public reports are presented so that the data cannot reasonably lead, using epidemiologic principles, to the identification of:

(1) an individual who has had an abortion, who has received judicial authorization for an abortion, or to whom the notice described in section 144.343, subdivision 2, has been provided; or

(2) a physician or facility who has submitted a form to the commissioner under subdivision 3.

Subd. 6. [MODIFICATION OF REQUIREMENTS.] The commissioner of health may, by administrative rule, alter the dates established in subdivisions 3 and 5, consolidate the forms created according to subdivision 1 with the reporting form created according to section 145.4131, or consolidate reports to achieve administrative convenience or fiscal savings, to allow physicians and facilities to submit all information collected by the commissioner regarding abortions at one time, or to reduce the burden of the data collection, so long as the report described in subdivision 5 is issued at least once a year.

Subd. 7. [SUIT TO COMPEL STATISTICAL REPORT.] If the commissioner of health fails to issue the public report required under subdivision 5, any group of ten or more citizens of the state may seek an injunction in a court of competent jurisdiction against the commissioner, requiring that a complete report be issued within a period stated by court order. Failure to abide by the injunction shall subject the commissioner to sanctions for civil contempt.

Subd. 8. [ATTORNEY FEES.] If judgment is rendered in favor of the plaintiff in any action described in this section, the court shall also render judgment for a reasonable attorney fee in favor of the plaintiff against the defendant. If the judgment is rendered in favor of the defendant and the court finds that plaintiff's suit was frivolous and brought in bad faith, the court shall render judgment for a reasonable attorney fee in favor of the defendant against the plaintiff.

Subd. 9. [SEVERABILITY.] If any one or more provision, section, subdivision, sentence, clause, phrase, or word of this section or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of this section shall remain effective notwithstanding such

unconstitutionality. The legislature hereby declares that it would have passed this section, and each provision, section, subdivision, sentence, clause, phrase, or word thereof irrespective of the fact that any one provision, section, subdivision, sentence, clause, phrase, or word be declared unconstitutional.

Sec. 23. Minnesota Statutes 2004, section 144.3831, subdivision 1, is amended to read:

Subdivision 1. [FEE SETTING.] The commissioner of health may assess an annual fee of ~~\$5.21~~ \$6.36 for every service connection to a public water supply that is owned or operated by a home rule charter city, a statutory city, a city of the first class, or a town. The commissioner of health may also assess an annual fee for every service connection served by a water user district defined in section 110A.02.

**[EFFECTIVE DATE.]** This section is effective July 1, 2006.

Sec. 24. Minnesota Statutes 2004, 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;

(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. Beds constructed under this clause shall not be eligible for reimbursement under medical assistance, general assistance medical care, or MinnesotaCare;

(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;

(17) a project involving the addition of 14 new hospital beds to be used for rehabilitation services in an existing hospital in Itasca County; ~~or~~

(18) a project to add 20 licensed beds in existing space at a hospital in Hennepin County that closed 20 rehabilitation beds in 2002, provided that the beds are used only for rehabilitation in the hospital's current rehabilitation building. If the beds are used for another purpose or moved to another location, the hospital's licensed capacity is reduced by 20 beds; or

(19) a critical access hospital established under section 144.1483, clause (10), and section 1820 of the federal Social Security Act, United States Code, title 42, section 1395i-4, that delicensed beds since enactment of the Balanced Budget Act of 1997, Public Law 105-33, to the extent that the critical access hospital does not seek to exceed the maximum number of beds permitted such hospital under federal law.



Sec. 25. Minnesota Statutes 2004, section 144.562, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY FOR LICENSE CONDITION.] (a) A hospital is not eligible to receive a license condition for swing beds unless (1) it either has a licensed bed capacity of less than 50 beds defined in the federal Medicare regulations, Code of Federal Regulations, title 42, section 482.66, or it has a licensed bed capacity of 50 beds or more and has swing beds that were approved for Medicare reimbursement before May 1, 1985, or it has a licensed bed capacity of less than 65 beds and the available nursing homes within 50 miles have had, in the aggregate, an average occupancy rate of 96 percent or higher in the most recent two years as documented on the statistical reports to the Department of Health; and (2) it is located in a rural area as defined in the federal Medicare regulations, Code of Federal Regulations, title 42, section 482.66.

(b) Except for those critical access hospitals established under section 144.1483, clause (10), and section 1820 of the federal Social Security Act, United States Code, title 42, section 1395i-4, that have an attached nursing home, eligible hospitals are allowed a total of ~~1,460~~ 2,000 days of swing bed use per year, ~~provided that no more than ten hospital beds are used as swing beds at any one time.~~ Critical access hospitals that have an attached nursing home are allowed swing bed use as provided in federal law.

(c) Except for critical access hospitals that have an attached nursing home, the commissioner of health ~~must~~ may approve swing bed use beyond ~~1,460~~ 2,000 days as long as there are no Medicare certified skilled nursing facility beds available within 25 miles of that hospital that are willing to admit the patient. Critical access hospitals exceeding 2,000 swing bed days must maintain documentation that they have contacted skilled nursing facilities within 25 miles to determine if any skilled nursing facility beds are available that are willing to admit the patient.

(d) After reaching 2,000 days of swing bed use in a year, an eligible hospital to which this limit applies may admit six additional patients to swing beds each year without seeking approval from the commissioner or being in violation of this subdivision. These six swing bed admissions are exempt from the limit of 2,000 annual swing bed days for hospitals subject to this limit.

(e) A health care system that is in full compliance with this subdivision may allocate its total limit of swing bed days among the hospitals within the system, provided that no hospital in the system without an attached nursing home may exceed 2,000 swing bed days per year.

Sec. 26. [144.574] [EDUCATION ABOUT THE DANGERS OF SHAKING INFANTS AND YOUNG CHILDREN.]

Subdivision 1. [EDUCATION BY HOSPITALS.] (a) A hospital licensed under sections 144.50 to 144.56 shall make available for viewing by the parents of each newborn baby delivered in the hospital a video presentation on the dangers associated with shaking infants and young children.

(b) A hospital shall use a video obtained from the commissioner or approved by the commissioner. The commissioner shall provide to a hospital at cost copies of an approved video. The commissioner shall review other video presentations for possible approval upon the request of a hospital. The commissioner shall not require a hospital to use videos that would require the hospital to pay royalties for use of the video, restrict viewing in order to comply with public viewing or other restrictions, or be subject to other costs or restrictions associated with copyrights.

(c) A hospital shall, whenever possible, request both parents to view the video.

(d) The showing or distribution of the video shall not subject any person or facility to any action for damages or other relief provided the person or facility acted in good faith.

Subd. 2. [EDUCATION BY HEALTH CARE PROVIDERS.] The commissioner shall establish a protocol for health care providers to educate parents and primary caregivers about the dangers associated with shaking infants and young children. The commissioner shall request family practice physicians, pediatricians, and other pediatric health care providers to review these dangers with the parents and primary caregivers of infants and young children up to the age of three at each well-baby visit.

Sec. 27. [144.601] [ESTABLISHING A VOLUNTARY TRAUMA SYSTEM.]

The legislature finds that death and disability from major trauma among Minnesotans can be reduced by implementing a statewide trauma system designed to provide that each severely injured person is promptly transported and treated at facilities appropriate to the severity of injury. The legislature further finds that the most effective way to ensure this outcome is through a system of voluntary participation, based on criteria issued by the commissioner of health.

Sec. 28. [144.602] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] For purposes of sections 144.601 to 144.608, the terms defined in this section have the meanings given them.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of health.

Subd. 3. [MAJOR TRAUMA.] "Major trauma" means a sudden severe injury or damage to the body caused by an external force that results in potentially life-threatening injuries or that could result in the following disabilities:

- (1) impairment of cognitive or mental abilities;
- (2) impairment of physical functioning; or
- (3) disturbance of behavioral or emotional functioning.

Subd. 4. [TRAUMA HOSPITAL.] "Trauma hospital" means a hospital that voluntarily meets the commissioner's criteria under section 144.603 and that has been designated as a trauma hospital under section 144.605.

Sec. 29. [144.603] [STATEWIDE TRAUMA SYSTEM CRITERIA.]

Subdivision 1. [CRITERIA ESTABLISHED.] The commissioner shall adopt criteria to ensure that severely injured people are promptly transported and treated at trauma hospitals appropriate to the severity of injury. Minimum criteria shall address emergency medical service trauma triage and transportation guidelines as approved under section 144E.102, subdivision 14, designation of hospitals as trauma hospitals, interhospital transfers, a trauma registry, and a trauma system governance structure.

Subd. 2. [BASIS; VERIFICATION.] The commissioner shall base the establishment, implementation, and modifications to the criteria under subdivision 1 on the department-published Minnesota comprehensive statewide trauma system plan. The commissioner shall seek the advice of the Trauma Advisory Council in implementing and updating the criteria, using accepted and prevailing trauma transport, treatment, and referral standards of the American College of Surgeons, the American College of Emergency Physicians, the Minnesota Emergency Medical Services Regulatory Board, the national Trauma Resources Network, and other widely recognized trauma experts. The commissioner shall adapt and modify the standards as appropriate to accommodate Minnesota's unique geography and the state's hospital and health professional distribution and shall verify that the criteria are met by each hospital voluntarily participating in the statewide trauma system.

Subd. 3. [RULE EXEMPTION AND REPORT TO THE LEGISLATURE.] In developing and adopting the criteria under this section, the commissioner of health is exempt from chapter 14, including section 14.386. By September 1, 2009, the commissioner must report to the legislature on implementation of the voluntary trauma system, including recommendations on the need for including the trauma system criteria in rule.

Sec. 30. [144.604] [TRAUMA TRIAGE AND TRANSPORTATION.]

Subdivision 1. [TRANSPORT REQUIREMENT.] Unless the Emergency Medical Services Regulatory Board has approved a licensed ambulance service's deviation from the guidelines under section 144E.101, subdivision 14, the ambulance service must transport major trauma patients from the scene to the highest state-designated trauma hospital within 30 minutes' transport time.

Subd. 2. [GROUND AMBULANCE EXCEPTIONS.] Notwithstanding subdivision 1, ground ambulances must comply with the following:

(1) patients with compromised airways must be transported immediately to the nearest designated trauma hospital; and

(2) level II trauma hospitals capable of providing definitive trauma care must not be bypassed to reach a level I trauma hospital.

Subd. 3. [UNDESIGNATED HOSPITALS.] No major trauma patient shall be transported to a hospital not participating in the statewide trauma system unless no trauma hospital is available within 30 minutes' transport time.

**[EFFECTIVE DATE.]** This section is effective July 1, 2009.

Sec. 31. [144.605] [DESIGNATING TRAUMA HOSPITALS.]

Subdivision 1. [NAMING PRIVILEGES.] Unless it has been designated a trauma hospital by the commissioner, no hospital shall use the term trauma center or trauma hospital in its name or its advertising or shall otherwise indicate it has trauma treatment capabilities.

Subd. 2. [DESIGNATION; REVERIFICATION.] The commissioner shall designate four levels of trauma hospitals. A hospital that voluntarily meets the criteria for a particular level of trauma hospital shall apply to the commissioner for designation and, upon the commissioner's verifying the hospital meets the criteria, be designated a trauma hospital at the appropriate level for a three-year period. Prior to the expiration of the three-year designation, a hospital seeking to remain part of the voluntary system must apply for and successfully complete a reverification process, be awaiting the site visit for the reverification, or be awaiting the results of the site visit. The commissioner may extend a hospital's existing designation for up to 18 months on a provisional basis if the hospital has applied for reverification in a timely manner but has not yet completed the reverification process within the expiration of the three-year designation and the extension is in the best interest of trauma system patient safety. To be granted a provisional extension, the hospital must be:

(1) scheduled and awaiting the site visit for reverification;

(2) awaiting the results of the site visit; or

(3) responding to and correcting identified deficiencies identified in the site visit.

Subd. 3. [ACS VERIFICATION.] The commissioner shall grant the appropriate level I, II, or III trauma hospital designation to a hospital that successfully completes and passes the American College of Surgeons (ACS) verification standards at the hospital's cost, submits verification documentation to the Trauma Advisory Council, and formally notifies the Trauma Advisory Council of ACS verification.

Subd. 4. [LEVEL III DESIGNATION; NOT ACS VERIFIED.] (a) The commissioner shall grant the appropriate level III trauma hospital designation to a hospital that is not ACS verified but that successfully completes the designation process under paragraph (b).

(b) The hospital must complete and submit a self-reported survey and application to the Trauma Advisory Council for review, verifying that the hospital meets the criteria as a level III trauma hospital. When the Trauma Advisory Council is satisfied the application is complete, the commissioner shall arrange a site review visit. Upon successful completion of the site review, the review team shall make written recommendations to the Trauma Advisory Council. If approved by the Trauma Advisory Council, a letter of recommendation shall be sent to the commissioner for final approval and designation.

Subd. 5. [LEVEL IV DESIGNATION.] (a) The commissioner shall grant the appropriate level IV trauma hospital designation to a hospital that successfully completes the designation process under paragraph (b).

(b) The hospital must complete and submit a self-reported survey and application to the Trauma Advisory Council for review, verifying that the hospital meets the criteria as a level IV trauma hospital. When the Trauma Advisory Council is satisfied the application is complete, the council shall review the application and, if the council approves the application, send a letter of recommendation to the commissioner for final approval and designation. The commissioner shall grant a level IV designation and shall arrange a site review visit within three years of the designation and every three years thereafter, to coincide with the three-year reverification process.

Subd. 6. [CHANGES IN DESIGNATION.] Changes in a trauma hospital's ability to meet the criteria for the hospital's level of designation must be self-reported to the Trauma Advisory Council and to other regional hospitals and local emergency medical services providers and authorities. If the hospital cannot correct its ability to meet the criteria for its level within six months, the hospital may apply for redesignation at a different level.

Subd. 7. [HIGHER DESIGNATION.] A trauma hospital may apply for a higher trauma hospital designation one time during the hospital's three-year designation by completing the designation process for that level of trauma hospital.

Subd. 8. [LOSS OF DESIGNATION.] The commissioner may refuse to designate or redesignate or may revoke a previously issued trauma hospital designation if a hospital does not meet the criteria of the statewide trauma plan, in the interests of patient safety, or if a hospital denies or refuses a reasonable request by the commissioner or the commissioner's designee to verify information by correspondence or an on-site visit.

#### Sec. 32. [144.606] [INTERHOSPITAL TRANSFERS.]

Subdivision 1. [WRITTEN PROCEDURES REQUIRED.] A level III or IV trauma hospital must have predetermined, written procedures that direct the internal process for rapidly and efficiently transferring a major trauma patient to definitive care, including:

(1) clearly identified anatomic and physiologic criteria that, if met, will immediately initiate transfer to definitive care;

(2) a listing of appropriate ground and air transport services, including primary and secondary telephone contact numbers; and

(3) immediately available supplies, records, or other necessary resources that will accompany a patient.

Subd. 2. [TRANSFER AGREEMENTS.] (a) A level III or IV trauma hospital may transfer patients to a hospital with which the trauma hospital has a written transfer agreement.

(b) Each agreement must be current and with a trauma hospital or trauma hospitals capable of caring for major trauma injuries.

(c) A level III or IV trauma hospital must have a current transfer agreement with a hospital that has special capabilities in the treatment of burn injuries and a transfer agreement with a second hospital that has special capabilities in the treatment of burn injuries, should the primary transfer hospital be unable to accept a burn patient.

Sec. 33. [144.607] [TRAUMA REGISTRY.]

Subdivision 1. [REGISTRY PARTICIPATION REQUIRED.] A trauma hospital must participate in the statewide trauma registry.

Subd. 2. [TRAUMA REPORTING.] A trauma hospital must report major trauma injuries as part of the reporting for the traumatic brain injury and spinal cord injury registry required in sections 144.661 to 144.665.

Subd. 3. [APPLICATION OF OTHER LAW.] Sections 144.661 to 144.665 apply to a major trauma reported to the statewide trauma registry, with the exception of sections 144.662, clause (2), and 144.664, subdivision 3.

Sec. 34. [144.608] [TRAUMA ADVISORY COUNCIL.]

Subdivision 1. [TRAUMA ADVISORY COUNCIL ESTABLISHED.] (a) A Trauma Advisory Council is established to advise, consult with, and make recommendations to the commissioner on the development, maintenance, and improvement of a statewide trauma system.

(b) The council shall consist of the following members:

(1) a trauma surgeon certified by the American College of Surgeons who practices in a level I or II trauma hospital;

(2) a general surgeon certified by the American College of Surgeons whose practice includes trauma and who practices in a designated rural area as defined under section 144.1501, subdivision 1, paragraph (b);

(3) a neurosurgeon certified by the American Board of Neurological Surgery who practices in a level I or II trauma hospital;

(4) a trauma program nurse manager or coordinator practicing in a level I or II trauma hospital;

(5) an emergency physician certified by the American College of Emergency Physicians whose practice includes emergency room care in a level I, II, III, or IV trauma hospital;

(6) an emergency room nurse manager who practices in a level III or IV trauma hospital;

(7) a family practice physician whose practice includes emergency room care in a level III or IV trauma hospital located in a designated rural area as defined under section 144.1501, subdivision 1, paragraph (b);

(8) a nurse practitioner, as defined under section 144.1501, subdivision 1, paragraph (h), or a physician assistant, as defined under section 144.1501, subdivision 1, paragraph (j), whose practice includes emergency room care in a level IV trauma hospital located in a designated rural area as defined under section 144.1501, subdivision 1, paragraph (b);

(9) a pediatrician certified by the American Academy of Pediatrics whose practice includes emergency room care in a level I, II, III, or IV trauma hospital;

(10) an orthopedic surgeon certified by the American Board of Orthopaedic Surgery whose practice includes trauma and who practices in a level I, II, or III trauma hospital;

(11) the state emergency medical services medical director appointed by the Emergency Medical Services Regulatory Board;

(12) a hospital administrator of a level III or IV trauma hospital located in a designated rural area as defined under section 144.1501, subdivision 1, paragraph (b);

(13) a rehabilitation specialist whose practice includes rehabilitation of patients with major trauma injuries or traumatic brain injuries and spinal cord injuries as defined under section 144.661;

(14) an attendant or ambulance director who is an EMT, EMT-I, or EMT-P within the meaning of section 144E.001 and who actively practices with a licensed ambulance service in a primary service area located in a designated rural area as defined under section 144.1501, subdivision 1, paragraph (b); and

(15) the commissioner of public safety or the commissioner's designee.

(c) Council members whose appointment is dependent on practice in a level III or IV trauma hospital may be appointed to an initial term based upon their statements that the hospital intends to become a level III or IV facility by July 1, 2009.

Subd. 2. [COUNCIL ADMINISTRATION.] (a) The council must meet at least twice a year but may meet more frequently at the call of the chair, a majority of the council members, or the commissioner.

(b) The terms, compensation, and removal of members of the council are governed by section 15.059, except that the council expires June 30, 2015.

(c) The council may appoint subcommittees and workgroups. Subcommittees shall consist of council members. Workgroups may include noncouncil members. Noncouncil members shall be compensated for workgroup activities under section 15.059, subdivision 3, but shall receive expenses only.

Subd. 3. [REGIONAL TRAUMA ADVISORY COUNCILS.] (a) Up to eight regional trauma advisory councils may be formed as needed.

(b) Regional trauma advisory councils shall advise, consult with, and make recommendation to the state Trauma Advisory Council on suggested regional modifications to the statewide trauma criteria that will improve patient care and accommodate specific regional needs.

(c) Each regional advisory council must have no more than 15 members. The commissioner, in consultation with the Emergency Medical Services Regulatory Board, shall name the council members.

(d) Regional council members may receive expenses in the same manner and amount as authorized by the plan adopted under section 43A.18, subdivision 2.

Sec. 35. [144.707] [CANCER DRUG REPOSITORY PROGRAM.]

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

(b) "Cancer drug" means a prescription drug that is used to treat:

(1) cancer or the side effects of cancer; or

(2) the side effects of any prescription drug that is used to treat cancer or the side effects of cancer.

(c) "Cancer drug repository" means a medical facility or pharmacy that has notified the Board of Pharmacy of its election to participate in the cancer drug repository program.

(d) "Cancer supply" or "cancer supplies" means prescription and nonprescription cancer supplies needed to administer a cancer drug.

(e) "Board of Pharmacy" means the Minnesota State Board of Pharmacy.

(f) "Dispense" has the meaning given in section 151.01, subdivision 30.

(g) "Distribute" means to deliver, other than by administering or dispensing.

(h) "Donor" means an individual and not a manufacturer or wholesale drug distributor.

(i) "Medical facility" means an institution defined in section 144.50, subdivision 2.

(j) "Medical supplies" means any prescription and nonprescription medical supply needed to administer a cancer drug.

(k) "Pharmacist" has the meaning given in section 151.01, subdivision 3.

(l) "Pharmacy" means any pharmacy registered with the Board of Pharmacy according to section 151.19, subdivision 1.

(m) "Practitioner" has the meaning given in section 151.01, subdivision 23.

(n) "Prescription drug" means a legend drug as defined in section 151.01, subdivision 17.

(o) "Side effects of cancer" means symptoms of cancer.

(p) "Single-unit-dose packaging" means a single-unit container for articles intended for administration as a single dose, direct from the container.

(q) "Tamper-evident unit dose packaging" means a container within which a drug is sealed so that the contents cannot be opened without obvious destruction of the seal.

Subd. 2. [ESTABLISHMENT.] The Board of Pharmacy shall establish and maintain a cancer drug repository program under which any person may donate a cancer drug or supply for use by an individual who meets the eligibility criteria specified under subdivision 4. Under the program, donations may be made on the premises of a medical facility or pharmacy that elects to participate in the program and meets the requirements specified under subdivision 3.

Subd. 3. [REQUIREMENTS FOR PARTICIPATION BY PHARMACIES AND MEDICAL FACILITIES.] (a) To be eligible for participation in the cancer drug repository program, a pharmacy or medical facility must be licensed and in compliance with all applicable federal and state laws and administrative rules.

(b) Participation in the cancer drug repository program is voluntary. A pharmacy or medical facility may elect to participate in the cancer drug repository program by submitting the following information to the Board of Pharmacy, in a form provided by the Board of Pharmacy:

(1) the name, street address, and telephone number of the pharmacy or medical facility;

(2) the name and telephone number of a pharmacist who is employed by or under contract with the pharmacy or medical facility, or other contact person who is familiar with the pharmacy's or medical facility's participation in the cancer drug repository program; and

(3) a statement indicating that the pharmacy or medical facility meets the eligibility requirements under paragraph (a) and the chosen level of participation under paragraph (c).

(c) A pharmacy or medical facility may fully participate in the cancer drug repository program by accepting, storing, and dispensing donated drugs and supplies, or may limit its participation to only accepting and storing donated drugs and supplies. If a pharmacy or facility chooses to limit its participation, the pharmacy or facility shall distribute any donated drugs to a fully participating cancer drug repository according to subdivision 8.

(d) A pharmacy or medical facility may withdraw from participation in the cancer drug repository program at any time upon notification to the Board of Pharmacy. A notice to withdraw from participation may be given by telephone or U.S. mail.

Subd. 4. [INDIVIDUAL ELIGIBILITY REQUIREMENTS.] Any Minnesota resident who is diagnosed with cancer is eligible to receive drugs or supplies under the cancer drug repository program. Drugs and supplies shall be dispensed according to the priority given under subdivision 6.

Subd. 5. [DONATIONS OF CANCER DRUGS AND SUPPLIES.] (a) Any one of the following persons may donate legally obtained cancer drugs or supplies to a cancer drug repository if the drugs or supplies meet the requirements under paragraph (b) or (c) as determined by a pharmacist who is employed by or under contract with a cancer drug repository:

(1) an individual who is 18 years of age or older; or

(2) a pharmacy, medical facility, drug manufacturer, or wholesale drug distributor, if the donated drugs have not been previously dispensed.

(b) A cancer drug is eligible for donation under the cancer drug repository program only if the following requirements are met:

(1) the donation is accompanied by a cancer drug repository donor form described under paragraph (d) that is signed by the person making the donation or that person's authorized representative;



(2) the drug's expiration date is at least six months later than the date that the drug was donated;

(3) the drug is in its original, unopened, tamper-evident unit dose packaging that includes the drug's lot number and expiration date. Single-unit dose drugs may be accepted if the single-unit-dose packaging is unopened; and

(4) the drug is not adulterated or misbranded.

(c) Cancer supplies are eligible for donation under the cancer drug repository program only if the following requirements are met:

(1) the supplies are not adulterated or misbranded;

(2) the supplies are in their original, unopened, sealed packaging; and

(3) the donation is accompanied by a cancer drug repository donor form described under paragraph (d) that is signed by the person making the donation or that person's authorized representative.

(d) The cancer drug repository donor form must be provided by the Board of Pharmacy and shall state that to the best of the donor's knowledge the donated drug or supply has been properly stored and that the drug or supply has never been opened, used, tampered with, adulterated, or misbranded. The Board of Pharmacy shall make the cancer drug repository donor form available on the Board of Pharmacy's Web site.

(e) Controlled substances and drugs and supplies that do not meet the criteria under this subdivision are not eligible for donation or acceptance under the cancer drug repository program.

(f) Drugs and supplies may be donated on the premises of a cancer drug repository to a pharmacist designated by the repository. A drop box may not be used to deliver or accept donations.

(g) Cancer drugs and supplies donated under the cancer drug repository program must be stored in a secure storage area under environmental conditions appropriate for the drugs or supplies being stored. Donated drugs and supplies may not be stored with nondonated inventory.

Subd. 6. [DISPENSING REQUIREMENTS.] (a) Drugs and supplies must be dispensed by a licensed pharmacist pursuant to a prescription by a practitioner and according to the requirements of chapter 151.

(b) Before being dispensed, cancer drugs and supplies shall be visually inspected by the pharmacist for adulteration, misbranding, and date of expiration. Drugs or supplies that have expired or appear upon visual inspection to be adulterated, misbranded, or tampered with in any way may not be dispensed.

(c) Before a cancer drug or supply may be dispensed to an individual, the individual must sign a cancer drug repository recipient form provided by the Board of Pharmacy acknowledging that the individual understands the information stated on the form. The form shall include the following information:

(1) that the drug or supply being dispensed has been donated and may have been previously dispensed;

(2) that a visual inspection has been conducted by the pharmacist to ensure that the drug has not expired, has not been adulterated or misbranded, and is in its original, unopened packaging; and

(3) that the dispensing pharmacist, the cancer drug repository, the Board of Pharmacy, and any other participant in the cancer drug repository program cannot guarantee the safety of the drug or supply being dispensed and that the pharmacist has determined that the drug or supply is safe to dispense based on the accuracy of the donor's form submitted with the donated drug or supply and the visual inspection required to be performed by the pharmacist before dispensing.

The Board of Pharmacy shall make the cancer drug repository form available on the Board of Pharmacy's Web site.

(d) Drugs and supplies shall only be dispensed to individuals who meet the eligibility requirements in subdivision 4 and in the following order of priority:

(1) individuals who are uninsured;

(2) individuals who are enrolled in medical assistance, general assistance medical care, MinnesotaCare, Medicare, or other public assistance health care; and

(3) all other individuals who are otherwise eligible under subdivision 4 to receive drugs or supplies from a cancer drug repository.

Subd. 7. [HANDLING FEES.] A cancer drug repository may charge the individual receiving a drug or supply a handling fee of no more than 250 percent of the medical assistance program dispensing fee for each cancer drug or supply dispensed.

Subd. 8. [DISTRIBUTION OF DONATED CANCER DRUGS AND SUPPLIES.] (a) Cancer drug repositories may distribute drugs and supplies donated under the cancer drug repository program to other repositories if requested by a participating repository.

(b) A cancer drug repository that has elected not to dispense donated drugs or supplies shall distribute any donated drugs and supplies to a participating repository upon request of the repository.

(c) If a cancer drug repository distributes drugs or supplies under paragraph (a) or (b), the repository shall complete a cancer drug repository donor form provided by the Board of Pharmacy. The completed form and a copy of the donor form that was completed by the original donor under subdivision 5 shall be provided to the fully participating cancer drug repository at the time of distribution.

Subd. 9. [RESALE OF DONATED DRUGS AND SUPPLIES.] Donated drugs and supplies may not be resold.

Subd. 10. [RECORD KEEPING REQUIREMENTS.] (a) Cancer drug repository donor and recipient forms shall be maintained for at least five years.

(b) A record of destruction of donated drugs and supplies that are not dispensed under subdivision 6 shall be maintained by the dispensing repository for at least five years. For each drug or supply destroyed, the record shall include the following information:

(1) the date of destruction;

(2) the name, strength, and quantity of the cancer drug destroyed;

(3) the name of the person or firm that destroyed the drug; and

(4) the source of the drugs or supplies destroyed.

Subd. 11. [LIABILITY.] (a) The manufacturer of a drug or supply is not subject to criminal or civil liability for injury, death, or loss to a person or to property due to participation in the cancer drug repository program. Manufacturers are not liable for:

(1) the intentional or unintentional alteration of the drug or supply by a party not under the control of the manufacturer; or

(2) failure of a party not under the control of the manufacturer to transfer or communicate product or consumer information or the expiration date of the donated drug or supply.

(b) A medical facility or pharmacy participating in the program, a pharmacist dispensing a drug or supply pursuant to the program, a practitioner administering a drug or supply pursuant to the program, or the donor of a cancer drug or supply is immune from civil liability for an act or omission that causes injury to or the death of an individual to whom the cancer drug or supply is dispensed and no disciplinary action shall be taken against a pharmacist or practitioner so long as the drug or supply is donated, accepted, distributed, and dispensed according to the requirements of this section. This immunity does not apply if the act or omission involves reckless, wanton, or intentional misconduct, or malpractice unrelated to the quality of the cancer drug or supply.

Sec. 36. Minnesota Statutes 2004, section 144.9504, subdivision 2, is amended to read:

Subd. 2. [LEAD RISK ASSESSMENT.] (a) An assessing agency shall conduct a lead risk assessment of a residence according to the venous blood lead level and time frame set forth in clauses (1) to ~~(5)~~ (4) for purposes of secondary prevention:

(1) within 48 hours of a child or pregnant female in the residence being identified to the agency as having a venous blood lead level equal to or greater than ~~70~~ 60 micrograms of lead per deciliter of whole blood;

(2) within five working days of a child or pregnant female in the residence being identified to the agency as having a venous blood lead level equal to or greater than 45 micrograms of lead per deciliter of whole blood;

(3) within ten working days of a child in the residence being identified to the agency as having a venous blood lead level equal to or greater than ~~20~~ 15 micrograms of lead per deciliter of whole blood;

~~(4) within ten working days of a child in the residence being identified to the agency as having a venous blood lead level that persists in the range of 15 to 19 micrograms of lead per deciliter of whole blood for 90 days after initial identification; or~~

~~(5) within ten working days of a pregnant female in the residence being identified to the agency as having a venous blood lead level equal to or greater than ten micrograms of lead per deciliter of whole blood.~~

(b) Within the limits of available local, state, and federal appropriations, an assessing agency may also conduct a lead risk assessment for children with any elevated blood lead level.

(c) In a building with two or more dwelling units, an assessing agency shall assess the individual unit in which the conditions of this section are met and shall inspect all common areas accessible to a child. If a child visits one or more other sites such as another residence, or a residential or commercial child care facility, playground, or school, the assessing agency shall also inspect the other sites. The assessing agency shall have one additional day added to the time frame set forth in this subdivision to complete the lead risk assessment for each additional site.

(d) Within the limits of appropriations, the assessing agency shall identify the known addresses for the previous 12 months of the child or pregnant female with venous blood lead levels of at least ~~20~~ 15 micrograms per deciliter for the child or at least ten micrograms per deciliter for the pregnant female; notify the property owners, landlords, and tenants at those addresses that an elevated blood lead level was found in a person who resided at the property; and give them primary prevention information. Within the limits of appropriations, the assessing agency may perform a risk assessment and issue corrective orders in the properties, if it is likely that the previous address

contributed to the child's or pregnant female's blood lead level. The assessing agency shall provide the notice required by this subdivision without identifying the child or pregnant female with the elevated blood lead level. The assessing agency is not required to obtain the consent of the child's parent or guardian or the consent of the pregnant female for purposes of this subdivision. This information shall be classified as private data on individuals as defined under section 13.02, subdivision 12.

(e) The assessing agency shall conduct the lead risk assessment according to rules adopted by the commissioner under section 144.9508. An assessing agency shall have lead risk assessments performed by lead risk assessors licensed by the commissioner according to rules adopted under section 144.9508. If a property owner refuses to allow a lead risk assessment, the assessing agency shall begin legal proceedings to gain entry to the property and the time frame for conducting a lead risk assessment set forth in this subdivision no longer applies. A lead risk assessor or assessing agency may observe the performance of lead hazard reduction in progress and shall enforce the provisions of this section under section 144.9509. Deteriorated painted surfaces, bare soil, and dust must be tested with appropriate analytical equipment to determine the lead content, except that deteriorated painted surfaces or bare soil need not be tested if the property owner agrees to engage in lead hazard reduction on those surfaces. The lead content of drinking water must be measured if another probable source of lead exposure is not identified. Within a standard metropolitan statistical area, an assessing agency may order lead hazard reduction of bare soil without measuring the lead content of the bare soil if the property is in a census tract in which soil sampling has been performed according to rules established by the commissioner and at least 25 percent of the soil samples contain lead concentrations above the standard in section 144.9508.

(f) Each assessing agency shall establish an administrative appeal procedure which allows a property owner to contest the nature and conditions of any lead order issued by the assessing agency. Assessing agencies must consider appeals that propose lower cost methods that make the residence lead safe. The commissioner shall use the authority and appeal procedure granted under sections 144.989 to 144.993.

(g) Sections 144.9501 to 144.9509 neither authorize nor prohibit an assessing agency from charging a property owner for the cost of a lead risk assessment.

Sec. 37. Minnesota Statutes 2004, section 144.98, subdivision 3, is amended to read:

Subd. 3. [FEES.] (a) An application for certification under subdivision 1 must be accompanied by the biennial fee specified in this subdivision. The fees are for:

- (1) ~~nonrefundable~~ base certification fee, ~~\$1,200~~ \$1,600; and
- (2) sample preparation techniques fees, \$100 per technique; and
- (3) test category certification fees:

Test Category	Certification Fee
Clean water program bacteriology	<del>\$600</del> <u>\$800</u>
Safe drinking water program bacteriology	<del>\$600</del> <u>\$800</u>
Clean water program inorganic chemistry	<del>\$600</del> <u>\$800</u>
Safe drinking water program inorganic chemistry	<del>\$600</del> <u>\$800</u>
Clean water program chemistry metals	<del>\$800</del> <u>\$1,200</u>

Safe drinking water program chemistry metals	<del>\$800</del> <u>\$1,200</u>
Resource conservation and recovery program chemistry metals	<del>\$800</del> <u>\$1,200</u>
Clean water program volatile organic compounds	<del>\$1,200</del> <u>\$1,500</u>
Safe drinking water program volatile organic compounds	<del>\$1,200</del> <u>\$1,500</u>
Resource conservation and recovery program volatile organic compounds	<del>\$1,200</del> <u>\$1,500</u>
Underground storage tank program volatile organic compounds	<del>\$1,200</del> <u>\$1,500</u>
Clean water program other organic compounds	<del>\$1,200</del> <u>\$1,500</u>
Safe drinking water program other organic compounds	<del>\$1,200</del> <u>\$1,500</u>
Resource conservation and recovery program other organic compounds	<del>\$1,200</del> <u>\$1,500</u>
<u>Clean water program radiochemistry</u>	<u>\$2,500</u>
<u>Safe drinking water program radiochemistry</u>	<u>\$2,500</u>
<u>Resource conservation and recovery program agricultural contaminants</u>	<u>\$2,500</u>
<u>Resource conservation and recovery program emerging contaminants</u>	<u>\$2,500</u>

(b) ~~The total biennial certification fee is the base fee plus the applicable test category fees.~~

(~~e~~) Laboratories located outside of this state that require an on-site ~~survey with inspection~~ shall be assessed an additional ~~\$2,500~~ \$3,750 fee.

(c) The total biennial certification fee includes the base fee, the sample preparation techniques fees, the test category fees, and, when applicable, the on-site inspection fee.

(d) Fees must be set so that the total fees support the laboratory certification program. Direct costs of the certification service include program administration, inspections, the agency's general support costs, and attorney general costs attributable to the fee function.

(e) A change fee shall be assessed if a laboratory requests additional analytes or methods at any time other than when applying for or renewing its certification. The change fee is equal to the test category certification fee for the analyte.

(f) A variance fee shall be assessed if a laboratory requests and is granted a variance from a rule adopted under this section. The variance fee is \$500 per variance.

(g) Refunds or credits shall not be made for analytes or methods requested but not approved.

(h) Certification of a laboratory shall not be awarded until all fees are paid.

Sec. 38. Minnesota Statutes 2004, section 144E.101, is amended by adding a subdivision to read:

Subd. 14. [TRAUMA TRIAGE AND TRANSPORT GUIDELINES.] By July 1, 2009, a licensee shall have written age appropriate trauma triage and transport guidelines consistent with the criteria issued by the Trauma Advisory Council and approved by the board. The board may approve a licensee's requested deviations to the guidelines due to the availability of local or regional trauma resources if the changes are in the best interest of the patient's health.

Sec. 39. [145.417] [FAMILY PLANNING GRANT FUNDS NOT USED TO SUBSIDIZE ABORTION SERVICES.]

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

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

(c) "Family planning grant funds" means funds distributed through the family planning special projects grant program under section 145.925, or any other state grant program whose funds are or may be used to fund family planning services. Family planning grant funds shall not mean medical education funds awarded under section 62J.692 to the University of Minnesota, Mayo Clinic, or any other clinical medical education program in the state.

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

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

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

(2) nondirective, nonmarketing information regarding such providers.

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

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

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

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

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

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

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

(3) paid or granted to an organization that has adopted or maintains a policy in writing or through oral public statements that abortion is considered part of a continuum of family planning services, reproductive health services, or both.

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

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

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

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

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

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

(1) the same or a similar name;

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

(3) expenses;

(4) employee wages or salaries; or

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

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

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

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

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

Sec. 40. [145.4231] [POSITIVE ABORTION ALTERNATIVES.]

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

(1) "abortion" means the use of any means to terminate the pregnancy of a woman known to be pregnant with knowledge that the termination with those means will, with reasonable likelihood, cause the death of the unborn child. For purposes of this section, abortion does not include an abortion necessary to prevent the death of the mother; and

(2) "unborn child" means an individual organism of the species Homo sapiens from fertilization until birth.

Subd. 2. [ELIGIBILITY FOR GRANTS.] (a) The commissioner of health shall award grants to eligible applicants under paragraph (c) for the reasonable expenses of programs to support, encourage, and assist women in carrying their pregnancies to term by providing information on, referral to, and assistance with securing necessary services that enable women to carry their pregnancies to term. Necessary services include, but are not limited to:

(1) medical care;

(2) nutritional services;

(3) housing assistance;

(4) adoption services;

(5) education and employment assistance;

(6) parenting education and support services; and

(7) child care assistance.

(b) In addition to providing information and referral under paragraph (a), an eligible program may provide one or more of the necessary services under paragraph (a) that assists women in carrying their pregnancies to term. To avoid duplication of efforts, grantees may refer to other public or private programs, rather than provide the care directly, if a woman meets eligibility criteria for the other programs.

(c) To be eligible for a grant, an agency or organization must:

(1) be a private, nonprofit organization;

(2) demonstrate that the program is conducted under appropriate supervision;

(3) not charge women for services provided under the program;



(4) provide each pregnant woman counseled with accurate information on the developmental characteristics of unborn children, including offering the printed information described in section 145.4243;

(5) ensure that the alternatives to abortion program's sole purposes are to assist and encourage women in carrying their pregnancies to term and to maximize their potentials thereafter;

(6) ensure that none of the funds provided are used to encourage or counsel a woman to have an abortion not necessary to prevent her death, to provide her such an abortion, or to refer her for such an abortion; and

(7) have had the alternatives to abortion program in existence for at least one year as of July 1, 2005.

(d) The provisions, words, phrases, and clauses of paragraph (c) are inseverable from this subdivision, and if any provision, word, phrase, or clause of paragraph (c) or the application thereof to any person or circumstance is held invalid, such invalidity shall apply to all of this subdivision.

(e) An organization that provides abortions, promotes abortions, or directly refers for abortions is ineligible to receive a grant under this program. An affiliate of an organization that provides abortions, promotes abortions, or directly refers for abortions is ineligible to receive a grant under this section unless the organizations are separately incorporated and independent from each other. To be independent, the organizations may not share any of the following:

(1) the same or a similar name;

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

(3) expenses;

(4) employee wages or salaries; or

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

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

(g) The following data on participants is private data on individuals under section 13.02, subdivision 12: all data collected, received, maintained, or disseminated by the grantee using grant funds awarded by the commissioner under this section.

Subd. 3. [DUTIES OF COMMISSIONER.] The commissioner of health shall make grants under subdivision 2 beginning no later than July 1, 2006. The commissioner shall monitor and review the programs of each grantee to ensure that the grantee carefully adheres to the purposes and requirements of subdivision 2 and shall cease funding a grantee that fails to do so.

Subd. 4. [SEVERABILITY.] Except as provided in subdivision 2, paragraph (d), if any provision, word, phrase, or clause of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions, words, phrases, clauses, or applications of this section that can be given effect without the invalid provision, word, phrase, clause, or application and to this end, the provisions, words, phrases, and clauses of this section are declared to be severable.

Subd. 5. [SUPREME COURT JURISDICTION.] The Minnesota Supreme Court has original jurisdiction over an action challenging the constitutionality of this section and shall expedite the resolution of the action.

Sec. 41. [145.4232] [UNBORN CHILD PAIN PREVENTION.]

Subdivision 1. [SHORT TITLE.] This act shall be known and may be cited as the "Unborn Child Pain Prevention Act."

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

(1) "abortion" means the use of any means to terminate the pregnancy of a female known to be pregnant with knowledge that the termination with those means will, with reasonable likelihood, cause the death of the unborn child;

(2) "attempt to perform an abortion" means an act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion in violation of this section;

(3) "unborn child" means a member of the species Homo sapiens from fertilization until birth;

(4) "medical emergency" means any condition that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant female as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function; and

(5) "physician" means a person licensed as a physician or osteopath under chapter 147.

Subd. 3. [UNBORN CHILD PAIN PREVENTION.] Except in the case of a medical emergency, before an abortion is performed on an unborn child who is 20 weeks gestational age or more, the physician performing the abortion or the physician's agent shall inform the female if an anesthetic or analgesic would eliminate or alleviate organic pain to the unborn child caused by the particular method of abortion to be employed and inform her of the particular medical risks associated with the particular anesthetic or analgesic. With her consent, the physician shall administer such anesthetic or analgesic.

Subd. 4. [CRIMINAL PENALTIES.] Any person who knowingly or recklessly performs or attempts to perform an abortion in violation of this section is guilty of a felony. No penalty may be assessed against the female upon whom the abortion is performed or attempted to be performed.

Subd. 5. [CIVIL REMEDIES.] (a) Any person upon whom an abortion has been performed in violation of this section or the father or a grandparent of the unborn child who was the subject of such an abortion may maintain an action against the person who performed the abortion in knowing or reckless violation of this section for actual and punitive damages. Any person upon whom an abortion has been attempted in violation of this section may maintain an action against the person who attempted to perform the abortion in knowing or reckless violation of this section for actual and punitive damages.

(b) If judgment is rendered in favor of the plaintiff in any action described in this subdivision, the court shall render judgment for a reasonable attorney's fee in favor of the plaintiff against the defendant. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall render judgment for a reasonable attorney's fee in favor of the defendant against the plaintiff.

Subd. 6. [PROTECTION OF PRIVACY.] In every civil or criminal proceeding or action brought under this section, the court shall rule whether the anonymity of any female upon whom an abortion has been performed or attempted shall be preserved from public disclosure if she does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that her anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. The order shall be accompanied by specific written findings explaining why the anonymity of the female should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable, less restrictive alternative exists. In the absence of written consent of the female upon whom an abortion has been performed or attempted, anyone, other than a public official, who brings an action under subdivision 4, paragraph (a), shall do so under a pseudonym. This subdivision may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.

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

Sec. 42. Minnesota Statutes 2004, section 145.56, subdivision 2, is amended to read:

Subd. 2. [COMMUNITY-BASED PROGRAMS.] (a) To the extent funds are appropriated for the purposes of this subdivision, the commissioner shall establish a grant program to fund:

(1) community-based programs to provide education, outreach, and advocacy services to populations who may be at risk for suicide;

(2) community-based programs that educate community helpers and gatekeepers, such as family members, spiritual leaders, coaches, and business owners, employers, and coworkers on how to prevent suicide by encouraging help-seeking behaviors;

(3) community-based programs that educate populations at risk for suicide and community helpers and gatekeepers that must include information on the symptoms of depression and other psychiatric illnesses, the warning signs of suicide, skills for preventing suicides, and making or seeking effective referrals to intervention and community resources; and

(4) community-based programs to provide evidence-based suicide prevention and intervention education to school staff, parents, and students in grades kindergarten through 12.

Sec. 43. Minnesota Statutes 2004, section 145.56, subdivision 5, is amended to read:

Subd. 5. [PERIODIC EVALUATIONS; BIENNIAL REPORTS.] To the extent funds are appropriated for the purposes of this subdivision, the commissioner shall conduct periodic evaluations of the impact of and outcomes from implementation of the state's suicide prevention plan and each of the activities specified in this section. By July 1, 2002, and July 1 of each even-numbered year thereafter, the commissioner shall report the results of these evaluations to the chairs of the policy and finance committees in the house and senate with jurisdiction over health and human services issues.

## Sec. 44. [145.906] [POSTPARTUM DEPRESSION EDUCATION AND INFORMATION.]

(a) The commissioner of health shall work with health care facilities, licensed health and mental health care professionals, mental health advocates, consumers, and families in the state to develop materials and information about postpartum depression including treatment resources and develop policies and procedures to comply with this section.

(b) Physicians, traditional midwives, and other licensed health care professionals providing prenatal care to women must make available to women and their families information about postpartum depression.

(c) Hospitals and other health care facilities in the state must provide departing new mothers and fathers and other family members, as appropriate, with written information about postpartum depression, including its symptoms, methods of coping with the illness, and treatment resources.

## Sec. 45. Minnesota Statutes 2004, section 145.924, is amended to read:

## 145.924 [AIDS PREVENTION GRANTS.]

(a) The commissioner may award grants to boards of health as defined in section 145A.02, subdivision 2, state agencies, state councils, or nonprofit corporations to provide evaluation and counseling services to populations at risk for acquiring human immunodeficiency virus infection, including, but not limited to, minorities, adolescents, intravenous drug users, and homosexual men.

(b) The commissioner may award grants to agencies experienced in providing services to communities of color, for the design of innovative outreach and education programs for targeted groups within the community who may be at risk of acquiring the human immunodeficiency virus infection, including intravenous drug users and their partners, adolescents, gay and bisexual individuals and women. Grants shall be awarded on a request for proposal basis and shall include funds for administrative costs. Priority for grants shall be given to agencies or organizations that have experience in providing service to the particular community which the grantee proposes to serve; that have policy makers representative of the targeted population; that have experience in dealing with issues relating to HIV/AIDS; and that have the capacity to deal effectively with persons of differing sexual orientations. For purposes of this paragraph, the "communities of color" are: the American-Indian community; the Hispanic community; the African-American community; and the Asian-Pacific community.

(c) All state grants awarded under this section for programs targeted to adolescents shall include the promotion of abstinence from sexual activity and drug use.

(d) No state grant monies awarded under this section shall be used for web sites, pamphlets, or other communications that contain sexually explicit images or language.

## Sec. 46. Minnesota Statutes 2004, section 145.9268, is amended to read:

## 145.9268 [COMMUNITY CLINIC GRANTS.]

Subdivision 1. [DEFINITION.] For purposes of this section, "eligible community clinic" means:

(1) a nonprofit clinic that ~~provides~~ is established to provide health services under conditions as defined in Minnesota Rules, part 9505.0255, to low income or rural population groups; provides medical, preventive, dental, or mental health primary care services; and utilizes a sliding fee scale or other procedure to determine eligibility for charity care or to ensure that no person will be denied services because of inability to pay;

(2) a governmental entity or an Indian tribal government or Indian health service unit that provides services and utilizes a sliding fee scale or other procedure as described under clause (1); or

(3) a consortium of clinics comprised of entities under clause (1) or (2); or

(4) a nonprofit, tribal, or governmental entity proposing the establishment of a clinic that will provide services and utilize a sliding fee scale or other procedure as described under clause (1).

Subd. 2. [GRANTS AUTHORIZED.] The commissioner of health shall award grants to eligible community clinics to plan, establish, or operate services to improve the ongoing viability of Minnesota's clinic-based safety net providers. Grants shall be awarded to support the capacity of eligible community clinics to serve low-income populations, reduce current or future uncompensated care burdens, or provide for improved care delivery infrastructure. The commissioner shall award grants to community clinics in metropolitan and rural areas of the state, and shall ensure geographic representation in grant awards among all regions of the state.

Subd. 3. [ALLOCATION OF GRANTS.] (a) To receive a grant under this section, an eligible community clinic must submit an application to the commissioner of health by the deadline established by the commissioner. A grant may be awarded upon the signing of a grant contract. Community clinics may apply for and the commissioner may award grants for one-year or two-year periods.

(b) An application must be on a form and contain information as specified by the commissioner but at a minimum must contain:

(1) a description of the purpose or project for which grant funds will be used;

(2) a description of the problem or problems the grant funds will be used to address; ~~and~~

(3) a description of achievable objectives, a workplan, and a timeline for implementation and completion of processes or projects enabled by the grant; and

(4) a process for documenting and evaluating results of the grant.

(c) The commissioner shall review each application to determine whether the application is complete and whether the applicant and the project are eligible for a grant. In evaluating applications according to paragraph (d), the commissioner shall establish criteria including, but not limited to: ~~the priority level eligibility of the project;~~ the applicant's thoroughness and clarity in describing the problem grant funds are intended to address; a description of the applicant's proposed project; a description of the population demographics and service area of the proposed project; the manner in which the applicant will demonstrate the effectiveness of any projects undertaken; and evidence of efficiencies and effectiveness gained through collaborative efforts. The commissioner may also take into account other relevant factors, including, but not limited to, the percentage for which uninsured patients represent the applicant's patient base and the degree to which grant funds will be used to support services increasing or maintaining access to health care services. During application review, the commissioner may request additional information about a proposed project, including information on project cost. Failure to provide the information requested disqualifies an applicant. The commissioner has discretion over the number of grants awarded.

(d) In determining which eligible community clinics will receive grants under this section, the commissioner shall give preference to those grant applications that show evidence of collaboration with other eligible community clinics, hospitals, health care providers, or community organizations. ~~In addition, the commissioner shall give priority, in declining order, to grant applications for projects that:~~

Subd. 3a. [AWARDING GRANTS.] (a) The commissioner may award grants for activities to:

- (1) provide a direct offset to expenses incurred for services provided to the clinic's target population;
- (2) establish, update, or improve information, data collection, or billing systems, including electronic health records systems;
- (3) procure, modernize, remodel, or replace equipment used in the delivery of direct patient care at a clinic;
- (4) provide improvements for care delivery, such as increased translation and interpretation services; ~~or~~
- (5) build a new clinic or expand an existing facility; or
- (6) other projects determined by the commissioner to improve the ability of applicants to provide care to the vulnerable populations they serve.

~~(e)~~ (b) A grant awarded to an eligible community clinic may not exceed \$300,000 per eligible community clinic. For an applicant applying as a consortium of clinics, a grant may not exceed \$300,000 per clinic included in the consortium. The commissioner has discretion over the number of grants awarded.

Subd. 4. [EVALUATION AND REPORT.] The commissioner of health shall evaluate the overall effectiveness of the grant program. The commissioner shall collect progress reports to evaluate the grant program from the eligible community clinics receiving grants. Every two years, as part of this evaluation, the commissioner shall report to the legislature on ~~priority areas for grants set under subdivision 3~~ the needs of community clinics and provide any recommendations for adding or changing ~~priority areas~~ eligible activities.

Sec. 47. Minnesota Statutes 2004, section 146A.11, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] All unlicensed complementary and alternative health care practitioners shall provide to each complementary and alternative health care client prior to providing treatment a written copy of the complementary and alternative health care client bill of rights. A copy must also be posted in a prominent location in the office of the unlicensed complementary and alternative health care practitioner. Reasonable accommodations shall be made for those clients who cannot read or who have communication impairments and those who do not read or speak English. The complementary and alternative health care client bill of rights shall include the following:

- (1) the name, complementary and alternative health care title, business address, and telephone number of the unlicensed complementary and alternative health care practitioner;
- (2) the degrees, training, experience, or other qualifications of the practitioner regarding the complimentary and alternative health care being provided, followed by the following statement in bold print:

**"THE STATE OF MINNESOTA HAS NOT ADOPTED ANY EDUCATIONAL AND TRAINING STANDARDS FOR UNLICENSED COMPLEMENTARY AND ALTERNATIVE HEALTH CARE PRACTITIONERS. THIS STATEMENT OF CREDENTIALS IS FOR INFORMATION PURPOSES ONLY.**

Under Minnesota law, an unlicensed complementary and alternative health care practitioner may not provide a medical diagnosis or recommend discontinuance of medically prescribed treatments. If a client desires a diagnosis from a licensed physician, chiropractor, or acupuncture practitioner, or services from a physician, chiropractor, nurse, osteopath, physical therapist, dietitian, nutritionist, acupuncture practitioner, athletic trainer, or any other type of health care provider, the client may seek such services at any time.";

- (3) the name, business address, and telephone number of the practitioner's supervisor, if any;
- (4) notice that a complementary and alternative health care client has the right to file a complaint with the practitioner's supervisor, if any, and the procedure for filing complaints;
- (5) the name, address, and telephone number of the office of ~~unlicensed complementary and alternative health care practice~~ the attorney general and notice that ~~a the office of the attorney general is the point of contact for purposes of referring client may file complaints with the office to the proper health care board, agency, or law enforcement;~~
- (6) the practitioner's fees per unit of service, the practitioner's method of billing for such fees, the names of any insurance companies that have agreed to reimburse the practitioner, or health maintenance organizations with whom the practitioner contracts to provide service, whether the practitioner accepts Medicare, medical assistance, or general assistance medical care, and whether the practitioner is willing to accept partial payment, or to waive payment, and in what circumstances;
- (7) a statement that the client has a right to reasonable notice of changes in services or charges;
- (8) a brief summary, in plain language, of the theoretical approach used by the practitioner in providing services to clients;
- (9) notice that the client has a right to complete and current information concerning the practitioner's assessment and recommended service that is to be provided, including the expected duration of the service to be provided;
- (10) a statement that clients may expect courteous treatment and to be free from verbal, physical, or sexual abuse by the practitioner;
- (11) a statement that client records and transactions with the practitioner are confidential, unless release of these records is authorized in writing by the client, or otherwise provided by law;
- (12) a statement of the client's right to be allowed access to records and written information from records in accordance with section 144.335;
- (13) a statement that other services may be available in the community, including where information concerning services is available;
- (14) a statement that the client has the right to choose freely among available practitioners and to change practitioners after services have begun, within the limits of health insurance, medical assistance, or other health programs;
- (15) a statement that the client has a right to coordinated transfer when there will be a change in the provider of services;
- (16) a statement that the client may refuse services or treatment, unless otherwise provided by law; and
- (17) a statement that the client may assert the client's rights without retaliation.

Sec. 48. Minnesota Statutes 2004, 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 144.1501, subdivision 1, paragraphs ~~(e)~~ (f), ~~(g)~~ (h), and ~~(h)~~ (i).

(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. 49. Minnesota Statutes 2004, section 150A.22, is amended to read:

150A.22 [DONATED DENTAL SERVICES.]

(a) The ~~Board of Dentistry~~ commissioner of health shall contract with the Minnesota Dental Association, or another appropriate and qualified organization to develop and operate a donated dental services program to provide dental care to public program recipients and the uninsured through dentists who volunteer their services without compensation. As part of the contract, the ~~board~~ commissioner shall include specific performance and outcome measures that the contracting organization must meet. The donated dental services program shall:

(1) establish a network of volunteer dentists, including dental specialties, to donate dental services to eligible individuals;

(2) establish a system to refer eligible individuals to the appropriate volunteer dentists; and

(3) develop and implement a public awareness campaign to educate eligible individuals about the availability of the program.

(b) Funding for the program may be used for administrative or technical support. The organization contracting with the ~~board~~ commissioner shall provide an annual report that accounts for funding appropriated to the program by the state, documents the number of individuals served by the program and the number of dentists participating as program providers, and provides data on meeting the specific performance and outcome measures identified by the ~~board~~ commissioner.

Sec. 50. Minnesota Statutes 2004, section 157.15, is amended by adding a subdivision to read:

Subd. 19. [STATEWIDE HOSPITALITY FEE.] "Statewide hospitality fee" means a fee to fund statewide food, beverage, and lodging program development activities, including training for inspection staff, technical assistance, maintenance of a statewide integrated food safety and security information system, and other related statewide activities that support the food, beverage, and lodging program activities.



Sec. 51. Minnesota Statutes 2004, section 157.16, subdivision 2, is amended to read:

Subd. 2. [LICENSE RENEWAL.] Initial and renewal licenses for all food and beverage service establishments, hotels, motels, lodging establishments, and resorts shall be issued for the calendar year for which application is made and shall expire on December 31 of such year. Any person who operates a place of business after the expiration date of a license or without having submitted an application and paid the fee shall be deemed to have violated the provisions of this chapter and shall be subject to enforcement action, as provided in the Health Enforcement Consolidation Act, sections 144.989 to 144.993. In addition, a penalty of ~~\$25~~ \$50 shall be added to the total of the license fee for any food and beverage service establishment operating without a license as a mobile food unit, a seasonal temporary or seasonal permanent food stand, or a special event food stand, and a penalty of ~~\$50~~ \$100 shall be added to the total of the license fee for all restaurants, food carts, hotels, motels, lodging establishments, and resorts operating without a license for a period of up to 30 days. A late fee of \$300 shall be added to the license fee for establishments operating more than 30 days without a license.

Sec. 52. Minnesota Statutes 2004, section 157.16, is amended by adding a subdivision to read:

Subd. 2a. [FOOD MANAGER CERTIFICATION.] An applicant for certification or certification renewal as a food manager must submit to the commissioner a \$28 nonrefundable certification fee payable to the Department of Health.

Sec. 53. Minnesota Statutes 2004, section 157.16, subdivision 3, is amended to read:

Subd. 3. [ESTABLISHMENT FEES; DEFINITIONS.] (a) The following fees are required for food and beverage service establishments, hotels, motels, lodging establishments, and resorts licensed under this chapter. Food and beverage service establishments must pay the highest applicable fee under paragraph ~~(e)~~ (d), clause (1), (2), (3), or (4), and establishments serving alcohol must pay the highest applicable fee under paragraph ~~(e)~~ (d), clause (6) or (7). The license fee for new operators previously licensed under this chapter for the same calendar year is one-half of the appropriate annual license fee, plus any penalty that may be required. The license fee for operators opening on or after October 1 is one-half of the appropriate annual license fee, plus any penalty that may be required.

(b) All food and beverage service establishments, except special event food stands, and all hotels, motels, lodging establishments, and resorts shall pay an annual base fee of ~~\$145~~ \$150.

(c) A special event food stand shall pay a flat fee of ~~\$35~~ \$40 annually. "Special event food stand" means a fee category where food is prepared or served in conjunction with celebrations, county fairs, or special events from a special event food stand as defined in section 157.15.

(d) In addition to the base fee in paragraph (b), each food and beverage service establishment, other than a special event food stand, and each hotel, motel, lodging establishment, and resort shall pay an additional annual fee for each fee category ~~as, additional food service, or required additional inspection~~ specified in this paragraph:

(1) Limited food menu selection, ~~\$40~~ \$50. "Limited food menu selection" means a fee category that provides one or more of the following:

- (i) prepackaged food that receives heat treatment and is served in the package;
- (ii) frozen pizza that is heated and served;
- (iii) a continental breakfast such as rolls, coffee, juice, milk, and cold cereal;

(iv) soft drinks, coffee, or nonalcoholic beverages; or

(v) cleaning for eating, drinking, or cooking utensils, when the only food served is prepared off site.

(2) Small establishment, including boarding establishments, ~~\$75~~ \$100. "Small establishment" means a fee category that has no salad bar and meets one or more of the following:

(i) possesses food service equipment that consists of no more than a deep fat fryer, a grill, two hot holding containers, and one or more microwave ovens;

(ii) serves dipped ice cream or soft serve frozen desserts;

(iii) serves breakfast in an owner-occupied bed and breakfast establishment;

(iv) is a boarding establishment; or

(v) meets the equipment criteria in clause (3), item (i) or (ii), and has a maximum patron seating capacity of not more than 50.

(3) Medium establishment, ~~\$240~~ \$260. "Medium establishment" means a fee category that meets one or more of the following:

(i) possesses food service equipment that includes a range, oven, steam table, salad bar, or salad preparation area;

(ii) possesses food service equipment that includes more than one deep fat fryer, one grill, or two hot holding containers; or

(iii) is an establishment where food is prepared at one location and served at one or more separate locations.

Establishments meeting criteria in clause (2), item (v), are not included in this fee category.

(4) Large establishment, ~~\$350~~ \$460. "Large establishment" means either:

(i) a fee category that (A) meets the criteria in clause (3), items (i) or (ii), for a medium establishment, (B) seats more than 175 people, and (C) offers the full menu selection an average of five or more days a week during the weeks of operation; or

(ii) a fee category that (A) meets the criteria in clause (3), item (iii), for a medium establishment, and (B) prepares and serves 500 or more meals per day.

(5) Other food and beverage service, including food carts, mobile food units, seasonal temporary food stands, and seasonal permanent food stands, ~~\$40~~ \$50.

(6) Beer or wine table service, ~~\$40~~ \$50. "Beer or wine table service" means a fee category where the only alcoholic beverage service is beer or wine, served to customers seated at tables.

(7) Alcoholic beverage service, other than beer or wine table service, ~~\$105~~ \$135.

"Alcohol beverage service, other than beer or wine table service" means a fee category where alcoholic mixed drinks are served or where beer or wine are served from a bar.

(8) Lodging per sleeping accommodation unit, ~~\$6~~ \$8, including hotels, motels, lodging establishments, and resorts, up to a maximum of ~~\$600~~ \$800. "Lodging per sleeping accommodation unit" means a fee category including the number of guest rooms, cottages, or other rental units of a hotel, motel, lodging establishment, or resort; or the number of beds in a dormitory.

(9) First public swimming pool, ~~\$140~~ \$180; each additional public swimming pool, ~~\$80~~ \$100. "Public swimming pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 8.

(10) First spa, ~~\$80~~ \$110; each additional spa, ~~\$40~~ \$50. "Spa pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 9.

(11) Private sewer or water, ~~\$40~~ \$50. "Individual private water" means a fee category with a water supply other than a community public water supply as defined in Minnesota Rules, chapter 4720. "Individual private sewer" means a fee category with an individual sewage treatment system which uses subsurface treatment and disposal.

(12) Additional food service, \$130. "Additional food service" means a location at a food service establishment, other than the primary food preparation and service area, used to prepare or serve food to the public.

(13) Additional inspection fee, \$300. "Additional inspection fee" means a fee to conduct the second inspection each year for elementary and secondary education facility school lunch programs when required by the Richard B. Russell National School Lunch Act.

(e) A fee of ~~\$150~~ \$350 for review of the construction plans must accompany the initial license application for ~~food and beverage service establishments~~ restaurants, hotels, motels, lodging establishments, or resorts with five or more sleeping units.

(f) When existing food and beverage service establishments, hotels, motels, lodging establishments, or resorts are extensively remodeled, a fee of ~~\$150~~ \$250 must be submitted with the remodeling plans. A fee of \$250 must be submitted for new construction or remodeling for a restaurant with a limited food menu selection, a seasonal permanent food stand, a mobile food unit, or a food cart, or for a hotel, motel, resort, or lodging establishment addition of less than five sleeping units.

(g) Seasonal temporary food stands and special event food stands are not required to submit construction or remodeling plans for review.

Sec. 54. Minnesota Statutes 2004, section 157.16, is amended by adding a subdivision to read:

Subd. 3a. [STATEWIDE HOSPITALITY FEE.] Every person, firm, or corporation that operates a licensed boarding establishment, food and beverage service establishment, seasonal temporary or permanent food stand, special event food stand, mobile food unit, food cart, resort, hotel, motel, or lodging establishment in Minnesota must submit to the commissioner a \$35 annual statewide hospitality fee for each licensed activity. The fee for establishments licensed by the Department of Health is required at the same time the licensure fee is due. For establishments licensed by local governments, the fee is due by July 1 of each year.

Sec. 55. Minnesota Statutes 2004, section 157.20, subdivision 2, is amended to read:

Subd. 2. [INSPECTION FREQUENCY.] The frequency of inspections of the establishments shall be based on the degree of health risk.

(a) High-risk establishments must be inspected at least once ~~a year~~ every 12 months.

(b) Medium-risk establishments must be inspected at least once every 18 months.

(c) Low-risk establishments must be inspected at least once every ~~two years~~ 24 months.

Sec. 56. Minnesota Statutes 2004, section 157.20, subdivision 2a, is amended to read:

Subd. 2a. [RISK CATEGORIES.] (a) [HIGH-RISK ESTABLISHMENT.] "High-risk establishment" means any food and beverage service establishment, hotel, motel, lodging establishment, or resort that:

(1) serves potentially hazardous foods that require extensive processing on the premises, including manual handling, cooling, reheating, or holding for service;

(2) prepares foods several hours or days before service;

(3) serves menu items that epidemiologic experience has demonstrated to be common vehicles of food-borne illness;

(4) has a public swimming pool; or

(5) draws its drinking water from a surface water supply.

(b) [MEDIUM-RISK ESTABLISHMENT.] "Medium-risk establishment" means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that:

(1) serves potentially hazardous foods but with minimal holding between preparation and service; or

(2) serves foods, such as pizza, that require extensive handling followed by heat treatment.

(c) [LOW-RISK ESTABLISHMENT.] "Low-risk establishment" means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that is not a high-risk or medium-risk establishment.

(d) [RISK EXCEPTIONS.] Mobile food units, seasonal permanent and seasonal temporary food stands, food carts, and special event food stands are not inspected on an established schedule and therefore are not defined as high-risk, medium-risk, or low-risk establishments.

(e) [SCHOOL INSPECTION FREQUENCY.] Elementary and secondary school food service establishments must be inspected according to the assigned risk category or by the frequency required in the Richard B. Russell National School Lunch Act, whichever frequency is more restrictive.

Sec. 57. Minnesota Statutes 2004, section 214.01, subdivision 2, is amended to read:

Subd. 2. [HEALTH-RELATED LICENSING BOARD.] "Health-related licensing board" means the Board of Examiners of Nursing Home Administrators established pursuant to section 144A.19, ~~the Office of Unlicensed Complementary and Alternative Health Care Practice established pursuant to section 146A.02,~~ the Board of Medical Practice created pursuant to section 147.01, the Board of Nursing created pursuant to section 148.181, the Board of Chiropractic Examiners established pursuant to section 148.02, the Board of Optometry established pursuant to section 148.52, the Board of Physical Therapy established pursuant to section 148.67, the Board of Psychology established pursuant to section 148.90, the Board of Social Work pursuant to section 148B.19, the Board of Marriage and Family Therapy pursuant to section 148B.30, the Office of Mental Health Practice established pursuant to section 148B.61, the Board of Behavioral Health and Therapy established by section 148B.51, the

Alcohol and Drug Counselors Licensing Advisory Council established pursuant to section 148C.02, the Board of Dietetics and Nutrition Practice established under section 148.622, the Board of Dentistry established pursuant to section 150A.02, the Board of Pharmacy established pursuant to section 151.02, the Board of Podiatric Medicine established pursuant to section 153.02, and the Board of Veterinary Medicine, established pursuant to section 156.01.

Sec. 58. Minnesota Statutes 2004, section 214.06, subdivision 1, is amended to read:

Subdivision 1. [FEE ADJUSTMENT.] Notwithstanding any law to the contrary, the commissioner of health as authorized by section 214.13, all health-related licensing boards and all non-health-related licensing boards shall by rule, with the approval of the commissioner of finance, adjust, as needed, any fee which the commissioner of health or the board is empowered to assess. As provided in section 16A.1285, the adjustment shall be an amount sufficient so that the total fees collected by each board will ~~as closely as possible equal be based on~~ anticipated expenditures during the fiscal biennium, including expenditures for the programs authorized by sections ~~214.17 to 214.25 and 214.31 to 214.37,~~ 144.1476, 214.10, 214.103, 214.11, 214.17 to 214.24, 214.28 to 214.37, and 214.40, ~~except that a health-related licensing board may have anticipated expenditures in excess of anticipated revenues in a biennium by using accumulated surplus revenues from fees collected by that board in previous bienniums. A health-related licensing board shall not spend more money than the amount appropriated by the legislature for a biennium.~~ For members of an occupation registered after July 1, 1984, by the commissioner of health under the provisions of section 214.13, the fee established must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the rules providing for registration of members of the occupation. All fees received shall be deposited in the state treasury. ~~Fees received by the commissioner of health or health-related licensing boards must be credited to the health occupations licensing account in the state government special revenue fund.~~

Sec. 59. Minnesota Statutes 2004, section 214.06, is amended by adding a subdivision to read:

Subd. 1a. [HEALTH OCCUPATIONS LICENSING ACCOUNT.] Fees received by the commissioner of health or health-related licensing boards must be credited to the health occupations licensing account in the state government special revenue fund. The commissioner of finance shall ensure that the revenues and expenditures of each health-related licensing board are tracked separately in the health occupations licensing account.

Sec. 60. [245A.034] [CHILD CARE PROVIDER TRAINING; DANGERS OF SHAKING INFANTS AND YOUNG CHILDREN.]

The commissioner shall make available for viewing by all licensed and legal nonlicensed child care providers a video presentation on the dangers associated with shaking infants and young children. The video presentation shall be part of the initial and ongoing training of licensed child care providers. Legal nonlicensed child care providers may participate at their option in a video presentation session offered under this section. The commissioner shall provide to child care providers at cost copies of a video approved by the commissioner of health under section 144.574 on the dangers associated with shaking infants and young children.

Sec. 61. Minnesota Statutes 2004, section 326.42, subdivision 2, is amended to read:

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 design;
- (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 design;
- (6) manufactured home park or campground, one 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. 62. Minnesota Statutes 2004, section 471.61, is amended by adding a subdivision to read:

Subd. 5. [PROVISION OF LONG-TERM CARE INSURANCE.] Any political subdivision, or any two or more political subdivisions acting jointly, may contract with an insurance company licensed to do business in this state for the voluntary purchase of long-term care insurance by the employees and their dependents of the political subdivision or subdivisions. The coverage may be through a group policy or through individual coverage.

## Sec. 63. [RULE AMENDMENT.]

The commissioner of health shall amend Minnesota Rules, part 4626.2015, subparts 3, item C; and 6, item B, to conform with section 52. The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3). Minnesota Statutes, section 14.386, does not apply, except to the extent provided under Minnesota Statutes, section 14.388.

## Sec. 64. [DIRECTION TO COMMISSIONER; DENTAL REVIEW.]

The commissioner of health, in consultation with the relevant dental associations, licensed dental and public health professionals, and others, shall review the leadership and advisory role of the Department of Health relative to dental health including the usefulness of utilizing a dental director. The review shall include prevention, health disparities, and critical access issues and shall be reported to the legislative committees with jurisdiction over health policy by January 15, 2006.

## Sec. 65. [REPEALER.]

(a) Minnesota Statutes 2004, sections 13.383, subdivision 3; 13.411, subdivision 3; 144.1486; 144.1502; 146A.01, subdivisions 2 and 5; 146A.02; 146A.03; 146A.04; 146A.05; 146A.06; 146A.07; 146A.08; 146A.09; 146A.10; and 157.215, are repealed.

(b) Minnesota Statutes 2004, section 145.925, and Minnesota Rules, parts 4700.1900, 4700.2000, 4700.2100, 4700.2200, 4700.2210, 4700.2300, 4700.2400, 4700.2410, 4700.2420, and 4700.2500, are repealed.

[EFFECTIVE DATE.] Paragraph (b) of this section is effective July 1, 2006, or upon implementation of the Family Planning Project section 1115 waiver, whichever is later.

## ARTICLE 9

## DEPARTMENT OF HUMAN SERVICES FORECAST ADJUSTMENT

## Section 1. [ADJUSTMENT.]

The dollar amounts shown are added to or, if shown in parentheses, are subtracted from the appropriations in Laws 2003, First Special Session chapter 14, as amended by Laws 2004, chapter 272, or other law, and are appropriated from the general fund, or any other fund named, to the Department of Human Services for the purposes specified in this article, to be available for the fiscal year indicated for each purpose. The figure "2005" used in this article means that the appropriation or appropriations listed are available for the fiscal year ending June 30, 2005.

## SUMMARY BY FUND

	2005
General Fund	25,517,000
Health Care Access	(33,947,000)
TANF	(814,000)
TOTAL	(9,244,000)

2005

## Sec. 2. COMMISSIONER OF HUMAN SERVICES

Subdivision 1. Total Appropriation (9,244,000)

## Summary by Fund

General 25,517,000

Health Care Access (33,947,000)

TANF (814,000)

## Subd. 2. Revenue and Pass-Through

TANF (814,000)

## Subd. 3. Basic Health Care Grants

General 44,502,000

Health Care Access (33,947,000)

The amount that may be spent from this appropriation for each purpose is as follows:

## (a) MinnesotaCare

Health Care Access (33,947,000)

## (b) MA Basic Health Care - Families and Children

General 39,343,000

## (c) MA Basic Health Care - Elderly and Disabled

General (20,641,000)

## (d) General Assistance Medical Care

General 25,800,000

## Subd. 4. Continuing Care Grants

General (18,985,000)

The amount that may be spent from this appropriation for each purpose is as follows:

## (a) MA Long-Term Care Waivers

General (6,218,000)



2005

## (b) MA Long-Term Care Facilities

General	(15,645,000)
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## (c) Chemical Dependency Entitlement Grants

General	(2,878,000)
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## ARTICLE 10

## 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 "2006" and "2007" where used in this article, mean that the appropriation or appropriations listed under them are available for the fiscal year ending June 30, 2006, or June 30, 2007, respectively.

## SUMMARY BY FUND

	2006	2007	BIENNIAL TOTAL
General	\$3,489,795,000	\$3,638,825,000	\$7,128,620,000
State Government Special Revenue	49,893,000	50,307,000	100,200,000
Health Care Access	461,575,000	552,394,000	1,013,969,000
Federal TANF	66,989,000	64,446,000	131,435,000
Lottery Prize Fund	1,456,000	1,456,000	2,912,000
TOTAL	\$4,069,708,000	\$4,307,428,000	\$8,377,136,000

## APPROPRIATIONS

Available for the Year  
Ending June 30

2006	2007
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## Sec. 2. COMMISSIONER OF HUMAN SERVICES

Subdivision 1. Total Appropriation	\$3,908,881,000	\$4,145,724,000
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## Summary by Fund

General	3,390,600,000	3,539,173,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

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.

[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 2006 and \$2,157,000 in fiscal year 2007 are to be used to increase the capitation payments under Minnesota Statutes, section 256B.69. Notwithstanding section 12, this provision shall not expire.

Subd. 2. Agency Management

Summary by Fund

General	46,899,000	46,782,000
State Government		
Special Revenue	415,000	415,000
Health Care Access	5,565,000	5,200,000
Federal TANF	222,000	222,000

The amounts that may be spent from the appropriation for each purpose are as follows:

(a) Financial Operations

General	10,473,000	10,473,000
Health Care Access	813,000	837,000
Federal TANF	122,000	122,000

APPROPRIATIONS  
Available for the Year  
Ending June 30  
20062007

[ADMINISTRATIVE BASE ADJUSTMENT - WEB PAYMENT.]

The health care access fund base is increased by \$28,000 in fiscal year 2008 and \$61,000 in fiscal year 2009 for fees associated with web-based payment collections.

(b) Legal and Regulation Operations

General	9,983,000	9,636,000
State Government Special Revenue	415,000	415,000
Health Care Access	755,000	319,000
Federal TANF	100,000	100,000

(c) Management Operations

General	3,281,000	3,281,000
Health Care Access	68,000	68,000

(d) Information Technology Operations

General	23,162,000	23,392,000
Health Care Access	3,929,000	3,976,000

Subd. 3. Revenue and Pass-Through Expenditures

Summary by Fund

Federal TANF	60,767,000	58,224,000
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Subd. 4. Children and Economic Assistance Grants

Summary by Fund

General	37,000	177,000
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(a) Children's Services Grants

General	34,000	166,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

[CHILDREN'S MENTAL HEALTH GRANTS BASE ADJUSTMENT.] The general fund base is increased by \$41,000 in fiscal year 2008 and fiscal year 2009 for costs associated with the long-term care provider cost-of-living adjustment.

(b) Children and Community Services Grants

General	3,000	11,000
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[CHILDREN'S COMMUNITY SERVICE GRANTS BASE ADJUSTMENT.] The general fund base is increased by \$2,000 in fiscal year 2008 and fiscal year 2009 for costs associated with the long-term care provider cost-of-living adjustment.

Subd. 5. Basic Health Care Grants

Summary by Fund

General	1,523,140,000	1,600,826,000
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Health Care Access	429,897,000	523,265,000
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[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.

[HEALTH CARE ACCESS FUND SPENDING AUTHORITY.] The commissioner of human services, with the approval of the commissioner of finance, and after notification of the chairs of the relevant house finance committee and senate budget division, may expend money appropriated from the health care access fund for MinnesotaCare and general assistance medical care in either fiscal year of the biennium and transfer unencumbered appropriation balances between these two programs within or between fiscal years for the biennium ending June 30, 2007.

The amounts that may be spent from the appropriation for each purpose are as follows:

(a) MinnesotaCare Grants

Health Care Access	194,312,000	124,655,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
20062007

[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.

(b) MA Basic Health Care - Families and Children

General	618,601,000	735,325,000
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(c) MA Basic Health Care - Elderly and Disabled

General	807,585,000	862,804,000
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(d) General Assistance Medical Care Grants

General	87,416,000	318,000
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[GAMC DRUG REBATE REVENUES.] Notwithstanding Minnesota Statutes, section 256.01, subdivision 2, drug rebate revenues collected for general assistance medical care claims with a warrant date prior to June 30, 2007, shall be deposited in the general fund and the pharmaceutical discount program implementation is delayed until July 1, 2007. Notwithstanding section 12, this provision will not expire.

Health Care Access	235,585,000	398,610,000
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(e) Prescription Drug Program Grants

General	4,318,000	-0-
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[PDP TO MEDICARE PART D TRANSITION.] The commissioner of human services, with the approval of the commissioner of finance, and after notification of the chair of the senate Health and Human Services Budget Division and the chair of the house Health Policy and Finance Committee, may transfer fiscal year 2006 appropriations between the medical assistance program and the prescription drug program.

(f) Health Care Grants - Other Assistance

General	5,467,000	3,059,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

Subd. 6. Health Care Management

Summary by Fund

General	25,613,000	26,371,000
Health Care Access	19,840,000	17,650,000

The amounts that may be spent from the appropriation for each purpose are as follows:

(a) Health Care Policy Administration

General	8,976,000	9,176,000
Health Care Access	3,482,000	2,630,000

[HEALTH CARE ACCESS FUND TRANSFERS EXPIRATION.] Notwithstanding Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 6, paragraph (b), designating funds available for transfer to the general fund, the commissioner of finance's authorization to transfer those designated funds from the health care access fund shall expire July 1, 2005.

[HEALTH CARE ACCESS FUND TRANSFERS.] Transfers of funds between the health care access fund and the general fund authorized under Minnesota Statutes, section 16A.724, supersede the transfers authorized in Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 7, paragraph (a). This provision is effective the day following final enactment.

[ADMINISTRATIVE BASE ADJUSTMENT.] The health care access fund base is increased by \$1,868,000 in fiscal year 2008 and \$1,874,000 in fiscal year 2009, for implementation of business process redesign in health care.

[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.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
20062007

## (b) Health Care Operations

General	16,637,000	17,195,000
Health Care Access	16,358,000	15,020,000

## Subd. 7. Continuing Care Grants

## Summary by Fund

General	1,556,346,000	1,649,445,000
Lottery Prize	1,308,000	1,308,000

The amounts that may be spent from the appropriation for each purpose are as follows:

## (a) Aging and Adult Services Grant

General	15,375,000	14,323,000
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[MEDICARE PART D.] Of the general fund appropriation for the biennium, \$4,697,000 shall be used for grants to the Board on Aging for information and assistance for Medicare Part D implementation. This money can be used in either year of the biennium.

Beginning in fiscal 2008, base level funding is \$3,417,000 per year.

## (b) Alternative Care Grants

General	57,896,000	49,492,000
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[ALTERNATIVE CARE TRANSFER.] Any money allocated to the alternative care program that is not spent for the purposes indicated does not cancel but shall be transferred to the medical assistance account.

[ALTERNATIVE CARE BASE.] Base level funding for alternative care grants is increased by \$563,000 in fiscal year 2008 and by \$575,000 in fiscal year 2009.

[ALTERNATIVE CARE IMPLEMENTATION OF CHANGES TO ELIGIBILITY.] Changes to Minnesota Statutes, section 256B.0913, subdivisions 2 and 4, paragraph (a), are effective July 1, 2005, for all persons found eligible for the alternative care



APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

program on and after July 1, 2005. All persons who are alternative care clients as of June 30, 2005, must be subject to Minnesota Statutes, section 256B.0913, subdivisions 2 and 4, paragraph (a), on the annual redetermination of program eligibility due after June 30, 2005, but no later than January 1, 2006.

(c) Medical Assistance Grants - Long-term Care Facilities

General	522,134,000	524,987,000
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(d) Medical Assistance Grants - Long-Term Care Waivers and Home Care Grants

General	834,007,000	926,510,000
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[LONG-TERM CARE PROVIDER RATE INCREASE.] The long-term care provider rate increase in Minnesota Statutes, sections 256B.431, subdivision 41; 256B.5012, subdivision 6; and 256B.765, subdivision 3, shall be adjusted to reflect an additional 3.37 percent increase effective October 1, 2007. This new rate shall become part of base-level funding for fiscal years 2008 and 2009.

[LIMITING GROWTH IN COMMUNITY ALTERNATIVES FOR DISABLED INDIVIDUALS WAIVER.] For each year of the biennium ending June 30, 2007, the commissioner shall make available additional allocations for home and community-based services covered under Minnesota Statutes, section 256B.49, at a rate of 95 per month or 1,140 per year, plus any additional legislatively authorized growth. 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.

[LIMITING GROWTH IN TBI WAIVER.] For each year of the biennium ending June 30, 2007, the commissioner shall make available additional allocations for home and community-based services covered under Minnesota Statutes, section 256B.49, at a rate of 150 per year. 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.

[LIMITING GROWTH IN MR/RC WAIVER.] For each year of the biennium ending June 30, 2007, the commissioner shall limit the new diversion caseload growth in the MR/RC waiver to 50 additional allocations. Notwithstanding Minnesota Statutes,

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

section 256B.0916, subdivision 5, paragraph (b), the available diversion allocations shall be awarded to support individuals whose health and safety needs result in an imminent risk of an institutional placement at any time during the fiscal year.

[QUALITY ASSURANCE COMMISSION.] Of the general fund appropriation, \$299,000 in fiscal year 2006 and \$450,000 in fiscal year 2007 is for the Quality Assurance Commission under Minnesota Statutes, section 256B.0951.

(e) Mental Health Grants

General	46,665,000	47,726,000
Lottery Prize	1,308,000	1,308,000

[MENTAL HEALTH GRANT BASE.] Base level funding for mental health grants is increased by \$388,000 in fiscal year 2008 and by \$395,000 in fiscal year 2009.

[RESTRUCTURING OF ADULT MENTAL HEALTH SERVICES.] The commissioner may make transfers that do not increase the state share of costs to effectively implement the restructuring of adult mental health services.

[COMPULSIVE GAMBLING PREVENTION AND EDUCATION.] \$150,000 is appropriated from the lottery prize fund for the fiscal year ending June 30, 2006, and \$150,000 is appropriated from the lottery prize fund for the fiscal year ending June 30, 2007, to the commissioner of human services for a grant to the Northstar Problem Gambling Alliance in Arlington, Minnesota. Of this appropriation, \$75,000 in the fiscal year ending June 30, 2006, and \$75,000 in the fiscal year ending June 30, 2007, is contingent on demonstration of nonstate matching funds. The commissioner of finance may disburse the state portion of the matching funds in increments of \$37,500 upon receipt of a commitment for an equal amount of matching nonstate funds. These funds shall be used to increase public awareness of problem gambling, education, training, and research.

(f) Deaf and Hard-of-Hearing Grants

General	1,453,000	1,479,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

[DEAF AND HARD-OF-HEARING BASE FUNDING.] Base level funding for the deaf and hard-of-hearing grants is increased by \$4,000 in fiscal year 2008 and \$4,000 in fiscal year 2009.

(g) Chemical Dependency Entitlement Grants

General	63,183,000	68,744,000
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(h) Chemical Dependency Nonentitlement Grants

General	1,055,000	1,055,000
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(i) Other Continuing Care Grants

General	14,578,000	15,260,000
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[OTHER CONTINUING CARE GRANTS BASE FUNDING.] Base level funding for other continuing care grants is increased by \$45,000 in fiscal year 2008 and \$94,000 in fiscal year 2009.

Subd. 8. Continuing Care Management

Summary by Fund

General	14,984,000	15,122,000
State Government		
Special Revenue	119,000	119,000
Lottery Prize	148,000	148,000

[QUALITY ASSURANCE COMMISSION.] \$151,000 in fiscal year 2007 is appropriated from the general fund to the commissioner of human services for the Quality Assurance Commission under Minnesota Statutes, section 256B.0951. This funding is added to the base appropriation for the quality assurance commission program for the fiscal year beginning July 1, 2006.

Subd. 9. State-Operated Services

Summary by Fund

General	223,581,000	200,448,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

[EVIDENCE-BASED PRACTICE FOR METHAMPHETAMINE TREATMENT.] \$300,000 is appropriated from the general fund for the fiscal year ending June 30, 2006, and \$300,000 is appropriated from the general fund for the fiscal year ending June 30, 2007, to the commissioner of human services to support development of evidence-based practices for the treatment of methamphetamine abuse at the state-operated services chemical dependency program in Willmar. These funds shall be used to support research on evidence-based practices for the treatment of methamphetamine abuse, to disseminate the results of the evidence-based practice research statewide, and to create training for addiction counselors specializing in the treatment of methamphetamine abuse.

[TRANSFER AUTHORITY RELATED TO STATE-OPERATED SERVICES.] Money appropriated to finance state-operated services programs and administrative services may be transferred between fiscal years of the biennium with the approval of the commissioner of finance.

[BASE ADJUSTMENT FOR STATE-OPERATED SERVICES UTILIZATION.] The general fund base is increased by \$3,174,000 in fiscal year 2008 and \$6,472,000 in fiscal year 2009 for state-operated services forensic operations, with corresponding adjustments to nondedicated revenue estimates.

Sec. 3. COMMISSIONER OF HEALTH

Subdivision 1. Total Appropriation	113,245,000	114,094,000
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Summary by Fund

General	64,452,000	64,909,000
State Government		
Special Revenue	36,520,000	36,906,000
Health Care Access	6,273,000	6,279,000
Federal TANF	6,000,000	6,000,000

[TANF APPROPRIATIONS.] (a) \$4,000,000 of TANF funds is appropriated each year to the commissioner for home visiting and nutritional services listed under Minnesota Statutes, section 145.882, subdivision 7, clauses (6) and (7). Funding shall be distributed to community health boards based on Minnesota Statutes, section 145A.131, subdivision 1, and tribal governments based on Minnesota Statutes, section 145A.14, subdivision 2, paragraph (b).

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

(b) \$2,000,000 of TANF funds is appropriated each year to the commissioner for decreasing racial and ethnic disparities in infant mortality rates under Minnesota Statutes, section 145.928, subdivision 7.

[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.

[MN AIDS PROJECT.] Notwithstanding any law to the contrary, the Minnesota AIDS Project is not eligible for any grants from the commissioner of health or Department of Health.

Subd. 2. Community and Family Health Promotion

Summary by Fund

General	40,074,000	38,670,000
State Government Special Revenue	341,000	328,000
Health Care Access	3,510,000	3,516,000
Federal TANF	3,580,000	3,580,000

[HEALTH OCCUPATIONS LICENSING.] \$200,000 of the appropriation in fiscal year 2006 and \$200,000 of the appropriation in fiscal year 2007 from the health occupations licensing account in the state government special revenue fund are for the rural pharmacy planning and transition grant program.

[SHAKEN BABY VIDEO.] Of the state government special revenue fund appropriation, \$13,000 in 2006 is appropriated to the commissioner of health to provide a video to hospitals on shaken baby syndrome. The commissioner of health shall assess a fee to hospitals to cover the cost of the approved shaken baby video and the revenue received is to be deposited in the state government special revenue fund.

[POSITIVE ABORTION ALTERNATIVES.] \$50,000 in fiscal year 2006 is for administrative costs of the positive abortion alternatives program implementation.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
20062007

\$2,500,000 in fiscal year 2007 is for positive abortion alternatives under Minnesota Statutes, section 145.4231. Of this amount, \$100,000 may be used for administrative costs of implementing the grant program.

Subd. 3. Policy Quality and Compliance

Summary by Fund

General	3,668,000	3,668,000
State Government Special Revenue	11,528,000	11,428,000
Health Care Access	2,763,000	2,763,000

[OCCUPATIONAL THERAPY FEE HOLIDAY.] 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 2006 and 2007.

Subd. 4. Health Protection

Summary by Fund

General	9,118,000	9,118,000
State Government Special Revenue	24,316,000	24,815,000

Subd. 5. Minority and Multicultural Health

Summary by Fund

General	6,190,000	8,051,000
Federal TANF	2,420,000	2,420,000

Subd. 6. Administrative Support Services

Summary by Fund

General	5,402,000	5,402,000
State Government Special Revenue	335,000	335,000

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

Sec. 4. VETERANS NURSING HOMES BOARD

General	30,030,000	30,030,000	
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[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.

Sec. 5. HEALTH-RELATED BOARDS

Subdivision 1. Total Appropriation	12,268,000	12,296,000
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Summary by Fund

General	25,000	25,000	
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State Government			
Special Revenue	12,243,000	12,271,000	

[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.

Subd. 2. Board of Behavioral Health and Therapy	673,000	673,000
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Subd. 3. Board of Chiropractic Examiners	414,000	414,000
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Subd. 4. Board of Dentistry	888,000	888,000
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Subd. 5. Board of Dietetic and Nutrition Practice	101,000	101,000
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The Board of Dietetic and Nutrition Practice may lower its fees by an amount not to exceed \$36,000 in fiscal years 2006, 2007, 2008, and 2009.

APPROPRIATIONS Available for the Year Ending June 30		
	2006	2007
Subd. 6. Board of Marriage and Family Therapy	127,000	131,000
Subd. 7. Board of Medical Practice	3,529,000	3,569,000
Subd. 8. Board of Nursing	2,561,000	2,567,000
The Board of Nursing may lower its fees by an amount not to exceed \$467,000 in fiscal year 2006 and \$442,000 in fiscal years 2007, 2008, and 2009.		
Subd. 9. Board of Nursing Home Administrators	616,000	629,000
[ADMINISTRATIVE SERVICES UNIT.] Of this appropriation, \$418,000 the first year and \$421,000 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. 10. Board of Optometry	96,000	96,000
Subd. 11. Board of Pharmacy	1,289,000	1,244,000
General Fund	25,000	25,000
State Government Special Revenue	1,264,000	1,219,000
[CANCER DRUG REPOSITORY.] \$25,000 each year from the general fund is for the Board of Pharmacy to operate the cancer drug repository program in Minnesota Statutes, section 144.707.		
Subd. 12. Board of Physical Therapy	201,000	207,000
Subd. 13. Board of Podiatry	49,000	53,000
Subd. 14. Board of Psychology	680,000	680,000
Subd. 15. Board of Social Work	873,000	873,000

[TEMPORARY FEE REDUCTION.] For fiscal years 2006, 2007, 2008, and 2009, the following fee changes for fees specified in Minnesota Statutes, section 148D.175, are effective:

(1) in subdivision 1, the application fee for a licensed independent social worker is reduced to \$45;



APPROPRIATIONS  
Available for the Year  
Ending June 30

2006	2007
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(2) in subdivision 1, the application fee for a licensed independent clinical social worker is reduced to \$45;

(3) in subdivision 1, the application fee for a licensure by endorsement is reduced to \$85;

(4) in subdivision 2, the license fee for a licensed social worker is reduced to \$90;

(5) in subdivision 2, the license fee for a licensed graduate social worker is reduced to \$160;

(6) in subdivision 2, the license fee for a licensed independent social worker is reduced to \$240;

(7) in subdivision 2, the license fee for a licensed independent clinical social worker is reduced to \$265;

(8) in subdivision 3, the renewal fee for a licensed social worker is reduced to \$90;

(9) in subdivision 3, the renewal fee for a licensed graduate social worker is reduced to \$160;

(10) in subdivision 3, the renewal fee for a licensed independent social worker is reduced to \$240;

(11) in subdivision 3, the renewal fee for a licensed independent clinical social worker is reduced to \$265; and

(12) in subdivision 5, the renewal late fee is reduced to one-third of the renewal fee specified in subdivision 3.

These fee reductions expire on June 30, 2009.

Subd. 16. Board of Veterinary Medicine	171,000	171,000
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Sec. 6. EMERGENCY MEDICAL SERVICES BOARD

Subdivision 1. Total Appropriation	3,077,000	3,077,000
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Summary by Fund

General	2,481,000	2,481,000
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State Government		
Special Revenue	596,000	596,000

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

[HEALTH PROFESSIONAL SERVICES ACTIVITY.] \$596,000 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
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Sec. 8. OMBUDSMAN FOR MENTAL HEALTH AND MENTAL RETARDATION

General	1,462,000	1,462,000
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Sec. 9. OMBUDSMAN FOR FAMILIES

General	245,000	245,000
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Sec. 10. [TRANSFERS.]

Subdivision 1. [GRANTS.] The commissioner of human services, with the approval of the commissioner of finance, and after notification of the chairs of the relevant senate budget division and house finance committee, may transfer unencumbered appropriation balances for the biennium ending June 30, 2007, within fiscal years among the MFIP, general assistance, medical assistance, MFIP child care assistance under Minnesota Statutes, section 119B.05, 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 relevant house and senate health committees 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. 11. [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. 12. [SUNSET OF UNCODIFIED LANGUAGE.]

All uncodified language contained in this article expires on June 30, 2007, unless a different expiration date is explicit.

## Sec. 13. [EFFECTIVE DATE.]

The provisions in this article are effective July 1, 2005, unless a different effective date is specified.

## ARTICLE 11

## OPTION B SPENDING

## Section 1. [CONDITIONAL EFFECTIVE DATE.]

The policies and the appropriations in this article are effective only if H.F. 1664 is passed by the house of representatives. The amounts indicated in this article are appropriated to the commissioner of human services for the purposes indicated in the fiscal years indicated.

Sec. 2. Minnesota Statutes 2004, section 256D.03, subdivision 3, is amended to read:

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

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

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

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

(b) General assistance medical care may not be paid for applicants or recipients who meet all eligibility requirements of MinnesotaCare as defined in sections 256L.01 to 256L.16, and are adults with dependent children under 21 whose gross family income is equal to or less than ~~275~~ 175 percent of the federal poverty guidelines.

(c) ~~For applications received on or after October 1, 2003, Eligibility may begin no earlier than the date of application. For individuals eligible under paragraph (a), clause (2), item (i), a redetermination of eligibility must occur every 12 months. Individuals are eligible under paragraph (a), clause (2), item (ii), only during inpatient hospitalization but may reapply if there is a subsequent period of inpatient hospitalization. Beginning January 1, 2000, Minnesota health care program applications completed by recipients and applicants who are persons described~~

in paragraph (b), may be returned to the county agency to be forwarded to the Department of Human Services or sent directly to the Department of Human Services for enrollment in MinnesotaCare. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available in any month during which a MinnesotaCare eligibility determination and enrollment are pending. Upon notification of eligibility for MinnesotaCare, notice of termination for eligibility for general assistance medical care shall be sent to an applicant or recipient. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available until enrollment in MinnesotaCare subject to the provisions of paragraph (e).

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

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

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

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

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

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

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

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

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

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

Sec. 3. Minnesota Statutes 2004, 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.

(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.

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

Sec. 4. Minnesota Statutes 2004, section 256L.03, subdivision 5, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

**[EFFECTIVE DATE.]** This section is effective January 1, 2006.

Sec. 5. Minnesota Statutes 2004, section 256L.04, subdivision 1, is amended to read:

Subdivision 1. [FAMILIES WITH CHILDREN.] (a) Through September 30, 2005, 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. Beginning October 1, 2005, children and pregnant women 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. Beginning October 1, 2005, parents, grandparents, foster parents, relative caretakers, and legal guardians ages 21 and over are not eligible for MinnesotaCare if their gross income exceeds 190 percent of the federal poverty guidelines for the applicable family size. 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, if the children are eligible. Children 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 October 1, 2003, 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, or upon federal approval, whichever is later, parents are not eligible for MinnesotaCare if their gross income exceeds \$50,000.

Sec. 6. Minnesota Statutes 2004, section 256L.11, subdivision 6, is amended to read:

Subd. 6. [ENROLLEES 18 OR OLDER.] Payment by the MinnesotaCare program for inpatient hospital services provided to MinnesotaCare enrollees eligible 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, who are 18 years old or older on the date of admission to the inpatient hospital must be in accordance with paragraphs (a) and (b). Payment for adults who are not pregnant and are eligible under section 256L.04, subdivisions 1 and 2, and whose incomes are equal to or less than 175 percent of the federal poverty guidelines, shall be as provided for under paragraph (c).

(a) If the medical assistance rate minus any co-payment required under section 256L.03, subdivision 4 5, is less than or equal to the amount remaining in the enrollee's benefit limit under section 256L.03, subdivision 3, payment must be the medical assistance rate minus any co-payment required under section 256L.03, subdivision 4 5. The hospital must not seek payment from the enrollee in addition to the co-payment. The MinnesotaCare payment plus the co-payment must be treated as payment in full.

(b) If the medical assistance rate minus any co-payment required under section 256L.03, subdivision 4 5, is greater than the amount remaining in the enrollee's benefit limit under section 256L.03, subdivision 3, payment must be the lesser of:

(1) the amount remaining in the enrollee's benefit limit; or

(2) charges submitted for the inpatient hospital services less any co-payment established under section 256L.03, subdivision 4 5.

The hospital may seek payment from the enrollee for the amount by which usual and customary charges exceed the payment under this paragraph. If payment is reduced under section 256L.03, subdivision 3, paragraph (b), the hospital may not seek payment from the enrollee for the amount of the reduction.

(c) For admissions occurring during the period of July 1, 1997, through June 30, 1998, for adults who are not pregnant and are eligible under section 256L.04, subdivisions 1 and 2, and whose incomes are equal to or less than 175 percent of the federal poverty guidelines, the commissioner shall pay hospitals directly, up to the medical assistance payment rate, for inpatient hospital benefits in excess of the \$10,000 annual inpatient benefit limit.

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

Sec. 7. [INCREASE IN GAMC FUNDING RELATED TO SPENDDOWN STANDARD.]

\$3,062,000 in fiscal year 2006 and \$3,964,000 in fiscal year 2007 are added to the appropriations in article 10, section 2, subdivision 5, paragraph (d), to increase the general assistance medical care spenddown standard from 50 percent to 75 percent of the federal poverty guidelines as provided in section 2.

Sec. 8. [INCREASE IN MINNESOTACARE FUNDING RELATED TO INCOME STANDARD FOR PARENTS.]

\$2,191,000 in fiscal year 2006 and \$6,048,000 in fiscal year 2007 are added to the appropriations in article 10, section 2, subdivision 5, paragraph (a), for the purpose of sections 3 to 6.

Sec. 9. [MINNESOTACARE OUTREACH GRANTS.]

The repeal in article 3 of Minnesota Statutes 2004, section 256L.04, subdivision 11, shall not take effect.

Sec. 10. [FUNDING FOR MINNESOTACARE OUTREACH GRANTS.]

\$750,000 in fiscal year 2006 and \$750,000 in fiscal year 2007 are added to the appropriations in article 10, section 2, subdivision 5, paragraph (f), to fund MinnesotaCare outreach grants under Minnesota Statutes, section 256L.04, subdivision 11. Federal administrative reimbursement resulting from MinnesotaCare outreach is appropriated to the commissioner for this purpose.

Sec. 11. [HOME CARE SERVICES REIMBURSEMENT RATES.]

\$1,261,000 in fiscal year 2006 and \$1,973,000 in fiscal year 2007 are added to the appropriations in article 10, section 2, subdivision 7, paragraph (d), to provide additional increases in reimbursement rates for home health services under Minnesota Statutes, section 256B.763. The commissioner must recalculate the rates in Minnesota Statutes, section 256B.763, to reflect these additional appropriations.

Sec. 12. [OTHER PROVISIONS.]

The amendments in this article to sections of law supersede and shall be implemented in place of the amendments or repeals to those sections in article 3."

Delete the title and insert:

"A bill for an act relating to the operation of state government; making changes to health and human services programs; changing licensing and state-operated services provisions; changing provisions in state health care programs, changing MinnesotaCare to a forecasted program and changing eligibility requirements and payments, allowing transfer of excess health care access funds to the general fund, allowing the commissioner to withhold for delinquent nursing home provider surcharges, allowing reduction of excess assets for MA and changing other MA provisions, reducing payments to managed care plans, establishing medical necessity standards for state health care programs, allowing the state to recover payment for long-term care from trusts and life estates or joint tenancy interests, and establishing a health services policy committee and medication therapy management; establishing a value-based nursing facility reimbursement system and changing other provisions for nursing facilities; changing continuing care for the elderly and disabled provisions and establishing the Minnesota partnership for long-term care programs, increasing rate reimbursement for ICF/MR facilities, health care services, and provider rate increases, requiring a study for dental access, establishing an interagency work group on disability services; changing provisions for mental health services, allowing payment for mental health telemedicine, providing treatment foster care services and transitional youth intensive rehabilitative mental health services; modifying health policy, establishing a Health Information Technology and Infrastructure Advisory Committee, establishing a rural pharmacy planning and transition grant program, requiring a report from physicians and facilities performing abortions, classifying data in abortion notification reports, providing education on shaking infants and children, establishing a voluntary trauma system, trauma registry, and trauma advisory council, establishing a cancer drug repository program, prohibiting family grant funds to subsidize abortion services, promoting positive abortion alternatives, establishing the unborn child pain prevention act, providing education on postpartum depression, adjusting certain



fees, providing civil and criminal penalties; making forecast adjustments; appropriating money; and providing for alternative funding; amending Minnesota Statutes 2004, sections 13.3806, by adding a subdivision; 16A.724; 103I.101, subdivision 6; 103I.208, subdivisions 1, 2; 103I.235, subdivision 1; 103I.601, subdivision 2; 144.122; 144.147, subdivisions 1, 2; 144.148, subdivision 1; 144.1483; 144.1501, subdivisions 1, 2, 3, 4; 144.226, subdivisions 1, 4, by adding subdivisions; 144.3831, subdivision 1; 144.551, subdivision 1; 144.562, subdivision 2; 144.9504, subdivision 2; 144.98, subdivision 3; 144A.071, subdivision 4a; 144A.073, by adding a subdivision; 144E.101, by adding a subdivision; 145.56, subdivisions 2, 5; 145.924; 145.9268; 146A.11, subdivision 1; 147A.08; 150A.22; 157.15, by adding a subdivision; 157.16, subdivisions 2, 3, by adding subdivisions; 157.20, subdivisions 2, 2a; 214.01, subdivision 2; 214.06, subdivision 1, by adding a subdivision; 245.4661, subdivisions 2, 6; 245.4885, subdivisions 1, 2, by adding a subdivision; 245A.10, subdivision 5; 245C.10, subdivisions 2, 3; 245C.32, subdivision 2; 246.0136, subdivision 1; 252.27, subdivision 2a; 253.20; 253B.02, subdivision 7; 256.01, subdivision 2, by adding subdivisions; 256.019, subdivision 1; 256.045, subdivisions 3, 3a; 256.046, subdivision 1; 256.9657, by adding a subdivision; 256.969, subdivision 3a; 256B.02, subdivision 12; 256B.04, by adding a subdivision; 256B.056, subdivisions 5, 5a, 5b, 7, by adding subdivisions; 256B.057, subdivision 9; 256B.0575; 256B.0595, subdivision 2; 256B.06, subdivision 4; 256B.0621, subdivisions 2, 3, 4, 5, 6, 7, by adding a subdivision; 256B.0625, subdivisions 2, 3a, 13, 13a, 13c, 13e, 13f, 17, by adding subdivisions; 256B.0644; 256B.075, subdivision 2; 256B.0913, subdivisions 2, 4; 256B.0916, by adding a subdivision; 256B.095; 256B.0951, subdivision 1; 256B.0952, subdivision 5; 256B.0953, subdivision 1; 256B.15, subdivision 1; 256B.19, subdivision 1; 256B.32, subdivision 1; 256B.431, subdivisions 28, 29, 35, by adding subdivisions; 256B.432, subdivisions 1, 2, 5, by adding subdivisions; 256B.434, subdivisions 3, 4, 4a, 4b, 4c, 4d, by adding a subdivision; 256B.438, subdivision 3; 256B.47, subdivision 2; 256B.49, subdivision 16; 256B.5012, by adding a subdivision; 256B.69, subdivisions 4, 23, by adding a subdivision; 256B.75; 256B.765; 256D.03, subdivisions 3, 4, by adding subdivisions; 256D.045; 256L.01, subdivisions 1a, 4, 5; 256L.03, subdivisions 1, 3, 5, by adding a subdivision; 256L.04, subdivisions 1, 2, 8, by adding subdivisions; 256L.05, subdivisions 2, 3, 3a, 5; 256L.06, subdivision 3; 256L.07, subdivisions 1, 3, by adding a subdivision; 256L.09, subdivision 2; 256L.11, subdivision 6; 256L.12, subdivision 6, by adding a subdivision; 256L.15, subdivisions 2, 3; 326.42, subdivision 2; 471.61, by adding a subdivision; 514.981, subdivision 6; Laws 2003, First Special Session chapter 14, article 12, section 93; Laws 2004, chapter 267, article 12, section 4; proposing coding for new law in Minnesota Statutes, chapters 62J; 144; 145; 245A; 256B; 501B; repealing Minnesota Statutes 2004, sections 13.383, subdivision 3; 13.411, subdivision 3; 144.1486; 144.1502; 145.925; 146A.01, subdivisions 2, 5; 146A.02; 146A.03; 146A.04; 146A.05; 146A.06; 146A.07; 146A.08; 146A.09; 146A.10; 157.215; 256.955; 256B.075, subdivision 5; 256L.035; 256L.04, subdivisions 7, 11; 256L.09, subdivisions 1, 4, 5, 6, 7; 295.581; Minnesota Rules, parts 4700.1900; 4700.2000; 4700.2100; 4700.2200; 4700.2210; 4700.2300; 4700.2400; 4700.2410; 4700.2420; 4700.2500."

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.

Gunther from the Committee on Jobs and Economic Opportunity Policy and Finance to which was referred:

H. F. No. 1976, A bill for an act relating to state government; appropriating money for economic development and human services purposes; establishing and modifying certain programs; providing for accounts, assessments and fees; making changes to programs for children and families; amending Minnesota Statutes 2004, sections 60A.14, subdivision 1; 60K.55, subdivision 2; 72B.04, subdivision 10; 82B.09, subdivision 1; 116C.779, subdivision 2; 116J.551, subdivision 1; 116J.63, subdivision 2; 116J.8731, subdivision 5; 119B.13, subdivision 1; 183.41, by adding a subdivision; 183.411, subdivisions 2a, 3; 183.42; 183.44, subdivision 1; 183.51, subdivision 2, by adding a subdivision; 183.545; 183.57; 216C.41, subdivisions 2, 5, 5a; 256.01, by adding a subdivision; 256.741, subdivision

4; 256D.06, subdivisions 5, 7, by adding a subdivision; 256J.12, subdivision 1, by adding a subdivision; 256J.95, by adding subdivisions; 326.975, subdivision 1; 345.47, subdivisions 3, 3a; 373.40, subdivisions 1, 3; 462A.05, subdivision 3a; 462A.33, subdivision 2; 517.08, subdivisions 1b, 1c; proposing coding for new law in Minnesota Statutes, chapters 45; 256K; repealing Minnesota Statutes 2004, sections 45.0295; 116J.58, subdivision 3; 119B.074; 256D.54, subdivision 3; 462C.15; Laws 2003, First Special Session chapter 14, article 9, section 34; Minnesota Rules, parts 9500.1254; 9500.1256.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

# "ARTICLE 1

## JOBS AND ECONOMIC DEVELOPMENT APPROPRIATIONS

### Section 1. [JOBS AND 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 article, to be available for the fiscal years indicated for each purpose. The figures "2006" and "2007," where used in this article, mean that the appropriation or appropriations listed under them are available for the fiscal year ending June 30, 2006, or June 30, 2007, respectively. The term "first year" means the fiscal year ending June 30, 2006, and the term "second year" means the fiscal year ending June 30, 2007.

### SUMMARY BY FUND

	2006	2007	TOTAL
General	\$143,228,000	\$137,600,000	\$280,828,000
Workforce Development	8,270,000	8,270,000	16,540,000
Remediation	700,000	700,000	1,400,000
Petroleum Tank Cleanup	1,084,000	1,084,000	2,168,000
Workers' Compensation	21,725,000	21,725,000	43,450,000
TOTAL	\$175,007,000	\$169,379,000	\$344,386,000

### APPROPRIATIONS Available for the Year Ending June 30

2006 2007

### Sec. 2. EMPLOYMENT AND ECONOMIC DEVELOPMENT

Subdivision 1. Total Appropriation	\$46,116,000	\$46,115,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

Summary by Fund

General	37,596,000	37,595,000
Remediation	700,000	700,000
Workforce Development	7,820,000	7,820,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Business and Community Development	7,819,000	7,818,000
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Summary by Fund

General	7,119,000	7,118,000
Remediation	700,000	700,000

(a)(1) \$150,000 the first year and \$150,000 the second year are from the general fund for a grant under Minnesota Statutes, section 116J.421, to the Rural Policy and Development Center at Minnesota State University. 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.

(2) The grant shall be provided upon the condition that each state-appropriated dollar be matched with a nonstate dollar. Acceptable matching funds are nonstate contributions that the center has received and have not been used to match previous state grants. Any funds not spent the first year are available the second year.

(b) \$100,000 the first year and \$100,000 the second year are from the general fund for a grant to the Metropolitan Economic Development Association for continuing minority business development programs in the metropolitan area.

(c) \$150,000 the first year and \$150,000 the second year are from the general fund for a grant to WomenVenture for women's business development programs.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
20062007

(d) \$250,000 the first year and \$250,000 the second year are from the general fund to establish a methamphetamine laboratory cleanup revolving loan fund pursuant to proposed legislation. This is a onetime appropriation. These funds are available until spent.

(e) \$18,000 in the first year and \$17,000 in the second year are for onetime grants to the Riverbend Center for Entrepreneurial Facilitation in Blue Earth County. The grants must be used to continue a program to assist in the development of entrepreneurs and small businesses. The grants must be provided on the condition that each state-appropriated dollar be matched with a nonstate dollar. Any balance in the first year does not cancel but is available in the second year.

Grant recipients must report to the commissioner by February 1 in each of the two years after the year of receipt of the grant. The report must detail the number of customers served; the number of businesses started, stabilized, or expanded; the number of jobs created and retained; and business success rates. The commissioner shall report to the legislature on the program's assistance to entrepreneurs and small businesses. The report shall contain an evaluation of the results.

(f) \$100,000 the first year and \$100,000 the second year are to help small businesses access federal funds through the federal Small Business Innovation Research Program and the federal Small Business Technology Transfer Program. Department services must include maintaining connections to 11 federal programs, assessment of specific funding opportunities, review of funding proposals, referral to specific consulting services, and conduct of training workshops throughout the state. This appropriation is added to the agency's base.

(g) \$50,000 the first year and \$50,000 the second year are for grants to the Minnesota Inventors Congress.

(h) \$15,000 the first year is for a onetime grant to La Creche Early Childhood Centers, Inc. of Minneapolis.

Subd. 3. Workforce Partnerships

7,910,000

7,910,000

Summary by Fund

General	7,035,000	7,035,000
Workforce Development	875,000	875,000

APPROPRIATIONS  
Available for the Year  
Ending June 30

2006	2007
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(a) \$6,785,000 the first year and \$6,785,000 the second year are from the general fund for the Minnesota job skills partnership program under Minnesota Statutes, sections 116L.01 to 116L.17. If the appropriation for either year is insufficient, the appropriation for the other year is available. This appropriation does not cancel.

(b) \$250,000 the first year and \$250,000 the second year are from the general fund for a grant under Minnesota Statutes, section 116J.8747, to Twin Cities RISE! to provide training to hard-to-train individuals.

(c) \$875,000 the first year and \$875,000 the second year are from the workforce development fund for opportunities industrialization center programs.

(d) The first \$1,450,000 deposited in each year of the biennium and in each year of subsequent bienniums into the contingent account created under Minnesota Statutes, section 268.196, subdivision 3, shall be transferred upon deposit to the workforce development fund created under Minnesota Statutes, section 116L.20. Deposits in excess of the \$1,450,000 shall be transferred upon deposit to the general fund.

Subd. 4. Workforce Services

27,110,000

27,110,000

Summary by Fund

General	20,165,000	20,165,000
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Workforce Development	6,945,000	6,945,000
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(a) \$4,864,000 the first year and \$4,864,000 the second year are from the general fund and \$6,920,000 the first year and \$6,920,000 the second year are from the workforce development fund for extended employment services for persons with severe disabilities or related conditions under Minnesota Statutes, section 268A.15.

(b) \$1,690,000 the first year and \$1,690,000 the second year are from the general fund for grants under Minnesota Statutes, section 268A.11, for the eight centers for independent living. Money not expended the first year is available the second year.

(c) \$150,000 the first year and \$150,000 the second year are from the general fund and \$25,000 the first year and \$25,000 the second year are from the workforce development fund for grants under Minnesota Statutes, section 268A.03, to Rise, Inc. for the Minnesota Employment Center for People Who are Deaf or Hard-of-Hearing. Money not expended the first year is available the second year.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

(d) \$1,000,000 the first year and \$1,000,000 the second year are from the general fund for grants for programs that provide employment support services to persons with mental illness under Minnesota Statutes, sections 268A.13 and 268A.14. Up to \$77,000 each year may be used for administrative and salary expenses.

(e) \$4,940,000 the first year and \$4,940,000 the second year are from the general fund for state services for the blind activities.

(f) On or after July 1, 2005, the commissioner of finance shall cancel the unencumbered balance in the contaminated site cleanup and development account to the unrestricted fund balance in the general fund.

(g) On or after July 1, 2005, the commissioner of finance shall transfer to the general fund any amount in excess of \$10,000,000 in the Minnesota minerals 21st century fund account in the special revenue fund.

Subd. 5. State-Funded Administration	3,277,000	3,277,000
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Sec. 3. COMMERCE

Subdivision 1. Total Appropriation	22,130,000	22,130,000
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Summary by Fund

General	20,211,000	20,211,000
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Petroleum Cleanup	1,084,000	1,084,000
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Workers' Compensation	835,000	835,000
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The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Financial Examinations	5,994,000	5,994,000
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Subd. 3. Petroleum Tank Release Cleanup Board	1,084,000	1,084,000
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This appropriation is from the petroleum tank release cleanup fund.

Subd. 4. Administrative Services	5,483,000	5,483,000
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Subd. 5. Market Assurance	5,757,000	5,757,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

Summary by Fund

General	4,922,000	4,922,000	
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Workers' Compensation	835,000	835,000	
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Subd. 6. Energy and Telecommunications	3,812,000	3,812,000
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Subd. 7. Fair Housing Education

Of the money appropriated for fair housing education under Laws 2001, chapter 208, section 28, the unencumbered balance is canceled and transferred to the general fund.

Subd. 8. Mortgage Consumer Education

Of the unexpended balance in the consumer education account established under Minnesota Statutes, section 58.10, subdivision 3, \$200,000 is transferred to the general fund.

Subd. 9. Mortgage Flipping Education Campaign

Of the money appropriated for education regarding mortgage flipping by Laws 1999, chapter 223, article 1, section 6, subdivision 3, the unencumbered balance is canceled and transferred to the general fund.

Subd. 10. Liquefied Petroleum Gas Account

The unexpended balance in the liquefied petroleum gas account established under Minnesota Statutes, section 239.785, subdivision 6, is canceled and transferred to the general fund.

Sec. 4. HOUSING FINANCE AGENCY

Subdivision 1. Total Appropriation	34,770,000	28,270,000
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The amounts that may be spent from this appropriation for certain programs are specified in the following subdivisions.

This appropriation is for transfer to the housing development fund for the programs specified. Except as otherwise indicated, this transfer is part of the agency's permanent budget base.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

Subd. 2. Challenge Program

\$10,907,000 the first year and \$4,407,000 the second year are for the economic development and housing challenge program under Minnesota Statutes, section 462A.33.

The base budget for the economic development and housing challenge program shall be \$10,907,000 in fiscal year 2008 and \$10,907,000 in fiscal year 2009.

Subd. 3. Housing Trust Fund

\$6,305,000 the first year and \$6,305,000 the second year are for the housing trust fund to be deposited in the housing trust fund account created under Minnesota Statutes, section 462A.201, and used for the purposes provided in that section.

Subd. 4. Rental Assistance for Mentally Ill

\$1,638,000 the first year and \$1,638,000 the second year are for a rental housing assistance program for persons with a mental illness or families with an adult member with a mental illness under Minnesota Statutes, section 462A.2097.

Subd. 5. Family Homeless Prevention

\$3,715,000 the first year and \$3,715,000 the second year are for family homeless prevention and assistance programs under Minnesota Statutes, section 462A.204. Any balance the first year does not cancel but is available the second year.

Subd. 6. Home Ownership Assistance Fund

The budget base for the home ownership assistance fund shall be \$885,000 in fiscal year 2008 and \$885,000 in fiscal year 2009.

Subd. 7. Affordable Rental Investment Fund

\$8,531,000 the first year and \$8,531,000 the second year are for the affordable rental investment fund program under Minnesota Statutes, section 462A.21, subdivision 8b.

This appropriation is to finance the acquisition, rehabilitation, and debt restructuring of federally assisted rental property and for making equity take-out loans under Minnesota Statutes, section 462A.05, subdivision 39. This appropriation also may be used to



APPROPRIATIONS  
Available for the Year  
Ending June 30

2006	2007
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finance the acquisition, rehabilitation, and debt restructuring of existing supportive housing properties. For purposes of this subdivision, "supportive housing" means affordable rental housing with links to services necessary for individuals, youth, and families with children to maintain housing stability.

The owner of the federally assisted rental property must agree to participate in the applicable federally assisted housing program and to extend any existing low-income affordability restrictions on the housing for the maximum term permitted. The owner must also enter into an agreement that gives local units of government, housing and redevelopment authorities, and nonprofit housing organizations the right of first refusal if the rental property is offered for sale. Priority must be given among comparable federally assisted rental 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. 8. Housing Rehabilitation and Accessibility

\$2,654,000 the first year and \$2,654,000 the second year are for the housing rehabilitation and accessibility program under Minnesota Statutes, section 462A.05, subdivisions 14a and 15a.

Subd. 9. Home Ownership Education, Counseling, and Training

\$770,000 the first year and \$770,000 the second year are for the home ownership education, counseling, and training program under Minnesota Statutes, section 462A.209.

Subd. 10. Capacity Building Grants

\$250,000 the first year and \$250,000 the second year are for nonprofit capacity building grants under Minnesota Statutes, section 462A.21, subdivision 3b.

Sec. 5. EXPLORE MINNESOTA TOURISM

8,626,000

9,626,000

To develop maximum private sector involvement in tourism, \$4,000,000 each year must be matched by Explore Minnesota Tourism from nonstate sources. Up to one-half of the total match requirement may include in-kind contributions. Cash match is defined as revenue to the state or documented case expenditures directly expended to support Explore Minnesota tourism programs.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
20062007

In the second year, for every dollar generated from nonstate sources in the previous year in excess of \$4,000,000, an amount of up to \$1,000,000 is appropriated from the general fund to Explore Minnesota tourism for marketing purposes. This incentive is ongoing. In order to maximize marketing grant benefits, the director must give priority for organizational partnership marketing grants to organizations with year-round sustained tourism activities. For programs and projects submitted, the director must give priority to those that encompass two or more areas or that attract nonresident travelers to the state.

Funding for the marketing grants is available either year of the biennium. Unexpended grant funds from the first year are available in the second year.

The director may use grant dollars or the value of in-kind services to provide the state contribution for the partnership grant program.

Any unexpended money from the general fund appropriations made under this section does not cancel but must be placed in a special marketing account for use by Explore Minnesota tourism for additional marketing activities.

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, 2007.

Of this amount, \$175,000 the first year and \$175,000 the second year are for the Minnesota Film Board. The appropriation in each year is available only upon receipt by the board of \$1 in matching contributions of money or in-kind from nonstate sources for every \$3 provided by this appropriation.

Sec. 6. LABOR AND INDUSTRY

Subdivision 1. Total Appropriation

22,594,000

22,594,000

Summary by Fund

General	2,872,000	2,872,000
Workers' Compensation	19,272,000	19,272,000
Workforce Development	450,000	450,000

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  
2006 2007

## Subd. 2. Workers' Compensation

10,346,000 10,346,000

This appropriation is from the workers' compensation fund.

Up to \$125,000 the first year and up to \$125,000 the second year are for grants to the Vinland Center for rehabilitation services. The grants shall be distributed as the department refers injured workers to the Vinland Center to receive rehabilitation services.

## Subd. 3. Workplace Services

6,961,000 6,961,000

Summary by Fund

General	2,872,000	2,872,000
Workers' Compensation	3,639,000	3,639,000
Workforce Development	450,000	450,000

\$350,000 each year is from the workforce development fund for the apprenticeship program under Minnesota Statutes, chapter 178.

\$100,000 the first year and \$100,000 the second year are for labor education and advancement program grants. This appropriation is from the workforce development fund.

The annual license fees authorized under Minnesota Statutes, section 326.48, and detailed in Minnesota Rules, part 5230.0100, subpart 3, shall increase \$20 for a journeyman high-pressure piping pipefitter license, \$20 for a high-pressure piping contracting pipefitter, \$10 for an inactive license, and \$100 for a high-pressure pipefitting business license.

The permit filing and inspection fees authorized under Minnesota Statutes, section 326.47, and detailed in Minnesota Rules, part 5230.0100, subpart 4, shall be increased as follows: the filing of a permit application shall be increased \$50, the minimum high-pressure piping inspection fee shall be increased \$50, and the schedule of inspection fee rates shall be increased by ten percent.

Subd. 4. General Support 5,287,000 5,287,000

This appropriation is from the workers' compensation fund.

APPROPRIATIONS Available for the Year Ending June 30		
	2006	2007
Sec. 7. BUREAU OF MEDIATION SERVICES	1,673,000	1,673,000
Sec. 8. WORKERS' COMPENSATION COURT OF APPEALS	1,618,000	1,618,000
This appropriation is from the workers' compensation fund.		
Sec. 9. MINNESOTA HISTORICAL SOCIETY		
Subdivision 1. Total Appropriation	22,753,000	22,626,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions. The Minnesota Historical Society shall make its best possible efforts, including the use of volunteers, to avoid closing historic sites or substantially limiting public access to them. Before closing any site, the Minnesota Historical Society must consult with, and fully consider proposals from, interested community groups or individuals who are willing to provide financial or in-kind support for site operations.

Subd. 2. Education and Outreach

12,727,000      12,727,000

Of this amount, \$60,000 each year is to offset the revenue loss from not charging fees for general tours at the Capitol. Notwithstanding Minnesota Statutes, section 138.668, the Minnesota Historical Society may not charge a fee for its general tours at the Capitol, but may charge fees for special programs other than general tours.

Of this amount, \$743,000 each year is for operation of the following historical sites: Kelley Farm, Hill House, Lower Sioux Agency, Fort Ridgely, Historic Forestville, the Forest History Center, and the Comstock House. This appropriation is added to the society's base. This paragraph is effective the day following final enactment.

Of this amount, \$25,000 each year is for a grant to the Minnesota Sesquicentennial Commission for planning and support of its mission. This appropriation is added to the society's general fund base through fiscal year 2010.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006                      2007

## Subd. 3. Preservation and Access

	9,772,000	9,772,000
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## Subd. 4. Pass-Through Appropriations

	254,000	127,000
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## (a) Minnesota International Center

	43,000	42,000
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## (b) Minnesota Air National Guard Museum

	16,000	-0-
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## (c) Minnesota Military Museum

	67,000	-0-
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## (d) Farmamerica

	128,000	85,000
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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 Minnesota Historical Society may reallocate funds appropriated in and between subdivisions 2 and 3 for any program purposes.

## Sec. 10. BOARD OF THE ARTS

## Subdivision 1. Total Appropriation

	8,593,000	8,593,000
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If the appropriation for either year is insufficient, the appropriation for the other year is available.

APPROPRIATIONS Available for the Year Ending June 30		
	2006	2007
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. 11. BOARD OF ACCOUNTANCY	487,000	487,000
Effective the day following final enactment and no later than June 30, 2006, the Board of Accountancy shall combine its administrative functions with those of the Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design. Both appointed boards would remain intact, and both would maintain their status as separate state agencies.		
Sec. 12. BOARD OF ARCHITECTURE, ENGINEERING, LAND SURVEYING, LANDSCAPE ARCHITECTURE, GEOSCIENCE, AND INTERIOR DESIGN	785,000	785,000
Sec. 13. BOARD OF BARBER EXAMINERS	699,000	699,000
Sec. 14. PUBLIC UTILITIES COMMISSION	4,163,000	4,163,000
Sec. 15. BOARD OF ELECTRICITY		
On or before June 30, 2006, the board shall transfer \$4,000,000 from the special revenue fund to the general fund.		

## ARTICLE 2

### JOBS AND ECONOMIC DEVELOPMENT

Section 1. Minnesota Statutes 2004, 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 ~~D4806-01~~ D4806-04a; and

(2) is denatured as specified in Code of Federal Regulations, title 27, parts 20 and 21.

(b) "Ethanol plant" means a plant at which ethanol is produced.

(c) "Commissioner" means the commissioner of agriculture.

Sec. 2. [45.22] [LICENSE EDUCATION.]

The following fees must be paid to the commissioner:

(1) initial course approval, \$10 for each hour or fraction of one hour of education course approval sought. Initial course approval expires on the last day of the 24th month after the course is approved;

(2) renewal of course approval, \$10 per course. Renewal of course approval expires on the last day of the 24th month after the course is renewed;

(3) initial coordinator approval, \$100. Initial coordinator approval expires on the last day of the 24th month after the coordinator is approved; and

(4) renewal of coordinator approval, \$10. Renewal of coordinator approval expires on the last day of the 24th month after the coordinator is renewed.

Sec. 3. Minnesota Statutes 2004, 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 fraternal and reciprocal exchanges;

(1) for filing an application for an initial certification of authority to be admitted to transact business in this state, \$1,500;

(2) for filing certified copy of certificate of articles of incorporation, \$100;

~~(2)~~ (3) for filing annual statement, \$225;

~~(3)~~ (4) for filing certified copy of amendment to certificate or articles of incorporation, \$100;

~~(4)~~ (5) for filing bylaws, \$75 or amendments thereto, \$75;

~~(5)~~ (6) for each company's certificate of authority, \$575, annually;

(c) the following general fees apply:

(1) for each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, \$25;

(2) for each copy of paper on file in the commissioner's office 50 cents per page, and \$2.50 for certifying the same;

(3) for license to procure insurance in unadmitted foreign companies, \$575;

(4) for valuing the policies of life insurance companies, one cent per \$1,000 of insurance so valued, provided that the fee shall not exceed \$13,000 per year for any company. The commissioner may, in lieu of a valuation of the policies of any foreign life insurance company admitted, or applying for admission, to do business in this state, accept a certificate of valuation from the company's own actuary or from the commissioner of insurance of the state or territory in which the company is domiciled;

(5) for receiving and filing certificates of policies by the company's actuary, or by the commissioner of insurance of any other state or territory, \$50;

(6) for each appointment of an agent filed with the commissioner, \$10;

(7) for filing forms and rates, \$75 per filing, which may be paid on a quarterly basis in response to an invoice. Billing and payment may be made electronically;

(8) for annual renewal of surplus lines insurer license, \$300;

(9) \$250 filing fee for a large risk alternative rating option plan that meets the \$250,000 threshold requirement.

The commissioner shall adopt rules to define filings that are subject to a fee.

Sec. 4. Minnesota Statutes 2004, section 60K.55, subdivision 2, is amended to read:

Subd. 2. [LICENSING FEES.] (a) In addition to fees provided for examinations, each insurance producer licensed under this chapter shall pay to the commissioner a fee of:

(1) ~~\$40~~ \$50 for an initial life, accident and health, property, or casualty license issued to an individual insurance producer, and a fee of ~~\$40~~ \$50 for each renewal;

(2) ~~\$75~~ \$50 for an initial variable life and variable annuity license issued to an individual insurance producer, and a fee of \$50 for each renewal;

(3) ~~\$80~~ \$50 for an initial personal lines license issued to an individual insurance producer, and a fee of ~~\$80~~ \$50 for each renewal;

(4) ~~\$80~~ \$50 for an initial limited lines license issued to an individual insurance producer, and a fee of ~~\$80~~ \$50 for each renewal;

(5) \$200 for an initial license issued to a business entity, and a fee of ~~\$150~~ \$200 for each renewal; and

(6) \$500 for an initial surplus lines license, and a fee of \$500 for each renewal.



(b) Initial licenses issued under this chapter are valid for a period not to exceed 24 months and expire on October 31 of the renewal year assigned by the commissioner. Each renewal insurance producer license is valid for a period of 24 months. Licensees who submit renewal applications postmarked or delivered on or before October 15 of the renewal year may continue to transact business whether or not the renewal license has been received by November 1. Licensees who submit applications postmarked or delivered after October 15 of the renewal year must not transact business after the expiration date of the license until the renewal license has been received.

(c) All fees are nonreturnable, except that an overpayment of any fee may be refunded upon proper application.

Sec. 5. Minnesota Statutes 2004, section 72B.04, subdivision 10, is amended to read:

Subd. 10. [FEES.] A fee of ~~\$80~~ \$50 is imposed for each initial license or temporary permit and ~~\$80~~ \$50 for each renewal thereof or amendment thereto. A fee of \$20 is imposed for the registration of each nonlicensed adjuster who is required to register under section 72B.06. All fees shall be transmitted to the commissioner and shall be payable to the Department of Commerce.

Sec. 6. Minnesota Statutes 2004, section 82B.09, subdivision 1, is amended to read:

Subdivision 1. [AMOUNTS.] The following fees must be paid to the commissioner:

(1) \$150 for each initial individual real estate appraiser's license: ~~—\$150 if the license expires more than 12 months after issuance, \$100 if the license expires less than 12 months after issuance; and a fee of~~

(2) \$100 for each renewal.

Sec. 7. Minnesota Statutes 2004, section 115C.07, subdivision 3, is amended to read:

Subd. 3. [RULES.] (a) The board shall adopt rules regarding its practices and procedures, the form and procedure for applications for compensation from the fund, procedures for investigation of claims and specifying the costs that are eligible for reimbursement from the fund.

(b) The board may adopt rules requiring certification of environmental consultants.

(c) The board may adopt other rules necessary to implement this chapter.

(d) The board may use section 14.389 to adopt rules specifying the competitive bidding requirements for consultant services proposals.

(e) The board may use section 14.389 to adopt rules specifying the written proposal and invoice requirements for consultant services.

Sec. 8. Minnesota Statutes 2004, section 115C.09, subdivision 3h, is amended to read:

Subd. 3h. [REIMBURSEMENT; ABOVEGROUND TANKS IN BULK PLANTS.] (a) As used in this subdivision, "bulk plant" means an aboveground or underground tank facility with a storage capacity of more than 1,100 gallons but less than 1,000,000 gallons that is used to dispense petroleum into cargo tanks for transportation and sale at another location.

(b) Notwithstanding any other provision in this chapter and any rules adopted pursuant to this chapter, the board shall reimburse 90 percent of an applicant's cost for bulk plant upgrades or closures completed between June 1, 1998, and November 1, 2003, to comply with Minnesota Rules, chapter 7151, provided that the board

determines the costs were incurred and reasonable. The reimbursement may not exceed \$10,000 per bulk plant. The board may provide reimbursement under this paragraph for work completed after November 1, 2003, if the work was contracted for prior to that date and was not completed by that date as a result of an unanticipated situation, provided that an application for reimbursement under this paragraph, which may be a renewal of an application previously denied, is submitted prior to December 31, 2005.

(c) For corrective action at a bulk plant located on what is or was railroad right-of-way, the board shall reimburse 90 percent of total reimbursable costs on the first \$40,000 of reimbursable costs and 100 percent of any remaining reimbursable costs when the applicant can document that more than one bulk plant was operated on the same section of right-of-way, as determined by the commissioner of commerce.

Sec. 9. Minnesota Statutes 2004, 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, ~~2007~~ 2012.

Sec. 10. Minnesota Statutes 2004, section 116C.779, subdivision 2, is amended to read:

Subd. 2. [RENEWABLE ENERGY PRODUCTION INCENTIVE.] (a) Until January 1, 2018, up to ~~\$6,000,000~~ \$10,900,000 annually must be allocated from available funds in the account to fund renewable energy production incentives. ~~\$4,500,000~~ \$9,400,000 of this annual amount is for incentives for up to ~~400~~ 200 megawatts of electricity generated by wind energy conversion systems that are eligible for the incentives under section 216C.41. The balance of this amount, up to \$1,500,000 annually, may be used for production incentives for on-farm biogas recovery facilities that are eligible for the incentive under section 216C.41 or for production incentives for other renewables, to be provided in the same manner as under section 216C.41. Any portion of the ~~\$6,000,000~~ \$10,900,000 not expended in any calendar year for the incentive is available for other spending purposes under this section. This subdivision does not create an obligation to contribute funds to the account.

(b) The Department of Commerce shall determine eligibility of projects under section 216C.41 for the purposes of this subdivision. At least quarterly, the Department of Commerce shall notify the public utility of the name and address of each eligible project owner and the amount due to each project under section 216C.41. The public utility shall make payments within 15 working days after receipt of notification of payments due.

Sec. 11. Minnesota Statutes 2004, section 116J.551, subdivision 1, is amended to read:

Subdivision 1. [GRANT ACCOUNT.] A contaminated site cleanup and development grant account is created in the general fund. Money in the account may be used, as appropriated by law, to make grants as provided in section 116J.554 and to pay for the commissioner's costs in reviewing applications and making grants. Notwithstanding section 16A.28, money appropriated to the account is available for four years.

Sec. 12. Minnesota Statutes 2004, section 116J.571, is amended to read:

116J.571 [CREATION OF ACCOUNTS.]

Two ~~greater Minnesota~~ redevelopment accounts are created, one in the general fund and one in the bond proceeds fund. Money in the accounts may be used to make grants as provided in section 116J.575. ~~Money in the bond proceeds fund may only be used for eligible costs for publicly owned property. Money in the general fund may be used~~ and to pay for the commissioner's costs in reviewing the applications and making grants.

Sec. 13. Minnesota Statutes 2004, section 116J.572, is amended to read:

116J.572 [DEFINITIONS.]

Subdivision 1. [SCOPE OF APPLICATION.] For purposes of sections 116J.571 to 116J.575, the terms in this section have the meanings given.

Subd. 2. [DEVELOPMENT AUTHORITY.] "Development authority" includes a statutory or home rule charter city, county, housing and redevelopment authority, economic development authority, or port authority ~~located outside~~.

Subd. 2a. [METROPOLITAN AREA.] "Metropolitan area" means the seven-county metropolitan area, as defined in section 473.121, subdivision 2.

Subd. 2b. [MUNICIPALITY.] "Municipality" means the statutory or home rule charter city, town, or, in the case of unorganized territory, county in which the redevelopment is located.

Subd. 3. [~~ELIGIBLE REDEVELOPMENT COSTS OR COSTS.~~] "Eligible Redevelopment costs" or "costs" means the costs of land acquisition, stabilizing unstable soils when infill is required, demolition, infrastructure improvements, and ponding or other environmental infrastructure; ~~building construction, design and engineering; and costs necessary for adaptive reuse of buildings, including remedial activities. Eligible costs do not include project administration and legal fees.~~

Subd. 4. [~~REDEVELOPMENT.~~] "~~Redevelopment~~" ~~means recycling obsolete, abandoned, or underutilized properties for new industrial, commercial, or residential uses.~~

Sec. 14. Minnesota Statutes 2004, section 116J.574, is amended to read:

116J.574 [GRANT APPLICATIONS.]

Subdivision 1. [APPLICATION REQUIRED.] To obtain a redevelopment grant, a development authority shall apply to the commissioner. The governing body of the municipality must approve the application by resolution.

Subd. 2. [REQUIRED CONTENT.] The commissioner shall prescribe and provide the application form. The application must include at least the following information:

(1) identification of the site;

(2) a redevelopment plan for the site;

(3) a detailed budget estimate, including along with necessary supporting evidence, of the total redevelopment costs for the site ~~including the total eligible redevelopment costs;~~

~~(3) a complete~~ (4) an assessment of the development potential or likely use of the site after completion of the redevelopment plan, including any specific commitments from third parties to construct improvements on the site;

~~(4) a complete financing plan, including~~ (5) the manner in which the development authority uses innovative financial partnerships between government, private for profit, and nonprofit sectors municipality will meet the local match requirement; and

~~(5)~~ (6) any additional information or material that the commissioner prescribes.

Sec. 15. Minnesota Statutes 2004, section 116J.575, as amended by Laws 2005, chapter 20, article 1, section 33, is amended to read:

116J.575 [GRANTS.]

Subdivision 1. [COMMISSIONER DISCRETION.] The commissioner may make a grant for up to 50 percent of the eligible costs of a project. The determination of whether to make a grant for a site is within the discretion of the commissioner, subject to this section and sections 116J.571 to 116J.574 and available unencumbered money in the ~~greater Minnesota~~ redevelopment account. Notwithstanding section 116J.573, if the commissioner determines that the applications for grants for projects in greater Minnesota are less than the amount of grant funds available, the commissioner may make grants for projects anywhere in Minnesota. The commissioner's decisions and application of the priorities under this section are not subject to judicial review, except for abuse of discretion.

Subd. 1a. [PRIORITIES.] (a) If applications for grants exceed the available appropriations, grants shall be made for sites that, in the commissioner's judgment, provide the highest return in public benefits for the public costs incurred. "Public benefits" include job creation, environmental benefits to the state and region, efficient use of public transportation, efficient use of existing infrastructure, provision of affordable housing, multiuse development that constitutes community rebuilding rather than single-use development, crime reduction, blight reduction, community stabilization, and property tax base maintenance or improvement. In making this judgment, the commissioner shall give priority to redevelopment projects with one or more of the following characteristics:

(1) the need for redevelopment in conjunction with contamination remediation needs;

(2) the redevelopment project meets current tax increment financing requirements for a redevelopment district and tax increments will contribute to the project;

(3) the redevelopment potential within the municipality;

(4) proximity to public transit if located in the metropolitan area; and

(5) multijurisdictional projects that take into account the need for affordable housing, transportation, and environmental impact.

(b) The factors in paragraph (a) are not listed in a rank order of priority; rather, the commissioner may weigh each factor, depending upon the facts and circumstances, as the commissioner considers appropriate.

Subd. 2. [APPLICATION CYCLES.] In making grants, the commissioner shall establish semiannual application deadlines in which grants will be authorized from all or part of the available money in the account.

Subd. 3. [MATCH REQUIRED.] In order to qualify for a grant under sections 116J.571 to 116J.575, the municipality must pay for at least one-half of the redevelopment costs as a local match from any money available to the municipality.

Sec. 16. Minnesota Statutes 2004, section 116J.63, subdivision 2, is amended to read:

Subd. 2. [FEES.] (a) Fees for reports, publications, or related publicity or promotional material are not subject to the rulemaking requirements of chapter 14 and are not subject to section 16A.1285. The fees prescribed by the commissioner must be commensurate with the distribution objective of the department for the material produced or with the cost of furnishing the services. Except as described in paragraph (b), all fees for materials and services must be deposited in the general fund.

(b) The commissioner may sell marketing materials at cost to economic development organizations and others in quantities that would not otherwise be available through general fund appropriations. Funds received must be placed in a special revolving account and are appropriated to the commissioner to pay for the production of the materials.

Sec. 17. Minnesota Statutes 2004, section 116J.8731, subdivision 5, is amended to read:

Subd. 5. [GRANT LIMITS.] A Minnesota investment fund grant may not be approved for an amount in excess of \$1,000,000. This limit covers all money paid to complete the same project, whether paid to one or more grant recipients and whether paid in one or more fiscal years. ~~The portion~~ A local community or recognized Indian tribal government may retain 20 percent, but not more than \$100,000 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. Money repaid to the state must be credited to a Minnesota investment revolving loan account in the state treasury. Funds in the account are appropriated to the commissioner and must be used in the same manner as are funds appropriated to the Minnesota investment fund. Funds repaid to the state through existing Minnesota investment fund agreements must be credited to the Minnesota investment revolving loan account effective July 1, 2003. A grant or loan may not be made to a person or entity for the operation or expansion of a casino or a store which is used solely or principally for retail sales. Persons or entities receiving grants or loans must pay each employee total compensation, including benefits not mandated by law, that on an annualized basis is equal to at least 110 percent of the federal poverty level for a family of four.

Sec. 18. Minnesota Statutes 2004, section 116J.8747, subdivision 2, is amended to read:

Subd. 2. [QUALIFIED JOB TRAINING PROGRAM.] To qualify for grants under this section, a job training program must satisfy the following requirements:

(1) the program must be operated by a nonprofit corporation that qualifies under section 501(c)(3) of the Internal Revenue Code;

(2) the program must spend at least \$15,000 per graduate of the program;

(3) the program must provide education and training in:

(i) basic skills, such as reading, writing, mathematics, and communications;

(ii) thinking skills, such as reasoning, creative thinking, decision making, and problem solving; and

(iii) personal qualities, such as responsibility, self-esteem, self-management, honesty, and integrity;

(4) the program must provide income supplements, when needed, to participants for housing, counseling, tuition, and other basic needs;

(5) the program's education and training course must last for an average of at least six months;

(6) individuals served by the program must:

(i) be 18 years of age or older;

(ii) have federal adjusted gross income of no more than \$11,000 per year in the ~~two-year~~ calendar year immediately before entering the program;

(iii) have assets of no more than \$7,000, excluding the value of a homestead; and

(iv) not have been claimed as a dependent on the federal tax return of another person in the previous taxable year; and

(7) the program must be certified by the commissioner of employment and economic development as meeting the requirements of this subdivision.

Sec. 19. Minnesota Statutes 2004, section 116J.994, subdivision 7, is amended to read:

Subd. 7. [REPORTS BY RECIPIENTS TO GRANTORS.] (a) A business subsidy grantor must monitor the progress by the recipient in achieving agreement goals.

(b) A recipient must provide information regarding goals and results for two years after the benefit date or until the goals are met, whichever is later. If the goals are not met, the recipient must continue to provide information on the subsidy until the subsidy is repaid. The information must be filed on forms developed by the commissioner in cooperation with representatives of local government. Copies of the completed forms must be sent to the local government agency that provided the subsidy or to the commissioner if the grantor is a state agency. If the Iron Range Resources and Rehabilitation Board is the grantor, the copies must be sent to the board. The report must include:

(1) the type, public purpose, and amount of subsidies and type of district, if the subsidy is tax increment financing;

(2) the hourly wage of each job created with separate bands of wages;

(3) the sum of the hourly wages and cost of health insurance provided by the employer with separate bands of wages;

(4) the date the job and wage goals will be reached;

(5) a statement of goals identified in the subsidy agreement and an update on achievement of those goals;

(6) the location of the recipient prior to receiving the business subsidy;

(7) the number of employees who ceased to be employed by the recipient when the recipient relocated to become eligible for the business subsidy;

(8) why the recipient did not complete the project outlined in the subsidy agreement at their previous location, if the recipient was previously located at another site in Minnesota;

~~(8)~~ (9) the name and address of the parent corporation of the recipient, if any;

~~(9)~~ (10) a list of all financial assistance by all grantors for the project; and

~~(10)~~ (11) other information the commissioner may request.

A report must be filed no later than March 1 of each year for the previous year. The local agency and the Iron Range Resources and Rehabilitation Board must forward copies of the reports received by recipients to the commissioner by April 1.

(c) Financial assistance that is excluded from the definition of "business subsidy" by section 116J.993, subdivision 3, clauses (4), (5), (8), and (16), is subject to the reporting requirements of this subdivision, except that the report of the recipient must include instead:

(1) the type, public purpose, and amount of the financial assistance, and type of district if the assistance is tax increment financing;

(2) progress towards meeting goals stated in the assistance agreement and the public purpose of the assistance;

(3) if the agreement includes job creation, the hourly wage of each job created with separate bands of wages;

(4) if the agreement includes job creation, the sum of the hourly wages and cost of health insurance provided by the employer with separate bands of wages;

(5) the location of the recipient prior to receiving the assistance; and

(6) other information the grantor requests.

(d) If the recipient does not submit its report, the local government agency must mail the recipient a warning within one week of the required filing date. If, after 14 days of the postmarked date of the warning, the recipient fails to provide a report, the recipient must pay to the grantor a penalty of \$100 for each subsequent day until the report is filed. The maximum penalty shall not exceed \$1,000.

Sec. 20. Minnesota Statutes 2004, section 116J.994, subdivision 9, is amended to read:

Subd. 9. [COMPILATION AND SUMMARY REPORT.] The Department of Employment and Economic Development must publish a compilation and summary of the results of the reports for the previous two calendar years by December 1 of 2004 and every other year thereafter. The reports of the government agencies to the department and the compilation and summary report of the department must be made available to the public.

The commissioner must coordinate the production of reports so that useful comparisons across time periods and across grantors can be made. The commissioner may add other information to the report as the commissioner deems necessary to evaluate business subsidies. Among the information in the summary and compilation report, the commissioner must include:

(1) total amount of subsidies awarded in each development region of the state;

(2) distribution of business subsidy amounts by size of the business subsidy;

(3) distribution of business subsidy amounts by time category;

(4) distribution of subsidies by type and by public purpose;

(5) percent of all business subsidies that reached their goals;

(6) percent of business subsidies that did not reach their goals by two years from the benefit date;

(7) total dollar amount of business subsidies that did not meet their goals after two years from the benefit date;

(8) percent of subsidies that did not meet their goals and that did not receive repayment;

(9) list of recipients that have failed to meet the terms of a subsidy agreement in the past five years and have not satisfied their repayment obligations;

(10) number of part-time and full-time jobs within separate bands of wages for the entire state and for each development region of the state; and

(11) benefits paid within separate bands of wages for the entire state and for each development region of the state; and

(12) number of employees in the entire state and in each development region of the state who ceased to be employed because their employers relocated to become eligible for a business subsidy.

Sec. 21. Minnesota Statutes 2004, section 116L.03, subdivision 2, is amended to read:

Subd. 2. [APPOINTMENT.] The Minnesota Job Skills Partnership Board consists of: seven members appointed by the governor, ~~the chair of the governor's Workforce Development Council,~~ the commissioner of employment and economic development, the chancellor, or the chancellor's designee, of the Minnesota State Colleges and Universities, the president, or the president's designee, of the University of Minnesota, and two nonlegislator members, one appointed by the Subcommittee on Committees of the senate Committee on Rules and Administration and one appointed by the speaker of the house. If the chancellor or the president of the university makes a designation under this subdivision, the designee must have experience in technical education. Four of the appointed members must be members of the governor's Workforce Development Council, of whom two must represent organized labor and two must represent business and industry. One of the appointed members must be a representative of a nonprofit organization that provides workforce development or job training services.

Sec. 22. Minnesota Statutes 2004, section 116L.05, is amended by adding a subdivision to read:

Subd. 5. [USE OF WORKFORCE DEVELOPMENT FUNDS.] After March 1 of any fiscal year, the board may use workforce development funds for the purposes outlined in sections 116L.04, 116L.06, and 116L.10 to 116L.14, or to provide incumbent worker training services under section 116L.18 if the following conditions have been met:

(1) the board examines relevant economic indicators, including the projected number of layoffs for the remainder of the fiscal year and the next fiscal year, evidence of declining and expanding industries, the number of initial applications for and the number of exhaustions of unemployment benefits, job vacancy data, and any additional relevant information brought to the board's attention;

(2) the board accounts for all allocations made in section 116L.17, subdivision 2;

(3) based on the past expenditures and projected revenue, the board estimates future funding needs for services under section 116L.17 for the remainder of the current fiscal year and the next fiscal year;

(4) the board determines there will be unspent funds after meeting the needs of dislocated workers in the current fiscal year and there will be sufficient revenue to meet the needs of dislocated workers in the next fiscal year; and

(5) the board reports its findings in clauses (1) to (4) to the chairs of legislative committees with jurisdiction over the workforce development fund, to the commissioners of revenue and finance, and to the public.

Sec. 23. Minnesota Statutes 2004, section 116L.17, subdivision 1, is amended to read:

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



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

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

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

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

(3) has been self-employed, including farmers and ranchers, and is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters; or

(4) is a displaced homemaker. A "displaced homemaker" is an individual who has spent a substantial number of years in the home providing homemaking service and (i) has been dependent upon the financial support of another; and now due to divorce, separation, death, or disability of that person, must find employment to self support; or (ii) derived the substantial share of support from public assistance on account of dependents in the home and no longer receives ~~such support~~ cash assistance under chapter 256J.

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

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

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

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

#### Sec. 24. [116L.18] [SPECIAL INCUMBENT WORKER TRAINING GRANTS.]

Subdivision 1. [PURPOSE.] The purpose of the special incumbent worker training grants is to expand opportunities for businesses and workers to gain new skills that are in demand in the Minnesota economy. The board shall establish criteria for incumbent worker grants under this section and may encourage creative training models, innovative partnerships, and expansion or replication of promising practices.

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

(b) "Incumbent worker" means an individual employed by a qualifying employer.

(c) "Qualifying employer" means a for-profit business or nonprofit organization in Minnesota with at least one full-time paid employee. Public sector organizations are not considered qualifying employers.

(d) "Eligible organization" has the meaning given in section 116L.17.

Subd. 3. [AMOUNT OF GRANTS.] A grant to an eligible organization may not exceed \$400,000.

Subd. 4. [MATCHING FUNDS.] The board shall require matching funds from qualifying employers in the form of funding, equipment, or faculty.

Subd. 5. [USE OF FUNDS.] Eligible organizations shall use funds granted under this section for direct training services to provide a measurable increase in the job-related skills of participating incumbent workers. Eligible organizations may also provide basic assessment, counseling, and preemployment training services requested by the qualifying employer. No funds may be used for support services as described in section 116L.17, subdivision 4, clause (2).

Subd. 6. [PERFORMANCE OUTCOME MEASURES.] The board and the commissioner of employment and economic development shall jointly develop performance outcome measures and standards for this program. The commissioner and board shall consult with eligible organizations in establishing standards. Measures at a minimum must include posttraining retention, promotion, and wage increase. The board and commissioner shall provide a report to the legislature by March 1 of each year on the previous fiscal year's program performance. Eligible organizations must provide performance data in a timely manner for the completion of this report.

Sec. 25. Minnesota Statutes 2004, section 116L.20, subdivision 2, is amended to read:

Subd. 2. [DISBURSEMENT OF SPECIAL ASSESSMENT FUNDS.] (a) The money collected under this section shall be deposited in the state treasury and credited to the workforce development fund to provide for employment and training programs. The workforce development fund is created as a special account in the state treasury.

(b) All money in the fund not otherwise appropriated or transferred is appropriated to the Job Skills Partnership Board for the purposes of section 116L.17 and as provided for in paragraph (d). The board must act as the fiscal agent for the money and must disburse that money for the purposes of section 116L.17, not allowing the money to be used for any other obligation of the state. All money in the workforce development fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as are provided by law for the other special accounts in the state treasury, except that all interest or net income resulting from the investment or deposit of money in the fund shall accrue to the fund for the purposes of the fund.

(c) Reimbursement for costs related to collection of the special assessment shall be in an amount negotiated between the commissioner and the United States Department of Labor.

(d) If the board determines that the conditions of section 116L.05, subdivision 5, have been met, the board may use funds for the purposes outlined in sections 116L.04, 116L.06, and 116L.10 to 116L.14, or to provide incumbent worker training services under section 116L.18.

Sec. 26. Minnesota Statutes 2004, section 183.41, is amended by adding a subdivision to read:

Subd. 4. [ANNUAL PERMIT.] The commissioner shall issue an annual permit to a boat for the purpose of carrying passengers for hire on the inland waters of the state provided the boat satisfies the inspection requirements of this section. A boat subject to inspection under this chapter shall be registered with the Division of Boiler Inspection and shall be inspected before a permit may be issued.

Sec. 27. Minnesota Statutes 2004, section 183.411, subdivision 2a, is amended to read:

Subd. 2a. [INSPECTION FEES.] The ~~commissioner may set fees~~ fee for inspecting traction engines, show boilers, and show engines shall be the hourly rate pursuant to section ~~16A.1285~~ 183.545, subdivision 3a.

Sec. 28. Minnesota Statutes 2004, section 183.411, subdivision 3, is amended to read:

Subd. 3. [LICENSES.] A license to operate steam farm traction engines, portable and stationary show engines and portable and stationary show boilers shall be issued to an applicant who:

(a) (1) is 18 years of age or older;

(b) (2) has a licensed second class or higher class engineer or steam traction (hobby) engineer sign the affidavit attesting to the applicant's competence in operating said devices;

(c) (3) passes a written test for competence in operating said devices;

(d) (4) has at least 25 hours of actual operating experience on said devices; and

(e) (5) pays the required fee.

A license shall be valid for the lifetime of the licensee. A onetime fee ~~set by the commissioner~~ pursuant to section ~~16A.1285~~ 183.545, subdivision 4, shall be charged for the license.

Sec. 29. Minnesota Statutes 2004, section 183.42, is amended to read:

183.42 [INSPECTION EACH YEAR AND REGISTRATION.]

Subdivision 1. [INSPECTION.] Every owner, lessee, or other person having charge of boilers, or pressure vessels, or any boat subject to inspection under this chapter shall cause them to be inspected by the Division of Boiler Inspection. Boilers and boats subject to inspection under this chapter must be inspected at least annually and pressure vessels inspected at least every two years except as provided under section 183.45. A person who fails to have the inspection required by this section shall pay to the commissioner a penalty in the amount of the cost of inspection up to a maximum of \$1,000. The commissioner shall assess a \$250 penalty per applicable boiler or pressure vessel for failure to have the inspection required by this section and may seal the boiler or pressure vessel for refusal to allow an inspection as required by this section.

Subd. 2. [REGISTRATION.] Every owner, lessee, or other person having charge of boilers or pressure vessels subject to inspection under this chapter shall register said objects with the Division of Boiler Inspection. The registration shall be renewed annually and is applicable to each object separately. The fee for registration of a boiler or pressure vessel shall be pursuant to section 183.545, subdivision 10. The Division of Boiler Inspection may issue a billing statement for each boiler and pressure vessel on record with the division, and may determine a monthly schedule of billings to be followed for owners, lessees, or other persons having charge of a boiler or pressure vessel subject to inspection under this chapter.

Subd. 3. [CERTIFICATE OF REGISTRATION.] The Division of Boiler Inspection shall issue a certificate of registration that lists the boilers and pressure vessels at the location, expiration date of the certificate of registration, last inspection date of each boiler and pressure vessel, and maximum allowable working pressure for each boiler and pressure vessel. The commissioner may make an electronic certificate of registration available to be printed by the owner, lessee, or other person having charge of the boiler or pressure vessel.

Sec. 30. Minnesota Statutes 2004, section 183.44, subdivision 1, is amended to read:

Subdivision 1. [MASTERS AND PILOTS.] The ~~Division of Boiler Inspection~~ commissioner or the commissioner's designee shall examine all masters and pilots of boats and vessels carrying passengers for hire on the inland waters of the state as to their qualifications and fitness. If found ~~trustworthy~~ qualified and competent to

perform their duties as a master ~~or pilot~~ of a boat carrying passengers for hire, they shall be ~~given~~ issued a ~~certificate~~ license authorizing them to act as such on the inland waters of the state. The license shall be renewed annually. Fees for the original issue and renewal of the license authorized under this section shall be pursuant to section 183.545, subdivision 2.

Sec. 31. Minnesota Statutes 2004, section 183.51, subdivision 2, is amended to read:

Subd. 2. [APPLICATIONS.] Any person who desires an engineer's license shall ~~make~~ submit a written application, on blanks furnished by the ~~inspector~~. ~~The person shall also successfully pass a written examination for such grade of license applied for commissioner or designee, at least 15 days before the requested exam date. The application is valid for one year from the date the commissioner or designee received the application.~~

Sec. 32. Minnesota Statutes 2004, section 183.51, is amended by adding a subdivision to read:

Subd. 2a. [EXAMINATIONS.] Each applicant for a license must pass an examination approved by the commissioner. The examinations shall be of sufficient scope to establish the competency of the applicant to operate a boiler of the applicable license class and grade.

Sec. 33. Minnesota Statutes 2004, section 183.545, is amended to read:

183.545 [FEES FOR INSPECTION.]

Subdivision 1. [FEE AMOUNT; VESSELS OPERATED ON INLAND WATERS.] The fees for the inspection of the hull, boiler, machinery, and equipments of vessels ~~are to be set by the commissioner pursuant to section 16A.1285, for vessels of 50 tons burden or over and vessels of less than 50 tons burden, operated on inland waters and that carry passengers for hire are as follows:~~

(1) annual operating permit and safety inspections shall be \$200; and

(2) other inspections, including dry-dock inspections, boat stability tests, and plan reviews, are billed at the hourly rate set in subdivision 3a.

Subd. 2. [FEE AMOUNTS; MASTERS AND PILOTS.] ~~The commissioner shall, pursuant to section 16A.1285, set the license and application fee for an examination of an applicant for a master's or pilot's license is \$50, for an or \$20 if the applicant possesses a valid, unlimited, current United States Coast Guard master's license. The annual renewal of a master's or a pilot's license, and for an is \$20. The annual renewal if paid later than ten 30 days after expiration is \$35. The fee for replacement of a current, valid license is \$20.~~

Subd. 3. [BOILER AND PRESSURE VESSEL INSPECTION FEES.] The fees for the annual inspection of boilers and biennial inspection of pressure vessels ~~are to be set by the commissioner pursuant to section 16A.1285, for as follows:~~

~~(a)~~ (1) boiler inaccessible for internal inspection, \$55;

~~(b)~~ (2) boiler accessible for internal inspection, \$55;

~~(c)~~ (3) boiler internal inspection over 2,000 square feet heating surface shall be billed at the hourly rate set in subdivision 3a;

~~(d) boiler internal inspection over 4,000 square feet heating surface;~~

~~(c) boiler internal inspection over 10,000 square feet heating surface;~~

~~(f) (4) boiler accessible for internal inspection requiring one-half day or more of inspection time shall be billed at the established shop inspection fee~~ hourly rate set in subdivision 3a;

~~(g) (5) pressure vessel for internal inspection via manhole, \$35; and~~

~~(h) (6) pressure vessel inaccessible for internal inspection, \$35.~~

~~An additional fee based on the scale of fees applicable to an inspection shall be charged when it is necessary to make a special trip for a hydrostatic test of a boiler or pressure vessel.~~

Subd. 3a. [HOURLY RATE.] The commissioner shall, pursuant to section 16A.1285, set shop inspection fees hourly rate for an inspection not set elsewhere in this chapter is \$80 per hour. Inspection time includes all time related to the shop inspection. Travel time, billed at the hourly rate, and travel expenses shall be billed for shop inspections, triennial audits, boat stability tests, hydrostatic tests of a boiler or pressure vessel, or any other inspection or consultation requiring a special trip.

Subd. 4. [APPLICANTS BOILER ENGINEER LICENSE FEES.] The commissioner shall, pursuant to section 16A.1285, set the fee for an examination of an applicant For the following licenses, the nonrefundable license and application fee is:

~~(a) (1) chief engineer's license, \$50;~~

~~(b) (2) first class engineer's license, \$50;~~

~~(c) (3) second class engineer's license, \$50;~~

~~(d) (4) special engineer's license, \$20; and~~

~~(e) (5) traction or hobby boiler engineer's license; and, \$50.~~

~~(f) pilot's license.~~

~~If an applicant, after an examination, is entitled to receive a license, it shall be issued without the payment of any additional charge. Any license so issued expires one year after the date of its issuance. An engineer's license may be renewed upon application therefor and the payment of an annual renewal fee as set by the commissioner pursuant to section 16A.1285 of \$20. The annual renewal, if paid later than 30 days after expiration, is \$35. The fee for replacement of a current, valid license is \$20.~~

Subd. 6. [NATIONAL BOARD INSPECTORS.] The fee for an examination of an applicant for a National Board of Boiler and Pressure Vessels Inspectors commission shall be set by the commissioner pursuant to section 16A.1285 is \$100.

Subd. 7. [NUCLEAR ENDORSEMENT.] The fee for each examination of an applicant for a National Board of Boiler and Pressure Vessels commissioned inspectors nuclear endorsement shall be set by the commissioner pursuant to section 16A.1285 is \$100.

Subd. 8. [CERTIFICATE OF COMPETENCY.] The fee for issuance of the original state of Minnesota certificate of competency for inspectors shall be set by the commissioner pursuant to section 16A.1285 is \$50. This fee is waived for inspectors who paid the examination fee. The fee for an annual renewal of the state of Minnesota certificate of competency shall be set by the commissioner pursuant to section 16A.1285 is \$35, and is due January 1 of each year. The fee for replacement of a current, valid license is \$35.

Subd. 9. [DEPOSIT OF FEES.] Fees received under this section ~~and section 183.57~~ must be deposited in the state treasury and credited to the general fund.

Subd. 10. [BOILER AND PRESSURE VESSEL REGISTRATION FEE.] The annual registration fee for boilers and pressure vessels in use and required to be inspected per section 183.42 shall be \$10 per boiler and pressure vessel.

Sec. 34. Minnesota Statutes 2004, section 183.57, is amended to read:

183.57 [REPORT OF INSURER; EXEMPTION FROM INSPECTION.]

Subdivision 1. [REPORT REQUIRED.] Any insurance company insuring boilers and pressure vessels in this state shall ~~make a written file~~ a report ~~thereof~~ showing the date of inspection, the name of the person making the inspection, the condition of the boiler or pressure vessel as disclosed by the inspection, whether the ~~same is boiler~~ was operated by a properly licensed engineer, ~~and~~ whether a policy of insurance has been issued by the company with reference to the boiler or pressure vessel, and other information as directed by the chief boiler inspector. Within ~~45~~ 21 days after the inspection, the insurance company shall ~~mail a copy of file~~ the report ~~to~~ with the chief boiler inspector ~~and or designee.~~ The insurer shall provide a copy of the report to the person, firm, or corporation owning or operating the inspected boiler or pressure vessel ~~inspected~~. Such report shall be made annually for boilers and biennially for pressure vessels.

Subd. 2. [EXEMPTION.] Every boiler or pressure vessel as to which any insurance company authorized to do business in this state has issued a policy of insurance, after the inspection thereof, is exempt from inspection by the department made under sections 183.375 to 183.62, while the same continues to be insured and provided it continues to be inspected in accordance with the inspection schedule set forth in sections 183.42 and 183.45, and the person, firm, or corporation owning or operating the same has an unexpired certificate of ~~exemption from inspection, issued by the chief boiler inspector~~ registration. ~~The fee set by the commissioner pursuant to section 16A.1285, on the first object inspected and on each object thereafter shall apply to each exempt object. A certificate of exemption expires one year from date of issue. The certificate of exemption shall be posted in a conspicuous place near the boiler or pressure vessel or in the plant office or boiler room described therein and to which it relates. Every insurance company shall give written notice to the chief boiler inspector of the cancellation or expiration of every policy of insurance issued by it with reference to policies in this state, and the cause or reason for the cancellation or expiration. These notices of cancellation or expiration shall show the date of the policy and the date when the cancellation has or will become effective.~~

~~Subd. 4. [CERTIFICATE OF EXEMPTION.] The Division of Boiler Inspection may issue a billing and exemption certificate for each boiler and pressure vessel which the division records indicate shall be or has been inspected by an insurance company which is providing coverage for the boilers and pressure vessels. The division may determine the monthly schedule of the billings to be followed for each business insured.~~

Subd. 5. [NOTICE OF INSURANCE COVERAGE.] The insurer shall notify the commissioner or designee in writing of its policy to insure and inspect boilers and pressure vessels at a location within 30 days of the effective date of insurance coverage, including binders. The insurer must also provide a duplicate of the notification to the insured.

Subd. 6. [NOTICE OF DISCONTINUED COVERAGE.] The insurer shall notify the commissioner or designee in writing, within 30 days of the effective date, of the discontinuation of insurance coverage of the boilers and pressure vessels at a location and the cause or reason for the discontinuation. This notice shall show the effective date when the discontinued policy takes effect.

Subd. 7. [PENALTIES.] The commissioner shall assess upon the insurer a \$50 penalty, per applicable boiler and pressure vessel, for failing to submit an inspection report or notify the commissioner of insurance coverage or discontinuation of insurance coverage as set forth in this section. The commissioner shall assess upon the insurer a penalty of \$100, per applicable boiler and pressure vessel, for failing to conduct the required in-service inspection within 120 days after the inspection was due in accordance with section 183.42.

Sec. 35. Minnesota Statutes 2004, section 216C.41, subdivision 2, is amended to read:

Subd. 2. [INCENTIVE PAYMENT; APPROPRIATION.] (a) Incentive payments must be made according to this section to (1) a qualified on-farm biogas recovery facility, (2) the owner or operator of a qualified hydropower facility or qualified wind energy conversion facility for electric energy generated and sold by the facility, (3) a publicly owned hydropower facility for electric energy that is generated by the facility and used by the owner of the facility outside the facility, or (4) the owner of a publicly owned dam that is in need of substantial repair, for electric energy that is generated by a hydropower facility at the dam and the annual incentive payments will be used to fund the structural repairs and replacement of structural components of the dam, or to retire debt incurred to fund those repairs.

(b) Payment may only be made upon receipt by the commissioner of ~~finance~~ commerce of an incentive payment application that establishes that the applicant is eligible to receive an incentive payment and that satisfies other requirements the commissioner deems necessary. The application must be in a form and submitted at a time the commissioner establishes.

(c) There is annually appropriated from the ~~general fund~~ renewable development account under section 116C.779 to the commissioner of commerce sums sufficient to make the payments required under this section, ~~other than in addition to~~ the amounts funded by the renewable development account as specified in subdivision 5a.

Sec. 36. Minnesota Statutes 2004, section 216C.41, subdivision 5, is amended to read:

Subd. 5. [AMOUNT OF PAYMENT; WIND FACILITIES LIMIT.] (a) An incentive payment is based on the number of kilowatt hours of electricity generated. The amount of the payment is:

- (1) for a facility described under subdivision 2, paragraph (a), clause (4), 1.0 cent per kilowatt hour; and
- (2) for all other facilities, 1.5 cents per kilowatt hour.

For electricity generated by qualified wind energy conversion facilities, the incentive payment under this section is limited to no more than ~~400~~ 200 megawatts of nameplate capacity.

(b) For wind energy conversion systems installed and contracted for after January 1, 2002, the total size of a wind energy conversion system under this section must be determined according to this paragraph. Unless the systems are interconnected with different distribution systems, the nameplate capacity of one wind energy conversion system must be combined with the nameplate capacity of any other wind energy conversion system that is:

- (1) located within five miles of the wind energy conversion system;
- (2) constructed within the same calendar year as the wind energy conversion system; and
- (3) under common ownership.

In the case of a dispute, the commissioner of commerce shall determine the total size of the system, and shall draw all reasonable inferences in favor of combining the systems.

(c) In making a determination under paragraph (b), the commissioner of commerce may determine that two wind energy conversion systems are under common ownership when the underlying ownership structure contains similar persons or entities, even if the ownership shares differ between the two systems. Wind energy conversion systems are not under common ownership solely because the same person or entity provided equity financing for the systems.

Sec. 37. Minnesota Statutes 2004, section 216C.41, subdivision 5a, is amended to read:

Subd. 5a. [RENEWABLE DEVELOPMENT ACCOUNT.] The Department of Commerce shall authorize payment of the renewable energy production incentive to wind energy conversion systems for ~~400~~ 200 megawatts of nameplate capacity ~~in addition to the capacity authorized under subdivision 5~~ and to on-farm biogas recovery facilities. Payment of the incentive shall be made from the renewable energy development account as provided under section 116C.779, subdivision 2.

Sec. 38. Minnesota Statutes 2004, section 237.11, is amended to read:

237.11 [INSPECTING RECORDS AND PROPERTY; REPORTS REQUIRED.]

Every telephone company subject to the provisions of this chapter, wherever organized, shall keep an office in this state, and make such reports to the department as it shall from time to time require. All books, records, and files, whether they relate to competitive or noncompetitive services, and all of its property shall be at all times subject to inspection by the commission and the department. It shall close its accounts and take therefrom a balance sheet on December 31 of each year, and on or before May 1 following, such balance sheet, together with such other information as the department shall require, verified by an officer of the telephone company, shall be filed with the commission and the department, except that a local exchange carrier or a competitive local exchange carrier, as defined in Minnesota Rules, chapter 7811, is only required to file an annual report that includes the company's name, contact person, annual revenue, and status of its 911 update plan.

In the event that any telephone company shall fail to file its annual report, as provided by this section, the department is authorized to make such an examination of the books, records, and vouchers of the company as is necessary to procure the necessary data for the annual report and cause the same to be prepared. The expense of procuring this data and preparing this report shall be paid by the telephone company failing to report, and the amount paid shall be credited by the commissioner of finance to funds appropriated for the expense of the department.

The department is authorized to force collection of such sum by an action at law in the name of the department.

Sec. 39. Minnesota Statutes 2004, section 237.295, subdivision 1, is amended to read:

Subdivision 1. [~~PAYMENT FOR INVESTIGATION FILING FEE FOR NEW AUTHORITY.~~] ~~(a) Whenever the department or commission, in a proceeding upon its own motion, on complaint, or upon an application to it, considers it necessary, in order to carry out the duties imposed on it, to investigate the books, accounts, practices, and activities of any company, parties to the proceeding shall pay the expenses reasonably attributable to the proceeding. The department and commission shall ascertain the expenses, and the department shall render a bill for those expenses to the parties, at the conclusion of the proceeding. The department is authorized to submit billings to parties at intervals selected by the department during the course of a proceeding.~~



~~(b) The allocation of costs may be adjusted for cause by the commission during the course of the proceeding, or upon the closing of the docket and issuance of an order. In addition to the rights granted in subdivision 3, parties to a proceeding may object to the allocation at any time during the proceeding. Withdrawal by a party to a proceeding does not absolve the party from paying allocated costs as determined by the commission. The commission may decide that a party should not pay any allocated costs of the proceeding.~~

~~(c) The bill constitutes notice of the assessment and a demand for payment. The amount of the bills assessed by the department under this subdivision must be paid by the parties into the state treasury within 30 days from the date of assessment. The total amount, in a calendar year, for which a telephone company may become liable, by reason of costs incurred by the department and commission within that calendar year, may not exceed two-fifths of one percent of the gross jurisdictional operating revenue of the telephone company in the last preceding calendar year. Direct charges may be assessed without regard to this limitation until the gross jurisdictional operating revenue of the telephone company for the preceding calendar year has been reported for the first time. Where, under this subdivision, costs are incurred within a calendar year that are in excess of two-fifths of one percent of the gross jurisdictional operating revenues, the excess costs are not chargeable as part of the remainder under subdivision 2.~~

~~(d) Except as otherwise provided in paragraph (c), for purposes of assessing the cost of a proceeding to a party, "party" means any entity or group subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political, such as a business or commercial enterprise organized as any type or combination of corporation, limited liability company, partnership, limited liability partnership, proprietorship, association, cooperative, joint venture, carrier, or utility, and any successor or assignee of any of them; a social or charitable organization; and any type or combination of political subdivision, which includes the executive, judicial, or legislative branch of the state, a local government unit, an agency of the state or a local government unit, or a combination of any of them.~~

~~(e) For assessment and billing purposes, "party" does not include the Department of Commerce or the Residential Utilities Division of the Office of Attorney General; any entity or group instituted primarily for the purpose of mutual help and not conducted for profit; intervenors awarded compensation under section 237.075, subdivision 10; or any individual or group or counsel for the individual or group representing the interests of end users or classes of end users of services provided by telephone companies or telecommunications carriers, as determined by the commission. An application for a new authority must be accompanied by a payment not to exceed \$2,000 as determined by the Public Utilities Commission. This fee will be reviewed annually and adjusted accordingly.~~

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

Sec. 40. Minnesota Statutes 2004, section 237.295, subdivision 2, is amended to read:

Subd. 2. [ASSESSMENT OF COSTS.] The department and commission shall quarterly, at least 30 days before the start of each quarter, estimate the total of their expenditures in the performance of their duties relating to telephone companies, other than amounts chargeable to telephone companies under subdivision 1, 5, or 6. The remainder must be assessed by the department to the telephone companies operating in this state in proportion to their respective gross jurisdictional operating revenues during the last calendar year. The assessment must be paid into the state treasury within 30 days after the bill has been mailed to the telephone companies. The bill constitutes notice of the assessment and demand of payment. The total amount that may be assessed to the telephone companies under this subdivision may not exceed ~~one-eighth~~ three-eighths of one percent of the total gross jurisdictional operating revenues during the calendar year. The assessment for the third quarter of each fiscal year must be adjusted to compensate for the amount by which actual expenditures by the commission and department for the preceding fiscal year were more or less than the estimated expenditures previously assessed. A telephone company with gross jurisdictional operating revenues of less than \$5,000 is exempt from assessments under this subdivision.

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

Sec. 41. [237.491] [COMBINED PER NUMBER FEE.]

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "911 emergency and public safety communications program" means the program governed by chapter 403.

(c) "Minnesota telephone number" means a ten-digit telephone number being used to connect to the public switched telephone network and starting with area code 218, 320, 507, 612, 651, 763, or 952, or any subsequent area code assigned to this state.

(d) "Service provider" means a provider doing business in this state who provides real time, two-way voice service with a Minnesota telephone number.

(e) "Telecommunications access Minnesota program" means the program governed by sections 237.50 to 237.55.

(f) "Telephone assistance program" means the program governed by sections 237.69 to 237.711.

Subd. 2. [PER NUMBER FEE.] (a) By January 15, 2006, the commissioner of commerce shall report to the legislature and to the senate Committee on Jobs, Energy, and Community Development and the house Committee on Regulated Industries, recommendations for the amount of and method for assessing a fee that would apply to each service provider based upon the number of Minnesota telephone numbers in use by current customers of the service provider. The fee would be set at a level calculated to generate only the amount of revenue necessary to fund:

(1) the telephone assistance program and the telecommunications access Minnesota program at the levels established by the commission under sections 237.52, subdivision 2, and 237.70; and

(2) the 911 emergency and public safety communications program at the levels appropriated by law to the commissioner of public safety and the commissioner of finance for purposes of sections 403.11, 403.113, 403.27, 403.30, and 403.31 for each fiscal year.

(b) The recommendations must include any changes to Minnesota Statutes necessary to establish the procedures whereby each service provider, to the extent allowed under federal law, would collect and remit the fee proceeds to the commissioner of revenue. The commissioner of revenue would allocate the fee proceeds to the three funding areas in paragraph (a) and credit the allocations to the appropriate accounts.

(c) The recommendations must be designed to allow the combined per telephone number fee to be collected beginning July 1, 2006. The per access line fee used to collect revenues to support the TAP, TAM, and 911 programs remains in effect until the statutory changes necessary to implement the per telephone number fee have been enacted into law.

(d) As part of the process of developing the recommendations and preparing the report to the legislature required under paragraph (a), the commissioner of commerce must, at a minimum, consult regularly with the Departments of Public Safety, Finance, and Administration, the Public Utilities Commission, service providers, the chairs and ranking minority members of the senate and house committees, subcommittees, and divisions having jurisdiction over telecommunications and public safety, and other affected parties.

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

Sec. 42. Minnesota Statutes 2004, section 239.011, subdivision 2, is amended to read:

Subd. 2. [DUTIES AND POWERS.] To carry out the responsibilities in section 239.01 and subdivision 1, the director:

(1) shall take charge of, keep, and maintain in good order the standard of weights and measures of the state and keep a seal so formed as to impress, when appropriate, the letters "MINN" and the date of sealing upon the weights and measures that are sealed;

(2) has general supervision of the weights, measures, and weighing and measuring devices offered for sale, sold, or in use in the state;

(3) shall maintain traceability of the state standards to the national standards of the National Institute of Standards and Technology;

(4) shall enforce this chapter;

(5) shall grant variances from department rules, within the limits set by rule, when appropriate to maintain good commercial practices or when enforcement of the rules would cause undue hardship;

(6) shall conduct investigations to ensure compliance with this chapter;

(7) may delegate to division personnel the responsibilities, duties, and powers contained in this section;

(8) shall test annually, and approve when found to be correct, the standards of weights and measures used by the division, by a town, statutory or home rule charter city, or county within the state, or by a person using standards to repair, adjust, or calibrate commercial weights and measures;

(9) shall inspect and test weights and measures kept, offered, or exposed for sale;

(10) shall inspect and test, to ascertain if they are correct, weights and measures commercially used to:

(i) determine the weight, measure, or count of commodities or things sold, offered, or exposed for sale, on the basis of weight, measure, or count; and

(ii) compute the basic charge or payment for services rendered on the basis of weight, measure, or count;

(11) shall approve for use and mark weights and measures that are found to be correct;

(12) shall reject, and mark as rejected, weights and measures that are found to be incorrect and may seize them if those weights and measures:

(i) are not corrected within the time specified by the director;

(ii) are used or disposed of in a manner not specifically authorized by the director; or

(iii) are found to be both incorrect and not capable of being made correct, in which case the director shall condemn those weights and measures;

(13) shall weigh, measure, or inspect packaged commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine whether they contain the amount represented and whether they are kept, offered, or exposed for sale in accordance with this chapter and department rules. In carrying out this section, the director must employ recognized sampling procedures, such as those contained in National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods";

(14) shall prescribe the appropriate term or unit of weight or measure to be used for a specific commodity when an existing term or declaration of quantity does not facilitate value comparisons by consumers, or creates an opportunity for consumer confusion;

(15) shall allow reasonable variations from the stated quantity of contents, including variations caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice, only after the commodity has entered commerce within the state;

(16) shall inspect and test petroleum products in accordance with this chapter and chapter 296A;

(17) shall distribute and post notices for used motor oil and used motor oil filters and lead acid battery recycling in accordance with sections 239.54, 325E.11, and 325E.115;

(18) shall collect inspection fees in accordance with sections 239.10 and 239.101; and

(19) shall provide metrological services and support to businesses and individuals in the United States who wish to market products and services in the member nations of the European Economic Community, and other nations outside of the United States by:

(i) meeting, to the extent practicable, the measurement quality assurance standards described in the International Standards Organization ISO 9000, ~~Guide 25~~ 17025;

(ii) maintaining, to the extent practicable, certification of the metrology laboratory by ~~a governing body appointed by the European Economic Community~~ an internationally accepted accrediting body such as the National Voluntary Laboratory Accreditation Program (NVLAP); and

(iii) providing calibration and consultation services to metrology laboratories in government and private industry in the United States.

Sec. 43. Minnesota Statutes 2004, section 239.05, is amended by adding a subdivision to read:

Subd. 3a. [AUTOMOTIVE FUEL.] For the purpose of enforcing the gasoline octane requirements in section 239.792, "automotive fuel" has the meaning given it in Code of Federal Regulations, title 16, section 306.0.

Sec. 44. Minnesota Statutes 2004, section 239.05, subdivision 10b, is amended to read:

Subd. 10b. [OXYGENATE ETHANOL BLENDER.] "Oxygenate Ethanol blender" means a person who has registered with the division to blend and distribute, transport, sell, or offer blends and distributes, transports, sells, or offers to sell gasoline containing a minimum of 2.0 percent, and an average of 2.7 ten percent oxygen ethanol by weight volume.

Sec. 45. Minnesota Statutes 2004, section 239.09, is amended to read:

239.09 [SPECIAL POLICE POWERS.]

When necessary to enforce this chapter or rules adopted under the authority granted by section 239.06, the director is:

(1) authorized and empowered to arrest, without formal warrant, any violator of sections 325E.11 and 325E.115 or of the statute in relation to weights and measures;

(2) empowered to seize for use as evidence and without formal warrant, any false weight, measure, weighing or measuring device, package, or commodity found to be used, retained, or offered or exposed for sale or sold in violation of law;

(3) during normal business hours, authorized to enter commercial premises;

(4) if the premises are not open to the public, authorized to enter commercial premises only after presenting credentials and obtaining consent or after obtaining a search warrant;

(5) empowered to issue stop-use, hold, and removal orders with respect to weights and measures commercially used, and packaged commodities or bulk commodities kept, offered, or exposed for sale, that do not comply with the weights and measures laws; ~~and~~

(6) empowered, upon reasonable suspicion of a violation of the weights and measures laws, to stop a commercial vehicle and, after presentation of credentials, inspect the contents of the vehicle, require that the person in charge of the vehicle produce documents concerning the contents, and require the person to proceed with the vehicle to some specified place for inspection; and

(7) empowered, after written warning, to issue citations of not less than \$100 and not more than \$500 to a person who violates any provision of this chapter, any provision of the rules adopted under the authority contained in this chapter, or any provision of statutes enforced by the Division of Weights and Measures.

Sec. 46. Minnesota Statutes 2004, 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 \$1 for every 1,000 gallons received. The commissioner of revenue shall collect the fee. The revenue from 81 cents of the fee must first be applied to cover the amounts appropriated. Fifteen cents of the inspection fee must be deposited in an account in the special revenue fund and is appropriated to the commissioner of commerce for the cost of petroleum product quality inspection expenses and for the inspection and testing of petroleum product measuring equipment operations of the Division of Weights and Measures, petroleum supply monitoring, and the oil burner retrofit program. The remainder of the fee must be deposited in the general fund.

(b) The commissioner of revenue shall credit a person for inspection fees previously paid in error or for any material exported or sold for export from the state upon filing of a report as prescribed by the commissioner of revenue.

(c) The commissioner of revenue may collect the inspection fee along with any taxes due under chapter 296A.

Sec. 47. Minnesota Statutes 2004, section 239.75, subdivision 1, is amended to read:

Subdivision 1. [INSPECTION TO BE MADE.] The director shall:

(1) take samples, free of charge, of petroleum products wherever processed, blended, held, stored, imported, transferred, offered for sale or use, or sold in Minnesota, limiting each sample to:

~~(i) two tenths of one one-half gallon, except when an octane test is planned; or~~

~~(ii) seven tenths of one gallon for an octane test;~~

(2) inspect and test petroleum product samples according to the methods of ASTM or other valid test methods adopted by rule, to determine whether the products comply with the specifications in section 239.761;

(3) inspect petroleum product storage tanks to ensure that the products are free from water and impurities;

(4) inspect and test samples submitted to the department by a licensed distributor, making the test results available to the distributor;

(5) inspect the labeling, price posting, and price advertising of petroleum product dispensers and advertising signs at businesses or locations where petroleum products are sold, offered for sale or use, or dispensed into motor vehicles;

(6) maintain records of all inspections and tests according to the records retention policies of the Department of Administration;

(7) delegate to division personnel, at the director's discretion, any or all of the responsibilities, duties, and powers in sections 239.75 to 239.80;

(8) publish ~~octane~~ test data and information to assist persons who use, produce and, distribute, or sell gasoline and gasoline-oxygenate blends petroleum-based heating and engine fuels;

~~(9) register gasoline-oxygenate blenders according to the requirements of the EPA;~~

~~(10)~~ audit the records of any person responsible for the product to determine compliance with sections 239.75 to 239.792;

~~(11)~~ (10) after consulting with the commissioner of the ~~Pollution Control Agency~~, grant a temporary exemption from the ~~oxygenated gasoline~~ gasoline-ethanol blending requirements in section 239.791 if the supply of ~~oxygenate ethanol~~ is insufficient to produce ~~gasoline-oxygenate~~ gasoline-ethanol blends ~~during an EPA-designated carbon monoxide control period~~; and

~~(12)~~ (11) adopt, as an enforcement policy for the division, reasonable margins of uncertainty for the tests used to determine compliance with the specifications in section 239.761, the oxygen percentages in section 239.791, and the octane requirements in section 239.792 and apply the margins of uncertainty to only tests performed by the division, not by adding the margins to uncertainties in tests performed by any person responsible for the product.

Sec. 48. Minnesota Statutes 2004, section 239.75, subdivision 5, is amended to read:

Subd. 5. [PRODUCT QUALITY, RESPONSIBILITY.] After a ~~gasoline product~~ petroleum-based engine fuel is purchased, transferred, or otherwise removed from a refinery or terminal, the person responsible for the product shall:

- (1) keep the product free from contamination with water and impurities;
- (2) not blend the product with dissimilar petroleum products, for example, gasoline must not be blended with diesel fuel;
- (3) not blend the product with any contaminant, dye, chemical, or additive, except:
  - (i) agriculturally derived, denatured ethanol that complies with the specifications in this chapter;
  - (ii) an antiknock additive, or an additive designed to replace tetra-ethyl lead, that is registered by the EPA; ~~or~~
  - (iii) a dye to distinguish heating fuel from low sulfur diesel fuel; or
  - (iv) biodiesel fuel that complies with the specifications in this chapter; and
- (4) maintain a record of the name or chemical composition of the additive, with the product shipping manifest or bill of lading for one year after the date of the manifest or bill.

Sec. 49. Minnesota Statutes 2004, section 239.761, is amended to read:

239.761 [PETROLEUM PRODUCT SPECIFICATIONS.]

Subdivision 1. [APPLICABILITY.] A person responsible for the product must meet the specifications in this section. The specifications apply to petroleum products processed, held, stored, imported, transferred, distributed, offered for distribution, offered for sale or use, or sold in Minnesota.

Subd. 2. [COORDINATION WITH DEPARTMENTS OF REVENUE AND AGRICULTURE.] The petroleum product specifications in this section are intended to match the definitions and specifications in sections 41A.09 and 296A.01. Petroleum products named in this section are defined in section 296A.01.

Subd. 3. [GASOLINE.] (a) Gasoline that is not blended with ethanol must not be contaminated with water or other impurities and must comply with ASTM specification ~~D4814-01~~ D4814-04a. Gasoline that is not blended with ethanol must also comply with the volatility requirements in Code of Federal Regulations, title 40, part 80.

(b) After gasoline is sold, transferred, or otherwise removed from a refinery or terminal, a person responsible for the product:

- (1) may blend the gasoline with agriculturally derived ethanol as provided in subdivision 4;
- (2) shall not blend the gasoline with any oxygenate other than denatured, agriculturally derived ethanol;
- (3) shall not blend the gasoline with other petroleum products that are not gasoline or denatured, agriculturally derived ethanol;

(4) shall not blend the gasoline with products commonly and commercially known as casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline; and

(5) may blend the gasoline with a detergent additive, an antiknock additive, or an additive designed to replace tetra-ethyl lead, that is registered by the EPA.

Subd. 4. [GASOLINE BLENDED WITH ETHANOL.] (a) Gasoline may be blended with up to ten percent, by volume, agriculturally derived, denatured ethanol that complies with the requirements of subdivision 5.

(b) A gasoline-ethanol blend must:

(1) comply with the volatility requirements in Code of Federal Regulations, title 40, part 80;

(2) comply with ASTM specification ~~D4814-01~~ D4814-04a, or the gasoline base stock from which a gasoline-ethanol blend was produced must comply with ASTM specification ~~D4814-01~~ D4814-04a; and

(3) not be blended with casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline after the gasoline-ethanol blend has been sold, transferred, or otherwise removed from a refinery or terminal.

Subd. 5. [DENATURED ETHANOL.] Denatured ethanol that is to be blended with gasoline must be agriculturally derived and must comply with ASTM specification ~~D4806-01~~ D4806-04a. This includes the requirement that ethanol may be denatured only as specified in Code of Federal Regulations, title 27, parts 20 and 21.

Subd. 6. [GASOLINE BLENDED WITH NONETHANOL OXYGENATE.] (a) A person responsible for the product shall comply with the following requirements:

(1) after July 1, 2000, gasoline containing in excess of one-third of one percent, in total, of nonethanol oxygenates listed in paragraph (b) must not be sold or offered for sale at any time in this state; and

(2) after July 1, 2005, gasoline containing any of the nonethanol oxygenates listed in paragraph (b) must not be sold or offered for sale in this state.

(b) The oxygenates prohibited under paragraph (a) are:

(1) methyl tertiary butyl ether, as defined in section 296A.01, subdivision 34;

(2) ethyl tertiary butyl ether, as defined in section 296A.01, subdivision 18; or

(3) tertiary amyl methyl ether.

(c) Gasoline that is blended with a nonethanol oxygenate must comply with ASTM specification ~~D4814-01~~ D4814-04a. Nonethanol oxygenates must not be blended into gasoline after the gasoline has been sold, transferred, or otherwise removed from a refinery or terminal.

Subd. 7. [HEATING FUEL OIL.] Heating fuel oil must comply with ASTM specification ~~D396-01~~ D396-02a.

Subd. 8. [DIESEL FUEL OIL.] Diesel fuel oil must comply with ASTM specification ~~D975-01a~~ D975-04b, except that diesel fuel oil is not required to meet the diesel lubricity standard until the date that the biodiesel fuel requirement in section 239.77, subdivision 2, becomes effective or December 31, 2005, whichever comes first.



Subd. 9. [KEROSENE.] Kerosene must comply with ASTM specification ~~D3699-01~~ D3699-03.

Subd. 10. [AVIATION GASOLINE.] Aviation gasoline must comply with ASTM specification ~~D910-00~~ D910-04.

Subd. 11. [AVIATION TURBINE FUEL, JET FUEL.] Aviation turbine fuel and jet fuel must comply with ASTM specification ~~D1655-04~~ D1655-04.

Subd. 12. [GAS TURBINE FUEL OIL.] Fuel oil for use in nonaviation gas turbine engines must comply with ASTM specification ~~D2880-00~~ D2880-03.

Subd. 13. [E85.] A blend of ethanol and gasoline, containing at least 60 percent ethanol and not more than 85 percent ethanol, produced for use as a motor fuel in alternative fuel vehicles as defined in section 296A.01, subdivision 5, must comply with ASTM specification D5798-99 (2004).

Subd. 14. [M85.] A blend of methanol and gasoline, containing at least 85 percent methanol, produced for use as a motor fuel in alternative fuel vehicles as defined in section 296A.01, subdivision 5, must comply with ASTM specification D5797-96.

Sec. 50. Minnesota Statutes 2004, section 239.77, is amended by adding a subdivision to read:

Subd. 4. [DISCLOSURE.] A refinery or terminal shall provide, at the time diesel fuel is sold or transferred from the refinery or terminal, a bill of lading or shipping manifest to the person who receives the fuel. For biodiesel-blended products, the bill of lading or shipping manifest must disclose biodiesel content, stating volume percentage, gallons of biodiesel per gallons of petroleum diesel base-stock, or an ASTM "Bxx" designation where "xx" denotes the volume percent biodiesel included in the blended product. This subdivision does not apply to sales or transfers of biodiesel blend stock between refineries, between terminals, or between a refinery and a terminal.

Sec. 51. Minnesota Statutes 2004, section 239.79, subdivision 4, is amended to read:

Subd. 4. [SALE OF CERTAIN PETROLEUM PRODUCTS ON GROSS VOLUME BASIS.] A person responsible for the products listed in this subdivision shall transfer, ship, distribute, offer for distribution, sell, or offer to sell the products by volume. Volumetric measurement of the product must not be temperature compensated, or adjusted by any other factor. This subdivision applies to gasoline, number one and number two diesel fuel oils, number one and number two heating fuel oils, kerosene, denatured ethanol ~~that is to be blended into gasoline, and an oxygenate that is to be blended into gasoline, and biodiesel~~. This subdivision does not apply to the measurement of petroleum products transferred, sold, or traded between refineries, between refineries and terminals, or between terminals.

Sec. 52. Minnesota Statutes 2004, section 239.791, subdivision 1, is amended to read:

Subdivision 1. [MINIMUM ETHANOL CONTENT REQUIRED.] (a) Except as provided in subdivisions 10 to 14, a person responsible for the product shall ensure that all gasoline sold or offered for sale in Minnesota must contain at least 10.0 percent denatured ethanol by volume.

(b) For purposes of enforcing the minimum ethanol requirement of paragraph (a), a gasoline/ethanol blend will be construed to be in compliance if the ethanol content, exclusive of denaturants and permitted contaminants, comprises not less than 9.2 percent by volume and not more than 10.0 percent by volume of the blend as determined by an appropriate United States Environmental Protection Agency or American Society of Testing Materials standard method of analysis of alcohol/ether content in ~~motor~~ engine fuels.

Sec. 53. Minnesota Statutes 2004, section 239.791, subdivision 7, is amended to read:

Subd. 7. [~~OXYGENATE ETHANOL~~ RECORDS; STATE AUDIT.] The director shall audit the records of registered ~~oxygenate ethanol~~ blenders to ensure that each blender has met all requirements in this chapter. Specific information or data relating to sales figures or to processes or methods of production unique to the blender or that would tend to adversely affect the competitive position of the blender must be only for the confidential use of the director, unless otherwise specifically authorized by the registered blender.

Sec. 54. Minnesota Statutes 2004, section 239.791, subdivision 8, is amended to read:

Subd. 8. [DISCLOSURE.] A refinery or terminal, shall provide, at the time gasoline is sold or transferred from the refinery or terminal, a bill of lading or shipping manifest to the person who receives the gasoline. For oxygenated gasoline, the bill of lading or shipping manifest must include the identity and the volume percentage or gallons of oxygenate included in the gasoline, and it must state: "This fuel contains an oxygenate. Do not blend this fuel with ethanol or with any other oxygenate." ~~For nonoxygenated gasoline sold or transferred before October 1, 1997, the bill or manifest must state: "This fuel must not be sold at retail in a carbon monoxide control area."~~ For nonoxygenated gasoline sold or transferred after September 30, 1997, the bill or manifest must state: "This fuel is not oxygenated. It must not be sold at retail in Minnesota." This subdivision does not apply to sales or transfers of gasoline between refineries, between terminals, or between a refinery and a terminal.

Sec. 55. Minnesota Statutes 2004, section 239.791, subdivision 15, is amended to read:

Subd. 15. [EXEMPTION FOR CERTAIN BLEND PUMPS.] (a) A person responsible for the product, who offers for sale, sells, or dispenses nonoxygenated premium gasoline under one or more of the exemptions in subdivisions 10 to 14, may sell, offer for sale, or dispense oxygenated gasoline that contains less than the minimum amount of ethanol required under subdivision 1 if all of the following conditions are met:

- (1) the blended gasoline has an octane rating of 88 or greater;
- (2) the gasoline is a blend of oxygenated gasoline meeting the requirements of subdivision 1 with nonoxygenated premium gasoline;
- (3) the blended gasoline contains not more than ten percent nonoxygenated premium gasoline;
- (4) the blending of oxygenated gasoline with nonoxygenated gasoline occurs within the gasoline dispenser; and
- (5) the gasoline station at which the gasoline is sold, offered for sale, or delivered is equipped to store gasoline in not more than two storage tanks.

(b) This subdivision applies only to those persons who meet the conditions in paragraph (a), clauses (1) through (5), ~~on the effective date of this act August 1, 2004,~~ and have registered with the director within three months of the effective that date of this act.

Sec. 56. Minnesota Statutes 2004, section 239.792, is amended to read:

239.792 [~~GASOLINE OCTANE~~ AUTOMOTIVE FUEL RATINGS, CERTIFICATION, AND POSTING.]

Subdivision 1. [~~DISCLOSURE DUTIES OF REFINERS, IMPORTERS, AND PRODUCERS.~~ DISCLOSURE DUTIES OF REFINERS, IMPORTERS, AND PRODUCERS.] A ~~manufacturer, hauler, blender, agent, jobber, consignment agent refiner, importer, or distributor who sells, delivers, or distributes gasoline or gasoline oxygenate blends, shall provide, at the time of delivery, a bill of lading or shipping manifest to the person who receives the gasoline. The bill or manifest must state the minimum octane of~~

~~the gasoline delivered. The stated octane number must be the average of the "motor method" octane number and the "research method" octane number as determined by the test methods in ASTM specification D4814-01, or by a test method adopted by department rule. producer of automotive fuel must comply with the automotive fuel rating, certification, and record-keeping requirements of Code of Federal Regulations, title 16, sections 306.5 to 306.7.~~

Subd. 2. ~~[DISPENSER LABELING DUTIES OF DISTRIBUTORS.] A person responsible for the product shall clearly, conspicuously, and permanently label each gasoline dispenser that is used to sell gasoline or gasoline-oxygenate blends at retail or to dispense gasoline or gasoline-oxygenate blends into the fuel supply tanks of motor vehicles, with the minimum octane of the gasoline dispensed. The label must meet the following requirements:~~

~~(a) The octane number displayed on the label must represent the average of the "motor method" octane number and the "research method" octane number as determined by the test methods in ASTM specification D4814-01, or by a test method adopted by department rule.~~

~~(b) The label must be at least 2 1/2 inches high and three inches wide, with a yellow background, black border, and black figures and letters.~~

~~(c) The number representing the octane of the gasoline must be at least one inch high.~~

~~(d) The label must include the words "minimum octane" and the term "(R+M)/2" or "(RON+MON)/2." A licensed distributor of automotive fuel must comply with the certification and record-keeping provisions of Code of Federal Regulations, title 16, sections 306.8 and 306.9.~~

Subd. 3. [DUTIES OF RETAILERS.] A person responsible for the product who sells or transfers automotive fuel to a consumer must comply with the automotive fuel rating posting and record-keeping requirements, and the label specifications of Code of Federal Regulations, title 16, sections 306.10 to 306.12.

Subd. 4. [DUTIES OF DIRECTOR.] Upon request, the director shall provide any person with a copy of Code of Federal Regulations, title 16, part 306. Upon request, the director shall provide any distributor, retailer, or organization of distributors or retailers with the label specifications in Code of Federal Regulations, title 16, section 306.12.

Sec. 57. Minnesota Statutes 2004, section 268.19, subdivision 1, is amended to read:

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

- (1) state and federal agencies specifically authorized access to the data by state or federal law;
- (2) any agency of any other state or any federal agency charged with the administration of an unemployment insurance program;
- (3) any agency responsible for the maintenance of a system of public employment offices for the purpose of assisting individuals in obtaining employment;
- (4) human rights agencies within Minnesota that have enforcement powers;
- (5) the Department of Revenue only to the extent necessary for its duties under Minnesota laws;

(6) public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;

(7) the Department of Labor and Industry and the Division of Insurance Fraud Prevention in the Department of Commerce on an interchangeable basis with the department for uses consistent with the administration of their duties under Minnesota law;

(8) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department or to monitor and evaluate the statewide Minnesota family investment program by providing data on recipients and former recipients of food stamps or food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(9) local and state welfare agencies for the purpose of identifying employment, wages, and other information to assist in the collection of an overpayment debt in an assistance program;

(10) local, state, and federal law enforcement agencies for the sole purpose of ascertaining the last known address and employment location of a person who is the subject of a criminal investigation;

~~(10)~~ (11) the federal Immigration and Naturalization Service shall have access to data on specific individuals and specific employers provided the specific individual or specific employer is the subject of an investigation by that agency; and

~~(11)~~ (12) the Department of Health solely for the purposes of epidemiologic investigations.

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

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

Sec. 58. Minnesota Statutes 2004, section 296A.01, subdivision 2, is amended to read:

Subd. 2. [AGRICULTURAL ALCOHOL GASOLINE.] "Agricultural alcohol gasoline" means a gasoline-ethanol blend of up to ten percent agriculturally derived fermentation ethanol derived from agricultural products, such as potatoes, cereal, grains, cheese whey, sugar beets, forest products, or other renewable resources, that:

(1) meets the specifications in ASTM specification ~~D4806-01~~ D4806-04a; and

(2) is denatured as specified in Code of Federal Regulations, title 27, parts 20 and 21.

Sec. 59. Minnesota Statutes 2004, section 296A.01, subdivision 7, is amended to read:

Subd. 7. [AVIATION GASOLINE.] "Aviation gasoline" means any gasoline that is capable of use for the purpose of producing or generating power for propelling internal combustion engine aircraft, that meets the specifications in ASTM specification ~~D910-00~~ D910-04, and that either:

(1) is invoiced and billed by a producer, manufacturer, refiner, or blender to a distributor or dealer, by a distributor to a dealer or consumer, or by a dealer to consumer, as "aviation gasoline"; or

(2) whether or not invoiced and billed as provided in clause (1), is received, sold, stored, or withdrawn from storage by any person, to be used for the purpose of producing or generating power for propelling internal combustion engine aircraft.

Sec. 60. Minnesota Statutes 2004, section 296A.01, subdivision 8, is amended to read:

Subd. 8. [AVIATION TURBINE FUEL AND JET FUEL.] "Aviation turbine fuel" and "jet fuel" mean blends of hydrocarbons derived from crude petroleum, natural gasoline, and synthetic hydrocarbons, intended for use in aviation turbine engines, and that meet the specifications in ASTM specification ~~D4655-04~~ D1655.04.

Sec. 61. Minnesota Statutes 2004, section 296A.01, subdivision 14, is amended to read:

Subd. 14. [DIESEL FUEL OIL.] "Diesel fuel oil" means a petroleum distillate or blend of petroleum distillate and residual fuels, intended for use as a motor fuel in internal combustion diesel engines, that meets the specifications in ASTM specification ~~D975-01A~~ D975-04b, except that diesel fuel oil is not required to meet the diesel lubricity standard until the date that the biodiesel fuel requirement in section 239.77, subdivision 2, becomes effective or December 31, 2005, whichever comes first. Diesel fuel includes number 1 and number 2 fuel oils. K-1 kerosene is not diesel fuel unless it is blended with diesel fuel for use in motor vehicles.

Sec. 62. Minnesota Statutes 2004, section 296A.01, subdivision 19, is amended to read:

Subd. 19. [E85.] "E85" means a petroleum product that is a blend of agriculturally derived denatured ethanol and gasoline or natural gasoline that typically contains 85 percent ethanol by volume, but at a minimum must contain 60 percent ethanol by volume. For the purposes of this chapter, the energy content of E85 will be considered to be 82,000 BTUs per gallon. E85 produced for use as a motor fuel in alternative fuel vehicles as defined in subdivision 5 must comply with ASTM specification D5798-99 (2004).

Sec. 63. Minnesota Statutes 2004, section 296A.01, subdivision 20, is amended to read:

Subd. 20. [ETHANOL, DENATURED.] "Ethanol, denatured" means ethanol that is to be blended with gasoline, has been agriculturally derived, and complies with ASTM specification ~~D4806-01~~ D4806-04a. This includes the requirement that ethanol may be denatured only as specified in Code of Federal Regulations, title 27, parts 20 and 21.

Sec. 64. Minnesota Statutes 2004, section 296A.01, subdivision 22, is amended to read:

Subd. 22. [GAS TURBINE FUEL OIL.] "Gas turbine fuel oil" means fuel that contains mixtures of hydrocarbon oils free of inorganic acid and excessive amounts of solid or fibrous foreign matter, intended for use in nonaviation gas turbine engines, and that meets the specifications in ASTM specification ~~D2880-00~~ D2880-03.

Sec. 65. Minnesota Statutes 2004, section 296A.01, subdivision 23, is amended to read:

Subd. 23. [GASOLINE.] (a) "Gasoline" means:

(1) all products commonly or commercially known or sold as gasoline regardless of their classification or uses, except casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline that under the requirements of section 239.761, subdivision 3, must not be blended with gasoline that has been sold, transferred, or otherwise removed from a refinery or terminal; and

(2) any liquid prepared, advertised, offered for sale or sold for use as, or commonly and commercially used as, a fuel in spark-ignition, internal combustion engines, and that when tested by the Weights and Measures Division meets the specifications in ASTM specification ~~D4814-01~~ D4814-04a.

(b) Gasoline that is not blended with ethanol must not be contaminated with water or other impurities and must comply with both ASTM specification ~~D4814-01~~ D4814-04a and the volatility requirements in Code of Federal Regulations, title 40, part 80.

(c) After gasoline is sold, transferred, or otherwise removed from a refinery or terminal, a person responsible for the product:

(1) may blend the gasoline with agriculturally derived ethanol, as provided in subdivision 24;

(2) must not blend the gasoline with any oxygenate other than denatured, agriculturally derived ethanol;

(3) must not blend the gasoline with other petroleum products that are not gasoline or denatured, agriculturally derived ethanol;

(4) must not blend the gasoline with products commonly and commercially known as casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline; and

(5) may blend the gasoline with a detergent additive, an antiknock additive, or an additive designed to replace tetra-ethyl lead, that is registered by the EPA.

Sec. 66. Minnesota Statutes 2004, section 296A.01, subdivision 24, is amended to read:

Subd. 24. [GASOLINE BLENDED WITH NONETHANOL OXYGENATE.] "Gasoline blended with nonethanol oxygenate" means gasoline blended with ETBE, MTBE, or other alcohol or ether, except denatured ethanol, that is approved as an oxygenate by the EPA, and that complies with ASTM specification ~~D4814-01~~ D4814-04a. Oxygenates, other than denatured ethanol, must not be blended into gasoline after the gasoline has been sold, transferred, or otherwise removed from a refinery or terminal.

Sec. 67. Minnesota Statutes 2004, section 296A.01, subdivision 25, is amended to read:

Subd. 25. [GASOLINE BLENDED WITH ETHANOL.] "Gasoline blended with ethanol" means gasoline blended with up to ten percent, by volume, agriculturally derived, denatured ethanol. The blend must comply with the volatility requirements in Code of Federal Regulations, title 40, part 80. The blend must also comply with ASTM specification ~~D4814-01~~ D4814-04a, or the gasoline base stock from which a gasoline-ethanol blend was produced must comply with ASTM specification ~~D4814-01~~ D4814-04a; and the gasoline-ethanol blend must not be blended with casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline after the gasoline-ethanol blend has been sold, transferred, or otherwise removed from a refinery or terminal. The blend need not comply with ASTM specification ~~D4814-01~~ D4814-04a if it is subjected to a standard distillation test. For a distillation test, a gasoline-ethanol blend is not required to comply with the temperature specification at the 50 percent liquid recovery point, if the gasoline from which the gasoline-ethanol blend was produced complies with all of the distillation specifications.

Sec. 68. Minnesota Statutes 2004, section 296A.01, subdivision 26, is amended to read:

Subd. 26. [HEATING FUEL OIL.] "Heating fuel oil" means a petroleum distillate, blend of petroleum distillates and residuals, or petroleum residual heating fuel that meets the specifications in ASTM specification ~~D396-01~~ D396-02a.

Sec. 69. Minnesota Statutes 2004, section 296A.01, subdivision 28, is amended to read:

Subd. 28. [KEROSENE.] "Kerosene" means a refined petroleum distillate consisting of a homogeneous mixture of hydrocarbons essentially free of water, inorganic acidic and basic compounds, and excessive amounts of particulate contaminants and that meets the specifications in ASTM specification ~~D3699-01~~ D3699-03.

Sec. 70. Minnesota Statutes 2004, section 298.22, is amended by adding a subdivision to read:

Subd. 9. [SALE OR PRIVATIZATION OF FUNCTIONS.] The commissioner of Iron Range resources and rehabilitation may not sell or privatize any project area or function of the agency without prior approval by a majority vote of the board.

Sec. 71. [325F.991] [911 EMERGENCY PHONE SERVICE REPRESENTATIONS.]

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

(a) "911 emergency telecommunications system" means a dedicated emergency telecommunications system required by section 403.025.

(b) "Person" means an individual, corporation, firm, or other legal entity.

(c) "Service provider" means a person doing business in Minnesota who provides real time, two-way voice service interconnected with the public switched telephone network using numbers allocated for Minnesota by the North American Numbering Plan Administration.

Subd. 2. [REPRESENTATIONS OF 911 SERVICE.] A person shall not advertise, market, or otherwise represent that the person furnishes a service capable of providing access to emergency services by dialing 911 unless the person provides a service that routes 911 calls through the 911 emergency telecommunications system.

Subd. 3. [DISCLOSURE.] A service provider that does not provide 911 dialing that routes 911 calls through the 911 emergency telecommunications system must disclose that fact in all advertisements, marketing materials, and contracts. The disclosure must be in capital letters, in 12-point font, and on the front page of the advertisement, marketing materials, and contracts. The disclosure must state: "THIS SERVICE DOES NOT ROUTE 911 CALLS THROUGH THE 911 EMERGENCY SYSTEM."

Subd. 4. [CERTAIN CALLS NOT 911 CALLS.] For purposes of this section, 911 calls routed to the general access number at a public safety answering point do not qualify as being routed through a 911 emergency telecommunications system.

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

Sec. 72. Minnesota Statutes 2004, section 326.975, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] (a) In addition to any other fees, each applicant for a license under sections 326.83 to 326.98 shall pay a fee to the contractor's recovery fund. The contractor's recovery fund is created in the state treasury and must be administered by the commissioner in the manner and subject to all the requirements and limitations provided by section 82.43 with the following exceptions:

(1) each licensee who renews a license shall pay in addition to the appropriate renewal fee an additional fee which shall be credited to the contractor's recovery fund. The amount of the fee shall be based on the licensee's gross annual receipts for the licensee's most recent fiscal year preceding the renewal, on the following scale:

Fee	Gross Receipts
\$100	under \$1,000,000
\$150	\$1,000,000 to \$5,000,000
\$200	over \$5,000,000

Any person who receives a new license shall pay a fee based on the same scale;

(2)(i) the sole purpose of this fund is to compensate any aggrieved owner or lessee of residential property located within this state who obtains a final judgment in any court of competent jurisdiction against a licensee licensed under section 326.84, on grounds of fraudulent, deceptive, or dishonest practices, conversion of funds, or failure of performance arising directly out of any transaction when the judgment debtor was licensed and performed any of the activities enumerated under section 326.83, subdivision 19, on the owner's residential property or on residential property rented by the lessee, or on new residential construction which was never occupied prior to purchase by the owner, or which was occupied by the licensee for less than one year prior to purchase by the owner, and which cause of action arose on or after April 1, 1994; and

(ii) reimburse the Department of Commerce for all legal and administrative expenses, including staffing costs, incurred in administering the fund;

(3) nothing may obligate the fund for more than \$50,000 per claimant, nor more than \$75,000 per licensee; and

(4) nothing may obligate the fund for claims based on a cause of action that arose before the licensee paid the recovery fund fee set in clause (1), or as provided in section 326.945, subdivision 3.

(b) Should the commissioner pay from the contractor's recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, the license shall be automatically suspended upon the effective date of an order by the court authorizing payment from the fund. No licensee shall be granted reinstatement until the licensee has repaid in full, plus interest at the rate of 12 percent a year, twice the amount paid from the fund on the licensee's account, and has obtained a surety bond issued by an insurer authorized to transact business in this state in the amount of at least \$40,000.

Sec. 73. Minnesota Statutes 2004, section 345.47, subdivision 3, is amended to read:

Subd. 3. [SECURITIES.] Securities listed on an established stock exchange shall be sold at the prevailing prices on the exchange. Other securities may be sold over the counter at prevailing prices or, ~~with prior approval of the State Board of Investment,~~ by another method the commissioner determines advisable. United States government savings bonds and United States war bonds shall be presented to the United States for payment.

Sec. 74. Minnesota Statutes 2004, section 345.47, subdivision 3a, is amended to read:

Subd. 3a. [HOLDING PERIOD.] ~~All securities presumed abandoned under section 345.35 and delivered to the commissioner must be held for at least three years before they are sold. A person making a claim under this section is entitled to receive either the securities delivered to the commissioner by the holder, if they still remain in the hands of the commissioner, or the proceeds received from the sale, but no person has any claim under this section against the state, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the commissioner. If the property~~



is of a type customarily sold on a recognized market or of a type which may be sold over the counter at prevailing prices, the commissioner may sell the property without notice by publication or otherwise. The commissioner may proceed with the liquidation after holding for one year, with the exception of securities being held as the result of an insurance company demutualization, these types of securities may be sold upon receipt. The language provided in this section grants to the commissioner express authority to sell any property including, but not limited to, stocks, bonds, notes, bills, and all other public or private securities. A person making a claim under section 345.35 is entitled to receive the securities delivered to the administrator by the holder, if they still remain in the custody of the administrator, or the net proceeds received from sale, and is not entitled to receive any appreciation in the value of the property occurring after sale by the commissioner. The commissioner may liquidate all unclaimed securities currently held in custody in accordance with the provisions of this section.

Sec. 75. Minnesota Statutes 2004, section 373.40, subdivision 1, is amended to read:

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

(a) "Bonds" means an obligation as defined under section 475.51.

(b) "Capital improvement" means acquisition or betterment of public lands, development rights in the form of conservation easements under chapter 84C, buildings, or other improvements within the county for the purpose of a county courthouse, administrative building, health or social service facility, correctional facility, jail, law enforcement center, hospital, morgue, library, park, qualified indoor ice arena, and roads and bridges. An improvement must have an expected useful life of five years or more to qualify. "Capital improvement" does not include light rail transit or any activity related to it or a recreation or sports facility building (such as, but not limited to, a gymnasium, ice arena, racquet sports facility, swimming pool, exercise room or health spa), unless the building is part of an outdoor park facility and is incidental to the primary purpose of outdoor recreation.

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

~~(d)~~ "Metropolitan county" means a county located in the seven-county metropolitan area as defined in section 473.121 or a county with a population of 90,000 or more.

~~(e)~~ (d) "Population" means the population established by the most recent of the following (determined as of the date the resolution authorizing the bonds was adopted):

(1) the federal decennial census,

(2) a special census conducted under contract by the United States Bureau of the Census, or

(3) a population estimate made either by the Metropolitan Council or by the state demographer under section 4A.02.

~~(f)~~ (e) "Qualified indoor ice arena" means a facility that meets the requirements of section 373.43.

~~(g)~~ (f) "Tax capacity" means total taxable market value, but does not include captured market value.

Sec. 76. Minnesota Statutes 2004, section 373.40, subdivision 3, is amended to read:

Subd. 3. [CAPITAL IMPROVEMENT PLAN.] (a) A county may adopt a capital improvement plan. The plan must cover at least the five-year period beginning with the date of its adoption. The plan must set forth the estimated schedule, timing, and details of specific capital improvements by year, together with the estimated cost, the need for the improvement, and sources of revenues to pay for the improvement. In preparing the capital improvement plan, the county board must consider for each project and for the overall plan:

- (1) the condition of the county's existing infrastructure, including the projected need for repair or replacement;
- (2) the likely demand for the improvement;
- (3) the estimated cost of the improvement;
- (4) the available public resources;
- (5) the level of overlapping debt in the county;
- (6) the relative benefits and costs of alternative uses of the funds;
- (7) operating costs of the proposed improvements; and
- (8) alternatives for providing services more efficiently through shared facilities with other counties or local government units.

(b) The capital improvement plan and annual amendments to it ~~must be~~ are not effective until approved by the county board after public hearing. ~~The county must submit the capital improvement plan to the community development division of the Department of Employment and Economic Development. The plan is not effective if the commissioner disapproves the plan within 90 days after it was submitted. If the commissioner has not disapproved the plan within 90 days after its submission, the plan is deemed approved and effective. The commissioner shall disapprove a capital improvement plan only if the commissioner determines (1) that the planned improvements cannot be financed within the limits specified in subdivision 4, or (2) the county in preparing the plan did not consider the factors listed in this subdivision or failed to gather the information necessary to evaluate the plan under the factors, or (3) the proposed improvements will result in unnecessary duplication of public facilities provided by other units of government in the region or there is insufficient demand for the facility. If the plan is disapproved by the commissioner and the county board does not withdraw the plan, the capital improvement plan must be submitted to the voters for approval. If a majority of the voters approve, the plan is approved and effective.~~

Sec. 77. Minnesota Statutes 2004, section 462A.05, subdivision 3a, is amended to read:

Subd. 3a. [REFINANCING ~~NONPROFITS~~; RESIDENTIAL HOUSING.] It may refinance the existing indebtedness of ~~nonprofit entities, as defined by the agency~~ owners of rental property, secured by residential housing for occupancy by persons and families of low and moderate income, if refinancing is determined by the agency to be necessary to reduce housing costs to an affordable level or to maintain the supply of affordable low-income housing. The authority granted in this subdivision is in addition to and not in limitation of the authority granted in section 462A.05, subdivision 14.

Sec. 78. Minnesota Statutes 2004, section 462A.33, subdivision 2, is amended to read:

Subd. 2. [ELIGIBLE RECIPIENTS.] Challenge grants or loans may be made to a city, a federally recognized American Indian tribe or subdivision located in Minnesota, a tribal housing corporation, a private developer, a nonprofit organization, or the owner of the housing, including individuals. For the purpose of this section, "city" has the meaning given it in section 462A.03, subdivision 21. To the extent practicable, grants and loans shall be made so that an approximately equal number of housing units are financed in the metropolitan area and in the nonmetropolitan area.

Sec. 79. Minnesota Statutes 2004, section 517.08, subdivision 1b, is amended to read:

Subd. 1b. [TERM OF LICENSE; FEE; PREMARITAL EDUCATION.] (a) The local registrar shall examine upon oath the party applying for a license relative to the legality of the contemplated marriage. If at the expiration of a five-day period, on being satisfied that there is no legal impediment to it, including the restriction contained in section 259.13, the local registrar shall issue the license, containing the full names of the parties before and after marriage, and county and state of residence, with the county seal attached, and make a record of the date of issuance. The license shall be valid for a period of six months. In case of emergency or extraordinary circumstances, a judge of the district court of the county in which the application is made, may authorize the license to be issued at any time before the expiration of the five days. Except as provided in paragraph (b), the local registrar shall collect from the applicant a fee of ~~\$85~~ \$75 for administering the oath, issuing, recording, and filing all papers required, and preparing and transmitting to the state registrar of vital statistics the reports of marriage required by this section. If the license should not be used within the period of six months due to illness or other extenuating circumstances, it may be surrendered to the local registrar for cancellation, and in that case a new license shall issue upon request of the parties of the original license without fee. A local registrar who knowingly issues or signs a marriage license in any manner other than as provided in this section shall pay to the parties aggrieved an amount not to exceed \$1,000.

(b) The marriage license fee for parties who have completed at least 12 hours of premarital education is \$20. In order to qualify for the reduced fee, the parties must submit a signed and dated statement from the person who provided the premarital education confirming that it was received. The premarital education must be provided by a licensed or ordained minister or the minister's designee, a person authorized to solemnize marriages under section 517.18, or a person authorized to practice marriage and family therapy under section 148B.33. The education must include the use of a premarital inventory and the teaching of communication and conflict management skills.

(c) The statement from the person who provided the premarital education under paragraph (b) must be in the following form:

"I, (name of educator), confirm that (names of both parties) received at least 12 hours of premarital education that included the use of a premarital inventory and the teaching of communication and conflict management skills. I am a licensed or ordained minister, a person authorized to solemnize marriages under Minnesota Statutes, section 517.18, or a person licensed to practice marriage and family therapy under Minnesota Statutes, section 148B.33."

The names of the parties in the educator's statement must be identical to the legal names of the parties as they appear in the marriage license application. Notwithstanding section 138.17, the educator's statement must be retained for seven years, after which time it may be destroyed.

(d) If section 259.13 applies to the request for a marriage license, the local registrar shall grant the marriage license without the requested name change. Alternatively, the local registrar may delay the granting of the marriage license until the party with the conviction:

(1) certifies under oath that 30 days have passed since service of the notice for a name change upon the prosecuting authority and, if applicable, the attorney general and no objection has been filed under section 259.13; or

(2) provides a certified copy of the court order granting it. The parties seeking the marriage license shall have the right to choose to have the license granted without the name change or to delay its granting pending further action on the name change request.

Sec. 80. Minnesota Statutes 2004, section 517.08, subdivision 1c, is amended to read:

Subd. 1c. [DISPOSITION OF LICENSE FEE.] (a) Of the marriage license fee collected pursuant to subdivision 1b, paragraph (a), \$15 must be retained by the county. The local registrar must pay ~~\$70~~ \$60 to the commissioner of finance to be deposited as follows:

(1) \$50 in the general fund;

(2) \$3 in the special revenue fund to be appropriated to the commissioner of education for parenting time centers under section 119A.37;

(3) \$2 in the special revenue fund to be appropriated to the commissioner of health for developing and implementing the MN ENABL program under section 145.9255; and

~~(4) \$10 in the special revenue fund to be appropriated to the commissioner of employment and economic development for the displaced homemaker program under section 116L.96; and~~

~~(5)~~ \$5 in the special revenue fund to be appropriated to the commissioner of human services for the Minnesota Healthy Marriage and Responsible Fatherhood Initiative under section 256.742.

(b) Of the \$20 fee under subdivision 1b, paragraph (b), \$15 must be retained by the county. The local registrar must pay \$5 to the commissioner of finance to be distributed as provided in paragraph (a), clauses (2) and (3).

(c) The increase in the marriage license fee under paragraph (a) provided for in Laws 2004, chapter 273, and disbursement of the increase in that fee to the special fund for the Minnesota Healthy Marriage and Responsible Fatherhood Initiative under paragraph (a), clause ~~(5)~~ (4), is contingent upon the receipt of federal funding under United States Code, title 42, section 1315, for purposes of the initiative.

Sec. 81. Laws 1999, chapter 224, section 7, as amended by Laws 2004, chapter 261, article 6, section 3, is amended to read:

Sec. 7. [SUNSET.]

Sections 2 and 4 expire on August 1, ~~2005~~ 2006, and Minnesota Statutes 1998, sections 237.63, 237.65, and 237.68, expire on December 31, 2004.

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

Sec. 82. [INCREASED JOB TRAINING AND WAGES FOR MINORITIES.]

Subdivision 1. [INITIATIVE.] The commissioner of employment and economic development shall develop an initiative to promote employment opportunities for minorities, including Native Americans, with a particular focus on opportunities for American blacks, in the state of Minnesota. At a minimum, the initiative should significantly expand the job training available to minorities and promote substantial increases in the wages paid to minorities, at least to a rate well above living wage, and within several years to equality.

Subd. 2. [INTERIM REPORT.] The commissioner, in consultation with the Governor's Workforce Development Council, shall prepare an interim report detailing the parameters of the initiative to the governor and the chair of the finance committee in each house of the legislature that has jurisdiction over employment. The interim report must be made within 90 days of the effective date of this section.

Subd. 3. [FINAL REPORT.] The commissioner, in consultation with the Governor's Workforce Development Council, shall prepare a final report detailing a proposed initiative by January 10, 2006.

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

Sec. 83. [SMALL BUSINESS DEVELOPMENT STUDY.]

The commissioner of employment and economic development must investigate options for charging fees for services that help companies seek federal Phase II Small Business Innovation Research grants. The results and recommendations from this study must be submitted to the chairs of the house and senate economic development finance committees by February 1, 2006.

Sec. 84. [PREVAILING WAGE ADVISORY COUNCIL.]

The commissioner of labor and industry and the commissioner of employment and economic development shall convene a prevailing wage advisory council. The advisory council shall consist of 12 members as follows: the presidents of the largest statewide Minnesota business and organized labor organizations as measured by the number of employees of its business members and in its affiliated labor organizations in Minnesota on July 1, 2005. The governor, the majority leader of the senate, the speaker of the house of representatives, the minority leader of the senate, and the minority leader of the house of representatives shall each select a business and a labor representative. At least four of the labor representatives shall be chosen from the affiliated membership of the Minnesota AFL-CIO. At least two of the business representatives shall be representatives of small employers as defined in Minnesota Statutes, section 177.24, subdivision 1, paragraph (a), clause (2). None of the council members shall represent attorneys, health care providers, qualified rehabilitation consultants, or insurance companies.

The advisory council shall study whether:

(1) the responsibility of collecting information needed to ascertain construction prevailing wages should be transferred from the Department of Labor and Industry to the Department of Employment and Economic Development;

(2) the construction prevailing wage rate should be calculated on a regional basis; and

(3) the construction prevailing wage rate should be an average of the rate plus benefits paid to workers engaged in the same class of labor within the area.

The advisory council shall make a recommendation on these issues to the governor and the chairs of the committees with jurisdiction over labor issues in the senate and house of representatives by January 15, 2006.

Sec. 85. [SESQUICENTENNIAL COMMISSION.]

Subdivision 1. [COMMISSION; PURPOSE.] The Minnesota Sesquicentennial Commission is established to plan for activities relating to Minnesota's 150th anniversary of statehood. The commission shall create a plan for capital improvements, celebratory activities, and public engagement in every county in the state of Minnesota.

Subd. 2. [MEMBERSHIP.] The commission shall consist of 17 members who shall serve until the completion of the sesquicentennial year of statehood, appointed as follows:

(1) nine members appointed by the governor, representing major corporate, nonprofit, and public sectors of the state, selected from all parts of the state;

- (2) two members appointed by the speaker of the house of representatives;
- (3) two members appointed by the minority leader of the house of representatives;
- (4) two members from the majority party in the senate, appointed by the Subcommittee on Committees; and
- (5) two members from the minority party in the senate, appointed by the Subcommittee on Committees.

Subd. 3. [COMPENSATION; OPERATION.] Members shall select a chair from the membership of the commission. The chair shall convene all meetings and set the agenda for the commission. The Minnesota Historical Society shall provide office space and staff support for the commission, and shall cooperate with the University of Minnesota and Minnesota State Colleges and Universities to support the programs of the commission. Meetings shall be at the call of the chair. The commission may appoint an advisory council to advise and assist the commission with its duties. Members shall receive no compensation for service on the Sesquicentennial Commission. Members appointed by the governor may be reimbursed for expenses under Minnesota Statutes, section 15.059, subdivision 3.

Subd. 4. [DUTIES.] The commission shall have the following duties:

- (1) to present to the governor and legislature a plan for capital grants to pay for capital improvements on Minnesota's historic public and private buildings, to be known as sesquicentennial grants;
- (2) to seek funding for activities to celebrate the 150th anniversary of statehood, and to form partnerships with private parties to further this mission; and
- (3) to present an annual report to the governor and legislature outlining progress made towards the celebration of the sesquicentennial.

Subd. 5. [COMMEMORATIVE COIN.] The commission may arrange for design, production, distribution, marketing, and sale of a commemorative coin. Proceeds from sale of the commemorative coin are appropriated to the commission.

Subd. 6. [EXPIRATION.] The commission shall continue to operate until January 30, 2009, at which time it shall expire.

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

Sec. 86. [INSTRUCTION TO REVISOR.]

The revisor of statutes shall renumber Minnesota Statutes, section 239.05, as section 239.051, alphabetize the definitions, and correct any cross-references to that section accordingly.

Sec. 87. [REPEALER.]

Minnesota Statutes 2004, sections 45.0295; 116J.573; 116J.58, subdivision 3; 116L.05, subdivision 4; 239.05, subdivisions 6a and 6b; and 462C.15, are repealed.

## ARTICLE 3

## HUMAN SERVICES APPROPRIATIONS

## Section 1. [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 "2006" and "2007" where used in this article, mean that the appropriation or appropriations listed under them are available for the fiscal year ending June 30, 2006, or June 30, 2007, respectively.

## SUMMARY BY FUND

	2006	2007	BIENNIAL TOTAL
General	\$411,712,000	\$420,246,000	\$831,958,000
Health Care Access	249,000	249,000	498,000
Federal TANF	219,901,000	247,697,000	467,598,000
TOTAL	\$631,862,000	\$668,192,000	\$1,300,054,000
APPROPRIATIONS Available for the Year Ending June 30			
	2006	2007	

## Sec. 2. COMMISSIONER OF HUMAN SERVICES

Subdivision 1. Total Appropriation	\$631,862,000	\$668,192,000
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## Summary by Fund

General	411,712,000	420,246,000
Health Care Access	249,000	249,000
Federal TANF	219,901,000	247,697,000

## [FOOD STAMPS EMPLOYMENT AND TRAINING FUNDS.]

Notwithstanding Minnesota Statutes, sections 256J.626 and 256D.051, subdivisions 1a, 6b, and 6c, federal food stamps employment and training funds received as reimbursement of Minnesota family investment program consolidated fund grant expenditures must be deposited in the general fund. Consistent with the receipt of these federal funds, the commissioner may adjust the level of working family credit expenditures claimed as TANF maintenance of effort.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

[TANF FUNDS APPROPRIATED TO OTHER ENTITIES.] Any expenditures from the TANF block grant shall be expended according to 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 ensure 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 or statutory language permits otherwise.

[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;
- (3) state and county MFIP administrative costs under Minnesota Statutes, chapters 256J and 256K;
- (4) state, county, and tribal MFIP employment services under Minnesota Statutes, chapters 256J and 256K;
- (5) expenditures made on behalf of noncitizen MFIP recipients who qualify for the medical assistance without federal financial participation program under Minnesota Statutes, section 256B.06, subdivision 4, paragraphs (d), (e), and (j); and
- (6) qualifying working family credit expenditures under Minnesota Statutes, section 290.0671.



APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

(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) For fiscal years beginning with state fiscal year 2005, the commissioner shall ensure 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.

(d) 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, does not apply if the grants or aids are federal TANF funds.

(e) Notwithstanding the expiration date provided in section 6, paragraph (a), clauses (1) to (6), and paragraphs (b) to (d), expire June 30, 2009.

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

- (1) fiscal year 2006, \$6,942,000; and
- (2) fiscal year 2007 and thereafter, \$6,707,000.

[INCREASE WORKING FAMILY CREDIT EXPENDITURES TO BE CLAIMED FOR TANF/MOE.] In addition to the amounts provided in this section, the commissioner may count the following amounts of working family credit expenditure as TANF/MOE:

- (1) fiscal year 2006, \$67,385,000;
- (2) fiscal year 2007, \$69,839,000;
- (3) fiscal year 2008, \$12,657,000; and
- (4) fiscal year 2009, \$8,237,000.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

[SPECIAL REVENUE FUND TRANSFER.] Notwithstanding any law to the contrary, excluding accounts authorized under Minnesota Statutes, section 16A.1286, and Minnesota Statutes, chapter 254B, the commissioner shall transfer \$1,139,000 of uncommitted special revenue fund balances to the general fund. The actual transfers shall be identified within the standard information provided to the chairs of the legislative committees with jurisdiction over health and human services issues in December 2005.

Subd. 2. Children and Economic Assistance Grants

Summary by Fund

General	369,129,000	377,643,000
Federal TANF	219,449,000	247,245,000

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) MFIP/DWP Grants

General	35,640,000	31,902,000
Federal TANF	104,204,000	106,020,000

(b) Support Services Grants

General	8,697,000	8,715,000
Federal TANF	102,594,000	102,632,000

(c) MFIP Child Care Assistance Grants

General	41,170,000	20,030,000
Federal TANF	11,254,000	37,196,000

[MFIP CHILD CARE; TANF APPROPRIATION.] The federal TANF appropriation is a onetime appropriation.

[TANF TRANSFER TO FEDERAL CHILD CARE AND DEVELOPMENT FUND.] \$17,946,000 in fiscal year 2006, \$40,388,000 in fiscal year 2007, and \$3,192,000 in fiscal year 2008 and each fiscal year thereafter is appropriated to the

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

commissioner for the purposes of MFIP/Transition Year child care under Minnesota Statutes, section 119B.05. The commissioner shall authorize transfer of sufficient TANF funds to the federal child care and development fund to meet this appropriation and shall ensure that all transferred funds are expended according to the federal child care and development fund regulations.

(d) Basic Sliding Fee Child Care Assistance Grants

General	6,592,000	24,911,000
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[CHILD CARE AND DEVELOPMENT FUND UNEXPENDED BALANCE.] In addition to the amount provided in this section, the commissioner shall expend \$16,254,000 in fiscal year 2006 and \$2,085,000 in fiscal year 2007 from the federal child care and development fund unexpended balance for basic sliding fee child care under Minnesota Statutes, section 119B.03. The commissioner shall ensure that all child care and development funds are expended according to the federal child care and development fund regulations.

[BASE ADJUSTMENT FOR FREEZE MAXIMUM RATES FOR CHILD CARE ASSISTANCE.] The general fund base is increased by \$4,301,000 in fiscal year 2008 and \$6,641,000 in fiscal year 2009 for basic sliding fee child care assistance.

(e) Child Care Development Grants

General	1,540,000	1,540,000
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(f) Child Support Enforcement Grants

General	3,255,000	3,255,000
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(g) Children's Services Grants

General	40,488,000	49,580,000
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[BASE ADJUSTMENT FOR ADOPTION ASSISTANCE GRANTS.] The general fund base is increased by \$2,153,000 in fiscal year 2008 and \$4,310,000 in fiscal year 2009 for adoption assistance grants.

[BASE ADJUSTMENT FOR RELATIVE CUSTODY ASSISTANCE GRANTS.] The general fund base is increased by \$838,000 in fiscal year 2008 and \$1,689,000 in fiscal year 2009 for relative custody assistance grants.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

[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.

[PRIVATIZED ADOPTION GRANTS.] Federal reimbursement for privatized adoption grant and foster care recruitment grant expenditures is appropriated to the commissioner for adoption grants and foster care and adoption administrative purposes.

(h) Children and Community Services Grants

General	68,488,000	68,488,000
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[DELAY PROJECTS OF REGIONAL SIGNIFICANCE.] Notwithstanding Minnesota Statutes, section 256M.40, subdivision 2, the projects of the regional significance grant program are delayed until July 1, 2007. The general fund base for the program shall be \$25,000,000 in fiscal year 2008 and \$25,000,000 in fiscal year 2009.

(i) General Assistance Grants

General	30,823,000	31,157,000
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[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 fiscal year 2006 and \$7,889,812 in fiscal year 2007. Funds to counties shall be allocated by the commissioner using the allocation method specified in Minnesota Statutes, section 256D.06.

(j) Minnesota Supplemental Aid Grants

General	30,315,000	30,801,000
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[EMERGENCY MINNESOTA SUPPLEMENTAL AID FUNDS.] The amount appropriated for emergency Minnesota supplemental aid funds is limited to no more than \$1,100,000 in fiscal year 2006

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

and \$1,100,000 in fiscal year 2007. Funds to counties shall be allocated by the commissioner using the allocation method specified in Minnesota Statutes, section 256D.46.

(k) Group Residential Housing Grants

General	85,487,000	91,009,000
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(l) Other Children and Economic Assistance Grants

General	16,634,000	16,255,000
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Federal TANF	1,397,000	1,397,000
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[TRANSITIONAL HOUSING.] \$3,238,000 in fiscal year 2006 and \$3,238,000 in fiscal year 2007 are appropriated for transitional housing under Minnesota Statutes, section 119A.43. Of this amount, \$1,397,000 in fiscal year 2006 and \$1,397,000 in fiscal year 2007 are onetime appropriations from the federal TANF fund. The general fund base for transitional housing shall be \$2,988,000 each year for the fiscal 2008-2009 biennium.

Subd. 3. Children and Economic Assistance Management

Summary by Fund

General	42,583,000	42,603,000
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Health Care Access	249,000	249,000
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Federal TANF	452,000	452,000
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The amounts that may be spent from the appropriation for each purpose are as follows:

(a) Children and Economic Assistance Administration

General	7,838,000	7,832,000
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Federal TANF	452,000	452,000
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(b) Children and Economic Assistance Operations

General	34,745,000	34,771,000
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Health Care Access	249,000	249,000
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APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

[SPENDING AUTHORITY FOR FOOD STAMPS BONUS AWARDS.] In the event that Minnesota qualifies for the United States Department of Agriculture Food and Nutrition Services Food Stamp Program performance bonus awards beginning in federal fiscal year 2004, the funding is appropriated to the commissioner. The commissioner shall retain 25 percent of the funding, with the other 75 percent divided among the counties according to a formula that takes into account each county's impact on state performance in the applicable bonus categories.

[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 \$34,000 of child support cost recovery fees collected in fiscal year 2006 and fiscal year 2007 to the PRISM special revenue account to offset PRISM system costs of maintaining the fee.

[STUDY OF ECONOMIC IMPACT OF CHILD SUPPORT GUIDELINES.] Of this amount, \$20,000 is appropriated to the commissioner of human services in fiscal year 2006 to pay the state's share of the cost of study on the economic impact of child support guidelines in article 5, section 26.

[FINANCIAL INSTITUTION DATA MATCH AND PAYMENT OF FEES.] The commissioner is authorized to allocate up to \$310,000 each year in fiscal year 2006 and fiscal year 2007 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. [TRANSFERS.]

Subdivision 1. [GRANTS.] The commissioner of human services, with the approval of the commissioner of finance, and after notification of the chairs of the relevant senate budget division and house finance committee, may transfer unencumbered appropriation balances for the biennium ending June 30, 2007, within fiscal years among the MFIP, general assistance, medical assistance, MFIP child care assistance under Minnesota Statutes, section 119B.05, Minnesota supplemental aid, 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 relevant house and senate health committees 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. 4. [SPECIAL REVENUE TRANSFER FOR CERTAIN PROGRAMS.]

(a) The balance of indirect cost reimbursement attributable to federal grants transferred from the Department of Education to the Department of Human Services and available at the close of fiscal year 2005 shall be transferred to the general fund.

(b) The balance of the child care child support recoveries in the special revenue account established under Minnesota Statutes, section 119B.074, and available at the close of fiscal year 2005 shall be transferred to the general fund.

Sec. 5. [INDIRECT COSTS NOT TO FUND PROGRAMS.]

The commissioners of health and human services shall not use indirect cost allocations to pay for the operational costs of any program for which they are responsible.

Sec. 6. [SUNSET OF UNCODIFIED LANGUAGE.]

All uncodified language contained in this article expires on June 30, 2007, unless a different expiration date is explicit.

Sec. 7. [EFFECTIVE DATE.]

The provisions in this article are effective July 1, 2005, unless a different effective date is specified.

ARTICLE 4

DEPARTMENT OF HUMAN SERVICES FORECAST ADJUSTMENT

Section 1. [ADJUSTMENT.]

The dollar amounts shown are added to or, if shown in parentheses, are subtracted from the appropriations in Laws 2003, First Special Session chapter 14, as amended by Laws 2004, chapter 272, or other law, and are appropriated from the general fund, or any other fund named, to the Department of Human Services for the purposes specified in this article, to be available for the fiscal year indicated for each purpose. The figure "2005" used in this article means that the appropriation or appropriations listed are available for the fiscal year ending June 30, 2005.

SUMMARY BY FUND

	2005
General Fund	8,280,000
TANF	(16,831,000)
TOTAL	(8,551,000)

2005

## Sec. 2. COMMISSIONER OF HUMAN SERVICES

Subdivision 1. Total Appropriation (8,551,000)

## Summary by Fund

General 8,280,000

TANF (16,831,000)

## Subd. 2. Continuing Care Grants

General (6,017,000)

The amount that may be spent from this appropriation for each purpose is as follows:

## Group Residential Housing

General 6,017,000

## Subd. 3. Economic Support Grants

General 22,940,000

TANF (16,831,000)

The amount that may be spent from this appropriation for each purpose is as follows:

## (a) Minnesota Family Investment Program

General 21,000,000

TANF (16,831,000)

(b) General Assistance 2,840,000

(c) Minnesota Supplemental Aid (900,000)

Subd. 4. Child Care Total Appropriation (20,677,000)

General Fund (20,677,000)



## ARTICLE 5

## CHILDREN AND FAMILIES

Section 1. Minnesota Statutes 2004, section 119B.02, is amended by adding a subdivision to read:

Subd. 7. [ANNUAL REPORT.] The commissioner shall report each January, using the most current data sources available to the agency, on the monthly average cost of child care assistance per family, the basic sliding fee waiting list, provider's willingness to care for children from families accessing child care assistance as documented in the child care resource and referral program report, the child care assistance program participation by income level as compared to income eligibility levels, trends in families applying for MFIP due to child care reasons, the type of care selected by child care assistance families as compared to historical trends and to that selected by the general public, and the percentage of child care center and family provider rates that are equal to or less than the child care assistance maximum rate. The commissioner must also report on the progress toward measurement of the school readiness of children in families receiving child care assistance and of the length of continuous employment of parents by child care assistance sub-programs.

Sec. 2. Minnesota Statutes 2004, section 119B.13, subdivision 1, is amended to read:

Subdivision 1. [SUBSIDY RESTRICTIONS.] (a) The provider rates determined under this section for fiscal year 2003 and implemented July 1, 2002, are to be continued in effect through June 30, 2007. The commissioner of human services shall modify the rate tables for child care centers published in Department of Human Services Bulletin No. 03-68-07 so that in counties with regional or statewide cells, the maximum rates must be the higher of the 100th percentile of the 2002 market rate survey data for the county or the rate currently identified in the bulletin. Beginning in fiscal year 2008, the maximum rate paid for child care assistance in any county or multicounty region under the child care fund may not exceed shall be the lesser of the 75th percentile rate for like-care arrangements in the county or multicounty region as surveyed by the commissioner or the previous year's rate for like-care arrangements in the county increased by the percent change in the average quarterly national CPI-U index for the current state fiscal year over the average quarterly index for the previous state fiscal year. When the commissioner determines that, using the commissioner's established protocol, the number of providers responding to the survey is too small to determine the 75th percentile rate for like-care arrangements in a county or multicounty region, the commissioner may establish the 75th percentile maximum rate based on like-care arrangements in a county, region, or category that the commissioner deems to be similar.

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

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

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

(e) The commissioner of human services must report each January on the access that families receiving child care assistance have to child care programs by identifying the percentage of child care center and family child care provider rates that are equal to or less than the maximum rates paid by the child care assistance programs. The commissioner must report the average percentage change in surveyed rates by provider type. The commissioner shall also report the percentage change in the average quarterly national CPI-U index for the four quarters up to and including the quarter in which the most recent rate survey began over the four previous quarters. Reporting must be based on the rate data collected in the most recent rate survey.

Sec. 3. Minnesota Statutes 2004, section 119B.13, is amended by adding a subdivision to read:

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

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

Sec. 4. Minnesota Statutes 2004, section 245A.10, subdivision 4, is amended to read:

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

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

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

Sec. 5. Minnesota Statutes 2004, section 254A.035, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP TERMS, COMPENSATION, REMOVAL AND EXPIRATION.] The membership of this council shall be composed of 17 persons who are American Indians and who are appointed by the commissioner. The commissioner shall appoint one representative from each of the following groups: Red Lake Band of Chippewa Indians; Fond du Lac Band, Minnesota Chippewa Tribe; Grand Portage Band, Minnesota Chippewa Tribe; Leech Lake Band, Minnesota Chippewa Tribe; Mille Lacs Band, Minnesota Chippewa Tribe; Bois Forte Band, Minnesota Chippewa Tribe; White Earth Band, Minnesota Chippewa Tribe; Lower Sioux Indian Reservation; Prairie Island Sioux Indian Reservation; Shakopee Mdewakanton Sioux Indian Reservation; Upper Sioux Indian Reservation; International Falls Northern Range; Duluth Urban Indian Community; and two

representatives from the Minneapolis Urban Indian Community and two from the St. Paul Urban Indian Community. The terms, compensation, and removal of American Indian Advisory Council members shall be as provided in section 15.059. The council expires June 30, ~~2004~~ 2008.

**[EFFECTIVE DATE.]** This section is effective retroactively from June 30, 2001.

Sec. 6. Minnesota Statutes 2004, section 254A.04, is amended to read:

254A.04 [CITIZENS ADVISORY COUNCIL.]

There is hereby created an Alcohol and Other Drug Abuse Advisory Council to advise the Department of Human Services concerning the problems of alcohol and other drug dependency and abuse, composed of ten members. Five members shall be individuals whose interests or training are in the field of alcohol dependency and abuse; and five members whose interests or training are in the field of dependency and abuse of drugs other than alcohol. The terms, compensation and removal of members shall be as provided in section 15.059. The council expires June 30, ~~2004~~ 2008. The commissioner of human services shall appoint members whose terms end in even-numbered years. The commissioner of health shall appoint members whose terms end in odd-numbered years.

**[EFFECTIVE DATE.]** This section is effective retroactively from June 30, 2001.

Sec. 7. Minnesota Statutes 2004, section 256.01, is amended by adding a subdivision to read:

Subd. 14b. [AMERICAN INDIAN CHILD WELFARE PROJECTS.] (a) The commissioner of human services may authorize projects to test tribal delivery of child welfare services to American Indian children and their parents and custodians living on the reservation. The commissioner has authority to solicit and determine which tribes may participate in a project. Grants may be issued to Minnesota Indian tribes to support the projects. The commissioner may waive existing state rules as needed to accomplish the projects. Notwithstanding section 626.556, the commissioner may authorize projects to use alternative methods of investigating and assessing reports of child maltreatment, provided that the projects comply with the provisions of section 626.556 dealing with the rights of individuals who are subjects of reports or investigations, including notice and appeal rights and data practices requirements. The commissioner may seek any federal approvals necessary to carry out the projects as well as seek and use any funds available to the commissioner, including use of federal funds, foundation funds, existing grant funds, and other funds. The commissioner is authorized to advance state funds as necessary to operate the projects. Federal reimbursement applicable to the projects is appropriated to the commissioner for the purposes of the projects. The projects must be required to address responsibility for safety, permanency, and well-being of children.

(b) For the purposes of this section, "American Indian child" means a person under 18 years of age who is a tribal member or eligible for membership in one of the tribes chosen for a project under this subdivision and who is residing on the reservation of that tribe.

(c) In order to qualify for an American Indian child welfare project, a tribe must:

- (1) be one of the existing tribes with reservation land in Minnesota;
- (2) have a tribal court with jurisdiction over child custody proceedings;
- (3) have a substantial number of children for whom determinations of maltreatment have occurred;
- (4) have capacity to respond to reports of abuse and neglect under section 626.556;
- (5) provide a wide range of services to families in need of child welfare services; and

(6) have a tribal-state title IV-E agreement in effect.

(d) Grants awarded under this section may be used for the nonfederal costs of providing child welfare services to American Indian children on the tribe's reservation, including costs associated with:

(1) assessment and prevention of child abuse and neglect;

(2) family preservation;

(3) facilitative, supportive, and reunification services;

(4) out-of-home placement for children removed from the home for child protective purposes; and

(5) other activities and services approved by the commissioner that further the goals of providing safety, permanency, and well-being of American Indian children.

(e) When a tribe has initiated a project and has been approved by the commissioner to assume child welfare responsibilities for American Indian children of that tribe under this section, the affected county social service agency is relieved of responsibility for responding to reports of abuse and neglect under section 626.556 for those children during the time within which the tribal project is in effect and funded. The commissioner shall work with tribes and affected counties to develop procedures for data collection, evaluation, and clarification of ongoing role and financial responsibilities of the county and tribe for child welfare services prior to initiation of the project. Children who have not been identified by the tribe as participating in the project shall remain the responsibility of the county. Nothing in this section shall alter responsibilities of the county for law enforcement or court services.

(f) The commissioner shall collect information on outcomes relating to child safety, permanency, and well-being of American Indian children who are served in the projects. Participating tribes must provide information to the state in a format and completeness deemed acceptable by the state to meet state and federal reporting requirements.

Sec. 8. Minnesota Statutes 2004, section 256.01, is amended by adding a subdivision to read:

Subd. 23. [ANNUAL REPORT.] Beginning July 1, 2005, the commissioner shall prepare an annual report of the number of eligible applicants who applied in the prior calendar year for general assistance, under chapter 256D; MFIP, under chapter 256J; and food support, under chapter 256D, who had not lived in Minnesota for the 12 months prior to the application month. The report shall indicate the number of applicants by state of prior residence or by the general category of foreign country.

Sec. 9. Minnesota Statutes 2004, section 256.741, subdivision 4, is amended to read:

Subd. 4. [EFFECT OF ASSIGNMENT.] Assignments in this section take effect upon a determination that the applicant is eligible for public assistance. The amount of support assigned under this subdivision may not exceed the total amount of public assistance issued or the total support obligation, whichever is less. Child care support collections made according to an assignment under subdivision 2, paragraph (c), must be deposited, subject to any limitations of federal law, ~~by the commissioner of human services in the child support collection account in the special revenue fund and appropriated to the commissioner of education for child care assistance under section 119B.03. These collections are in addition to state and federal funds appropriated to the child care in the general fund.~~

Sec. 10. Minnesota Statutes 2004, section 256B.0924, subdivision 3, is amended to read:

Subd. 3. [ELIGIBILITY.] Persons are eligible to receive targeted case management services under this section if the requirements in paragraphs (a) and (b) are met.

(a) The person must be assessed and determined by the local county agency to:

(1) be age 18 or older;

(2) be receiving medical assistance;

(3) have significant functional limitations; and

(4) be in need of service coordination to attain or maintain living in an integrated community setting.

(b) The person must be a vulnerable adult in need of adult protection as defined in section 626.5572, or is an adult with mental retardation as defined in section 252A.02, subdivision 2, or a related condition as defined in section 252.27, subdivision 1a, and is not receiving home and community-based waiver services, or is an adult who lacks a permanent residence and who has been without a permanent residence for at least one year or on at least four occasions in the last three years.

Sec. 11. Minnesota Statutes 2004, section 256B.093, subdivision 1, is amended to read:

Subdivision 1. [STATE TRAUMATIC BRAIN INJURY PROGRAM.] The commissioner of human services shall:

(1) maintain a statewide traumatic brain injury program;

(2) supervise and coordinate services and policies for persons with traumatic brain injuries;

(3) contract with qualified agencies or employ staff to provide statewide administrative case management and consultation;

(4) maintain an advisory committee to provide recommendations in reports to the commissioner regarding program and service needs of persons with traumatic brain injuries;

(5) investigate the need for the development of rules or statutes for the traumatic brain injury home and community-based services waiver;

(6) investigate present and potential models of service coordination which can be delivered at the local level; and

(7) the advisory committee required by clause (4) must consist of no fewer than ten members and no more than 30 members. The commissioner shall appoint all advisory committee members to one- or two-year terms and appoint one member as chair. Notwithstanding section 15.059, subdivision 5, the advisory committee does not terminate until June 30, ~~2005~~ 2008.

Sec. 12. Minnesota Statutes 2004, section 256D.06, is amended by adding a subdivision to read:

Subd. 1d. [STANDARD OF ASSISTANCE.] For a general assistance applicant who has resided in the state for less than 90 days and who lives independently in the community, the standard of assistance shall be 60 percent of the full standard. The full standard of assistance shall be available beginning the first day of either the month that

the 90 days' residency is completed if the 90th day occurs on or before the 15th of the month or the following month if the 90th day occurs on the 16th of the month or after. The 30-day residence period in section 256D.02, subdivision 12a, shall count toward the 90-day payment standard.

Sec. 13. Minnesota Statutes 2004, section 256D.06, subdivision 5, is amended to read:

Subd. 5. [ELIGIBILITY; REQUIREMENTS.] (a) Any applicant, otherwise eligible for general assistance and possibly eligible for maintenance benefits from any other source shall ~~(a) (1)~~ make application for those benefits within 30 days of the general assistance application; and ~~(b) (2)~~ execute an interim assistance ~~authorization~~ agreement on a form as directed by the commissioner.

(b) The commissioner shall review a denial of an application for other maintenance benefits and may require a recipient of general assistance to file an appeal of the denial if appropriate. If found eligible for benefits from other sources, and a payment received from another source relates to the period during which general assistance was also being received, the recipient shall be required to reimburse the county agency for the interim assistance paid. Reimbursement shall not exceed the amount of general assistance paid during the time period to which the other maintenance benefits apply and shall not exceed the state standard applicable to that time period.

~~(c) The commissioner shall adopt rules authorizing county agencies or other client representatives to retain from the amount recovered under an interim assistance agreement 25 percent plus actual reasonable fees, costs, and disbursements of appeals and litigation, of providing special assistance to the recipient in processing the recipient's claim for maintenance benefits from another source. The may contract with the county agencies, qualified agencies, organizations, or persons to provide advocacy and support services to process claims for federal disability benefits for applicants or recipients of services or benefits supervised by the commissioner using money retained under this section shall be from the state share of the recovery. The commissioner or the county agency may contract with qualified persons to provide the special assistance.~~

~~(d) The rules adopted by the commissioner shall include the may provide methods by which county agencies shall identify, refer, and assist recipients who may be eligible for benefits under federal programs for the disabled. This subdivision does not require repayment of per diem payments made to shelters for battered women pursuant to section 256D.05, subdivision 3.~~

~~(e) The total amount of interim assistance recoveries retained under this section for advocacy, support, and claim processing services shall not exceed 35 percent of the interim assistance recoveries in the prior fiscal year.~~

Sec. 14. Minnesota Statutes 2004, section 256D.06, subdivision 7, is amended to read:

Subd. 7. [SSI CONVERSIONS AND BACK CLAIMS.] (a) [SSI CONVERSIONS.] The commissioner of human services shall contract with agencies or organizations capable of ensuring that clients who are presently receiving assistance under sections 256D.01 to 256D.21, and who may be eligible for benefits under the federal Supplemental Security Income program, apply and, when eligible, are converted to the federal income assistance program and made eligible for health care benefits under the medical assistance program. The commissioner shall ensure that money owing to the state under interim assistance agreements is collected.

(b) [BACK CLAIMS FOR FEDERAL HEALTH CARE BENEFITS.] The commissioner shall also directly or through contract implement procedures for collecting federal Medicare and medical assistance funds for which clients converted to SSI are retroactively eligible.

(c) [ADDITIONAL REQUIREMENTS.] The commissioner shall ~~begin contracting contract~~ with agencies to ensure implementation of this section ~~within 14 days after April 29, 1992.~~ County contracts with providers for residential services shall include the requirement that providers screen residents who may be eligible for federal

benefits and provide that information to the local agency. The commissioner shall modify the MAXIS computer system to provide information on clients who have been on general assistance for two years or longer. The list of clients shall be provided to local services for screening under this section.

~~(d) [REPORT.] The commissioner shall report to the legislature by January 15, 1993, on the implementation of this section. The report shall contain information on the following:~~

- ~~(1) the number of clients converted from general assistance to SSI, by county;~~
- ~~(2) information on the organizations involved;~~
- ~~(3) the amount of money collected through interim assistance agreements;~~
- ~~(4) the amount of money collected in federal Medicare or Medicaid funds;~~
- ~~(5) problems encountered in processing conversions and back claims; and~~
- ~~(6) recommended changes to enhance recoveries and maximize the receipt of federal money in the most efficient way possible.~~

Sec. 15. Minnesota Statutes 2004, section 256I.05, subdivision 1e, is amended to read:

Subd. 1e. [SUPPLEMENTARY RATE FOR CERTAIN FACILITIES.] Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, ~~2001~~ 2005, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, ~~equal to 46 percent of the amount specified in subdivision 1a not to exceed \$700 per month~~, including any legislatively authorized inflationary adjustments, for a group residential housing provider that:

- (1) is located in Hennepin County and has had a group residential housing contract with the county since June 1996;
- (2) operates in three separate locations a ~~71-bed~~ 75-bed facility, a 50-bed facility, and ~~two 40-bed facilities a 26-bed facility~~; and
- (3) serves a chemically dependent clientele, providing 24 hours per day supervision and limiting a resident's maximum length of stay to 13 months out of a consecutive 24-month period.

Sec. 16. Minnesota Statutes 2004, section 256J.12, subdivision 1, is amended to read:

Subdivision 1. [SIMPLE RESIDENCY.] To be eligible for MFIP or DWP, an assistance unit must have established residency in this state which means the assistance unit is present in the state and intends to remain here. A person who lives in this state and who entered this state with a job commitment or to seek employment in this state, whether or not that person is currently employed, meets the criteria in this subdivision.

Sec. 17. Minnesota Statutes 2004, section 256J.12, is amended by adding a subdivision to read:

Subd. 5. [RESIDENCY REQUIREMENT FOR DWP APPLICANTS.] Assistance to an eligible DWP family unit in which all members have resided in this state for fewer than 90 consecutive days shall be paid at the standard specified in section 256J.95, subdivision 21. The 30-day residence period shall count toward the 90-day DWP residence requirement.

Sec. 18. Minnesota Statutes 2004, section 256J.37, subdivision 3a, is amended to read:

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

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

(1) age 60 or older;

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

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

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

(d) Prior to implementing this provision, the commissioner must identify the MFIP participants subject to this provision and provide written notice to these participants at least 30 days before the first grant reduction. The notice must inform the participant of the basis for the potential grant reduction, the exceptions to the provision, if any, and inform the participant of the steps necessary to claim an exception. A person who is found not to meet one of the exceptions to the provision must be notified and informed of the right to a fair hearing under section 256J.40. The notice must also inform the participant that the participant may be eligible for a rent reduction resulting from a reduction in the MFIP grant and encourage the participant to contact the local housing authority.

**[EFFECTIVE DATE.]** This section is effective the first day of the second month after the date of approval by the United States Department of Agriculture.

Sec. 19. Minnesota Statutes 2004, section 256J.515, is amended to read:

256J.515 [OVERVIEW OF EMPLOYMENT AND TRAINING SERVICES.]

During the first meeting with participants, job counselors must ensure that an overview of employment and training services is provided that:

(1) stresses the necessity and opportunity of immediate employment;

(2) outlines the job search resources offered;

(3) outlines education or training opportunities available;

(4) describes the range of work activities, including activities under section 256J.49, subdivision 13, clause (18), that are allowable under MFIP to meet the individual needs of participants;



- (5) explains the requirements to comply with an employment plan;
- (6) explains the consequences for failing to comply;
- (7) explains the services that are available to support job search and work and education; ~~and~~
- (8) provides referral information about shelters and programs for victims of family violence and the time limit exemption for family violence victims; and
- (9) explains the probationary employment periods new employees may serve after being hired and any assistance with job retention services that may be available.

Failure to attend the overview of employment and training services without good cause results in the imposition of a sanction under section 256J.46.

An applicant who requests and qualifies for a family violence waiver is exempt from attending a group overview. Information usually presented in an overview must be covered during the development of an employment plan under section 256J.521, subdivision 3.

Sec. 20. Minnesota Statutes 2004, 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 104-193;
- (5) median placement wage rate;
- (6) caseload by months of TANF assistance;
- (7) percent of MFIP and diversionary work program (DWP) 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 baseline 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. For purposes of measuring the self-support index, participants under section 256J.425, subdivisions 2 and 3, are excluded. The statistical methodology shall control differences across counties in economic conditions and demographics of the MFIP and DWP 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. For purposes of measuring the work participation rate, participants under sections 256J.425, subdivisions 2 and 3; and 256J.561, subdivision 2, paragraph (d), clauses (2) and (3), and subdivision 3, are excluded.

Sec. 21. Minnesota Statutes 2004, section 256J.95, is amended by adding a subdivision to read:

Subd. 21. [INTERSTATE PAYMENT STANDARDS.] (a) Effective July 1, 2005, the amount of assistance paid to an eligible DWP family unit in which all members have resided in this state for fewer than 90 consecutive days shall be calculated according to paragraph (b).

(b) Payment must be calculated by applying DWP budgeting policies, and the unit's net income must be deducted from the payment standard in the state of immediate prior residence or Minnesota, whichever is less. Payments shall be vendor paid according to subdivision 1, paragraph (d).

(c) The lesser payment must continue until the DWP family unit meets the 90-day residency requirement. A family unit that has not resided in Minnesota for 90 days is not exempt from the payment provisions solely because a child is born in Minnesota to a member of the family unit.

(d) Any eligible noncitizen who comes directly to Minnesota from another country, and whose United States Citizenship and Immigration Services (USCIS) settlement destination is Minnesota, will receive the amount calculated using DWP policy and standards. If the USCIS settlement destination is another state, apply the lesser of the payment standard for that size family in the state of immediate prior residence or the standards under DWP.

(e) The assistance unit shall be eligible for the full amount of assistance based on DWP standards beginning either the month during which the 90-day residency requirement is met, if the 90th day occurs on or before the 15th of the month, or the following month if the 90th day occurs on the 16th of the month or after.

(f) This policy applies whether or not the family unit received similar benefits while residing in the state of immediate prior residence.

(g) For the purposes of this section, "state of immediate prior residence" means the state in which the applicant declares the applicant spent the most time in the 30 days prior to moving to Minnesota.

(h) Applicants must provide verification of their state of immediate prior residence, in the form of tax statements, a driver's license, automobile registration, rent receipts, or other forms of verification approved by the commissioner.

Sec. 22. Minnesota Statutes 2004, section 256J.95, is amended by adding a subdivision to read:

Subd. 22. [TEMPORARY ABSENCE FROM MINNESOTA.] For an assistance unit that has met the 30-day residency requirements in section 256J.12, subdivisions 1 to 4, the 90-day period in subdivision 21 is not affected by a subsequent absence from Minnesota for fewer than 30 consecutive days, provided the family unit maintains a residence in Minnesota.

Sec. 23. Minnesota Statutes 2004, section 256J.95, is amended by adding a subdivision to read:

Subd. 23. [INELIGIBLE MANDATORY UNIT MEMBERS.] The 90-day residency requirement in subdivision 21 does not apply if the family unit includes an ineligible mandatory family unit member who has resided in Minnesota for 90 consecutive days immediately before the unit's date of application.

Sec. 24. [256K.26] [LONG-TERM HOMELESS SUPPORTIVE SERVICES.]

Subdivision 1. [ESTABLISHMENT AND PURPOSE.] The commissioner shall establish the long-term homeless supportive services fund to provide integrated services needed to stabilize individuals, families, and youth living in supportive housing developed to further the goals set forth in Laws 2003, chapter 128, article 15, section 9.

Subd. 2. [IMPLEMENTATION.] The commissioner, in consultation with the commissioners of the Department of Corrections and the Minnesota Housing Finance Agency, counties, providers and funders of supportive housing and services, shall develop application requirements and make funds available according to this section, with the goal of providing maximum flexibility in program design.

Subd. 3. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given:

(1) "long-term homelessness" means lacking a permanent place to live continuously for one year or more or at least four times in the past three years; and

(2) "household" means an individual, family, or unaccompanied minor experiencing long-term homelessness.

Subd. 4. [COUNTY ELIGIBILITY.] Counties are eligible for funding under this section. Priority will be given to proposals submitted on behalf of multicounty partnerships.

Subd. 5. [CONTENT OF PROPOSALS.] Proposals will be evaluated on the extent to which they:

(1) include partnerships with providers of services or other partners;

(2) develop strategies to enhance housing stability for people experiencing long-term homelessness by integrating services and establishing consistent services and procedures across jurisdictions as appropriate;

(3) evidence a commitment to working with the commissioners of human services, corrections, and the Housing Finance Agency to identify appropriate households to be served under this section and serve households as defined in subdivision 3. The commissioner may also set criteria for serving people at significant risk of experiencing long-term homelessness, with a priority on serving families with minor children;

(4) ensure that projects make maximum use of mainstream resources, including employment, social, and health services, and leverage additional public and private resources in order to serve the maximum number of households;

(5) demonstrate cost-effectiveness by identifying and prioritizing those services most necessary for housing stability; and

(6) evaluate and report on outcomes of the projects according to protocols developed by the commissioner of human services in cooperation with the commissioners of corrections and the Housing Finance Agency. Evaluation would include methods for determining the quality of the integrated service approach, improvement in outcomes, cost savings, or reduction in service disparities that may result.

Subd. 6. [OUTCOMES.] Projects will be selected to further the following outcomes:

(1) reduce the number of Minnesota individuals and families that experience long-term homelessness;

(2) increase the number of housing opportunities with supportive services;

(3) develop integrated, cost-effective service models that address the multiple barriers to obtaining housing stability faced by people experiencing long-term homelessness, including abuse, neglect, chemical dependency, disability, chronic health problems, or other factors including ethnicity and race that may result in poor outcomes or service disparities;

(4) encourage partnerships among counties, community agencies, schools, and other providers so that the service delivery system is seamless for people experiencing long-term homelessness;

(5) increase employability, self-sufficiency, and other social outcomes for individuals and families experiencing long-term homelessness; and

(6) reduce inappropriate use of emergency health care, shelter, chemical dependency, foster care, child protection, corrections, and similar services used by people experiencing long-term homelessness.

Subd. 7. [ELIGIBLE SERVICES.] Services eligible for funding under this section are all services needed to maintain households in permanent supportive housing, as determined by the county or counties administering the project or projects.

Subd. 8. [FAMILIES EXPERIENCING LONG-TERM HOMELESSNESS.] The commissioner, in consultation with the commissioners of housing finance and corrections, shall assess whether the definition of long-term homelessness impacts the ability of families with minor children experiencing homelessness to obtain services necessary to support housing stability.

Sec. 25. Minnesota Statutes 2004, section 260.835, is amended to read:

260.835 [AMERICAN INDIAN CHILD WELFARE ADVISORY COUNCIL.]

Subdivision 1. [CREATION.] The commissioner shall appoint an American Indian Advisory Council to help formulate policies and procedures relating to Indian child welfare services and to make recommendations regarding approval of grants provided under section 260.785, subdivisions 1, 2, and 3. The council shall consist of 17 members appointed by the commissioner and must include representatives of each of the 11 Minnesota reservations who are authorized by tribal resolution, one representative from the Duluth Urban Indian Community, three representatives from the Minneapolis Urban Indian Community, and two representatives from the St. Paul Urban Indian Community. Representatives from the urban Indian communities must be selected through an open appointments process under section 15.0597. The terms, compensation, and removal of American Indian Child Welfare Advisory Council members shall be as provided in section 15.059.

Subd. 2. [EXPIRATION.] Notwithstanding section 15.059, subdivision 5, the American Indian Child Welfare Advisory Council expires June 30, 2008.

[EFFECTIVE DATE.] This section is effective retroactively from June 30, 2003.

Sec. 26. [STUDY OF ECONOMIC IMPACT OF CHILD SUPPORT GUIDELINES.]

Subdivision 1. [STUDY.] The commissioner of human services shall employ a private provider of policy studies to conduct an economic analysis of the child support guidelines contained in this act to evaluate:

(1) whether the guidelines fairly represent the cost of raising children for the respective parental income levels, excluding medical support, child care, and education costs;

(2) whether the standards for medical support and child care costs fairly apportion those costs between the parents, after consideration of the respective tax benefits; and

(3) whether the guidelines fairly reflect each parent's ability to provide for basic housing needs.

The results of the study shall be completed by no later than January 30, 2006. The private provider must have experience in evaluating or establishing child support guidelines, using the income shares approach, in other states.

## Sec. 27. [REPEALER.]

(a) Laws 2003, First Special Session chapter 14, article 9, section 34, is repealed.

(b) Minnesota Statutes 2004, sections 119B.074 and 256D.54, subdivision 3, are repealed.

(c) Minnesota Rules, parts 9500.1254 and 9500.1256, are repealed.

## ARTICLE 6

## JOBS AND ECONOMIC DEVELOPMENT SUPPLEMENTAL APPROPRIATIONS

## Section 1. [JOBS AND ECONOMIC DEVELOPMENT SUPPLEMENTAL APPROPRIATIONS.]

The appropriations in this article are available after House File No. 1664 is passed by the house of representatives and are added to the appropriations in article 1.

The shown sums 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 "2006" and "2007," where used in this article, mean that the appropriation or appropriations listed under them are available for the fiscal year ending June 30, 2006, or June 30, 2007, respectively. The term "first year" means the fiscal year ending June 30, 2006, and the term "second year" means the fiscal year ending June 30, 2007.

## Sec. 2. EMPLOYMENT AND ECONOMIC DEVELOPMENT

Subdivision 1. Total Appropriation	\$2,921,000	\$2,921,000
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The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Workforce Partnerships	500,000	500,000
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\$500,000 the first year and \$500,000 the second year are for a grant under Minnesota Statutes, section 116J.8747, to Twin Cities RISE! to provide training to hard-to-train individuals.

Subd. 3. Workforce Services	2,421,000	2,421,000
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(a) \$1,600,000 the first year and \$1,600,000 the second year are for extended employment services for persons with severe disabilities or related conditions under Minnesota Statutes, section 268A.15.

(b) \$821,000 the first year and \$821,000 the second year are for grants for programs that provide employment support to persons with mental illness under Minnesota Statutes, sections 268A.13 and 268A.14. Up to \$43,000 each year may be used for administrative and salary expenses.

## Sec. 3. HOUSING FINANCE AGENCY

6,500,000

This appropriation is available in the second year and is for the economic development and housing challenge program under Minnesota Statutes, section 462A.33. This is a onetime appropriation and is not to be added to the department's base.

## ARTICLE 7

## HUMAN SERVICES SUPPLEMENTAL APPROPRIATIONS

## Section 1. [HUMAN SERVICES SUPPLEMENTAL APPROPRIATIONS.]

The appropriations in this article are available after House File No. 1664 is passed by the house of representatives and are added to the appropriations in article 3.

The shown sums 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 "2006" and "2007," where used in this article, mean that the appropriation or appropriations listed under them are available for the fiscal year ending June 30, 2006, or June 30, 2007, respectively. The term "first year" means the fiscal year ending June 30, 2006, and the term "second year" means the fiscal year ending June 30, 2007.

## Sec. 2. CHILDREN AND ECONOMIC ASSISTANCE GRANTS

Subdivision 1. Total Appropriation	\$1,403,000	\$1,255,000
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Subd. 2. Child Care Assistance Provider Reimbursement Rate Grant Program

\$1,403,000 the first year and \$1,255,000 the second year are appropriated from the general fund for the child care assistance provider reimbursement rate grant program under section 3. This is a onetime appropriation and is not to be added to the department's base.

## Sec. 3. [CHILD CARE ASSISTANCE PROVIDER REIMBURSEMENT RATE GRANT PROGRAM.]

Subdivision 1. [PURPOSE AND ESTABLISHMENT.] The commissioner of human services shall establish a child care assistance provider reimbursement rate grant program for the purpose of allowing certain providers to be reimbursed at rates above the 75th percentile of the market rate as established by the most current market rate survey under Minnesota Statutes, section 119B.13, and published by the Department of Human Services. These providers must be reimbursed at a rate more closely aligned with the actual cost of care in order to maintain child care capacity in nonmetropolitan areas of Minnesota. For purposes of this section, "nonmetropolitan" means all Minnesota counties with the exceptions of Anoka, Carver, Dakota, Hennepin, Olmsted, Ramsey, St. Louis, Scott, Stearns, and Washington.

Subd. 2. [PROVIDER ELIGIBILITY.] (a) A nonmetropolitan child care center providing legal child care services as defined under Minnesota Statutes, section 245A.03, is eligible for the grant program established under this section if the center or facility is limited to reimbursement at or less than \$160 per week for any age category, as published by the Department of Human Services, for services provided to families receiving child care assistance under Minnesota Statutes, chapter 119B.

(b) A nonmetropolitan licensed family child care home providing legal child care services as defined under Minnesota Statutes, section 245A.03, is eligible for the grant program established under this section if the individual is limited to reimbursement at or less than \$115 per week for any age category, as published by the Department of Human Services, for services provided to families receiving child care assistance under Minnesota Statutes, chapter 119B.

Subd. 3. [APPLICATION PROCEDURE.] Child care providers may apply to the commissioner of human services, or the commissioner's designee, for the child care assistance provider reimbursement rate grant program on the forms and according to the timelines established by the commissioner. The commissioner, or the commissioner's designee, has 30 calendar days from the date of receipt of an application to notify the applicant of the eligibility determination.

Subd. 4. [PROVIDER REIMBURSEMENT RATES.] Notwithstanding Minnesota Statutes, section 119B.13, subdivision 1, and Laws 2003, First Special Session chapter 14, article 9, section 34, and to the extent funds are available, the commissioner of human services shall reimburse child care providers who the commissioner or the commissioner's designee has determined eligible under subdivision 2, for care provided to families receiving child care assistance under Minnesota Statutes, chapter 119B, at a rate that is the lesser of (1) the rate charged to private pay families, or (2) the 100th percentile of the most current market rate survey. Notwithstanding any law or rule to the contrary, providers under this section may be reimbursed on a half-day basis. Grant program reimbursements to providers under this section may be made retroactive to the day following final enactment.

Subd. 5. [SUNSET DATE.] The grant program under this section sunsets on June 30, 2007.

## ARTICLE 8

### REGULATION OF SERVICE CONTRACTS

#### Section 1. [59B.01] [SCOPE AND PURPOSE.]

(a) The purpose of this chapter is to create a legal framework within which service contracts may be sold in this state.

(b) The following are exempt from this chapter:

(1) warranties;

(2) maintenance agreements;

(3) warranties, service contracts, or maintenance agreements offered by public utilities or their affiliates;

(4) service contracts sold or offered for sale to persons other than consumers;

(5) service contracts on tangible property where the tangible property for which the service contract is sold has a purchase price of \$250 or less exclusive of sales tax; and

(6) motor vehicle service contracts as defined in section 65B.29, subdivision 1, paragraph (1).

(c) The types of agreements referred to in paragraph (b) are not subject to chapters 60A to 79A, except as otherwise specifically provided by law.

Sec. 2. [59B.02] [DEFINITIONS.]

Subdivision 1. [TERMS.] For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. [ADMINISTRATOR.] "Administrator" means the person who is responsible for the administration of the service contracts or the service contracts plan or who is responsible for any filings required by this chapter.

Subd. 3. [COMMISSIONER.] "Commissioner" means the commissioner of commerce.

Subd. 4. [CONSUMER.] "Consumer" means a natural person who buys, other than for purposes of resale, any tangible personal property that is distributed in commerce and that is normally used for personal, family, or household purposes and not for business or research purposes.

Subd. 5. [MAINTENANCE AGREEMENT.] "Maintenance agreement" means a contract of limited duration that provides for scheduled maintenance only.

Subd. 6. [PERSON.] "Person" means an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal, syndicate, or any similar entity or combination of entities acting in concert.

Subd. 7. [PREMIUM.] "Premium" means the consideration paid to an insurer for a reimbursement insurance policy.

Subd. 8. [PROVIDER.] "Provider" means a person who is contractually obligated to the service contract holder under the terms of the service contract.

Subd. 9. [PROVIDER FEE.] "Provider fee" means the consideration paid for a service contract.

Subd. 10. [REIMBURSEMENT INSURANCE POLICY.] "Reimbursement insurance policy" means a policy of insurance issued to a provider to either provide reimbursement to the provider under the terms of the insured service contracts issued or sold by the provider or, in the event of the provider's nonperformance, to pay on behalf of the provider all covered contractual obligations incurred by the provider under the terms of the insured service contracts issued or sold by the provider.

Subd. 11. [SERVICE CONTRACT.] "Service contract" means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement, or maintenance of property or indemnification for repair, replacement, or maintenance, for the operational or structural failure due to a defect in materials, workmanship, or normal wear and tear, with or without additional provisions for incidental payment of indemnity under limited circumstances. Service contracts may provide for the repair, replacement, or maintenance of property for damage resulting from power surges and accidental damage from handling.

Subd. 12. [SERVICE CONTRACT HOLDER OR CONTRACT HOLDER.] "Service contract holder" or "contract holder" means a person who is the purchaser or holder of a service contract.

Subd. 13. [WARRANTY.] "Warranty" means a warranty made solely by the manufacturer, importer, or seller of property or services without consideration, that is not negotiated or separated from the sale of the product, and is incidental to the sale of the product, that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or other remedial measures, such as repair or replacement of the property or repetition of services.



Sec. 3. [59B.03] [REQUIREMENTS FOR TRANSACTING BUSINESS.]

Subdivision 1. [APPOINTMENT OF ADMINISTRATOR.] A provider may, but is not required to, appoint an administrator or other designee to be responsible for any or all of the administration of service contracts and compliance with this chapter.

Subd. 2. [CONTRACT COPIES AND RECEIPTS.] Service contracts must not be issued, sold, or offered for sale in this state unless the provider has:

- (1) provided a receipt for, or other written evidence of, the purchase of the service contract to the contract holder;
- (2) provided a copy of the service contract to the service contract holder within a reasonable period of time from the date of purchase; and
- (3) complied with this chapter.

Subd. 3. [REGISTRATION.] Each provider of service contracts sold in this state shall file a registration with the commissioner on a form prescribed by the commissioner. Each provider shall pay to the commissioner a fee in the amount of \$750 annually.

Subd. 4. [FINANCIAL REQUIREMENTS.] In order to ensure the faithful performance of a provider's obligations to its contract holders, each provider is responsible for complying with the requirements of one of the following:

(1) insure all service contracts under a reimbursement insurance policy issued by an insurer authorized to transact insurance in this state, a risk retention group, as that term is defined in United States Code, title 15, section 3901(A)(4), as long as that risk retention group is in full compliance with the federal Liability Risk Retention Act of 1986, United States Code, title 15, section 3901, et al., or issued pursuant to sections 60A.195 to 60A.209, and either:

(i) the insurer or risk retention group shall, at the time the policy is filed with the commissioner, and continuously thereafter, maintain surplus as to policyholders and paid-in capital of at least \$15,000,000, and annually file audited financial statements with the commissioner; or

(ii) the commissioner may authorize an insurer or risk retention group that has surplus as to policyholders and paid-in capital of less than \$15,000,000 but at least equal to \$10,000,000 to issue the insurance required by this section if the insurer or risk retention group demonstrates to the satisfaction of the commissioner that the company maintains a ratio of direct written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than 3 to 1; or

(2)(i) maintain a funded reserve account for obligations under contracts issued and outstanding in this state. The reserves must not be less than 40 percent of gross consideration received, less claims paid, on the sale of the service contract for all in-force contracts. The reserve account is subject to examination and review by the commissioner; and

(ii) place in trust with the commissioner a financial security deposit, having a value of not less than five percent of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than \$25,000, consisting of one of the following:

- (A) a surety bond issued by an authorized surety;

(B) securities of the type eligible for deposit by authorized insurers in this state;

(C) cash;

(D) a letter of credit issued by a qualified financial institution containing an evergreen clause which prevents the expiration of the letter without due notice from the issuer; or

(E) another form of security prescribed by rules of the commissioner; or

(3)(i) maintain, or its parent company maintain, a net worth or stockholders' equity of \$100,000,000; and

(ii) upon request, provide the commissioner with a copy of the provider's or the provider's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission (SEC) within the last calendar year, or if the company does not file with the SEC, a copy of the company's audited financial statements, which shows a net worth of the provider or its parent company of at least \$100,000,000. If the provider's parent company's Form 10-K, Form 20-F, or audited financial statements are filed to meet the provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the provider relating to service contracts sold by the provider in this state.

Subd. 5. [RIGHT OF RETURN.] Service contracts must require the provider to permit the service contract holder to return the service contract within 20 days of the date the service contract was mailed to the service contract holder or within ten days of delivery if the service contract is delivered to the service contract holder at the time of sale or within a longer time period permitted under the service contract. Upon return of the service contract to the provider within the applicable time period, if no claim has been made under the service contract before its return to the provider, the service contract is void and the provider shall refund to the service contract holder, or credit the account of the service contract holder, with the full purchase price of the service contract. The right to void the service contract provided in this paragraph is not transferable and applies only to the original service contract purchaser, and only if no claim has been made before its return to the provider. A ten percent penalty per month must be added to a refund that is not paid or credited within 45 days after return of the service contract to the provider.

Subd. 6. [PREMIUM TAXES.] (a) Provider fees collected on service contracts are not subject to premium taxes.

(b) Premiums for reimbursement insurance policies are subject to applicable taxes.

Subd. 7. [LICENSING EXEMPTION.] Except for the registration requirements in subdivision 3, providers and related service contract sellers, administrators, and other persons marketing, selling, or offering to sell service contracts are exempt from any licensing requirements of this state.

Subd. 8. [INSURANCE EXEMPTION.] The marketing, sale, offering for sale, issuance, making, proposing to make, and administration of service contracts by providers and related service contract sellers, administrators, and other persons are exempt from all other provisions of the insurance laws of this state, except as provided in section 72A.20, subdivision 38.

Sec. 4. [59B.04] [REQUIRED DISCLOSURES; REIMBURSEMENT INSURANCE POLICY.]

Subdivision 1. [RIGHT TO PAYMENT OR REIMBURSEMENT.] Reimbursement insurance policies insuring service contracts issued, sold, or offered for sale in this state shall state that the insurer that issued the reimbursement insurance policy shall either reimburse or pay on behalf of the provider any covered sums the provider is legally obligated to pay or, in the event of the provider's nonperformance, shall provide the service which the provider is legally obligated to perform according to the provider's contractual obligations under the service contracts issued or sold by the provider.

Subd. 2. [RIGHT TO APPLY TO COMPANY.] In the event covered service is not provided by the service contract provider within 60 days of proof of loss by the service contract holder, the contract holder is entitled to apply directly to the reimbursement insurance company.

Sec. 5. [59B.05] [REQUIRED DISCLOSURE; SERVICE CONTRACTS.]

Subdivision 1. [READABILITY AND GENERAL DISCLOSURE.] Service contracts marketed, sold, offered for sale, issued, made, proposed to be made, or administered in this state must be written, printed, or typed in clear, understandable language that is easy to read and must disclose the requirements set forth in this section, as applicable.

Subd. 2. [IDENTITIES OF PARTIES.] Service contracts must state the name and address of the provider, and must identify any administrator if different from the provider, the service contract seller, and the service contract holder to the extent that the name of the service contract holder has been furnished by the service contract holder. The identities of the parties are not required to be preprinted on the service contract and may be added to the service contract at the time of sale.

Subd. 3. [TOTAL PURCHASE PRICE AND SALES TERMS.] Service contracts must state the total purchase price and the terms under which the service contract is sold. The purchase price is not required to be preprinted on the service contract and may be negotiated at the time of sale with the service contract holder.

Subd. 4. [DEDUCTIBLES.] Service contracts must state the existence of any deductible amount, if applicable.

Subd. 5. [COVERAGES, LIMITATIONS, AND EXCLUSIONS.] No particular causes of loss or property are required to be covered, but service contracts must specify the merchandise and services to be provided and, with equal prominence, any limitations, exceptions, or exclusions including, but not limited to, any damage or breakdown not covered by the service contract.

Subd. 6. [RESTRICTIONS ON TRANSFERABILITY.] Service contracts must state any restrictions governing the transferability of the service contract, if applicable.

Subd. 7. [CANCELLATION TERMS.] Service contracts must state the terms, restrictions, or conditions governing cancellation of the service contract prior to the termination or expiration date of the service contract by either the provider or the service contract holder. The provider of the service contract shall mail a written notice to the contract holder at the last known address of the service contract holder contained in the records of the provider at least 15 days before cancellation by the provider. Five days' notice is required if the reason for cancellation is nonpayment of the provider fee, a material misrepresentation by the service contract holder to the provider, or a substantial breach of duties by the service contract holder relating to the covered product or its use. The notice must state the effective date of the cancellation and the reason for the cancellation.

Subd. 8. [DUTIES OF CONTRACT HOLDER.] Service contracts must set forth all of the obligations and duties of the service contract holder, such as the duty to protect against any further damage and any requirement to follow the owner's manual.

Subd. 9. [EXCLUSIONS; CONSEQUENTIAL DAMAGES AND PREEXISTING CONDITIONS.] Service contracts may exclude coverage for consequential damages or preexisting conditions. These exclusions, if applicable, must be stated in the contract.

Sec. 6. [59B.06] [ADDITIONAL REQUIRED DISCLOSURE; SERVICE CONTRACTS.]

Subdivision 1. [INSURANCE DISCLOSURE.] Service contracts insured under a reimbursement insurance policy pursuant to section 59B.03, subdivision 4, clause (1), must contain a statement in substantially the following form: "Obligations of the provider under this service contract are insured under a service contract reimbursement insurance policy." The service contract must also state the name and address of the insurer.

Subd. 2. [DISCLOSURE OF NO INSURANCE.] Service contracts not insured under a reimbursement insurance policy pursuant to section 59B.03, subdivision 4, clause (1), must contain a statement in substantially the following form: "Obligations of the provider under this service contract are backed by the full faith and credit of the provider."

Sec. 7. [59B.07] [PROHIBITED ACTS.]

Subdivision 1. [DECEPTIVE NAMES.] A provider shall not use in its name the words insurance, casualty, surety, mutual, or any other words descriptive of the insurance, casualty, or surety business; or a name deceptively similar to the name or description of any insurance or surety corporation, or to the name of any other provider. The word "guaranty" or similar word may be used by a provider. This section does not apply to a company that was using any of the prohibited language in its name before the effective date of this chapter. However, a company using the prohibited language in its name shall include in its service contracts a statement in substantially the following form: "This agreement is not an insurance contract."

Subd. 2. [FALSE OR MISLEADING STATEMENTS.] A provider or its representative shall not in its service contracts, literature, or otherwise make, permit, or cause to be made any false or misleading statement or omit any material statement that would be considered misleading if omitted.

Subd. 3. [REQUIRED PURCHASE.] A person, such as a bank, savings association, lending institution, manufacturer, or seller of any product shall not require the purchase of a service contract as a condition of a loan or a condition for the sale of any property.

Sec. 8. [59B.08] [RECORD-KEEPING REQUIREMENTS.]

Subdivision 1. [GENERALLY.] The provider shall keep accurate accounts, books, and records concerning transactions regulated under this chapter.

The provider's accounts, books, and records include the following:

- (1) copies of each type of service contracts sold;
- (2) the name and address of each service contract holder to the extent that the name and address have been furnished by the service contract holder;
- (3) a list of the locations where service contracts are marketed, sold, or offered for sale; and
- (4) written claims files which shall contain sufficient information for the commissioner to ascertain whether a claim has been adjusted in conformity with the terms of the service contract, including at least the dates and description of claims related to the service contracts.

Subd. 2. [RETENTION.] (a) Except as provided in paragraph (b), the provider shall retain all records required to be maintained by this section for at least three years after the specified period of coverage has expired.

(b) A provider discontinuing business in this state shall maintain its records until it furnishes the commissioner satisfactory proof that it has discharged all obligations to contract holders in this state.

Subd. 3. [MEDIUM.] The records required by this chapter may be, but are not required to be, maintained on a computer disk or other record-keeping technology. If the records are maintained in other than hard copy, the records must be capable of duplication to legible hard copy at the request of the commissioner.

Sec. 9. [59B.09] [TERMINATION OF REIMBURSEMENT INSURANCE POLICY.]

An insurer that issued a reimbursement insurance policy may not terminate the policy unless the insurer mails or delivers written notice of the termination to the commissioner at least 30 days before the effective date of termination. The termination of a reimbursement insurance policy does not reduce the issuer's responsibility for service contracts issued by providers before the date of the termination.

Sec. 10. [59B.10] [OBLIGATION OF REIMBURSEMENT INSURANCE POLICY INSURERS.]

Insurers issuing reimbursement insurance to providers are deemed to have received the premiums for the insurance upon the payment of provider fees by consumers for service contracts issued by the insured providers.

Nothing in this chapter prevents or limits the right of an insurer which issued a reimbursement insurance policy to seek indemnification or subrogation against a provider if the issuer pays or is obligated to pay the service contract holder sums that the provider was obligated to pay pursuant to the provisions of the service contract.

Sec. 11. [59B.11] [SEVERABILITY PROVISION.]

If any provision of this chapter or the application of the provision to any person or circumstances are held invalid, the remainder of this chapter and the application of the provision to person or circumstances other than those as to which it is held invalid, must not be affected.

Sec. 12. Minnesota Statutes 2004, section 72A.20, is amended by adding a subdivision to read:

Subd. 38. [UNFAIR CLAIMS SERVICE; SERVICE CONTRACTS.] No person shall, in connection with a service contract regulated under chapter 59B:

(1) attempt to settle claims on the basis of an application or any other material document which was altered without notice to, or knowledge or consent of, the service contract holder;

(2) make a material misrepresentation to the warranty holder for the purpose and with the intent of effecting settlement of the claims, loss, or damage under the contract on less favorable terms than those provided in, and contemplated by, the contract; or

(3) commit or perform with such frequency as to indicate a general business practice any of the following practices:

(i) failure to properly investigate claims;

(ii) misrepresentation of pertinent facts or contract provisions relating to coverages at issue;

(iii) failure to acknowledge and act upon communications within a reasonable time with respect to claims;

(iv) denial of claims without conducting reasonable investigations based upon available information;

(v) failure to affirm or deny coverage of claims upon written request of the warranty holder within a reasonable time after proof-of-loss statements have been completed; or

(vi) failure to timely provide a reasonable explanation to the warranty holder of the basis in the contract in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

Sec. 13. [EFFECTIVE DATE.]

Sections 1 to 12 are effective January 1, 2006, and apply to service contracts issued on or after that date. A provider transacting business in this state on or before the date of the enactment of this chapter, which submits an application for registration as a provider under Minnesota Statutes, section 59B.03, subdivision 3, within 30 days after the commissioner makes the application available, may continue to transact business in this state until final agency action is taken by the commissioner regarding the registration application and all rights to administrative and judicial review related to that final agency action have been exhausted or have expired.

## ARTICLE 9

### SUPPLEMENTAL APPROPRIATIONS

Section 1. [SUPPLEMENTAL APPROPRIATIONS.]

The provisions in this article are effective after H. F. No. 2427 is passed by the house of representatives and are added to the appropriations in article 3.

Sec. 2. [AMENDMENT.]

H. F. No. 2427 is amended on page 2, line 5, by deleting ".00014" and inserting ".000112"

Sec. 3. Minnesota Statutes 2004, section 256K.35, is amended by adding a subdivision to read:

Subd. 5. [APPROPRIATION.] An amount equal to the proceeds of the deed tax under section 287.21, subdivision 1, paragraph (b), clause (3), on .000028 of the net consideration is appropriated from the general fund to the commissioner of human services for at risk youth out-of-wedlock pregnancy prevention grants under this section. A minimum of 35 percent of these grant funds must be awarded to eligible applicants located outside of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties."

Delete the title and insert:

"A bill for an act relating to state government; appropriating money for jobs, economic development, and human services purposes; establishing and modifying certain programs; providing for accounts, assessments and fees; making changes to programs for children and families; amending Minnesota Statutes 2004, sections 41A.09, subdivision 2a; 60A.14, subdivision 1; 60K.55, subdivision 2; 72A.20, by adding a subdivision; 72B.04, subdivision 10; 82B.09, subdivision 1; 115C.07, subdivision 3; 115C.09, subdivision 3h; 115C.13; 116C.779, subdivision 2; 116J.551, subdivision 1; 116J.571; 116J.572; 116J.574; 116J.575, as amended; 116J.63, subdivision 2; 116J.8731, subdivision 5; 116J.8747, subdivision 2; 116J.994, subdivisions 7, 9; 116L.03, subdivision 2; 116L.05, by adding a subdivision; 116L.17, subdivision 1; 116L.20, subdivision 2; 119B.02, by adding a subdivision; 119B.13, subdivision 1, by adding a subdivision; 183.41, by adding a subdivision; 183.411, subdivisions 2a, 3; 183.42; 183.44, subdivision 1; 183.51, subdivision 2, by adding a subdivision; 183.545; 183.57; 216C.41, subdivisions 2, 5, 5a; 237.11; 237.295, subdivisions 1, 2; 239.011, subdivision 2; 239.05, subdivision 10b, by adding a subdivision; 239.09; 239.101, subdivision 3; 239.75, subdivisions 1, 5; 239.761; 239.77, by adding a subdivision; 239.79, subdivision 4; 239.791, subdivisions 1, 7, 8, 15; 239.792; 245A.10, subdivision 4; 254A.035, subdivision 2;

254A.04; 256.01, by adding subdivisions; 256.741, subdivision 4; 256B.0924, subdivision 3; 256B.093, subdivision 1; 256D.06, subdivisions 5, 7, by adding a subdivision; 256I.05, subdivision 1e; 256J.12, subdivision 1, by adding a subdivision; 256J.37, subdivision 3a; 256J.515; 256J.751, subdivision 2; 256J.95, by adding subdivisions; 256K.35, by adding a subdivision; 260.835; 268.19, subdivision 1; 296A.01, subdivisions 2, 7, 8, 14, 19, 20, 22, 23, 24, 25, 26, 28; 298.22, by adding a subdivision; 326.975, subdivision 1; 345.47, subdivisions 3, 3a; 373.40, subdivisions 1, 3; 462A.05, subdivision 3a; 462A.33, subdivision 2; 517.08, subdivisions 1b, 1c; Laws 1999, chapter 224, section 7, as amended; proposing coding for new law in Minnesota Statutes, chapters 45; 116L; 237; 256K; 325F; proposing coding for new law as Minnesota Statutes, chapter 59B; repealing Minnesota Statutes 2004, sections 45.0295; 116J.573; 116J.58, subdivision 3; 116L.05, subdivision 4; 119B.074; 239.05, subdivisions 6a, 6b; 256D.54, subdivision 3; 462C.15; Laws 2003, First Special Session chapter 14, article 9, section 34; Minnesota Rules, parts 9500.1254; 9500.1256."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

## **SECOND READING OF HOUSE BILLS**

H. F. No. 944 was read for the second time.

## **SECOND READING OF SENATE BILLS**

S. F. Nos. 493 and 1335 were read for the second time.

## **INTRODUCTION AND FIRST READING OF HOUSE BILLS**

The following House Files were introduced:

Rukavina and Sertich introduced:

H. F. No. 2478, A bill for an act relating to the town of White and the city of Biwabik; authorizing general obligations of the town of White.

The bill was read for the first time and referred to the Committee on Taxes.

Johnson, R.; Finstad and Dorn introduced:

H. F. No. 2479, A bill for an act relating to taxation; providing a temporary increase in the levy limit for the Region Nine Regional Development Commission.

The bill was read for the first time and referred to the Committee on Taxes.

Finstad, Urdahl, Sviggum, Sertich and Lillie introduced:

H. F. No. 2480, A bill for an act relating to state and local government operations; providing a process for developing a new baseball stadium; establishing a metropolitan stadium authority; providing for the membership and powers of the authority; authorizing the Metropolitan Council to issue bonds; providing powers of the host communities; proposing coding for new law in Minnesota Statutes, chapter 473; repealing Minnesota Statutes 2004, sections 473I.01; 473I.02; 473I.03; 473I.04; 473I.05; 473I.06; 473I.07; 473I.08; 473I.09; 473I.10; 473I.11; 473I.12; 473I.13.

The bill was read for the first time and referred to the Committee on Governmental Operations and Veterans Affairs.

Erhardt; Larson; Cox; Hornstein; Tingelstad; Samuelson; Peterson, N.; Beard; Hausman; Lieder and Abeler introduced:

H. F. No. 2481, A bill for an act relating to transportation; increasing motor fuel tax rates; changing vehicle registration tax; revising county state-aid fund distribution formula; authorizing local wheelage taxes; providing for deposit of revenues from wheelage tax and motor vehicle sales tax; authorizing issuance of \$1,000,000,000 in state trunk highway bonds; proposing constitutional amendment for dedication of motor vehicle sales tax revenues for transportation; appropriating money; amending Minnesota Statutes 2004, sections 162.07, subdivision 1, by adding subdivisions; 163.051; 168.013, subdivision 1a; 296A.07, subdivision 3; 296A.08, subdivision 2; 297A.94; 297B.09, subdivision 1.

The bill was read for the first time and referred to the Committee on Transportation Finance.

Gunther, for the Committee on Jobs and Economic Opportunity Policy and Finance, introduced:

H. F. No. 2482, A bill for an act relating to gambling; providing for operation of lottery gaming machines and the conduct of other nonlottery games at a gaming facility; licensing and regulating the gaming facility; imposing a gaming transaction fee on gaming at the gaming facility; appropriating money; amending Minnesota Statutes 2004, sections 240.13, by adding a subdivision; 240.135; 240.30, subdivision 1; 299L.07, subdivisions 2, 2a; 340A.410, subdivision 5; 349A.01, subdivision 10, by adding subdivisions; 349A.04; 349A.10, subdivisions 3, 6; 349A.13; 541.20; 541.21; 609.75, subdivision 3; 609.761, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 16A; 299L; 349A.

The bill was read for the first time and referred to the Committee on Ways and Means.

## MESSAGES FROM THE SENATE

The following message was received from the Senate:

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 1116.



The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 1116

A bill for an act relating to natural resources; requiring lifejackets for children aboard watercraft; amending Minnesota Statutes 2004, section 86B.501, by adding a subdivision.

April 4, 2005

The Honorable James P. Metzen  
President of the Senate

The Honorable Steve Sviggum  
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 1116, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 1116 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 86B.501, is amended by adding a subdivision to read:

Subd. 3. [GRANT ALLEN LAW; LIFEJACKET REQUIRED FOR CHILDREN.] (a) No person may operate a watercraft under way with a child under ten years of age aboard unless the child is:

(1) wearing an appropriate personal flotation device approved under subdivision 1; or

(2) below the top deck or in an enclosed cabin.

(b) Paragraph (a) does not apply to commercial watercraft where the child is a passenger and the operator is licensed by the state of Minnesota or the United States Coast Guard to carry passengers for hire. Paragraph (a) also does not apply if the watercraft is anchored for the purpose of swimming or diving.

(c) A first violation of this subdivision prior to May 1, 2006, shall not result in a penalty, but is punishable only by a safety warning.

(d) Any violation other than a violation addressed in paragraph (c) is to be considered a petty misdemeanor.

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

We request adoption of this report and repassage of the bill.

Senate Conferees: SATVEER CHAUDHARY, DENNIS R. FREDERICKSON AND JOHN C. HOTTINGER.

House Conferees: CHARLOTTE SAMUELSON, TOM HACKBARTH AND DAVID DILL.

Samuelson moved that the report of the Conference Committee on S. F. No. 1116 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 1116, A bill for an act relating to natural resources; requiring lifejackets for children aboard watercraft; amending Minnesota Statutes 2004, section 86B.501, by adding a subdivision.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 102 yeas and 28 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Hackbarth	Lanning	Nornes	Severson
Abrams	Dempsey	Hansen	Larson	Opatz	Sieben
Anderson, I.	Dittrich	Hausman	Latz	Otremba	Simon
Atkins	Dorman	Hilstrom	Lenczewski	Paymar	Simpson
Beard	Dorn	Hornstein	Liebling	Pelowski	Slawik
Bernardy	Eastlund	Hortman	Lieder	Penas	Soderstrom
Blaine	Eken	Hosch	Lillie	Peterson, A.	Solberg
Bradley	Ellison	Howes	Loeffler	Peterson, N.	Thissen
Brod	Emmer	Huntley	Mahoney	Peterson, S.	Tingelstad
Carlson	Entenza	Johnson, R.	Mariani	Poppe	Urdahl
Charron	Erhardt	Johnson, S.	McNamara	Powell	Wagenius
Clark	Fritz	Juhnke	Meslow	Ruth	Walker
Cornish	Garofalo	Kahn	Moe	Ruud	Wardlow
Cox	Gazelka	Kelliher	Mullery	Sailer	Welti
Cybart	Goodwin	Klinzing	Murphy	Samuelson	Westerberg
Davnie	Greiling	Knoblauch	Nelson, M.	Scalze	Zellers
Dean	Gunther	Koenen	Newman	Sertich	Spk. Sviggum

Those who voted in the negative were:

Anderson, B.	Erickson	Hoppe	Magnus	Rukavina	Vandever
Buesgens	Finstad	Johnson, J.	Marquart	Seifert	Westrom
Davids	Hamilton	Kohls	Olson	Smith	Wilkin
DeLaForest	Heidgerken	Krinkie	Paulsen	Sykora	
Dill	Holberg	Lesch	Peppin	Thao	

The bill was repassed, as amended by Conference, and its title agreed to.

### CONSENT CALENDAR

S. F. No. 244, A bill for an act relating to education; providing for consecutive teaching experience for a teacher whose probationary employment is interrupted by military service; amending Minnesota Statutes 2004, section 122A.40, subdivision 5.

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 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

#### 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 Supplemental Calendar for the Day for Tuesday, April 26, 2005:

H. F. No. 1333; S. F. No. 180; H. F. Nos. 1692, 473, 68, 894 and 436; S. F. No. 1841; H. F. Nos. 731 and 1595; S. F. No. 4; H. F. Nos. 1915, 1555, 1389, 419, 1164, 1461 and 2035; S. F. Nos. 879 and 1016; H. F. Nos. 604 and 1939; S. F. No 493; and H. F. No. 949.

#### CALENDAR FOR THE DAY

S. F. No. 453, A bill for an act relating to auctioneers; modifying auctioneer license numbering requirements for county auditors; amending Minnesota Statutes 2004, sections 330.01, subdivision 1; 330.08.

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 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

H. F. No. 1333, A bill for an act relating to local government; permitting the city of Wabasha to establish a port authority commission; proposing coding for new law in Minnesota Statutes, chapter 469.

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 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Cornish	Eken	Hamilton	Johnson, R.	Lesch
Abrams	Cox	Ellison	Hansen	Johnson, S.	Liebling
Anderson, B.	Cybart	Emmer	Hausman	Juhnke	Lieder
Anderson, I.	Davids	Entenza	Heidgerken	Kahn	Lillie
Atkins	Davnie	Erhardt	Hilstrom	Kelliher	Loeffler
Beard	Dean	Erickson	Holberg	Klinzing	Magnus
Bernardy	DeLaForest	Finstad	Hoppe	Knoblach	Mahoney
Blaine	Demmer	Fritz	Hornstein	Koenen	Mariani
Bradley	Dempsey	Garofalo	Hortman	Kohls	Marquart
Brod	Dill	Gazelka	Hosch	Krinkie	McNamara
Buesgens	Dittrich	Goodwin	Howes	Lanning	Meslow
Carlson	Dorman	Greiling	Huntley	Larson	Moe
Charron	Dorn	Gunther	Jaros	Latz	Mullery
Clark	Eastlund	Hackbarth	Johnson, J.	Lenczewski	Murphy

Nelson, M.	Pelowski	Rukavina	Severson	Sykora	Wardlow
Newman	Penas	Ruth	Sieben	Thao	Welti
Nornes	Peppin	Ruud	Simon	Thissen	Westerberg
Olson	Peterson, A.	Sailer	Simpson	Tingelstad	Westrom
Opatz	Peterson, N.	Samuelson	Slawik	Urdahl	Wilkin
Otremba	Peterson, S.	Scalze	Smith	Vandever	Zellers
Paulsen	Poppe	Seifert	Soderstrom	Wagenius	Spk. Sviggum
Paymar	Powell	Sertich	Solberg	Walker	

The bill was passed and its title agreed to.

The Speaker called Kelliher to the Chair.

S. F. No. 180, A bill for an act relating to education; providing for parent discretion in classroom placement of children of multiple birth; proposing coding for new law in Minnesota Statutes, chapter 120A.

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

The bill was passed and its title agreed to.

H. F. No. 1915 was reported to the House.

The Speaker resumed the Chair.

Zellers and Peppin moved to amend H. F. No. 1915, the first engrossment, as follows:

Page 4, line 21, after "Robbinsdale" insert ", and including the addition of 180 new hospital beds beginning in 2010."

Page 4, line 29, after "hospital" insert "except as provided in this clause (19)"

The motion prevailed and the amendment was adopted.

Howes; Simon; Thissen; Peterson, N.; Beard; Davids; Huntley; Erickson; Erhardt; Slawik; Sykora and Tingelstad moved to amend H. F. No. 1915, the first engrossment, as amended, as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, 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;

(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. Beds constructed under this clause shall not be eligible for reimbursement under medical assistance, general assistance medical care, or MinnesotaCare;

(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;

(17) a project involving the addition of 14 new hospital beds to be used for rehabilitation services in an existing hospital in Itasca County; ~~or~~

(18) a project to add 20 licensed beds in existing space at a hospital in Hennepin County that closed 20 rehabilitation beds in 2002, provided that the beds are used only for rehabilitation in the hospital's current rehabilitation building. If the beds are used for another purpose or moved to another location, the hospital's licensed capacity is reduced by 20 beds; or

(19) a project involving the establishment of a new hospital in the city of Maple Grove by an existing hospital that relocates or redistributes beds from its current site or adds new licensed beds, provided that the project applicant demonstrates to the satisfaction of the commissioner the ability of the project applicant to meet the following criteria:

(i) it will have a significant commitment to providing uncompensated care, including discounts for uninsured patients, coordination with community health centers and other providers of care to low-income uninsured persons, and coordination with other hospitals providing uncompensated care and serving public program recipients;

(ii) it will provide a full continuum of behavioral health services, including mental health services for children and adolescents and alternatives to inpatient care;

(iii) it will have an electronic medical records system and a commitment to invest in information technology improvements;

(iv) it will be a site for workforce development for a broad spectrum of health-care-related occupations and have a significant commitment to providing clinical training programs for physicians and other health care providers, including, but not limited to, obstetrics and gynecology, pediatrics, psychiatry, and pediatric psychiatry, in coordination with other medical education training programs in the state;

(v) it will coordinate with other health care providers to reduce the duplication of high-cost services and technology; and

(vi) it will provide a broad range of senior services to enable seniors to remain living in the community.

The exception under this clause is available for the establishment of only one new hospital. Between June 30, 2005, and August 30, 2005, an entity that has a plan for such a hospital that has been previously determined by the commissioner to be in the public interest according to section 144.552 and desires to establish a new hospital must submit to the commissioner an application for an exception under this clause. The application must contain the plan, a true copy of the commissioner's determination, any additional relevant evidence not contained in the plan that is supportive of the application, and evidence of compliance with the criteria specified in this clause.

When submitting a plan to the commissioner for approval, an applicant must pay the commissioner for the commissioner's cost of reviewing the plan, as determined by the commissioner and notwithstanding section 16A.1283. Money received by the commissioner under this section is appropriated to the commissioner for the purpose of administering this section.

The commissioner shall review each application to determine compliance with the criteria. If the commissioner determines an application complies with the criteria, the commissioner shall issue an order approving an application by October 30, 2005."

Delete the title and insert:

"A bill for an act relating to health; providing an exception to the hospital construction moratorium; appropriating money; amending Minnesota Statutes 2004, section 144.551, subdivision 1."



A roll call was requested and properly seconded.

The Speaker called Abrams to the Chair.

The question was taken on the Howes et al amendment and the roll was called.

Pursuant to rule 2.05, Ruud requested that she be excused from voting on the Howes et al amendment to H. F. No. 1915, the first engrossment, as amended. The request was granted by the Speaker.

There were 61 yeas and 70 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Entenza	Jaros	Liebling	Peterson, A.	Sykora
Atkins	Erhardt	Johnson, R.	Lieder	Peterson, N.	Thissen
Beard	Erickson	Johnson, S.	Lillie	Poppe	Tingelstad
Clark	Fritz	Kahn	Mahoney	Scalze	Vandever
Davids	Goodwin	Kelliher	Mariani	Sertich	Walker
Davnie	Greiling	Koenen	Moe	Sieben	Walti
Dempsey	Hansen	Krinkie	Murphy	Simon	
Dill	Hornstein	Larson	Opatz	Slawik	
Dorn	Hosch	Latz	Paulsen	Smith	
Eken	Howes	Lenczewski	Paymar	Soderstrom	
Emmer	Huntley	Lesch	Pelowski	Solberg	

Those who voted in the negative were:

Abeler	Cybart	Hackbarth	Knoblach	Olson	Simpson
Abrams	Dean	Hamilton	Kohls	Otremba	Thao
Anderson, B.	DeLaForest	Hausman	Lanning	Penas	Urdahl
Bernardy	Demmer	Heidgerken	Loeffler	Peppin	Wagenius
Blaine	Dittrich	Hilstrom	Magnus	Peterson, S.	Wardlow
Bradley	Dorman	Hilty	Marquart	Powell	Westerberg
Brod	Eastlund	Holberg	McNamara	Rukavina	Westrom
Buesgens	Ellison	Hoppe	Meslow	Ruth	Wilkin
Carlson	Finstad	Hortman	Mullery	Sailer	Zellers
Charron	Garofalo	Johnson, J.	Nelson, M.	Samuelson	Spk. Sviggum
Cornish	Gazelka	Juhnke	Newman	Seifert	
Cox	Gunther	Klinzing	Nornes	Severson	

The motion did not prevail and the amendment was not adopted.

Westrom and Beard moved to amend H. F. No. 1915, the first engrossment, as amended, as follows:

Pages 1 to 4, delete section 1 and insert:

"Section 1. [REPEALER.]

Minnesota Statutes, section 144.551, is repealed."

Amend the title accordingly

The motion did not prevail and the amendment was not adopted.

H. F. No. 1915, A bill for an act relating to health; providing an exception to the hospital construction moratorium; amending Minnesota Statutes 2004, section 144.551, subdivision 1.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called.

Pursuant to rule 2.05, the Speaker excused Ruud from voting on final passage of H. F. No. 1915, the first engrossment, as amended.

There were 126 yeas and 5 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Dempsey	Howes	Huntley	Jaros	Opatz
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The bill was passed, as amended, 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

Goodwin moved that the name of Hansen be added as an author on H. F. No. 420. The motion prevailed.

Bradley moved that the name of Cybart be added as an author on H. F. No. 619. The motion prevailed.

Clark moved that the name of Sailer be added as an author on H. F. No. 655. The motion prevailed.

Hansen moved that the name of Hortman be added as an author on H. F. No. 730. The motion prevailed.

Sykora moved that the names of Newman, Buesgens, Demmer, Heidgerken, Erickson, Klinzing and Meslow be added as authors on H. F. No. 872. The motion prevailed.

Beard moved that the name of Welti be added as an author on H. F. No. 914. The motion prevailed.

Larson moved that the name of Hansen be added as an author on H. F. No. 1796. The motion prevailed.

Simpson moved that his name be stricken as an author on H. F. No. 1890. The motion prevailed.

Larson moved that the name of Hansen be added as an author on H. F. No. 2174. The motion prevailed.

Larson moved that the name of Hansen be added as an author on H. F. No. 2377. The motion prevailed.

Meslow moved that the name of Tingelstad be added as an author on H. F. No. 2465. The motion prevailed.

The Speaker resumed the Chair.

Holberg moved that H. F. No. 2461 be recalled from the Committee on Taxes and be re-referred to the Committee on Capital Investment. The motion prevailed.

Lenczewski moved that H. F. No. 2482 be recalled from the Committee on Ways and Means and be re-referred to the Committee on Taxes.

A roll call was requested and properly seconded.

The question was taken on the Lenczewski motion and the roll was called. There were 79 yeas and 53 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Carlson	DeLaForest	Dorman	Erhardt	Hansen
Anderson, I.	Clark	Dempsey	Dorn	Fritz	Hausman
Atkins	Davnie	Dill	Ellison	Goodwin	Hilstrom
Bernardy	Dean	Dittrich	Entenza	Greiling	Hilty

Holberg	Kahn	Lillie	Opatz	Ruud	Thissen
Hornstein	Kelliher	Loeffler	Otremba	Sailer	Vandever
Hortman	Koenen	Mahoney	Paymar	Scalze	Wagenius
Hosch	Krinkie	Mariani	Pelowski	Sertich	Walker
Howes	Larson	Marquart	Penas	Sieben	Walti
Huntley	Latz	Moe	Peterson, A.	Simon	
Jaros	Lenczewski	Mullery	Peterson, N.	Slawik	
Johnson, R.	Lesch	Murphy	Peterson, S.	Soderstrom	
Johnson, S.	Liebling	Nelson, M.	Poppe	Solberg	
Juhnke	Lieder	Olson	Rukavina	Thao	

Those who voted in the negative were:

Abeler	Cox	Garofalo	Knoblach	Peppin	Tingelstad
Abrams	Cybart	Gazelka	Kohls	Powell	Urdahl
Beard	Davids	Gunther	Lanning	Ruth	Wardlow
Blaine	Demmer	Hackbarth	Magnus	Samuelson	Westerberg
Bradley	Eastlund	Hamilton	McNamara	Seifert	Westrom
Brod	Eken	Heidgerken	Meslow	Severson	Wilkin
Buesgens	Emmer	Hoppe	Newman	Simpson	Zellers
Charron	Erickson	Johnson, J.	Nornes	Smith	Spk. Sviggum
Cornish	Finstad	Klinzing	Paulsen	Sykora	

The motion prevailed and H. F. No. 2482 was recalled from the Committee on Ways and Means and re-referred to the Committee on Taxes.

#### ADJOURNMENT

Paulsen moved that when the House adjourns today it adjourn until 12:00 noon, Wednesday, April 27, 2005. The motion prevailed.

Paulsen moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 12:00 noon, Wednesday, April 27, 2005.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives