


1 Senator Cohen from the Committee on Finance, to which was
2 re-referred

3 S.F. No. 1710: A bill for an act relating to human
4 services; implementing child protection, child care, and child
5 and family support provisions; amending Minnesota Statutes 2004,
6 sections 119A.43, subdivision 2; 119B.025, subdivision 1;
7 119B.03, subdivision 6; 119B.09, subdivisions 4, 9; 144D.025;
8 256.978, subdivision 2; 256D.02, subdivision 17; 256D.051,
9 subdivision 6c; 256I.04, subdivision 2a; 256I.05, by adding a
10 subdivision; 256J.626, subdivisions 6, 7, 8; 256J.751,
11 subdivisions 2, 5; 257.85, subdivisions 2, 3; 259.23,
12 subdivisions 1, 2; 259.41, subdivision 3; 259.67, subdivisions
13 2, 4; 259.75, subdivision 1; 259.79, subdivision 1; 259.85,
14 subdivision 1; 260.012; 260C.001, subdivision 3; 260C.007,
15 subdivision 8; 260C.151, subdivision 6; 260C.178; 260C.201,
16 subdivisions 1, 10, 11; 260C.312; 260C.317, subdivision 3;
17 518.551, subdivision 5; 518.68, subdivision 2; 548.091,
18 subdivision 1a; 626.556, subdivisions 1, 2, 3, 10, 10b, 10e,
19 10f, 10i, 11, 11c, by adding subdivisions; repealing Minnesota
20 Statutes 2004, sections 626.5551, subdivisions 1, 2, 3, 4, 5;
21 Minnesota Rules, parts 9500.1206, subparts 20, 26d, 27;
22 9560.0220, subpart 6, item B; 9560.0230, subpart 2.

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

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(Committee Chair)
May 9, 2005.....
(Date of Committee recommendation)

1 A bill for an act

2 relating to human services; implementing child
3 protection, child care, and child and family support
4 provisions; amending Minnesota Statutes 2004, sections
5 119A.43, subdivision 2; 119B.025, subdivision 1;
6 119B.03, subdivision 6; 119B.09, subdivisions 4, 9;
7 144D.025; 256.978, subdivision 2; 256D.02, subdivision
8 17; 256D.051, subdivision 6c; 256I.04, subdivision 2a;
9 256I.05, by adding a subdivision; 256J.626,
10 subdivisions 6, 7, 8; 256J.751, subdivisions 2, 5;
11 257.85, subdivisions 2, 3; 259.23, subdivisions 1, 2;
12 259.41, subdivision 3; 259.67, subdivisions 2, 4;
13 259.75, subdivision 1; 259.79, subdivision 1; 259.85,
14 subdivision 1; 260.012; 260C.001, subdivision 3;
15 260C.007, subdivision 8; 260C.151, subdivision 6;
16 260C.178; 260C.201, subdivisions 1, 10, 11; 260C.312;
17 260C.317, subdivision 3; 518.551, subdivision 5;
18 518.68, subdivision 2; 548.091, subdivision 1a;
19 626.556, subdivisions 1, 2, 3, 10, 10b, 10e, 10f, 10i,
20 11, 11c, by adding subdivisions; repealing Minnesota
21 Statutes 2004, sections 626.5551, subdivisions 1, 2,
22 3, 4, 5; Minnesota Rules, parts 9500.1206, subparts
23 20, 26d, 27; 9560.0220, subpart 6, item B; 9560.0230,
24 subpart 2.

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

26 ARTICLE 1

27 CHILD WELFARE: ALTERNATIVE RESPONSE

28 Section 1. Minnesota Statutes 2004, section 626.556,
29 subdivision 1, is amended to read:

30 Subdivision 1. [PUBLIC POLICY.] The legislature hereby
31 declares that the public policy of this state is to protect
32 children whose health or welfare may be jeopardized through
33 physical abuse, neglect, or sexual abuse. While it is
34 recognized that most parents want to keep their children safe,
35 sometimes circumstances or conditions interfere with their

1 ability to do so. When this occurs, families are best served by
2 interventions that engage their protective capacities and
3 address immediate safety concerns and ongoing risks of child
4 maltreatment. In furtherance of this public policy, it is the
5 intent of the legislature under this section to strengthen the
6 family and make the home, school, and community safe for
7 children by promoting responsible child care in all settings;
8 and to provide, when necessary, a safe temporary or permanent
9 home environment for physically or sexually abused or neglected
10 children.

11 In addition, it is the policy of this state to require the
12 reporting of neglect, physical or sexual abuse of children in
13 the home, school, and community settings; to provide for the
14 voluntary reporting of abuse or neglect of children; to require
15 the a family assessment and, when appropriate, as the preferred
16 response to reports not alleging substantial child endangerment;
17 to require an investigation of-the-reports when the report
18 alleges substantial child endangerment; and to provide
19 protective and-counseling, family support, and family
20 preservation services when needed in appropriate cases.

21 Sec. 2. Minnesota Statutes 2004, section 626.556,
22 subdivision 2, is amended to read:

23 Subd. 2. [DEFINITIONS.] As used in this section, the
24 following terms have the meanings given them unless the specific
25 content indicates otherwise:

26 (a) "Family assessment" means a comprehensive assessment of
27 child safety, risk of subsequent child maltreatment, and family
28 strengths and needs that is applied to a child maltreatment
29 report that does not allege substantial child endangerment.
30 Family assessment does not include a determination as to whether
31 child maltreatment occurred but does determine the need for
32 services to address the safety of family members and the risk of
33 subsequent maltreatment.

34 (b) "Investigation" means fact gathering related to the
35 current safety of a child and the risk of subsequent
36 maltreatment that determines whether child maltreatment occurred

1 and whether child protective services are needed. An
2 investigation must be used when reports involve substantial
3 child endangerment, and for reports of maltreatment in
4 facilities required to be licensed under chapter 245A or 245B;
5 under sections 144.50 to 144.58 and 241.021; in a school as
6 defined in sections 120A.05, subdivisions 9, 11, and 13, and
7 124D.10; or in a nonlicensed personal care provider association
8 as defined in sections 256B.04, subdivision 16, and 256B.0625,
9 subdivision 19a.

10 (c) "Substantial child endangerment" means a person
11 responsible for a child's care, a person who has a significant
12 relationship to the child as defined in section 609.341, or a
13 person in a position of authority as defined in section 609.341,
14 who by act or omission commits or attempts to commit an act
15 against a child under their care that constitutes any of the
16 following:

17 (1) egregious harm as defined in section 260C.007,
18 subdivision 14;

19 (2) sexual abuse as defined in paragraph (d);

20 (3) abandonment under section 260C.301, subdivision 2;

21 (4) neglect as defined in paragraph (f), clause (2), that
22 substantially endangers the child's physical or mental health,
23 including a growth delay, which may be referred to as failure to
24 thrive, that has been diagnosed by a physician and is due to
25 parental neglect;

26 (5) murder in the first, second, or third degree under
27 section 609.185, 609.19, or 609.195;

28 (6) manslaughter in the first or second degree under
29 section 609.20 or 609.205;

30 (7) assault in the first, second, or third degree under
31 section 609.221, 609.222, or 609.223;

32 (8) solicitation, inducement, and promotion of prostitution
33 under section 609.322;

34 (9) criminal sexual conduct under sections 609.342 to
35 609.3451;

36 (10) solicitation of children to engage in sexual conduct

1 under section 609.352;

2 (11) malicious punishment or neglect or endangerment of a
3 child under section 609.377 or 609.378;

4 (12) use of a minor in sexual performance under section
5 617.246; or

6 (13) parental behavior, status, or condition which mandates
7 that the county attorney file a termination of parental rights
8 petition under section 260C.301, subdivision 3, paragraph (a).

9 (d) "Sexual abuse" means the subjection of a child by a
10 person responsible for the child's care, by a person who has a
11 significant relationship to the child, as defined in section
12 609.341, or by a person in a position of authority, as defined
13 in section 609.341, subdivision 10, to any act which constitutes
14 a violation of section 609.342 (criminal sexual conduct in the
15 first degree), 609.343 (criminal sexual conduct in the second
16 degree), 609.344 (criminal sexual conduct in the third degree),
17 609.345 (criminal sexual conduct in the fourth degree), or
18 609.3451 (criminal sexual conduct in the fifth degree). Sexual
19 abuse also includes any act which involves a minor which
20 constitutes a violation of prostitution offenses under sections
21 609.321 to 609.324 or 617.246. Sexual abuse includes threatened
22 sexual abuse.

23 ~~(b)~~ (e) "Person responsible for the child's care" means (1)
24 an individual functioning within the family unit and having
25 responsibilities for the care of the child such as a parent,
26 guardian, or other person having similar care responsibilities,
27 or (2) an individual functioning outside the family unit and
28 having responsibilities for the care of the child such as a
29 teacher, school administrator, other school employees or agents,
30 or other lawful custodian of a child having either full-time or
31 short-term care responsibilities including, but not limited to,
32 day care, babysitting whether paid or unpaid, counseling,
33 teaching, and coaching.

34 ~~(c)~~ (f) "Neglect" means:

35 (1) failure by a person responsible for a child's care to
36 supply a child with necessary food, clothing, shelter, health,

1 medical, or other care required for the child's physical or
2 mental health when reasonably able to do so;

3 (2) failure to protect a child from conditions or actions
4 that seriously endanger the child's physical or mental health
5 when reasonably able to do so, including a growth delay, which
6 may be referred to as a failure to thrive, that has been
7 diagnosed by a physician and is due to parental neglect;

8 (3) failure to provide for necessary supervision or child
9 care arrangements appropriate for a child after considering
10 factors as the child's age, mental ability, physical condition,
11 length of absence, or environment, when the child is unable to
12 care for the child's own basic needs or safety, or the basic
13 needs or safety of another child in their care;

14 (4) failure to ensure that the child is educated as defined
15 in sections 120A.22 and 260C.163, subdivision 11, which does not
16 include a parent's refusal to provide the parent's child with
17 sympathomimetic medications, consistent with section 125A.091,
18 subdivision 5;

19 (5) nothing in this section shall be construed to mean that
20 a child is neglected solely because the child's parent,
21 guardian, or other person responsible for the child's care in
22 good faith selects and depends upon spiritual means or prayer
23 for treatment or care of disease or remedial care of the child
24 in lieu of medical care; except that a parent, guardian, or
25 caretaker, or a person mandated to report pursuant to
26 subdivision 3, has a duty to report if a lack of medical care
27 may cause serious danger to the child's health. This section
28 does not impose upon persons, not otherwise legally responsible
29 for providing a child with necessary food, clothing, shelter,
30 education, or medical care, a duty to provide that care;

31 (6) prenatal exposure to a controlled substance, as defined
32 in section 253B.02, subdivision 2, used by the mother for a
33 nonmedical purpose, as evidenced by withdrawal symptoms in the
34 child at birth, results of a toxicology test performed on the
35 mother at delivery or the child at birth, or medical effects or
36 developmental delays during the child's first year of life that

1 medically indicate prenatal exposure to a controlled substance;

2 (7) "medical neglect" as defined in section 260C.007,
3 subdivision 6, clause (5);

4 (8) chronic and severe use of alcohol or a controlled
5 substance by a parent or person responsible for the care of the
6 child that adversely affects the child's basic needs and safety;
7 or

8 (9) emotional harm from a pattern of behavior which
9 contributes to impaired emotional functioning of the child which
10 may be demonstrated by a substantial and observable effect in
11 the child's behavior, emotional response, or cognition that is
12 not within the normal range for the child's age and stage of
13 development, with due regard to the child's culture.

14 ~~(d)~~ (g) "Physical abuse" means any physical injury, mental
15 injury, or threatened injury, inflicted by a person responsible
16 for the child's care on a child other than by accidental means,
17 or any physical or mental injury that cannot reasonably be
18 explained by the child's history of injuries, or any aversive or
19 deprivation procedures, or regulated interventions, that have
20 not been authorized under section 121A.67 or 245.825. Abuse
21 does not include reasonable and moderate physical discipline of
22 a child administered by a parent or legal guardian which does
23 not result in an injury. Abuse does not include the use of
24 reasonable force by a teacher, principal, or school employee as
25 allowed by section 121A.582. Actions which are not reasonable
26 and moderate include, but are not limited to, any of the
27 following that are done in anger or without regard to the safety
28 of the child:

29 (1) throwing, kicking, burning, biting, or cutting a child;

30 (2) striking a child with a closed fist;

31 (3) shaking a child under age three;

32 (4) striking or other actions which result in any
33 nonaccidental injury to a child under 18 months of age;

34 (5) unreasonable interference with a child's breathing;

35 (6) threatening a child with a weapon, as defined in
36 section 609.02, subdivision 6;

1 (7) striking a child under age one on the face or head;

2 (8) purposely giving a child poison, alcohol, or dangerous,
3 harmful, or controlled substances which were not prescribed for
4 the child by a practitioner, in order to control or punish the
5 child; or other substances that substantially affect the child's
6 behavior, motor coordination, or judgment or that results in
7 sickness or internal injury, or subjects the child to medical
8 procedures that would be unnecessary if the child were not
9 exposed to the substances;

10 (9) unreasonable physical confinement or restraint not
11 permitted under section 609.379, including but not limited to
12 tying, caging, or chaining; or

13 (10) in a school facility or school zone, an act by a
14 person responsible for the child's care that is a violation
15 under section 121A.58.

16 ~~(e)~~ (h) "Report" means any report received by the local
17 welfare agency, police department, county sheriff, or agency
18 responsible for assessing or investigating maltreatment pursuant
19 to this section.

20 ~~(f)~~ (i) "Facility" means a licensed or unlicensed day care
21 facility, residential facility, agency, hospital, sanitarium, or
22 other facility or institution required to be licensed under
23 sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or
24 chapter 245B; or a school as defined in sections 120A.05,
25 subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed
26 personal care provider organization as defined in sections
27 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

28 ~~(g)~~ (j) "Operator" means an operator or agency as defined
29 in section 245A.02.

30 ~~(h)~~ (k) "Commissioner" means the commissioner of human
31 services.

32 ~~(i) "Assessment" includes authority to interview the child,~~
33 ~~the person or persons responsible for the child's care, the~~
34 ~~alleged perpetrator, and any other person with knowledge of the~~
35 ~~abuse or neglect for the purpose of gathering the facts,~~
36 ~~assessing the risk to the child, and formulating a plan.~~

1 ~~(j)~~ (l) "Practice of social services," for the purposes of
2 subdivision 3, includes but is not limited to employee
3 assistance counseling and the provision of guardian ad litem and
4 parenting time expeditor services.

5 ~~(k)~~ (m) "Mental injury" means an injury to the
6 psychological capacity or emotional stability of a child as
7 evidenced by an observable or substantial impairment in the
8 child's ability to function within a normal range of performance
9 and behavior with due regard to the child's culture.

10 ~~(i)~~ (n) "Threatened injury" means a statement, overt act,
11 condition, or status that represents a substantial risk of
12 physical or sexual abuse or mental injury. Threatened injury
13 includes, but is not limited to, exposing a child to a person
14 responsible for the child's care, as defined in
15 paragraph ~~(b)~~ (e), clause (1), who has:

16 (1) subjected a child to, or failed to protect a child
17 from, an overt act or condition that constitutes egregious harm,
18 as defined in section 260C.007, subdivision 14, or a similar law
19 of another jurisdiction;

20 (2) been found to be palpably unfit under section 260C.301,
21 paragraph (b), clause (4), or a similar law of another
22 jurisdiction;

23 (3) committed an act that has resulted in an involuntary
24 termination of parental rights under section 260C.301, or a
25 similar law of another jurisdiction; or

26 (4) committed an act that has resulted in the involuntary
27 transfer of permanent legal and physical custody of a child to a
28 relative under section 260C.201, subdivision 11, paragraph (d),
29 clause (1), or a similar law of another jurisdiction.

30 ~~(m)~~ (o) Persons who conduct assessments or investigations
31 under this section shall take into account accepted
32 child-rearing practices of the culture in which a child
33 participates and accepted teacher discipline practices, which
34 are not injurious to the child's health, welfare, and safety.

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

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

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

14 (2) employed as a member of the clergy and received the
15 information while engaged in ministerial duties, provided that a
16 member of the clergy is not required by this subdivision to
17 report information that is otherwise privileged under section
18 595.02, subdivision 1, paragraph (c).

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

34 (b) Any person may voluntarily report to the local welfare
35 agency, agency responsible for assessing or investigating the
36 report, police department, or the county sheriff if the person

1 knows, has reason to believe, or suspects a child is being or
2 has been neglected or subjected to physical or sexual abuse.
3 The police department or the county sheriff, upon receiving a
4 report, shall immediately notify the local welfare agency or
5 agency responsible for assessing or investigating the report,
6 orally and in writing. The local welfare agency or agency
7 responsible for assessing or investigating the report, upon
8 receiving a report, shall immediately notify the local police
9 department or the county sheriff orally and in writing.

10 (c) A person mandated to report physical or sexual child
11 abuse or neglect occurring within a licensed facility shall
12 report the information to the agency responsible for licensing
13 the facility under sections 144.50 to 144.58; 241.021; 245A.01
14 to 245A.16; or chapter 245B; or a nonlicensed personal care
15 provider organization as defined in sections 256B.04,
16 subdivision 16; and 256B.0625, subdivision 19. A health or
17 corrections agency receiving a report may request the local
18 welfare agency to provide assistance pursuant to subdivisions
19 10, 10a, and 10b. A board or other entity whose licensees
20 perform work within a school facility, upon receiving a
21 complaint of alleged maltreatment, shall provide information
22 about the circumstances of the alleged maltreatment to the
23 commissioner of education. Section 13.03, subdivision 4,
24 applies to data received by the commissioner of education from a
25 licensing entity.

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

36 (e) For purposes of this subdivision, "immediately" means

1 as soon as possible but in no event longer than 24 hours.

2 Sec. 4. Minnesota Statutes 2004, section 626.556, is
3 amended by adding a subdivision to read:

4 Subd. 3d. [AUTHORITY TO INTERVIEW.] The agency responsible
5 for assessing or investigating reports of child maltreatment has
6 the authority to interview the child, the person or persons
7 responsible for the child's care, the alleged perpetrator, and
8 any other person with knowledge of the abuse or neglect for the
9 purpose of gathering the facts, assessing safety and risk to the
10 child, and formulating a plan.

11 Sec. 5. Minnesota Statutes 2004, section 626.556,
12 subdivision 10, is amended to read:

13 Subd. 10. [DUTIES OF LOCAL WELFARE AGENCY AND LOCAL LAW
14 ENFORCEMENT AGENCY UPON RECEIPT OF A REPORT.] (a) Upon receipt
15 of a report, the local welfare agency shall determine whether to
16 conduct a family assessment or an investigation as appropriate
17 to prevent or provide a remedy for child maltreatment. The
18 local welfare agency:

19 (1) shall conduct an investigation on reports involving
20 substantial child endangerment;

21 (2) shall begin an immediate investigation if, at any time
22 when it is using a family assessment response, it determines
23 that there is reason to believe that substantial child
24 endangerment or a serious threat to the child's safety exists;

25 (3) may conduct a family assessment for reports that do not
26 allege substantial child endangerment. In determining that a
27 family assessment is appropriate, the local welfare agency may
28 consider issues of child safety, parental cooperation, and the
29 need for an immediate response; and

30 (4) may conduct a family assessment on a report that was
31 initially screened and assigned for an investigation. In
32 determining that a complete investigation is not required, the
33 local welfare agency must document the reason for terminating
34 the investigation and notify the local law enforcement agency if
35 the local law enforcement agency is conducting a joint
36 investigation.

1 If the report alleges neglect, physical abuse, or sexual
2 abuse by a parent, guardian, or individual functioning within
3 the family unit as a person responsible for the child's care,
4 the local welfare agency shall immediately conduct an a family
5 assessment including-gathering or investigation as identified in
6 clauses (1) to (4). In conducting a family assessment or
7 investigation, the local welfare agency shall gather information
8 on the existence of substance abuse and domestic violence and
9 offer ~~protective-social~~ services for purposes of preventing
10 ~~further-abuses~~ future child maltreatment, safeguarding and
11 enhancing the welfare of the abused or neglected minor,
12 and supporting and preserving family life whenever possible. If
13 the report alleges a violation of a criminal statute involving
14 sexual abuse, physical abuse, or neglect or endangerment, under
15 section 609.378, the local law enforcement agency and local
16 welfare agency shall coordinate the planning and execution of
17 their respective investigation and assessment efforts to avoid a
18 duplication of fact-finding efforts and multiple interviews.
19 Each agency shall prepare a separate report of the results of
20 its investigation. In cases of alleged child maltreatment
21 resulting in death, the local agency may rely on the
22 fact-finding efforts of a law enforcement investigation to make
23 a determination of whether or not maltreatment occurred. When
24 necessary the local welfare agency shall seek authority to
25 remove the child from the custody of a parent, guardian, or
26 adult with whom the child is living. In performing any of these
27 duties, the local welfare agency shall maintain appropriate
28 records.

29 If the family assessment or investigation indicates there
30 is a potential for abuse of alcohol or other drugs by the
31 parent, guardian, or person responsible for the child's care,
32 the local welfare agency shall conduct a chemical use assessment
33 pursuant to Minnesota Rules, part 9530.6615. The local welfare
34 agency shall report the determination of the chemical use
35 assessment, and the recommendations and referrals for alcohol
36 and other drug treatment services to the state authority on

1 alcohol and drug abuse.

2 (b) When a local agency receives a report or otherwise has
3 information indicating that a child who is a client, as defined
4 in section 245.91, has been the subject of physical abuse,
5 sexual abuse, or neglect at an agency, facility, or program as
6 defined in section 245.91, it shall, in addition to its other
7 duties under this section, immediately inform the ombudsman
8 established under sections 245.91 to 245.97. The commissioner
9 of education shall inform the ombudsman established under
10 sections 245.91 to 245.97 of reports regarding a child defined
11 as a client in section 245.91 that maltreatment occurred at a
12 school as defined in sections 120A.05, subdivisions 9, 11, and
13 13, and 124D.10.

14 (c) Authority of the local welfare agency responsible for
15 assessing or investigating the child abuse or neglect report,
16 the agency responsible for assessing or investigating the
17 report, and of the local law enforcement agency for
18 investigating the alleged abuse or neglect includes, but is not
19 limited to, authority to interview, without parental consent,
20 the alleged victim and any other minors who currently reside
21 with or who have resided with the alleged offender. The
22 interview may take place at school or at any facility or other
23 place where the alleged victim or other minors might be found or
24 the child may be transported to, and the interview conducted at,
25 a place appropriate for the interview of a child designated by
26 the local welfare agency or law enforcement agency. The
27 interview may take place outside the presence of the alleged
28 offender or parent, legal custodian, guardian, or school
29 official. For family assessments, it is the preferred practice
30 to request a parent or guardian's permission to interview the
31 child prior to conducting the child interview, unless doing so
32 would compromise the safety assessment. Except as provided in
33 this paragraph, the parent, legal custodian, or guardian shall
34 be notified by the responsible local welfare or law enforcement
35 agency no later than the conclusion of the investigation or
36 assessment that this interview has occurred. Notwithstanding

1 rule 49.02 of the Minnesota Rules of Procedure for Juvenile
2 Courts, the juvenile court may, after hearing on an ex parte
3 motion by the local welfare agency, order that, where reasonable
4 cause exists, the agency withhold notification of this interview
5 from the parent, legal custodian, or guardian. If the interview
6 took place or is to take place on school property, the order
7 shall specify that school officials may not disclose to the
8 parent, legal custodian, or guardian the contents of the
9 notification of intent to interview the child on school
10 property, as provided under this paragraph, and any other
11 related information regarding the interview that may be a part
12 of the child's school record. A copy of the order shall be sent
13 by the local welfare or law enforcement agency to the
14 appropriate school official.

15 (d) When the local welfare, local law enforcement agency,
16 or the agency responsible for assessing or investigating a
17 report of maltreatment determines that an interview should take
18 place on school property, written notification of intent to
19 interview the child on school property must be received by
20 school officials prior to the interview. The notification shall
21 include the name of the child to be interviewed, the purpose of
22 the interview, and a reference to the statutory authority to
23 conduct an interview on school property. For interviews
24 conducted by the local welfare agency, the notification shall be
25 signed by the chair of the local social services agency or the
26 chair's designee. The notification shall be private data on
27 individuals subject to the provisions of this paragraph. School
28 officials may not disclose to the parent, legal custodian, or
29 guardian the contents of the notification or any other related
30 information regarding the interview until notified in writing by
31 the local welfare or law enforcement agency that the
32 investigation or assessment has been concluded, unless a school
33 employee or agent is alleged to have maltreated the child.
34 Until that time, the local welfare or law enforcement agency or
35 the agency responsible for assessing or investigating a report
36 of maltreatment shall be solely responsible for any disclosures

1 regarding the nature of the assessment or investigation.

2 Except where the alleged offender is believed to be a
3 school official or employee, the time and place, and manner of
4 the interview on school premises shall be within the discretion
5 of school officials, but the local welfare or law enforcement
6 agency shall have the exclusive authority to determine who may
7 attend the interview. The conditions as to time, place, and
8 manner of the interview set by the school officials shall be
9 reasonable and the interview shall be conducted not more than 24
10 hours after the receipt of the notification unless another time
11 is considered necessary by agreement between the school
12 officials and the local welfare or law enforcement agency.
13 Where the school fails to comply with the provisions of this
14 paragraph, the juvenile court may order the school to comply.
15 Every effort must be made to reduce the disruption of the
16 educational program of the child, other students, or school
17 staff when an interview is conducted on school premises.

18 (e) Where the alleged offender or a person responsible for
19 the care of the alleged victim or other minor prevents access to
20 the victim or other minor by the local welfare agency, the
21 juvenile court may order the parents, legal custodian, or
22 guardian to produce the alleged victim or other minor for
23 questioning by the local welfare agency or the local law
24 enforcement agency outside the presence of the alleged offender
25 or any person responsible for the child's care at reasonable
26 places and times as specified by court order.

27 (f) Before making an order under paragraph (e), the court
28 shall issue an order to show cause, either upon its own motion
29 or upon a verified petition, specifying the basis for the
30 requested interviews and fixing the time and place of the
31 hearing. The order to show cause shall be served personally and
32 shall be heard in the same manner as provided in other cases in
33 the juvenile court. The court shall consider the need for
34 appointment of a guardian ad litem to protect the best interests
35 of the child. If appointed, the guardian ad litem shall be
36 present at the hearing on the order to show cause.

1 (g) The commissioner of human services, the ombudsman for
2 mental health and mental retardation, the local welfare agencies
3 responsible for investigating reports, the commissioner of
4 education, and the local law enforcement agencies have the right
5 to enter facilities as defined in subdivision 2 and to inspect
6 and copy the facility's records, including medical records, as
7 part of the investigation. Notwithstanding the provisions of
8 chapter 13, they also have the right to inform the facility
9 under investigation that they are conducting an investigation,
10 to disclose to the facility the names of the individuals under
11 investigation for abusing or neglecting a child, and to provide
12 the facility with a copy of the report and the investigative
13 findings.

14 (h) The local welfare agency ~~or the agency~~ responsible for
15 ~~assessing or~~ conducting a family assessment shall collect
16 available and relevant information to determine child safety,
17 risk of subsequent child maltreatment, and family strengths and
18 needs. The local welfare agency or the agency responsible for
19 investigating the report shall collect available and relevant
20 information to ascertain whether maltreatment occurred and
21 whether protective services are needed. Information collected
22 includes, when relevant, information with regard to the person
23 reporting the alleged maltreatment, including the nature of the
24 reporter's relationship to the child and to the alleged
25 offender, and the basis of the reporter's knowledge for the
26 report; the child allegedly being maltreated; the alleged
27 offender; the child's caretaker; and other collateral sources
28 having relevant information related to the alleged
29 maltreatment. The local welfare agency or the agency
30 responsible for assessing or investigating the report may make a
31 determination of no maltreatment early in an assessment, and
32 close the case and retain immunity, if the collected information
33 shows no basis for a full assessment or investigation.

34 Information relevant to the assessment or investigation
35 must be asked for, and may include:

36 (1) the child's sex and age, prior reports of maltreatment,

1 information relating to developmental functioning, credibility
2 of the child's statement, and whether the information provided
3 under this clause is consistent with other information collected
4 during the course of the assessment or investigation;

5 (2) the alleged offender's age, a record check for prior
6 reports of maltreatment, and criminal charges and convictions.
7 The local welfare agency or the agency responsible for assessing
8 or investigating the report must provide the alleged offender
9 with an opportunity to make a statement. The alleged offender
10 may submit supporting documentation relevant to the assessment
11 or investigation;

12 (3) collateral source information regarding the alleged
13 maltreatment and care of the child. Collateral information
14 includes, when relevant: (i) a medical examination of the
15 child; (ii) prior medical records relating to the alleged
16 maltreatment or the care of the child maintained by any
17 facility, clinic, or health care professional and an interview
18 with the treating professionals; and (iii) interviews with the
19 child's caretakers, including the child's parent, guardian,
20 foster parent, child care provider, teachers, counselors, family
21 members, relatives, and other persons who may have knowledge
22 regarding the alleged maltreatment and the care of the child;
23 and

24 (4) information on the existence of domestic abuse and
25 violence in the home of the child, and substance abuse.

26 Nothing in this paragraph precludes the local welfare
27 agency, the local law enforcement agency, or the agency
28 responsible for assessing or investigating the report from
29 collecting other relevant information necessary to conduct the
30 assessment or investigation. Notwithstanding section 13.384 or
31 144.335, the local welfare agency has access to medical data and
32 records for purposes of clause (3). Notwithstanding the data's
33 classification in the possession of any other agency, data
34 acquired by the local welfare agency or the agency responsible
35 for assessing or investigating the report during the course of
36 the assessment or investigation are private data on individuals

1 and must be maintained in accordance with subdivision 11. Data
2 of the commissioner of education collected or maintained during
3 and for the purpose of an investigation of alleged maltreatment
4 in a school are governed by this section, notwithstanding the
5 data's classification as educational, licensing, or personnel
6 data under chapter 13.

7 In conducting an assessment or investigation involving a
8 school facility as defined in subdivision 2, paragraph ~~(f)~~ (i),
9 the commissioner of education shall collect investigative
10 reports and data that are relevant to a report of maltreatment
11 and are from local law enforcement and the school facility.

12 ~~(i) In the initial stages of an assessment or investigation~~
13 Upon receipt of a report, the local welfare agency shall conduct
14 a face-to-face ~~observation of~~ contact with the child reported to
15 be maltreated ~~and a face-to-face interview of the alleged~~
16 ~~offender~~ and with the child's primary caregiver sufficient to
17 complete a safety assessment and ensure the immediate safety of
18 the child. The face-to-face contact with the child and primary
19 caregiver shall occur immediately if substantial child
20 endangerment is alleged and within five calendar days for all
21 other reports. If the alleged offender was not already
22 interviewed as the primary caregiver, the local welfare agency
23 shall also conduct a face-to-face interview with the alleged
24 offender in the early stages of the assessment or
25 investigation. At the initial contact, the local child welfare
26 agency or the agency responsible for assessing or investigating
27 the report must inform the alleged offender of the complaints or
28 allegations made against the individual in a manner consistent
29 with laws protecting the rights of the person who made the
30 report. The interview with the alleged offender may be
31 postponed if it would jeopardize an active law enforcement
32 investigation.

33 (j) When conducting an investigation, the local welfare
34 agency shall use a question and answer interviewing format with
35 questioning as nondirective as possible to elicit spontaneous
36 responses. For investigations only, the following interviewing

1 methods and procedures must be used whenever possible when
2 collecting information:

3 (1) audio recordings of all interviews with witnesses and
4 collateral sources; and

5 (2) in cases of alleged sexual abuse, audio-video
6 recordings of each interview with the alleged victim and child
7 witnesses.

8 (k) In conducting an assessment or investigation involving
9 a school facility as defined in subdivision 2,
10 paragraph ~~(f)~~ (i), the commissioner of education shall collect
11 available and relevant information and use the procedures in
12 paragraphs ~~(h)~~, (i), (k), and ~~(j)~~ subdivision 3d, except that
13 the requirement for face-to-face observation of the child and
14 face-to-face interview of the alleged offender is to occur in
15 the initial stages of the assessment or investigation provided
16 that the commissioner may also base the assessment or
17 investigation on investigative reports and data received from
18 the school facility and local law enforcement, to the extent
19 those investigations satisfy the requirements of
20 paragraphs ~~(h)~~, (i), and (k), and ~~(j)~~ subdivision 3d.

21 Sec. 6. Minnesota Statutes 2004, section 626.556,
22 subdivision 10b, is amended to read:

23 Subd. 10b. [DUTIES OF COMMISSIONER; NEGLECT OR ABUSE IN
24 FACILITY.] (a) This section applies to the commissioners of
25 human services, health, and education. The commissioner of the
26 agency responsible for assessing or investigating the report
27 shall immediately assess or investigate if the report alleges
28 that:

29 (1) a child who is in the care of a facility as defined in
30 subdivision 2 is neglected, physically abused, sexually abused,
31 or is the victim of maltreatment in a facility by an individual
32 in that facility, or has been so neglected or abused, or been
33 the victim of maltreatment in a facility by an individual in
34 that facility within the three years preceding the report; or

35 (2) a child was neglected, physically abused, sexually
36 abused, or is the victim of maltreatment in a facility by an

1 individual in a facility defined in subdivision 2, while in the
2 care of that facility within the three years preceding the
3 report.

4 The commissioner of the agency responsible for assessing or
5 investigating the report shall arrange for the transmittal to
6 the commissioner of reports received by local agencies and may
7 delegate to a local welfare agency the duty to investigate
8 reports. In conducting an investigation under this section, the
9 commissioner has the powers and duties specified for local
10 welfare agencies under this section. The commissioner of the
11 agency responsible for assessing or investigating the report or
12 local welfare agency may interview any children who are or have
13 been in the care of a facility under investigation and their
14 parents, guardians, or legal custodians.

15 (b) Prior to any interview, the commissioner of the agency
16 responsible for assessing or investigating the report or local
17 welfare agency shall notify the parent, guardian, or legal
18 custodian of a child who will be interviewed in the manner
19 provided for in subdivision 10d, paragraph (a). If reasonable
20 efforts to reach the parent, guardian, or legal custodian of a
21 child in an out-of-home placement have failed, the child may be
22 interviewed if there is reason to believe the interview is
23 necessary to protect the child or other children in the
24 facility. The commissioner of the agency responsible for
25 assessing or investigating the report or local agency must
26 provide the information required in this subdivision to the
27 parent, guardian, or legal custodian of a child interviewed
28 without parental notification as soon as possible after the
29 interview. When the investigation is completed, any parent,
30 guardian, or legal custodian notified under this subdivision
31 shall receive the written memorandum provided for in subdivision
32 10d, paragraph (c).

33 (c) In conducting investigations under this subdivision the
34 commissioner or local welfare agency shall obtain access to
35 information consistent with subdivision 10, paragraphs (h), (i),
36 and (j). In conducting assessments or investigations under this

1 subdivision, the commissioner of education shall obtain access
2 to reports and investigative data that are relevant to a report
3 of maltreatment and are in the possession of a school facility
4 as defined in subdivision 2, paragraph ~~(f)~~ (i), notwithstanding
5 the classification of the data as educational or personnel data
6 under chapter 13. This includes, but is not limited to, school
7 investigative reports, information concerning the conduct of
8 school personnel alleged to have committed maltreatment of
9 students, information about witnesses, and any protective or
10 corrective action taken by the school facility regarding the
11 school personnel alleged to have committed maltreatment.

12 (d) The commissioner may request assistance from the local
13 social services agency.

14 Sec. 7. Minnesota Statutes 2004, section 626.556,
15 subdivision 10e, is amended to read:

16 Subd. 10e. [DETERMINATIONS.] ~~Upon-the-conclusion-of-every~~
17 ~~assessment-or-investigation-it-conducts,~~ (a) The local welfare
18 agency shall conclude the family assessment or the investigation
19 within 45 days of the receipt of a report. The conclusion of
20 the assessment or investigation may be extended to permit the
21 completion of a criminal investigation or the receipt of expert
22 information requested within 45 days of the receipt of the
23 report.

24 (b) After conducting a family assessment, the local welfare
25 agency shall determine whether services are needed to address
26 the safety of the child and other family members and the risk of
27 subsequent maltreatment.

28 (c) After conducting an investigation, the local welfare
29 agency shall make two determinations: first, whether
30 maltreatment has occurred; and second, whether child protective
31 services are needed. ~~Upon-the-conclusion-of~~

32 (d) If the commissioner of education conducts an assessment
33 or investigation ~~by-the-commissioner-of-education,~~ the
34 commissioner shall determine whether maltreatment occurred and
35 what corrective or protective action was taken by the school
36 facility. If a determination is made that maltreatment has

1 occurred, the commissioner shall report to the employer, the
2 school board, and any appropriate licensing entity the
3 determination that maltreatment occurred and what corrective or
4 protective action was taken by the school facility. In all
5 other cases, the commissioner shall inform the school board or
6 employer that a report was received, the subject of the report,
7 the date of the initial report, the category of maltreatment
8 alleged as defined in paragraph ~~(a)~~ (f), the fact that
9 maltreatment was not determined, and a summary of the specific
10 reasons for the determination.

11 (e) When maltreatment is determined in an investigation
12 involving a facility, the investigating agency shall also
13 determine whether the facility or individual was responsible, or
14 whether both the facility and the individual were responsible
15 for the maltreatment using the mitigating factors in paragraph
16 ~~(d)~~ (i). Determinations under this subdivision must be made
17 based on a preponderance of the evidence and are private data on
18 individuals or nonpublic data as maintained by the commissioner
19 of education.

20 ~~(a)~~ (f) For the purposes of this subdivision, "maltreatment"
21 means any of the following acts or omissions:

22 (1) physical abuse as defined in subdivision 2, paragraph
23 ~~(d)~~ (g);

24 (2) neglect as defined in subdivision 2, paragraph ~~(e)~~ (f);

25 (3) sexual abuse as defined in subdivision 2, paragraph
26 ~~(a)~~ (d);

27 (4) mental injury as defined in subdivision 2, paragraph
28 ~~(k)~~ (m); or

29 (5) maltreatment of a child in a facility as defined in
30 subdivision 2, paragraph ~~(f)~~ (i).

31 ~~(b)~~ (g) For the purposes of this subdivision, a
32 determination that child protective services are needed means
33 that the local welfare agency has documented conditions during
34 the assessment or investigation sufficient to cause a child
35 protection worker, as defined in section 626.559, subdivision 1,
36 to conclude that a child is at significant risk of maltreatment

1 if protective intervention is not provided and that the
2 individuals responsible for the child's care have not taken or
3 are not likely to take actions to protect the child from
4 maltreatment or risk of maltreatment.

5 ~~(e)~~ (h) This subdivision does not mean that maltreatment
6 has occurred solely because the child's parent, guardian, or
7 other person responsible for the child's care in good faith
8 selects and depends upon spiritual means or prayer for treatment
9 or care of disease or remedial care of the child, in lieu of
10 medical care. However, if lack of medical care may result in
11 serious danger to the child's health, the local welfare agency
12 may ensure that necessary medical services are provided to the
13 child.

14 ~~(d)~~ (i) When determining whether the facility or individual
15 is the responsible party for determined maltreatment in a
16 facility, the investigating agency shall consider at least the
17 following mitigating factors:

18 (1) whether the actions of the facility or the individual
19 caregivers were according to, and followed the terms of, an
20 erroneous physician order, prescription, individual care plan,
21 or directive; however, this is not a mitigating factor when the
22 facility or caregiver was responsible for the issuance of the
23 erroneous order, prescription, individual care plan, or
24 directive or knew or should have known of the errors and took no
25 reasonable measures to correct the defect before administering
26 care;

27 (2) comparative responsibility between the facility, other
28 caregivers, and requirements placed upon an employee, including
29 the facility's compliance with related regulatory standards and
30 the adequacy of facility policies and procedures, facility
31 training, an individual's participation in the training, the
32 caregiver's supervision, and facility staffing levels and the
33 scope of the individual employee's authority and discretion; and

34 (3) whether the facility or individual followed
35 professional standards in exercising professional judgment.

36 (j) Individual counties may implement more detailed

1 definitions or criteria that indicate which allegations to
2 investigate, as long as a county's policies are consistent with
3 the definitions in the statutes and rules and are approved by
4 the county board. Each local welfare agency shall periodically
5 inform mandated reporters under subdivision 3 who work in the
6 county of the definitions of maltreatment in the statutes and
7 rules and any additional definitions or criteria that have been
8 approved by the county board.

9 Sec. 8. Minnesota Statutes 2004, section 626.556,
10 subdivision 10f, is amended to read:

11 Subd. 10f. [NOTICE OF DETERMINATIONS.] Within ten working
12 days of the conclusion of a family assessment, the local welfare
13 agency shall notify the parent or guardian of the child of the
14 need for services to address child safety concerns or
15 significant risk of subsequent child maltreatment. The local
16 welfare agency and the family may also jointly agree that family
17 support and family preservation services are needed. Within ten
18 working days of the conclusion of an assessment investigation,
19 the local welfare agency or agency responsible for assessing or
20 investigating the report shall notify the parent or guardian of
21 the child, the person determined to be maltreating the child,
22 and if applicable, the director of the facility, of the
23 determination and a summary of the specific reasons for the
24 determination. The notice must also include a certification
25 that the information collection procedures under subdivision 10,
26 paragraphs (h), (i), and (j), were followed and a notice of the
27 right of a data subject to obtain access to other private data
28 on the subject collected, created, or maintained under this
29 section. In addition, the notice shall include the length of
30 time that the records will be kept under subdivision 11c. The
31 investigating agency shall notify the parent or guardian of the
32 child who is the subject of the report, and any person or
33 facility determined to have maltreated a child, of their appeal
34 or review rights under this section or section 256.022.

35 Sec. 9. Minnesota Statutes 2004, section 626.556,
36 subdivision 10i, is amended to read:

1 Subd. 10i. [ADMINISTRATIVE RECONSIDERATION OF FINAL
2 DETERMINATION OF MALTREATMENT AND DISQUALIFICATION BASED ON
3 SERIOUS OR RECURRING MALTREATMENT; REVIEW PANEL.]
4 (a) Administrative reconsideration is not applicable in family
5 assessments since no determination concerning maltreatment is
6 made. For investigations, except as provided under paragraph
7 (e), an individual or facility that the commissioner of human
8 services, a local social service agency, or the commissioner of
9 education determines has maltreated a child, an interested
10 person acting on behalf of the child, regardless of the
11 determination, who contests the investigating agency's final
12 determination regarding maltreatment, may request the
13 investigating agency to reconsider its final determination
14 regarding maltreatment. The request for reconsideration must be
15 submitted in writing to the investigating agency within 15
16 calendar days after receipt of notice of the final determination
17 regarding maltreatment or, if the request is made by an
18 interested person who is not entitled to notice, within 15 days
19 after receipt of the notice by the parent or guardian of the
20 child. Effective January 1, 2002, an individual who was
21 determined to have maltreated a child under this section and who
22 was disqualified on the basis of serious or recurring
23 maltreatment under sections 245C.14 and 245C.15, may request
24 reconsideration of the maltreatment determination and the
25 disqualification. The request for reconsideration of the
26 maltreatment determination and the disqualification must be
27 submitted within 30 calendar days of the individual's receipt of
28 the notice of disqualification under sections 245C.16 and
29 245C.17.

30 (b) Except as provided under paragraphs (e) and (f), if the
31 investigating agency denies the request or fails to act upon the
32 request within 15 calendar days after receiving the request for
33 reconsideration, the person or facility entitled to a fair
34 hearing under section 256.045 may submit to the commissioner of
35 human services or the commissioner of education a written
36 request for a hearing under that section. Section 256.045 also

1 governs hearings requested to contest a final determination of
2 the commissioner of education. For reports involving
3 maltreatment of a child in a facility, an interested person
4 acting on behalf of the child may request a review by the Child
5 Maltreatment Review Panel under section 256.022 if the
6 investigating agency denies the request or fails to act upon the
7 request or if the interested person contests a reconsidered
8 determination. The investigating agency shall notify persons
9 who request reconsideration of their rights under this
10 paragraph. The request must be submitted in writing to the
11 review panel and a copy sent to the investigating agency within
12 30 calendar days of receipt of notice of a denial of a request
13 for reconsideration or of a reconsidered determination. The
14 request must specifically identify the aspects of the agency
15 determination with which the person is dissatisfied.

16 (c) If, as a result of a reconsideration or review, the
17 investigating agency changes the final determination of
18 maltreatment, that agency shall notify the parties specified in
19 subdivisions 10b, 10d, and 10f.

20 (d) Except as provided under paragraph (f), if an
21 individual or facility contests the investigating agency's final
22 determination regarding maltreatment by requesting a fair
23 hearing under section 256.045, the commissioner of human
24 services shall assure that the hearing is conducted and a
25 decision is reached within 90 days of receipt of the request for
26 a hearing. The time for action on the decision may be extended
27 for as many days as the hearing is postponed or the record is
28 held open for the benefit of either party.

29 (e) Effective January 1, 2002, if an individual was
30 disqualified under sections 245C.14 and 245C.15, on the basis of
31 a determination of maltreatment, which was serious or recurring,
32 and the individual has requested reconsideration of the
33 maltreatment determination under paragraph (a) and requested
34 reconsideration of the disqualification under sections 245C.21
35 to 245C.27, reconsideration of the maltreatment determination
36 and reconsideration of the disqualification shall be

1 consolidated into a single reconsideration. If reconsideration
2 of the maltreatment determination is denied or the
3 disqualification is not set aside under sections 245C.21 to
4 245C.27, the individual may request a fair hearing under section
5 256.045. If an individual requests a fair hearing on the
6 maltreatment determination and the disqualification, the scope
7 of the fair hearing shall include both the maltreatment
8 determination and the disqualification.

9 (f) Effective January 1, 2002, if a maltreatment
10 determination or a disqualification based on serious or
11 recurring maltreatment is the basis for a denial of a license
12 under section 245A.05 or a licensing sanction under section
13 245A.07, the license holder has the right to a contested case
14 hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to
15 1400.8612. As provided for under section 245A.08, subdivision
16 2a, the scope of the contested case hearing shall include the
17 maltreatment determination, disqualification, and licensing
18 sanction or denial of a license. In such cases, a fair hearing
19 regarding the maltreatment determination shall not be conducted
20 under paragraph (b). If the disqualified subject is an
21 individual other than the license holder and upon whom a
22 background study must be conducted under chapter 245C, the
23 hearings of all parties may be consolidated into a single
24 contested case hearing upon consent of all parties and the
25 administrative law judge.

26 (g) For purposes of this subdivision, "interested person
27 acting on behalf of the child" means a parent or legal guardian;
28 stepparent; grandparent; guardian ad litem; adult stepbrother,
29 stepsister, or sibling; or adult aunt or uncle; unless the
30 person has been determined to be the perpetrator of the
31 maltreatment.

32 Sec. 10. Minnesota Statutes 2004, section 626.556, is
33 amended by adding a subdivision to read:

34 Subd. 101. [DOCUMENTATION.] When a case is closed that has
35 been open for services, the local welfare agency shall document
36 the outcome of the family assessment or investigation, including

1 a description of services provided and the removal or reduction
2 of risk to the child, if it existed.

3 Sec. 11. Minnesota Statutes 2004, section 626.556, is
4 amended by adding a subdivision to read:

5 Subd. 10m. [PROVISION OF CHILD PROTECTIVE SERVICES.] The
6 local welfare agency shall create a written plan, in
7 collaboration with the family whenever possible, within 30 days
8 of the determination that child protective services are needed
9 or upon joint agreement of the local welfare agency and the
10 family that family support and preservation services are
11 needed. Child protective services for a family are voluntary
12 unless ordered by the court.

13 Sec. 12. Minnesota Statutes 2004, section 626.556,
14 subdivision 11, is amended to read:

15 Subd. 11. [RECORDS.] (a) Except as provided in paragraph
16 (b) or (d) and subdivisions 10b, 10d, 10g, and 11b, all records
17 concerning individuals maintained by a local welfare agency or
18 agency responsible for assessing or investigating the report
19 under this section, including any written reports filed under
20 subdivision 7, shall be private data on individuals, except
21 insofar as copies of reports are required by subdivision 7 to be
22 sent to the local police department or the county sheriff. All
23 records concerning determinations of maltreatment by a facility
24 are nonpublic data as maintained by the Department of Education,
25 except insofar as copies of reports are required by subdivision
26 7 to be sent to the local police department or the county
27 sheriff. Reports maintained by any police department or the
28 county sheriff shall be private data on individuals except the
29 reports shall be made available to the investigating,
30 petitioning, or prosecuting authority, including county medical
31 examiners or county coroners. Section 13.82, subdivisions 8, 9,
32 and 14, apply to law enforcement data other than the reports.
33 The local social services agency or agency responsible for
34 assessing or investigating the report shall make available to
35 the investigating, petitioning, or prosecuting authority,
36 including county medical examiners or county coroners or their

1 professional delegates, any records which contain information
2 relating to a specific incident of neglect or abuse which is
3 under investigation, petition, or prosecution and information
4 relating to any prior incidents of neglect or abuse involving
5 any of the same persons. The records shall be collected and
6 maintained in accordance with the provisions of chapter 13. In
7 conducting investigations and assessments pursuant to this
8 section, the notice required by section 13.04, subdivision 2,
9 need not be provided to a minor under the age of ten who is the
10 alleged victim of abuse or neglect. An individual subject of a
11 record shall have access to the record in accordance with those
12 sections, except that the name of the reporter shall be
13 confidential while the report is under assessment or
14 investigation except as otherwise permitted by this
15 subdivision. Any person conducting an investigation or
16 assessment under this section who intentionally discloses the
17 identity of a reporter prior to the completion of the
18 investigation or assessment is guilty of a misdemeanor. After
19 the assessment or investigation is completed, the name of the
20 reporter shall be confidential. The subject of the report may
21 compel disclosure of the name of the reporter only with the
22 consent of the reporter or upon a written finding by the court
23 that the report was false and that there is evidence that the
24 report was made in bad faith. This subdivision does not alter
25 disclosure responsibilities or obligations under the Rules of
26 Criminal Procedure.

27 (b) Upon request of the legislative auditor, data on
28 individuals maintained under this section must be released to
29 the legislative auditor in order for the auditor to fulfill the
30 auditor's duties under section 3.971. The auditor shall
31 maintain the data in accordance with chapter 13.

32 (c) The commissioner of education must be provided with all
33 requested data that are relevant to a report of maltreatment and
34 are in possession of a school facility as defined in subdivision
35 2, paragraph ~~(f)~~ (i), when the data is requested pursuant to an
36 assessment or investigation of a maltreatment report of a

1 student in a school. If the commissioner of education makes a
2 determination of maltreatment involving an individual performing
3 work within a school facility who is licensed by a board or
4 other agency, the commissioner shall provide necessary and
5 relevant information to the licensing entity to enable the
6 entity to fulfill its statutory duties. Notwithstanding section
7 13.03, subdivision 4, data received by a licensing entity under
8 this paragraph are governed by section 13.41 or other applicable
9 law governing data of the receiving entity, except that this
10 section applies to the classification of and access to data on
11 the reporter of the maltreatment.

12 (d) The investigating agency shall exchange not public data
13 with the Child Maltreatment Review Panel under section 256.022
14 if the data are pertinent and necessary for a review requested
15 under section 256.022. Upon completion of the review, the not
16 public data received by the review panel must be returned to the
17 investigating agency.

18 Sec. 13. Minnesota Statutes 2004, section 626.556,
19 subdivision 11c, is amended to read:

20 Subd. 11c. [WELFARE, COURT SERVICES AGENCY, AND SCHOOL
21 RECORDS MAINTAINED.] Notwithstanding sections 138.163 and
22 138.17, records maintained or records derived from reports of
23 abuse by local welfare agencies, agencies responsible for
24 assessing or investigating the report, court services agencies,
25 or schools under this section shall be destroyed as provided in
26 paragraphs (a) to (d) by the responsible authority.

27 (a) ~~If upon~~ For family assessment or cases and cases where
28 an investigation there-is results in no determination of
29 maltreatment or the need for child protective services,
30 the assessment or investigation records must be maintained for a
31 period of four years. Records under this paragraph may not be
32 used for employment, background checks, or purposes other than
33 to assist in future risk and safety assessments.

34 (b) All records relating to reports which, upon ~~assessment~~
35 ~~or investigation~~, indicate either maltreatment or a need for
36 child protective services shall be maintained for at least ten

1 years after the date of the final entry in the case record.

2 (c) All records regarding a report of maltreatment,
3 including any notification of intent to interview which was
4 received by a school under subdivision 10, paragraph (d), shall
5 be destroyed by the school when ordered to do so by the agency
6 conducting the assessment or investigation. The agency shall
7 order the destruction of the notification when other records
8 relating to the report under investigation or assessment are
9 destroyed under this subdivision.

10 (d) Private or confidential data released to a court
11 services agency under subdivision 10h must be destroyed by the
12 court services agency when ordered to do so by the local welfare
13 agency that released the data. The local welfare agency or
14 agency responsible for assessing or investigating the report
15 shall order destruction of the data when other records relating
16 to the assessment or investigation are destroyed under this
17 subdivision.

18 Sec. 14. [REPEALER.]

19 (a) Minnesota Statutes 2004, section 626.5551, subdivisions
20 1, 2, 3, 4, and 5, are repealed.

21 (b) Minnesota Rules, parts 9560.0220, subpart 6, item B;
22 and 9560.0230, subpart 2, are repealed.

23 ARTICLE 2

24 CHILD WELFARE: PERMANENCY

25 Section 1. Minnesota Statutes 2004, section 257.85,
26 subdivision 2, is amended to read:

27 Subd. 2. [SCOPE.] The provisions of this section apply to
28 those situations in which the legal and physical custody of a
29 child is established with a relative or important friend with
30 whom the child has resided or had significant contact according
31 to section 260C.201, subdivision 11, by a district court order
32 issued on or after July 1, 1997, or a tribal court order issued
33 on or after July 1, 2005, when the child has been removed from
34 the care of the parent by previous district or tribal court
35 order.

36 Sec. 2. Minnesota Statutes 2004, section 257.85,

1 subdivision 3, is amended to read:

2 Subd. 3. [DEFINITIONS.] For purposes of this section, the
3 terms defined in this subdivision have the meanings given them.

4 (a) "MFIP standard" means the transitional standard used to
5 calculate assistance under the MFIP program, or, if permanent
6 legal and physical custody of the child is given to a relative
7 custodian residing outside of Minnesota, the analogous
8 transitional standard or standard of need used to calculate
9 assistance under the TANF program of the state where the
10 relative custodian lives.

11 (b) "Local agency" means the ~~local~~ county social services
12 agency or tribal social services agency with legal custody of a
13 child prior to the transfer of permanent legal and physical
14 custody.

15 (c) "Permanent legal and physical custody" means permanent
16 legal and physical custody ordered by a Minnesota Juvenile Court
17 under section 260C.201, subdivision ~~27~~ 11.

18 (d) "Relative" has the meaning given in section 260C.007,
19 subdivision 27.

20 (e) "Relative custodian" means a person who has permanent
21 legal and physical custody of a child. When siblings, including
22 half-siblings and stepsiblings, are placed together in permanent
23 legal and physical custody, the person receiving permanent legal
24 and physical custody of the siblings is considered a relative
25 custodian of all of the siblings for purposes of this section.

26 (f) "Relative custody assistance agreement" means an
27 agreement entered into between a local agency and a person who
28 has been or will be awarded permanent legal and physical custody
29 of a child.

30 (g) "Relative custody assistance payment" means a monthly
31 cash grant made to a relative custodian pursuant to a relative
32 custody assistance agreement and in an amount calculated under
33 subdivision 7.

34 (h) "Remains in the physical custody of the relative
35 custodian" means that the relative custodian is providing
36 day-to-day care for the child and that the child lives with the

1 relative custodian; absence from the relative custodian's home
2 for a period of more than 120 days raises a presumption that the
3 child no longer remains in the physical custody of the relative
4 custodian.

5 Sec. 3. Minnesota Statutes 2004, section 259.23,
6 subdivision 1, is amended to read:

7 Subdivision 1. [VENUE.] (a) Except as provided in section
8 260C.101, subdivision 2, the juvenile court shall have original
9 jurisdiction in all adoption proceedings. The proper venue for
10 an adoption proceeding shall be the county of the petitioner's
11 residence, except as provided in paragraph (b). However,

12 (b) Venue for the adoption of a child committed to the
13 guardianship of the commissioner of human services shall be the
14 county with jurisdiction in the matter according to section
15 260C.317, subdivision 3.

16 (c) Upon request of the petitioner, the court having
17 jurisdiction over the matter under section 260C.317, subdivision
18 3, may transfer venue of an adoption proceeding involving a
19 child under the guardianship of the commissioner to the county
20 of the petitioner's residence upon determining that:

21 (1) the commissioner has given consent to the petitioner's
22 adoption of the child or that consent is unreasonably withheld;

23 (2) there is no other adoption petition for the child that
24 has been filed or is reasonably anticipated by the commissioner
25 or the commissioner's delegate to be filed; and

26 (3) transfer of venue is in the best interests of the child.
27 Transfer of venue under this paragraph shall be according to the
28 rules of adoption court procedure.

29 (d) In all other adoptions, if the petitioner has acquired
30 a new residence in another county and requests a transfer of the
31 adoption proceeding, the court in which an adoption is initiated
32 may transfer the proceeding to the appropriate court in the new
33 county of residence if the transfer is in the best interests of
34 the person to be adopted. The court transfers the proceeding by
35 ordering a continuance and by forwarding to the court
36 administrator of the appropriate court a certified copy of all

1 papers filed, together with an order of transfer. The
2 transferring court also shall forward copies of the order of
3 transfer to the commissioner of human services and any agency
4 participating in the proceedings. The judge of the receiving
5 court shall accept the order of the transfer and any other
6 documents transmitted and hear the case; provided, however, the
7 receiving court may in its discretion require the filing of a
8 new petition prior to the hearing.

9 Sec. 4. Minnesota Statutes 2004, section 259.23,
10 subdivision 2, is amended to read:

11 Subd. 2. [CONTENTS OF PETITION.] The petition shall be
12 signed by the petitioner and, if married, by the spouse. It
13 shall be verified, and filed in duplicate. The petition shall
14 allege:

15 (a) The full name, age and place of residence of
16 petitioner, and if married, the date and place of marriage;

17 (b) The date petitioner acquired physical custody of the
18 child and from what person or agency;

19 (c) The date of birth of the child, if known, and the state
20 and county where born;

21 (d) The name of the child's parents, if known, and the
22 guardian if there be one;

23 (e) The actual name of the child, if known, and any known
24 aliases;

25 (f) The name to be given the child if a change of name is
26 desired;

27 (g) The description and value of any real or personal
28 property owned by the child;

29 (h) That the petitioner desires that the relationship of
30 parent and child be established between petitioner and the
31 child, and that it is to the best interests of the child for the
32 child to be adopted by the petitioner.

33 In agency placements, the information required in clauses
34 (d) and (e) ~~above~~ shall not be required to be alleged in the
35 petition but shall be transmitted to the court by the
36 commissioner of human services or the agency.

1 Sec. 5. Minnesota Statutes 2004, section 259.41,
2 subdivision 3, is amended to read:

3 Subd. 3. [BACKGROUND CHECK; AFFIDAVIT OF HISTORY.] (a) At
4 the time an adoption study is commenced, each prospective
5 adoptive parent must:

6 (1) authorize access by the agency to any private data
7 needed to complete the study;

8 (2) provide all addresses at which the prospective adoptive
9 parent and anyone in the household over the age of 13 has
10 resided in the previous ten five years; and

11 (3) disclose any names used previously other than the name
12 used at the time of the study;--and

13 ~~(4) provide a set of fingerprints, which shall be forwarded~~
14 ~~to the Bureau of Criminal Apprehension to facilitate the~~
15 ~~criminal conviction background check required under paragraph~~
16 ~~(b).~~

17 (b) When the requirements of paragraph (a) have been met,
18 the agency shall immediately begin a background check, on each
19 person over the age of 13 living in the home, consisting, at a
20 minimum, of the following:

21 (1) a check of criminal conviction data with the Bureau of
22 Criminal Apprehension and local law enforcement authorities;

23 (2) a check for data on substantiated maltreatment of a
24 child or vulnerable adult and domestic violence data with local
25 law enforcement and social services agencies and district
26 courts; and

27 (3) for those persons under the age of 25, a check of
28 juvenile court records.

29 Notwithstanding the provisions of section 260B.171 or
30 260C.171, the Bureau of Criminal Apprehension, local law
31 enforcement and social services agencies, district courts, and
32 juvenile courts shall release the requested information to the
33 agency completing the adoption study.

34 (c) When paragraph (b) requires checking the data or
35 records of local law enforcement and social services agencies
36 and district and juvenile courts, the agency shall check with

1 the law enforcement and social services agencies and courts
2 whose jurisdictions cover the addresses under paragraph (a),
3 clause (2). In the event that the agency is unable to complete
4 any of the record checks required by paragraph (b), the agency
5 shall document the fact and the agency's efforts to obtain the
6 information.

7 (d) For a study completed under this section, when the
8 agency has reasonable cause to believe that further information
9 may exist on the prospective adoptive parent or household member
10 over the age of 13 that may relate to the health, safety, or
11 welfare of the child, the prospective adoptive parent or
12 household member over the age of 13 shall provide the agency
13 with a set of classifiable fingerprints obtained from an
14 authorized law enforcement agency and the agency may obtain
15 criminal history data from the National Criminal Records
16 Repository by submitting fingerprints to the Bureau of Criminal
17 Apprehension. The agency has reasonable cause when, but not
18 limited to, the:

19 (1) information from the Bureau of Criminal Apprehension
20 indicates that the prospective adoptive parent or household
21 member over the age of 13 is a multistate offender;

22 (2) information from the Bureau of Criminal Apprehension
23 indicates that multistate offender status is undetermined;

24 (3) the agency has received a report from the prospective
25 adoptive parent or household member over the age of 13 or a
26 third party indicating that the prospective adoptive parent or
27 household member over the age of 13 has a criminal history in a
28 jurisdiction other than Minnesota; or

29 (4) the prospective adoptive parent or household member
30 over the age of 13 is or has been a resident of a state other
31 than Minnesota in the prior five years.

32 ~~(c)~~ (e) At any time prior to completion of the background
33 check required under paragraph (b), a prospective adoptive
34 parent may submit to the agency conducting the study a sworn
35 affidavit stating whether they or any person residing in the
36 household have been convicted of a crime. The affidavit shall

1 also state whether the adoptive parent or any other person
2 residing in the household is the subject of an open
3 investigation of, or have been the subject of a substantiated
4 allegation of, child or vulnerable-adult maltreatment within the
5 past ten years. A complete description of the crime, open
6 investigation, or substantiated abuse, and a complete
7 description of any sentence, treatment, or disposition must be
8 included. The affidavit must contain an acknowledgment that if,
9 at any time before the adoption is final, a court receives
10 evidence leading to a conclusion that a prospective adoptive
11 parent knowingly gave false information in the affidavit, it
12 shall be determined that the adoption of the child by the
13 prospective adoptive parent is not in the best interests of the
14 child.

15 ~~(d)~~ (f) For the purposes of subdivision 1 and section
16 259.47, subdivisions 3 and 6, an adoption study is complete for
17 placement, even though the background checks required by
18 paragraph (b) have not been completed, if each prospective
19 adoptive parent has completed the affidavit allowed by paragraph
20 ~~(c)~~ (e) and the other requirements of this section have been met.
21 The background checks required by paragraph (b) must be
22 completed before an adoption petition is filed. If an adoption
23 study has been submitted to the court under section 259.47,
24 subdivision 3 or 6, before the background checks required by
25 paragraph (b) were complete, an updated adoption study report
26 which includes the results of the background check must be filed
27 with the adoption petition. In the event that an agency is
28 unable to complete any of the records checks required by
29 paragraph (b), the agency shall submit with the petition to
30 adopt an affidavit documenting the agency's efforts to complete
31 the checks.

32 Sec. 6. Minnesota Statutes 2004, section 259.67,
33 subdivision 2, is amended to read:

34 Subd. 2. [ADOPTION ASSISTANCE AGREEMENT.] The placing
35 agency shall certify a child as eligible for adoption assistance
36 according to rules promulgated by the commissioner. The placing

1 agency shall not certify a child who remains under the
2 jurisdiction of the sending agency pursuant to section 260.851,
3 article 5, for state funded adoption assistance when Minnesota
4 is the receiving state. Not later than 30 days after a parent
5 or parents are found and approved for adoptive placement of a
6 child certified as eligible for adoption assistance, and before
7 the final decree of adoption is issued, a written agreement must
8 be entered into by the commissioner, the adoptive parent or
9 parents, and the placing agency. The written agreement must
10 be fully completed by the placing agency and in the form
11 prescribed by the commissioner and must set forth the
12 responsibilities of all parties, the anticipated duration of the
13 adoption assistance payments, and the payment terms. The
14 adoption assistance agreement shall be subject to the
15 commissioner's approval, which must be granted or denied not
16 later than 15 days after the agreement is entered.

17 The amount of adoption assistance is subject to the
18 availability of state and federal funds and shall be determined
19 through agreement with the adoptive parents. The agreement
20 shall take into consideration the circumstances of the adopting
21 parent or parents, the needs of the child being adopted and may
22 provide ongoing monthly assistance, supplemental maintenance
23 expenses related to the adopted person's special needs,
24 nonmedical expenses periodically necessary for purchase of
25 services, items, or equipment related to the special needs, and
26 medical expenses. The placing agency or the adoptive parent or
27 parents shall provide written documentation to support the need
28 for adoption assistance payments. The commissioner may require
29 periodic reevaluation of adoption assistance payments. The
30 amount of ongoing monthly adoption assistance granted may in no
31 case exceed that which would be allowable for the child under
32 foster family care and is subject to the availability of state
33 and federal funds.

34 Sec. 7. Minnesota Statutes 2004, section 259.67,
35 subdivision 4, is amended to read:

36 Subd. 4. [ELIGIBILITY CONDITIONS.] (a) The placing agency

1 shall use the AFDC requirements as specified in federal law as
2 of July 16, 1996, when determining the child's eligibility for
3 adoption assistance under title IV-E of the Social Security
4 Act. If the child does not qualify, the placing agency shall
5 certify a child as eligible for state funded adoption assistance
6 only if the following criteria are met:

7 (1) Due to the child's characteristics or circumstances it
8 would be difficult to provide the child an adoptive home without
9 adoption assistance.

10 (2)(i) A placement agency has made reasonable efforts to
11 place the child for adoption without adoption assistance, but
12 has been unsuccessful; or

13 (ii) the child's licensed foster parents desire to adopt
14 the child and it is determined by the placing agency that the
15 adoption is in the best interest of the child.

16 (3) The child has been a ward of the commissioner, a
17 Minnesota-licensed child-placing agency, or a tribal social
18 service agency of Minnesota recognized by the Secretary of the
19 Interior. The placing agency shall not certify a child who
20 remains under the jurisdiction of the sending agency pursuant to
21 section 260.851, article 5, for state funded adoption assistance
22 when Minnesota is the receiving state.

23 (b) For purposes of this subdivision, the characteristics
24 or circumstances that may be considered in determining whether a
25 child is a child with special needs under United States Code,
26 title 42, chapter 7, subchapter IV, part E, or meets the
27 requirements of paragraph (a), clause (1), are the following:

28 (1) The child is a member of a sibling group to be placed
29 as one unit in which at least one sibling is older than 15
30 months of age or is described in clause (2) or (3).

31 (2) The child has documented physical, mental, emotional,
32 or behavioral disabilities.

33 (3) The child has a high risk of developing physical,
34 mental, emotional, or behavioral disabilities.

35 (4) The child is adopted according to tribal law without a
36 termination of parental rights or relinquishment, provided that

1 the tribe has documented the valid reason why the child cannot
2 or should not be returned to the home of the child's parent.

3 (c) When a child's eligibility for adoption assistance is
4 based upon the high risk of developing physical, mental,
5 emotional, or behavioral disabilities, payments shall not be
6 made under the adoption assistance agreement unless and until
7 the potential disability manifests itself as documented by an
8 appropriate health care professional.

9 Sec. 8. Minnesota Statutes 2004, section 259.75,
10 subdivision 1, is amended to read:

11 Subdivision 1. [ESTABLISHMENT; CONTENTS; AVAILABILITY.]
12 The commissioner of human services shall establish an adoption
13 exchange~~7-which-shall-include-but-not-be-limited-to-a-book7~~
14 ~~updated-monthly7~~, that contains a photograph and description of
15 each child who has been legally freed for adoption. The
16 exchange service shall be available to all local social service
17 agencies and licensed child-placing agencies whose purpose is to
18 assist in the adoptive placement of children~~7-and-the-exchange~~
19 ~~book-shall-be-distributed-to-all-such-agencies.~~

20 Sec. 9. Minnesota Statutes 2004, section 259.79,
21 subdivision 1, is amended to read:

22 Subdivision 1. [CONTENT.] (a) The adoption records of the
23 ~~commissioner7~~, the commissioner's agents and licensed
24 child-placing agencies shall contain copies of all relevant
25 legal documents, responsibly collected genetic, medical and
26 social history of the child and the child's birth parents, the
27 child's placement record, copies of all pertinent agreements,
28 contracts, and correspondence relevant to the adoption, and
29 copies of all reports and recommendations made to the court.

30 (b) The commissioner of human services shall maintain a
31 permanent record of all adoptions granted in district court in
32 Minnesota regarding children who are:

33 (1) under guardianship of the commissioner or a licensed
34 child-placing agency according to section 260C.201, subdivision
35 11, or 260C.317;

36 (2) placed by the commissioner, commissioner's agent, or

1 licensed child-placing agency after a consent to adopt according
2 to section 259.24 or under an agreement conferring authority to
3 place for adoption according to section 259.25; or

4 (3) adopted after a direct adoptive placement approved by
5 the district court under section 259.47.

6 Each record shall contain identifying information about the
7 child, the birth or legal parents, and adoptive parents,
8 including race where such data is available. The record must
9 also contain: (1) the date the child was legally freed for
10 adoption; (2) the date of the adoptive placement; (3) the name
11 of the placing agency; (4) the county where the adoptive
12 placement occurred; (5) the date that the petition to adopt was
13 filed; (6) the county where the petition to adopt was filed; and
14 (7) the date and county where the adoption decree was granted.

15 (c) Identifying information contained in the adoption
16 record shall be confidential and shall be disclosed only
17 pursuant to section 259.61.

18 Sec. 10. Minnesota Statutes 2004, section 259.85,
19 subdivision 1, is amended to read:

20 Subdivision 1. [PURPOSE.] The commissioner of human
21 services shall establish and supervise a postadoption service
22 grants program to be administered by local social service
23 agencies for the purpose of preserving and strengthening
24 adoptive families. The program will provide financial
25 assistance to adoptive parents who are not receiving adoption
26 assistance under section 259.67 to meet the special needs of an
27 adopted child that cannot be met by other resources available to
28 the family.

29 Sec. 11. Minnesota Statutes 2004, section 260.012, is
30 amended to read:

31 260.012 [DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY
32 REUNIFICATION; REASONABLE EFFORTS.]

33 (a) Once a child alleged to be in need of protection or
34 services is under the court's jurisdiction, the court shall
35 ensure that reasonable efforts, including culturally appropriate
36 services, by the social services agency are made to prevent

1 placement or to eliminate the need for removal and to reunite
2 the child with the child's family at the earliest possible time,
3 ~~consistent-with-the-best-interests,-safety,-and-protection-of~~
4 ~~the-child~~ and when a child cannot be reunified with the parent
5 or guardian from whom the child was removed, the court must
6 ensure that the responsible social services agency makes
7 reasonable efforts to finalize an alternative permanent plan for
8 the child as provided in paragraph (e). In determining
9 reasonable efforts to be made with respect to a child and in
10 making those reasonable efforts, the child's best interests,
11 health, and safety must be of paramount concern. Reasonable
12 efforts to prevent placement and for rehabilitation and
13 reunification are not always required except upon a
14 determination by the court that:

15 ~~(i)~~ a ~~termination-of-parental-rights~~ petition has been
16 filed stating a prima facie case that:

17 ~~(i)~~ (1) the parent has subjected a child to egregious harm
18 as defined in section 260C.007, subdivision 14;

19 ~~(ii)~~ (2) the parental rights of the parent to another child
20 have been terminated involuntarily;

21 ~~(iii)~~ (3) the child is an abandoned infant under section
22 260C.301, subdivision 2, paragraph (a), clause (2); ~~or~~

23 ~~(iv)~~ (4) the parent's custodial rights to another child
24 have been involuntarily transferred to a relative under section
25 260C.201, subdivision 11, paragraph (e), clause (1), or a
26 similar law of another jurisdiction; or

27 ~~(2)-the-county-attorney-has-filed-a-determination-not-to~~
28 ~~proceed-with-a-termination-of-parental-rights-petition-on-these~~
29 ~~grounds-was-made-under-section-260C-301-subdivision-3~~
30 ~~paragraph-(b)-and-a-permanency-hearing-is-held-within-30-days~~
31 ~~of-the-determination,-or~~

32 ~~(3)-a-termination-of-parental-rights-petition-or-other~~
33 ~~petition-according-to-section-260C-201-subdivision-11-has-been~~
34 ~~filed-alleging-a-prima-facie-case-that~~

35 (5) the provision of services or further services for the
36 purpose of reunification is futile and therefore unreasonable

1 under the circumstances.

2 (b) When the court makes one of the prima facie
3 determinations under paragraph (a), either permanency pleadings
4 under section 260C.201, subdivision 11, or a termination of
5 parental rights petition under sections 260C.141 and 260C.301
6 must be filed. A permanency hearing under section 260C.201,
7 subdivision 11, must be held within 30 days of this
8 determination.

9 (c) In the case of an Indian child, in proceedings under
10 sections 260B.178 or 260C.178, 260C.201, and 260C.301 the
11 juvenile court must make findings and conclusions consistent
12 with the Indian Child Welfare Act of 1978, United States Code,
13 title 25, section 1901 et seq., as to the provision of active
14 efforts. ~~If a child is under the court's delinquency~~
15 ~~jurisdiction, it shall be the duty of the court to ensure that~~
16 ~~reasonable efforts are made to reunite the child with the~~
17 ~~child's family at the earliest possible time, consistent with~~
18 ~~the best interests of the child and the safety of the~~
19 ~~public.~~ In cases governed by the Indian Child Welfare Act of
20 1978, United States Code, title 23, section 1901, the
21 responsible social services agency must provide active efforts
22 as required under United States Code, title 23, section 1911(d).

23 (b) (d) "Reasonable efforts to prevent placement" means:

24 (1) the agency has made reasonable efforts to prevent the
25 placement of the child in foster care; or

26 (2) given the particular circumstances of the child and
27 family at the time of the child's removal, there are no services
28 or efforts available which could allow the child to safely
29 remain in the home.

30 (e) "reasonable efforts to finalize a permanent plan for
31 the child" means due diligence by the responsible social
32 services agency to:

33 (1) reunify the child with the parent or guardian from whom
34 the child was removed;

35 (2) assess a noncustodial parent's ability to provide
36 day-to-day care for the child and, where appropriate, provide

1 services necessary to enable the noncustodial parent to safely
2 provide the care as required by section 260C.212, subdivision 4;

3 (3) conduct a relative search as required under section
4 260C.212, subdivision 5; and

5 (4) when the child cannot return to the parent or guardian
6 from whom the child was removed, to plan for and finalize a safe
7 and legally permanent alternative home for the child, preferably
8 through adoption or transfer of permanent legal and physical
9 custody of the child.

10 (f) Reasonable efforts are made upon the exercise of due
11 diligence by the responsible social services agency to
12 use culturally appropriate and available services to meet the
13 needs of the child and the child's family in-order-to-prevent
14 removal-of-the-child-from-the-child's-family;-or-upon-removal,
15 services-to-eliminate-the-need-for-removal-and-reunite-the
16 family. (1) Services may include those provided by the
17 responsible social services agency and other culturally
18 appropriate services available in the community. (2) At each
19 stage of the proceedings where the court is required to review
20 the appropriateness of the responsible social services agency's
21 reasonable efforts as described in paragraphs (a), (d), and (e),
22 the social services agency has the burden of demonstrating that:

23 (1) it has made reasonable efforts;-or-that-provision-of
24 services-or-further-services-for-the-purpose-of-rehabilitation
25 and-reunification-is-futile-and-therefore-unreasonable-under-the
26 circumstances-or-that-reasonable-efforts-aimed-at-reunification
27 are-not-required-under-this-section to prevent placement of the
28 child in foster care;

29 (2) it has made reasonable efforts to eliminate the need
30 for removal of the child from the child's home and to reunify
31 the child with the child's family at the earliest possible time;

32 (3) it has made reasonable efforts to finalize an
33 alternative permanent home for the child; or

34 (4) reasonable efforts to prevent placement and to reunify
35 the child with the parent or guardian are not required. The
36 agency may meet this burden by stating facts in a sworn petition

1 filed under section 260C.141, or by filing an affidavit
2 summarizing the agency's reasonable efforts or facts the agency
3 believes demonstrate there is no need for reasonable efforts to
4 reunify the parent and child, or through testimony or a
5 certified report required under juvenile court rules.

6 ~~(3)-No~~ (g) Once the court determines that reasonable
7 efforts for reunification are not required when-the-court-makes
8 a-determination because the court has made one of the prima
9 facie determinations under paragraph (a) unless, the court may
10 only require reasonable efforts for reunification after a
11 hearing according to section 260C.163, where the court finds
12 there is not clear and convincing evidence of the facts upon
13 which the court based its prima facie determination. In this
14 case when there is clear and convincing evidence that the child
15 is in need of protection or services, the court may proceed
16 under-section-260C-312- find the child in need of protection or
17 services and order any of the dispositions available under
18 section 260C.201, subdivision 1. Reunification of a surviving
19 child with a parent is not required if the parent has been
20 convicted of:

21 ~~(i)~~ (1) a violation of, or an attempt or conspiracy to
22 commit a violation of, sections 609.185 to 609.20; 609.222,
23 subdivision 2; or 609.223 in regard to another child of the
24 parent;

25 ~~(ii)~~ (2) a violation of section 609.222, subdivision 2; or
26 609.223, in regard to the surviving child; or

27 ~~(iii)~~ (3) a violation of, or an attempt or conspiracy to
28 commit a violation of, United States Code, title 18, section
29 1111(a) or 1112(a), in regard to another child of the parent.

30 ~~(e)~~ (h) The juvenile court, in proceedings under sections
31 260B.178 or 260C.178, 260C.201, and 260C.301 shall make findings
32 and conclusions as to the provision of reasonable efforts. When
33 determining whether reasonable efforts have been made, the court
34 shall consider whether services to the child and family were:

35 (1) relevant to the safety and protection of the child;

36 (2) adequate to meet the needs of the child and family;

- 1 (3) culturally appropriate;
- 2 (4) available and accessible;
- 3 (5) consistent and timely; and
- 4 (6) realistic under the circumstances.

5 In the alternative, the court may determine that provision
6 of services or further services for the purpose of
7 rehabilitation is futile and therefore unreasonable under the
8 circumstances or that reasonable efforts are not required as
9 provided in paragraph (a).

10 ~~(d)~~ (i) This section does not prevent out-of-home placement
11 for treatment of a child with a mental disability when the
12 child's diagnostic assessment or individual treatment plan
13 indicates that appropriate and necessary treatment cannot be
14 effectively provided outside of a residential or inpatient
15 treatment program.

16 ~~(e)~~ (j) If continuation of reasonable efforts ~~described in~~
17 ~~paragraph-(b)~~ to prevent placement or reunify the child with the
18 parent or guardian from whom the child was removed is determined
19 by the court to be inconsistent with the permanent plan for the
20 child ~~or upon a determination~~ or upon the court making one of
21 the prima facie determinations under paragraph (a), reasonable
22 efforts must be made to place the child in a timely manner in
23 ~~accordance with the permanent plan ordered by the court~~ a safe
24 and permanent home and to complete whatever steps are necessary
25 to legally finalize the permanent ~~plan for~~ placement of the
26 child.

27 ~~(f)~~ (k) Reasonable efforts to place a child for adoption or
28 in another permanent placement may be made concurrently with
29 reasonable efforts ~~as described in paragraphs-(a)-and-(b)~~ to
30 prevent placement or to reunify the child with the parent or
31 guardian from whom the child was removed. When the responsible
32 social services agency decides to concurrently make reasonable
33 efforts for both reunification and permanent placement away from
34 the parent under ~~paragraphs~~ paragraph (a) ~~and-(b)~~, the agency
35 shall disclose its decision and both plans for concurrent
36 reasonable efforts to all parties and the court. When the

1 agency discloses its decision to proceed on both plans for
2 reunification and permanent placement away from the parent, the
3 court's review of the agency's reasonable efforts shall include
4 the agency's efforts under ~~paragraphs-(a)-and-(b)~~ both plans.

5 Sec. 12. Minnesota Statutes 2004, section 260C.001,
6 subdivision 3, is amended to read:

7 Subd. 3. [PERMANENCY AND TERMINATION OF PARENTAL RIGHTS.]

8 The purpose of the laws relating to permanency and termination
9 of parental rights is to ensure that:

10 (1) when required and appropriate, reasonable efforts have
11 been made by the social services agency to reunite the child
12 with the child's parents in a home that is safe and permanent;
13 and

14 (2) if placement with the parents is not reasonably
15 foreseeable, to secure for the child a safe and permanent
16 placement, preferably with adoptive parents or a fit and willing
17 relative through transfer of permanent legal and physical
18 custody to that relative.

19 Nothing in this section requires reasonable efforts to
20 prevent placement or to reunify the child with the parent or
21 guardian to be made in circumstances where the court has
22 determined that the child has been subjected to egregious
23 harm or, when the child is an abandoned infant, the parent has
24 involuntarily lost custody of another child through a proceeding
25 under section 260C.201, subdivision 11, or similar law of
26 another state, the parental rights of the parent to a sibling
27 have been involuntarily terminated, or the court has determined
28 that reasonable efforts or further reasonable efforts to reunify
29 the child with the parent or guardian would be futile.

30 The paramount consideration in all proceedings for
31 permanent placement of the child under section 260C.201,
32 subdivision 11, or the termination of parental rights is the
33 best interests of the child. In proceedings involving an
34 American Indian child, as defined in section 260.755,
35 subdivision 8, the best interests of the child must be
36 determined consistent with the Indian Child Welfare Act of 1978,

1 United States Code, title 25, section 1901, et seq.

2 Sec. 13. Minnesota Statutes 2004, section 260C.007,
3 subdivision 8, is amended to read:

4 Subd. 8. [COMPELLING REASONS.] "Compelling reasons" means
5 an individualized determination by the responsible social
6 services agency, which is approved by the court, related to a
7 request by the agency not to initiate proceedings to terminate
8 parental rights or transfer permanent legal and physical custody
9 of a child to the child's relative or former noncustodial parent
10 under section 260C.301, subdivision 3.

11 Sec. 14. Minnesota Statutes 2004, section 260C.151,
12 subdivision 6, is amended to read:

13 Subd. 6. [IMMEDIATE CUSTODY.] If the court makes
14 individualized, explicit findings, based on the notarized
15 petition or sworn affidavit, that there are reasonable grounds
16 to believe the child is in surroundings or conditions which
17 endanger the child's health, safety, or welfare that require
18 that responsibility for the child's care and custody be
19 immediately assumed by the court responsible social services
20 agency and that continuation of the child in the custody of the
21 parent or guardian is contrary to the child's welfare, the court
22 may order that the officer serving the summons take the child
23 into immediate custody for placement of the child in foster
24 care. In ordering that responsibility for the care, custody,
25 and control of the child be assumed by the responsible social
26 services agency, the court is ordering emergency protective care
27 as that term is defined in the juvenile court rules.

28 Sec. 15. Minnesota Statutes 2004, section 260C.178, is
29 amended to read:

30 260C.178 [~~DETENTION~~ EMERGENCY REMOVAL HEARING.]

31 Subdivision 1. [HEARING AND RELEASE REQUIREMENTS.] (a) If
32 a child was taken into custody under section 260C.175,
33 subdivision 1, clause (a) or (b)(2), the court shall hold a
34 hearing within 72 hours of the time the child was taken into
35 custody, excluding Saturdays, Sundays, and holidays, to
36 determine whether the child should continue in custody.

1 (b) Unless there is reason to believe that the child would
2 endanger self or others, not return for a court hearing, run
3 away from the child's parent, guardian, or custodian or
4 otherwise not remain in the care or control of the person to
5 whose lawful custody the child is released, or that the child's
6 health or welfare would be immediately endangered, the child
7 shall be released to the custody of a parent, guardian,
8 custodian, or other suitable person, subject to reasonable
9 conditions of release including, but not limited to, a
10 requirement that the child undergo a chemical use assessment as
11 provided in section 260C.157, subdivision 1. If the court
12 determines there is reason to believe that the child would
13 endanger self or others; not return for a court hearing; run
14 away from the child's parent, guardian, or custodian or
15 otherwise not remain in the care or control of the person to
16 whose lawful custody the child is released; or that the child's
17 health or welfare would be immediately endangered, the court
18 shall order the child into foster care under the responsibility
19 of the responsible social services agency or responsible
20 probation or corrections agency for the purposes of protective
21 care as that term is used in the juvenile court rules. In
22 determining whether the child's health or welfare would be
23 immediately endangered, the court shall consider whether the
24 child would reside with a perpetrator of domestic child abuse.

25 (c) The court, before determining whether a child should be
26 placed in or continue in custody foster care under the
27 protective care of the responsible agency, shall also make a
28 determination, consistent with section 260.012 as to whether
29 reasonable efforts ~~7-or~~ were made to prevent placement or whether
30 reasonable efforts to prevent placement are not required. In
31 the case of an Indian child, the court shall determine whether
32 active efforts, according to the Indian Child Welfare Act of
33 1978, United States Code, title 25, section 1912(d), were made
34 to prevent placement. The court shall ~~also-determine-whether~~
35 ~~there-are-available-services-that-would-prevent-the-need-for~~
36 ~~further-detention.--In-the-alternative7~~ enter a finding that the

1 responsible social services agency has made reasonable efforts
2 to prevent placement when the agency establishes either:

3 (1) that it has actually provided services or made efforts
4 in an attempt to prevent the child's removal but that such
5 services or efforts have not proven sufficient to permit the
6 child to safely remain in the home; or

7 (2) that there are no services or other efforts that could
8 be made at the time of the hearing that could safely permit the
9 child to remain home or to return home. When reasonable efforts
10 to prevent placement are required and there are services or
11 other efforts that could be ordered which would permit the child
12 to safely return home, the court shall order the child returned
13 to the care of the parent or guardian and the services or
14 efforts put in place to ensure the child's safety. When the
15 court makes a prima facie determination that one of the
16 circumstances under paragraph (e) exists, the court shall
17 determine that reasonable efforts to prevent placement and to
18 return the child to the care of the parent or guardian are not
19 required if-the-court-makes-a-prima-facie-determination-that-one
20 of-the-circumstances-under-paragraph-(e)-exists.

21 If the court finds the social services agency's preventive
22 or reunification efforts have not been reasonable but further
23 preventive or reunification efforts could not permit the child
24 to safely remain at home, the court may nevertheless authorize
25 or continue the removal of the child.

26 (d) The court may not order or continue the foster care
27 placement of the child unless the court makes explicit,
28 individualized findings that continued custody of the child by
29 the parent or guardian would be contrary to the welfare of the
30 child.

31 (e) At the detention emergency removal hearing, or at any
32 time during the course of the proceeding, and upon notice and
33 request of the county attorney, the court shall make-the
34 following-determinations:

35 ~~(1)~~ determine whether a termination-of-parental-rights
36 petition has been filed stating a prima facie case that:

1 ~~(i)~~ (1) the parent has subjected a child to egregious harm
2 as defined in section 260C.007, subdivision 14;

3 ~~(ii)~~ (2) the parental rights of the parent to another child
4 have been involuntarily terminated; or

5 ~~(iii)~~ (3) the child is an abandoned infant under section
6 260C.301, subdivision 2, paragraph (a), clause (2);

7 ~~(2)~~-that (4) the parents' custodial rights to another child
8 have been involuntarily transferred to a relative under section
9 260C.201, subdivision 11, paragraph (e), clause (1), or a
10 similar law of another jurisdiction; or

11 (5) the provision of services or further services for the
12 purpose of reunification is futile and therefore unreasonable.

13 (f) When a petition to terminate parental rights is
14 required under section 260C.301, subdivision 3 or 4, but the
15 county attorney has determined not to proceed with a termination
16 of parental rights petition ~~under section 260C.307, or~~

17 ~~(3)-whether-a-termination-of-parental-rights-petition-or~~
18 ~~other-petition-according-to-section-260C.201, subdivision 11,~~
19 ~~has-been-filed-alleging-a-prima-facie-case-that-the-provision-of~~
20 ~~services-or-further-services-for-the-purpose-of-rehabilitation~~
21 ~~and-reunification-is-futile-and-therefore-unreasonable-under-the~~
22 ~~circumstances.~~

23 ~~If-the-court-determines-that-the-county-attorney-is-not~~
24 ~~proceeding-with-a-termination-of-parental-rights-petition-under~~
25 ~~section-260C.307, but-is-proceeding-with-a-petition-under~~
26 ~~section-260C.201, subdivision 11, the court shall schedule a~~
27 ~~permanency-hearing-within-30-days., and has instead filed a~~
28 petition to transfer permanent legal and physical custody to a
29 relative under section 260C.201, subdivision 11, the court shall
30 schedule a permanency hearing within 30 days of the filing of
31 the petition.

32 (g) If the county attorney has filed a petition under
33 section 260C.307, the court shall schedule a trial under section
34 260C.163 within 90 days of the filing of the petition except
35 when the county attorney determines that the criminal case shall
36 proceed to trial first under section 260C.201, subdivision 3.

1 ~~(f)~~ (h) If the court determines the child should be ordered
2 into ~~out-of-home-placement~~ foster care and the child's parent
3 refuses to give information to the responsible social services
4 agency regarding the child's father or relatives of the child,
5 the court may order the parent to disclose the names, addresses,
6 telephone numbers, and other identifying information to the
7 responsible social services agency for the purpose of complying
8 with the requirements of sections 260C.151, 260C.212, and
9 260C.215.

10 ~~(g)~~ (i) If a child ordered into ~~out-of-home-placement~~
11 foster care has siblings, whether full, half, or step, who are
12 also ordered into ~~placement~~ foster care, the court shall inquire
13 of the responsible social services agency of the efforts to
14 place the children together as required by section 260C.212,
15 subdivision 2, paragraph (d), if placement together is in each
16 child's best interests, unless a child is in placement due
17 solely to the child's own behavior or a child is placed with a
18 previously noncustodial parent who is not parent to all
19 siblings. If the children are not placed together at the time
20 of the hearing, the court shall inquire at each subsequent
21 hearing of the agency's efforts to place the siblings together.
22 If any sibling is not placed with another sibling or siblings,
23 the agency must develop a plan for visitation among the siblings
24 as required under section 260C.212, subdivision 1.

25 ~~Subd. 2. [DURATION.] If the court determines that the~~
26 ~~child should continue in detention, it may order detention~~
27 ~~continued for eight days, excluding Saturdays, Sundays and~~
28 ~~holidays, from and including the date of the order. The court~~
29 ~~shall include in its order the reasons for continued detention~~
30 ~~and the findings of fact which support these reasons.~~

31 Subd. 3. [PARENTAL VISITATION.] If a child has been taken
32 into custody under section 260C.151, subdivision 5, or 260C.175,
33 subdivision 1, clause (b)(2), and the court determines that the
34 child should continue in ~~detention~~ foster care, the court shall
35 include in its order reasonable rules for supervised or
36 unsupervised parental visitation of the child in the shelter

1 foster care facility unless it finds that visitation would
2 endanger the child's physical or emotional well-being.

3 Subd. 4. [MENTAL HEALTH TREATMENT.] (a) Except as provided
4 in paragraph (b), a child who is held ordered placed in
5 detention foster care as an alleged victim of child abuse as
6 defined in section 630.36, subdivision 2, may not be given
7 mental health treatment specifically for the effects of the
8 alleged abuse until the court finds that there is ~~probable-cause~~
9 a prima facie basis to believe the abuse has occurred.

10 (b) A child described in paragraph (a) may be given mental
11 health treatment prior to a ~~probable-cause~~ prima facie finding
12 of child abuse if the treatment is either agreed to by the
13 child's parent or guardian in writing, or ordered by the court
14 according to the standard contained in section 260C.201,
15 subdivision 1.

16 Subd. 5. [COPIES OF ORDER.] Copies of the court's order
17 shall be served upon the parties, including the ~~supervisor-of~~
18 ~~the-detention placement~~ facility, ~~who~~ which shall release the
19 child or continue to hold the child as the court orders.

20 When the court's order is served upon these parties, notice
21 shall also be given to the parties of the subsequent reviews
22 provided by subdivision 6. ~~The-notice-shall-also-inform-each~~
23 ~~party-of-the-right-to-submit-to-the-court-for-informal-review~~
24 ~~any-new-evidence-regarding-whether-the-child-should-be-continued~~
25 ~~in-detention-and-to-request-a-hearing-to-present-the-evidence-to~~
26 ~~the-court.~~

27 Subd. 6. [REVIEW.] ~~If-a-child-held-in-detention-under-a~~
28 ~~court-order-issued-under-subdivision-2-has-not-been-released~~
29 ~~prior-to-expiration-of-the-order, the-court-or-referee-shall~~
30 ~~informally-review-the-child's-case-file-to-determine, under-the~~
31 ~~standards-provided-by-subdivision-1, whether-detention-should-be~~
32 ~~continued.--If-detention-is-continued-thereafter, informal~~
33 ~~reviews-such-as-these-shall-be-held-within-every-eight-days,~~
34 ~~excluding-Saturdays, Sundays, and-holidays, of-the-child's~~
35 ~~detention.~~ When a child is placed in foster care, the child's
36 placement shall be periodically reviewed as required under the

1 juvenile court rules including notice to the parties required to
2 be served with a copy of the order under subdivision 4.

3 A hearing, ~~rather than an informal review of the child's~~
4 ~~case file,~~ shall be held at the request of any one of the
5 parties notified pursuant to subdivision 5, if that party
6 notifies the court of a wish to present to the court new
7 evidence concerning whether the child should be continued in
8 detention or notifies the court of a wish to present an
9 alternate placement arrangement to provide for the safety and
10 protection of the child.

11 In addition, if a child was taken into detention custody
12 under section 260C.151, subdivision 5, or 260C.175, subdivision
13 1, clause (c)(2), and is held placed in detention foster care or
14 placed in another facility under a court order issued under
15 subdivision 2, the court shall schedule and hold an adjudicatory
16 hearing on the petition within 60 days of the detention
17 emergency removal hearing upon the request of any party to the
18 proceeding. However, if good cause is shown by a party to the
19 proceeding why the hearing should not be held within that time
20 period, the hearing shall be held within 90 days, unless the
21 parties agree otherwise and the court so orders.

22 Subd. 7. [OUT-OF-HOME PLACEMENT PLAN.] (a) An out-of-home
23 placement plan required under section 260C.212 shall be filed
24 with the court within 30 days of the filing of a petition
25 alleging the child to be in need of protection or services under
26 section 260C.141, subdivision 1, or filed with the petition if
27 the petition is a review of a voluntary placement under section
28 260C.141, subdivision 2.

29 (b) Upon the filing of the out-of-home placement plan which
30 has been developed jointly with the parent and in consultation
31 with others as required under section 260C.212, subdivision 1,
32 the court may approve implementation of the plan by the
33 responsible social services agency based on the allegations
34 contained in the petition. The court shall send written notice
35 of the approval of the out-of-home placement plan to all parties
36 and the county attorney or may state such approval on the record

1 at a hearing. A parent may agree to comply with the terms of
2 the plan filed with the court.

3 ~~(c) Upon notice and motion by a parent who agrees to comply~~
4 ~~with the terms of an out-of-home placement plan, the court may~~
5 ~~modify the plan and order the responsible social services agency~~
6 ~~to provide other or additional services for reunification, if~~
7 ~~reunification efforts are required, and the court determines the~~
8 ~~agency's plan inadequate under section 260.012. The responsible~~
9 social services agency shall make reasonable attempts to engage
10 a parent in case planning. If the parent refuses to cooperate
11 in the development of the out-of-home placement plan or
12 disagrees with the services recommended by the responsible
13 social service agency, the agency shall note such refusal or
14 disagreement for the court in the out-of-home placement plan
15 filed with the court. The agency shall notify the court of the
16 services it will provide or efforts it will attempt under the
17 plan notwithstanding the parent's refusal to cooperate or
18 disagreement with the services. The parent may ask the court to
19 modify the plan to require different or additional services
20 requested by the parent, but which the agency refused to
21 provide. The court may approve the plan as presented by the
22 agency or may modify the plan to require services requested by
23 the parent. The court's approval shall be based on the content
24 of the petition.

25 (d) Unless the parent agrees to comply with the terms of
26 the out-of-home placement plan, the court may not order a parent
27 to comply with the provisions of the plan until the court ~~makes~~
28 a determination finds the child is in need of protection or
29 services and orders disposition under section 260C.201,
30 subdivision 1. However, the court may find that the responsible
31 social services agency has made reasonable efforts for
32 reunification if the agency makes efforts to implement the terms
33 of an out-of-home placement plan approved under this section.

34 Sec. 16. Minnesota Statutes 2004, section 260C.201,
35 subdivision 1, is amended to read:

36 Subdivision 1. [DISPOSITIONS.] (a) If the court finds that

1 the child is in need of protection or services or neglected and
2 in foster care, it shall enter an order making any of the
3 following dispositions of the case:

4 (1) place the child under the protective supervision of the
5 responsible social services agency or child-placing agency in
6 the home of a parent of the child under conditions prescribed by
7 the court directed to the correction of the child's need for
8 protection or services:

9 (i) the court may order the child into the home of a parent
10 who does not otherwise have legal custody of the child, however,
11 an order under this section does not confer legal custody on
12 that parent;

13 (ii) if the court orders the child into the home of a
14 father who is not adjudicated, he must cooperate with paternity
15 establishment proceedings regarding the child in the appropriate
16 jurisdiction as one of the conditions prescribed by the court
17 for the child to continue in his home; and

18 (iii) the court may order the child into the home of a
19 noncustodial parent with conditions and may also order both the
20 noncustodial and the custodial parent to comply with the
21 requirements of a case plan under subdivision 2; or

22 (2) transfer legal custody to one of the following:

23 (i) a child-placing agency; or

24 (ii) the responsible social services agency. In placing
25 making a foster care placement for a child whose custody has
26 been transferred under this paragraph subdivision, the agencies
27 agency shall make an individualized determination of how the
28 placement is in the child's best interests using the
29 consideration for relatives and the best interest factors in
30 section 260C.212, subdivision 2, paragraph (b); or

31 (3) order a trial home visit without modifying the transfer
32 of legal custody to the responsible social services agency under
33 clause (2). Trial home visit means the child is returned to the
34 care of the parent or guardian from whom the child was removed
35 for a period not to exceed six months. During the period of the
36 trial home visit, the responsible social services agency:

1 (i) shall continue to have legal custody of the child,
2 which means the agency may see the child in the parent's home,
3 at school, in a child care facility, or other setting as the
4 agency deems necessary and appropriate;

5 (ii) shall continue to have the ability to access
6 information under section 260C.208;

7 (iii) shall continue to provide appropriate services to
8 both the parent and the child during the period of the trial
9 home visit;

10 (iv) without previous court order or authorization, may
11 terminate the trial home visit in order to protect the child's
12 health, safety, or welfare and may remove the child to foster
13 care;

14 (v) shall advise the court and parties within three days of
15 the termination of the trial home visit when a visit is
16 terminated by the responsible social services agency without a
17 court order; and

18 (vi) shall prepare a report for the court when the trial
19 home visit is terminated whether by the agency or court order
20 which describes the child's circumstances during the trial home
21 visit and recommends appropriate orders, if any, for the court
22 to enter to provide for the child's safety and stability. In
23 the event a trial home visit is terminated by the agency by
24 removing the child to foster care without prior court order or
25 authorization, the court shall conduct a hearing within ten days
26 of receiving notice of the termination of the trial home visit
27 by the agency and shall order disposition under this subdivision
28 or conduct a permanency hearing under subdivision 11 or 11a.
29 The time period for the hearing may be extended by the court for
30 good cause shown and if it is in the best interests of the child
31 as long as the total time the child spends in foster care
32 without a permanency hearing does not exceed 12 months.

33 (4) If the child has been adjudicated as a child in need of
34 protection or services because the child is in need of special
35 services or care to treat or ameliorate a physical or mental
36 disability, the court may order the child's parent, guardian, or

1 custodian to provide it. The court may order the child's health
2 plan company to provide mental health services to the child.
3 Section 62Q.535 applies to an order for mental health services
4 directed to the child's health plan company. If the health
5 plan, parent, guardian, or custodian fails or is unable to
6 provide this treatment or care, the court may order it
7 provided. Absent specific written findings by the court that
8 the child's disability is the result of abuse or neglect by the
9 child's parent or guardian, the court shall not transfer legal
10 custody of the child for the purpose of obtaining special
11 treatment or care solely because the parent is unable to provide
12 the treatment or care. If the court's order for mental health
13 treatment is based on a diagnosis made by a treatment
14 professional, the court may order that the diagnosing
15 professional not provide the treatment to the child if it finds
16 that such an order is in the child's best interests; or

17 ~~(4)~~ (5) If the court believes that the child has sufficient
18 maturity and judgment and that it is in the best interests of
19 the child, the court may order a child 16 years old or older to
20 be allowed to live independently, either alone or with others as
21 approved by the court under supervision the court considers
22 appropriate, if the county board, after consultation with the
23 court, has specifically authorized this dispositional
24 alternative for a child.

25 (b) If the child was adjudicated in need of protection or
26 services because the child is a runaway or habitual truant, the
27 court may order any of the following dispositions in addition to
28 or as alternatives to the dispositions authorized under
29 paragraph (a):

30 (1) counsel the child or the child's parents, guardian, or
31 custodian;

32 (2) place the child under the supervision of a probation
33 officer or other suitable person in the child's own home under
34 conditions prescribed by the court, including reasonable rules
35 for the child's conduct and the conduct of the parents,
36 guardian, or custodian, designed for the physical, mental, and

1 moral well-being and behavior of the child; or with the consent
2 of the commissioner of corrections, place the child in a group
3 foster care facility which is under the commissioner's
4 management and supervision;

5 (3) subject to the court's supervision, transfer legal
6 custody of the child to one of the following:

7 (i) a reputable person of good moral character. No person
8 may receive custody of two or more unrelated children unless
9 licensed to operate a residential program under sections 245A.01
10 to 245A.16; or

11 (ii) a county probation officer for placement in a group
12 foster home established under the direction of the juvenile
13 court and licensed pursuant to section 241.021;

14 (4) require the child to pay a fine of up to \$100. The
15 court shall order payment of the fine in a manner that will not
16 impose undue financial hardship upon the child;

17 (5) require the child to participate in a community service
18 project;

19 (6) order the child to undergo a chemical dependency
20 evaluation and, if warranted by the evaluation, order
21 participation by the child in a drug awareness program or an
22 inpatient or outpatient chemical dependency treatment program;

23 (7) if the court believes that it is in the best interests
24 of the child and of public safety that the child's driver's
25 license or instruction permit be canceled, the court may order
26 the commissioner of public safety to cancel the child's license
27 or permit for any period up to the child's 18th birthday. If
28 the child does not have a driver's license or permit, the court
29 may order a denial of driving privileges for any period up to
30 the child's 18th birthday. The court shall forward an order
31 issued under this clause to the commissioner, who shall cancel
32 the license or permit or deny driving privileges without a
33 hearing for the period specified by the court. At any time
34 before the expiration of the period of cancellation or denial,
35 the court may, for good cause, order the commissioner of public
36 safety to allow the child to apply for a license or permit, and

1 the commissioner shall so authorize;

2 (8) order that the child's parent or legal guardian deliver
3 the child to school at the beginning of each school day for a
4 period of time specified by the court; or

5 (9) require the child to perform any other activities or
6 participate in any other treatment programs deemed appropriate
7 by the court.

8 To the extent practicable, the court shall enter a
9 disposition order the same day it makes a finding that a child
10 is in need of protection or services or neglected and in foster
11 care, but in no event more than 15 days after the finding unless
12 the court finds that the best interests of the child will be
13 served by granting a delay. If the child was under eight years
14 of age at the time the petition was filed, the disposition order
15 must be entered within ten days of the finding and the court may
16 not grant a delay unless good cause is shown and the court finds
17 the best interests of the child will be served by the delay.

18 (c) If a child who is 14 years of age or older is
19 adjudicated in need of protection or services because the child
20 is a habitual truant and truancy procedures involving the child
21 were previously dealt with by a school attendance review board
22 or county attorney mediation program under section 260A.06 or
23 260A.07, the court shall order a cancellation or denial of
24 driving privileges under paragraph (b), clause (7), for any
25 period up to the child's 18th birthday.

26 (d) In the case of a child adjudicated in need of
27 protection or services because the child has committed domestic
28 abuse and been ordered excluded from the child's parent's home,
29 the court shall dismiss jurisdiction if the court, at any time,
30 finds the parent is able or willing to provide an alternative
31 safe living arrangement for the child, as defined in Laws 1997,
32 chapter 239, article 10, section 2.

33 (e) When a parent has complied with a case plan ordered
34 under subdivision 6 and the child is in the care of the parent,
35 the court may order the responsible social services agency to
36 monitor the parent's continued ability to maintain the child

1 safely in the home under such terms and conditions as the court
2 determines appropriate under the circumstances.

3 Sec. 17. Minnesota Statutes 2004, section 260C.201,
4 subdivision 10, is amended to read:

5 Subd. 10. [~~COURT REVIEW OF OUT-OF-HOME-PLACEMENTS~~ FOSTER
6 CARE.] (a) If the court places orders a child placed in a
7 residential-facility, as defined in section 260C.212,
8 subdivision 1 foster care, the court shall review the
9 out-of-home placement at least every 90 days as required in
10 juvenile court rules to determine whether continued out-of-home
11 placement is necessary and appropriate or whether the child
12 should be returned home. This review is not required if the
13 court has returned the child home, ordered the child permanently
14 placed away from the parent under subdivision 11, or terminated
15 rights under section 260C.301. Court review for a child
16 permanently placed away from a parent, including where the child
17 is under guardianship and legal custody of the commissioner,
18 shall be governed by subdivision 11 or section 260C.317,
19 subdivision 3, whichever is applicable.

20 (b) No later than six months after the child's out-of-home
21 placement in foster care, the court shall review agency efforts
22 pursuant to section 260C.212, subdivision 2, and order that the
23 efforts continue if the agency has failed to perform the duties
24 under that section.

25 (c) The court shall review the out-of-home placement plan
26 and may modify the plan as provided under subdivisions 6 and 7.

27 (d) When the court orders out-of-home-placement transfer of
28 custody to a responsible social services agency resulting in
29 foster care or protective supervision with a noncustodial parent
30 under subdivision 1, the court shall notify the parents of the
31 provisions of subdivisions 11 and 11a as required under juvenile
32 court rules.

33 Sec. 18. Minnesota Statutes 2004, section 260C.201,
34 subdivision 11, is amended to read:

35 Subd. 11. [~~REVIEW OF COURT-ORDERED PLACEMENTS; PERMANENT~~
36 ~~PLACEMENT DETERMINATION.~~] (a) This subdivision and subdivision

1 11a do not apply in cases where the child is in placement due
2 solely to the child's developmental disability or emotional
3 disturbance, where legal custody has not been transferred to the
4 responsible social services agency, and where the court finds
5 compelling reasons under section 260C.007, subdivision 8, to
6 continue the child in foster care past the time periods
7 specified in this subdivision. Foster care placements of
8 children due solely to their disability are governed by section
9 260C.141, subdivision 2b. In all other cases where the child is
10 in foster care or in the care of a noncustodial parent under
11 subdivision 1, the court shall ~~conduct-a-hearing~~ commence
12 proceedings to determine the permanent status of a child not
13 later than 12 months after the child is placed in foster care or
14 in the care of a noncustodial parent. At the admit-deny hearing
15 commencing such proceedings, the court shall determine whether
16 there is a prima facie basis for finding that the agency made
17 reasonable efforts, or in the case of an Indian child active
18 efforts, required under section 260.012 and proceed according to
19 the rules of juvenile court.

20 For purposes of this subdivision, the date of the child's
21 placement in foster care is the earlier of the first
22 court-ordered placement or 60 days after the date on which the
23 child has been voluntarily placed in foster care by the child's
24 parent or guardian. For purposes of this subdivision, time
25 spent by a child under the protective supervision of the
26 responsible social services agency in the home of a noncustodial
27 parent pursuant to an order under subdivision 1 counts towards
28 the requirement of a permanency hearing under this subdivision
29 or subdivision 11a. Time spent on a trial home visit does not
30 count towards the requirement of a permanency hearing under this
31 subdivision or subdivision 11a.

32 For purposes of this subdivision, 12 months is calculated
33 as follows:

34 (1) during the pendency of a petition alleging that a child
35 is in need of protection or services, all time periods when a
36 child is placed in foster care or in the home of a noncustodial

1 parent are cumulated;

2 (2) if a child has been placed in foster care within the
3 previous five years under one or more previous petitions, the
4 lengths of all prior time periods when the child was placed in
5 foster care within the previous five years are cumulated. If a
6 child under this clause has been in foster care for 12 months or
7 more, the court, if it is in the best interests of the child and
8 for compelling reasons, may extend the total time the child may
9 continue out of the home under the current petition up to an
10 additional six months before making a permanency determination.

11 (b) Unless the responsible social services agency
12 recommends return of the child to the custodial parent or
13 parents, not later than 30 days prior to ~~this~~ the admit-deny
14 hearing required under paragraph (a) and the rules of juvenile
15 court, the responsible social services agency shall file
16 pleadings in juvenile court to establish the basis for the
17 juvenile court to order permanent placement of the child,
18 including a termination of parental rights petition, according
19 to paragraph (d). Notice of the hearing and copies of the
20 pleadings must be provided pursuant to section 260C.152. ~~If a~~
21 ~~termination-of-parental-rights-petition-is-filed-before-the-date~~
22 ~~required-for-the-permanency-planning-determination-and-there-is~~
23 ~~a-trial-under-section-260C.163-scheduled-on-that-petition-within~~
24 ~~90-days-of-the-filing-of-the-petition, no hearing need be~~
25 ~~conducted-under-this-subdivision.~~

26 (c) The permanency proceedings shall be conducted in a
27 timely fashion including that any trial required under section
28 260C.163 shall be commenced within 60 days of the admit-deny
29 hearing required under paragraph (a). At the conclusion of the
30 hearing permanency proceedings, the court shall:

31 (1) order the child returned to the care of the parent or
32 guardian from whom the child was removed; or

33 (2) order a permanent placement or termination of parental
34 rights if permanent placement or termination of parental rights
35 is in the child's best interests. The "best interests of the
36 child" means all relevant factors to be considered and

1 evaluated. Transfer of permanent legal and physical custody,
2 termination of parental rights, or guardianship and legal
3 custody to the commissioner through a consent to adopt are
4 preferred permanency options for a child who cannot return home.

5 (d) If the child is not returned to the home, the court
6 must order one of the following dispositions:

7 (1) permanent legal and physical custody to a relative in
8 the best interests of the child according to the following
9 conditions:

10 (i) an order for transfer of permanent legal and physical
11 custody to a relative shall only be made after the court has
12 reviewed the suitability of the prospective legal and physical
13 custodian;

14 (ii) in transferring permanent legal and physical custody
15 to a relative, the juvenile court shall follow the standards
16 applicable under this chapter and chapter 260, and the
17 procedures set out in the juvenile court rules;

18 (iii) an order establishing permanent legal and physical
19 custody under this subdivision must be filed with the family
20 court;

21 (iv) a transfer of legal and physical custody includes
22 responsibility for the protection, education, care, and control
23 of the child and decision making on behalf of the child;

24 (v) the social services agency may bring a petition or
25 motion naming a fit and willing relative as a proposed permanent
26 legal and physical custodian. The commissioner of human
27 services shall annually prepare for counties information that
28 must be given to proposed custodians about their legal rights
29 and obligations as custodians together with information on
30 financial and medical benefits for which the child is eligible;
31 and

32 (vi) the juvenile court may maintain jurisdiction over the
33 responsible social services agency, the parents or guardian of
34 the child, the child, and the permanent legal and physical
35 custodian for purposes of ensuring appropriate services are
36 delivered to the child and permanent legal custodian or for the

1 purpose of ensuring conditions ordered by the court related to
2 the care and custody of the child are met;

3 (2) termination of parental rights when the requirements of
4 sections 260C.301 to 260C.328 are met or according to the
5 following conditions:

6 (i) unless order the social services agency ~~has-already~~
7 ~~filed to file~~ a petition for termination of parental
8 rights ~~under-section-260C-3077-the-court-may-order-such-a~~
9 ~~petition-filed-and~~ in which case all the requirements of
10 sections 260C.301 to 260C.328 remain applicable; and

11 (ii) an adoption completed subsequent to a determination
12 under this subdivision may include an agreement for
13 communication or contact under section 259.58;

14 (3) long-term foster care according to the following
15 conditions:

16 (i) the court may order a child into long-term foster care
17 only if it ~~finds~~ approves the responsible social service
18 agency's compelling reasons that neither an award of permanent
19 legal and physical custody to a relative, nor termination of
20 parental rights is in the child's best interests; and

21 (ii) further, the court may only order long-term foster
22 care for the child under this section if it finds the following:

23 (A) the child has reached age 12 and ~~reasonable-efforts-by~~
24 the responsible social services agency ~~have-failed~~ has made
25 reasonable efforts to locate and place the child with an
26 adoptive family ~~for-the-child~~ or with a fit and willing relative
27 who will agree to a transfer of permanent legal and physical
28 custody of the child, but such efforts have not proven
29 successful; or

30 (B) the child is a sibling of a child described in subitem

31 (A) and the siblings have a significant positive relationship
32 and are ordered into the same long-term foster care home; and

33 (iii) at least annually, the responsible social services
34 agency reconsiders its provision of services to the child and
35 the child's placement in long-term foster care to ensure that:

36 (A) long-term foster care continues to be the most

1 appropriate legal arrangement for meeting the child's need for
2 permanency and stability, including whether there is another
3 permanent placement option under this chapter that would better
4 serve the child's needs and best interests;

5 (B) whenever possible, there is an identified long-term
6 foster care family that is committed to being the foster family
7 for the child as long as the child is a minor or under the
8 jurisdiction of the court;

9 (C) the child is receiving appropriate services or
10 assistance to maintain or build connections with the child's
11 family and community;

12 (D) the child's physical and mental health needs are being
13 appropriately provided for; and

14 (E) the child's educational needs are being met;

15 (4) foster care for a specified period of time according to
16 the following conditions:

17 (i) foster care for a specified period of time may be
18 ordered only if:

19 (A) the sole basis for an adjudication that the child is in
20 need of protection or services is the child's behavior;

21 (B) the court finds that foster care for a specified period
22 of time is in the best interests of the child; and

23 (C) the court ~~finds~~ approves the responsible social
24 services agency's compelling reasons that neither an award of
25 permanent legal and physical custody to a relative, nor
26 termination of parental rights is in the child's best interests;

27 (ii) the order does not specify that the child continue in
28 foster care for any period exceeding one year; or

29 (5) guardianship and legal custody to the commissioner of
30 human services under the following procedures and conditions:

31 (i) there is an identified prospective adoptive home agreed
32 to by the responsible social services agency that has agreed to
33 adopt the child and the court accepts the parent's voluntary
34 consent to adopt under section 259.24, except that such consent
35 executed by a parent under this item, following proper notice
36 that consent given under this provision is irrevocable upon

1 acceptance by the court, shall be irrevocable unless fraud is
2 established and an order issues permitting revocation as stated
3 in item (vii);

4 (ii) if the court accepts a consent to adopt in lieu of
5 ordering one of the other enumerated permanency dispositions,
6 the court must review the matter at least every 90 days. The
7 review will address the reasonable efforts of the agency to
8 achieve a finalized adoption;

9 (iii) a consent to adopt under this clause vests all legal
10 authority regarding the child, including guardianship and legal
11 custody of the child, with the commissioner of human services as
12 if the child were a state ward after termination of parental
13 rights;

14 (iv) the court must forward a copy of the consent to adopt,
15 together with a certified copy of the order transferring
16 guardianship and legal custody to the commissioner, to the
17 commissioner; and

18 (v) if an adoption is not finalized by the identified
19 prospective adoptive parent within 12 months of the execution of
20 the consent to adopt under this clause, the commissioner of
21 human services or the commissioner's delegate shall pursue
22 adoptive placement in another home unless the commissioner
23 certifies that the failure to finalize is not due to either an
24 action or a failure to act by the prospective adoptive parent;

25 (vi) notwithstanding item (v), as soon as the commissioner
26 or commissioner's delegate determines that finalization of the
27 adoption with the identified prospective adoptive parent is not
28 possible, that the prospective adoptive parent is not
29 cooperative in completing the steps necessary to finalize the
30 adoption, or upon the commissioner's determination to withhold
31 consent to the adoption under chapter 259, the commissioner or
32 commissioner's delegate shall pursue adoptive placement in
33 another home; and

34 (vii) unless otherwise required by the Indian Child Welfare
35 Act, United States Code, title 25, section 1913, a consent to
36 adopt executed under this section, following proper notice that

1 consent given under this provision is irrevocable upon
2 acceptance by the court, shall be irrevocable upon acceptance by
3 the court except upon order permitting revocation issued by the
4 same court after written findings that consent was obtained by
5 fraud.

6 (e) In ordering a permanent placement of a child, the court
7 must be governed by the best interests of the child, including a
8 review of the relationship between the child and relatives and
9 the child and other important persons with whom the child has
10 resided or had significant contact.

11 (f) Once a permanent placement determination has been made
12 and permanent placement has been established, further court
13 reviews are necessary if:

14 (1) the placement is long-term foster care or foster care
15 for a specified period of time;

16 (2) the court orders further hearings because it has
17 retained jurisdiction of a transfer of permanent legal and
18 physical custody matter;

19 (3) an adoption has not yet been finalized; or

20 (4) there is a disruption of the permanent or long-term
21 placement.

22 (g) Court reviews of an order for long-term foster care,
23 whether under this section or section 260C.317, subdivision 3,
24 paragraph (d), ~~or-foster-care-for-a-specified-period-of-time~~
25 must be conducted at least yearly and must review the child's
26 out-of-home placement plan and the reasonable efforts of the
27 agency to finalize the permanent plan for the child including
28 the agency's efforts to:

29 (1) ensure that long-term foster care continues to be the
30 most appropriate legal arrangement for meeting the child's need
31 for permanency and stability or, if not, to identify and attempt
32 to finalize another permanent placement option under this
33 chapter that would better serve the child's needs and best
34 interests;

35 (2) identify a specific long-term foster home for the child
36 or-a-specific-foster-home-for-the-time-the-child-is-specified-to

1 ~~be out of the care of the parent~~, if one has not already been
2 identified;

3 ~~(2)~~ (3) support continued placement of the child in the
4 identified home, if one has been identified;

5 ~~(3)~~ (4) ensure appropriate services are provided to address
6 the physical health, mental health, and educational needs of the
7 child during the period of long-term foster care ~~or foster care~~
8 ~~for a specified period of time~~ and also ensure appropriate
9 services or assistance to maintain relationships with
10 appropriate family members and the child's community; and

11 ~~(4)~~ (5) plan for the child's independence upon the child's
12 leaving long-term foster care living as required under section
13 260C.212, subdivision 1, ~~and~~

14 ~~(5) where placement is for a specified period of time, a~~
15 ~~plan for the safe return of the child to the care of the parent.~~

16 (h) In the event it is necessary for a child that has been
17 ordered into foster care for a specified period of time to be in
18 foster care longer than one year after the permanency hearing
19 held under this section, not later than 12 months after the time
20 the child was ordered into foster care for a specified period of
21 time, the matter must be returned to court for a review of the
22 appropriateness of continuing the child in foster care and of
23 the responsible social services agency's reasonable efforts to
24 finalize a permanent plan for the child; if it is in the child's
25 best interests to continue the order for foster care for a
26 specified period of time past a total of 12 months, the court
27 shall set objectives for the child's continuation in foster
28 care, specify any further amount of time the child may be in
29 foster care, and review the plan for the safe return of the
30 child to the parent.

31 (i) An order under this subdivision permanently placing a
32 child out of the home of the parent or guardian must include the
33 following detailed findings:

34 (1) how the child's best interests are served by the order;

35 (2) the nature and extent of the responsible social service
36 agency's reasonable efforts, or, in the case of an Indian child,

1 active efforts to reunify the child with the parent or ~~parents~~
2 guardian where reasonable efforts are required;

3 (3) the parent's or parents' efforts and ability to use
4 services to correct the conditions which led to the out-of-home
5 placement; and

6 (4) ~~whether~~ that the conditions which led to the
7 out-of-home placement have not been corrected so that the child
8 can safely return home.

9 ~~(i)~~ (j) An order for permanent legal and physical custody
10 of a child may be modified under sections 518.18 and 518.185.
11 The social services agency is a party to the proceeding and must
12 receive notice. A parent may only seek modification of an order
13 for long-term foster care upon motion and a showing by the
14 parent of a substantial change in the parent's circumstances
15 such that the parent could provide appropriate care for the
16 child and that removal of the child from the child's permanent
17 placement and the return to the parent's care would be in the
18 best interest of the child. The responsible social services
19 agency may ask the court to vacate an order for long-term foster
20 care upon a prima facie showing that there is a factual basis
21 for the court to order another permanency option under this
22 chapter and that such an option is in the child's best
23 interests. Upon a hearing where the court determines that there
24 is a factual basis for vacating the order for long-term foster
25 care and that another permanent order regarding the placement of
26 the child is in the child's best interests, the court may vacate
27 the order for long-term foster care and enter a different order
28 for permanent placement that is in the child's best interests.
29 The court shall not require further reasonable efforts to
30 reunify the child with the parent or guardian as a basis for
31 vacating the order for long-term foster care and ordering a
32 different permanent placement in the child's best interests.
33 The county attorney must file pleadings and give notice as
34 required under the rules of juvenile court in order to modify an
35 order for long-term foster care under this paragraph.

36 ~~(j)~~ (k) The court shall issue an order required under this

1 section within 15 days of the close of the proceedings. The
2 court may extend issuing the order an additional 15 days when
3 necessary in the interests of justice and the best interests of
4 the child.

5 Sec. 19. Minnesota Statutes 2004, section 260C.312, is
6 amended to read:

7 260C.312 [DISPOSITION; PARENTAL RIGHTS NOT TERMINATED.]

8 (a) If, after a hearing, the court does not terminate
9 parental rights but determines that the child is in need of
10 protection or services, or that the child is neglected and in
11 foster care, the court may find the child is in need of
12 protection or services or neglected and in foster care and may
13 enter an order in accordance with the provisions of section
14 260C.201.

15 (b) When a child has been in placement 15 of the last 22
16 months after a trial on a termination of parental rights
17 petition, if the court finds that the petition is not proven or
18 that termination of parental rights is not in the child's best
19 interests, the court must order the child returned to the care
20 of the parent unless the court finds approves the responsible
21 social services agency's determination of compelling reasons why
22 the child should remain out of the care of the parent. If the
23 court orders the child returned to the care of the parent, the
24 court may order a trial home visit, protective supervision, or
25 monitoring under section 260C.201.

26 Sec. 20. Minnesota Statutes 2004, section 260C.317,
27 subdivision 3, is amended to read:

28 Subd. 3. [ORDER; RETENTION OF JURISDICTION.] (a) A
29 certified copy of the findings and the order terminating
30 parental rights, and a summary of the court's information
31 concerning the child shall be furnished by the court to the
32 commissioner or the agency to which guardianship is
33 transferred. The orders shall be on a document separate from
34 the findings. The court shall furnish the individual to whom
35 guardianship is transferred a copy of the order terminating
36 parental rights.

1 (b) The court shall retain jurisdiction in a case where
2 adoption is the intended permanent placement disposition until
3 the child's adoption is finalized, the child is 18 years of age,
4 or the child is otherwise ordered discharged from the
5 jurisdiction of the court. The guardian ad litem and counsel
6 for the child shall continue on the case until an adoption
7 decree is entered. A hearing must be held every 90 days
8 following termination of parental rights for the court to review
9 progress toward an adoptive placement and the specific
10 recruitment efforts the agency has taken to find an adoptive
11 family or other placement living arrangement for the child and
12 to finalize the adoption or other permanency plan.

13 (c) ~~When adoption is not the intended disposition~~ The
14 responsible social services agency may make a determination of
15 compelling reasons for a child to be in long-term foster care
16 when the agency has made exhaustive efforts to recruit,
17 identify, and place the child in an adoptive home, and if the
18 child continues in out-of-home-placement foster care for at least
19 24 months after the court has issued the order terminating
20 parental rights and. Upon approving the agency's determination
21 of compelling reasons, the court may order the child placed in
22 long-term foster care. At least every 12 months thereafter as
23 long as the child continues in out-of-home placement, the court
24 shall conduct a permanency review hearing to determine the
25 future status of the child, ~~including, but not limited to,~~
26 ~~whether the child should be continued in out-of-home placement,~~
27 ~~should be placed for adoption, or should, because of the child's~~
28 ~~special needs and for compelling reasons, be ordered into~~
29 ~~long-term out-of-home placement~~ using the review requirements of
30 section 260C.201, subdivision 11, paragraph (g).

31 (d) The court shall retain jurisdiction through the child's
32 minority in a case where long-term foster care is the permanent
33 disposition whether under paragraph (c) or section 260C.201,
34 subdivision 11. ~~All of the review requirements under section~~
35 ~~260C.201, subdivision 11, paragraph (g), apply.~~

36

ARTICLE 3

1 CHILD CARE

2 Section 1. Minnesota Statutes 2004, section 119B.025,
3 subdivision 1, is amended to read:

4 Subdivision 1. [FACTORS WHICH MUST BE VERIFIED.] (a) The
5 county shall verify the following at all initial child care
6 applications using the universal application:

7 (1) identity of adults;

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

10 (3) relationship of minor child to the parent, stepparent,
11 legal guardian, eligible relative caretaker, or the spouses of
12 any of the foregoing;

13 (4) age;

14 (5) immigration status, if related to eligibility;

15 (6) Social Security number, if given;

16 (7) income;

17 (8) spousal support and child support payments made to
18 persons outside the household;

19 (9) residence; and

20 (10) inconsistent information, if related to eligibility.

21 (b) If a family did not use the universal application or
22 child care addendum to apply for child care assistance, the
23 family must complete the universal application or child care
24 addendum at its next eligibility redetermination and the county
25 must verify the factors listed in paragraph (a) as part of that
26 redetermination. Once a family has completed a universal
27 application or child care addendum, the county shall use the
28 redetermination form described in paragraph (c) for that
29 family's subsequent redeterminations. Eligibility must be
30 redetermined at least every six months. If a family reports a
31 change in an eligibility factor before the family's next
32 regularly scheduled redetermination, the county must recalculate
33 eligibility without requiring verification of any eligibility
34 factor that did not change.

35 (c) The commissioner shall develop a recertification
36 redetermination form to redetermine eligibility and a change

1 report form to report changes that ~~minimizes~~ minimize paperwork
2 for the county and the participant.

3 Sec. 2. Minnesota Statutes 2004, section 119B.03,
4 subdivision 6, is amended to read:

5 Subd. 6. [ALLOCATION FORMULA.] The basic sliding fee state
6 and federal funds shall be allocated on a calendar year basis.
7 Funds shall be allocated first in amounts equal to each county's
8 guaranteed floor according to subdivision 8, with any remaining
9 available funds allocated according to the following formula:

10 (a) One-fourth of the funds shall be allocated in
11 proportion to each county's total expenditures for the basic
12 sliding fee child care program reported during the most recent
13 fiscal year completed at the time of the notice of allocation.

14 (b) One-fourth of the funds shall be allocated based on the
15 number of families participating in the transition year child
16 care program as reported during the most recent quarter
17 completed at the time of the notice of allocation.

18 (c) One-fourth of the funds shall be allocated in
19 proportion to each county's most recently reported first,
20 second, and third priority waiting list as defined in
21 subdivision 2 and the reinstatement list of those families whose
22 assistance was terminated with the approval of the commissioner
23 under Minnesota Rules, part 3400.0183, subpart 1.

24 (d) One-fourth of the funds must be allocated in proportion
25 to each county's most recently reported waiting list as defined
26 in subdivision 2 and the reinstatement list of those families
27 whose assistance was terminated with the approval of the
28 commissioner under Minnesota Rules, part 3400.0183, subpart 1.

29 Sec. 3. Minnesota Statutes 2004, section 119B.09,
30 subdivision 4, is amended to read:

31 Subd. 4. [ELIGIBILITY; ANNUAL INCOME; CALCULATION.] Annual
32 income of the applicant family is the current monthly income of
33 the family multiplied by 12 or the income for the 12-month
34 period immediately preceding the date of application, or income
35 calculated by the method which provides the most accurate
36 assessment of income available to the family. Self-employment

1 income must be calculated based on gross receipts less operating
2 expenses. Income must be ~~redetermined~~ recalculated when the
3 family's income changes, but no less often than every six
4 months. Income must be verified with documentary evidence. If
5 the applicant does not have sufficient evidence of income,
6 verification must be obtained from the source of the income.

7 Sec. 4. Minnesota Statutes 2004, section 119B.09,
8 subdivision 9, is amended to read:

9 Subd. 9. [LICENSED AND LEGAL NONLICENSED FAMILY CHILD CARE
10 PROVIDERS; ASSISTANCE.] Licensed and legal nonlicensed family
11 child care providers are not eligible to receive child care
12 assistance subsidies under this chapter for their own children
13 or children in their ~~custody~~ family during the hours they are
14 providing child care or being paid to provide child care. Child
15 care providers are eligible to receive child care assistance
16 subsidies for their children when they are engaged in other
17 activities that meet the requirements of this chapter and for
18 which child care assistance can be paid. The hours for which
19 the provider receives a child care subsidy for their own
20 children must not overlap with the hours the provider provides
21 child care services.

22 ARTICLE 4

23 CHILD SUPPORT

24 Section 1. Minnesota Statutes 2004, section 256.978,
25 subdivision 2, is amended to read:

26 Subd. 2. [ACCESS TO INFORMATION.] (a) A request for
27 information by the public authority responsible for child
28 support of this state or any other state may be made to:

29 (1) employers when there is reasonable cause to believe
30 that the subject of the inquiry is or was an employee or
31 independent contractor of the employer. Information to be
32 released by employers of employees is limited to place of
33 residence, employment status, wage or payment information,
34 benefit information, and Social Security number. Information to
35 be released by employers of independent contractors is limited
36 to place of residence or address, contract status, payment

1 information, benefit information, and Social Security number or
2 identification number;

3 (2) utility companies when there is reasonable cause to
4 believe that the subject of the inquiry is or was a retail
5 customer of the utility company. Customer information to be
6 released by utility companies is limited to place of residence,
7 home telephone, work telephone, source of income, employer and
8 place of employment, and Social Security number;

9 (3) insurance companies when there is reasonable cause to
10 believe that the subject of the inquiry is or was receiving
11 funds either in the form of a lump sum or periodic payments.
12 Information to be released by insurance companies is limited to
13 place of residence, home telephone, work telephone, employer,
14 Social Security number, and amounts and type of payments made to
15 the subject of the inquiry;

16 (4) labor organizations when there is reasonable cause to
17 believe that the subject of the inquiry is or was a member of
18 the labor association. Information to be released by labor
19 associations is limited to place of residence, home telephone,
20 work telephone, Social Security number, and current and past
21 employment information; and

22 (5) financial institutions when there is reasonable cause
23 to believe that the subject of the inquiry has or has had
24 accounts, stocks, loans, certificates of deposits, treasury
25 bills, life insurance policies, or other forms of financial
26 dealings with the institution. Information to be released by
27 the financial institution is limited to place of residence, home
28 telephone, work telephone, identifying information on the type
29 of financial relationships, Social Security number, current
30 value of financial relationships, and current indebtedness of
31 the subject with the financial institution.

32 (b) For purposes of this subdivision, utility companies
33 include telephone companies, radio common carriers, and
34 telecommunications carriers as defined in section 237.01, and
35 companies that provide electrical, telephone, natural gas,
36 propane gas, oil, coal, or cable television services to retail

1 customers. The term financial institution includes banks,
2 savings and loans, credit unions, brokerage firms, mortgage
3 companies, insurance companies, benefit associations, safe
4 deposit companies, money market mutual funds, or similar
5 entities authorized to do business in the state.

6 (c) For purposes of this section, the public authority may
7 request or obtain information from any person or entity
8 enumerated in this section, or from any third party who
9 contracts with any such person or entity to obtain or retain
10 information that may be requested by the public authority.

11 Sec. 2. Minnesota Statutes 2004, section 518.551,
12 subdivision 5, is amended to read:

13 Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] (a) The
14 petitioner shall notify the public authority of all proceedings
15 for dissolution, legal separation, determination of parentage or
16 for the custody of a child, if either party is receiving public
17 assistance or applies for it subsequent to the commencement of
18 the proceeding. The notice must contain the full names of the
19 parties to the proceeding, their Social Security account
20 numbers, and their birth dates. After receipt of the notice,
21 the court shall set child support as provided in this
22 subdivision. The court may order either or both parents owing a
23 duty of support to a child of the marriage to pay an amount
24 reasonable or necessary for the child's support, without regard
25 to marital misconduct. The court shall approve a child support
26 stipulation of the parties if each party is represented by
27 independent counsel, unless the stipulation does not meet the
28 conditions of paragraph (i). In other cases the court shall
29 determine and order child support in a specific dollar amount in
30 accordance with the guidelines and the other factors set forth
31 in paragraph (c) and any departure therefrom. The court may
32 also order the obligor to pay child support in the form of a
33 percentage share of the obligor's net bonuses, commissions, or
34 other forms of compensation, in addition to, or if the obligor
35 receives no base pay, in lieu of, an order for a specific dollar
36 amount.

1 (b) The court shall derive a specific dollar amount for
 2 child support by multiplying the obligor's net income by the
 3 percentage indicated by the following guidelines:

4 Net Income Per Number of Children
 5 Month of Obligor
 6 1 2 3 4 5 6 7 or
 7 more

8 \$550 and Below Order based on the ability of the
 9 obligor to provide support
 10 at these income levels, or at higher
 11 levels, if the obligor has
 12 the earning ability.

13	\$551 - 600	16%	19%	22%	25%	28%	30%	32%
14	\$601 - 650	17%	21%	24%	27%	29%	32%	34%
15	\$651 - 700	18%	22%	25%	28%	31%	34%	36%
16	\$701 - 750	19%	23%	27%	30%	33%	36%	38%
17	\$751 - 800	20%	24%	28%	31%	35%	38%	40%
18	\$801 - 850	21%	25%	29%	33%	36%	40%	42%
19	\$851 - 900	22%	27%	31%	34%	38%	41%	44%
20	\$901 - 950	23%	28%	32%	36%	40%	43%	46%
21	\$951 - 1000	24%	29%	34%	38%	41%	45%	48%
22	\$1001- 5000	25%	30%	35%	39%	43%	47%	50%

23 or the amount
 24 in effect under
 25 paragraph (k)

26 Guidelines for support for an obligor with a monthly income
 27 in excess of the income limit currently in effect under
 28 paragraph (k) shall be the same dollar amounts as provided for
 29 in the guidelines for an obligor with a monthly income equal to
 30 the limit in effect.

31 Net Income defined as:

32
 33 Total monthly
 34 income less *(i) Federal Income Tax
 35 *(ii) State Income Tax
 36 *(iii) Social Security

1 of employment;

2 (D) the excess employment is in the nature of additional,
3 part-time or overtime employment compensable by the hour or
4 fraction of an hour; and

5 (E) the party's compensation structure has not been changed
6 for the purpose of affecting a support or maintenance obligation.

7 The court shall review the work-related and
8 education-related child care costs paid and shall allocate the
9 costs to each parent in proportion to each parent's net income,
10 as determined under this subdivision, after the transfer of
11 child support and spousal maintenance, unless the allocation
12 would be substantially unfair to either parent. There is a
13 presumption of substantial unfairness if after the sum total of
14 child support, spousal maintenance, and child care costs is
15 subtracted from the obligor's income, the income is at or below
16 100 percent of the federal poverty guidelines. The cost of
17 child care for purposes of this paragraph is 75 percent of the
18 actual cost paid for child care, to reflect the approximate
19 value of state and federal tax credits available to the
20 obligee. The actual cost paid for child care is the total
21 amount received by the child care provider for the child or
22 children of the obligor from the obligee or any public agency.
23 The court shall require verification of employment or school
24 attendance and documentation of child care expenses from the
25 obligee and the public agency, if applicable. If child care
26 expenses fluctuate during the year because of seasonal
27 employment or school attendance of the obligee or extended
28 periods of parenting time with the obligor, the court shall
29 determine child care expenses based on an average monthly cost.
30 The amount allocated for child care expenses is considered child
31 support but is not subject to a cost-of-living adjustment under
32 section 518.641. If a court order provides for child care
33 expenses and the public authority provides child support
34 enforcement services, the collection of the amount allocated for
35 child care expenses terminates must be suspended when either
36 party ~~notifies~~ informs the public authority that the no child

1 ~~care costs have ended and without any legal action on the part~~
2 ~~of either party~~ are being incurred and the public authority
3 verifies the accuracy of the information with the other party.
4 The public authority shall ~~verify the information received under~~
5 ~~this provision before authorizing termination. The termination~~
6 ~~is effective as of the date of the notification.~~ resume
7 collection of the amount allocated for child care expenses when
8 either party provides information that child care costs have
9 resumed. If the parties provide conflicting information to the
10 public authority regarding whether or not child care expenses
11 are being incurred, the collection of the amount allocated for
12 child care expenses must continue or resume. Either party,
13 through motion to the court, may challenge the suspension or
14 resumption of the collection of the amount allocated for child
15 care expenses. All provisions of the court order remain in
16 effect even though the public authority suspends collection
17 activities for the amount allocated for child care expenses. In
18 these and other cases where there is a substantial increase or
19 decrease in child care expenses, the parties may modify the
20 order under section 518.64.

21 The court may allow the obligor parent to care for the
22 child while the obligee parent is working, as provided in
23 section 518.175, subdivision 8, but this is not a reason to
24 deviate from the guidelines.

25 (c) In addition to the child support guidelines, the court
26 shall take into consideration the following factors in setting
27 or modifying child support or in determining whether to deviate
28 from the guidelines:

29 (1) all earnings, income, and resources of the parents,
30 including real and personal property, but excluding income from
31 excess employment of the obligor or obligee that meets the
32 criteria of paragraph (b), clause (2)(ii);

33 (2) the financial needs and resources, physical and
34 emotional condition, and educational needs of the child or
35 children to be supported;

36 (3) the standard of living the child would have enjoyed had

1 the marriage not been dissolved, but recognizing that the
2 parents now have separate households;

3 (4) which parent receives the income taxation dependency
4 exemption and what financial benefit the parent receives from
5 it;

6 (5) the parents' debts as provided in paragraph (d); and

7 (6) the obligor's receipt of public assistance under the
8 AFDC program formerly codified under sections 256.72 to 256.82
9 or 256B.01 to 256B.40 and chapter 256J or 256K.

10 (d) In establishing or modifying a support obligation, the
11 court may consider debts owed to private creditors, but only if:

12 (1) the right to support has not been assigned under
13 section 256.741;

14 (2) the court determines that the debt was reasonably
15 incurred for necessary support of the child or parent or for the
16 necessary generation of income. If the debt was incurred for
17 the necessary generation of income, the court shall consider
18 only the amount of debt that is essential to the continuing
19 generation of income; and

20 (3) the party requesting a departure produces a sworn
21 schedule of the debts, with supporting documentation, showing
22 goods or services purchased, the recipient of them, the amount
23 of the original debt, the outstanding balance, the monthly
24 payment, and the number of months until the debt will be fully
25 paid.

26 (e) Any schedule prepared under paragraph (d), clause (3),
27 shall contain a statement that the debt will be fully paid after
28 the number of months shown in the schedule, barring emergencies
29 beyond the party's control.

30 (f) Any further departure below the guidelines that is
31 based on a consideration of debts owed to private creditors
32 shall not exceed 18 months in duration, after which the support
33 shall increase automatically to the level ordered by the court.
34 Nothing in this section shall be construed to prohibit one or
35 more step increases in support to reflect debt retirement during
36 the 18-month period.

1 (g) If payment of debt is ordered pursuant to this section,
2 the payment shall be ordered to be in the nature of child
3 support.

4 (h) Nothing shall preclude the court from receiving
5 evidence on the above factors to determine if the guidelines
6 should be exceeded or modified in a particular case.

7 (i) The guidelines in this subdivision are a rebuttable
8 presumption and shall be used in all cases when establishing or
9 modifying child support. If the court does not deviate from the
10 guidelines, the court shall make written findings concerning the
11 amount of the obligor's income used as the basis for the
12 guidelines calculation and any other significant evidentiary
13 factors affecting the determination of child support. If the
14 court deviates from the guidelines, the court shall make written
15 findings giving the amount of support calculated under the
16 guidelines, the reasons for the deviation, and shall
17 specifically address the criteria in paragraph (c) and how the
18 deviation serves the best interest of the child. The court may
19 deviate from the guidelines if both parties agree and the court
20 makes written findings that it is in the best interests of the
21 child, except that in cases where child support payments are
22 assigned to the public agency under section 256.741, the court
23 may deviate downward only as provided in paragraph (j). Nothing
24 in this paragraph prohibits the court from deviating in other
25 cases. The provisions of this paragraph apply whether or not
26 the parties are each represented by independent counsel and have
27 entered into a written agreement. The court shall review
28 stipulations presented to it for conformity to the guidelines
29 and the court is not required to conduct a hearing, but the
30 parties shall provide the documentation of earnings required
31 under subdivision 5b.

32 (j) If the child support payments are assigned to the
33 public agency under section 256.741, the court may not deviate
34 downward from the child support guidelines unless the court
35 specifically finds that the failure to deviate downward would
36 impose an extreme hardship on the obligor.

1 (k) The dollar amount of the income limit for application
2 of the guidelines must be adjusted on July 1 of every
3 even-numbered year to reflect cost-of-living changes. The
4 Supreme Court shall select the index for the adjustment from the
5 indices listed in section 518.641. The state court
6 administrator shall make the changes in the dollar amount
7 required by this paragraph available to courts and the public on
8 or before April 30 of the year in which the amount is to change.

9 (l) In establishing or modifying child support, if a child
10 receives a child's insurance benefit under United States Code,
11 title 42, section 402, because the obligor is entitled to old
12 age or disability insurance benefits, the amount of support
13 ordered shall be offset by the amount of the child's benefit.
14 The court shall make findings regarding the obligor's income
15 from all sources, the child support amount calculated under this
16 section, the amount of the child's benefit, and the obligor's
17 child support obligation. Any benefit received by the child in
18 a given month in excess of the child support obligation shall
19 not be treated as an arrearage payment or a future payment.

20 Sec. 3. Minnesota Statutes 2004, section 518.68,
21 subdivision 2, is amended to read:

22 Subd. 2. [CONTENTS.] The required notices must be
23 substantially as follows:

24 IMPORTANT NOTICE

25 1. PAYMENTS TO PUBLIC AGENCY

26 According to Minnesota Statutes, section 518.551,
27 subdivision 1, payments ordered for maintenance and support
28 must be paid to the public agency responsible for child
29 support enforcement as long as the person entitled to
30 receive the payments is receiving or has applied for public
31 assistance or has applied for support and maintenance
32 collection services. MAIL PAYMENTS TO:

33 2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A
34 FELONY

35 A person may be charged with a felony who conceals a minor
36 child or takes, obtains, retains, or fails to return a

1 minor child from or to the child's parent (or person with
2 custodial or visitation rights), according to Minnesota
3 Statutes, section 609.26. A copy of that section is
4 available from any district court clerk.

5 3. NONSUPPORT OF A SPOUSE OR CHILD -- CRIMINAL PENALTIES

6 A person who fails to pay court-ordered child support or
7 maintenance may be charged with a crime, which may include
8 misdemeanor, gross misdemeanor, or felony charges,
9 according to Minnesota Statutes, section 609.375. A copy
10 of that section is available from any district court clerk.

11 4. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME

12 (a) Payment of support or spousal maintenance is to be as
13 ordered, and the giving of gifts or making purchases of
14 food, clothing, and the like will not fulfill the
15 obligation.

16 (b) Payment of support must be made as it becomes due, and
17 failure to secure or denial of parenting time is NOT an
18 excuse for nonpayment, but the aggrieved party must seek
19 relief through a proper motion filed with the court.

20 (c) Nonpayment of support is not grounds to deny parenting
21 time. The party entitled to receive support may apply for
22 support and collection services, file a contempt motion, or
23 obtain a judgment as provided in Minnesota Statutes,
24 section 548.091.

25 (d) The payment of support or spousal maintenance takes
26 priority over payment of debts and other obligations.

27 (e) A party who accepts additional obligations of support
28 does so with the full knowledge of the party's prior
29 obligation under this proceeding.

30 (f) Child support or maintenance is based on annual income,
31 and it is the responsibility of a person with seasonal
32 employment to budget income so that payments are made
33 throughout the year as ordered.

34 (g) If the obligor is laid off from employment or receives
35 a pay reduction, support may be reduced, but only if a
36 motion to reduce the support is served and filed with the

1 court. Any reduction will take effect only if ordered by
2 the court and may only relate back to the time that the
3 motion is filed. If a motion is not filed, the support
4 obligation will continue at the current level. The court
5 is not permitted to reduce support retroactively, except as
6 provided in Minnesota Statutes, section 518.64, subdivision
7 2, paragraph (c).

8 (h) Reasonable parenting time guidelines are contained in
9 Appendix B, which is available from the court administrator.

10 (i) The nonpayment of support may be enforced through the
11 denial of student grants; interception of state and federal
12 tax refunds; suspension of driver's, recreational, and
13 occupational licenses; referral to the department of
14 revenue or private collection agencies; seizure of assets,
15 including bank accounts and other assets held by financial
16 institutions; reporting to credit bureaus; interest
17 charging, income withholding, and contempt proceedings; and
18 other enforcement methods allowed by law.

19 (j) The public authority may suspend or resume collection
20 of the amount allocated for child care expenses if the
21 conditions of Minnesota Statutes, section 518.551,
22 subdivision 5, paragraph (b), are met.

23 5. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17,
24 SUBDIVISION 3

25 Unless otherwise provided by the Court:

26 (a) Each party has the right of access to, and to receive
27 copies of, school, medical, dental, religious training, and
28 other important records and information about the minor
29 children. Each party has the right of access to
30 information regarding health or dental insurance available
31 to the minor children. Presentation of a copy of this
32 order to the custodian of a record or other information
33 about the minor children constitutes sufficient
34 authorization for the release of the record or information
35 to the requesting party.

36 (b) Each party shall keep the other informed as to the name

1 and address of the school of attendance of the minor
2 children. Each party has the right to be informed by
3 school officials about the children's welfare, educational
4 progress and status, and to attend school and parent
5 teacher conferences. The school is not required to hold a
6 separate conference for each party.

7 (c) In case of an accident or serious illness of a minor
8 child, each party shall notify the other party of the
9 accident or illness, and the name of the health care
10 provider and the place of treatment.

11 (d) Each party has the right of reasonable access and
12 telephone contact with the minor children.

13 6. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

14 Child support and/or spousal maintenance may be withheld
15 from income, with or without notice to the person obligated
16 to pay, when the conditions of Minnesota Statutes, section
17 518.6111 have been met. A copy of those sections is
18 available from any district court clerk.

19 7. CHANGE OF ADDRESS OR RESIDENCE

20 Unless otherwise ordered, each party shall notify the other
21 party, the court, and the public authority responsible for
22 collection, if applicable, of the following information
23 within ten days of any change: the residential and mailing
24 address, telephone number, driver's license number, Social
25 Security number, and name, address, and telephone number of
26 the employer.

27 8. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

28 Child support and/or spousal maintenance may be adjusted
29 every two years based upon a change in the cost of living
30 (using Department of Labor Consumer Price Index,
31 unless otherwise specified in this order) when the
32 conditions of Minnesota Statutes, section 518.641, are met.
33 Cost of living increases are compounded. A copy of
34 Minnesota Statutes, section 518.641, and forms necessary to
35 request or contest a cost of living increase are available
36 from any district court clerk.

1 9. JUDGMENTS FOR UNPAID SUPPORT

2 If a person fails to make a child support payment, the
3 payment owed becomes a judgment against the person
4 responsible to make the payment by operation of law on or
5 after the date the payment is due, and the person entitled
6 to receive the payment or the public agency may obtain
7 entry and docketing of the judgment WITHOUT NOTICE to the
8 person responsible to make the payment under Minnesota
9 Statutes, section 548.091. Interest begins to accrue on a
10 payment or installment of child support whenever the unpaid
11 amount due is greater than the current support due,
12 according to Minnesota Statutes, section 548.091,
13 subdivision 1a.

14 10. JUDGMENTS FOR UNPAID MAINTENANCE

15 A judgment for unpaid spousal maintenance may be entered
16 when the conditions of Minnesota Statutes, section 548.091,
17 are met. A copy of that section is available from any
18 district court clerk.

19 11. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD
20 SUPPORT

21 A judgment for attorney fees and other collection costs
22 incurred in enforcing a child support order will be entered
23 against the person responsible to pay support when the
24 conditions of section 518.14, subdivision 2, are met. A
25 copy of section 518.14 and forms necessary to request or
26 contest these attorney fees and collection costs are
27 available from any district court clerk.

28 12. PARENTING TIME EXPEDITOR PROCESS

29 On request of either party or on its own motion, the court
30 may appoint a parenting time expeditor to resolve parenting
31 time disputes under Minnesota Statutes, section 518.1751.
32 A copy of that section and a description of the expeditor
33 process is available from any district court clerk.

34 13. PARENTING TIME REMEDIES AND PENALTIES

35 Remedies and penalties for the wrongful denial of parenting
36 time are available under Minnesota Statutes, section

1 518.175, subdivision 6. These include compensatory
2 parenting time; civil penalties; bond requirements;
3 contempt; and reversal of custody. A copy of that
4 subdivision and forms for requesting relief are available
5 from any district court clerk.

6 Sec. 4. Minnesota Statutes 2004, section 548.091,
7 subdivision 1a, is amended to read:

8 Subd. 1a. [CHILD SUPPORT JUDGMENT BY OPERATION OF LAW.]

9 (a) Any payment or installment of support required by a judgment
10 or decree of dissolution or legal separation, determination of
11 parentage, an order under chapter 518C, an order under section
12 256.87, or an order under section 260B.331 or 260C.331, that is
13 not paid or withheld from the obligor's income as required under
14 section 518.6111, or which is ordered as child support by
15 judgment, decree, or order by a court in any other state, is a
16 judgment by operation of law on and after the date it is due, is
17 entitled to full faith and credit in this state and any other
18 state, and shall be entered and docketed by the court
19 administrator on the filing of affidavits as provided in
20 subdivision 2a. Except as otherwise provided by paragraph (b),
21 interest accrues from the date the unpaid amount due is greater
22 than the current support due at the annual rate provided in
23 section 549.09, subdivision 1, plus two percent, not to exceed
24 an annual rate of 18 percent. A payment or installment of
25 support that becomes a judgment by operation of law between the
26 date on which a party served notice of a motion for modification
27 under section 518.64, subdivision 2, and the date of the court's
28 order on modification may be modified under that subdivision.

29 (b) Notwithstanding the provisions of section 549.09, upon
30 motion to the court and upon proof by the obligor of 36 12
31 consecutive months of complete and timely payments of both
32 current support and court-ordered paybacks of a child support
33 debt or arrearage, the court may order interest on the remaining
34 debt or arrearage to stop accruing. Timely payments are those
35 made in the month in which they are due. If, after that time,
36 the obligor fails to make complete and timely payments of both

1 current support and court-ordered paybacks of child support debt
2 or arrearage, the public authority or the obligee may move the
3 court for the reinstatement of interest as of the month in which
4 the obligor ceased making complete and timely payments.

5 The court shall provide copies of all orders issued under
6 this section to the public authority. The state court
7 administrator shall prepare and make available to the court and
8 the parties forms to be submitted by the parties in support of a
9 motion under this paragraph.

10 (c) Notwithstanding the provisions of section 549.09, upon
11 motion to the court, the court may order interest on a child
12 support debt or arrearage to stop accruing where the court finds
13 that the obligor is:

14 (1) unable to pay support because of a significant physical
15 or mental disability;

16 (2) a recipient of Supplemental Security Income (SSI),
17 Title II Older Americans Survivor's Disability Insurance
18 (OASDI), other disability benefits, or public assistance based
19 upon need; or

20 (3) institutionalized or incarcerated for at least 30 days
21 for an offense other than nonsupport of the child or children
22 involved, and is otherwise financially unable to pay support.

23 (d) If the conditions in paragraph (c) no longer exist,
24 upon motion to the court, the court may order interest accrual
25 to resume retroactively from the date of service of the motion
26 to resume the accrual of interest.

27 ARTICLE 5

28 FAMILY SUPPORTS

29 Section 1. Minnesota Statutes 2004, section 119A.43,
30 subdivision 2, is amended to read:

31 Subd. 2. [ESTABLISHMENT AND ADMINISTRATION.] A
32 transitional housing program is established to be administered
33 by the commissioner. The commissioner may make grants to
34 eligible recipients or enter into agreements with community
35 action agencies or other public or private nonprofit agencies to
36 make grants to eligible recipients to initiate, maintain, or

1 expand programs to provide transitional housing and support
2 services for persons in need of transitional housing, which may
3 include up to six months of follow-up support services for
4 persons who complete transitional housing as they stabilize in
5 permanent housing. The commissioner must ensure that money
6 appropriated to implement this section is distributed as soon as
7 practicable. The commissioner may make grants directly to
8 eligible recipients. The commissioner may use up to ten percent
9 of the appropriation available for this program for persons
10 needing assistance longer than 24 months.

11 Sec. 2. Minnesota Statutes 2004, section 144D.025, is
12 amended to read:

13 144D.025 [OPTIONAL REGISTRATION.]

14 An establishment that meets all the requirements of this
15 chapter except that fewer than 80 percent of the adult residents
16 are age 55 or older, or a supportive housing establishment
17 developed and funded in whole or in part with funds provided
18 specifically as part of the plan to end long-term homelessness
19 required under Laws 2003, chapter 128, article 15, section 9,
20 may, at its option, register as a housing with services
21 establishment.

22 Sec. 3. Minnesota Statutes 2004, section 256D.02,
23 subdivision 17, is amended to read:

24 Subd. 17. [PROFESSIONAL CERTIFICATION.] "Professional
25 certification" means ~~-(1)-~~ a statement about a person's illness,
26 injury, or incapacity that is signed by a ~~licensed-physician,~~
27 ~~psychological-practitioner,-or-licensed-psychologist,-qualified~~
28 ~~by-professional-training-and-experience-to-diagnose-and-certify~~
29 ~~the-person's-condition,-or~~

30 ~~(2)-a-statement-about-an-incapacity-involving-a-spinal~~
31 ~~subluxation-condition-that-is-signed-by-a-licensed-chiropractor~~
32 ~~qualified-by-professional-training-and-experience-to-diagnose~~
33 ~~and-certify-the-condition~~ "qualified professional" as defined in
34 section 256J.08, subdivision 73a.

35 Sec. 4. Minnesota Statutes 2004, section 256D.051,
36 subdivision 6c, is amended to read:

1 Subd. 6c. [PROGRAM FUNDING.] ~~(a)~~ Within the limits of
2 available resources, the commissioner shall reimburse the actual
3 costs of county agencies and their employment and training
4 service providers for the provision of food stamp employment and
5 training services, including participant support services,
6 direct program services, and program administrative activities.
7 The cost of services for each county's food stamp employment and
8 training program shall not exceed the annual allocated amount.
9 No more than 15 percent of program funds may be used for
10 administrative activities. The county agency may expend county
11 funds in excess of the limits of this subdivision without state
12 reimbursement.

13 Program funds shall be allocated based on the county's
14 average number of food stamp cases as compared to the statewide
15 total number of such cases. The average number of cases shall
16 be based on counts of cases as of March 31, June 30, September
17 30, and December 31 of the previous calendar year. The
18 commissioner may reallocate unexpended money appropriated under
19 this section to those county agencies that demonstrate a need
20 for additional funds.

21 ~~(b)-This-subdivision-expires-effective-June-30,2005-~~

22 Sec. 5. Minnesota Statutes 2004, section 256I.04,
23 subdivision 2a, is amended to read:

24 Subd. 2a. [LICENSE REQUIRED.] A county agency may not
25 enter into an agreement with an establishment to provide group
26 residential housing unless:

27 (1) the establishment is licensed by the Department of
28 Health as a hotel and restaurant; a board and lodging
29 establishment; a residential care home; a boarding care home
30 before March 1, 1985; or a supervised living facility, and the
31 service provider for residents of the facility is licensed under
32 chapter 245A. However, an establishment licensed by the
33 Department of Health to provide lodging need not also be
34 licensed to provide board if meals are being supplied to
35 residents under a contract with a food vendor who is licensed by
36 the Department of Health;

1 (2) the residence is licensed by the commissioner of human
2 services under Minnesota Rules, parts 9555.5050 to 9555.6265, or
3 certified by a county human services agency prior to July 1,
4 1992, using the standards under Minnesota Rules, parts 9555.5050
5 to 9555.6265; or

6 (3) the establishment is registered under chapter 144D and
7 provides three meals a day, ~~except-that~~ or is an establishment
8 voluntarily registered under section 144D.025 ~~is-not-eligible~~
9 ~~for-an-agreement-to-provide-group-residential-housing as a~~
10 supportive housing establishment; or

11 (4) an establishment voluntarily registered under section
12 144D.025, other than a supportive housing establishment under
13 clause (3), is not eligible to provide group residential housing.

14 The requirements under clauses (1), (2), (3), and ~~(3)~~ (4)
15 do not apply to establishments exempt from state licensure
16 because they are located on Indian reservations and subject to
17 tribal health and safety requirements.

18 Sec. 6. Minnesota Statutes 2004, section 256I.05, is
19 amended by adding a subdivision to read:

20 Subd. 1g. [SUPPLEMENTARY SERVICE RATE FOR CERTAIN
21 FACILITIES.] On or after July 1, 2005, a county agency may
22 negotiate a supplementary service rate for recipients of
23 assistance under section 256I.04, subdivision 1, paragraph (b),
24 who relocate from a homeless shelter licensed and registered
25 prior to December 31, 1996, by the Minnesota Department of
26 Health under section 157.17, to a supportive housing
27 establishment developed and funded in whole or in part with
28 funds provided specifically as part of the plan to end long-term
29 homelessness required under Laws 2003, chapter 128, article 15,
30 section 9, not to exceed \$456.75.

31 Sec. 7. Minnesota Statutes 2004, section 256J.626,
32 subdivision 6, is amended to read:

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

36 (1) "2002 historic spending base" means the commissioner's

1 determination of the sum of the reimbursement related to fiscal
2 year 2002 of county or tribal agency expenditures for the base
3 programs listed in clause ~~(4)~~ (6), items (i) through (iv), and
4 earnings related to calendar year 2002 in the base program
5 listed in clause ~~(4)~~ (6), item (v), and the amount of spending
6 in fiscal year 2002 in the base program listed in
7 clause ~~(4)~~ (6), item (vi), issued to or on behalf of persons
8 residing in the county or tribal service delivery area.

9 (2) "Adjusted caseload factor" means a factor weighted:

10 (i) 47 percent on the MFIP cases in each county at four
11 points in time in the most recent 12-month period for which data
12 is available multiplied by the county's caseload difficulty
13 factor; and

14 (ii) 53 percent on the count of adults on MFIP in each
15 county and tribe at four points in time in the most recent
16 12-month period for which data is available multiplied by the
17 county or tribe's caseload difficulty factor.

18 (3) "Caseload difficulty factor" means a factor determined
19 by the commissioner for each county and tribe based upon the
20 self-support index described in section 256J.751, subdivision 2,
21 clause (7).

22 ~~(2)~~ (4) "Initial allocation" means the amount potentially
23 available to each county or tribe based on the formula in
24 paragraphs (b) through ~~(d)~~ (h).

25 ~~(3)~~ (5) "Final allocation" means the amount available to
26 each county or tribe based on the formula in paragraphs (b)
27 through ~~(d)~~ (h), after adjustment by subdivision 7.

28 ~~(4)~~ (6) "Base programs" means the:

29 (i) MFIP employment and training services under Minnesota
30 Statutes 2002, section 256J.62, subdivision 1, in effect June
31 30, 2002;

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

35 (iii) work literacy language programs under Minnesota
36 Statutes 2002, section 256J.62, subdivision 7, in effect June

1 30, 2002;

2 (iv) supported work program authorized in Laws 2001, First
3 Special Session chapter 9, article 17, section 2, in effect June
4 30, 2002;

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

7 (vi) emergency assistance program under Minnesota Statutes
8 2002, section 256J.48, in effect June 30, 2002.

9 ~~(b)(1)-Beginning-July-17-2003~~ The commissioner shall:

10 (1) beginning July 1, 2003, determine the initial
11 allocation of funds available under this section according to
12 clause (2);

13 (2) allocate all of the funds available for the period
14 beginning July 1, 2003, and ending December 31, 2004, ~~shall be~~
15 ~~allocated~~ to each county or tribe in proportion to the county's
16 or tribe's share of the statewide 2002 historic spending base;

17 ~~(c) (3) determine~~ for calendar year 2005 ~~the commissioner~~
18 ~~shall determine~~ the initial allocation of funds to be made
19 available under this section in proportion to the county or
20 tribe's initial allocation for the period of July 1, 2003, to
21 December 31, 2004;

22 ~~(d)-The-formula-under-this-subdivision-sunsets-December-31-~~
23 ~~2005-~~ (4) determine for calendar year 2006 the initial
24 allocation of funds to be made available under this section
25 based 90 percent on the proportion of the county or tribe's
26 share of the statewide 2002 historic spending base and ten
27 percent on the proportion of the county or tribe's share of the
28 adjusted caseload factor;

29 (5) determine for calendar year 2007 the initial allocation
30 of funds to be made available under this section based 70
31 percent on the proportion of the county or tribe's share of the
32 statewide 2002 historic spending base and 30 percent on the
33 proportion of the county or tribe's share of the adjusted
34 caseload factor; and

35 (6) determine for calendar year 2008 and subsequent years
36 the initial allocation of funds to be made available under this

1 section based 50 percent on the proportion of the county or
2 tribe's share of the statewide 2002 historic spending base and
3 50 percent on the proportion of the county or tribe's share of
4 the adjusted caseload factor.

5 ~~(e)~~ (c) With the commencement of a new or expanded tribal
6 TANF program or an agreement under section 256.01, subdivision
7 2, paragraph (g), in which some or all of the responsibilities
8 of particular counties under this section are transferred to a
9 tribe, the commissioner shall:

10 (1) in the case where all responsibilities under this
11 section are transferred to a tribal program, determine the
12 percentage of the county's current caseload that is transferring
13 to a tribal program and adjust the affected county's allocation
14 accordingly; and

15 (2) in the case where a portion of the responsibilities
16 under this section are transferred to a tribal program, the
17 commissioner shall consult with the affected county or counties
18 to determine an appropriate adjustment to the allocation.

19 ~~(f)~~ (d) Effective January 1, 2005, counties and tribes will
20 have their final allocations adjusted based on the performance
21 provisions of subdivision 7.

22 Sec. 8. Minnesota Statutes 2004, section 256J.626,
23 subdivision 7, is amended to read:

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

29 (1) for calendar year 2005, a county or tribe that achieves
30 a 30 percent rate or higher on the MFIP participation rate under
31 section 256J.751, subdivision 2, clause (8), as averaged across
32 the four quarterly measurements for the most recent year for
33 which the measurements are available, will receive an additional
34 allocation equal to 2.5 percent of its initial allocation; and

35 (2) for calendar year 2006, a county or tribe that achieves
36 a 40 percent rate or a five percentage point improvement over

1 the previous year's MFIP participation rate under section
2 256J.751, subdivision 2, clause (8), as averaged across the four
3 quarterly measurements for the most recent year for which the
4 measurements are available, will receive an additional
5 allocation equal to 2.5 percent of its initial allocation; and

6 (3) for calendar year 2007, a county or tribe that achieves
7 a 50 percent rate or a five percentage point improvement over
8 the previous year's MFIP participation rate under section
9 256J.751, subdivision 2, clause (8), as averaged across the four
10 quarterly measurements for the most recent year for which the
11 measurements are available, will receive an additional
12 allocation equal to 2.5 percent of its initial allocation; and

13 (4) for calendar year 2008 and yearly thereafter, a county
14 or tribe that achieves a 50 percent MFIP participation rate
15 under section 256J.751, subdivision 2, clause (8), as averaged
16 across the four quarterly measurements for the most recent year
17 for which the measurements are available, will receive an
18 additional allocation equal to 2.5 percent of its initial
19 allocation; and

20 (5) for calendar years 2005 and thereafter, a county or
21 tribe that performs above the top of its annualized range of
22 expected performance on the three-year self-support index under
23 section 256J.751, subdivision 2, clause (7), ~~in-both~~
24 ~~measurements-in-the-preceding-year~~ will receive an additional
25 allocation equal to five percent of its initial allocation; or

26 (6) for calendar years 2005 and thereafter, a county or
27 tribe that performs within its range of expected performance on
28 the annualized three-year self-support index under section
29 256J.751, subdivision 2, clause (7), ~~in-both-measurements-in-the~~
30 ~~preceding-year, or-above-the-top-of-its-range-of-expected~~
31 ~~performance-in-one-measurement-and-within-its-expected-range-of~~
32 ~~performance-in-the-other-measurement,~~ will receive an additional
33 allocation equal to 2.5 percent of its initial allocation.

34 (b) Performance-based funds for a federally approved tribal
35 TANF program in which the state and tribe have in place a
36 contract under section 256.01, addressing consolidated funding,

1 will be allocated as follows:

2 (1) for calendar year 2006 and yearly thereafter, a tribe
3 that achieves the participation rate approved in its federal
4 TANF plan using the average of four quarterly measurements for
5 the most recent year for which the measurements are available,
6 will receive an additional allocation equal to 2.5 percent of
7 its initial allocation; and

8 (2) for calendar years 2006 and thereafter, a tribe that
9 performs above the top of its annualized range of expected
10 performance on the three-year self-support index under section
11 256J.751, subdivision 2, clause (7), will receive an additional
12 allocation equal to five percent of its initial allocation; or

13 (3) for calendar years 2006 and thereafter, a tribe that
14 performs within its range of expected performance on the
15 annualized three-year self-support index under section 256J.751,
16 subdivision 2, clause (7), will receive an additional allocation
17 equal to 2.5 percent of its initial allocation.

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

21 ~~(e)~~ (d)(1) If available funds are insufficient to meet
22 county and tribal allocations under paragraph (a), the
23 commissioner may make available for allocation funds that are
24 unobligated and available from the innovation projects through
25 the end of the current biennium.

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

31 Sec. 9. Minnesota Statutes 2004, section 256J.626,
32 subdivision 8, is amended to read:

33 Subd. 8. [REPORTING REQUIREMENT AND REIMBURSEMENT.] (a)
34 The commissioner shall specify requirements for reporting
35 according to section 256.01, subdivision 2, clause (17). Each
36 county or tribe shall be reimbursed for eligible expenditures up

1 to the limit of its allocation and subject to availability of
2 funds.

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

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

13 (1) to the extent that particular county or tribal
14 allocations are reduced from the previous year's amount due to
15 the phase-in under subdivision 6, paragraph (b), clauses (4) to
16 (6), those tribes or counties would have first priority for
17 reallocated funds; and

18 (2) to the extent that unexpended funds are insufficient to
19 cover demonstrated need, funds will be prorated to those
20 counties and tribes in relation to demonstrated need.

21 Sec. 10. Minnesota Statutes 2004, section 256J.751,
22 subdivision 2, is amended to read:

23 Subd. 2. [QUARTERLY COMPARISON REPORT.] The commissioner
24 shall report quarterly to all counties on each county's
25 performance on the following measures:

26 (1) percent of MFIP caseload working in paid employment;

27 (2) percent of MFIP caseload receiving only the food
28 portion of assistance;

29 (3) number of MFIP cases that have left assistance;

30 (4) ~~federal-participation-requirements-as-specified-in~~
31 ~~Title-1-of-Public-Law-104-193,~~

32 (5) median placement wage rate;

33 (6) (5) caseload by months of TANF assistance;

34 (7) (6) percent of MFIP and diversionary work program (DWP)
35 cases off cash assistance or working 30 or more hours per week
36 at one-year, two-year, and three-year follow-up points from a

1 baseline quarter. This measure is called the self-support
2 index. ~~Twice-annually,~~ The commissioner shall report quarterly
3 an expected range of performance for each county, county
4 grouping, and tribe on the self-support index. The expected
5 range shall be derived by a statistical methodology developed by
6 the commissioner in consultation with the counties and tribes.
7 The statistical methodology shall control differences across
8 counties in economic conditions and demographics of the MFIP and
9 DWP case load; and

10 ~~(8)~~ (7) the MFIP work participation rate, defined as the
11 participation requirements specified in title 1 of Public Law
12 104-193 applied to all MFIP cases except child only cases and
13 cases exempt under section 256J.56.

14 Sec. 11. Minnesota Statutes 2004, section 256J.751,
15 subdivision 5, is amended to read:

16 Subd. 5. [FAILURE TO MEET FEDERAL PERFORMANCE STANDARDS.]

17 (a) If sanctions occur for failure to meet the performance
18 standards specified in title 1 of Public Law 104-193 of the
19 Personal Responsibility and Work Opportunity Act of 1996, the
20 state shall pay 88 percent of the sanction. The remaining 12
21 percent of the sanction will be paid by the counties. The
22 county portion of the sanction will be distributed across all
23 counties in proportion to each county's percentage of the MFIP
24 average monthly caseload during the period for which the
25 sanction was applied.

26 (b) If a county fails to meet the performance standards
27 specified in title 1 of Public Law 104-193 of the Personal
28 Responsibility and Work Opportunity Act of 1996 for any year,
29 the commissioner shall work with counties to organize a joint
30 state-county technical assistance team to work with the county.
31 The commissioner shall coordinate any technical assistance with
32 other departments and agencies including the Departments of
33 Employment and Economic Development and Education as necessary
34 to achieve the purpose of this paragraph.

35 (c) For state performance measures, a low-performing county
36 is one that:

1 (1) performs below the bottom of their expected range for
2 the measure in subdivision 2, clause (7), in both-measurements
3 ~~during-the~~ an annualized measurement reported in October of each
4 year; or

5 (2) performs below 40 percent for the measure in
6 subdivision 2, clause (8), as averaged across the four quarterly
7 measurements for the year, or the ten counties with the lowest
8 rates if more than ten are below 40 percent.

9 (d) Low-performing counties under paragraph (c) must engage
10 in corrective action planning as defined by the commissioner.
11 The commissioner may coordinate technical assistance as
12 specified in paragraph (b) for low-performing counties under
13 paragraph (c).

14 Sec. 12. [REPEALER.]

15 Minnesota Rules, part 9500.1206, subparts 20, 26d, and 27,
16 are repealed.

Article 1 CHILD WELFARE: ALTERNATIVE RESPONSE.....	page	1
Article 2 CHILD WELFARE: PERMANENCY.....	page	31
Article 3 CHILD CARE.....	page	72
Article 4 CHILD SUPPORT.....	page	75
Article 5 FAMILY SUPPORTS.....	page	90

APPENDIX
Repealed Minnesota Statutes for S1710-2

626.5551 ALTERNATIVE RESPONSE PROGRAMS FOR CHILD PROTECTION ASSESSMENTS OR INVESTIGATIONS.

Subdivision 1. Programs authorized. (a) A county may establish a program that uses alternative responses to reports of child maltreatment under section 626.556, as provided in this section.

(b) The alternative response program is a voluntary program on the part of the family, which may include a family assessment and services approach under which the local welfare agency assesses the risk of abuse and neglect and the service needs of the family and arranges for appropriate services, diversions, referral for services, or other response identified in the plan under subdivision 4.

(c) This section may not be used for reports of maltreatment in facilities required to be licensed under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B, or in a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10, or in a nonlicensed personal care provider association as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

Subd. 2. Use of alternative response or investigation.

(a) Upon receipt of a report under section 626.556, the local welfare agency in a county that has established an alternative response program under this section shall determine whether to conduct an investigation using the traditional investigative model under section 626.556 or to use an alternative response as appropriate to prevent or provide a remedy for child maltreatment.

(b) The local welfare agency may conduct an investigation of any report using the traditional investigative model under section 626.556. However, the local welfare agency must use the traditional investigative model under section 626.556 to investigate reports involving substantial child endangerment. For purposes of this subdivision, substantial child endangerment includes when a person responsible for a child's care, by act or omission, commits or attempts to commit an act against a child under their care that constitutes any of the following:

- (1) egregious harm as defined in section 260C.007, subdivision 14;
- (2) sexual abuse as defined in section 626.556, subdivision 2, paragraph (a);
- (3) abandonment under section 260C.301, subdivision 2;
- (4) neglect as defined in section 626.556, subdivision 2, paragraph (c), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
- (5) murder in the first, second, or third degree under section 609.185; 609.19; or 609.195;
- (6) manslaughter in the first or second degree under section 609.20 or 609.205;
- (7) assault in the first, second, or third degree under section 609.221; 609.222; or 609.223;
- (8) solicitation, inducement, and promotion of prostitution under section 609.322;
- (9) criminal sexual conduct under sections 609.342 to 609.3451;
- (10) solicitation of children to engage in sexual conduct under section 609.352;

APPENDIX
Repealed Minnesota Statutes for S1710-2

(11) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378; or

(12) use of minor in sexual performance under section 617.246.

(c) Nothing in this section gives a county any broader authority to intervene, assess, or investigate a family other than under section 626.556.

(d) In addition, in all cases the local welfare agency shall notify the appropriate law enforcement agency as provided in section 626.556, subdivision 3.

(e) The local welfare agency shall begin an immediate investigation under section 626.556 if at any time when it is using an alternative response it determines that an investigation is required under paragraph (b) or would otherwise be appropriate. The local welfare agency may use an alternative response to a report that was initially referred for an investigation if the agency determines that a complete investigation is not required. In determining that a complete investigation is not required, the local welfare agency must document the reason for terminating the investigation and consult with:

(1) the local law enforcement agency, if the local law enforcement is involved, and notify the county attorney of the decision to terminate the investigation; or

(2) the county attorney, if the local law enforcement is not involved.

Subd. 3. **Documentation.** When a case in which an alternative response was used is closed, the local welfare agency shall document the outcome of the approach, including a description of the response and services provided and the removal or reduction of risk to the child, if it existed. Records maintained under this section must contain the documentation and must be retained for at least four years.

Subd. 4. **Plan.** The county community social service plan required under section 256E.09 must address the extent that the county will use the alternative response program authorized under this section, based on the availability of new federal funding that is earned and other available revenue sources to fund the additional cost to the county of using the program. To the extent the county uses the program, the county must include the program in the community social service plan and in the program evaluation under section 256E.10. The plan must address alternative responses and services that will be used for the program and protocols for determining the appropriate response to reports under section 626.556 and address how the protocols comply with the guidelines of the commissioner under subdivision 5.

Subd. 5. **Commissioner of human services to develop guidelines.** The commissioner of human services, in consultation with county representatives, may develop guidelines defining alternative responses and setting out procedures for family assessment and service delivery under this section. The commissioner may also develop guidelines for counties regarding the provisions of section 626.556 that continue to apply when using an alternative response under this section. The commissioner may also develop forms, best practice guidelines, and training to assist counties in implementing alternative responses under this section.

1 To: Senator Cohen, Chair
2 Committee on Finance
3 Senator Berglin,

4 Chair of the Health and Human Services Budget Division, to
5 which was referred

6 S.F. No. 1710: A bill for an act relating to human
7 services; implementing child protection, child care, and child
8 and family support provisions; amending Minnesota Statutes 2004,
9 sections 119A.43, subdivision 2; 119B.025, subdivision 1;
10 119B.03, subdivision 6; 119B.09, subdivisions 4, 9; 144D.025;
11 256.978, subdivision 2; 256D.02, subdivision 17; 256D.051,
12 subdivision 6c; 256I.04, subdivision 2a; 256I.05, by adding a
13 subdivision; 256J.626, subdivisions 6, 7, 8; 256J.751,
14 subdivisions 2, 5; 257.85, subdivisions 2, 3; 259.23,
15 subdivisions 1, 2; 259.41, subdivision 3; 259.67, subdivisions
16 2, 4; 259.75, subdivision 1; 259.79, subdivision 1; 259.85,
17 subdivision 1; 260.012; 260C.001, subdivision 3; 260C.007,
18 subdivision 8; 260C.151, subdivision 6; 260C.178; 260C.201,
19 subdivisions 1, 10, 11; 260C.312; 260C.317, subdivision 3;
20 518.551, subdivision 5; 518.68, subdivision 2; 548.091,
21 subdivision 1a; 626.556, subdivisions 1, 2, 3, 10, 10b, 10e,
22 10f, 10i, 11, 11c, by adding subdivisions; repealing Minnesota
23 Statutes 2004, sections 626.5551, subdivisions 1, 2, 3, 4, 5;
24 Minnesota Rules, parts 9500.1206, subparts 20, 26d, 27;
25 9560.0220, subpart 6, item B; 9560.0230, subpart 2.

26 Reports the same back with the recommendation that the bill
27 do pass and be referred to the full committee.

28

29

30 *Linda Berglin*
31 (Division Chair)

32
33 April 19, 2005.....
34 (Date of Division action)

Consolidated Fiscal Note – 2005-06 Session

Bill #: S1710-2E **Complete Date:** 05/04/05

Chief Author: LOUREY, BECKY

Title: CHILD PROTECTION & CHILD CARE PROV

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings	X	
Tax Revenue		X

Agencies: Human Services Dept (04/22/05)
Public Safety Dept (04/21/05)

Supreme Court (05/04/05)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
Misc Special Revenue Fund		9	9	9	9
Public Safety Dept		9	9	9	9
Revenues					
Misc Special Revenue Fund		9	9	9	9
Public Safety Dept		9	9	9	9
Net Cost <Savings>					
Misc Special Revenue Fund		0	0	0	0
Public Safety Dept		0	0	0	0
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
-- No Impact --					
Total FTE					

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN
Date: 05/04/05 Phone: 286-5618

Fiscal Note – 2005-06 Session

Bill #: S1710-2E **Complete Date:** 04/22/05

Chief Author: LOUREY, BECKY

Title: CHILD PROTECTION & CHILD CARE PROV

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Human Services Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
-- No Impact --					
Total FTE					

Narrative: SF 1710-2E

Bill Description

Article 1 Child Welfare: Alternative Response

This article amends Maltreatment of Minors statutes to integrate an approach for dealing with less serious child protection cases by working with families to develop or restore a safe and nurturing home environment for the child.

Article 2 – Child Welfare: Permanency

This article proposes improvements and streamlining provisions related to permanency for children. This article includes language that

- Clarifies venue, records, and background checks in adoption statutes;
- Clarifies permanency requirements in adoption assistance agreements;
- Amends juvenile court statutes to strengthen compliance with federal Title IV-E requirements;
- Clarifies service and permanency requirements when a child is removed due to egregious harm; and
- Changes certain terminology to be consistent with the Minnesota Rules of Juvenile Court.

Article 3 – Child Care

This article proposes to revise current law to allow child care providers to be eligible for child care assistance for their own children during authorized activities. Additionally, this article

- Allows counties to have families fill out a streamlined *Change Report Form* rather than requiring a full redetermination if a family reports a change. A full re-determination of eligibility for child care will still be required every six months; however, a simplified process will be used when small changes occur during the interim; and
- Expands the types of families who are included in the reallocation formula used to redistribute BSF funds among counties. The current formula includes families who are on the waiting list but does not include families whose cases have been closed due to a reduction in the county allocation. By modifying the reallocation formula to include these cases, funds could be redistributed more quickly to the counties with greatest need.

Article 4 - Child Support

This article proposes language change current law to :

- Clarify that the public authority can ask for location and asset information about program participants of third party contractors of employers, financial institutions, utility companies, etc who hold, administer or distribute such information;
- Make changes to the way other orders are considered in determining net income for guidelines support calculations;
- Improve the process for suspending and reinstating collection of child care support amounts; and
- Change current law support to 12 months of consecutive payments, from 36 months, before the obligor may bring a motion to stop interest charging.

Article 5 - Family Supports

This article proposes to make language changes for:

- Authorizing the use of up to 10% of Transitional Housing Program funding for more than 24 months in order to better serve long-term homeless currently cycling through transitional housing;
- Changing the housing with services statute to allow supportive housing clients, as defined in the Governor's Initiative to End Homelessness, to voluntarily register as housing with services;
- Allowing registered supportive housing to contract to receive Group Residential Housing (GRH) payments so that eligible homeless adults will be able to use GRH to pay for permanent supportive housing and a GRH client to continue to receive a GRH service payment if relocating from a shelter to supportive housing;
- Deleting obsolete language and uses more recent definitions of professionals qualified to determine a person's illness, injury or incapacity ; and
- Improving the MFIP Consolidated Fund formula by phasing-in an adjusted caseload factor that takes into consideration caseload difficulty.

Assumptions

None

Expenditure and/or Revenue Formula

None

Long-term Fiscal Considerations

None

Local Government Costs

None

References/Sources

Anne Martineau Children & Family Services
651-296-0310

Agency Contact Name: John Anderson 296-1257
FN Coord Signature: STEVE BARTA
Date: 04/21/05 Phone: 296-5685

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN
Date: 04/22/05 Phone: 286-5618

Fiscal Note – 2005-06 Session

Bill #: S1710-2E **Complete Date:** 04/21/05

Chief Author: LOUREY, BECKY

Title: CHILD PROTECTION & CHILD CARE PROV

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings	X	
Tax Revenue		X

Agency Name: Public Safety Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Misc Special Revenue Fund		9	9	9	9
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
Misc Special Revenue Fund		9	9	9	9
Revenues					
Misc Special Revenue Fund		9	9	9	9
Net Cost <Savings>					
Misc Special Revenue Fund		0	0	0	0
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

SF 1710, Article 2, section 5, authorizes Adoption agencies to obtain state and national background checks on prospective adoptive parents and household members over the age of 13. To obtain a national background check, the individual must supply a set of classifiable fingerprints which will be submitted to the BCA and forwarded to the FBI.

Assumptions

There is a \$29 fee for each national background check. The national checks will only include checks done by governmental entities.

Expenditure and/or Revenue Formula

An estimate of 300 FBI record checks per year @ \$29.00 per record check equals \$8700.

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

Agency Contact Name: Julie LeTourneau 651 473-2480
FN Coord Signature: FRANK AHRENS
Date: 04/20/05 Phone: 296-9484

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: NORMAN FOSTER
Date: 04/21/05 Phone: 215-0594

Fiscal Note – 2005-06 Session

Bill #: S1710-2E **Complete Date:** 05/04/05

Chief Author: LOUREY, BECKY

Title: CHILD PROTECTION & CHILD CARE PROV

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Supreme Court

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

This bill version has no fiscal effect on our agency.

FN Coord Signature: JUDY REHAK

Date: 05/04/05 Phone: 297-7800

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING

Date: 05/04/05 Phone: 296-7964

Two Unanswered Questions From The Minnesota Department of Human Services, Child Support Division

It is important to note:

The Minnesota DHS is assigned the task of supervising all 87 county child support enforcement offices to ensure county compliance with federal Law.

Question One-

- A: Are the due process rights of the non-custodial parent adequately protected under the county agency's procedures for accepting an Application for Support and Collections Services and Information on Child Support Enforcement (DHS-1958-ENG 6-02).
- B: What forum or procedure is available to a non-custodial parent who wants to contest the custodial parents application for IV-D services, including income withholding.

Federal law requires Minnesota to provide notice of the procedures available in which the noncustodial parent may contest IV-D income withholding.

SEC. 466 {42 USC 666 (19(4)(A)(ii) states:

(4)(A) Such withholding must be carried out in full compliance with all procedural due process requirements of the State, and the State must send notice to each noncustodial parent to whom paragraph (1) applies— (i) that the withholding has commenced; and (ii) of the procedures to follow if the noncustodial parent desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact (emphasis added).

Apparantly, the Minnesota DHS is not in compliance with this Federal statute and, therefore, Minnesota's state IV-D plan is subject to disapproval by the Secretary of DHHS. This could result in the State losing millions of federal dollars.

Question two-

Does the Minnesota DHS Child Support Division provide the local County Child Support Enforcement Offices with Data Privacy Notices required to be given to the non-custodial parent prior to collecting and using the non-custodial parents private data?

The following State statute and rule requires a data privacy notice prior to collecting and using private child support data.

1205.1300 DUTIES OF THE RESPONSIBLE AUTHORITY IN ADMINISTERING PRIVATE AND CONFIDENTIAL DATA. Subp. 3. states:

B. identify the purposes for the collection of and the intended uses of all private or confidential data that have been communicated to data subjects or should have been communicated to data subjects at the time of data collection, pursuant to Minnesota Statutes, section 13.04, subdivision 2 (emphasis added).

The Application for Support and Collections requests the applicant to provide private information on the non-custodial parent without a requirement that county agency provide the non-custodial parent with notice of the application. As required by Minn. Stat. §13.04, Subd. 2, the applicant is given a Tennessee Warning at the time of application but the other parent is not given the Tennessee Warning. This certainly points out the huge privacy and due process holes in the Minnesota Government Data Practices Act. These holes need immediate patching.

Minnesota DHS does not comply with data privacy notice requirements and, accordingly, all data collected in absence of this notice is rendered unusable for any government purpose.

It's important to note: The applicant for IV-D child support services receives the data privacy notice stating "the system" can and will share private data with 44 entities not only in the United States but also with other countries. Not only does the subject of the private data (non-custodial parent) not receive notice but, he or she has no opportunity to secure his/her right to their private data when they have done nothing wrong to have this right to privacy/notice taken away.

I would appreciate an answer to these questions today!

Sincerely,

Terry Nyblom
3610 Edgerton St.
Vadnais HTS, MN
(651) 484-3295

Minnesota Child Support Notice of Privacy Practices

This notice is found in the application for Child Support Enforcement.

DHS Form # 1958-ENG-6-02

You have privacy rights under the Minnesota Government Data Practices Act. These laws protect your privacy, but also let us give information about you to others if a law requires it.

Do I Have to Answer the Questions You Ask?

Generally, the law does not say you have to give us this information. However, we need your social security number in order to give you some kinds of financial help or child support enforcement.

With Whom May You Share the Information About Me?

We may give information about you to the following agencies.

- U.S. Department of Agriculture
- U.S. Department of Health and Human Services
- U.S. Department of Labor
- United States Citizenship and Immigration Services
- Internal Revenue Service
- Social Security Administration
- Minnesota Department of Employment and Economic Development
- Minnesota Department of Education
- Minnesota Department of Human Rights
- Minnesota Department of Human Services
- Minnesota Department of Labor and Industry
- Minnesota Department of Natural Resources
- Minnesota Department of Public Safety
- Minnesota Department of Revenue
- Minnesota Department of Veterans Affairs
- Minnesota Historical Society
- American Indian tribes, if your family is in need of human services at a tribal reservation
- Higher Education Coordinating Board
- State hospitals or long-term care facilities
- State and federal auditors
- Court officials
- Anyone under contract with the Minnesota Department of Human Services or U.S. Department of Health and Human Services, or the county social services agency
- Local and state health departments
- County human services boards
- Child or adult protection teams
- People who investigate child or adult
- Other human services offices, including child support enforcement offices
- Fraud prevention and control units
- Employees or volunteers of any welfare agency who need the information to do their jobs
- County attorney, attorney general or other law enforcement officials
- Mental health centers
- Ombudsman for families
- County Advocates for Minnesota Managed Health Care Programs
- Guardian, conservator or person who has power of attorney for you
- Local collaborative agencies
- Community food shelves or surplus food programs
- Health care providers
- School Districts
- Schools and other institutions of higher education
- Coroner/medical examiner if you die and your death is investigated
- Hospitals if you, a friend, or relative has an emergency and we need to contact someone
- Others who may pay for your care
- Insurance companies to check health care benefits you or your children may get
- Managed care organizations about your health care or benefits
- Credit bureaus
- Creditors
- Collection Agencies, if you do not pay fees you owe to us for services
- Financial Institutions
- Anyone else to whom the law says we can give the information

You Have the Right to Information We Have About You.

1 Senator Cohen from the Committee on Finance, to which was
2 re-referred

3 S.F. No. 1629: A bill for an act relating to agriculture;
4 changing certain loan provisions; establishing a loan program;
5 changing certain livestock zoning regulations; appropriating
6 money; amending Minnesota Statutes 2004, sections 41B.046,
7 subdivision 5; 41B.049, subdivision 2; 116.07, subdivision 7a;
8 174.52, subdivision 5; 394.25, subdivision 3c; 462.355,
9 subdivision 4; 462.357, by adding a subdivision; proposing
10 coding for new law in Minnesota Statutes, chapter 41B; repealing
11 Minnesota Statutes 2004, section 41B.046, subdivision 3.

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

14 Pages 1 to 4, delete sections 1 to 4

15 Page 6, line 9, after "including" insert "the safe
16 operation and maintenance of a facility serving a permitted" and
17 delete "and" and insert "or"

18 Page 6, line 10, delete everything after "agricultural" and
19 insert "operation"

20 Page 6, line 11, delete the new language

21 Pages 10 and 11, delete sections 10 to 12

22 Renumber the sections in sequence

23 Amend the title as follows

24 Page 1, line 2, delete "loan" and insert "grant and loan
25 criteria;"

26 Page 1, line 3, delete everything before the second
27 semicolon and insert "modifying feedlot notification
28 requirements"

29 Page 1, lines 4 and 5, delete "appropriating money;"


30 Page 1, delete line 6

31 Page 1, line 9, delete everything after "subdivision"

32 Page 1, delete line 10

33 Page 1, line 11, delete everything before the period

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


.....
(Committee Chair)

May 9, 2005.....
(Date of Committee recommendation)

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37
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39
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1 A bill for an act

2 relating to agriculture; changing certain loan
3 provisions; establishing a loan program; changing
4 certain livestock zoning regulations; appropriating
5 money; amending Minnesota Statutes 2004, sections
6 41B.046, subdivision 5; 41B.049, subdivision 2;
7 116.07, subdivision 7a; 174.52, subdivision 5; 394.25,
8 subdivision 3c; 462.355, subdivision 4; 462.357, by
9 adding a subdivision; proposing coding for new law in
10 Minnesota Statutes, chapter 41B; repealing Minnesota
11 Statutes 2004, section 41B.046, subdivision 3.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

13 Section 1. Minnesota Statutes 2004, section 41B.046,
14 subdivision 5, is amended to read:

15 Subd. 5. [LOANS.] (a) The authority may participate in a
16 stock loan with an eligible lender to a farmer who is eligible
17 under subdivision 4. Participation is limited to 45 percent of
18 the principal amount of the loan or \$40,000, whichever is less.
19 The interest rates and repayment terms of the authority's
20 participation interest may differ from the interest rates and
21 repayment terms of the lender's retained portion of the loan,
22 but the authority's interest rate must not exceed 50 percent of
23 the lender's interest rate.

24 (b) No more than 95 percent of the purchase price of the
25 stock may be financed under this program.

26 (c) Security for stock loans must be the stock purchased, a
27 personal note executed by the borrower, and whatever other
28 security is required by the eligible lender or the authority.

1 (d) The authority may impose a reasonable nonrefundable
2 application fee for each application for a stock loan. The
3 authority may review the fee annually and make adjustments as
4 necessary. The application fee is initially \$50. Application
5 fees received by the authority must be deposited in the
6 value-added agricultural product revolving fund.

7 (e) Stock loans under this program will be made using money
8 in the ~~value-added-agricultural-product revolving fund loan~~
9 account established under-subdivision-3 in section 41B.06.

10 (f) The authority may not grant stock loans in a cumulative
11 amount exceeding \$2,000,000 for the financing of stock purchases
12 in any one cooperative.

13 (g) Repayments of financial assistance under this section,
14 including principal and interest, must be deposited into the
15 revolving loan account established in section 41B.06.

16 Sec. 2. Minnesota Statutes 2004, section 41B.049,
17 subdivision 2, is amended to read:

18 Subd. 2. [~~REVOLVING-FUND DEPOSIT OF REPAYMENTS.~~] ~~There-is~~
19 ~~established-in-the-state-treasury-a-revolving-fund,-which-is~~
20 ~~eligible-to-receive-appropriations-and-the-transfer-of-funds~~
21 ~~from-other-services.~~ All repayments of financial assistance
22 granted under subdivision 1, including principal and interest,
23 must be deposited into ~~this-fund,-interest-earned-on-money-in~~
24 ~~the-fund-accrues-to-the-fund,-and-money-in-the-fund-is~~
25 ~~appropriated-to-the-commissioner-of-agriculture-for-purposes-of~~
26 ~~the-manure-digester-loan-program,-including-costs-incurred-by~~
27 ~~the-authority-to-establish-and-administer-the-program~~ the
28 revolving loan account established in section 41B.06.

29 Sec. 3. [41B.055] [LIVESTOCK EQUIPMENT PILOT LOAN
30 PROGRAM.]

31 Subdivision 1. [ESTABLISHMENT.] The authority must
32 establish and implement a livestock equipment pilot loan program
33 to help finance the first purchase of livestock-related
34 equipment and make livestock facilities improvements.

35 Subd. 2. [ELIGIBILITY.] Notwithstanding section 41B.03, to
36 be eligible for this program a borrower must:

1 (1) be a resident of Minnesota or general partnership or a
2 family farm corporation, authorized farm corporation, family
3 farm partnership, or authorized farm partnership as defined in
4 section 500.24, subdivision 2;

5 (2) be the principal operator of a livestock farm;

6 (3) have a total net worth, including assets and
7 liabilities of the borrower's spouse and dependents, no greater
8 than the amount stipulated in section 41B.03, subdivision 3;

9 (4) demonstrate an ability to repay the loan; and

10 (5) hold an appropriate feedlot registration or be using
11 the loan under this program to meet registration requirements.

12 In addition to the requirements in clauses (1) to (5),
13 preference must be given to applicants who have farmed less than
14 ten years as evidenced by their filing of schedule F in their
15 federal tax returns.

16 Subd. 3. [LOANS.] (a) The authority may participate in a
17 livestock equipment loan equal to 90 percent of the purchased
18 equipment value with an eligible lender to a farmer who is
19 eligible under subdivision 2. Participation is limited to 45
20 percent of the principal amount of the loan or \$40,000,
21 whichever is less. The interest rates and repayment terms of
22 the authority's participation interest may differ from the
23 interest rates and repayment terms of the lender's retained
24 portion of the loan, but the authority's interest rate must not
25 exceed three percent. The authority may review the interest
26 annually and make adjustments as necessary.

27 (b) Standards for loan amortization must be set by the
28 rural finance authority and must not exceed seven years.

29 (c) Security for a livestock equipment loan must be a
30 personal note executed by the borrower and whatever other
31 security is required by the eligible lender or the authority.

32 (d) Refinancing of existing debt is not an eligible purpose.

33 (e) The authority may impose a reasonable, nonrefundable
34 application fee for a livestock equipment loan. The authority
35 may review the fee annually and make adjustments as necessary.
36 The initial application fee is \$50. Application fees received

1 by the authority must be deposited in the revolving loan account
2 established in section 41B.06.

3 (f) Loans under this program must be made using money in
4 the revolving loan account established in section 41B.06.

5 Subd. 4. [ELIGIBLE EXPENDITURES.] Money may be used for
6 loans for the acquisition of equipment for animal housing,
7 confinement, animal feeding, milk production, and waste
8 management, including the following, if related to animal
9 husbandry:

- 10 (1) fences;
11 (2) watering facilities;
12 (3) feed storage and handling equipment;
13 (4) milking parlors;
14 (5) milking equipment;
15 (6) scales;
16 (7) milk storage and cooling facilities;
17 (8) manure pumping and storage facilities; and
18 (9) capital investment in pasture.

19 Sec. 4. [41B.06] [RURAL FINANCE AUTHORITY REVOLVING LOAN
20 ACCOUNT.]

21 There is established in the rural finance administration
22 fund a rural finance authority revolving loan account that is
23 eligible to receive appropriations and the transfer of loan
24 funds from other programs. All repayments of financial
25 assistance granted from this account, including principal and
26 interest, must be deposited into this account. Interest earned
27 on money in the account accrues to the account, and the money in
28 the account is appropriated to the commissioner of agriculture
29 for purposes of the rural finance authority, livestock equipment
30 methane digester, and value-added agricultural product loan
31 programs, including costs incurred by the authority to establish
32 and administer the programs.

33 Sec. 5. Minnesota Statutes 2004, section 116.07,
34 subdivision 7a, is amended to read:

35 Subd. 7a. [NOTICE OF APPLICATION FOR LIVESTOCK FEEDLOT
36 PERMIT.] (a) A person who applies to the Pollution Control

1 Agency or a county board for a permit to construct or expand a
2 feedlot with a capacity of 500 animal units or more
3 shall, within ten days of applying for the permit and not less
4 than 20 business days before the date on which a permit is
5 issued, provide notice to each resident and each owner of real
6 property within 5,000 feet of the perimeter of the proposed
7 feedlot. The notice may be delivered by first class mail, or in
8 person, ~~or by the publication in a newspaper of general~~
9 circulation within the affected area and must include
10 information on the type of livestock and the proposed capacity
11 of the feedlot. Notification under this subdivision is
12 satisfied under an equal or greater notification requirement of
13 a county conditional use permit. A person must also send a copy
14 of the notice by first class mail to the clerk of the township
15 in which the feedlot is proposed within ten days of applying for
16 the permit and not less than 20 business days before the date on
17 which a permit is issued.

18 (b) The agency or a county board must verify that notice
19 was provided as required under paragraph (a) prior to issuing a
20 permit.

21 Sec. 6. Minnesota Statutes 2004, section 174.52,
22 subdivision 5, is amended to read:

23 Subd. 5. [GRANT PROCEDURES AND CRITERIA.] The commissioner
24 shall establish procedures for statutory or home rule charter
25 cities, towns, and counties to apply for grants or loans from
26 the fund and criteria to be used to select projects for funding.
27 The commissioner shall establish these procedures and criteria
28 in consultation with representatives appointed by the
29 Association of Minnesota Counties, League of Minnesota
30 Cities, and ~~Minnesota Township-Officers-Association~~ Association
31 of Townships, and the appropriate state agency as needed. The
32 criteria for determining project priority and the amount of a
33 grant or loan must be based upon consideration of:

34 (1) the availability of other state, federal, and local
35 funds;

36 (2) the regional significance of the route;

1 (3) effectiveness of the proposed project in eliminating a
2 transportation system deficiency;

3 (4) the number of persons who will be positively impacted
4 by the project;

5 (5) the project's contribution to other local, regional, or
6 state economic development or redevelopment efforts; and

7 (6) ability of the local unit of government to adequately
8 provide for the safe operation and maintenance of the facility
9 upon project completion, including livestock and other
10 agricultural operations permitted after the effective date of
11 this section.

12 Sec. 7. Minnesota Statutes 2004, section 394.25,
13 subdivision 3c, is amended to read:

14 Subd. 3c. [FEEDLOT ZONING ORDINANCES.] (a) A county
15 proposing to adopt a new feedlot ordinance or amend an existing
16 feedlot ordinance must notify the Pollution Control Agency and
17 commissioner of agriculture at the beginning of the process, no
18 later than the notice of the first hearing proposing to adopt or
19 amend an ordinance purporting to address feedlots.

20 (b) Prior to final approval of a feedlot ordinance, a
21 member of the county board may submit a copy of the proposed
22 ordinance to the Pollution Control Agency and to the
23 commissioner of agriculture and request review, comment,
24 and preparation-of recommendations on the environmental and
25 agricultural effects from specific provisions in the ordinance.

26 (c) The agencies' response to the county may include:

27 (1) any recommendations for improvements in the ordinance;
28 and

29 (2) the legal, social, economic, or scientific
30 justification for each recommendation under clause (1).

31 (d) At the request of a majority of the county board, the
32 county must prepare a report on the environmental-and
33 agricultural-economic effects from specific provisions in the
34 ordinance. Economic analysis must state whether the ordinance
35 will affect the local economy and describe the kinds of
36 businesses affected and the projected impact the proposal will

1 have on those businesses. To assist the county, the
2 commissioner of agriculture, in cooperation with the Department
3 of Employment and Economic Development, must develop a template
4 for measuring local economic effects and make it available to
5 the county. The report must be submitted to the commissioners
6 of employment and economic development and agriculture along
7 with the proposed ordinance.

8 ~~(c) The report may include:~~

9 ~~(1) any recommendations for improvements in the ordinance;~~
10 and

11 ~~(2) the legal, social, economic, or scientific~~
12 ~~justification for each recommendation under clause (1);~~

13 ~~(d)~~ (e) A local ordinance that contains a setback for new
14 feedlots from existing residences must also provide for a new
15 residence setback from existing feedlots located in areas zoned
16 agricultural at the same distances and conditions specified in
17 the setback for new feedlots, unless the new residence is built
18 to replace an existing residence. A county may grant a variance
19 from this requirement under section 394.27, subdivision 7.

20 Sec. 8. Minnesota Statutes 2004, section 462.355,
21 subdivision 4, is amended to read:

22 Subd. 4. [INTERIM ORDINANCE.] (a) If a municipality is
23 conducting studies or has authorized a study to be conducted or
24 has held or has scheduled a hearing for the purpose of
25 considering adoption or amendment of a comprehensive plan or
26 official controls as defined in section 462.352, subdivision 15,
27 or if new territory for which plans or controls have not been
28 adopted is annexed to a municipality, the governing body of the
29 municipality may adopt an interim ordinance applicable to all or
30 part of its jurisdiction for the purpose of protecting the
31 planning process and the health, safety and welfare of its
32 citizens. The interim ordinance may regulate, restrict or
33 prohibit any use, development, or subdivision within the
34 jurisdiction or a portion thereof for a period not to exceed one
35 year from the date it is effective.

36 (b) If a proposed interim ordinance purports to regulate,

1 restrict, or prohibit activities relating to livestock
2 production, a public hearing must be held following a ten-day
3 notice given by publication in a newspaper of general
4 circulation in the municipality before the interim ordinance
5 takes effect.

6 (c) The period of an interim ordinance applicable to an
7 area that is affected by a city's master plan for a municipal
8 airport may be extended for such additional periods as the
9 municipality may deem appropriate, not exceeding a total
10 additional period of 18 months in the case where the Minnesota
11 Department of Transportation has requested a city to review its
12 master plan for a municipal airport prior to August 1, 2004. In
13 all other cases, no interim ordinance may halt, delay, or impede
14 a subdivision which has been given preliminary approval, nor may
15 any interim ordinance extend the time deadline for agency action
16 set forth in section 15.99 with respect to any application filed
17 prior to the effective date of the interim ordinance. The
18 governing body of the municipality may extend the interim
19 ordinance after a public hearing and written findings have been
20 adopted based upon one or more of the conditions in clause (1),
21 (2), or (3). The public hearing must be held at least 15 days
22 but not more than 30 days before the expiration of the interim
23 ordinance, and notice of the hearing must be published at least
24 ten days before the hearing. The interim ordinance may be
25 extended for the following conditions and durations, but, except
26 as provided in clause (3), an interim ordinance may not be
27 extended more than an additional 18 months:

28 (1) up to an additional 120 days following the receipt of
29 the final approval or review by a federal, state, or
30 metropolitan agency when the approval is required by law and the
31 review or approval has not been completed and received by the
32 municipality at least 30 days before the expiration of the
33 interim ordinance;

34 (2) up to an additional 120 days following the completion
35 of any other process required by a state statute, federal law,
36 or court order, when the process is not completed at least 30

1 days before the expiration of the interim ordinance; or

2 (3) up to an additional one year if the municipality has
3 not adopted a comprehensive plan under this section at the time
4 the interim ordinance is enacted.

5 Sec. 9. Minnesota Statutes 2004, section 462.357, is
6 amended by adding a subdivision to read:

7 Subd. 1g. [FEEDLOT ZONING CONTROLS.] (a) A municipality
8 proposing to adopt a new feedlot zoning control or to amend an
9 existing feedlot zoning control must notify the Pollution
10 Control Agency and commissioner of agriculture at the beginning
11 of the process, no later than the date notice is given of the
12 first hearing proposing to adopt or amend a zoning control
13 purporting to address feedlots.

14 (b) Prior to final approval of a feedlot zoning control, a
15 member of the governing body of a municipality may submit a copy
16 of the proposed zoning control to the Pollution Control Agency
17 and to the commissioner of agriculture and request review,
18 comment, and recommendations on the environmental and
19 agricultural effects from specific provisions in the ordinance.

20 (c) The agencies' response to the municipality may include:

21 (1) any recommendations for improvements in the ordinance;

22 and

23 (2) the legal, social, economic, or scientific
24 justification for each recommendation under clause (1).

25 (d) At the request of a majority of the municipality's
26 governing body, the municipality must prepare a report on the
27 economic effects from specific provisions in the ordinance.
28 Economic analysis must state whether the ordinance will affect
29 the local economy and describe the kinds of businesses affected
30 and the projected impact the proposal will have on those
31 businesses. To assist the municipality, the commissioner of
32 agriculture, in cooperation with the Department of Employment
33 and Economic Development, must develop a template for measuring
34 local economic effects and make it available to the
35 municipality. The report must be submitted to the commissioners
36 of employment and economic development and agriculture along

1 with the proposed ordinance.

2 (e) A local ordinance that contains a setback for new
3 feedlots from existing residences must also provide for a new
4 residence setback from existing feedlots located in areas zoned
5 agricultural at the same distances and conditions specified in
6 the setback for new feedlots, unless the new residence is built
7 to replace an existing residence. A municipality may grant a
8 variance from this requirement under section 462.358,
9 subdivision 6.

10 Sec. 10. [APPROPRIATION.]

11 (a) \$100,000 in fiscal year 2006 and \$100,000 in fiscal
12 year 2007 are appropriated from the general fund to the
13 commissioner of agriculture to provide training and technical
14 assistance to county and town officials relating to livestock
15 siting issues and local zoning and land use planning including a
16 checklist template that would clarify the federal, state, and
17 local government requirements for consideration of an animal
18 agriculture modernization or expansion project. In developing
19 the training and technical assistance program, the commissioner
20 may seek assistance from the local planning assistance center of
21 the Department of Administration and shall seek guidance,
22 advice, and support of livestock producer organizations, general
23 agricultural organizations, local government associations,
24 academic institutions, other government agencies, and others
25 with expertise in land use and agriculture.

26 (b) \$220,000 is appropriated in fiscal year 2006 from the
27 general fund to the commissioner of agriculture to contract with
28 the University of Minnesota for further research and development
29 of livestock odor and air quality management.

30 Sec. 11. [TRANSFER OF FUNDS; DEPOSIT OF REPAYMENTS.]

31 The remaining balances in the revolving accounts in
32 Minnesota Statutes, sections 41B.046 and 41B.049, that are
33 dedicated to rural finance authority loan programs under those
34 sections, are transferred to the revolving loan account
35 established in Minnesota Statutes, section 41B.06, on the
36 effective date of this section. All future receipts from

1 value-added agricultural product loans and methane digester
2 loans originated under Minnesota Statutes, sections 41B.046 and
3 41B.049, must be deposited in the revolving loan account
4 established in Minnesota Statutes, section 41B.06.

5 Sec. 12. [REPEALER.]

6 Minnesota Statutes 2004, section 41B.046, subdivision 3, is
7 repealed.

8 Sec. 13. [EFFECTIVE DATE.]

9 This act is effective the day following final enactment.

APPENDIX
Repealed Minnesota Statutes for S1629-2

41B.046 VALUE-ADDED AGRICULTURAL PRODUCT LOAN PROGRAM.

Subd. 3. **Revolving fund.** There is established in the state treasury a value-added agricultural product revolving fund which is eligible to receive appropriations. All repayments of financial assistance granted under subdivision 2, including principal and interest, must be deposited into this fund. Interest earned on money in the fund accrues to the fund, and money in the fund is appropriated to the commissioner of agriculture for purposes of the value-added agricultural loan program, including costs incurred by the authority to establish and administer the program.

1 To: Senator Cohen, Chair
2 Committee on Finance
3 Senator Sams,
4 Chair of the Environment, Agriculture and Economic
5 Development Budget Division, to which was referred

6 S.F. No. 1629: A bill for an act relating to agriculture;
7 changing certain loan provisions; establishing a loan program;
8 changing certain livestock zoning regulations; appropriating
9 money; amending Minnesota Statutes 2004, sections 41B.046,
10 subdivision 5; 41B.049, subdivision 2; 116.07, subdivision 7a;
11 174.52, subdivision 5; 394.25, subdivision 3c; 462.355,
12 subdivision 4; 462.357, by adding a subdivision; proposing
13 coding for new law in Minnesota Statutes, chapter 41B; repealing
14 Minnesota Statutes 2004, section 41B.046, subdivision 3.

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

17 Pages 1 to 4, delete sections 1 to 4

18 Page 6, line 9, after "including" insert "the safe
19 operation and maintenance of a facility serving a permitted" and
20 delete "and" and insert "or"

21 Page 6, line 10, delete everything after "agricultural" and
22 insert "operation"

23 Page 6, line 11, delete the new language

24 Pages 10 and 11, delete sections 10 to 12

25 Renumber the sections in sequence

26 Amend the title as follows

27 Page 1, line 2, delete "loan" and insert "grant and loan
28 criteria;"

29 Page 1, line 3, delete everything before the second
30 semicolon and insert "modifying feedlot notification
31 requirements"

32 Page 1, lines 4 and 5, delete "appropriating money;"

33 Page 1, delete line 6

34 Page 1, line 9, delete everything after "subdivision"

35 Page 1, delete line 10

36 Page 1, line 11, delete everything before the period

37 And when so amended that the bill be recommended to pass
38 and be referred to the full committee.

39 *Dallas Sams*.....
40 (Division Chair)

41
42 April 18, 2005.....
43 (Date of Division action)

Consolidated Fiscal Note – 2005-06 Session

Bill #: S1629-2E **Complete Date:** 04/26/05

Chief Author: DILLE, STEVE

Title: RURAL FINANCE AUTH LOAN PRGM PROV

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agencies: Agriculture Dept (04/22/05)
 Employment & Economic Dev Dept (04/19/05)

Transportation Dept (04/26/05)
 Pollution Control Agency (04/20/05)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
General Fund		320	100	100	100
Agriculture Dept		320	100	100	100
Employment & Economic Dev Dept		0	0	0	0
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		320	100	100	100
Agriculture Dept		320	100	100	100
Employment & Economic Dev Dept		0	0	0	0
Total Cost <Savings> to the State		320	100	100	100

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund		1.00	1.00	1.00	1.00
Agriculture Dept		1.00	1.00	1.00	1.00
Total FTE		1.00	1.00	1.00	1.00

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: LEONIE HUANG
 Date: 04/26/05 Phone: 296-5779

Fiscal Note – 2005-06 Session

Bill #: S1629-2E Complete Date: 04/22/05

Chief Author: DILLE, STEVE

Title: RURAL FINANCE AUTH LOAN PRGM PROV

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Agriculture Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		321	101	101	101
Less Agency Can Absorb					
General Fund		1	1	1	1
Net Expenditures					
General Fund		320	100	100	100
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		320	100	100	100
Total Cost <Savings> to the State		320	100	100	100

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund		1.00	1.00	1.00	1.00
Total FTE		1.00	1.00	1.00	1.00

Bill Description

This bill consolidates the assets (cash and loans) of the value-added agricultural product revolving fund and the manure digester revolving fund into a new Rural Finance Authority (RFA) revolving loan account (see sections 1, 2, 11 and 12). The new account is created in Section 4 and the money in the account is appropriated for existing loan programs, plus a newly-created livestock equipment loan program. Section 3 creates the livestock equipment pilot loan program.

Sections 7 and 9 of the bill amend planning and zoning statutes for counties and municipalities, providing for notification of the Pollution Control Agency and the Department Of Agriculture when a county or municipality is adopting or amending feedlot ordinances, allowing the county or municipality to request review of the proposed ordinance and recommendation, and requiring, if county requests it, preparation of an analysis of the economic effect of the ordinance.

Section 10(a) appropriates \$100,000 each year from the general fund to the Commissioner of Agriculture to train and provide technical assistance to county and town officials concerning local zoning and land use planning for animal operations. Section 10(b) appropriates \$220,000 in fiscal year 2006 from the general fund to the Commissioner of Agriculture for research on livestock odor and air quality management.

Assumptions

RFA activities can be administered within existing agency resources.

To perform the duties established in Sections 7 and 9 of reviewing feedlot ordinances, existing Department of Agriculture staff will respond to requests from counties or townships for review, comments, and recommendations on proposed new feedlot ordinances. Fifteen such requests are assumed per year, requiring two hours of time per review. This cost will be absorbed by the Department of Agriculture.

To carry out the training function established by Section 10, the Department will: provide information and assistance to producers on siting, including assistance mapping of environmental features; conduct a periodic survey of counties and townships on local land use plans and regulations affecting animal agriculture; develop and maintain summaries of plans and regulations; provide information and training on an as-needed basis to help guide local governments on appropriate land use plans, ordinances, and siting standards, in order to minimize conflict, allow growth of the livestock sector, and protect agriculture from rural sprawl; develop a checklist template to clarify federal, state, and local government requirements for siting; and develop and maintain a website devoted to credible information on land use issues related to animal agriculture. A new position at the Department of Agriculture will be created to help carry out these functions

A request was made to the University of Minnesota to develop descriptions and costs for projects that would advance understanding and technological development in air quality and odor of livestock operations to carry out the research directed by Section 10. The resulting project costs were used to develop the requested amount.

Long-Term Fiscal Considerations

Department of Agriculture training and technical assistance costs under Section 10 (a) would carry forward into future fiscal years.

Local Government Costs

Notifying the Pollution Control Agency and the Department of Agriculture of feedlot ordinance preparation, preparing an analysis of the economic effect of the ordinance, and holding a public hearing on an interim ordinance would generate limited additional costs for local government.

FN Coord Signature: STEVE ERNEST
Date: 04/22/05 Phone: 215-5770

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: LEONIE HUANG
Date: 04/22/05 Phone: 296-5779

Fiscal Note – 2005-06 Session

Bill #: S1629-2E **Complete Date:** 04/20/05

Chief Author: DILLE, STEVE

Title: RURAL FINANCE AUTH LOAN PRGM PROV

Fiscal Impact	Yes	No
State		X
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Pollution Control Agency

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

This bill requires that persons applying for feedlot permits for facilities greater than 500 units notify, by first class mail or in person, each resident and each owner of real property within 5,000 feet of the proposed feedlot. Notice must also be provided to the clerk of the township in which the feedlot is proposed. Prior to issuing a permit, PCA or the County must verify that proper notice was given.

A township proposing to adopt a new feedlot ordinance or amend an existing feedlot ordinance must notify the PCA and commissioner of agriculture at the beginning of the process. Prior to final approval a member of the township board may submit the proposed ordinance to the PCA and commissioner of agriculture and request review, comment and recommendations on the environmental and agricultural effects from specific provisions in the ordinance.

Assumptions

This bill would have negligible fiscal impact on PCA. The agency already has a process in place to verify that producers meet notification requirements, and we anticipate a very limited number of new feedlot ordinances or feedlot ordinance revisions.

Expenditure and/or Revenue Formula

No cost effect.

Long-Term Fiscal Considerations

No long-term fiscal considerations.

Local Government Costs

This bill could have moderate fiscal impacts on those local units of government not currently verifying producer notification practices. There will be more work involved than when producers were simply required to post notification in the local newspaper. Costs are unable to be determined.

References/Sources

Robert Finley, Wayne Anderson, Kim Brynildson, Jerry Holien

Agency Contact Name: ROBERT FINLEY (320-214-3794)

FN Coord Signature: GLENN OLSON

Date: 04/20/05 Phone: 297-1609

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: LEONIE HUANG

Date: 04/20/05 Phone: 296-5779

Fiscal Note – 2005-06 Session

Bill #: S1629-2E **Complete Date:** 04/19/05

Chief Author: DILLE, STEVE

Title: RURAL FINANCE AUTH LOAN PRGM PROV

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Employment & Economic Dev Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		3	1	1	1
Less Agency Can Absorb					
General Fund		3	1	1	1
Net Expenditures					
General Fund		0	0	0	0
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		0	0	0	0
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

SF 1629 modifies the Rural Finance Authority (RFA) loan program including the creation of a loan program for purchasing livestock equipment and making livestock facilities improvements. The RFA is also authorized to establish a revolving loan account that will receive appropriations and transfers of loan funds from other programs.

The bill also makes changes to the process used to permit livestock feedlots. Section 7 provides the circumstances when an economic analysis of a proposed livestock feedlot ordinance is needed. It also requires the Department of Employment and Economic Development (DEED) to assist the Department of Agriculture (DOA) in developing a template to measure the local impacts of ordinance changes by county officials. The report must be submitted to DEED and DOA along with the proposed ordinance. This section is the subject of this fiscal note.

Assumptions

Many counties supplement state permit requirements with requirements in county feedlot ordinances. For example, county ordinances may have restrictions on feedlot size and location, such as requiring setbacks from residences or public buildings. County ordinances may also have requirements on manure storage and land application that are more restrictive than current Minnesota Pollution Control Agency (MPCA) rules. A few counties require county feedlot permits in addition to MPCA permits and charge fees for operating feedlots. In addition, some townships have enacted feedlot ordinances or moratoriums on new feedlot construction or expansion.

Although all 87 counties have feedlots, 56 counties administer feedlot rules and regulations. Based on conversations with MPCA and local officials, this fiscal note assumes that no more than five counties would make changes to an existing feedlot ordinance or create a new feedlot ordinance. It also assumes that the template will be simple and easy for county officials to use without the help of a consultant.

Expenditure and/or Revenue Formula

The bill requires DEED to assist the Department of Agriculture in developing a template for measuring local economic effects of any changes in a feedlot ordinance. Given that the Department of Agriculture is leading the effort, the outlay of DEED time is estimated to be approximately 80 hours, which will consist of meeting with Agriculture officials, discussing options and reviewing any products.

Counties must submit the new ordinance and the impact analysis to DEED and the Department of Agriculture. The bill doesn't require the agencies to comment so it is estimated that each report would require about four eight hours to review to ensure that DEED is familiar with the impact analysis and the analysis is rationale in the event any stakeholder has any questions. Five changes * 8 hours each = 40 hours.

Conclusion: During the first year, DEED's total time on the project is estimated at 120 hours (120 * \$30/hour = \$3,600). Subsequent years would require 40 hours on an ongoing basis (40 * \$30/hour = \$1,200). These costs would be absorbed by DEED.

Long-Term Fiscal Considerations

The bill requires DEED and the Department of Agriculture to receive reports annually. As a result, DEED would need 40 hours per year over the long-term, of approximately \$1,200, that would be absorbed by DEED.

Local Government Costs

Counties would see increased costs under this bill. Since the fiscal note assumes that the template would be easy to use, local governments changing feedlot ordinances would likely (on average) see no more than 80 hours of work for each ordinance change, or approximately 400 hours cumulatively if five ordinances are changed annually.

References

Bob Isaacson, Information & Analysis Division, (651) 297-3615

FN Coord Signature: MIKE MEYER
Date: 04/19/05 Phone: 297-1978

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KEITH BOGUT
Date: 04/19/05 Phone: 296-7642

Fiscal Note – 2005-06 Session

Bill #: S1629-2E **Complete Date:** 04/26/05

Chief Author: DILLE, STEVE

Title: RURAL FINANCE AUTH LOAN PRGM PROV

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Transportation Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

Senate File 1629, 2nd Engrossment amends the grant procedures for the Local Road Improvement Program, as defined in Minnesota Statutes § 174.52, to allow the commissioner of transportation to consult with other state agencies, as needed and appropriate, when considering grant or loan applications.

Assumptions

The department already has a process in place to consider local road improvement grant applications.

Expenditure and/or Revenue Formula

This bill would have minimal fiscal impact on Mn/DOT, which would be absorbed during normal administrative process of reviewing grant application.

Long-Term Fiscal Considerations

No long-term impacts.

Local Government Costs

None identified.

References/Sources

Mn/DOT State Aid For Local Transportation Division

FN Coord Signature: BRUCE BRIESE

Date: 04/26/05 Phone: 297-1203

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: NORMAN FOSTER

Date: 04/26/05 Phone: 215-0594

1 **Senator Cohen from the Committee on Finance, to which was**
2 **re-referred**

3 **S.F. No. 1555:** A bill for an act relating to gambling;
4 amending various provisions relating to lawful gambling;
5 amending and providing definitions; making technical,
6 clarifying, and conforming changes; amending Minnesota Statutes
7 2004, sections 349.12, subdivisions 5, 25, 33, by adding a
8 subdivision; 349.15, subdivision 1; 349.151, subdivisions 4, 4b;
9 349.152, subdivision 2; 349.153; 349.154, subdivision 1;
10 349.155, subdivision 3; 349.16, subdivision 8; 349.161,
11 subdivision 5; 349.162, subdivisions 1, 4, 5; 349.163,
12 subdivision 3; 349.1635, subdivision 4; 349.166, subdivisions 1,
13 2; 349.167, subdivision 1; 349.168, subdivision 8; 349.17,
14 subdivisions 5, 7; 349.1711, subdivision 1; 349.173; 349.18,
15 subdivision 1; 349.19, subdivisions 4, 10; 349.211, subdivision
16 2c; 349.2125, subdivision 1; 349.213; 609.75, subdivision 1;
17 repealing Minnesota Statutes 2004, sections 349.162, subdivision
18 3; 349.164; 349.17, subdivision 1.

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

21 Page 2, after line 1, insert:

22 "Sec. 3. Minnesota Statutes 2004, section 349.12, is
23 amended by adding a subdivision to read:

24 Subd. 7a. [CHARITABLE CONTRIBUTION.] "Charitable
25 contribution" means one or more of the lawful purposes
26 expenditures under section 349.12, subdivision 25, paragraph
27 (a), clauses (1) to (5), (6), (7), (10), (11), (13) to (15), and
28 (19)."

29 Page 7, line 4, delete "3" and insert "4"

30 Page 7, line 30, after the period, insert "For licenses
31 issued after June 30, 2006, compliance with this subdivision
32 will be measured on a biennial basis that is concurrent with the
33 term of the license. Compliance with this subdivision is a
34 condition for the renewal of any license beginning on July 1,
35 2008."

36 Page 7, delete lines 31 and 32

37 Page 8, line 23, after "(9)" insert "to report annually to
38 the governor and legislature a financial summary for each
39 licensed organization identifying the gross receipts, prizes
40 paid, operating expenses, lawful purpose expenditures including
41 charitable contributions, and the percentage of annual gross
42 profit used for lawful purposes;

43 (10)"

44 Page 8, line 28, strike "(10)" and insert "(11)"

1 Page 8, line 30, strike "(11)" and insert "(12)"
2 Page 8, line 33, strike "(12)" and insert "(13)"
3 Page 9, line 1, delete "(13)" and insert "(14)"
4 Page 9, after line 4, insert:
5 "(15) to approve or deny requests from licensees for:
6 (i) waivers from fee requirements as provided in section
7 349.16, subdivision 6; and
8 (ii) variances from Gambling Control Board rules under
9 section 14.055; and"
10 Page 9, line 5, delete "(14)" and insert "(16)"
11 Page 9, line 7, delete "(15)" and insert "(17)"
12 Page 9, line 9, delete "(16)" and insert "(18)"
13 Page 9, line 13, delete "(17)" and insert "(19)"
14 Page 9, line 16, delete "(18)" and insert "(20)"
15 Pages 11 and 12, delete section 10
16 Page 13, after line 18, insert:
17 "Sec. 12. Minnesota Statutes 2004, section 349.16,
18 subdivision 2, is amended to read:
19 Subd. 2. [ISSUANCE OF GAMBLING LICENSES.] (a) Licenses
20 authorizing organizations to conduct lawful gambling may be
21 issued by the board to organizations meeting the qualifications
22 in paragraphs (b) to (h) if the board determines that the
23 license is consistent with the purpose of sections 349.11 to
24 349.22.
25 (b) The organization must have been in existence for the
26 most recent three years preceding the license application as a
27 registered Minnesota nonprofit corporation or as an organization
28 designated as exempt from the payment of income taxes by the
29 Internal Revenue Code.
30 (c) The organization at the time of licensing must have at
31 least 15 active members.
32 (d) The organization must not be in existence solely for
33 the purpose of conducting gambling.
34 (e) The organization has identified in its license
35 application the lawful purposes on which it proposes to expend
36 net profits from lawful gambling and has identified an annual

1 goal for charitable contributions, expressed as a percentage of
2 gross profits.

3 (f) The organization has identified on its license
4 application a gambling manager and certifies that the manager is
5 qualified under this chapter.

6 (g) The organization must not, in the opinion of the board
7 after consultation with the commissioner of revenue, be seeking
8 licensing primarily for the purpose of evading or reducing the
9 tax imposed by section 297E.02, subdivision 6.

10 (h) The organization has not exceeded the expenditure
11 restrictions imposed under section 349.15, subdivision 1, or if
12 the organization has exceeded the expenditure restrictions under
13 section 349.15, subdivision 1, the organization has reimbursed
14 any excess expenses from nongambling funds."

15 Page 15, line 11, strike "(h)" and insert "(d)"

16 Page 21, line 28, after "(d)" insert "Organizations that
17 qualify to conduct exempt raffles under paragraph (a) are exempt
18 from section 349.173, paragraph (b), clause (2), if the raffle
19 tickets are sold only in combination with an organization's
20 membership or a ticket for an organization's membership dinner
21 is not included with any other raffle conducted under the exempt
22 permit.

23 (e)"

24 Page 21, line 33, strike "(e)" and insert "(f)"

25 Page 22, line 3, strike "(f)" and insert "(g)"

26 Page 22, line 34, delete "30" and insert "32"

27 Page 24, line 8, delete "30" and insert "32"

28 Page 24, line 33, after "(2)" insert "entry in the raffle
29 is not conditioned upon any other purchase;

30 (3)"

31 Page 24, line 34, delete "(3)" and insert "(4)"

32 Page 25, line 1, delete "(4)" and insert "(5)"

33 Page 25, line 3, delete "(5)" and insert "(6)"

34 Page 25, line 14, after the period, insert "The board may
35 prohibit an organization from renting premises from a lessor if
36 illegal gambling occurred on the premises and the lessor or its

1 employees knew of or participated in the illegal gambling."

2 Page 26, line 23, delete "ten" and insert "110"

3 Page 26, line 24, delete ", whichever is less"

4 Page 28, after line 18, insert:

5 "Sec. 30. Minnesota Statutes 2004, section 349.19,
6 subdivision 5, is amended to read:

7 Subd. 5. [REPORTS.] A licensed organization must report to
8 the Department of Revenue and to its membership monthly, or
9 quarterly in the case of a licensed organization which does not
10 report more than \$1,000 in gross receipts from lawful gambling
11 in any calendar quarter, on its gross receipts, expenses,
12 profits, and expenditure of profits from lawful gambling. The
13 report must include a reconciliation of the organization's
14 profit carryover with its cash balance on hand. If the
15 organization conducts both bingo and other forms of lawful
16 gambling, the figures for both must be reported separately. The
17 organization must report annually to its membership and annually
18 file with the board a financial summary report in a format
19 prescribed by the board that identifies the organization's
20 receipt and use of lawful gambling proceeds, including:

21 (1) gross receipts;

22 (2) prizes paid;

23 (3) operating expenses;

24 (4) lawful purpose expenditures, including annual totals
25 for types of charitable contributions; and

26 (5) the percentage of annual gross profits used for
27 charitable contributions."

28 Renumber the sections in sequence

29 Amend the title as follows:

30 Page 1, line 7, after the second semicolon, insert "349.12,
31 by adding a subdivision;"

32 Page 1, line 9, delete "349.154, subdivision 1;"

33 Page 1, line 10, delete the first "subdivision" and insert
34 "subdivisions 2,"

35 Page 1, line 16, after "4," insert "5,"

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

1 Report adopted.

2
3
4
5
6



.....
(Committee Chair)

May 9, 2005.....
(Date of Committee recommendation)

1 A bill for an act

2 relating to gambling; amending various provisions
3 relating to lawful gambling; amending and providing
4 definitions; making technical, clarifying, and
5 conforming changes; amending Minnesota Statutes 2004,
6 sections 349.12, subdivisions 5, 25, 33, by adding a
7 subdivision; 349.15, subdivision 1; 349.151,
8 subdivisions 4, 4b; 349.152, subdivision 2; 349.153;
9 349.154, subdivision 1; 349.155, subdivision 3;
10 349.16, subdivision 8; 349.161, subdivision 5;
11 349.162, subdivisions 1, 4, 5; 349.163, subdivision 3;
12 349.1635, subdivision 4; 349.166, subdivisions 1, 2;
13 349.167, subdivision 1; 349.168, subdivision 8;
14 349.17, subdivisions 5, 7; 349.1711, subdivision 1;
15 349.173; 349.18, subdivision 1; 349.19, subdivisions
16 4, 10; 349.211, subdivision 2c; 349.2125, subdivision
17 1; 349.213; 609.75, subdivision 1; repealing Minnesota
18 Statutes 2004, sections 349.162, subdivision 3;
19 349.164; 349.17, subdivision 1.

20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

21 Section 1. Minnesota Statutes 2004, section 349.12, is
22 amended by adding a subdivision to read:

23 Subd. 3c. [BAR BINGO.] "Bar bingo" is a bingo occasion
24 conducted at a permitted premises in an area where intoxicating
25 liquor or 3.2 percent malt beverages are sold and where the
26 licensed organization conducts another form of lawful gambling.

27 Sec. 2. Minnesota Statutes 2004, section 349.12,
28 subdivision 5, is amended to read:

29 Subd. 5. [BINGO OCCASION.] "Bingo occasion" means a single
30 gathering or session at which a series of one or more successive
31 bingo games is played. There is no limit on the number of games
32 conducted during a bingo occasion but a bingo occasion must not

1 last longer than eight consecutive hours.

2 Sec. 3. Minnesota Statutes 2004, section 349.12,
3 subdivision 25, is amended to read:

4 Subd. 25. [LAWFUL PURPOSE.] (a) "Lawful purpose" means one
5 or more of the following:

6 (1) any expenditure by or contribution to a 501(c)(3) or
7 festival organization, as defined in subdivision 15a, provided
8 that the organization and expenditure or contribution are in
9 conformity with standards prescribed by the board under section
10 349.154, which standards must apply to both types of
11 organizations in the same manner and to the same extent;

12 (2) a contribution to or expenditure for goods and services
13 for an individual or family suffering from poverty,
14 homelessness, or physical-or-mental disability, which is used to
15 relieve the effects of that poverty,-homelessness,-or-disability
16 suffering;

17 ~~(3) a-contribution-to-an-individual-for-treatment-for~~
18 ~~delayed-posttraumatic-stress-syndrome-or~~ a contribution to a
19 program recognized by the Minnesota Department of Human Services
20 for the education, prevention, or treatment of compulsive
21 problem gambling;

22 (4) a contribution to or expenditure on a public or private
23 nonprofit educational institution registered with or accredited
24 by this state or any other state;

25 (5) a contribution to a scholarship fund for defraying the
26 cost of education to individuals where the funds are awarded
27 through an open and fair selection process;

28 (6) activities by an organization or a government entity
29 which recognize ~~humanitarian-or~~ military service to the United
30 States, the state of Minnesota, or a community, subject to rules
31 of the board, provided that the rules must not include mileage
32 reimbursements in the computation of the per diem reimbursement
33 limit and must impose no aggregate annual limit on the amount of
34 reasonable and necessary expenditures made to support:

35 (i) members of a military marching or color guard unit for
36 activities conducted within the state;

1 (ii) members of an organization solely for services
2 performed by the members at funeral services; or

3 (iii) members of military marching, color guard, or honor
4 guard units may be reimbursed for participating in color guard,
5 honor guard, or marching unit events within the state or states
6 contiguous to Minnesota at a per participant rate of up to \$35
7 per diem; or

8 (iv) active military personnel and their immediate family
9 members in need of support services;

10 (7) recreational, community, and athletic facilities and
11 activities intended primarily for persons under age 21, provided
12 that such facilities and activities do not discriminate on the
13 basis of gender and the organization complies with section
14 349.154;

15 (8) payment of local taxes authorized under this chapter,
16 taxes imposed by the United States on receipts from lawful
17 gambling, the taxes imposed by section 297E.02, subdivisions 1,
18 4, 5, and 6, and the tax imposed on unrelated business income by
19 section 290.05, subdivision 3;

20 (9) payment of real estate taxes and assessments on
21 permitted gambling premises wholly owned by the licensed
22 organization paying the taxes, or wholly leased by a licensed
23 veterans organization under a national charter recognized under
24 section 501(c)(19) of the Internal Revenue Code, ~~not to exceed:~~
25 ~~(i) for premises used for bingo, the amount that an~~
26 ~~organization may expend under board rules on rent for bingo, and~~
27 ~~(ii) \$35,000 per year for premises used for other forms of~~
28 ~~lawful gambling;~~

29 (10) a contribution to the United States, this state or any
30 of its political subdivisions, or any agency or instrumentality
31 thereof other than a direct contribution to a law enforcement or
32 prosecutorial agency;

33 (11) a contribution to or expenditure by a nonprofit
34 organization which is a church or body of communicants gathered
35 in common membership for mutual support and edification in
36 piety, worship, or religious observances;

1 (12) payment of the reasonable costs of an audit required
2 in section 297E.06, subdivision 4, provided the annual audit is
3 filed in a timely manner with the Department of Revenue and paid
4 prior to June 30, 2006;

5 ~~(13) a contribution to or expenditure on a wildlife~~
6 ~~management project that benefits the public at large, provided~~
7 ~~that the state agency with authority over that wildlife~~
8 ~~management project approves the project before the contribution~~
9 ~~or expenditure is made;~~

10 ~~(14) expenditures, approved by the commissioner of natural~~
11 ~~resources, by an organization for grooming and maintaining~~
12 ~~snowmobile trails and all-terrain vehicle trails that are (1)~~
13 ~~grant-in-aid trails established under section 85.019, or (2)~~
14 ~~other trails open to public use, including purchase or lease of~~
15 ~~equipment for this purpose;~~

16 (13) a contribution to or expenditure on projects or
17 activities approved by the commissioner of natural resources for:

18 (i) wildlife management projects that benefit the public at
19 large;

20 (ii) grant-in-aid trail maintenance and grooming
21 established under sections 84.83 and 84.927 and other trails
22 open to public use, including purchase or lease of equipment for
23 this purpose; and

24 (iii) supplies and materials for safety training and
25 educational programs coordinated by the Department of Natural
26 Resources including the Enforcement Division;

27 ~~(15) (14) conducting nutritional programs, food shelves,~~
28 ~~and congregate dining programs primarily for persons who are age~~
29 ~~62 or older or disabled;~~

30 ~~(16) (15) a contribution to a community arts organization,~~
31 ~~or an expenditure to sponsor arts programs in the community,~~
32 ~~including but not limited to visual, literary, performing, or~~
33 ~~musical arts;~~

34 ~~(17) (16) an expenditure by a licensed veterans~~
35 ~~organization for payment of water, fuel for heating,~~
36 ~~electricity, and sewer costs for a building wholly owned or~~

1 wholly leased by and used as the primary headquarters of the
2 licensed veterans organization;

3 ~~(18)~~ (17) expenditure by a licensed veterans organization
4 of up to \$5,000 in a calendar year in net costs to the
5 organization for meals and other membership events, limited to
6 members and spouses, held in recognition of military service.
7 No more than \$5,000 can be expended in total per calendar year
8 under this clause by all licensed veterans organizations sharing
9 the same veterans post home; or

10 ~~(19)~~ (18) payment of fees authorized under this chapter
11 imposed by the state of Minnesota to conduct lawful gambling in
12 Minnesota; or

13 (19) a contribution or expenditure to honor an individual's
14 humanitarian service as demonstrated through philanthropy or
15 volunteerism to the United States, this state, or local
16 community.

17 (b) Notwithstanding paragraph (a), "lawful purpose" does
18 not include:

19 (1) any expenditure made or incurred for the purpose of
20 influencing the nomination or election of a candidate for public
21 office or for the purpose of promoting or defeating a ballot
22 question;

23 (2) any activity intended to influence an election or a
24 governmental decision-making process;

25 (3) the erection, acquisition, improvement, expansion,
26 repair, or maintenance of real property or capital assets owned
27 or leased by an organization, unless the board has first
28 specifically authorized the expenditures after finding that (i)
29 the real property or capital assets will be used exclusively for
30 one or more of the purposes in paragraph (a); (ii) with respect
31 to expenditures for repair or maintenance only, that the
32 property is or will be used extensively as a meeting place or
33 event location by other nonprofit organizations or community or
34 service groups and that no rental fee is charged for the use;
35 (iii) with respect to expenditures, including a mortgage payment
36 or other debt service payment, for erection or acquisition only,

1 that the erection or acquisition is necessary to replace with a
2 comparable building, a building owned by the organization and
3 destroyed or made uninhabitable by fire or natural
4 disaster catastrophe, provided that the expenditure may be only
5 for that part of the replacement cost not reimbursed by
6 insurance; (iv) with respect to expenditures, including a
7 mortgage payment or other debt service payment, for erection or
8 acquisition only, that the erection or acquisition is necessary
9 to replace with a comparable building a building owned by the
10 organization that was acquired from the organization by eminent
11 domain or sold by the organization to a purchaser that the
12 organization reasonably believed would otherwise have acquired
13 the building by eminent domain, provided that the expenditure
14 may be only for that part of the replacement cost that exceeds
15 the compensation received by the organization for the building
16 being replaced; or (v) with respect to an expenditure to bring
17 an existing building into compliance with the Americans with
18 Disabilities Act under item (ii), an organization has the option
19 to apply the amount of the board-approved expenditure to the
20 erection or acquisition of a replacement building that is in
21 compliance with the Americans with Disabilities Act;

22 (4) an expenditure by an organization which is a
23 contribution to a parent organization, foundation, or affiliate
24 of the contributing organization, if the parent organization,
25 foundation, or affiliate has provided to the contributing
26 organization within one year of the contribution any money,
27 grants, property, or other thing of value;

28 (5) a contribution by a licensed organization to another
29 licensed organization unless the board has specifically
30 authorized the contribution. The board must authorize such a
31 contribution when requested to do so by the contributing
32 organization unless it makes an affirmative finding that the
33 contribution will not be used by the recipient organization for
34 one or more of the purposes in paragraph (a); or

35 (6) a contribution to a statutory or home rule charter
36 city, county, or town by a licensed organization with the

1 knowledge that the governmental unit intends to use the
2 contribution for a pension or retirement fund.

3 [EFFECTIVE DATE.] The effective date for paragraph (a),
4 clause (9), is January 1, 2006. All other changes in section 3
5 are effective the day following final enactment.

6 Sec. 4. Minnesota Statutes 2004, section 349.12,
7 subdivision 33, is amended to read:

8 Subd. 33. [RAFFLE.] "Raffle" means a game in which a
9 participant buys a ticket ~~for-a-chance-at-a-prize-with-the~~
10 ~~winner-determined-by-a-random-drawing-to-take-place-at-a~~
11 ~~location-and-date-printed-upon-the-ticket~~ or other certificate
12 of participation in an event where the prize determination is
13 based on a method of random selection and all entries have an
14 equal chance of selection. The ticket or certificate of
15 participation must include the location, date, and time of the
16 selection of the winning entries.

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

19 Sec. 5. Minnesota Statutes 2004, section 349.15,
20 subdivision 1, is amended to read:

21 Subdivision 1. [EXPENDITURE RESTRICTIONS.] Gross profits
22 from lawful gambling may be expended only for lawful purposes or
23 allowable expenses as authorized by the membership of the
24 conducting organization at a monthly meeting of the
25 organization's membership. Provided that no more than 70
26 percent of the gross profit less the tax imposed under section
27 297E.02, subdivision 1, from bingo, and no more than 55 60
28 percent of the gross profit from other forms of lawful gambling,
29 may be expended biennially during the term of the license for
30 allowable expenses related to lawful gambling.

31 [EFFECTIVE DATE.] This section is effective for licenses
32 issued after June 30, 2006.

33 Sec. 6. Minnesota Statutes 2004, section 349.151,
34 subdivision 4, is amended to read:

35 Subd. 4. [POWERS AND DUTIES.] (a) The board has the
36 following powers and duties:

1 (1) to regulate lawful gambling to ensure it is conducted
2 in the public interest;

3 (2) to issue licenses to organizations, distributors,
4 distributor salespersons, ~~bingo-halls~~, manufacturers, linked
5 bingo game providers, and gambling managers;

6 (3) to collect and deposit license, permit, and
7 registration fees due under this chapter;

8 (4) to receive reports required by this chapter and inspect
9 all premises, records, books, and other documents of
10 organizations, distributors, manufacturers, and linked bingo
11 game providers, ~~and-bingo-halls~~ to insure compliance with all
12 applicable laws and rules;

13 (5) to make rules authorized by this chapter;

14 (6) to register gambling equipment and issue registration
15 stamps;

16 (7) to provide by rule for the mandatory posting by
17 organizations conducting lawful gambling of rules of play and
18 the odds and/or house percentage on each form of lawful
19 gambling;

20 (8) to report annually to the governor and legislature on
21 its activities and on recommended changes in the laws governing
22 gambling;

23 (9) to impose civil penalties of not more than \$500 per
24 violation on organizations, distributors, distributor
25 salespersons, manufacturers, ~~bingo-halls~~, linked bingo game
26 providers, and gambling managers for failure to comply with any
27 provision of this chapter or any rule or order of the board;

28 (10) to issue premises permits to organizations licensed to
29 conduct lawful gambling;

30 (11) to delegate to the director the authority to issue or
31 deny license and premises permit applications and renewals under
32 criteria established by the board;

33 (12) to delegate to the director the authority to approve
34 or deny fund loss requests, contribution of gambling funds to
35 another licensed organization, and property expenditure requests
36 under criteria established by the board;

1 (13) to suspend or revoke licenses and premises permits of
2 organizations, distributors, distributor salespersons,
3 manufacturers, ~~bingo-halls~~, linked bingo game providers, or
4 gambling managers as provided in this chapter;

5 ~~(13)~~ (14) to register employees of organizations licensed
6 to conduct lawful gambling;

7 ~~(14)~~ (15) to require fingerprints from persons determined
8 by board rule to be subject to fingerprinting;

9 ~~(15)~~ (16) to delegate to a compliance review group of the
10 board the authority to investigate alleged violations, issue
11 consent orders, and initiate contested cases on behalf of the
12 board;

13 ~~(16)~~ (17) to order organizations, distributors, distributor
14 salespersons, manufacturers, ~~bingo-halls~~, linked bingo game
15 providers, and gambling managers to take corrective actions; and

16 ~~(17)~~ (18) to take all necessary steps to ensure the
17 integrity of and public confidence in lawful gambling.

18 (b) The board, or director if authorized to act on behalf
19 of the board, may by citation assess any organization,
20 distributor, ~~employee-eligible-to-make-sales-on-behalf-of-a~~
21 distributor salesperson, manufacturer, ~~bingo-hall-licensee~~,
22 linked bingo game provider, or gambling manager a civil penalty
23 of not more than \$500 per violation for a failure to comply with
24 any provision of this chapter or any rule adopted or order
25 issued by the board. Any organization, distributor, ~~bingo-hall~~
26 ~~licensee~~ distributor salesperson, gambling manager, linked bingo
27 game provider, or manufacturer assessed a civil penalty under
28 this paragraph may request a hearing before the board. Appeals
29 of citations imposing a civil penalty are not subject to the
30 provisions of the Administrative Procedure Act.

31 (c) All penalties received by the board must be deposited
32 in the general fund.

33 (d) All fees imposed by the board under sections 349.16 to
34 349.167 must be deposited in the state treasury and credited to
35 a lawful gambling regulation account in the special revenue
36 fund. Receipts in this account are available for the operations

1 of the board up to the amount authorized in biennial
2 appropriations from the legislature.

3 Sec. 7. Minnesota Statutes 2004, section 349.151,
4 subdivision 4b, is amended to read:

5 Subd. 4b. [PULL-TAB SALES FROM DISPENSING DEVICES.] (a)
6 The board may by rule authorize but not require the use of
7 pull-tab dispensing devices.

8 (b) Rules adopted under paragraph (a):

9 (1) must limit the number of pull-tab dispensing devices on
10 any permitted premises to three; and

11 (2) must limit the use of pull-tab dispensing devices to a
12 permitted premises which is (i) a licensed premises for on-sales
13 of intoxicating liquor or 3.2 percent malt beverages; or (ii) a
14 ~~licensed-bingo-hall-that-allows-gambling-only-by~~ premises where
15 bingo is conducted and admission is restricted to persons 18
16 years or older.

17 (c) Notwithstanding rules adopted under paragraph (b),
18 pull-tab dispensing devices may be used in establishments
19 licensed for the off-sale of intoxicating liquor, other than
20 drugstores and general food stores licensed under section
21 340A.405, subdivision 1.

22 Sec. 8. Minnesota Statutes 2004, section 349.152,
23 subdivision 2, is amended to read:

24 Subd. 2. [DUTIES OF DIRECTOR.] The director has the
25 following duties:

26 (1) to carry out gambling policy established by the board;

27 (2) to employ and supervise personnel of the board;

28 (3) to advise and make recommendations to the board on
29 rules, policy, and legislative initiatives;

30 (4) to approve or deny operational requests from licensees
31 as delegated by the board;

32 (5) to issue licenses and premises permits as authorized by
33 the board;

34 (6) to issue cease and desist orders;

35 (7) to make recommendations to the board on license
36 issuance, denial, censure, suspension and revocation, civil

1 penalties, and corrective action the board imposes;

2 ~~(7)~~ (8) to ensure that board rules, policy, and decisions
3 are adequately and accurately conveyed to the board's licensees;

4 ~~(8)~~ (9) to conduct investigations, inspections, compliance
5 reviews, and audits under this chapter; and

6 ~~(9)~~ (10) to issue subpoenas to compel the attendance of
7 witnesses and the production of documents, books, records, and
8 other evidence relating to an investigation, compliance review,
9 or audit the director is authorized to conduct.

10 Sec. 9. Minnesota Statutes 2004, section 349.153, is
11 amended to read:

12 349.153 [CONFLICT OF INTEREST.]

13 (a) A person may not serve on the board, be the director,
14 or be an employee of the board who has an interest in any
15 corporation, association, limited liability company, or
16 partnership that is licensed by the board as a distributor,
17 manufacturer, or linked bingo game provider, ~~or bingo hall~~ under
18 section 349.164.

19 (b) A member of the board, the director, or an employee of
20 the board may not accept employment with, receive compensation
21 directly or indirectly from, or enter into a contractual
22 relationship with an organization that conducts lawful gambling,
23 a distributor, a linked bingo game provider, ~~a bingo hall~~, or a
24 manufacturer while employed with or a member of the board or
25 within one year after terminating employment with or leaving the
26 board.

27 (c) A distributor, ~~bingo hall~~, manufacturer, linked bingo
28 game provider, or organization licensed to conduct lawful
29 gambling may not hire a former employee, director, or member of
30 the Gambling Control Board for one year after the employee,
31 director, or member has terminated employment with or left the
32 Gambling Control Board.

33 Sec. 10. Minnesota Statutes 2004, section 349.154,
34 subdivision 1, is amended to read:

35 Subdivision 1. [STANDARDS FOR CERTAIN ORGANIZATIONS.] The
36 ~~board shall by rule prescribe~~ Standards that must be met by any

1 licensed organization that is a 501(c)(3) organization.---The
2 ~~standards-must-provide~~ include:

3 (1) ~~operating-standards-for-the-organization,~~ including a
4 maximum percentage ~~or-percentages~~ not to exceed 30 percent of
5 the organization's total expenditures ~~that-may-be-expended~~ for
6 the organization's administration and ~~operation~~ fund-raising as
7 reported biennially to and in a format prescribed by the board;
8 and

9 (2) ~~standards~~ for any expenditure by the organization of
10 net profits from lawful gambling, ~~including-a-requirement~~ that
11 the expenditure be related to the primary purpose of the
12 organization or meet the criteria of a lawful purpose donation
13 as defined in section 349.12, subdivision 25.

14 [EFFECTIVE DATE.] This section is effective for licenses
15 issued after June 30, 2006.

16 Sec. 11. Minnesota Statutes 2004, section 349.155,
17 subdivision 3, is amended to read:

18 Subd. 3. [MANDATORY DISQUALIFICATIONS.] (a) In the case of
19 licenses for manufacturers, distributors, distributor
20 salespersons, ~~binge-halls,~~ linked bingo game providers, and
21 gambling managers, the board may not issue or renew a license
22 under this chapter, and shall revoke a license under this
23 chapter, if the applicant or licensee, or a director, officer,
24 partner, governor, or person in a supervisory or management
25 position of the applicant or licensee:

26 (1) has ever been convicted of a felony or a crime
27 involving gambling;

28 (2) has ever been convicted of (i) assault, (ii) a criminal
29 violation involving the use of a firearm, or (iii) making
30 terroristic threats;

31 (3) is or has ever been connected with or engaged in an
32 illegal business;

33 (4) owes \$500 or more in delinquent taxes as defined in
34 section 270.72;

35 (5) had a sales and use tax permit revoked by the
36 commissioner of revenue within the past two years; or

1 (6) after demand, has not filed tax returns required by the
2 commissioner of revenue. The board may deny or refuse to renew
3 a license under this chapter, and may revoke a license under
4 this chapter, if any of the conditions in this paragraph are
5 applicable to an affiliate or direct or indirect holder of more
6 than a five percent financial interest in the applicant or
7 licensee.

8 (b) In the case of licenses for organizations, the board
9 may not issue or renew a license under this chapter, and shall
10 revoke a license under this chapter, if the organization, or an
11 officer or member of the governing body of the organization:

12 (1) has been convicted of a felony or gross misdemeanor
13 ~~within-the-five-years-before-the-issuance-or-renewal-of-the~~
14 ~~license~~ involving theft or fraud;

15 (2) has ever been convicted of a crime involving gambling;
16 or

17 (3) has had a license issued by the board or director
18 permanently revoked for violation of law or board rule.

19 Sec. 12. Minnesota Statutes 2004, section 349.16,
20 subdivision 8, is amended to read:

21 Subd. 8. [LOCAL INVESTIGATION FEE.] A statutory or home
22 rule charter city or county notified under section 349.213,
23 subdivision 2, may assess an investigation fee on organizations
24 ~~or-bingo-halls~~ applying for or renewing a premises permit ~~or-a~~
25 ~~bingo-hall-license~~. An investigation fee may not exceed the
26 following limits:

27 (1) for cities of the first class, \$500;

28 (2) for cities of the second class, \$250;

29 (3) for all other cities, \$100; and

30 (4) for counties, \$375.

31 Sec. 13. Minnesota Statutes 2004, section 349.161,
32 subdivision 5, is amended to read:

33 Subd. 5. [PROHIBITION.] (a) No distributor, distributor
34 salesperson, or other employee of a distributor, may also be a
35 wholesale distributor of alcoholic beverages or an employee of a
36 wholesale distributor of alcoholic beverages.

1 (b) No distributor, distributor salesperson, or any
2 representative, agent, affiliate, or other employee of a
3 distributor, may: (1) be involved in the conduct of lawful
4 gambling by an organization; (2) keep or assist in the keeping
5 of an organization's financial records, accounts, and
6 inventories; or (3) prepare or assist in the preparation of tax
7 forms and other reporting forms required to be submitted to the
8 state by an organization.

9 (c) No distributor, distributor salesperson, or any
10 representative, agent, affiliate, or other employee of a
11 distributor may provide a lessor of gambling premises any
12 compensation, gift, gratuity, premium, or other thing of value.

13 (d) No distributor, distributor salesperson, or any
14 representative, agent, affiliate, or other employee of a
15 distributor may provide an employee or agent of the organization
16 any compensation, gift, gratuity, premium, or other thing of
17 value greater than \$25 per organization in a calendar year.

18 (e) No distributor, distributor salesperson, or any
19 representative, agent, affiliate, or other employee of a
20 distributor may participate in any gambling activity at any
21 gambling site or premises where gambling equipment purchased
22 from that distributor or distributor salesperson is being used
23 in the conduct of lawful gambling.

24 ~~(f)~~ (f) No distributor, distributor salesperson, or any
25 representative, agent, affiliate, or other employee of a
26 distributor may alter or modify any gambling equipment, except
27 to add a "last ticket sold" prize sticker.

28 ~~(f)~~ (g) No distributor, distributor salesperson, or any
29 representative, agent, affiliate, or other employee of a
30 distributor may: (1) recruit a person to become a gambling
31 manager of an organization or identify to an organization a
32 person as a candidate to become gambling manager for the
33 organization; or (2) identify for an organization a potential
34 gambling location.

35 ~~(g)~~ (h) No distributor or distributor salesperson may
36 purchase gambling equipment for resale to a person for use

1 within the state from any person not licensed as a manufacturer
2 under section 349.163, except for gambling equipment returned
3 from an organization licensed under section 349.16, or exempt or
4 excluded from licensing under section 349.166.

5 ~~(h)~~ (i) No distributor or distributor salesperson may sell
6 gambling equipment to any person for use in Minnesota other than
7 (i) a licensed organization or organization excluded or exempt
8 from licensing, or (ii) the governing body of an Indian tribe.

9 ~~(i)~~ (j) No distributor or distributor salesperson may sell
10 or otherwise provide a pull-tab or tipboard deal with the symbol
11 required by section 349.163, subdivision 5, paragraph (h),
12 visible on the flare to any person other than in Minnesota to a
13 licensed organization or organization exempt from licensing.

14 Sec. 14. Minnesota Statutes 2004, section 349.162,
15 subdivision 1, is amended to read:

16 Subdivision 1. [STAMP REGISTRATION REQUIRED.] ~~(a)~~ A
17 distributor may not sell, transfer, furnish, or otherwise
18 provide to a person, and no person may purchase, borrow, accept,
19 or acquire from a distributor gambling equipment for use within
20 the state unless the equipment has been registered with the
21 board ~~and has a registration stamp affixed, except for gambling~~
22 ~~equipment not stamped by the manufacturer pursuant to section~~
23 ~~349.163, subdivision 5 or 8. Each stamp must bear a~~
24 ~~registration number assigned by the board.~~

25 ~~(b) A manufacturer must return all unused registration~~
26 ~~stamps in its possession to the board by February 17, 1995. No~~
27 ~~manufacturer may possess unaffixed registration stamps after~~
28 ~~February 17, 1995.~~

29 ~~(c) After February 17, 1996, no person may possess any~~
30 ~~unplayed pull-tab or tipboard deals with a registration stamp~~
31 ~~affixed to the flare or any unplayed paddleticket cards with a~~
32 ~~registration stamp affixed to the master flare. This paragraph~~
33 ~~does not apply to unplayed pull-tab or tipboard deals with a~~
34 ~~registration stamp affixed to the flare, or to unplayed~~
35 ~~paddleticket cards with a registration stamp affixed to the~~
36 ~~master flare, if the deals or cards are identified on a list of~~

1 ~~existing inventory submitted by a licensed organization or a~~
2 ~~licensed distributor, in a format prescribed by the commissioner~~
3 ~~of revenue, to the commissioner of revenue on or before February~~
4 ~~17, 1996~~ or the Department of Revenue in a manner prescribed by
5 the board or the Department of Revenue. Gambling equipment kept
6 in violation of this paragraph subdivision is contraband under
7 section 349.2125.

8 Sec. 15. Minnesota Statutes 2004, section 349.162,
9 subdivision 4, is amended to read:

10 Subd. 4. [PROHIBITION.] (a) No person other than a
11 licensed distributor ~~or licensed manufacturer~~ may possess
12 unaffixed registration stamps issued by the board for the
13 purpose of registering gambling equipment.

14 (b) Unless otherwise provided in this chapter, no person
15 may possess gambling equipment that has not been stamped and
16 registered.

17 (c) On and after January 1, 1991, no distributor may:

18 (1) sell a bingo hard card or paper sheet that does not
19 bear an individual number; or

20 (2) sell a package of bingo paper sheets that does not
21 contain bingo paper sheets in numerical order.

22 Sec. 16. Minnesota Statutes 2004, section 349.162,
23 subdivision 5, is amended to read:

24 Subd. 5. [SALES FROM FACILITIES.] (a) All gambling
25 equipment purchased or possessed by a licensed distributor for
26 resale to any person for use in Minnesota must, prior to the
27 equipment's resale, be unloaded into a storage facility located
28 in Minnesota which the distributor owns or leases; and which has
29 been registered, in advance and in writing, with the Division of
30 Alcohol and Gambling Enforcement as a storage facility of the
31 distributor. All unregistered gambling equipment and all
32 unaffixed registration stamps owned by, or in the possession of,
33 a licensed distributor in the state of Minnesota shall be stored
34 at a storage facility which has been registered with the
35 Division of Alcohol and Gambling Enforcement. No gambling
36 equipment may be moved from the facility unless the gambling

1 equipment has been first registered with the board, ~~except for~~
2 ~~gambling equipment not stamped by the manufacturer pursuant to~~
3 ~~section 349.163, subdivision 5 or 8~~ or the Department of Revenue.

4 (b) Notwithstanding section 349.163, subdivisions 5, 6, and
5 8, a licensed manufacturer may ship into Minnesota approved or
6 unapproved gambling equipment if the licensed manufacturer ships
7 the gambling equipment to a Minnesota storage facility that is:
8 (1) owned or leased by the licensed manufacturer; and (2)
9 registered, in advance and in writing, with the Division of
10 Alcohol and Gambling Enforcement as a manufacturer's storage
11 facility. No gambling equipment may be shipped into Minnesota
12 to the manufacturer's registered storage facility unless the
13 shipment of the gambling equipment is reported to the Department
14 of Revenue in a manner prescribed by the department. No
15 gambling equipment may be moved from the storage facility unless
16 the gambling equipment is sold to a licensed distributor and is
17 otherwise in conformity with this chapter, is shipped to an
18 out-of-state site and the shipment is reported to the Department
19 of Revenue in a manner prescribed by the department, or is
20 otherwise sold and shipped as permitted by board rule.

21 (c) All storage facilities owned, leased, used, or operated
22 by a licensed distributor or manufacturer may be entered upon
23 and inspected by the employees of the Division of Alcohol and
24 Gambling Enforcement, the Division of Alcohol and Gambling
25 Enforcement director's authorized representatives, employees of
26 the Gambling Control Board or its authorized representatives,
27 employees of the Department of Revenue, or authorized
28 representatives of the director of the Division of Special Taxes
29 of the Department of Revenue during reasonable and regular
30 business hours. Obstruction of, or failure to permit, entry and
31 inspection is cause for revocation or suspension of a
32 manufacturer's or distributor's licenses and permits issued
33 under this chapter.

34 (d) Unregistered gambling equipment and unaffixed
35 registration stamps found at any location in Minnesota other
36 than the manufacturing plant of a licensed manufacturer or a

1 registered storage facility are contraband under section
2 349.2125. This paragraph does not apply:

3 (1) to unregistered gambling equipment being transported in
4 interstate commerce between locations outside this state, if the
5 interstate shipment is verified by a bill of lading or other
6 valid shipping document; and

7 (2) to gambling equipment ~~not-stamped-by-the-manufacturer~~
8 ~~pursuant-to-section-349.163,--subdivision-5-or-8~~ registered with
9 the Department of Revenue for distribution to the tribal casinos.

10 Sec. 17. Minnesota Statutes 2004, section 349.163,
11 subdivision 3, is amended to read:

12 Subd. 3. [PROHIBITED SALES.] (a) A manufacturer may not:

13 (1) sell gambling equipment for use or resale within the
14 state to any person not licensed as a distributor, except that
15 gambling equipment used exclusively in a linked bingo game may
16 be sold to a licensed linked bingo provider; or

17 (2) sell gambling equipment to a distributor in this state
18 that has the same serial number as another item of gambling
19 equipment of the same type that is sold by that manufacturer for
20 use or resale in this state.

21 (b) A manufacturer, affiliate of a manufacturer, or person
22 acting as a representative or agent of a manufacturer may not
23 provide a lessor of gambling premises or an appointed official
24 any compensation, gift, gratuity, premium, contribution, or
25 other thing of value.

26 (c) A manufacturer may not sell or otherwise provide a
27 pull-tab or tipboard deal with the symbol required by
28 subdivision 5, paragraph ~~(h)~~ (d), imprinted on the flare to any
29 person other than a licensed distributor unless the manufacturer
30 first renders the symbol permanently invisible.

31 Sec. 18. Minnesota Statutes 2004, section 349.1635,
32 subdivision 4, is amended to read:

33 Subd. 4. [PROHIBITION.] (a) Except for services associated
34 exclusively with a linked bingo game, a linked bingo game
35 provider may not participate or assist in the conduct of lawful
36 gambling by an organization. No linked bingo game provider may:

1 ~~(1) also be licensed as a bingo hall or~~ hold any financial
2 or managerial interest in a premises leased for the conduct of
3 bingo hall;

4 (2) also be licensed as a distributor or hold any financial
5 or managerial interest in a distributor;

6 (3) sell or lease linked bingo game equipment to any person
7 not licensed as an organization;

8 (4) purchase gambling equipment to be used exclusively in a
9 linked bingo game from any person not licensed as a manufacturer
10 under section 349.163; and

11 (5) provide an organization, a lessor of gambling premises,
12 or an appointed official any compensation, gift, gratuity,
13 premium, or contribution.

14 (b) Employees of the board and the Division of Alcohol and
15 Gambling Enforcement may inspect the books, records, inventory,
16 and business premises of a licensed linked bingo game provider
17 without notice during the normal business hours of the linked
18 bingo game provider. The board may charge a linked bingo game
19 provider for the actual cost of conducting scheduled or
20 unscheduled inspections of the licensee's facilities.

21 Sec. 19. Minnesota Statutes 2004, section 349.166,
22 subdivision 1, is amended to read:

23 Subdivision 1. [EXCLUSIONS.] (a) Bingo, with the exception
24 of linked bingo games, may be conducted without a license and
25 without complying with sections 349.168, subdivisions 1 and 2;
26 349.17, subdivisions 1, 4, and 5; 349.18, subdivision 1; and
27 349.19, if it is conducted:

28 (1) by an organization in connection with a county fair,
29 the state fair, or a civic celebration and is not conducted for
30 more than 12 consecutive days and is limited to no more than
31 four separate applications for activities applied for and
32 approved in a calendar year; or

33 (2) by an organization that conducts four or fewer bingo
34 occasions in a calendar year.

35 An organization that holds a license to conduct lawful
36 gambling under this chapter may not conduct bingo under this

1 subdivision.

2 (b) Bingo may be conducted within a nursing home or a
3 senior citizen housing project or by a senior citizen
4 organization if the prizes for a single bingo game do not exceed
5 \$10, total prizes awarded at a single bingo occasion do not
6 exceed \$200, no more than two bingo occasions are held by the
7 organization or at the facility each week, only members of the
8 organization or residents of the nursing home or housing project
9 are allowed to play in a bingo game, no compensation is paid for
10 any persons who conduct the bingo, and a manager is appointed to
11 supervise the bingo. Bingo conducted under this paragraph is
12 exempt from sections 349.11 to 349.23, and the board may not
13 require an organization that conducts bingo under this
14 paragraph, or the manager who supervises the bingo, to register
15 or file a report with the board. The gross receipts from bingo
16 conducted under the limitations of this subdivision are exempt
17 from taxation under chapter 297A.

18 (c) Raffles may be conducted by an organization without a
19 ~~license-and-without-complying-with-sections-349-154-to-349-165~~
20 ~~and-349-167-to-349-213~~ registering with the board if the value
21 of all raffle prizes awarded by the organization in a calendar
22 year does not exceed \$1,500.

23 (d) Except as provided in paragraph (b), the organization
24 must maintain all required records of excluded gambling activity
25 for 3-1/2 years.

26 Sec. 20. Minnesota Statutes 2004, section 349.166,
27 subdivision 2, is amended to read:

28 Subd. 2. [EXEMPTIONS.] (a) Lawful gambling, with the
29 exception of linked bingo games, may be conducted by an
30 organization without a license and without complying with
31 sections 349.168, subdivisions 1 and 2; 349.17, subdivisions 4
32 and 5; 349.18, subdivision 1; and 349.19 if:

33 (1) the organization conducts lawful gambling on five or
34 fewer days in a calendar year;

35 (2) the organization does not award more than \$50,000 in
36 prizes for lawful gambling in a calendar year;

1 (3) the organization pays a fee of \$50 to the board,
2 notifies the board in writing not less than 30 days before each
3 lawful gambling occasion of the date and location of the
4 occasion, or 60 days for an occasion held in the case of a city
5 of the first class, the types of lawful gambling to be
6 conducted, the prizes to be awarded, and receives an exemption
7 identification number;

8 (4) the organization notifies the local government unit 30
9 days before the lawful gambling occasion, or 60 days for an
10 occasion held in a city of the first class;

11 (5) the organization purchases all gambling equipment and
12 supplies from a licensed distributor; and

13 (6) the organization reports to the board, on a single-page
14 form prescribed by the board, within 30 days of each gambling
15 occasion, the gross receipts, prizes, expenses, expenditures of
16 net profits from the occasion, and the identification of the
17 licensed distributor from whom all gambling equipment was
18 purchased.

19 (b) If the organization fails to file a timely report as
20 required by paragraph (a), clause (3) or (6), the board shall
21 not issue any authorization, license, or permit to the
22 organization to conduct lawful gambling on an exempt, excluded,
23 or licensed basis until the report has been filed and the
24 organization may be subject to penalty as determined by the
25 board.

26 (c) Merchandise prizes must be valued at their fair market
27 value.

28 (d) Unused pull-tab and tipboard deals must be returned to
29 the distributor within seven working days after the end of the
30 lawful gambling occasion. The distributor must accept and pay a
31 refund for all returns of unopened and undamaged deals returned
32 under this paragraph.

33 (e) An organization that is exempt from taxation on
34 purchases of pull-tabs and tipboards under section 297E.02,
35 subdivision 4, paragraph (b), clause (4), must return to the
36 distributor any tipboard or pull-tab deal no part of which is

1 used at the lawful gambling occasion for which it was purchased
2 by the organization.

3 (f) The organization must maintain all required records of
4 exempt gambling activity for 3-1/2 years.

5 Sec. 21. Minnesota Statutes 2004, section 349.167,
6 subdivision 1, is amended to read:

7 Subdivision 1. [GAMBLING MANAGER REQUIRED.] (a) All lawful
8 gambling conducted by a licensed organization must be under the
9 supervision of a gambling manager. A gambling manager
10 designated by an organization to supervise lawful gambling is
11 responsible for the gross receipts of the organization and for
12 its conduct in compliance with all laws and rules. A person
13 designated as a gambling manager shall maintain a fidelity
14 dishonesty bond in the sum of \$10,000 in favor of the
15 organization conditioned on the faithful performance of the
16 manager's duties. The terms of the bond must provide that
17 notice be given to the board in writing not less than 30 days
18 before its cancellation.

19 (b) A person may not act as a gambling manager for more
20 than one organization.

21 (c) An organization may not conduct lawful gambling without
22 having a gambling manager.

23 (d) An organization may not have more than one gambling
24 manager at any time.

25 Sec. 22. Minnesota Statutes 2004, section 349.168,
26 subdivision 8, is amended to read:

27 Subd. 8. [PERCENTAGE OF GROSS PROFIT PAID.] (a) A licensed
28 organization may pay a percentage of the gross profit from
29 raffle ticket sales to a nonprofit organization that sells
30 raffle tickets for the licensed organization.

31 (b) A licensed organization may compensate an employee of
32 the organization for the sale of gambling equipment at a bar
33 operation if the frequency of the activity is one day or less
34 per week and the games are limited to 30 chances or less per
35 game. For purposes of this paragraph, an employee shall not be
36 a lessor, employee of the lessor, or an immediate family member

1 of the lessor.

2 Sec. 23. Minnesota Statutes 2004, section 349.17,
3 subdivision 5, is amended to read:

4 Subd. 5. [BINGO CARDS AND SHEETS.] (a) The board shall by
5 rule require that all licensed organizations: (1) conduct bingo
6 only using liquid daubers on bingo paper sheets that bear an
7 individual number recorded by the distributor or linked bingo
8 game provider; and (2) use each bingo paper sheet for no more
9 than one bingo occasion. In lieu of the requirements of clause
10 (2), a licensed organization may electronically record the sale
11 of each bingo hard card or paper sheet at each bingo occasion
12 using an electronic recording system approved by the board.

13 (b) The requirements of paragraph (a) shall only apply to a
14 licensed organization that received gross receipts from bingo in
15 excess of \$150,000 in the organization's last fiscal year.

16 Sec. 24. Minnesota Statutes 2004, section 349.17,
17 subdivision 7, is amended to read:

18 Subd. 7. [NOON-HOUR BAR BINGO.] Notwithstanding
19 ~~subdivisions 1 and 3,~~ An organization may conduct bar bingo
20 subject to the following restrictions:

21 ~~(1) the bingo is conducted only between the hours of 11:00~~
22 ~~a.m. and 2:00 p.m.;~~

23 ~~(2) the bingo is conducted at a site the organization owns~~
24 ~~or leases and which has a license for the sale of intoxicating~~
25 ~~beverages on the premises under chapter 340A;~~

26 ~~(3) the bingo is limited to one progressive bingo game per~~
27 ~~site as defined by section 349.211, subdivision 2;~~

28 ~~(4) (2) the bingo is conducted using only bingo paper~~
29 ~~sheets purchased from a licensed distributor;~~

30 ~~(5) if the premises are leased, the (3) no rent may not~~
31 ~~exceed \$25 per day for each day bingo is conducted be paid for a~~
32 ~~bar bingo occasion; and~~

33 ~~(6) (4) linked bingo games may not be conducted at a noon~~
34 ~~hour bar bingo occasion.~~

35 Sec. 25. Minnesota Statutes 2004, section 349.1711,
36 subdivision 1, is amended to read:

1 Subdivision 1. [SALE OF TICKETS.] Tipboard games must be
2 played using only tipboard tickets that are either (1) attached
3 to a placard and arranged in columns or rows, or (2) separate
4 from the placard and contained in a receptacle while the game is
5 in play. The placard serves as the game flare. The placard
6 must contain a seal that conceals the winning number or symbol.
7 When a tipboard ticket is purchased and opened from a game
8 containing more than 30 tickets, each player having a tipboard
9 ticket with one or more predesignated numbers or symbols must
10 sign the placard at the line indicated by the number or symbol
11 on the tipboard ticket.

12 Sec. 26. Minnesota Statutes 2004, section 349.173, is
13 amended to read:

14 349.173 [CONDUCT OF RAFFLES.]

15 (a) Raffle tickets or certificates of participation at a
16 minimum must list the three most expensive prizes to be
17 awarded. If additional prizes will be awarded ~~that-are-not~~
18 ~~contained-on-the-raffle-ticket,--the-raffle-ticket-must-contain~~
19 ~~the-statement-"A-complete-list-of-additional-prizes-is-available~~
20 ~~upon-request-"~~, a complete list of additional prizes must be
21 publicly posted at the event and copies of the complete prize
22 list made available upon request. Notwithstanding section
23 349.12, subdivision 33, raffles conducted under the exemptions
24 in section 349.166 may use tickets that contain only the
25 sequential number of the raffle ticket and no other information
26 if the organization makes a list of prizes and a statement of
27 other relevant information required by rule available to persons
28 purchasing tickets and if tickets are only sold at the event and
29 on the date when the tickets are drawn.

30 (b) Raffles must be conducted in a manner that ensures:

31 (1) all entries in the raffle have an equal chance of
32 selection;

33 (2) the method of selection is conducted in a public forum;

34 (3) the method of selection cannot be manipulated or based
35 on the outcome of an event not under the control of the
36 organization;

1 (4) physical presence at the raffle is not a requirement to
2 win; and

3 (5) all sold and unsold tickets or certificates of
4 participation are accounted for.

5 (c) Methods of selecting winning entries from a raffle
6 other than prescribed in rule may be used with the prior written
7 approval of the board.

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

10 Sec. 27. Minnesota Statutes 2004, section 349.18,
11 subdivision 1, is amended to read:

12 Subdivision 1. [LEASE OR OWNERSHIP REQUIRED; RENT
13 LIMITATIONS.] (a) An organization may conduct lawful gambling
14 only on premises it owns or leases. Leases must be on a form
15 prescribed by the board. Except for leases entered into before
16 August 1, 1994, the term of the lease may not begin before the
17 effective date of the premises permit and must expire on the
18 same day that the premises permit expires. Copies of all leases
19 must be made available to employees of the board and the
20 Division of Alcohol and Gambling Enforcement on request. The
21 board may prescribe by rule limits on the amount of rent which
22 an organization may pay to a lessor for premises leased for
23 bingo. Any rule adopted by the board limiting the amount of
24 rent to be paid may only be effective for leases entered into,
25 or renewed, after the effective date of the rule.

26 (b) Rent paid by an organization for leased premises for
27 the conduct of pull-tabs, tipboards, and paddlewheels is subject
28 to the following limits:

29 (1) for booth operations, including booth operations where
30 a pull-tab dispensing device is located, booth operations where
31 a bar operation is also conducted, and booth operations where
32 both a pull-tab dispensing device is located and a bar operation
33 is also conducted, the maximum rent is:

34 (i) in any month where the organization's gross profit at
35 those premises does not exceed \$4,000, up to \$400; and

36 (ii) in any month where the organization's gross profit at

1 those premises exceeds \$4,000, up to \$400 plus not more than ten
2 percent of the gross profit for that month in excess of \$4,000;

3 (2) for bar operations, including bar operations where a
4 pull-tab dispensing device is located but not including bar
5 operations subject to clause (1), and for locations where only a
6 pull-tab dispensing device is located:

7 (i) in any month where the organization's gross profit at
8 those premises does not exceed \$1,000, up to \$200; and

9 (ii) in any month where the organization's gross profit at
10 those premises exceeds \$1,000, up to \$200 plus not more than 20
11 percent of the gross profit for that month in excess of \$1,000;

12 (3) a lease not governed by clauses (1) and (2) must be
13 approved by the board before becoming effective;

14 (4) total rent paid to a lessor from all organizations from
15 leases governed by clause (1) may not exceed \$1,750 per month.
16 Total rent paid to a lessor from all organizations from leases
17 governed by clause (2) may not exceed \$2,500 per month.

18 (c) Rent paid by an organization for leased premises for
19 the conduct of bingo is subject to the following limits:

20 (1) not more than ten percent of the monthly gross profit
21 from all lawful gambling activities held during bingo occasions
22 excluding bar bingo, or a rate based on a cost per square foot
23 not to exceed ten percent of a comparable cost per square foot
24 for leased space as approved by the director, whichever is less;
25 and

26 (2) no rent may be paid for bar bingo.

27 (d) Amounts paid as rent under leases are all-inclusive.

28 No other services or expenses provided or contracted by the
29 lessor may be paid by the organization, including, but not
30 limited to, trash removal, janitorial and cleaning services,
31 snow removal, lawn services, electricity, heat, security,
32 security monitoring, storage, other utilities or services, and,
33 in the case of bar operations, cash shortages, unless approved
34 by the director. Any other expenditure made by an organization
35 that is related to a leased premises must be approved by the
36 director. An organization may not provide any compensation or

1 thing of value to a lessor or the lessor's employees from any
2 fund source other than its gambling account. Rent payments may
3 not be made to an individual.

4 ~~(d)~~ (e) Notwithstanding paragraph (b), an organization may
5 pay a lessor for food or beverages or meeting room rental if the
6 charge made is comparable to similar charges made to other
7 individuals or groups.

8 ~~(e)~~ (f) No person, distributor, manufacturer, lessor,
9 linked bingo game provider, or organization other than the
10 licensed organization leasing the space may conduct any activity
11 other than the sale or serving of food and beverages on the
12 leased premises during times when lawful gambling is being
13 conducted on the premises.

14 ~~(f)~~ (g) At a site where the leased premises consists of an
15 area on or behind a bar at which alcoholic beverages are sold
16 and employees of the lessor are employed by the organization as
17 pull-tab sellers at the site, pull-tabs and tipboard tickets may
18 be sold and redeemed by those employees at any place on or
19 behind the bar, but the tipboards and receptacles for pull-tabs
20 and cash drawers for lawful gambling receipts must be maintained
21 only within the leased premises.

22 ~~(g)~~ (h) Employees of a lessor or employees of an
23 organization may participate in lawful gambling on the premises
24 provided (1) if pull-tabs or tipboards are sold, the
25 organization voluntarily posts, or is required to post, the
26 major prizes as specified in section 349.172; and (2) any
27 ~~employee of-the-lessor~~ participating in lawful gambling is not a
28 gambling employee for the organization conducting lawful
29 gambling on the premises.

30 ~~(h)~~ (i) A gambling employee may purchase pull-tabs or
31 tipboards at the site of the employee's place of employment
32 provided:

33 (1) the organization voluntarily posts, or is required to
34 post, the major prizes for pull-tab or tipboard games as
35 specified in section 349.172; and

36 (2) the employee is not involved in the sale of pull-tabs

1 or tipboards at that site.

2 †i† (j) At a leased site where an organization uses a
3 paddlewheel consisting of 30 numbers or less or a tipboard
4 consisting of 30 tickets or less, tickets may be sold throughout
5 the permitted premises, but winning tickets must be redeemed,
6 the paddlewheel must be located, and the tipboard seal must be
7 opened within the leased premises.

8 †j† (k) A member of the lessor's immediate family may not
9 be a compensated employee of an organization leasing space at
10 the premises. For purposes of this paragraph, a "member of the
11 immediate family" is a spouse, parent, child, or sibling.

12 Sec. 28. Minnesota Statutes 2004, section 349.19,
13 subdivision 4, is amended to read:

14 Subd. 4. [DISCREPANCIES.] If at a bingo occasion a
15 discrepancy of more than \$20 \$50 is found between the gross
16 receipts as reported by the checkers and the gross receipts
17 determined by adding the cash receipts, the discrepancy must be
18 reported to the board within five days of the bingo occasion.

19 Sec. 29. Minnesota Statutes 2004, section 349.19,
20 subdivision 10, is amended to read:

21 Subd. 10. [PULL-TAB RECORDS.] (a) The board shall by rule
22 require a licensed organization to require each winner of a
23 pull-tab prize of \$50 or more to present identification in the
24 form of a driver's license, Minnesota identification card, or
25 other identification the board deems sufficient to allow the
26 identification and tracing of the winner. The rule must require
27 the organization to retain winning pull-tabs of \$50 or more, and
28 the identification of the winner of the pull-tab, for 3-1/2
29 years.

30 (b) An organization must maintain separate cash banks for
31 each deal of pull-tabs unless (1) two or more deals are
32 commingled in a ~~single-receptacle~~ pull-tab dispensing device, or
33 (2) the organization uses a cash register, of a type approved by
34 the board, which records all sales of pull-tabs by separate
35 deals.

36 (c) The board shall:

1 (1) by rule adopt minimum technical standards for cash
2 registers that may be used by organizations, and shall approve
3 for use by organizations any cash register that meets the
4 standards~~;~~ and

5 (2) before allowing an organization to use a cash register
6 that commingles receipts from several different pull-tab games
7 in play, adopt rules that define how cash registers may be used
8 and that establish a procedure for organizations to reconcile
9 all pull-tab games in play at the end of each month.

10 Sec. 30. Minnesota Statutes 2004, section 349.211,
11 subdivision 2c, is amended to read:

12 Subd. 2c. [TIPBOARD PRIZES.] The maximum prize which may
13 be awarded for a tipboard ticket is ~~\$500~~ \$599, not including any
14 cumulative or carryover prizes. Cumulative or carryover prizes
15 in tipboard games shall not exceed \$2,500.

16 Sec. 31. Minnesota Statutes 2004, section 349.2125,
17 subdivision 1, is amended to read:

18 Subdivision 1. [CONTRABAND DEFINED.] The following are
19 contraband:

20 (1) all pull-tab or tipboard deals or paddleticket cards
21 not stamped~~-or~~ bar coded in accordance with this chapter or
22 chapter 297E;

23 (2) all pull-tab or tipboard deals in the possession of any
24 unlicensed person, firm, or organization~~,-whether-stamped-or~~
25 unstamped;

26 (3) any container used for the storage and display of any
27 contraband pull-tab or tipboard deals as defined in clauses (1)
28 and (2);

29 (4) all currency, checks, and other things of value used
30 for pull-tab or tipboard transactions not expressly permitted
31 under this chapter, and any cash drawer, cash register, or any
32 other container used for illegal pull-tab or tipboard
33 transactions including its contents;

34 (5) any device including, but not limited to, motor
35 vehicles, trailers, snowmobiles, airplanes, and boats used, with
36 the knowledge of the owner or of a person operating with the

1 consent of the owner, for the storage or transportation of more
2 than five pull-tab or tipboard deals that are contraband under
3 this subdivision. When pull-tabs and tipboards are being
4 transported in the course of interstate commerce between
5 locations outside this state, the pull-tab and tipboard deals
6 are not contraband, notwithstanding the provisions of clauses
7 (1) and (12);

8 (6) any unaffixed registration stamps except as provided in
9 section 349.162, subdivision 4;

10 (7) any prize used or offered in a game utilizing
11 contraband as defined in this subdivision;

12 (8) any altered, modified, or counterfeit pull-tab or
13 tipboard ticket;

14 (9) any unregistered gambling equipment except as permitted
15 by this chapter;

16 (10) any gambling equipment kept in violation of section
17 349.18;

18 (11) any gambling equipment not in conformity with law or
19 board rule;

20 (12) any pull-tab or tipboard deal in the possession of a
21 person other than a licensed distributor or licensed
22 manufacturer for which the person, upon demand of a licensed
23 peace officer or authorized agent of the commissioner of revenue
24 or director of alcohol and gambling enforcement, does not
25 immediately produce for inspection the invoice or a true and
26 correct copy of the invoice for the acquisition of the deal from
27 a licensed distributor;

28 (13) any pull-tab or tipboard deals or portions of deals on
29 which the tax imposed under chapter 297E has not been paid; and

30 (14) any device prohibited by section 609.76, subdivisions
31 4 to 6.

32 Sec. 32. Minnesota Statutes 2004, section 349.213, is
33 amended to read:

34 349.213 [LOCAL AUTHORITY.]

35 Subdivision 1. [LOCAL REGULATION.] (a) A statutory or home
36 rule city or county has the authority to adopt more stringent

1 regulation of lawful gambling within its jurisdiction, including
2 the prohibition of lawful gambling, and may require a permit for
3 the conduct of gambling exempt from licensing under section
4 349.166. The fee for a permit issued under this subdivision may
5 not exceed \$100. The authority granted by this subdivision does
6 not include the authority to require a license or permit to
7 conduct gambling by organizations or sales by distributors or
8 linked bingo game providers licensed by the board. The
9 authority granted by this subdivision does not include the
10 authority to require an organization to make specific
11 expenditures of more than ten percent per year from its net
12 profits derived from lawful gambling. For the purposes of this
13 subdivision, net profits are gross profits less amounts expended
14 for allowable expenses and paid in taxes assessed on lawful
15 gambling. A statutory or home rule charter city or a county may
16 not require an organization conducting lawful gambling within
17 its jurisdiction to make an expenditure to the city or county as
18 a condition to operate within that city or county, except as
19 authorized under section 349.16, subdivision 8, or 297E.02;
20 provided, however, that an ordinance requirement that such
21 organizations must contribute ten percent per year of their net
22 profits derived from lawful gambling conducted at premises
23 within the city's or county's jurisdiction to a fund
24 administered and regulated by the responsible local unit of
25 government without cost to such fund, for disbursement by the
26 responsible local unit of government of the receipts for (i)
27 lawful purposes, or (ii) police, fire, and other emergency or
28 public safety-related services, equipment, and training,
29 excluding pension obligations, is not considered an expenditure
30 to the city or county nor a tax under section 297E.02, and is
31 valid and lawful. A city or county making expenditures
32 authorized under this paragraph must by March 15 of each year
33 file a report with the board, on a form the board prescribes,
34 that lists all such revenues collected and expenditures for the
35 previous calendar year.

36 (b) A statutory or home rule city or county may by

1 ordinance require that a licensed organization conducting lawful
2 gambling within its jurisdiction expend all or a portion of its
3 expenditures for lawful purposes on lawful purposes conducted or
4 located within the city's or county's trade area. Such an
5 ordinance must be limited to lawful purpose expenditures of
6 gross profits derived from lawful gambling conducted at premises
7 within the city's or county's jurisdiction, must define the
8 city's or county's trade area, and must specify the percentage
9 of lawful purpose expenditures which must be expended within the
10 trade area. A trade area defined by a city under this
11 subdivision must include each city and township contiguous to
12 the defining city.

13 (c) A more stringent regulation or prohibition of lawful
14 gambling adopted by a political subdivision under this
15 subdivision must apply equally to all forms of lawful gambling
16 within the jurisdiction of the political subdivision, except a
17 political subdivision may prohibit the use of paddlewheels.

18 Subd. 2. [LOCAL APPROVAL.] Before issuing or renewing a
19 premises permit ~~or-bingo-hall-license~~, the board must notify the
20 city council of the statutory or home rule city in which the
21 organization's premises ~~or-the-bingo-hall~~ is located or, if the
22 premises ~~or-hall~~ is located outside a city, the county board of
23 the county and the town board of the town where the premises ~~or~~
24 ~~hall~~ is located. The board may require organizations ~~or-bingo~~
25 ~~halls~~ to notify the appropriate local government at the time of
26 application. This required notification is sufficient to
27 constitute the notice required by this subdivision. The board
28 may not issue or renew a premises permit ~~or-bingo-hall-license~~
29 unless the organization submits a resolution from the city
30 council or county board approving the premises permit ~~or-bingo~~
31 ~~hall-license~~. The resolution must have been adopted within 90
32 days of the date of application for the new or renewed permit or
33 license.

34 Subd. 3. [LOCAL GAMBLING TAX.] A statutory or home rule
35 charter city that has one or more licensed organizations
36 operating lawful gambling, and a county that has one or more

1 licensed organizations outside incorporated areas operating
2 lawful gambling, may impose a local gambling tax on each
3 licensed organization within the city's or county's
4 jurisdiction. The tax may be imposed only if the amount to be
5 received by the city or county is necessary to cover the costs
6 incurred by the city or county to regulate lawful gambling. The
7 tax imposed by this subdivision may not exceed three percent per
8 year of the gross receipts of a licensed organization from all
9 lawful gambling less prizes actually paid out by the
10 organization. A city or county may not use money collected
11 under this subdivision for any purpose other than to regulate
12 lawful gambling. All documents pertaining to site inspections,
13 finances, penalties, or other corrective action involving local
14 lawful gambling regulation must be shared with the board within
15 30 days of filing at the city or county of jurisdiction. A tax
16 imposed under this subdivision is in lieu of all other local
17 taxes and local investigation fees on lawful gambling. A city
18 or county that imposes a tax under this subdivision shall
19 annually, by March 15, file a report with the board in a form
20 prescribed by the board showing (1) the amount of revenue
21 produced by the tax during the preceding calendar year, and (2)
22 the use of the proceeds of the tax.

23 Sec. 33. Minnesota Statutes 2004, section 609.75,
24 subdivision 1, is amended to read:

25 Subdivision 1. [LOTTERY.] (a) A lottery is a plan which
26 provides for the distribution of money, property or other reward
27 or benefit to persons selected by chance from among participants
28 some or all of whom have given a consideration for the chance of
29 being selected. A participant's payment for use of a 900
30 telephone number or another means of communication that results
31 in payment to the sponsor of the plan constitutes consideration
32 under this paragraph.

33 (b) An in-package chance promotion is not a lottery if all
34 of the following are met:

35 (1) participation is available, free and without purchase
36 of the package, from the retailer or by mail or toll-free

1 telephone request to the sponsor for entry or for a game piece;

2 (2) the label of the promotional package and any related
3 advertising clearly states any method of participation and the
4 scheduled termination date of the promotion;

5 (3) the sponsor on request provides a retailer with a
6 supply of entry forms or game pieces adequate to permit free
7 participation in the promotion by the retailer's customers;

8 (4) the sponsor does not misrepresent a participant's
9 chances of winning any prize;

10 (5) the sponsor randomly distributes all game pieces and
11 maintains records of random distribution for at least one year
12 after the termination date of the promotion;

13 (6) all prizes are randomly awarded if game pieces are not
14 used in the promotion; and

15 (7) the sponsor provides on request of a state agency a
16 record of the names and addresses of all winners of prizes
17 valued at \$100 or more, if the request is made within one year
18 after the termination date of the promotion.

19 (c) Except as provided by section 349.40, acts in this
20 state in furtherance of a lottery conducted outside of this
21 state are included notwithstanding its validity where conducted.

22 (d) The distribution of property, or other reward or
23 benefit by an employer to persons selected by chance from among
24 participants who, all of whom:

25 (1) have made a contribution through a payroll or pension
26 deduction campaign to a registered combined charitable
27 organization, within the meaning of section 309.501; or

28 (2) have paid other consideration to the employer entirely
29 for the benefit of such a registered combined charitable
30 organization, as a precondition to the chance of being selected,
31 is not a lottery if:

32 ~~(1)~~ (i) all of the persons eligible to be selected are
33 employed by or retirees of the employer; and

34 ~~(2)~~ (ii) the cost of the property or other reward or
35 benefit distributed and all costs associated with the
36 distribution are borne by the employer.

1 Sec. 34. [REPEALER.]

2 Minnesota Statutes 2004, sections 349.162, subdivision 3;

3 349.164; and 349.17, subdivision 1, are repealed.

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349.162 EQUIPMENT REGISTERED.

Subd. 3. **Exemption.** For purposes of this section, bingo cards or sheets need not be stamped.

349.164 BINGO HALL LICENSES.

Subdivision 1. **License required.** No person may lease a facility to more than one organization to conduct bingo without a current and valid bingo hall license under this section.

Subd. 2. **License application.** The board may issue a bingo hall license to persons who meet the qualifications of this section if the board determines that a license is consistent with the purpose of sections 349.11 to 349.22. Applications must be on a form the board prescribes. The board may not issue or renew a bingo hall license unless the conditions of section 349.213, subdivision 2, have been satisfied.

Subd. 4. **Fees; term of license.** The annual fee for a bingo hall license is \$4,000.

Subd. 6. **Prohibited acts.** No bingo hall licensee, person holding a financial or managerial interest in a bingo hall, or affiliate thereof may:

(1) be a licensed distributor or licensed manufacturer or affiliate of the distributor or manufacturer under section 349.161 or 349.163 or a wholesale distributor of alcoholic beverages;

(2) provide any staff to conduct or assist in the conduct of bingo or any other form of lawful gambling on the premises;

(3) acquire, provide inventory control for, or report the use of any gambling equipment used by an organization that conducts lawful gambling on the premises;

(4) provide accounting services to an organization conducting lawful gambling on the premises;

(5) solicit, suggest, encourage, or make any expenditures of gross receipts of an organization from lawful gambling;

(6) charge any fee to a person without which the person could not play a bingo game or participate in another form of lawful gambling on the premises;

(7) provide assistance or participate in the conduct of lawful gambling on the premises; or

(8) permit more than 21 bingo occasions to be conducted on the premises in any week.

Subd. 7. **Leases.** All of the remuneration to be received from the organization for the conduct of lawful gambling must be stated in the lease. No amount may be paid by the organization or received by the bingo hall licensee based on the number of participants attending the bingo occasion or participating in lawful gambling on the premises, or based on the gross receipts or profit received by the organization. All provisions of section 349.18 apply to lawful gambling conducted in bingo halls.

Subd. 10. **Records.** A bingo hall licensee must maintain and preserve for at least 3-1/2 years records of all remuneration it receives from organizations conducting lawful gambling.

349.17 CONDUCT OF BINGO.

Subdivision 1. **Bingo occasions.** Not more than ten bingo occasions each week may be conducted by an organization. At least 15 bingo games must be held at each occasion and a bingo occasion must continue for at least 1-1/2 hours but not

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more than four consecutive hours.

1 To: Senator Cohen, Chair

2 Committee on Finance

3 Senator Kiscaden,

4 Chair of the State Government Budget Division, to which was
5 referred

6 S.F. No. 1555: A bill for an act relating to gambling;
7 amending various provisions relating to lawful gambling;
8 amending and providing definitions; making technical,
9 clarifying, and conforming changes; amending Minnesota Statutes
10 2004, sections 349.12, subdivisions 5, 25, 33, by adding a
11 subdivision; 349.15, subdivision 1; 349.151, subdivisions 4, 4b;
12 349.152, subdivision 2; 349.153; 349.154, subdivision 1;
13 349.155, subdivision 3; 349.16, subdivision 8; 349.161,
14 subdivision 5; 349.162, subdivisions 1, 4, 5; 349.163,
15 subdivision 3; 349.1635, subdivision 4; 349.166, subdivisions 1,
16 2; 349.167, subdivision 1; 349.168, subdivision 8; 349.17,
17 subdivisions 5, 7; 349.1711, subdivision 1; 349.173; 349.18,
18 subdivision 1; 349.19, subdivisions 4, 10; 349.211, subdivision
19 2c; 349.2125, subdivision 1; 349.213; 609.75, subdivision 1;
20 repealing Minnesota Statutes 2004, sections 349.162, subdivision
21 3; 349.164; 349.17, subdivision 1.

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

24 Pages 11 and 12, delete section 10

25 Page 13, after line 18, insert:

26 "Sec. 11. Minnesota Statutes 2004, section 349.16,
27 subdivision 2, is amended to read:

28 Subd. 2. [ISSUANCE OF GAMBLING LICENSES.] (a) Licenses
29 authorizing organizations to conduct lawful gambling may be
30 issued by the board to organizations meeting the qualifications
31 in paragraphs (b) to (h) if the board determines that the
32 license is consistent with the purpose of sections 349.11 to
33 349.22.

34 (b) The organization must have been in existence for the
35 most recent three years preceding the license application as a
36 registered Minnesota nonprofit corporation or as an organization
37 designated as exempt from the payment of income taxes by the
38 Internal Revenue Code.

39 (c) The organization at the time of licensing must have at
40 least 15 active members.

41 (d) The organization must not be in existence solely for
42 the purpose of conducting gambling.

43 (e) The organization has identified in its license
44 application the lawful purposes on which it proposes to expend

1 net profits from lawful gambling.

2 (f) The organization has identified on its license
3 application a gambling manager and certifies that the manager is
4 qualified under this chapter.

5 (g) The organization must not, in the opinion of the board
6 after consultation with the commissioner of revenue, be seeking
7 licensing primarily for the purpose of evading or reducing the
8 tax imposed by section 297E.02, subdivision 6.

9 (h) The organization has not exceeded the expenditure
10 restrictions imposed under section 349.15, subdivision 1."

11 Page 15, line 11, strike "(h)" and insert "(d)"

12 Page 21, line 28, after "(d)" insert "Organizations that
13 qualify to conduct exempt raffles under paragraph (a) are exempt
14 from section 349.173, paragraph (b), clause (2), if the raffle
15 tickets are sold only in combination with an organization's
16 membership or a ticket for an organization's membership dinner
17 is not included with any other raffle conducted under the exempt
18 permit.

19 (e)"

20 Page 21, line 33, strike "(e)" and insert "(f)"

21 Page 22, line 3, strike "(f)" and insert "(g)"

22 Page 24, line 33, after "(2)" insert "entry in the raffle
23 is not conditioned upon any other purchase;

24 (3)"

25 Page 24, line 34, delete "(3)" and insert "(4)"

26 Page 25, line 1, delete "(4)" and insert "(5)"

27 Page 25, line 3, delete "(5)" and insert "(6)"

28 Page 26, line 24, delete ", whichever is less"

29 Renumber the sections in sequence

30 Amend the title as follows:

31 Page 1, line 9, delete "349.154, subdivision 1;"

32 Page 1, line 10, delete the first "subdivision" and insert
33 "subdivisions 2,"

34 Reports the same back with the recommendation that the bill
35 do pass and be referred to the full committee.

36

M. M. M. M. M.
.....
(Division Chair)

2 April 19, 2005.....
(Date of Division action)

1 A bill for an act

2 relating to gambling; amending various provisions
3 relating to lawful gambling; amending and providing
4 definitions; making technical, clarifying, and
5 conforming changes; amending Minnesota Statutes 2004,
6 sections 349.12, subdivisions 5, 25, 33, by adding a
7 subdivision; 349.15, subdivision 1; 349.151,
8 subdivisions 4, 4b; 349.152, subdivision 2; 349.153;
9 349.155, subdivision 3; 349.16, subdivisions 2, 8;
10 349.161, subdivision 5; 349.162, subdivisions 1, 4, 5;
11 349.163, subdivision 3; 349.1635, subdivision 4;
12 349.166, subdivisions 1, 2; 349.167, subdivision 1;
13 349.168, subdivision 8; 349.17, subdivisions 5, 7;
14 349.1711, subdivision 1; 349.173; 349.18, subdivision
15 1; 349.19, subdivisions 4, 10; 349.211, subdivision
16 2c; 349.2125, subdivision 1; 349.213; 609.75,
17 subdivision 1; repealing Minnesota Statutes 2004,
18 sections 349.162, subdivision 3; 349.164; 349.17,
19 subdivision 1.

20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

21 Section 1. Minnesota Statutes 2004, section 349.12, is
22 amended by adding a subdivision to read:

23 Subd. 3c. [BAR BINGO.] "Bar bingo" is a bingo occasion
24 conducted at a permitted premises in an area where intoxicating
25 liquor or 3.2 percent malt beverages are sold and where the
26 licensed organization conducts another form of lawful gambling.

27 Sec. 2. Minnesota Statutes 2004, section 349.12,
28 subdivision 5, is amended to read:

29 Subd. 5. [BINGO OCCASION.] "Bingo occasion" means a single
30 gathering or session at which a series of one or more successive
31 bingo games is played. There is no limit on the number of games
32 conducted during a bingo occasion but a bingo occasion must not

1 last longer than eight consecutive hours.

2 Sec. 3. Minnesota Statutes 2004, section 349.12,
3 subdivision 25, is amended to read:

4 Subd. 25. [LAWFUL PURPOSE.] (a) "Lawful purpose" means one
5 or more of the following:

6 (1) any expenditure by or contribution to a 501(c)(3) or
7 festival organization, as defined in subdivision 15a, provided
8 that the organization and expenditure or contribution are in
9 conformity with standards prescribed by the board under section
10 349.154, which standards must apply to both types of
11 organizations in the same manner and to the same extent;

12 (2) a contribution to or expenditure for goods and services
13 for an individual or family suffering from poverty,
14 homelessness, or ~~physical-or-mental~~ disability, which is used to
15 relieve the effects of that ~~poverty,-homelessness,-or-disability~~
16 suffering;

17 ~~(3) a-contribution-to-an-individual-for-treatment-for~~
18 ~~delayed-posttraumatic-stress-syndrome-or~~ a contribution to a
19 program recognized by the Minnesota Department of Human Services
20 for the education, prevention, or treatment of ~~compulsive~~
21 problem gambling;

22 (4) a contribution to or expenditure on a public or private
23 nonprofit educational institution registered with or accredited
24 by this state or any other state;

25 (5) a contribution to a scholarship fund for defraying the
26 cost of education to individuals where the funds are awarded
27 through an open and fair selection process;

28 (6) activities by an organization or a government entity
29 which recognize ~~humanitarian-or~~ military service to the United
30 States, the state of Minnesota, or a community, subject to rules
31 of the board, provided that the rules must not include mileage
32 reimbursements in the computation of the per diem reimbursement
33 limit and must impose no aggregate annual limit on the amount of
34 reasonable and necessary expenditures made to support:

35 (i) members of a military marching or color guard unit for
36 activities conducted within the state;

1 (ii) members of an organization solely for services
2 performed by the members at funeral services; ~~or~~

3 (iii) members of military marching, color guard, or honor
4 guard units may be reimbursed for participating in color guard,
5 honor guard, or marching unit events within the state or states
6 contiguous to Minnesota at a per participant rate of up to \$35
7 per diem; or

8 (iv) active military personnel and their immediate family
9 members in need of support services;

10 (7) recreational, community, and athletic facilities and
11 activities intended primarily for persons under age 21, provided
12 that such facilities and activities do not discriminate on the
13 basis of gender and the organization complies with section
14 349.154;

15 (8) payment of local taxes authorized under this chapter,
16 taxes imposed by the United States on receipts from lawful
17 gambling, the taxes imposed by section 297E.02, subdivisions 1,
18 4, 5, and 6, and the tax imposed on unrelated business income by
19 section 290.05, subdivision 3;

20 (9) payment of real estate taxes and assessments on
21 permitted gambling premises wholly owned by the licensed
22 organization paying the taxes, or wholly leased by a licensed
23 veterans organization under a national charter recognized under
24 section 501(c)(19) of the Internal Revenue Code, ~~not to exceed~~
25 ~~(i) for premises used for bingo, the amount that an~~
26 ~~organization may expend under board rules on rent for bingo, and~~
27 ~~(ii) \$35,000 per year for premises used for other forms of~~
28 ~~lawful gambling;~~

29 (10) a contribution to the United States, this state or any
30 of its political subdivisions, or any agency or instrumentality
31 thereof other than a direct contribution to a law enforcement or
32 prosecutorial agency;

33 (11) a contribution to or expenditure by a nonprofit
34 organization which is a church or body of communicants gathered
35 in common membership for mutual support and edification in
36 piety, worship, or religious observances;

1 (12) payment of the reasonable costs of an audit required
2 in section 297E.06, subdivision 4, provided the annual audit is
3 filed in a timely manner with the Department of Revenue and paid
4 prior to June 30, 2006;

5 ~~{13} a contribution to or expenditure on a wildlife~~
6 ~~management project that benefits the public at large, provided~~
7 ~~that the state agency with authority over that wildlife~~
8 ~~management project approves the project before the contribution~~
9 ~~or expenditure is made;~~

10 ~~{14} expenditures, approved by the commissioner of natural~~
11 ~~resources, by an organization for grooming and maintaining~~
12 ~~snowmobile trails and all-terrain vehicle trails that are {1}~~
13 ~~grant-in-aid trails established under section 85.019, or {2}~~
14 ~~other trails open to public use, including purchase or lease of~~
15 ~~equipment for this purpose;~~

16 (13) a contribution to or expenditure on projects or
17 activities approved by the commissioner of natural resources for:

18 (i) wildlife management projects that benefit the public at
19 large;

20 (ii) grant-in-aid trail maintenance and grooming
21 established under sections 84.83 and 84.927 and other trails
22 open to public use, including purchase or lease of equipment for
23 this purpose; and

24 (iii) supplies and materials for safety training and
25 educational programs coordinated by the Department of Natural
26 Resources including the Enforcement Division;

27 ~~{15} (14) conducting nutritional programs, food shelves,~~
28 ~~and congregate dining programs primarily for persons who are age~~
29 ~~62 or older or disabled;~~

30 ~~{16} (15) a contribution to a community arts organization,~~
31 ~~or an expenditure to sponsor arts programs in the community,~~
32 ~~including but not limited to visual, literary, performing, or~~
33 ~~musical arts;~~

34 ~~{17} (16) an expenditure by a licensed veterans~~
35 ~~organization for payment of water, fuel for heating,~~
36 ~~electricity, and sewer costs for a building wholly owned or~~

1 wholly leased by and used as the primary headquarters of the
2 licensed veterans organization;

3 ~~(18)~~ (17) expenditure by a licensed veterans organization
4 of up to \$5,000 in a calendar year in net costs to the
5 organization for meals and other membership events, limited to
6 members and spouses, held in recognition of military service.
7 No more than \$5,000 can be expended in total per calendar year
8 under this clause by all licensed veterans organizations sharing
9 the same veterans post home; or

10 ~~(19)~~ (18) payment of fees authorized under this chapter
11 imposed by the state of Minnesota to conduct lawful gambling in
12 Minnesota; or

13 (19) a contribution or expenditure to honor an individual's
14 humanitarian service as demonstrated through philanthropy or
15 volunteerism to the United States, this state, or local
16 community.

17 (b) Notwithstanding paragraph (a), "lawful purpose" does
18 not include:

19 (1) any expenditure made or incurred for the purpose of
20 influencing the nomination or election of a candidate for public
21 office or for the purpose of promoting or defeating a ballot
22 question;

23 (2) any activity intended to influence an election or a
24 governmental decision-making process;

25 (3) the erection, acquisition, improvement, expansion,
26 repair, or maintenance of real property or capital assets owned
27 or leased by an organization, unless the board has first
28 specifically authorized the expenditures after finding that (i)
29 the real property or capital assets will be used exclusively for
30 one or more of the purposes in paragraph (a); (ii) with respect
31 to expenditures for repair or maintenance only, that the
32 property is or will be used extensively as a meeting place or
33 event location by other nonprofit organizations or community or
34 service groups and that no rental fee is charged for the use;
35 (iii) with respect to expenditures, including a mortgage payment
36 or other debt service payment, for erection or acquisition only,

1 that the erection or acquisition is necessary to replace with a
2 comparable building, a building owned by the organization and
3 destroyed or made uninhabitable by fire or natural
4 disaster catastrophe, provided that the expenditure may be only
5 for that part of the replacement cost not reimbursed by
6 insurance; (iv) with respect to expenditures, including a
7 mortgage payment or other debt service payment, for erection or
8 acquisition only, that the erection or acquisition is necessary
9 to replace with a comparable building a building owned by the
10 organization that was acquired from the organization by eminent
11 domain or sold by the organization to a purchaser that the
12 organization reasonably believed would otherwise have acquired
13 the building by eminent domain, provided that the expenditure
14 may be only for that part of the replacement cost that exceeds
15 the compensation received by the organization for the building
16 being replaced; or (v) with respect to an expenditure to bring
17 an existing building into compliance with the Americans with
18 Disabilities Act under item (ii), an organization has the option
19 to apply the amount of the board-approved expenditure to the
20 erection or acquisition of a replacement building that is in
21 compliance with the Americans with Disabilities Act;

22 (4) an expenditure by an organization which is a
23 contribution to a parent organization, foundation, or affiliate
24 of the contributing organization, if the parent organization,
25 foundation, or affiliate has provided to the contributing
26 organization within one year of the contribution any money,
27 grants, property, or other thing of value;

28 (5) a contribution by a licensed organization to another
29 licensed organization unless the board has specifically
30 authorized the contribution. The board must authorize such a
31 contribution when requested to do so by the contributing
32 organization unless it makes an affirmative finding that the
33 contribution will not be used by the recipient organization for
34 one or more of the purposes in paragraph (a); or

35 (6) a contribution to a statutory or home rule charter
36 city, county, or town by a licensed organization with the

1 knowledge that the governmental unit intends to use the
2 contribution for a pension or retirement fund.

3 [EFFECTIVE DATE.] The effective date for paragraph (a),
4 clause (9), is January 1, 2006. All other changes in section 3
5 are effective the day following final enactment.

6 Sec. 4. Minnesota Statutes 2004, section 349.12,
7 subdivision 33, is amended to read:

8 Subd. 33. [RAFFLE.] "Raffle" means a game in which a
9 participant buys a ticket ~~for-a-chance-at-a-prize-with-the~~
10 ~~winner-determined-by-a-random-drawing-to-take-place-at-a~~
11 ~~location-and-date-printed-upon-the-ticket~~ or other certificate
12 of participation in an event where the prize determination is
13 based on a method of random selection and all entries have an
14 equal chance of selection. The ticket or certificate of
15 participation must include the location, date, and time of the
16 selection of the winning entries.

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

19 Sec. 5. Minnesota Statutes 2004, section 349.15,
20 subdivision 1, is amended to read:

21 Subdivision 1. [EXPENDITURE RESTRICTIONS.] Gross profits
22 from lawful gambling may be expended only for lawful purposes or
23 allowable expenses as authorized by the membership of the
24 conducting organization at a monthly meeting of the
25 organization's membership. Provided that no more than 70
26 percent of the gross profit less the tax imposed under section
27 297E.02, subdivision 1, from bingo, and no more than 55 60
28 percent of the gross profit from other forms of lawful gambling,
29 may be expended biennially during the term of the license for
30 allowable expenses related to lawful gambling.

31 [EFFECTIVE DATE.] This section is effective for licenses
32 issued after June 30, 2006.

33 Sec. 6. Minnesota Statutes 2004, section 349.151,
34 subdivision 4, is amended to read:

35 Subd. 4. [POWERS AND DUTIES.] (a) The board has the
36 following powers and duties:

- 1 (1) to regulate lawful gambling to ensure it is conducted
2 in the public interest;
- 3 (2) to issue licenses to organizations, distributors,
4 distributor salespersons, ~~bingo-halls~~, manufacturers, linked
5 bingo game providers, and gambling managers;
- 6 (3) to collect and deposit license, permit, and
7 registration fees due under this chapter;
- 8 (4) to receive reports required by this chapter and inspect
9 all premises, records, books, and other documents of
10 organizations, distributors, manufacturers, and linked bingo
11 game providers, ~~and-bingo-halls~~ to insure compliance with all
12 applicable laws and rules;
- 13 (5) to make rules authorized by this chapter;
- 14 (6) to register gambling equipment and issue registration
15 stamps;
- 16 (7) to provide by rule for the mandatory posting by
17 organizations conducting lawful gambling of rules of play and
18 the odds and/or house percentage on each form of lawful
19 gambling;
- 20 (8) to report annually to the governor and legislature on
21 its activities and on recommended changes in the laws governing
22 gambling;
- 23 (9) to impose civil penalties of not more than \$500 per
24 violation on organizations, distributors, distributor
25 salespersons, manufacturers, ~~bingo-halls~~, linked bingo game
26 providers, and gambling managers for failure to comply with any
27 provision of this chapter or any rule or order of the board;
- 28 (10) to issue premises permits to organizations licensed to
29 conduct lawful gambling;
- 30 (11) to delegate to the director the authority to issue or
31 deny license and premises permit applications and renewals under
32 criteria established by the board;
- 33 (12) to delegate to the director the authority to approve
34 or deny fund loss requests, contribution of gambling funds to
35 another licensed organization, and property expenditure requests
36 under criteria established by the board;

1 (13) to suspend or revoke licenses and premises permits of
2 organizations, distributors, distributor salespersons,
3 manufacturers, ~~binge-halls~~, linked bingo game providers, or
4 gambling managers as provided in this chapter;

5 ~~(13)~~ (14) to register employees of organizations licensed
6 to conduct lawful gambling;

7 ~~(14)~~ (15) to require fingerprints from persons determined
8 by board rule to be subject to fingerprinting;

9 ~~(15)~~ (16) to delegate to a compliance review group of the
10 board the authority to investigate alleged violations, issue
11 consent orders, and initiate contested cases on behalf of the
12 board;

13 ~~(16)~~ (17) to order organizations, distributors, distributor
14 salespersons, manufacturers, ~~binge-halls~~, linked bingo game
15 providers, and gambling managers to take corrective actions; and

16 ~~(17)~~ (18) to take all necessary steps to ensure the
17 integrity of and public confidence in lawful gambling.

18 (b) The board, or director if authorized to act on behalf
19 of the board, may by citation assess any organization,
20 distributor, ~~employee-eligible-to-make-sales-on-behalf-of-a~~
21 distributor salesperson, manufacturer, ~~binge-hall-licensee~~,
22 linked bingo game provider, or gambling manager a civil penalty
23 of not more than \$500 per violation for a failure to comply with
24 any provision of this chapter or any rule adopted or order
25 issued by the board. Any organization, distributor, ~~binge-hall~~
26 ~~licensee~~ distributor salesperson, gambling manager, linked bingo
27 game provider, or manufacturer assessed a civil penalty under
28 this paragraph may request a hearing before the board. Appeals
29 of citations imposing a civil penalty are not subject to the
30 provisions of the Administrative Procedure Act.

31 (c) All penalties received by the board must be deposited
32 in the general fund.

33 (d) All fees imposed by the board under sections 349.16 to
34 349.167 must be deposited in the state treasury and credited to
35 a lawful gambling regulation account in the special revenue
36 fund. Receipts in this account are available for the operations

1 of the board up to the amount authorized in biennial
2 appropriations from the legislature.

3 Sec. 7. Minnesota Statutes 2004, section 349.151,
4 subdivision 4b, is amended to read:

5 Subd. 4b. [PULL-TAB SALES FROM DISPENSING DEVICES.] (a)
6 The board may by rule authorize but not require the use of
7 pull-tab dispensing devices.

8 (b) Rules adopted under paragraph (a):

9 (1) must limit the number of pull-tab dispensing devices on
10 any permitted premises to three; and

11 (2) must limit the use of pull-tab dispensing devices to a
12 permitted premises which is (i) a licensed premises for on-sales
13 of intoxicating liquor or 3.2 percent malt beverages; or (ii) a
14 ~~licensed-bingo-hall-that-allows-gambling-only-by~~ premises where
15 bingo is conducted and admission is restricted to persons 18
16 years or older.

17 (c) Notwithstanding rules adopted under paragraph (b),
18 pull-tab dispensing devices may be used in establishments
19 licensed for the off-sale of intoxicating liquor, other than
20 drugstores and general food stores licensed under section
21 340A.405, subdivision 1.

22 Sec. 8. Minnesota Statutes 2004, section 349.152,
23 subdivision 2, is amended to read:

24 Subd. 2. [DUTIES OF DIRECTOR.] The director has the
25 following duties:

26 (1) to carry out gambling policy established by the board;

27 (2) to employ and supervise personnel of the board;

28 (3) to advise and make recommendations to the board on
29 rules, policy, and legislative initiatives;

30 (4) to approve or deny operational requests from licensees
31 as delegated by the board;

32 (5) to issue licenses and premises permits as authorized by
33 the board;

34 ~~(5)~~ (6) to issue cease and desist orders;

35 ~~(6)~~ (7) to make recommendations to the board on license
36 issuance, denial, censure, suspension and revocation, civil

1 penalties, and corrective action the board imposes;

2 ~~(7)~~ (8) to ensure that board rules, policy, and decisions
3 are adequately and accurately conveyed to the board's licensees;

4 ~~(8)~~ (9) to conduct investigations, inspections, compliance
5 reviews, and audits under this chapter; and

6 ~~(9)~~ (10) to issue subpoenas to compel the attendance of
7 witnesses and the production of documents, books, records, and
8 other evidence relating to an investigation, compliance review,
9 or audit the director is authorized to conduct.

10 Sec. 9. Minnesota Statutes 2004, section 349.153, is
11 amended to read:

12 349.153 [CONFLICT OF INTEREST.]

13 (a) A person may not serve on the board, be the director,
14 or be an employee of the board who has an interest in any
15 corporation, association, limited liability company, or
16 partnership that is licensed by the board as a distributor,
17 manufacturer, or linked bingo game provider, ~~or bingo hall~~ under
18 section 349.164.

19 (b) A member of the board, the director, or an employee of
20 the board may not accept employment with, receive compensation
21 directly or indirectly from, or enter into a contractual
22 relationship with an organization that conducts lawful gambling,
23 a distributor, a linked bingo game provider, ~~a bingo hall~~, or a
24 manufacturer while employed with or a member of the board or
25 within one year after terminating employment with or leaving the
26 board.

27 (c) A distributor, ~~bingo hall~~, manufacturer, linked bingo
28 game provider, or organization licensed to conduct lawful
29 gambling may not hire a former employee, director, or member of
30 the Gambling Control Board for one year after the employee,
31 director, or member has terminated employment with or left the
32 Gambling Control Board.

33 Sec. 10. Minnesota Statutes 2004, section 349.155,
34 subdivision 3, is amended to read:

35 Subd. 3. [MANDATORY DISQUALIFICATIONS.] (a) In the case of
36 licenses for manufacturers, distributors, distributor

1 salespersons, ~~binge-halls~~, linked bingo game providers, and
2 gambling managers, the board may not issue or renew a license
3 under this chapter, and shall revoke a license under this
4 chapter, if the applicant or licensee, or a director, officer,
5 partner, governor, or person in a supervisory or management
6 position of the applicant or licensee:

7 (1) has ever been convicted of a felony or a crime
8 involving gambling;

9 (2) has ever been convicted of (i) assault, (ii) a criminal
10 violation involving the use of a firearm, or (iii) making
11 terroristic threats;

12 (3) is or has ever been connected with or engaged in an
13 illegal business;

14 (4) owes \$500 or more in delinquent taxes as defined in
15 section 270.72;

16 (5) had a sales and use tax permit revoked by the
17 commissioner of revenue within the past two years; or

18 (6) after demand, has not filed tax returns required by the
19 commissioner of revenue. The board may deny or refuse to renew
20 a license under this chapter, and may revoke a license under
21 this chapter, if any of the conditions in this paragraph are
22 applicable to an affiliate or direct or indirect holder of more
23 than a five percent financial interest in the applicant or
24 licensee.

25 (b) In the case of licenses for organizations, the board
26 may not issue or renew a license under this chapter, and shall
27 revoke a license under this chapter, if the organization, or an
28 officer or member of the governing body of the organization:

29 (1) has been convicted of a felony or gross misdemeanor
30 ~~within-the-five-years-before-the-issuance-or-renewal-of-the~~
31 ~~license~~ involving theft or fraud;

32 (2) has ever been convicted of a crime involving gambling;
33 or

34 (3) has had a license issued by the board or director
35 permanently revoked for violation of law or board rule.

36 Sec. 11. Minnesota Statutes 2004, section 349.16,

1 subdivision 2, is amended to read:

2 Subd. 2. [ISSUANCE OF GAMBLING LICENSES.] (a) Licenses
3 authorizing organizations to conduct lawful gambling may be
4 issued by the board to organizations meeting the qualifications
5 in paragraphs (b) to (h) if the board determines that the
6 license is consistent with the purpose of sections 349.11 to
7 349.22.

8 (b) The organization must have been in existence for the
9 most recent three years preceding the license application as a
10 registered Minnesota nonprofit corporation or as an organization
11 designated as exempt from the payment of income taxes by the
12 Internal Revenue Code.

13 (c) The organization at the time of licensing must have at
14 least 15 active members.

15 (d) The organization must not be in existence solely for
16 the purpose of conducting gambling.

17 (e) The organization has identified in its license
18 application the lawful purposes on which it proposes to expend
19 net profits from lawful gambling.

20 (f) The organization has identified on its license
21 application a gambling manager and certifies that the manager is
22 qualified under this chapter.

23 (g) The organization must not, in the opinion of the board
24 after consultation with the commissioner of revenue, be seeking
25 licensing primarily for the purpose of evading or reducing the
26 tax imposed by section 297E.02, subdivision 6.

27 (h) The organization has not exceeded the expenditure
28 restrictions imposed under section 349.15, subdivision 1.

29 Sec. 12. Minnesota Statutes 2004, section 349.16,
30 subdivision 8, is amended to read:

31 Subd. 8. [LOCAL INVESTIGATION FEE.] A statutory or home
32 rule charter city or county notified under section 349.213,
33 subdivision 2, may assess an investigation fee on organizations
34 ~~er-binge-halls~~ applying for or renewing a premises permit ~~er-a~~
35 ~~binge-hall-license~~. An investigation fee may not exceed the
36 following limits:

- 1 (1) for cities of the first class, \$500;
- 2 (2) for cities of the second class, \$250;
- 3 (3) for all other cities, \$100; and
- 4 (4) for counties, \$375.

5 Sec. 13. Minnesota Statutes 2004, section 349.161,
6 subdivision 5, is amended to read:

7 Subd. 5. [PROHIBITION.] (a) No distributor, distributor
8 salesperson, or other employee of a distributor, may also be a
9 wholesale distributor of alcoholic beverages or an employee of a
10 wholesale distributor of alcoholic beverages.

11 (b) No distributor, distributor salesperson, or any
12 representative, agent, affiliate, or other employee of a
13 distributor, may: (1) be involved in the conduct of lawful
14 gambling by an organization; (2) keep or assist in the keeping
15 of an organization's financial records, accounts, and
16 inventories; or (3) prepare or assist in the preparation of tax
17 forms and other reporting forms required to be submitted to the
18 state by an organization.

19 (c) No distributor, distributor salesperson, or any
20 representative, agent, affiliate, or other employee of a
21 distributor may provide a lessor of gambling premises any
22 compensation, gift, gratuity, premium, or other thing of value.

23 (d) No distributor, distributor salesperson, or any
24 representative, agent, affiliate, or other employee of a
25 distributor may provide an employee or agent of the organization
26 any compensation, gift, gratuity, premium, or other thing of
27 value greater than \$25 per organization in a calendar year.

28 (e) No distributor, distributor salesperson, or any
29 representative, agent, affiliate, or other employee of a
30 distributor may participate in any gambling activity at any
31 gambling site or premises where gambling equipment purchased
32 from that distributor or distributor salesperson is being used
33 in the conduct of lawful gambling.

34 ~~(e)~~ (f) No distributor, distributor salesperson, or any
35 representative, agent, affiliate, or other employee of a
36 distributor may alter or modify any gambling equipment, except

1 to add a "last ticket sold" prize sticker.

2 ~~(f)~~ (g) No distributor, distributor salesperson, or any
3 representative, agent, affiliate, or other employee of a
4 distributor may: (1) recruit a person to become a gambling
5 manager of an organization or identify to an organization a
6 person as a candidate to become gambling manager for the
7 organization; or (2) identify for an organization a potential
8 gambling location.

9 ~~(g)~~ (h) No distributor or distributor salesperson may
10 purchase gambling equipment for resale to a person for use
11 within the state from any person not licensed as a manufacturer
12 under section 349.163, except for gambling equipment returned
13 from an organization licensed under section 349.16, or exempt or
14 excluded from licensing under section 349.166.

15 ~~(h)~~ (i) No distributor or distributor salesperson may sell
16 gambling equipment to any person for use in Minnesota other than
17 (i) a licensed organization or organization excluded or exempt
18 from licensing, or (ii) the governing body of an Indian tribe.

19 ~~(i)~~ (j) No distributor or distributor salesperson may sell
20 or otherwise provide a pull-tab or tipboard deal with the symbol
21 required by section 349.163, subdivision 5, paragraph ~~(h)~~ (d),
22 visible on the flare to any person other than in Minnesota to a
23 licensed organization or organization exempt from licensing.

24 Sec. 14. Minnesota Statutes 2004, section 349.162,
25 subdivision 1, is amended to read:

26 Subdivision 1. [STAMP REGISTRATION REQUIRED.] ~~(a)~~ A
27 distributor may not sell, transfer, furnish, or otherwise
28 provide to a person, and no person may purchase, borrow, accept,
29 or acquire from a distributor gambling equipment for use within
30 the state unless the equipment has been registered with the
31 board ~~and-has-a-registration-stamp-affixed,-except-for-gambling~~
32 ~~equipment-not-stamped-by-the-manufacturer-pursuant-to-section~~
33 ~~349.163,-subdivision-5-or-8.--Each-stamp-must-bear-a~~
34 ~~registration-number-assigned-by-the-board.~~

35 ~~(b)-A-manufacturer-must-return-all-unused-registration~~
36 ~~stamps-in-its-possession-to-the-board-by-February-17-1995.--No~~

1 manufacturer-may-possess-unaffixed-registration-stamps-after
2 February-17-1995.

3 ~~(c)-After-February-17-1996,-no-person-may-possess-any~~
4 ~~unplayed-pull-tab-or-tipboard-deals-with-a-registration-stamp~~
5 ~~affixed-to-the-flare-or-any-unplayed-paddleticket-cards-with-a~~
6 ~~registration-stamp-affixed-to-the-master-flare;--This-paragraph~~
7 ~~does-not-apply-to-unplayed-pull-tab-or-tipboard-deals-with-a~~
8 ~~registration-stamp-affixed-to-the-flare,-or-to-unplayed~~
9 ~~paddleticket-cards-with-a-registration-stamp-affixed-to-the~~
10 ~~master-flare,-if-the-deals-or-cards-are-identified-on-a-list-of~~
11 ~~existing-inventory-submitted-by-a-licensed-organization-or-a~~
12 ~~licensed-distributor,-in-a-format-prescribed-by-the-commissioner~~
13 ~~of-revenue,-to-the-commissioner-of-revenue-on-or-before-February~~
14 ~~17-1996~~ or the Department of Revenue in a manner prescribed by
15 the board or the Department of Revenue. Gambling equipment kept
16 in violation of this paragraph subdivision is contraband under
17 section 349.2125.

18 Sec. 15. Minnesota Statutes 2004, section 349.162,
19 subdivision 4, is amended to read:

20 Subd. 4. [PROHIBITION.] (a) No person other than a
21 licensed distributor ~~or-licensed-manufacturer~~ may possess
22 unaffixed registration stamps issued by the board for the
23 purpose of registering gambling equipment.

24 (b) Unless otherwise provided in this chapter, no person
25 may possess gambling equipment that has not been stamped-and
26 registered.

27 (c) On and after January 1, 1991, no distributor may:

28 (1) sell a bingo hard card or paper sheet that does not
29 bear an individual number; or

30 (2) sell a package of bingo paper sheets that does not
31 contain bingo paper sheets in numerical order.

32 Sec. 16. Minnesota Statutes 2004, section 349.162,
33 subdivision 5, is amended to read:

34 Subd. 5. [SALES FROM FACILITIES.] (a) All gambling
35 equipment purchased or possessed by a licensed distributor for
36 resale to any person for use in Minnesota must, prior to the

1 equipment's resale, be unloaded into a storage facility located
2 in Minnesota which the distributor owns or leases; and which has
3 been registered, in advance and in writing, with the Division of
4 Alcohol and Gambling Enforcement as a storage facility of the
5 distributor. All unregistered gambling equipment and all
6 unaffixed registration stamps owned by, or in the possession of,
7 a licensed distributor in the state of Minnesota shall be stored
8 at a storage facility which has been registered with the
9 Division of Alcohol and Gambling Enforcement. No gambling
10 equipment may be moved from the facility unless the gambling
11 equipment has been first registered with the board, ~~except for~~
12 ~~gambling equipment not stamped by the manufacturer pursuant to~~
13 ~~section 349.163, subdivision 5 or 8~~ or the Department of Revenue.

14 (b) Notwithstanding section 349.163, subdivisions 5, 6, and
15 8, a licensed manufacturer may ship into Minnesota approved or
16 unapproved gambling equipment if the licensed manufacturer ships
17 the gambling equipment to a Minnesota storage facility that is:
18 (1) owned or leased by the licensed manufacturer; and (2)
19 registered, in advance and in writing, with the Division of
20 Alcohol and Gambling Enforcement as a manufacturer's storage
21 facility. No gambling equipment may be shipped into Minnesota
22 to the manufacturer's registered storage facility unless the
23 shipment of the gambling equipment is reported to the Department
24 of Revenue in a manner prescribed by the department. No
25 gambling equipment may be moved from the storage facility unless
26 the gambling equipment is sold to a licensed distributor and is
27 otherwise in conformity with this chapter, is shipped to an
28 out-of-state site and the shipment is reported to the Department
29 of Revenue in a manner prescribed by the department, or is
30 otherwise sold and shipped as permitted by board rule.

31 (c) All storage facilities owned, leased, used, or operated
32 by a licensed distributor or manufacturer may be entered upon
33 and inspected by the employees of the Division of Alcohol and
34 Gambling Enforcement, the Division of Alcohol and Gambling
35 Enforcement director's authorized representatives, employees of
36 the Gambling Control Board or its authorized representatives,

1 employees of the Department of Revenue, or authorized
2 representatives of the director of the Division of Special Taxes
3 of the Department of Revenue during reasonable and regular
4 business hours. Obstruction of, or failure to permit, entry and
5 inspection is cause for revocation or suspension of a
6 manufacturer's or distributor's licenses and permits issued
7 under this chapter.

8 (d) Unregistered gambling equipment and unaffixed
9 registration stamps found at any location in Minnesota other
10 than the manufacturing plant of a licensed manufacturer or a
11 registered storage facility are contraband under section
12 349.2125. This paragraph does not apply:

13 (1) to unregistered gambling equipment being transported in
14 interstate commerce between locations outside this state, if the
15 interstate shipment is verified by a bill of lading or other
16 valid shipping document; and

17 (2) to gambling equipment ~~not-stamped-by-the-manufacturer~~
18 ~~pursuant-to-section-349-1637-subdivision-5-or-8~~ registered with
19 the Department of Revenue for distribution to the tribal casinos.

20 Sec. 17. Minnesota Statutes 2004, section 349.163,
21 subdivision 3, is amended to read:

22 Subd. 3. [PROHIBITED SALES.] (a) A manufacturer may not:

23 (1) sell gambling equipment for use or resale within the
24 state to any person not licensed as a distributor, except that
25 gambling equipment used exclusively in a linked bingo game may
26 be sold to a licensed linked bingo provider; or

27 (2) sell gambling equipment to a distributor in this state
28 that has the same serial number as another item of gambling
29 equipment of the same type that is sold by that manufacturer for
30 use or resale in this state.

31 (b) A manufacturer, affiliate of a manufacturer, or person
32 acting as a representative or agent of a manufacturer may not
33 provide a lessor of gambling premises or an appointed official
34 any compensation, gift, gratuity, premium, contribution, or
35 other thing of value.

36 (c) A manufacturer may not sell or otherwise provide a

1 pull-tab or tipboard deal with the symbol required by
2 subdivision 5, paragraph ~~(h)~~ (d), imprinted on the flare to any
3 person other than a licensed distributor unless the manufacturer
4 first renders the symbol permanently invisible.

5 Sec. 18. Minnesota Statutes 2004, section 349.1635,
6 subdivision 4, is amended to read:

7 Subd. 4. [PROHIBITION.] (a) Except for services associated
8 exclusively with a linked bingo game, a linked bingo game
9 provider may not participate or assist in the conduct of lawful
10 gambling by an organization. No linked bingo game provider may:

11 (1) ~~also be licensed as a bingo hall or~~ hold any financial
12 or managerial interest in a premises leased for the conduct of
13 bingo hall;

14 (2) also be licensed as a distributor or hold any financial
15 or managerial interest in a distributor;

16 (3) sell or lease linked bingo game equipment to any person
17 not licensed as an organization;

18 (4) purchase gambling equipment to be used exclusively in a
19 linked bingo game from any person not licensed as a manufacturer
20 under section 349.163; and

21 (5) provide an organization, a lessor of gambling premises,
22 or an appointed official any compensation, gift, gratuity,
23 premium, or contribution.

24 (b) Employees of the board and the Division of Alcohol and
25 Gambling Enforcement may inspect the books, records, inventory,
26 and business premises of a licensed linked bingo game provider
27 without notice during the normal business hours of the linked
28 bingo game provider. The board may charge a linked bingo game
29 provider for the actual cost of conducting scheduled or
30 unscheduled inspections of the licensee's facilities.

31 Sec. 19. Minnesota Statutes 2004, section 349.166,
32 subdivision 1, is amended to read:

33 Subdivision 1. [EXCLUSIONS.] (a) Bingo, with the exception
34 of linked bingo games, may be conducted without a license and
35 without complying with sections 349.168, subdivisions 1 and 2;
36 349.17, subdivisions 1, 4, and 5; 349.18, subdivision 1; and

1 349.19, if it is conducted:

2 (1) by an organization in connection with a county fair,
3 the state fair, or a civic celebration and is not conducted for
4 more than 12 consecutive days and is limited to no more than
5 four separate applications for activities applied for and
6 approved in a calendar year; or

7 (2) by an organization that conducts four or fewer bingo
8 occasions in a calendar year.

9 An organization that holds a license to conduct lawful
10 gambling under this chapter may not conduct bingo under this
11 subdivision.

12 (b) Bingo may be conducted within a nursing home or a
13 senior citizen housing project or by a senior citizen
14 organization if the prizes for a single bingo game do not exceed
15 \$10, total prizes awarded at a single bingo occasion do not
16 exceed \$200, no more than two bingo occasions are held by the
17 organization or at the facility each week, only members of the
18 organization or residents of the nursing home or housing project
19 are allowed to play in a bingo game, no compensation is paid for
20 any persons who conduct the bingo, and a manager is appointed to
21 supervise the bingo. Bingo conducted under this paragraph is
22 exempt from sections 349.11 to 349.23, and the board may not
23 require an organization that conducts bingo under this
24 paragraph, or the manager who supervises the bingo, to register
25 or file a report with the board. The gross receipts from bingo
26 conducted under the limitations of this subdivision are exempt
27 from taxation under chapter 297A.

28 (c) Raffles may be conducted by an organization without a
29 ~~license-and-without-complying-with-sections-349-154-to-349-165~~
30 ~~and-349-167-to-349-213~~ registering with the board if the value
31 of all raffle prizes awarded by the organization in a calendar
32 year does not exceed \$1,500.

33 (d) Except as provided in paragraph (b), the organization
34 must maintain all required records of excluded gambling activity
35 for 3-1/2 years.

36 Sec. 20. Minnesota Statutes 2004, section 349.166,

1 subdivision 2, is amended to read:

2 Subd. 2. [EXEMPTIONS.] (a) Lawful gambling, with the
3 exception of linked bingo games, may be conducted by an
4 organization without a license and without complying with
5 sections 349.168, subdivisions 1 and 2; 349.17, subdivisions 4
6 and 5; 349.18, subdivision 1; and 349.19 if:

7 (1) the organization conducts lawful gambling on five or
8 fewer days in a calendar year;

9 (2) the organization does not award more than \$50,000 in
10 prizes for lawful gambling in a calendar year;

11 (3) the organization pays a fee of \$50 to the board,
12 notifies the board in writing not less than 30 days before each
13 lawful gambling occasion of the date and location of the
14 occasion, or 60 days for an occasion held in the case of a city
15 of the first class, the types of lawful gambling to be
16 conducted, the prizes to be awarded, and receives an exemption
17 identification number;

18 (4) the organization notifies the local government unit 30
19 days before the lawful gambling occasion, or 60 days for an
20 occasion held in a city of the first class;

21 (5) the organization purchases all gambling equipment and
22 supplies from a licensed distributor; and

23 (6) the organization reports to the board, on a single-page
24 form prescribed by the board, within 30 days of each gambling
25 occasion, the gross receipts, prizes, expenses, expenditures of
26 net profits from the occasion, and the identification of the
27 licensed distributor from whom all gambling equipment was
28 purchased.

29 (b) If the organization fails to file a timely report as
30 required by paragraph (a), clause (3) or (6), the board shall
31 not issue any authorization, license, or permit to the
32 organization to conduct lawful gambling on an exempt, excluded,
33 or licensed basis until the report has been filed and the
34 organization may be subject to penalty as determined by the
35 board.

36 (c) Merchandise prizes must be valued at their fair market

1 value.

2 (d) Organizations that qualify to conduct exempt raffles
3 under paragraph (a) are exempt from section 349.173, paragraph
4 (b), clause (2), if the raffle tickets are sold only in
5 combination with an organization's membership or a ticket for an
6 organization's membership dinner is not included with any other
7 raffle conducted under the exempt permit.

8 (e) Unused pull-tab and tipboard deals must be returned to
9 the distributor within seven working days after the end of the
10 lawful gambling occasion. The distributor must accept and pay a
11 refund for all returns of unopened and undamaged deals returned
12 under this paragraph.

13 {e} (f) An organization that is exempt from taxation on
14 purchases of pull-tabs and tipboards under section 297E.02,
15 subdivision 4, paragraph (b), clause (4), must return to the
16 distributor any tipboard or pull-tab deal no part of which is
17 used at the lawful gambling occasion for which it was purchased
18 by the organization.

19 {f} (g) The organization must maintain all required records
20 of exempt gambling activity for 3-1/2 years.

21 Sec. 21. Minnesota Statutes 2004, section 349.167,
22 subdivision 1, is amended to read:

23 Subdivision 1. [GAMBLING MANAGER REQUIRED.] (a) All lawful
24 gambling conducted by a licensed organization must be under the
25 supervision of a gambling manager. A gambling manager
26 designated by an organization to supervise lawful gambling is
27 responsible for the gross receipts of the organization and for
28 its conduct in compliance with all laws and rules. A person
29 designated as a gambling manager shall maintain a ~~fidelity~~
30 dishonesty bond in the sum of \$10,000 in favor of the
31 organization conditioned on the faithful performance of the
32 manager's duties. The terms of the bond must provide that
33 notice be given to the board in writing not less than 30 days
34 before its cancellation.

35 (b) A person may not act as a gambling manager for more
36 than one organization.

1 (c) An organization may not conduct lawful gambling without
2 having a gambling manager.

3 (d) An organization may not have more than one gambling
4 manager at any time.

5 Sec. 22. Minnesota Statutes 2004, section 349.168,
6 subdivision 8, is amended to read:

7 Subd. 8. [PERCENTAGE OF GROSS PROFIT PAID.] (a) A licensed
8 organization may pay a percentage of the gross profit from
9 raffle ticket sales to a nonprofit organization that sells
10 raffle tickets for the licensed organization.

11 (b) A licensed organization may compensate an employee of
12 the organization for the sale of gambling equipment at a bar
13 operation if the frequency of the activity is one day or ~~less~~ ^{Event}
14 per week and the games are limited to 30 chances or ~~less~~ ^{Event} per
15 game. For purposes of this paragraph, an employee shall not be
16 a lessor, employee of the lessor, or an immediate family member
17 of the lessor.

18 Sec. 23. Minnesota Statutes 2004, section 349.17,
19 subdivision 5, is amended to read:

20 Subd. 5. [BINGO CARDS AND SHEETS.] (a) The board shall by
21 rule require that all licensed organizations: (1) conduct bingo
22 only using liquid daubers on bingo paper sheets that bear an
23 individual number recorded by the distributor or linked bingo
24 game provider; and (2) use each bingo paper sheet for no more
25 than one bingo occasion. In lieu of the requirements of clause
26 (2), a licensed organization may electronically record the sale
27 of each bingo hard card or paper sheet at each bingo occasion
28 using an electronic recording system approved by the board.

29 (b) The requirements of paragraph (a) shall only apply to a
30 licensed organization that received gross receipts from bingo in
31 excess of \$150,000 in the organization's last fiscal year.

32 Sec. 24. Minnesota Statutes 2004, section 349.17,
33 subdivision 7, is amended to read:

34 Subd. 7. [NIGHT-HOUR BAR BINGO.] Notwithstanding
35 subdivisions 1 and 3, An organization may conduct bar bingo
36 subject to the following restrictions:

1 ~~(1) the bingo is conducted only between the hours of 11:00~~
2 ~~a.m. and 2:00 p.m.;~~

3 ~~(2) the bingo is conducted at a site the organization owns~~
4 ~~or leases and which has a license for the sale of intoxicating~~
5 ~~beverages on the premises under chapter 340A;~~

6 ~~(3) the bingo is limited to one progressive bingo game per~~
7 ~~site as defined by section 349.211, subdivision 2;~~

8 ~~(4) (2) the bingo is conducted using only bingo paper~~
9 ~~sheets purchased from a licensed distributor;~~

10 ~~(5) if the premises are leased, the (3) no rent may not~~
11 ~~exceed \$25 per day for each day bingo is conducted be paid for a~~
12 ~~bar bingo occasion; and~~

13 ~~(6) (4) linked bingo games may not be conducted at a noon~~
14 ~~hour bar bingo occasion.~~

15 Sec. 25. Minnesota Statutes 2004, section 349.1711,
16 subdivision 1, is amended to read:

17 Subdivision 1. [SALE OF TICKETS.] Tipboard games must be
18 played using only tipboard tickets that are either (1) attached
19 to a placard and arranged in columns or rows, or (2) separate
20 from the placard and contained in a receptacle while the game is
21 in play. The placard serves as the game flare. The placard
22 must contain a seal that conceals the winning number or symbol.
23 When a tipboard ticket is purchased and opened from a game
24 containing more than 30 tickets, each player having a tipboard
25 ticket with one or more predesignated numbers or symbols must
26 sign the placard at the line indicated by the number or symbol
27 on the tipboard ticket.

28 Sec. 26. Minnesota Statutes 2004, section 349.173, is
29 amended to read:

30 349.173 [CONDUCT OF RAFFLES.]

31 (a) Raffle tickets or certificates of participation at a
32 minimum must list the three most expensive prizes to be
33 awarded. If additional prizes will be awarded that are not
34 contained on the raffle ticket, the raffle ticket must contain
35 the statement "A complete list of additional prizes is available
36 upon request.", a complete list of additional prizes must be

1 publicly posted at the event and copies of the complete prize
2 list made available upon request. Notwithstanding section
3 349.12, subdivision 33, raffles conducted under the exemptions
4 in section 349.166 may use tickets that contain only the
5 sequential number of the raffle ticket and no other information
6 if the organization makes a list of prizes and a statement of
7 other relevant information required by rule available to persons
8 purchasing tickets and if tickets are only sold at the event and
9 on the date when the tickets are drawn.

10 (b) Raffles must be conducted in a manner that ensures:

11 (1) all entries in the raffle have an equal chance of
12 selection;

13 (2) entry in the raffle is not conditioned upon any other
14 purchase;

15 (3) the method of selection is conducted in a public forum;

16 (4) the method of selection cannot be manipulated or based
17 on the outcome of an event not under the control of the
18 organization;

19 (5) physical presence at the raffle is not a requirement to
20 win; and

21 (6) all sold and unsold tickets or certificates of
22 participation are accounted for.

23 (c) Methods of selecting winning entries from a raffle
24 other than prescribed in rule may be used with the prior written
25 approval of the board.

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

28 Sec. 27. Minnesota Statutes 2004, section 349.18,
29 subdivision 1, is amended to read:

30 Subdivision 1. [LEASE OR OWNERSHIP REQUIRED; RENT
31 LIMITATIONS.] (a) An organization may conduct lawful gambling
32 only on premises it owns or leases. Leases must be on a form
33 prescribed by the board. Except for leases entered into before
34 August 1, 1994, the term of the lease may not begin before the
35 effective date of the premises permit and must expire on the
36 same day that the premises permit expires. Copies of all leases

1 must be made available to employees of the board and the
2 Division of Alcohol and Gambling Enforcement on request. The
3 board may prescribe by rule limits on the amount of rent which
4 an organization may pay to a lessor for premises leased for
5 bingo. Any rule adopted by the board limiting the amount of
6 rent to be paid may only be effective for leases entered into,
7 or renewed, after the effective date of the rule.

8 (b) Rent paid by an organization for leased premises for
9 the conduct of pull-tabs, tipboards, and paddlewheels is subject
10 to the following limits:

11 (1) for booth operations, including booth operations where
12 a pull-tab dispensing device is located, booth operations where
13 a bar operation is also conducted, and booth operations where
14 both a pull-tab dispensing device is located and a bar operation
15 is also conducted, the maximum rent is:

16 (i) in any month where the organization's gross profit at
17 those premises does not exceed \$4,000, up to \$400; and

18 (ii) in any month where the organization's gross profit at
19 those premises exceeds \$4,000, up to \$400 plus not more than ten
20 percent of the gross profit for that month in excess of \$4,000;

21 (2) for bar operations, including bar operations where a
22 pull-tab dispensing device is located but not including bar
23 operations subject to clause (1), and for locations where only a
24 pull-tab dispensing device is located:

25 (i) in any month where the organization's gross profit at
26 those premises does not exceed \$1,000, up to \$200; and

27 (ii) in any month where the organization's gross profit at
28 those premises exceeds \$1,000, up to \$200 plus not more than 20
29 percent of the gross profit for that month in excess of \$1,000;

30 (3) a lease not governed by clauses (1) and (2) must be
31 approved by the board before becoming effective;

32 (4) total rent paid to a lessor from all organizations from
33 leases governed by clause (1) may not exceed \$1,750 per month.
34 Total rent paid to a lessor from all organizations from leases
35 governed by clause (2) may not exceed \$2,500 per month.

36 (c) Rent paid by an organization for leased premises for

1 the conduct of bingo is subject to the following limits:

2 (1) not more than ten percent of the monthly gross profit
3 from all lawful gambling activities held during bingo occasions
4 excluding bar bingo, or a rate based on a cost per square foot
5 not to exceed ten percent of a comparable cost per square foot
6 for leased space as approved by the director; and

7 (2) no rent may be paid for bar bingo.

8 (d) Amounts paid as rent under leases are all-inclusive.

9 No other services or expenses provided or contracted by the
10 lessor may be paid by the organization, including, but not
11 limited to, trash removal, janitorial and cleaning services,
12 snow removal, lawn services, electricity, heat, security,
13 security monitoring, storage, other utilities or services, and,
14 in the case of bar operations, cash shortages, unless approved
15 by the director. Any other expenditure made by an organization
16 that is related to a leased premises must be approved by the
17 director. An organization may not provide any compensation or
18 thing of value to a lessor or the lessor's employees from any
19 fund source other than its gambling account. Rent payments may
20 not be made to an individual.

21 ~~(d)~~ (e) Notwithstanding paragraph (b), an organization may
22 pay a lessor for food or beverages or meeting room rental if the
23 charge made is comparable to similar charges made to other
24 individuals or groups.

25 ~~(e)~~ (f) No person, distributor, manufacturer, lessor,
26 linked bingo game provider, or organization other than the
27 licensed organization leasing the space may conduct any activity
28 other than the sale or serving of food and beverages on the
29 leased premises during times when lawful gambling is being
30 conducted on the premises.

31 ~~(f)~~ (g) At a site where the leased premises consists of an
32 area on or behind a bar at which alcoholic beverages are sold
33 and employees of the lessor are employed by the organization as
34 pull-tab sellers at the site, pull-tabs and tipboard tickets may
35 be sold and redeemed by those employees at any place on or
36 behind the bar, but the tipboards and receptacles for pull-tabs

1 and cash drawers for lawful gambling receipts must be maintained
2 only within the leased premises.

3 ~~(g)~~ (h) Employees of a lessor or employees of an
4 organization may participate in lawful gambling on the premises
5 provided (1) if pull-tabs or tipboards are sold, the
6 organization voluntarily posts, or is required to post, the
7 major prizes as specified in section 349.172; and (2) any
8 ~~employee of-the-lessor~~ participating in lawful gambling is not a
9 gambling employee for the organization conducting lawful
10 gambling on the premises.

11 ~~(h)~~ (i) A gambling employee may purchase pull-tabs or
12 tipboards at the site of the employee's place of employment
13 provided:

14 (1) the organization voluntarily posts, or is required to
15 post, the major prizes for pull-tab or tipboard games as
16 specified in section 349.172; and

17 (2) the employee is not involved in the sale of pull-tabs
18 or tipboards at that site.

19 ~~(i)~~ (j) At a leased site where an organization uses a
20 paddlewheel consisting of 30 numbers or less or a tipboard
21 consisting of 30 tickets or less, tickets may be sold throughout
22 the permitted premises, but winning tickets must be redeemed,
23 the paddlewheel must be located, and the tipboard seal must be
24 opened within the leased premises.

25 ~~(j)~~ (k) A member of the lessor's immediate family may not
26 be a compensated employee of an organization leasing space at
27 the premises. For purposes of this paragraph, a "member of the
28 immediate family" is a spouse, parent, child, or sibling.

29 Sec. 28. Minnesota Statutes 2004, section 349.19,
30 subdivision 4, is amended to read:

31 Subd. 4. [DISCREPANCIES.] If at a bingo occasion a
32 discrepancy of more than ~~\$20~~ \$50 is found between the gross
33 receipts as reported by the checkers and the gross receipts
34 determined by adding the cash receipts, the discrepancy must be
35 reported to the board within five days of the bingo occasion.

36 Sec. 29. Minnesota Statutes 2004, section 349.19,

1 subdivision 10, is amended to read:

2 Subd. 10. [PULL-TAB RECORDS.] (a) The board shall by rule
3 require a licensed organization to require each winner of a
4 pull-tab prize of \$50 or more to present identification in the
5 form of a driver's license, Minnesota identification card, or
6 other identification the board deems sufficient to allow the
7 identification and tracing of the winner. The rule must require
8 the organization to retain winning pull-tabs of \$50 or more, and
9 the identification of the winner of the pull-tab, for 3-1/2
10 years.

11 (b) An organization must maintain separate cash banks for
12 each deal of pull-tabs unless (1) two or more deals are
13 commingled in a ~~single-receptacle~~ pull-tab dispensing device, or
14 (2) the organization uses a cash register, of a type approved by
15 the board, which records all sales of pull-tabs by separate
16 deals.

17 (c) The board shall:

18 (1) by rule adopt minimum technical standards for cash
19 registers that may be used by organizations, and shall approve
20 for use by organizations any cash register that meets the
21 standards; and

22 (2) before allowing an organization to use a cash register
23 that commingles receipts from several different pull-tab games
24 in play, adopt rules that define how cash registers may be used
25 and that establish a procedure for organizations to reconcile
26 all pull-tab games in play at the end of each month.

27 Sec. 30. Minnesota Statutes 2004, section 349.211,
28 subdivision 2c, is amended to read:

29 Subd. 2c. [TIPBOARD PRIZES.] The maximum prize which may
30 be awarded for a tipboard ticket is \$500 \$599, not including any
31 cumulative or carryover prizes. Cumulative or carryover prizes
32 in tipboard games shall not exceed \$2,500.

33 Sec. 31. Minnesota Statutes 2004, section 349.2125,
34 subdivision 1, is amended to read:

35 Subdivision 1. [CONTRABAND DEFINED.] The following are
36 contraband:

1 (1) all pull-tab or tipboard deals or paddleticket cards
2 not stamped-~~er~~ bar coded in accordance with this chapter or
3 chapter 297E;

4 (2) all pull-tab or tipboard deals in the possession of any
5 unlicensed person, firm, or organization, ~~whether stamped-er~~
6 unstamped;

7 (3) any container used for the storage and display of any
8 contraband pull-tab or tipboard deals as defined in clauses (1)
9 and (2);

10 (4) all currency, checks, and other things of value used
11 for pull-tab or tipboard transactions not expressly permitted
12 under this chapter, and any cash drawer, cash register, or any
13 other container used for illegal pull-tab or tipboard
14 transactions including its contents;

15 (5) any device including, but not limited to, motor
16 vehicles, trailers, snowmobiles, airplanes, and boats used, with
17 the knowledge of the owner or of a person operating with the
18 consent of the owner, for the storage or transportation of more
19 than five pull-tab or tipboard deals that are contraband under
20 this subdivision. When pull-tabs and tipboards are being
21 transported in the course of interstate commerce between
22 locations outside this state, the pull-tab and tipboard deals
23 are not contraband, notwithstanding the provisions of clauses
24 (1) and (12);

25 (6) any unaffixed registration stamps except as provided in
26 section 349.162, subdivision 4;

27 (7) any prize used or offered in a game utilizing
28 contraband as defined in this subdivision;

29 (8) any altered, modified, or counterfeit pull-tab or
30 tipboard ticket;

31 (9) any unregistered gambling equipment except as permitted
32 by this chapter;

33 (10) any gambling equipment kept in violation of section
34 349.18;

35 (11) any gambling equipment not in conformity with law or
36 board rule;

1 (12) any pull-tab or tipboard deal in the possession of a
2 person other than a licensed distributor or licensed
3 manufacturer for which the person, upon demand of a licensed
4 peace officer or authorized agent of the commissioner of revenue
5 or director of alcohol and gambling enforcement, does not
6 immediately produce for inspection the invoice or a true and
7 correct copy of the invoice for the acquisition of the deal from
8 a licensed distributor;

9 (13) any pull-tab or tipboard deals or portions of deals on
10 which the tax imposed under chapter 297E has not been paid; and

11 (14) any device prohibited by section 609.76, subdivisions
12 4 to 6.

13 Sec. 32. Minnesota Statutes 2004, section 349.213, is
14 amended to read:

15 349.213 [LOCAL AUTHORITY.]

16 Subdivision 1. [LOCAL REGULATION.] (a) A statutory or home
17 rule city or county has the authority to adopt more stringent
18 regulation of lawful gambling within its jurisdiction, including
19 the prohibition of lawful gambling, and may require a permit for
20 the conduct of gambling exempt from licensing under section
21 349.166. The fee for a permit issued under this subdivision may
22 not exceed \$100. The authority granted by this subdivision does
23 not include the authority to require a license or permit to
24 conduct gambling by organizations or sales by distributors or
25 linked bingo game providers licensed by the board. The
26 authority granted by this subdivision does not include the
27 authority to require an organization to make specific
28 expenditures of more than ten percent per year from its net
29 profits derived from lawful gambling. For the purposes of this
30 subdivision, net profits are gross profits less amounts expended
31 for allowable expenses and paid in taxes assessed on lawful
32 gambling. A statutory or home rule charter city or a county may
33 not require an organization conducting lawful gambling within
34 its jurisdiction to make an expenditure to the city or county as
35 a condition to operate within that city or county, except as
36 authorized under section 349.16, subdivision 8, or 297E.02;

1 provided, however, that an ordinance requirement that such
2 organizations must contribute ten percent per year of their net
3 profits derived from lawful gambling conducted at premises
4 within the city's or county's jurisdiction to a fund
5 administered and regulated by the responsible local unit of
6 government without cost to such fund, for disbursement by the
7 responsible local unit of government of the receipts for (i)
8 lawful purposes, or (ii) police, fire, and other emergency or
9 public safety-related services, equipment, and training,
10 excluding pension obligations, is not considered an expenditure
11 to the city or county nor a tax under section 297E.02, and is
12 valid and lawful. A city or county making expenditures
13 authorized under this paragraph must by March 15 of each year
14 file a report with the board, on a form the board prescribes,
15 that lists all such revenues collected and expenditures for the
16 previous calendar year.

17 (b) A statutory or home rule city or county may by
18 ordinance require that a licensed organization conducting lawful
19 gambling within its jurisdiction expend all or a portion of its
20 expenditures for lawful purposes on lawful purposes conducted or
21 located within the city's or county's trade area. Such an
22 ordinance must be limited to lawful purpose expenditures of
23 gross profits derived from lawful gambling conducted at premises
24 within the city's or county's jurisdiction, must define the
25 city's or county's trade area, and must specify the percentage
26 of lawful purpose expenditures which must be expended within the
27 trade area. A trade area defined by a city under this
28 subdivision must include each city and township contiguous to
29 the defining city.

30 (c) A more stringent regulation or prohibition of lawful
31 gambling adopted by a political subdivision under this
32 subdivision must apply equally to all forms of lawful gambling
33 within the jurisdiction of the political subdivision, except a
34 political subdivision may prohibit the use of paddlewheels.

35 Subd. 2. [LOCAL APPROVAL.] Before issuing or renewing a
36 premises permit ~~or-bingo-hall-license~~, the board must notify the

1 city council of the statutory or home rule city in which the
2 organization's premises ~~or-the-bingo-hall~~ is located or, if the
3 premises ~~or-hall~~ is located outside a city, the county board of
4 the county and the town board of the town where the premises ~~or~~
5 ~~hall~~ is located. The board may require organizations ~~or-bingo~~
6 ~~halls~~ to notify the appropriate local government at the time of
7 application. This required notification is sufficient to
8 constitute the notice required by this subdivision. The board
9 may not issue or renew a premises permit ~~or-bingo-hall-license~~
10 unless the organization submits a resolution from the city
11 council or county board approving the premises permit ~~or-bingo~~
12 ~~hall-license~~. The resolution must have been adopted within 90
13 days of the date of application for the new or renewed permit or
14 license.

15 Subd. 3. [LOCAL GAMBLING TAX.] A statutory or home rule
16 charter city that has one or more licensed organizations
17 operating lawful gambling, and a county that has one or more
18 licensed organizations outside incorporated areas operating
19 lawful gambling, may impose a local gambling tax on each
20 licensed organization within the city's or county's
21 jurisdiction. The tax may be imposed only if the amount to be
22 received by the city or county is necessary to cover the costs
23 incurred by the city or county to regulate lawful gambling. The
24 tax imposed by this subdivision may not exceed three percent per
25 year of the gross receipts of a licensed organization from all
26 lawful gambling less prizes actually paid out by the
27 organization. A city or county may not use money collected
28 under this subdivision for any purpose other than to regulate
29 lawful gambling. All documents pertaining to site inspections,
30 finances, penalties, or other corrective action involving local
31 lawful gambling regulation must be shared with the board within
32 30 days of filing at the city or county of jurisdiction. A tax
33 imposed under this subdivision is in lieu of all other local
34 taxes and local investigation fees on lawful gambling. A city
35 or county that imposes a tax under this subdivision shall
36 annually, by March 15, file a report with the board in a form

1 prescribed by the board showing (1) the amount of revenue
2 produced by the tax during the preceding calendar year, and (2)
3 the use of the proceeds of the tax.

4 Sec. 33. Minnesota Statutes 2004, section 609.75,
5 subdivision 1, is amended to read:

6 Subdivision 1. [LOTTERY.] (a) A lottery is a plan which
7 provides for the distribution of money, property or other reward
8 or benefit to persons selected by chance from among participants
9 some or all of whom have given a consideration for the chance of
10 being selected. A participant's payment for use of a 900
11 telephone number or another means of communication that results
12 in payment to the sponsor of the plan constitutes consideration
13 under this paragraph.

14 (b) An in-package chance promotion is not a lottery if all
15 of the following are met:

16 (1) participation is available, free and without purchase
17 of the package, from the retailer or by mail or toll-free
18 telephone request to the sponsor for entry or for a game piece;

19 (2) the label of the promotional package and any related
20 advertising clearly states any method of participation and the
21 scheduled termination date of the promotion;

22 (3) the sponsor on request provides a retailer with a
23 supply of entry forms or game pieces adequate to permit free
24 participation in the promotion by the retailer's customers;

25 (4) the sponsor does not misrepresent a participant's
26 chances of winning any prize;

27 (5) the sponsor randomly distributes all game pieces and
28 maintains records of random distribution for at least one year
29 after the termination date of the promotion;

30 (6) all prizes are randomly awarded if game pieces are not
31 used in the promotion; and

32 (7) the sponsor provides on request of a state agency a
33 record of the names and addresses of all winners of prizes
34 valued at \$100 or more, if the request is made within one year
35 after the termination date of the promotion.

36 (c) Except as provided by section 349.40, acts in this

1 state in furtherance of a lottery conducted outside of this
2 state are included notwithstanding its validity where conducted.

3 (d) The distribution of property, or other reward or
4 benefit by an employer to persons selected by chance from among
5 participants who, all of whom:

6 (1) have made a contribution through a payroll or pension
7 deduction campaign to a registered combined charitable
8 organization, within the meaning of section 309.501; or

9 (2) have paid other consideration to the employer entirely
10 for the benefit of such a registered combined charitable
11 organization, as a precondition to the chance of being selected,
12 is not a lottery if:

13 ~~{1}~~ (i) all of the persons eligible to be selected are
14 employed by or retirees of the employer; and

15 ~~{2}~~ (ii) the cost of the property or other reward or
16 benefit distributed and all costs associated with the
17 distribution are borne by the employer.

18 Sec. 34. [REPEALER.]

19 Minnesota Statutes 2004, sections 349.162, subdivision 3;
20 349.164; and 349.17, subdivision 1, are repealed.

Consolidated Fiscal Note – 2005-06 Session

Bill #: S1555-2A Complete Date: 04/27/05

Chief Author: REST, ANN

Title: MODIFY LAWFUL GAMBLING PROVISIONS

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings	X	
Tax Revenue	X	

Agencies: Lawful Gambling (04/22/05)
Revenue Dept (04/26/05)

Public Safety Dept (04/26/05)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
Misc Special Revenue Fund	0	0	0	0	0
Lawful Gambling	0	0	0	0	0
Revenues					
Misc Special Revenue Fund	0	0	0	0	0
Lawful Gambling	0	0	0	0	0
Net Cost <Savings>					
Misc Special Revenue Fund	0	0	0	0	0
Lawful Gambling	0	0	0	0	0
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
Misc Special Revenue Fund	0.00	0.00	0.00	0.00	0.00
Lawful Gambling	0.00	0.00	0.00	0.00	0.00
Total FTE					

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KRISTI SCHROEDL

Date: 04/27/05 Phone: 215-0595

Fiscal Note – 2005-06 Session

Bill #: S1555-2A Complete Date: 04/22/05

Chief Author: REST, ANN

Title: MODIFY LAWFUL GAMBLING PROVISIONS

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings	X	
Tax Revenue	X	

Agency Name: Lawful Gambling

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Misc Special Revenue Fund	0	0	0	0	0
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
Misc Special Revenue Fund	0	0	0	0	0
Revenues					
Misc Special Revenue Fund	0	0	0	0	0
Net Cost <Savings>					
Misc Special Revenue Fund	0	0	0	0	0
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
Misc Special Revenue Fund	0.00	0.00	0.00	0.00	0.00
Total FTE					

Bill Description

Bill amends lawful gambling statutes including those relating to bingo. It redefines lawful purpose expenditures; provides further clarification of raffle.

Assumptions

Eliminating bingo hall licenses will reduce fees collected in the special revenue account. Regulatory, license and permit fees collected will increase due to additional sales driven by increased bingo activity.

Expenditure and/or Revenue Formula

Currently 8 bingo halls pay a \$4,000 annual license fee. Eliminating these licenses will result in a \$32,000 loss of revenue. Regulatory, license and permit fees will increase due to increased bingo activity.

Long-Term Fiscal Considerations

None

Local Government Costs

None

References/Sources

FN Coord Signature: DEBRA HELLENBERG

Date: 04/22/05 Phone: 639-4083

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KRISTI SCHROEDL

Date: 04/22/05 Phone: 215-0595

Fiscal Note – 2005-06 Session

Bill #: S1555-2A **Complete Date:** 04/26/05

Chief Author: REST, ANN

Title: MODIFY LAWFUL GAMBLING PROVISIONS

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Revenue Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

This bill version has no fiscal effect on our agency.

FN Coord Signature: JOHN POWERS

Date: 04/26/05 Phone: 556-4054

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: NANCY HOMANS

Date: 04/26/05 Phone: 296-9370

Bill Description

Modifying certain provisions regulating lawful gambling; defining or redefining certain terms including the definition of lawful purpose for receipts expenditure regulation purposes; increasing the gross profits expenditure restriction percentage and modifying the expenditure period; modifying the powers and duties of the gambling control board and expanding certain duties of the board director; modifying certain standards for licensed organization expenditures; modifying the license disqualification requirement relating to felony or gross misdemeanor convictions; prohibiting gifts of certain value by distributors to organization employees or agents; eliminating the gambling equipment registration stamp requirement; authorizing the registration of gambling equipment with the department of revenue; modifying the provision allowing the conduct of certain raffles without a license, authorizing conduct without registering with the board; subjecting organizations failing to file certain reports for the conduct of lawful gambling on an exempt, excluded or licensed basis to a penalty as determined by the board; authorizing licensed organizations to compensate organization employees for the sale of gambling equipment at bars under certain conditions; changing the regulation of noon hour bingo to bar bingo; further defining a certain placard signing requirement relating to the sale of tipboard tickets; further regulating the conduct of raffles; applying certain organization premises rent limits to premises leased for the conduct of pull tabs, tipboards and paddlewheels and specifying certain separate limits for premises leased for the conduct of bingo; expanding a certain provision allowing employees of lessors to participate in lawful gambling on the premises to employees of the organization and authorizing the purchase of tipboards; modifying a certain bingo occasion gross receipts discrepancies reporting requirement; increasing the maximum prize limit for tipboard tickets; requiring documents relating to site inspections, fines, penalties or other corrective action involving local lawful gambling regulation to be shared with the board within a certain number of days of filing at the city or county of jurisdiction; expanding the exemption of certain lottery games from the definition of gambling crimes relating to the distribution of property by employers to participants selected by chance to participants making contributions other than through payroll or pension deduction to employers for the benefit of registered combined charitable organizations; repealing certain provisions exempting bingo cards or sheets from the stamp requirements, providing for bingo hall licenses and limiting bingo occasions . The 5-A amendment involves raffles and sets restrictions of organizations that will conduct raffles permitted under the terms of the law.

Assumptions

This bill will not require AGED to do background checks on Bingo Halls because they no longer need a license issued by the Gambling Control Board. Although there is current authority for AGED to conduct background checks at Bingo Halls, for the past several years, the Gambling control board has not requested any background checks to be done by our division. Therefore, there would be no fiscal impact because of the language found within this bill for AGED. The 5-A amendment has no fiscal impact for AGED.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Same as above.

Local Government Costs

Local municipalities would no longer be allowed to charge a licensing investigation fee.

References/Sources

Agency Contact Name: Frank Ball 651 215-6200
FN Coord Signature: FRANK AHRENS
Date: 04/21/05 Phone: 296-9484

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: NORMAN FOSTER
Date: 04/26/05 Phone: 215-0594

1 Senator moves to amend the committee engrossment
2 (SCS1555CE1) of S.F. No. 1555 as follows:

3 Page 2, after line 1, insert:

4 "Sec. 3. Minnesota Statutes 2004, section 349.12, is
5 amended by adding a subdivision to read:

6 Subd. 7a. [CHARITABLE CONTRIBUTION.] "Charitable
7 contribution" means one or more of the lawful purposes
8 expenditures under section 349.12, subdivision 25, paragraph
9 (a), clauses (1) to (5), (6), (7), (10), (11), (13) to (15), and
10 (19)."

11 Page 7, line 21, before "Gross" insert "(a)"

12 Page 7, line 27, reinstate the stricken language and delete
13 the new language

14 Page 7, line 30, after the period, insert "Organizations
15 may request a waiver of the 55 percent limit on allowable
16 expenses. The board may grant the request if the organization
17 demonstrates that it incurred reasonably unforeseeable and
18 necessary expenses. The duration of the waiver is limited to
19 the current term of the organization's license and the amount is
20 limited to an additional five percent of the organization's
21 gross profit from other forms of lawful gambling during the term
22 of the current license.

23 ~~(b)~~ For licenses issued after June 30, 2006, compliance
24 with this subdivision will be measured on a biennial basis that
25 is concurrent with the term of the license. Compliance with
26 this subdivision is a condition for the renewal of any license
27 beginning on July 1, 2008."

28 Page 7, delete lines 31 and 32

29 Page 8, line 23, after "(9)" insert "to report annually to
30 the governor and legislature a financial summary for each
31 licensed organization identifying the gross receipts, prizes
32 paid, operating expenses, lawful purpose expenditures including
33 charitable contributions, and the percentage of annual gross
34 profit used for lawful purposes;

35 (10)"

36 Page 8, line 28, strike "(10)" and insert "(11)"

1 Page 8, line 30, strike "(11)" and insert "(12)"

2 Page 8, line 33, strike "(12)" and insert "(13)"

3 Page 9, line 1, delete "(13)" and insert "(14)"

4 Page 9, after line 4, insert:

5 "(15) to approve or deny requests from licensees for:

6 ~~(i) waivers from expense limits under section 349.15,~~
7 ~~subdivision 1;~~

8 (ii) waivers from fee requirements as provided in section
9 349.16, subdivision 6; and

10 (iii) variances from Gambling Control Board rules under
11 section 14.055; and"

12 Page 9, line 5, delete "(14)" and insert "(16)"

13 Page 9, line 7, delete "(15)" and insert "(17)"

14 Page 9, line 9, delete "(16)" and insert "(18)"

15 Page 9, line 13, delete "(17)" and insert "(19)"

16 Page 9, line 16, delete "(18)" and insert "(20)"

17 Page 13, line 19, after "gambling" insert "and has
18 identified an annual goal for charitable contributions,
19 expressed as a percentage of gross profits."

20 Page 13, line 28, before the period insert ", or if the
21 organization has exceeded the expenditure restrictions under
22 section 349.15, subdivision 1, the organization has reimbursed
23 any excess expenses from nongambling funds"

24 Page 23, line 14, delete "30" and insert "32"

25 Page 24, line 24, delete "30" and insert "32"

26 Page 25, line 32, after the period insert "The board may
27 prhibit an organization from renting premises from a lessor if
28 illegal gambling occurred on the premises and the lessor or its
29 employees knew of or participated in the illegal gambling."

30 Page 27, line 5, delete "ten" and insert "110"

31 Page 28, after line 35, insert:

32 "Sec. 30. Minnesota Statutes 2004, section 349.19,
33 subdivision 5, is amended to read:

34 Subd. 5. [REPORTS.] A licensed organization must report to
35 the Department of Revenue and to its membership monthly, or
36 quarterly in the case of a licensed organization which does not

1 report more than \$1,000 in gross receipts from lawful gambling
2 in any calendar quarter, on its gross receipts, expenses,
3 profits, and expenditure of profits from lawful gambling. The
4 report must include a reconciliation of the organization's
5 profit carryover with its cash balance on hand. If the
6 organization conducts both bingo and other forms of lawful
7 gambling, the figures for both must be reported separately. The
8 organization must report annually to its membership and annually
9 file with the board a financial summary report in a format
10 prescribed by the board that identifies the organization's
11 receipt and use of lawful gambling proceeds, including:

12 (1) gross receipts;

13 (2) prizes paid;

14 (3) operating expenses;

15 (4) lawful purpose expenditures, including annual totals

16 for types of charitable contributions; and

17 (5) the percentage of annual gross profits used for

18 charitable contributions."

19 Renumber the sections in sequence and correct the internal
20 references

21 Amend the title accordingly

CHARITABLE GAMBLING FACT SHEET



- 1,420 licensed non-profit organizations
- 3,039 licensed sites
- 1,420 licensed gambling managers
- 173 licensed distributor salespersons
- 8 licensed manufacturers
- 18 licensed distributors
- 9 licensed bingo halls
- 24,166 registered employees

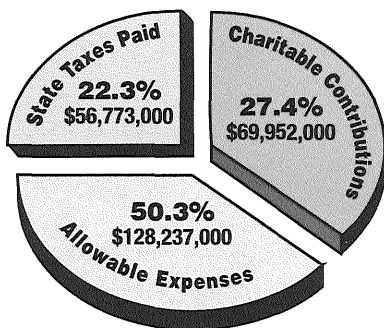
As of August 2004

Total Lawful Purpose Expenditures 1985-2003: \$2,250,727,000

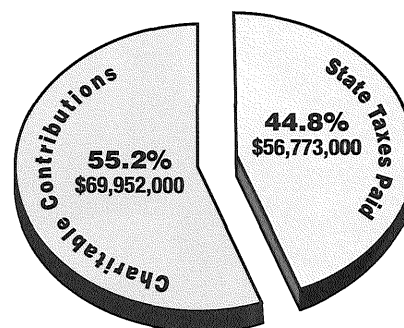
Calendar Year	Minnesota Gambling Taxes	Charitable Contributions	Net Profit
2003	\$56,773,000	\$69,952,000	\$126,725,000
2002	\$56,562,000	\$67,051,000	\$123,613,000
2001	\$55,438,000	\$72,001,000	\$127,439,000
2000	\$60,550,000	\$73,645,000	\$134,195,000
1999	\$62,655,000	\$78,151,000	\$140,806,000
1998	\$63,192,000	\$77,624,000	\$140,816,000
1997	\$61,765,000	\$75,826,000	\$137,591,000
1996	\$65,219,000	\$72,129,000	\$137,348,000
1995	\$65,209,000	\$77,465,000	\$142,674,000
1994	\$59,875,000	\$74,763,000	\$134,638,000
1993	\$57,326,000	\$71,732,000	\$129,058,000
1992	\$56,903,000	\$78,614,000	\$135,517,000
1991	\$55,705,000	\$79,035,000	\$134,740,000
1990	\$52,629,000	\$93,500,000	\$146,129,000
1989	\$26,847,000	\$101,240,000	\$128,087,000
1988	\$17,509,000	\$78,708,000	\$96,217,000
1987	\$7,466,000	\$57,205,000	\$64,671,000
1986	\$8,226,000	\$44,428,000	\$52,654,000
1985	\$2,751,000	\$15,058,000	\$17,809,000
TOTALS	\$892,600,000	\$1,358,127,000	\$2,250,727,000

Here is how your charitable dollars are spent...

2003 Lawful Gambling Net Receipts \$254,962,000



2003 Lawful Purpose Expenditures \$126,725,000



2003 STATE TAXES PAID

1.7% Gross Receipts	.....\$22,922,000
8.5% Net Receipts	.....\$1,942,000
Combined Receipts	.....\$31,909,000
Total Taxes	.....\$56,773,000

2003 GAMBLING ACTIVITIES

Pull Tabs	.....93.05%	.....\$1,319,612,000
Bingo	.....5.03%	.....\$71,405,000
Paddlewheels	.....1.30%	.....\$18,477,000
Raffles	.....0.36%	.....\$5,112,000
Tipboards	.....0.24%	.....\$3,415,000
Interest Income	.....0.02%	.....\$229,000
Totals	.....100%	.....\$1,418,250,000

1 Senator Cohen from the Committee on Finance, to which was
2 re-referred

3 S.F. No. 1468: A bill for an act relating to public
4 employers; modifying public employer reimbursement for
5 compensation paid to certain firefighters and peace officers;
6 creating a panel to evaluate claims; amending Minnesota Statutes
7 2004, sections 214.04, subdivision 1; 299A.465, subdivision 4,
8 by adding subdivisions.

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

11 Page 3, lines 10 and 11, delete "put the officer or
12 firefighter at risk for the type of illness or injury actually
13 sustained" and insert "resulted in the disabling illness or
14 injury the officer or firefighter sustained that prohibits
15 employment"

16 Page 4, after line 30, insert:

17 "Sec. 5. [APPROPRIATION.]

18 \$1,347,000 is appropriated from the general fund to the
19 commissioner of public safety to pay peace officer's benefits as
20 provided by this act. \$609,000 is available for the fiscal year
21 ending June 30, 2006, and \$738,000 is available for the fiscal
22 year ending June 30, 2007."

23 Renumber the sections in sequence

24 Amend the title as follows:

25 Page 1, line 5, after the semicolon, insert "appropriating
26 money;"

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

.....
(Committee Chair)

May 9, 2005.....
(Date of Committee recommendation)

1 of state government. Investigative services shall be provided
 2 the boards by employees of the Office of Attorney General. The
 3 commissioner of health with respect to the health-related
 4 licensing boards shall provide mailing and office supply
 5 services and may provide other facilities and services listed in
 6 this subdivision at a central location upon request of the
 7 health-related licensing boards. The commissioner of commerce
 8 with respect to the remaining non-health-related licensing
 9 boards shall provide the above facilities and services at a
 10 central location for the remaining non-health-related licensing
 11 boards. The legal and investigative services for the boards
 12 shall be provided by employees of the attorney general assigned
 13 to the departments servicing the boards. Notwithstanding the
 14 foregoing, the attorney general shall not be precluded by this
 15 section from assigning other attorneys to service a board if
 16 necessary in order to insure competent and consistent legal
 17 representation. Persons providing legal and investigative
 18 services shall to the extent practicable provide the services on
 19 a regular basis to the same board or boards.

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

23 Sec. 2. Minnesota Statutes 2004, section 299A.465,
 24 subdivision 4, is amended to read:

25 Subd. 4. [PUBLIC EMPLOYER REIMBURSEMENT.] A public
 26 employer subject to this section may annually apply by August 1
 27 for the preceding fiscal year to the commissioner of public
 28 safety for reimbursement ~~to help defray a portion~~ of its costs
 29 of complying with this section. The commissioner shall provide
 30 ~~an equal pro-rata share to~~ reimburse the public employer out of
 31 the public safety officer's benefit account ~~based on the~~
 32 ~~availability of funds for each eligible officer, firefighter,~~
 33 ~~and qualifying dependents. Individual shares must~~ Reimbursement
 34 must not exceed the actual costs of providing coverage under
 35 this section by a public employer.

36 Sec. 3. Minnesota Statutes 2004, section 299A.465, is

1 amended by adding a subdivision to read:

2 Subd. 6. [DETERMINATION OF SCOPE AND DUTIES.] (a) Whenever
3 a peace officer or firefighter has been approved to receive a
4 duty-related disability pension, the officer or firefighter may
5 apply to the panel established in subdivision 7 for a
6 determination of whether or not the officer or firefighter meets
7 the requirements in subdivision 1, paragraph (a), clause (2).
8 In making this decision, the panel shall determine whether or
9 not the officer's or firefighter's occupational duties or
10 professional responsibilities put the officer or firefighter at
11 risk for the type of illness or injury actually sustained. A
12 final determination by the panel is binding on the applicant and
13 the employer, subject to any right of judicial review.
14 Applications must be made within 90 days of receipt of approval
15 of a duty-related pension and must be acted upon by the panel
16 within 90 days of receipt. Applications that are not acted upon
17 within 90 days of receipt by the panel are approved.
18 Applications and supporting documents are private data.

19 (b) This subdivision expires July 1, 2008.

20 Sec. 4. Minnesota Statutes 2004, section 299A.465, is
21 amended by adding a subdivision to read:

22 Subd. 7. [COURSE AND SCOPE OF DUTIES PANEL.] (a) A panel
23 is established for the purpose set forth in subdivision 6,
24 composed of the following seven members:

25 (1) two members recommended by the Minnesota League of
26 Cities or a successor;

27 (2) one member recommended by the Association of Minnesota
28 Counties or a successor;

29 (3) two members recommended by the Minnesota Police and
30 Peace Officers Association or a successor;

31 (4) one member recommended by the Minnesota Professional
32 Firefighters Association or a successor; and

33 (5) one nonorganizational member recommended by the six
34 organizational members.

35 (b) Recommendations must be forwarded to the commissioner
36 of public safety who shall appoint the recommended members after

1 determining that they were properly recommended. Members shall
2 serve for two years or until their successors have been seated.
3 No member may serve more than three consecutive terms.
4 Vacancies on the panel must be filled by recommendation by the
5 organization whose representative's seat has been vacated. A
6 vacancy of the nonorganizational seat must be filled by the
7 recommendation of the panel. Vacancies may be declared by the
8 panel in cases of resignation or when a member misses three or
9 more consecutive meetings, or by a nominating organization when
10 its nominee is no longer a member in good standing of the
11 organization, an employee of the organization, or an employee of
12 a member in good standing of the organization. A member
13 appointed because of a vacancy shall serve until the expiration
14 of the vacated term.

15 (c) Panel members shall be reimbursed for expenses related
16 to their duties according to section 15.059, subdivision 3,
17 paragraph (a), but shall not receive compensation or per diem
18 payments. The panel's proceedings and determinations constitute
19 a quasi-judicial process and its operation must comply with
20 chapter 14. Membership on the panel does not constitute holding
21 a public office and members of the panel are not required to
22 take and file oaths of office or submit a public official's bond
23 before serving on the panel. No member of the panel may be
24 disqualified from holding any public office or employment by
25 reason of being appointed to the panel. Members of the panel
26 and staff or consultants working with the panel are covered by
27 the immunity provision in section 214.34, subdivision 2. The
28 panel shall elect a chair and adopt rules of order. The panel
29 shall convene no later than July 1, 2005.

30 (d) This subdivision expires July 1, 2008.

31 Sec. 5. [EFFECTIVE DATE.]

32 Sections 1, 2, and 4 are effective the day after final
33 enactment. Section 3 is effective July 1, 2005, and applies to
34 duty-related pension approvals made on or after that date.

1 Senator moves to amend S.F. No. 1468 as follows:

2 Page 4, after line 30, insert:

3 "Sec. 5. [APPROPRIATION.]

4 \$1,347,000 is appropriated from the general fund to the
5 commissioner of public safety to pay peace officer's benefits as
6 provided by this act. \$609,000 is available for the fiscal year
7 ending June 30, 2006, and \$738,000 is available for the fiscal
8 year ending June 30, 2007."

9 Renumber the sections in sequence and correct the internal
10 references

11 Amend the title as follows:

12 Page 1, line 5, after the semicolon, insert "appropriating
13 money;"

Fiscal Note – 2005-06 Session

Bill #: S1468-0 **Complete Date:** 04/07/05

Chief Author: COHEN, RICHARD

Title: PUB SAFETY OFFICERS REIMBURSEMENT

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Public Safety Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		609	738	885	1,053
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		609	738	885	1,053
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		609	738	885	1,053
Total Cost <Savings> to the State		609	738	885	1,053

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

The bill modifies the state's method of reimbursement of public employers for health insurance coverage paid by public employers for certain firefighters and peace officers.

Assumptions

Minnesota Statutes 299A.465 provides for continued health insurance coverage for peace officers and firefighters disabled in the line of duty resulting in the officer's or firefighter's retirement or separation from services. The officer's or firefighter's employer is required to continue to provide health coverage.

A public employer subject to this section may annually apply by August 1 for the preceding fiscal year to the commissioner of public safety for reimbursement to help defray a portion of its costs of complying with this section. Under current law the commissioner shall provide an equal pro rata share to the public employer out of the public safety officer's benefit account based on the availability of funds for each eligible officer, firefighter, and qualifying dependents. This bill amends this section by requiring the state to reimburse the public employers for all its costs of complying with this section.

The current level of funding for this reimbursement activity is \$314,000 per year. The Department of Public Safety received a total of \$809,611.44 in claims from public employers for the period of July 1, 2003 through June 30, 2004 and provided a total of \$313,987.56 in reimbursements. All public employers that presented claims by August 1, 2004 were reimbursed up to \$194.54 per month or the actual monthly cost if the actual cost was less than \$194.54.

We are making the assumption that the dollar value of the claims will increase each year by approximately 14% assuming additional officers and firefighters being claims each year and rising health insurance costs. In January 2005 the state's cost for employee and dependent health insurance increased by 15% over the previous year.

Expenditure and/or Revenue Formula

	FY2006	FY2007	FY2008	FY2009
General Fund Appropriation-	\$314,000	\$314,000	\$314,000	\$314,000
Projected claims based on Claims submitted 8/1/04 (Assuming a 14%> in dollars claimed)	\$922,957	\$1,052,170	\$1,199,474	\$1,367,400
Projected claims over appropriations	-\$608,957	-\$738,170	-\$885,474	-\$1,053,400

Long-Term Fiscal Considerations

The cost to the state in continuing to provide reimbursement to public employers for all its costs in providing health insurance coverage will far exceed the states ability to provide reimbursement to all public employers.

Local Government Costs

Under this bill, not all public employers will be reimbursed for their costs in providing health insurance coverage.

References/Sources

FN Coord Signature: FRANK AHRENS
Date: 04/07/05 Phone: 296-9484

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: NORMAN FOSTER
Date: 04/07/05 Phone: 215-0594

1 Senator Cohen from the Committee on Finance, to which was
2 re-referred

3 S.F. No. 290: A bill for an act relating to elections;
4 setting standards for and providing for the acquisition of
5 voting systems; appropriating money from the Help America Vote
6 Act account; amending Minnesota Statutes 2004, section 206.80;
7 proposing coding for new law in Minnesota Statutes, chapter 206.

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

10 Delete everything after the enacting clause and insert:

11 "Section 1. Minnesota Statutes 2004, section 201.022, is
12 amended by adding a subdivision to read:

13 Subd. 3. [CONSULTATION WITH LOCAL OFFICIALS.] The
14 secretary of state must consult with representatives of local
15 election officials in the development of the statewide voter
16 registration system.

17 Sec. 2. Minnesota Statutes 2004, section 206.56, is
18 amended by adding a subdivision to read:

19 Subd. 1a. [ASSISTIVE VOTING TECHNOLOGY.] "Assistive voting
20 technology" means touch-activated screen, buttons, keypad,
21 sip-and-puff input device, keyboard, earphones, or any other
22 device used with an electronic ballot marker that assists voters
23 to use an audio or electronic ballot display in order to cast
24 votes.

25 Sec. 3. Minnesota Statutes 2004, section 206.56, is
26 amended by adding a subdivision to read:

27 Subd. 1b. [AUDIO BALLOT READER.] "Audio ballot reader"
28 means an audio representation of a ballot that can be used with
29 other assistive voting technology to permit a voter to mark
30 votes on a nonelectronic ballot or to transmit a ballot
31 electronically to automatic tabulating equipment.

32 Sec. 4. Minnesota Statutes 2004, section 206.56,
33 subdivision 2, is amended to read:

34 Subd. 2. [AUTOMATIC TABULATING EQUIPMENT.] "Automatic
35 tabulating equipment" includes apparatus machines, resident
36 firmware, and programmable memory units necessary to
37 automatically examine and count votes designated on a
38 ballot cards,--and-data-processing-machines-which-can-be-used-for
39 counting-ballots-and-tabulating-results.

1 Sec. 5. Minnesota Statutes 2004, section 206.56,
2 subdivision 3, is amended to read:

3 Subd. 3. [BALLOT.] "Ballot" includes ~~ballot-cards-and~~
4 paper ballots; ballot cards; the paper ballot marked by an
5 electronic marking device; and an electronic record of each vote
6 choice made by a voter at an election and transmitted
7 electronically to automatic tabulating equipment.

8 Sec. 6. Minnesota Statutes 2004, section 206.56,
9 subdivision 7, is amended to read:

10 Subd. 7. [COUNTING CENTER.] "Counting center" means a
11 place selected by the governing body of a municipality where an
12 a central count electronic voting system is used for the
13 automatic processing and counting of ballots.

14 Sec. 7. Minnesota Statutes 2004, section 206.56, is
15 amended by adding a subdivision to read:

16 Subd. 7a. [ELECTRONIC BALLOT DISPLAY.] "Electronic ballot
17 display" means a graphic representation of a ballot on a
18 computer monitor or screen on which a voter may make vote
19 choices for candidates and questions for the purpose of marking
20 a nonelectronic ballot or transmitting an electronic ballot.

21 Sec. 8. Minnesota Statutes 2004, section 206.56, is
22 amended by adding a subdivision to read:

23 Subd. 7b. [ELECTRONIC BALLOT MARKER.] "Electronic ballot
24 marker" means equipment that is part of an electronic voting
25 system that uses an electronic ballot display or audio ballot
26 reader to:

27 (1) mark a nonelectronic ballot with votes selected by a
28 voter; or

29 (2) transmit a ballot electronically to automatic
30 tabulating equipment.

31 Sec. 9. Minnesota Statutes 2004, section 206.56,
32 subdivision 8, is amended to read:

33 Subd. 8. [ELECTRONIC VOTING SYSTEM.] "Electronic voting
34 system" means a system in which the voter records votes by means
35 of marking or transmitting a ballot, ~~which-is-designed~~ so that
36 votes may be counted by automatic tabulating equipment in the

1 precinct or polling place where the ballot is cast or at a
2 counting center.

3 An electronic voting system includes automatic tabulating
4 equipment; nonelectronic ballot markers; electronic ballot
5 markers, including electronic ballot display, audio ballot
6 reader, and devices by which the voter will register the voter's
7 voting intent; software used to program automatic tabulators and
8 layout ballots; computer programs used to accumulate precinct
9 results; ballots; secrecy folders; system documentation; and
10 system testing results.

11 Sec. 10. Minnesota Statutes 2004, section 206.56,
12 subdivision 9, is amended to read:

13 Subd. 9. [MANUAL MARKING DEVICE.] "Manual marking device"
14 means any approved device for directly marking a ballot by hand
15 with ink, pencil, or other substance which will enable the
16 ballot to be tabulated by means of automatic tabulating
17 equipment.

18 Sec. 11. Minnesota Statutes 2004, section 206.57,
19 subdivision 1, is amended to read:

20 Subdivision 1. [EXAMINATION AND REPORT BY SECRETARY OF
21 STATE; APPROVAL.] A vendor of an electronic voting system may
22 apply to the secretary of state to examine the system and to
23 report as to its compliance with the requirements of law and as
24 to its accuracy, durability, efficiency, and capacity to
25 register the will of voters. The secretary of state or a
26 designee shall examine the system submitted and file a report on
27 it in the Office of the Secretary of State. Examination is not
28 required of every individual machine or counting device, but
29 only of each type of electronic voting system before its
30 adoption, use, or purchase and before its continued use after
31 significant changes have been made in an approved system. The
32 examination must include the ballot programming; electronic
33 ballot marking, including all assistive technologies intended to
34 be used with the system; vote counting; and vote accumulation
35 functions of each voting system.

36 If the report of the secretary of state or the secretary's

1 designee concludes that the kind of system examined complies
 2 with the requirements of sections 206.55 to 206.90 and can be
 3 used safely, the system shall be deemed approved by the
 4 secretary of state, and may be adopted and purchased for use at
 5 elections in this state. A voting system not approved by the
 6 secretary of state may not be used at an election in this
 7 state. The secretary of state may adopt permanent rules
 8 consistent with sections 206.55 to 206.90 relating to the
 9 examination and use of electronic voting systems.

10 Sec. 12. Minnesota Statutes 2004, section 206.57,
 11 subdivision 5, is amended to read:

12 Subd. 5. [VOTING SYSTEM FOR DISABLED VOTERS.] In federal
 13 and state elections held after December 31, 2005, and in county,
 14 municipal, and school district elections held after December 31,
 15 2006, the voting method used in each polling place must include
 16 a voting system that is accessible for individuals with
 17 disabilities, including nonvisual accessibility for the blind
 18 and visually impaired in a manner that provides the same
 19 opportunity for access and participation, including privacy and
 20 independence, as for other voters.

21 Sec. 13. Minnesota Statutes 2004, section 206.61,
 22 subdivision 4, is amended to read:

23 Subd. 4. [ORDER OF CANDIDATES.] On the "State Partisan
 24 Primary Ballot" prepared for primary elections, and on the white
 25 ballot prepared for the general election, the order of the names
 26 of nominees or names of candidates for election shall be the
 27 same as required for paper ballots. More than one column or row
 28 may be used for the same office or party. Electronic ballot
 29 display and audio ballot readers must conform to the candidate
 30 order on the optical scan ballot used in the precinct.

31 Sec. 14. Minnesota Statutes 2004, section 206.61,
 32 subdivision 5, is amended to read:

33 Subd. 5. [ALTERNATION.] The provisions of the election
 34 laws requiring the alternation of names of candidates must be
 35 observed as far as practicable by changing the order of the
 36 names on an electronic voting system in the various precincts so

1 that each name appears on the machines or marking devices used
2 in a municipality substantially an equal number of times in the
3 first, last, and in each intermediate place in the list or group
4 in which they belong. However, the arrangement of candidates'
5 names must be the same on all voting systems used in the same
6 precinct. If the number of names to be alternated exceeds the
7 number of precincts, the election official responsible for
8 providing the ballots, in accordance with subdivision 1, shall
9 determine by lot the alternation of names.

10 If an electronic ballot marker is used with a paper ballot
11 that is not an optical scan ballot card, the manner of
12 alternation of candidate names on the paper ballot must be as
13 prescribed for optical scan ballots in this subdivision. If a
14 machine is used to transmit a ballot electronically to automatic
15 tabulating equipment, the manner of alternation of candidate
16 names on the transmitting machine must be as prescribed for
17 optical scan ballots in this subdivision.

18 Sec. 15. Minnesota Statutes 2004, section 206.80, is
19 amended to read:

20 206.80 [ELECTRONIC VOTING SYSTEMS.]

21 (a) An electronic voting system may not be employed unless
22 it:

23 (1) permits every voter to vote in secret;

24 (2) permits every voter to vote for all candidates and
25 questions for whom or upon which the voter is legally entitled
26 to vote;

27 (3) provides for write-in voting when authorized;

28 (4) automatically rejects ~~by-means-of-the-automatic~~
29 ~~tabulating-equipment~~, except as provided in section 206.84 with
30 respect to write-in votes, all votes for an office or question
31 when the number of votes cast on it exceeds the number which the
32 voter is entitled to cast;

33 (5) permits a voter at a primary election to select
34 secretly the party for which the voter wishes to vote; and

35 (6) automatically rejects~~,-by-means-of-the-automatic~~
36 ~~tabulating-equipment~~, all votes cast in a primary election by a

1 voter when the voter votes for candidates of more than one
2 party; and

3 (7) provides every voter an opportunity to verify votes
4 electronically and to change votes or correct any error before
5 the voter's ballot is cast and counted, produces a permanent
6 paper record of the ballot cast by the voter, and preserves the
7 paper record as an official record available for use in any
8 recount.

9 (b) An electronic voting system purchased on or after the
10 effective date of this section may not be employed unless it:

11 (1) accepts and tabulates, in the precinct or at a counting
12 center, a marked optical scan ballot;

13 (2) creates a marked optical scan ballot that can be
14 tabulated in the precinct or at a counting center by automatic
15 tabulating equipment certified for use in this state; or

16 (3) securely transmits a ballot electronically to automatic
17 tabulating equipment in the precinct or at a counting center
18 while creating an individual, discrete, permanent paper record
19 of all the votes on the ballot.

20 Sec. 16. [206.805] [STATE VOTING SYSTEMS CONTRACTS.]

21 Subdivision 1. [CONTRACTS REQUIRED.] (a) The secretary of
22 state, in cooperation with the commissioner of administration,
23 shall establish one or more state voting systems contracts. The
24 contracts should, if practical, include provisions for
25 maintenance of the equipment purchased. The contracts must give
26 the state a perpetual license to use and modify the software.
27 The contracts must include provisions to escrow the software
28 source code, as provided in subdivision 2. The contracts must
29 provide that, if cumulative voting or ranked order voting is
30 authorized by law for use in a jurisdiction in this state, the
31 vendor will then provide any purchaser of equipment purchased
32 under the contract and used in that jurisdiction with the
33 necessary firmware to support the authorized methods of voting.
34 Bids for voting systems and related election services must be
35 solicited from each vendor selling or leasing voting systems
36 that have been certified for use by the secretary of state. The

1 contracts must be renewed no later than July 1 of each
2 odd-numbered year.

3 (b) The secretary of state shall appoint an advisory
4 committee of county auditors, municipal clerks who have had
5 operational experience with the use of electronic voting
6 systems, and members of the disabilities community to assist the
7 commissioner of administration to review and evaluate the merits
8 of proposals submitted from voting equipment vendors for the
9 state contracts. Appointments to the committee must be made in
10 the manner provided in section 15.0597.

11 (c) Counties and municipalities may purchase or lease
12 voting systems and obtain related election services from the
13 state contracts.

14 Subd. 2. [ESCROW OF SOURCE CODE.] The contracts must
15 require the voting system vendor to provide a copy of the source
16 code for the voting system to an independent third-party
17 evaluator selected by the vendor, the secretary of state, and
18 the chairs of the major political parties. The evaluator must
19 examine the source code and certify to the secretary of state
20 that the voting system will record and count votes as
21 represented by the vendor. Source code that is trade secret
22 information must be treated as nonpublic information, in
23 accordance with section 13.37. Each major political party may
24 designate an agent to examine the source code to verify that the
25 voting system will record and count votes as represented by the
26 vendor; the agent must not disclose the source code to anyone
27 else.

28 Sec. 17. Minnesota Statutes 2004, section 206.81, is
29 amended to read:

30 206.81 [ELECTRONIC VOTING SYSTEMS; EXPERIMENTAL USE.]

31 (a) The secretary of state may ~~approve~~ certify an
32 electronic voting system for experimental use at an election
33 prior to its approval for general use.

34 (b) The secretary of state must ~~approve~~ certify one or more
35 direct recording electronic voting systems for experimental use
36 at an election before their ~~approval~~ certification for general

1 use and may impose restrictions on their use. At least one
2 voting system ~~approved~~ certified under this paragraph must
3 permit sighted persons to vote and at least one system must
4 permit a blind or visually impaired voter to cast a ballot
5 independently and privately.

6 (c) Experimental use must be observed by the secretary of
7 state or the secretary's designee and the results observed must
8 be considered at any subsequent proceedings for
9 ~~approval~~ certification for general use.

10 (d) The secretary of state may adopt rules consistent with
11 sections 206.55 to 206.90 relating to experimental use. The
12 extent of experimental use must be determined by the secretary
13 of state.

14 Sec. 18. Minnesota Statutes 2004, section 206.82,
15 subdivision 1, is amended to read:

16 Subdivision 1. [PROGRAM.] A program or programs for use in
17 an election conducted by means of an electronic voting system or
18 using an electronic ballot marker shall be prepared at the
19 direction of the county auditor or municipal clerk who is
20 responsible for the conduct of the election and shall be
21 independently verified by a competent person designated by that
22 official. The term "competent person" as used in this section
23 means a person who can demonstrate knowledge as a computer
24 programmer and who is other than and wholly independent of any
25 person operating or employed by the counting center or the
26 corporation or other preparer of the program. A test deck
27 prepared by a competent person shall be used for independent
28 verification of the program; it shall test the maximum digits
29 used in totaling the returns and shall be usable by insertion
30 during the tabulation process as well as prior to tabulation. A
31 test deck must also be prepared using the electronic ballot
32 marker program and must also be used to verify that all valid
33 votes counted by the vote tabulator may be selected using the
34 electronic ballot marker. The secretary of state shall adopt
35 rules further specifying test procedures.

36 Sec. 19. Minnesota Statutes 2004, section 206.83, is

1 amended to read:

2 206.83 [TESTING OF VOTING SYSTEMS.]

3 Within 14 days before election day, the official in charge
4 of elections shall have the voting system tested to ascertain
5 that the system will correctly mark or securely transmit to
6 automatic tabulating equipment in the precinct ballots using all
7 methods supported by the system, including through assistive
8 technology, and count the votes cast for all candidates and on
9 all questions ~~within-14-days-prior-to-election-day~~. Public
10 notice of the time and place of the test must be given at least
11 two days in advance by publication once in official newspapers.
12 The test must be observed by at least two election judges, who
13 are not of the same major political party, and must be open to
14 representatives of the political parties, candidates, the press,
15 and the public. The test must be conducted by (1) processing a
16 preaudited group of ballots punched or marked to record a
17 predetermined number of valid votes for each candidate and on
18 each question, and must include for each office one or more
19 ballot cards which have votes in excess of the number allowed by
20 law in order to test the ability of the voting system tabulator
21 and electronic ballot marker to reject those votes; and (2)
22 processing an additional test deck of ballots marked using the
23 electronic ballot marker to be employed in the precinct,
24 including ballots marked or ballots transmitted electronically
25 to automatic tabulating equipment in the precinct using the
26 electronic ballot display, audio ballot reader, and each of the
27 assistive voting peripheral devices used with the electronic
28 ballot marker. If any error is detected, the cause must be
29 ascertained and corrected and an errorless count must be made
30 before the voting system may be used in the election. After the
31 completion of the test, the programs used and ballot cards must
32 be sealed, retained, and disposed of as provided for paper
33 ballots.

34 Sec. 20. Minnesota Statutes 2004, section 206.84,
35 subdivision 1, is amended to read:

36 Subdivision 1. [INSTRUCTION OF JUDGES, VOTERS.] The

1 officials in charge of elections shall determine procedures to
2 instruct election judges and voters in the use of electronic
3 voting system manual marking devices and the electronic ballot
4 marker, including assistive peripheral devices.

5 Sec. 21. Minnesota Statutes 2004, section 206.84,
6 subdivision 3, is amended to read:

7 Subd. 3. [BALLOTS.] The ballot information must be in the
8 same order provided for paper ballots, except that the
9 information may be in vertical or horizontal rows, or on a
10 number of separate pages. The secretary of state shall provide
11 by rule for standard ballot formats for electronic voting
12 systems. Electronic ballot displays and audio ballot readers
13 shall be in the order provided for on the optical scan ballot.
14 Electronic ballot displays may employ zooms or other devices as
15 assistive voting technology. Audio ballot readers may employ
16 rewinds or audio cues as assistive voting technology.

17 Ballot cards may contain special printed marks ~~and-holes~~ as
18 required for proper positioning and reading of the ballots by
19 electronic vote counting equipment. Ballot cards must contain
20 an identification of the precinct for which they have been
21 prepared which can be read visually and which can be tabulated
22 by the automatic tabulating equipment.

23 Sec. 22. Minnesota Statutes 2004, section 206.84,
24 subdivision 6, is amended to read:

25 Subd. 6. [DUTIES OF OFFICIAL IN CHARGE.] The official in
26 charge of elections in each municipality where an electronic
27 voting system is used shall have the voting systems put in
28 order, set, adjusted, and made ready for voting when delivered
29 to the election precincts. The official shall also provide each
30 precinct with a container for transporting ballot cards to the
31 counting location after the polls close. The container shall be
32 of sturdy material to protect the ballots from all reasonably
33 foreseeable hazards including auto collisions. The election
34 judges shall meet at the polling place at least one hour before
35 the time for opening the polls. Before the polls open the
36 election judges shall compare the ballot cards used with the

1 sample ballots, electronic ballot displays, and audio ballot
2 reader furnished to see that the names, numbers, and letters on
3 both agree and shall certify to that fact on forms provided for
4 the purpose. The certification must be filed with the election
5 returns.

6 Sec. 23. Minnesota Statutes 2004, section 206.90,
7 subdivision 1, is amended to read:

8 Subdivision 1. [DEFINITION.] For the purposes of this
9 section, "optical scan voting system" means an electronic voting
10 system approved for use under sections 206.80 to 206.81 in which
11 the voter records votes by marking with a pencil or other
12 writing-instrument device, including an electronic ballot
13 marker, a ballot on which the names of candidates, office
14 titles, party designation in a partisan primary or election, and
15 a statement of any question accompanied by the words "Yes" and
16 "No" are printed.

17 Sec. 24. Minnesota Statutes 2004, section 206.90,
18 subdivision 5, is amended to read:

19 Subd. 5. [INSTRUCTION OF JUDGES, VOTERS.] In instructing
20 judges and voters under section 206.84, subdivision 1, officials
21 in charge of election precincts using optical scan voting
22 systems shall include instruction on the proper mark for
23 recording votes on ballot cards marked with a pencil or other
24 writing instrument and the insertion by the voter of the ballot
25 card into automatic tabulating equipment that examines and
26 counts votes as the ballot card is deposited into the ballot box.

27 Officials shall include instruction on the insertion by the
28 voter of the ballot card into an electronic ballot marker that
29 can examine votes before the ballot card is deposited into the
30 ballot box.

31 Sec. 25. Minnesota Statutes 2004, section 206.90,
32 subdivision 6, is amended to read:

33 Subd. 6. [BALLOTS.] In precincts using optical scan voting
34 systems, a single ballot card on which all ballot information is
35 included must be printed in black ink on white colored material
36 except that marks not to be read by the automatic tabulating

1 equipment may be printed in another color ink.

2 On the front of the ballot must be printed the words
3 "Official Ballot" and the date of the election and lines for the
4 initials of at least two election judges.

5 When optical scan ballots are used, the offices to be
6 elected must appear in the following order: federal offices;
7 state legislative offices; constitutional offices; proposed
8 constitutional amendments; county offices and questions;
9 municipal offices and questions; school district offices and
10 questions; special district offices and questions; and judicial
11 offices.

12 On optical scan ballots, the names of candidates and the
13 words "yes" and "no" for ballot questions must be printed as
14 close to their corresponding vote targets as possible.

15 The line on an optical scan ballot for write-in votes must
16 contain the words "write-in, if any."

17 If a primary ballot contains both a partisan ballot and a
18 nonpartisan ballot, the instructions to voters must include a
19 statement that reads substantially as follows: "THIS BALLOT
20 CARD CONTAINS A PARTISAN BALLOT AND A NONPARTISAN BALLOT. ON
21 THE PARTISAN BALLOT YOU ARE PERMITTED TO VOTE FOR CANDIDATES OF
22 ONE POLITICAL PARTY ONLY." If a primary ballot contains
23 political party columns on both sides of the ballot, the
24 instructions to voters must include a statement that reads
25 substantially as follows: "ADDITIONAL POLITICAL PARTIES ARE
26 PRINTED ON THE OTHER SIDE OF THIS BALLOT. VOTE FOR ONE
27 POLITICAL PARTY ONLY." At the bottom of each political party
28 column on the primary ballot, the ballot must contain a
29 statement that reads substantially as follows: "CONTINUE VOTING
30 ON THE NONPARTISAN BALLOT." The instructions in section
31 204D.08, subdivision 4, do not apply to optical scan partisan
32 primary ballots. Electronic ballot displays and audio ballot
33 readers must follow the order of offices and questions on the
34 optical scan or paper ballot used in the same precinct, or the
35 sample ballot posted for that precinct.

36 Sec. 26. Minnesota Statutes 2004, section 206.90,

1 subdivision 8, is amended to read:

2 Subd. 8. [DUTIES OF ELECTION OFFICIALS.] The official in
3 charge of elections in each municipality where an optical scan
4 voting system is used shall have the electronic ballot marker
5 that examines and marks votes on ballot cards or the machine
6 that transmits a ballot electronically to automatic tabulating
7 equipment in the precinct and the automatic tabulating equipment
8 that examines and counts votes as ballot cards are deposited
9 into ballot boxes put in order, set, adjusted, and made ready
10 for voting when delivered to the election precincts.

11 Sec. 27. Minnesota Statutes 2004, section 206.90,
12 subdivision 9, is amended to read:

13 Subd. 9. [SPOILED BALLOT CARDS.] Automatic tabulating
14 equipment and electronic ballot markers must be capable of
15 examining a ballot card for defects and returning it to the
16 voter before it is counted and deposited into the ballot box and
17 must be programmed to return as a spoiled ballot a ballot card
18 with votes for an office or question which exceed the number
19 which the voter is entitled to cast and at a primary a ballot
20 card with votes for candidates of more than one party.

21 Sec. 28. [APPROPRIATIONS.]

22 Subdivision 1. [ASSISTIVE VOTING TECHNOLOGY.] (a)
23 \$25,000,000 is appropriated from the Help America Vote Act
24 account to the secretary of state for grants to counties to
25 purchase electronic voting systems equipped for individuals with
26 disabilities that meet the requirements of Minnesota Statutes,
27 section 206.80, and have been certified by the secretary of
28 state under Minnesota Statutes, section 206.57. This
29 appropriation is available until June 30, 2009.

30 (b) The secretary of state shall make a grant to each
31 county in the amount of \$6,100 times the number of precincts in
32 the county as certified by the county, which must not be more
33 than the number of precincts used by the county in the state
34 general election of 2004, plus \$6,100 to purchase an electronic
35 voting system to be used by the county auditor for absentee and
36 mail balloting, until the appropriation is exhausted. The grant

1 may be used either to purchase ballot marking equipment for
2 persons with disabilities and other voters or to purchase
3 assistive voting machines that combine voting methods used for
4 persons with disabilities with precinct-based optical scan
5 voting machines.

6 Subd. 2. [OPTICAL SCAN EQUIPMENT.] \$6,000,000 is
7 appropriated from the Help America Vote Act account to the
8 secretary of state for grants to counties to purchase optical
9 scan voting equipment. Counties are eligible for grants to the
10 extent that they decide to purchase ballot marking machines and
11 as a result do not have sufficient Help America Vote Act grant
12 money remaining to also purchase a compatible precinct-based
13 optical scan machine or central count machine. These grants
14 must be allocated to counties at a rate of \$3,000 per eligible
15 precinct until the appropriation is exhausted, with priority in
16 the payment of grants to be given to counties currently using
17 hand- and central-count voting systems and counties using
18 precinct-count optical scan voting systems incompatible with
19 assistive voting systems or ballot marking machines. This
20 appropriation is available until June 30, 2009.

21 Subd. 3. [ASSISTIVE VOTING TECHNOLOGY OPERATING COSTS.]
22 \$7,500,000 is appropriated from the Help America Vote Act
23 account to the secretary of state for grants to counties to
24 defray the operating costs of assistive voting equipment.
25 "Operating costs" include actual county and municipal costs for
26 hardware maintenance, election day technical support, software
27 licensing, system programming, voting system testing, training
28 of county or municipal staff in the use of the assistive voting
29 system, transportation of the assistive voting systems to and
30 from the polling places, and storage of the assistive voting
31 systems between elections. Each county may submit a request for
32 no more than \$600 per polling place per year until the
33 appropriation is exhausted. This appropriation is available
34 until June 30, 2009.

35 Subd. 4. [GRANT APPLICATION.] To receive a grant under
36 subdivisions 1 to 3, a county must apply to the secretary of

1 state on forms prescribed by the secretary of state that set
2 forth how the grant money will be spent, which must be in
3 accordance with the plan adopted under section 29. A county may
4 submit more than one grant application, so long as the
5 appropriation remains available and the total amount granted to
6 the county does not exceed the county's allocation.

7 Subd. 5. [REPORT.] Each county receiving a grant under
8 subdivisions 1 to 3 must report to the secretary of state by
9 January 15, 2006, the amount spent for the purchase of each kind
10 of electronic voting system and for operating costs of the
11 systems purchased. The secretary of state shall compile this
12 information and report it to the legislature by February 15,
13 2006.

14 Subd. 6. [ACCESS TO POLLING PLACES.] \$290,000 is
15 appropriated from the Help America Vote Act account to the
16 secretary of state to make grants to counties and municipalities
17 to improve access to polling places for individuals with
18 disabilities, to be available until June 30, 2007.

19 Subd. 7. [ADMINISTRATIVE COSTS.] (a) \$54,000 is
20 appropriated from the Help America Vote Act account to the
21 commissioner of administration to establish the state voting
22 systems contract required by new Minnesota Statutes, section
23 206.805. \$36,000 is available until June 30, 2006, and \$18,000
24 is available for the fiscal year ending June 30, 2007.

25 (b) \$50,000 is appropriated from the Help America Vote Act
26 account to the secretary of state to establish the state voting
27 systems contract required by new Minnesota Statutes, section
28 206.805, and to administer the grants to counties and
29 municipalities under this section, to be available until June
30 30, 2007.

31 Sec. 29. [LOCAL EQUIPMENT PLANS.]

32 (a) The county auditor shall convene a working group of all
33 city and town election officials in each county to create a
34 local equipment plan. The working group must continue to meet
35 until the plan is completed, which must be no later than
36 September 15, 2005, or 45 days after state certification of

1 assistive voting systems, whichever is later. The plan must:

2 (1) contain procedures to implement voting systems as
3 defined in Minnesota Statutes, section 206.80, in each polling
4 location;

5 (2) define who is responsible for any capital or operating
6 costs related to election equipment not covered by federal money
7 from the Help America Vote Act account; and

8 (3) outline how the federal money from the Help America
9 Vote Act account will be spent.

10 (b) A county plan must provide funding to purchase either
11 precinct-based optical scan voting equipment or assistive voting
12 machines that combine voting methods used for persons with
13 disabilities with precinct-based optical scan voting machines
14 for any precinct whose city or town requests it, if the
15 requesting city or town agrees with the county on who will be
16 responsible for operating and replacement costs related to the
17 use of the precinct-based equipment.

18 (c) The plan must be submitted to the secretary of state
19 for review and comment.

20 (d) The county board of commissioners must adopt the local
21 equipment plan after a public hearing. Money from the Help
22 America Vote Act account may not be expended until the plan is
23 adopted. The county auditor shall file the adopted local
24 equipment plan with the secretary of state.

25 Sec. 30. [MAIL BALLOTING.]

26 Nothing in this act is intended to preclude the use of mail
27 balloting in those precincts where it is allowed under state law.

28 Sec. 31. [EFFECTIVE DATE.]

29 This act is effective the day following final enactment."

30 Delete the title and insert:

31 "A bill for an act relating to elections; setting standards
32 for and providing for the acquisition of electronic voting
33 systems; appropriating money from the Help America Vote Act
34 account; amending Minnesota Statutes 2004, sections 201.022, by
35 adding a subdivision; 206.56, subdivisions 2, 3, 7, 8, 9, by
36 adding subdivisions; 206.57, subdivisions 1, 5; 206.61,
37 subdivisions 4, 5; 206.80; 206.81; 206.82, subdivision 1;
38 206.83; 206.84, subdivisions 1, 3, 6; 206.90, subdivisions 1, 5,
39 6, 8, 9; proposing coding for new law in Minnesota Statutes,
40 chapter 206."

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

3
4 (Committee Chair)



5
6 May 9, 2005.....
7 (Date of Committee recommendation)

1 A bill for an act

2 relating to elections; setting standards for and
3 providing for the acquisition of voting systems;
4 appropriating money from the Help America Vote Act
5 account; amending Minnesota Statutes 2004, section
6 206.80; proposing coding for new law in Minnesota
7 Statutes, chapter 206.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

9 Section 1. [206.585] [STATE VOTING SYSTEMS CONTRACT.]

10 Subdivision 1. [CONTRACT REQUIRED.] The secretary of
11 state, in cooperation with the commissioner of administration,
12 shall establish a state voting systems contract. The contract
13 should, if practical, include provisions for maintenance of the
14 equipment purchased. The contract must give the state a
15 perpetual license to use and modify the software. The contract
16 must include provisions for escrow of the software source code,
17 as provided in subdivision 2. Bids for voting systems and
18 related election services must be solicited from each vendor
19 selling or leasing voting systems that have been certified for
20 use by the secretary of state. The contract must be renewed no
21 later than July 1 of each odd-numbered year. Counties and
22 municipalities may purchase or lease voting systems and obtain
23 related election services from the state contract.

24 Subd. 2. [ESCROW OF SOURCE CODE.] The contract must
25 require the voting system vendor to provide a copy of the source
26 code for the voting system to an independent third-party

1 evaluator selected by the vendor, the secretary of state, and
2 the chairs of the major political parties. The evaluator must
3 examine the source code and certify to the secretary of state
4 that the voting system will record and count votes as
5 represented by the vendor. Source code that is trade secret
6 information must be treated as nonpublic information, in
7 accordance with section 13.37. Each major political party may
8 designate an agent to examine the source code to verify that the
9 voting system will record and count votes as represented by the
10 vendor; the agent must not disclose the source code to anyone
11 else.

12 Sec. 2. Minnesota Statutes 2004, section 206.80, is
13 amended to read:

14 206.80 [ELECTRONIC VOTING SYSTEMS.]

15 (a) An electronic voting system may not be employed unless
16 it:

17 (1) permits every voter to vote in secret;

18 (2) permits every voter to vote for all candidates and
19 questions for whom or upon which the voter is legally entitled
20 to vote;

21 (3) provides for write-in voting when authorized;

22 (4) rejects by means of the automatic tabulating equipment,
23 except as provided in section 206.84 with respect to write-in
24 votes, all votes for an office or question when the number of
25 votes cast on it exceeds the number which the voter is entitled
26 to cast;

27 (5) permits a voter at a primary election to select
28 secretly the party for which the voter wishes to vote; and

29 (6) rejects, by means of the automatic tabulating
30 equipment, all votes cast in a primary election by a voter when
31 the voter votes for candidates of more than one party; and

32 (7) provides every voter an opportunity to verify votes
33 electronically and to change votes or correct any error before
34 the voter's ballot is cast and counted, produces a permanent
35 paper record of the ballot cast by the voter, and preserves the
36 paper record as an official record available for use in any

1 recount.

2 (b) An electronic voting system purchased on or after the
3 effective date of this section may not be employed unless it:

4 (1) has a firmware option that supports cumulative voting
5 and ranked order voting; and

6 (2) accepts and tabulates, in the precinct or at a counting
7 center, a marked optical scan ballot or creates a marked optical
8 scan ballot that can be tabulated in the precinct or at a
9 counting center by an optical scan machine certified for use in
10 this state.

11 Sec. 3. [APPROPRIATIONS.]

12 Subdivision 1. [ASSISTED VOTING EQUIPMENT.] \$18,000,000 is
13 appropriated from the Help America Vote Act account to the
14 secretary of state for grants to counties to purchase electronic
15 voting systems equipped for individuals with disabilities that
16 meet the requirements of Minnesota Statutes, section 206.80, and
17 have been certified by the secretary of state under Minnesota
18 Statutes, section 206.57. The secretary of state shall make a
19 grant to each county in the amount of \$4,400 times the number of
20 polling places in the county as certified by the county, which
21 must not be more than the number of polling places used by the
22 county in the state general election of 2004, plus \$4,400 to
23 purchase an electronic voting system to be used by the county
24 auditor for absentee and mail balloting. Each polling place
25 used after January 1, 2006, must be equipped with an electronic
26 voting system equipped for individuals with disabilities.

27 Subd. 2. [OPTICAL SCAN EQUIPMENT; OPERATING COSTS.] (a)
28 \$18,000,000 is appropriated from the Help America Vote Act
29 account to the secretary of state for grants to counties to
30 purchase optical scan voting systems that meet the requirements
31 of Minnesota Statutes, section 206.80, and have been certified
32 by the secretary of state under Minnesota Statutes, section
33 206.57, and to pay for operating costs of the systems purchased
34 under this subdivision or subdivision 1. The amount allocated
35 to each county must be in proportion to the number of precincts
36 used by the county in the state general election of 2004.

1 (b) "Operating costs" may include county and municipal
2 costs for hardware maintenance, election day technical support,
3 software licensing, voting system testing, training of county or
4 municipal staff in the use of the voting system, transportation
5 of the voting systems to and from the polling places, and
6 storage of the voting systems between elections. Total annual
7 operating costs of a county or municipality may not exceed \$450
8 per polling place.

9 (c) To receive a grant, a county must apply to the
10 secretary of state on forms prescribed by the secretary of state
11 that set forth how the grant money will be spent. A county may
12 submit more than one grant application, so long as the
13 appropriation remains available and the total amount granted to
14 the county does not exceed the county's allocation.

15 Subd. 3. [LOCAL EQUIPMENT PLANS.] (a) The county auditor
16 shall convene a working group of the city and town election
17 officials in each county to create a local equipment plan. The
18 working group must continue to meet until the plan is completed,
19 which must be no later than June 30, 2005. The plan must:

20 (1) contain procedures to implement assisted voting
21 technology for use by disabled voters in each polling location;

22 (2) define who is responsible for any capital or operating
23 costs related to election equipment not covered by federal money
24 from the Help America Vote Act account; and

25 (3) outline how the grants under subdivisions 1 and 2 will
26 be spent.

27 (b) A county plan must provide funding to purchase
28 precinct-based optical scan equipment for any polling place
29 whose city or town requests it, if the requesting city or town
30 agrees with the county on who will be responsible for operating
31 and replacement costs related to the use of the precinct-based
32 equipment.

33 (c) The county board of commissioners must adopt the local
34 equipment plan after a public hearing. Money from the Help
35 America Vote Act account may not be expended until the plan is
36 adopted. The county auditor shall file the adopted local

1 equipment plan with the secretary of state.

2 Subd. 4. [REPORT.] Each county receiving a grant under
3 subdivision 1 or 2 must report to the secretary of state by
4 January 15, 2006, the amount spent for the purchase of each kind
5 of electronic voting system and for operating costs of the
6 systems purchased. The secretary of state shall compile this
7 information and report it to the legislature by February 15,
8 2006.

9 Subd. 5. [AVAILABILITY.] The appropriations in this
10 section are available until June 30, 2009.

11 Sec. 4. [MAIL BALLOTING.]

12 Nothing in this act is intended to preclude the use of mail
13 balloting in those precincts where it is allowed under state law.

14 Sec. 5. [EFFECTIVE DATE.]

15 This act is effective the day following final enactment.

1 To: Senator Cohen, Chair

2 Committee on Finance

3 Senator Kiscaden,

4 Chair of the State Government Budget Division, to which was
5 referred

6 S.F. No. 290: A bill for an act relating to elections;
7 setting standards for and providing for the acquisition of
8 voting systems; appropriating money from the Help America Vote
9 Act account; amending Minnesota Statutes 2004, section 206.80;
10 proposing coding for new law in Minnesota Statutes, chapter 206.

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

13 Page 1, line 17, after the period, insert "The contract
14 must provide that, if cumulative voting or ranked order voting
15 is authorized by law for use in a jurisdiction in this state,
16 the vendor will then provide any purchaser of equipment
17 purchased under the contract and used in that jurisdiction with
18 the necessary firmware to support the authorized methods of
19 voting."

20 Page 1, line 20, after the period, insert "The commissioner
21 of administration shall appoint an advisory committee of county
22 auditors and township, city, and school board clerks who have
23 had operational experience with the use of electronic voting
24 systems and a representative of persons with disabilities to
25 assist the department to review and evaluate the merits of
26 proposals submitted from the voting equipment vendors for the
27 state contract. Appointments to the committee must be made in
28 the manner provided in section 15.0597."

29 Page 3, line 3, delete the colon

30 Page 3, delete lines 4 and 5

31 Page 3, line 6, delete everything before "accepts"

32 Page 3, lines 18 and 34, after the period, insert "This
33 appropriation is available until June 30, 2009."

34 Page 5, delete lines 9 and 10 and insert:

35 "Subd. 5. [ADMINISTRATIVE COSTS.] (a) \$54,000 is
36 appropriated from the Help America Vote Act account to the
37 commissioner of administration to establish the state voting
38 systems contract required by section 1. \$36,000 is available
39 until June 30, 2006, and \$18,000 is available for the fiscal

1 year ending June 30, 2007.

2 (b) \$50,000 is appropriated from the Help America Vote Act
3 account to the secretary of state to establish the state voting
4 systems contract required by section 1 and to administer the
5 grants to counties under subdivisions 1 and 2 of this section,
6 to be available until June 30, 2007."

7 And when so amended that the bill be recommended to pass
8 and be referred to the full committee.

9 *W. Kiscaden*
10 (Division Chair)

11 *2/22/05*
12 February 22, 2005.....
13 (Date of Division action)

Consolidated Fiscal Note – 2005-06 Session

Bill #: S0290-2A Complete Date: 03/02/05

Chief Author: HIGGINS, LINDA

Title: VOTING SYSTEMS STDS & ACQUISITION

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agencies: Secretary Of State (03/02/05)

Administration Dept (02/25/05)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
Misc Special Revenue Fund	0	35,740	18	0	18
Secretary Of State	0	35,704	0	0	0
Administration Dept		36	18		18
Revenues					
Misc Special Revenue Fund	0	38,000	0	0	0
Secretary Of State	0	38,000	0	0	0
Net Cost <Savings>					
Misc Special Revenue Fund	0	(2,260)	18	0	18
Secretary Of State	0	(2,296)	0	0	0
Administration Dept		36	18		18
Total Cost <Savings> to the State	0	(2,260)	18	0	18

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
Misc Special Revenue Fund		0.50	0.25		0.25
Administration Dept		0.50	0.25		0.25
Total FTE		0.50	0.25		0.25

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: TIM JAHNKE

Date: 03/02/05 Phone: 296-6237

Fiscal Note – 2005-06 Session

Bill #: S0290-2A Complete Date: 03/02/05

Chief Author: HIGGINS, LINDA

Title: VOTING SYSTEMS STDS & ACQUISITION

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Secretary Of State

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Misc Special Revenue Fund	0	35,704	0	0	0
Less Agency Can Absorb					
– No Impact –					
Net Expenditures					
Misc Special Revenue Fund	0	35,704	0	0	0
Revenues					
Misc Special Revenue Fund	0	38,000	0	0	0
Net Cost <Savings>					
Misc Special Revenue Fund	0	(2,296)	0	0	0
Total Cost <Savings> to the State	0	(2,296)	0	0	0

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
– No Impact –					
Total FTE					

Bill Description

Federal and State Requirements

Legislation is necessary this legislative session to appropriate funds and provide standards and requirements for voting equipment, which must be in place by January 1, 2006 as required by the Help America Vote Act (PL 107-252) (HAVA). The Department of Justice has announced its intentions to strictly enforce this January 1, 2006 deadline with legal action if necessary. HAVA provides funding for:

1. purchase of new voting equipment;
2. replacement of outdated voting equipment;
3. improved accessibility of polling places so that persons with disabilities can vote privately and independently;
4. state compliance legislation for administration of federal elections;

The goal of election administration in Minnesota both before and after the passage of HAVA is to;

1. Reduce the number of spoiled ballots in rural Minnesota by deploying precinct-count optical scan election equipment in these counties
2. Reduce the potential of legal challenge to Presidential and other Federal Election results by providing uniformity throughout the state in the manner by which ballots are counted in all Minnesota jurisdictions;
3. Provide for the first time the opportunity for individuals with disabilities to vote independently and in private by placing a HAVA compliant election machine in every polling place;
4. Provide for the replacement of outdated voting equipment.
5. Provide funds to the counties for equipment maintenance, programming and election judge costs.

Minnesota has already made great progress in addressing major portions of the HAVA requirements through the use of the funds, primarily Title I monies, legislatively appropriated in 2003, for the Statewide Voter Registration System (SVRS) and other election improvement purposes. This allows the vast bulk of the funds addressed in this fiscal note to be used for equipment. SF290-1E addresses equipment purchases and ancillary costs, not yet addressed in Minnesota.

Assumptions

SF 290 proposes a number of election equipment strategies.

1) Section 3, subdivision 1 provides that a machine that complies with the Federal mandate to accommodate disabilities be purchased for each polling place in Minnesota. That language also mandates that \$4,400 per polling place in each county as of November 2, 2004 be provided for grants to counties so that counties may purchase this equipment. This price may be reduced through competitive bidding or through a multi-state purchasing agreement.

2) SF 290, Section 3, Subdivision 2 provides for a an allocation to counties proportional to the number of polling places in each county for purchase of precinct-count optical scan machines or for operating costs of the newly purchased voting system equipment.

Expenditure and/or Revenue Formula

Revenues:

The federal government has appropriated in excess of \$3 billion for all 55 states and territories for fulfilling these requirements and for further improvements. Minnesota has received \$5.3 million in HAVA Title I funding which is being used as part of a \$6.5 million appropriation primarily for voter registration system programming among other non-equipment items in First Special Session, laws 2003, Chapter 7, and Minnesota is eligible for an additional \$202,000.00 for grants for disability access to polling places. The \$6.5 million previously appropriated has been expended as follows:

Modify Statewide Voter Registration System	\$5,296,245.90
Provide Assistance to Persons with Ltd. Proficiency	\$ 22,303.42
Improving polling place accessibility	\$ 197,796.15
Train Local Election Officials	\$ 95,187.92

Prepare training materials	\$ 88,286.53
Develop complaint procedures	\$ 12,785.96
Develop State Plan	\$ 498,055.20
<hr/>	
Total FY 2003, 2004 & 2005	\$6,210,661.08

In addition there is \$39,196,016.96 allocated to Minnesota under HAVA Title III for equipment, voter registration system and voter information purposes. This allocation is based on the proportion of voting age population as of the 2000 Census that Minnesota bears to the entire nation, which appears to be 1.71%. These funds are currently in the Help America Vote Act account. Of this amount, approximately \$38 million appears to be available for the costs outlined in this bill. While there is a 5% matching requirement under HAVA, the Legislature declared, in First Special Session, Laws 2003, Chapter 7, that the state and local funds previously spent on the Voting Equipment Grant Account in 2001 and 2002 constituted the state match, and that, in addition to interest earned on Federal funds, should be sufficient to match the amounts allocated to Minnesota to date.

It is unlikely that there will be any further Federal funding of HAVA costs, even though the entire three billion authorized has not yet been appropriated.

Expenditures:

The language of SF290 provides for expenditures in the following priority:

- a) \$18,000,000 to be appropriated for the purchase of the voting system machine mandated by HAVA for voters with disabilities allocated to each county based upon the number of polling places in the county times \$4,400
- b) \$18,000,000 to be allocated among counties based on the number of polling places for purchase of precinct count optical scan machines and/or reimbursement of the operating costs of each polling place.

Voting systems for persons with disabilities It appears that the approximate price for voting systems that accommodate persons with disabilities as mandated by HAVA and provided for as described in SF 290, Section 1 will be approximately \$4,000.00 per machine. This is based upon an unofficially quoted price from a current manufacturer of these machines, with a volume discount of approximately 10% also factored in.

- 1. Total Amount of Federal Funding for Equipment and Equipment Implementation: \$38,000,000
- 2. Disability Machine Allocation
 - a. (3902 current polling places, plus 87 county auditor offices x \$4400 grant per polling place) = \$17, 551,600

See Note 1

- 3. Amount allocated under Section 3, subdivision 2 for operating costs and/or precinct count equipment purchase, using current number of polling places: \$18,000,000

Total projected expenditures: \$35,551,000

Note 1: Ballot marking machine.

These ballot marking machines produce an optical scan ballot, which can be voter-verified before and after production. That ballot then needs to be processed by a machine that can verify that the vote has been properly cast and that there are no voter-correctable errors. The ballot-marking machine itself is new, untested, technology that utilizes a DRE-style voting touch-screen. This kind of machine has not yet been used in Minnesota at all, has not been widely used in previous elections in other states, is a slower voting system and can only handle a maximum of 120 to 150 persons per election-day (and a lesser number in those precincts with shorter polling

hours) even under optimum conditions. It is unknown whether this machine will properly record a voter's preference without a further screening by a precinct-count optical scan machine.

Secretary of State Administrative Costs

There are also a number of administrative costs to the office of the Secretary of State in administering this bill. The bill appropriates \$50,000 for these costs to the Secretary of State. It also appropriates funds to the Department of Administration.

1. Contract Development:

The cost of developing the contract for voting machines will need to include an RFP Development component. The machines will need to be certified, and there will need to be the standard Bid process.

a) Certification -

State certification of optical scan counters is specified in Minnesota Rule 8220. Certification (or re-certification) of election hardware and software system will require:

- Step 1) initial assessment of the application for completeness, including review of Federal certification materials (such as ITA reports);
- Step 2) a demonstration test essentially the equivalent of a precinct public accuracy test;
- Step 3) preparation of the certification report and recommendation for the Secretary, and
- Step 4) post approval confirmation of bonding and other actions prior to issuing the actual certificate.

All steps assume participation of multiple staff and management, correspondence, and record-keeping. Assumes separate certifications and no related litigation.

For each certification the specific certification effort per machine is:

- Step 1 labor – approximately 1 to 6 labor days depending on the prior level of effort on the vendor's part (assume 4 days).
- Step 2 labor – approximately 8 labor days assuming a cooperative LEO host or vendor host who will take care of sample ballots test decks (at least some of them) and facilities preparation.
- Step 3 labor – approximately 5 labor days, including reviews and approvals.
- Step 4 labor – approximately 4 labor days.

Total Labor – approximately 3 labor weeks

24 labor weeks assuming about 3 labor weeks per application and 8 applications

24x 40 hours per week x \$25 per hour = **Total costs of \$24,000**

b) RFP development and execution, including review of bids and letting contract –

Between 24 and 120 secretary of state staff-labor weeks depending upon any synergy between the processes to be used for contracting for the assistive voting marker machines and the tabulating machines, and assuming 8 or fewer voting systems bid. Generally this time will be spent developing the complete specifications for the machines

Total range of costs = \$24,000 to \$120,000

2. Grant Administration:

The bill sets forth a process for the secretary of state to administer grants to the 87 counties for the purchase of the assistive voting technology required in section x of this bill. The costs of this are:

1. Development of application and county plan template- 2 SOS election staff @ 40 hours each
2. Announcement of grant availability to counties - 8 staff hours
3. Review of applications. Two hours for each county - 4 individuals @40 hours each
4. Fiscal department involvement/documentation and issuance of grant money:
- 15 hours (87 counties x 10 minutes per check)
5. Post-disbursement financial documentation and reporting:- 40 hours

Total Hours: 303 @ \$25 average per staff hour = **Total Costs of \$7575**

3. Post-Purchase Federal and State Reporting:

1. Development and refinement of questionnaire: - 16 hours
2. Compilation of data:: - 32 hours
3. Preparation and final format of reports: - 16 hours

Total Hours: 64 @ \$25 average per staff hour = **Total Costs of \$1600**

Total Secretary of State Costs: FY 2006 =\$153,175

Local Government Costs

SF 290 requires that there be a local government equipment plan developed by county and municipal governments. It appears that the costs of developing that plan will fall to the general administration budgets of those political subdivisions.

SF 290 appears to contemplate the continuation of existing hand and central count systems, by the terms of the language in Section 2. Continuation of central count will require, effectively, that there be two machines used for the ballots from each polling place – the HAVA disability machine in the polling place, and the central count machine in the courthouse, with no reduction in the monetary and civic costs of central count, including:

- o central count programming for each precinct
- o staff time for election judges to physically take the ballots to the courthouse and run them through the central count scanning machine

Agency Contact Name: Alberto Quintela 651-201-1321

Agency Contact Name: Alberto Quintela 651-201-1321

FN Coord Signature: KATHY HJELM

Date: 03/01/05 Phone: 201-1361

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: TIM JAHNKE

Date: 03/02/05 Phone: 296-6237

Fiscal Note – 2005-06 Session

Bill #: S0290-2A Complete Date: 02/25/05

Chief Author: HIGGINS, LINDA

Title: VOTING SYSTEMS STDS & ACQUISITION

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Administration Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Misc Special Revenue Fund		36	18		18
Less Agency Can Absorb					
– No Impact –					
Net Expenditures					
Misc Special Revenue Fund		36	18		18
Revenues					
– No Impact –					
Net Cost <Savings>					
Misc Special Revenue Fund		36	18		18
Total Cost <Savings> to the State		36	18		18

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
Misc Special Revenue Fund		0.50	0.25		0.25
Total FTE		0.50	0.25		0.25

Bill Description

The bill requires the commissioner of administration to establish a contract for voting systems and – if practical – maintenance of the equipment purchased. The contract must be re-bid every two years and all certified vendors must be allowed to compete.

Amendments to the bill (a) appropriate money for Admin and the Secretary of State to implement the bill and (b) require Admin to appoint an advisory committee of local election officials and persons with disabilities to advise the state throughout the acquisition process.

Assumptions

The majority of the staffing committed to this effort will be provided by the Office of the Secretary of State. However, Admin will need to help develop technical specifications for a complex procurement, assuring compliance with statutory mandates, local needs and public procurement requirements. Admin will be responsible for developing an evaluation process that will pass scrutiny from a partisan political perspective. Admin will be responsible for handling bid protests or other legal challenges.

Admin had anticipated working with voting system users to assist in developing specifications and evaluating product options. Consequently, the amendment requiring appointment of a committee will not involve costs beyond those appropriated in the amended bill.

The bill requires that the solicitation process be repeated every two years, with a contract in place by July 1 of odd-numbered years. Realistically, without sufficient time or funds available in FY05, no contract can be in place by July, 1, 2005. Consequently, this fiscal note assumes funding for the first contract becomes available in FY06. It assumes that the first iteration will involve more effort due to the learning curve and developing approaches. Consequently, one-half FTE is projected for FY06. Follow-up solicitations are estimated at one-quarter FTE for the fiscal year preceding the contract award. Following this process will get the project on schedule for July 1, 2007. Admin does not routinely develop contracts for the exclusive use of local units of government.

Expenditure and/or Revenue Formula

Help America Vote Act (HAVA) funds have been appropriated to cover Admin's costs related to the development, award and administration of these contracts.

Local Government Costs

Makes federal money available to local units who choose to participate.

Agency Contact Name: Kent Allin (651-296-1442)
FN Coord Signature: LARRY FREUND
Date: 02/24/05 Phone: 296-5857

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: TIM JAHNKE
Date: 02/25/05 Phone: 296-6237

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

**S.F. No. 290 - HAVA Voting Equipment Appropriation
A-8 Delete-everything Amendment**

Author: Senator Linda Higgins

Prepared by: Peter S. Wattson, Senate Counsel (651/296-3812) *PSW*

Date: May 2, 2005

The **SCS0290A-8** delete-everything amendment incorporates many of the changes made to the HAVA Voting Equipment Appropriation bill by the House of Representatives and included in H.F. No. 874, the companion to S.F. No. 290, or in their version of the State Government Appropriations bill, H.F. No. 1481, or both. The language taken from the House bills, however, has been extensively rewritten.

Section 1 is from both H.F. No. 874 and H.F. No. 1481. It requires the Secretary of State to consult with local election officials in the development of the statewide voter registration system.

Sections 2 to 10 are only in H.F. No. 1481. They add or amend various definitions used in the chapter on electronic voting systems and that apply to assistive voting technology for people with disabilities. They have been rewritten to alphabetize them, eliminate redundancy, and reduce substantive policy making. The substantive requirement that a machine that transmits votes electronically to be counted by another machine must be secure and create an individual, discrete paper record of each vote has been deleted from the definitions of "ballot," "audio ballot reader," "electronic ballot display," and "electronic ballot marker," and confined to **section 15**, which sets forth the substantive requirements for electronic voting systems.

Section 5 defines a ballot to include the "electronic record of each vote choice made by a voter at an election and transmitted electronically to automatic tabulating equipment." The House definition is more limiting: it refers to "data . . . transmitted . . . to the optical scan machine in the precinct . . ." It thus would exclude from the definition of a ballot electronic data that was transmitted beyond the precinct or to a tabulating machine other than an optical scan machine.

Section 9 defines an electronic voting system to include one where the voter transmits a ballot, rather than directly marking it, and to include systems that count votes in the precinct rather than at a counting center.

Sections 11 to 14 are likewise only in H.F. No. 1481. They set forth the substantive requirements for electronic voting systems, adding references to the audio ballot readers, electronic ballot displays, and electronic ballot markers that are used with assistive voting technology for people with disabilities.

Section 12 delays for one year the requirement that assistive voting technology be used in county, municipal, and school district elections.

Section 15 is already in **S.F. No. 290**. The House revisions require votes for too many candidates and votes for more than one party in a primary to be “automatically” rejected by an electronic voting system, even if the machine on which the votes are cast is not one that tabulates them. The House revisions allow for the use of an electronic voting system that neither counts nor creates an optical scan ballot, but rather “transmits a vote electronically to an optical scan machine in the precinct while creating a paper record of each vote.” The House language has been rewritten to broaden the types of machines that may be used to count the votes and where they may be counted, and to specify in more detail the paper record that must be produced. The new language requires a system that “securely transmits a ballot electronically to automatic tabulating equipment in the precinct or at a counting center while creating an individual, discrete, permanent paper record of all the votes on the ballot.”

Section 16, providing for contracts to purchase state voting systems, is already in **S.F. No. 290**. The amendment changes the proposed coding so that the section follows the substantive requirements for the systems that are to be purchased. The House revisions allow for more than one state contract. They require the advisory committee to be appointed by the Secretary of State, rather than by the Commissioner of Administration. Other elements of the House position are not included in this amendment: the Commissioner of Administration is not excluded from the development of the contracts, and the requirements relating to a perpetual license to use and modify the software, cumulative voting, and escrow of the source code are retained.

Sections 17 to 27 are taken from H.F. No. 1481. To the current law on how electronic voting systems must be used, they add references to the assistive voting technology that will be used by people with disabilities, generally requiring it to be set up and tested in a manner similar to optical scan machines.

Section 28, Appropriations, has been revised to be similar to, but not the same as, the House bills. The appropriation in **subdivision 1** for assistive voting technology is increased from \$18 million to \$25 million, the same as the House bills. The increase is necessary to cover the escalating costs of

S.F. No. 290
May 2, 2005
Page 3

assistive voting technology, up from \$4,100 per precinct in the Senate bill to \$6,100 per precinct in the House bill.

The appropriation in **subdivision 2** for optical scan equipment is reduced from \$18 million to \$6 million. At a rate of \$3,000 per precinct, this is enough for about half the state's 4,100 precincts.

The House revision moves the appropriation for operating costs of electronic voting systems out of the appropriation for optical scan equipment and makes it a separate appropriation for operating costs of assistive voting technology only. The House added an appropriation of \$5 million to the Secretary of State for further development of the statewide voter registration system and "other election administration improvements." **Subdivision 3** in this amendment adds that \$5 million to the appropriation for assistive voting technology operating costs, making it \$7.5 million, rather than \$2.5 million as in the House bills.

Subdivisions 4 to 6 retain language that was in **S.F. No. 290**.

Subdivision 4 adds a requirement from the House bills that grant money be spent in accordance with the local equipment plans developed under **section 29**.

Section 29 delays from June 30 to September 15, 2005, or 45 days after state certification of assistive voting systems, whichever is later, the date for completion of the local equipment plans. It also broadens the scope of the plans from procedures to implement "assisted voting technology for use by disabled voters" to procedures to implement all the requirements for use of electronic voting systems.

Section 30 retains language to save the use of mail balloting where it is allowed under state law. The House bills omit this section.

PSW:ph

cc: Kevin Corbid

1 Senator moves to amend S.F. No. 290 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 201.022, is
4 amended by adding a subdivision to read:

5 Subd. 3. [CONSULTATION WITH LOCAL OFFICIALS.] The
6 secretary of state must consult with representatives of local
7 election officials in the development of the statewide voter
8 registration system.

9 Sec. 2. Minnesota Statutes 2004, section 206.56, is
10 amended by adding a subdivision to read:

11 Subd. 1a. [ASSISTIVE VOTING TECHNOLOGY.] "Assistive voting
12 technology" means touch-activated screen, buttons, keypad,
13 sip-and-puff input device, keyboard, earphones, or any other
14 device used with an electronic ballot marker that assists voters
15 to use an audio or electronic ballot display in order to cast
16 votes.

17 Sec. 3. Minnesota Statutes 2004, section 206.56, is
18 amended by adding a subdivision to read:

19 Subd. 1b. [AUDIO BALLOT READER.] "Audio ballot reader"
20 means an audio representation of a ballot that can be used with
21 other assistive voting technology to permit a voter to mark
22 votes on a nonelectronic ballot or to transmit a ballot
23 electronically to automatic tabulating equipment.

24 Sec. 4. Minnesota Statutes 2004, section 206.56,
25 subdivision 2, is amended to read:

26 Subd. 2. [AUTOMATIC TABULATING EQUIPMENT.] "Automatic
27 tabulating equipment" includes apparatus machines, resident
28 firmware, and programmable memory units necessary to
29 automatically examine and count votes designated on a
30 ballot cards,--and-data-processing-machines-which-can-be-used-for
31 counting-ballets-and-tabulating-results.

32 Sec. 5. Minnesota Statutes 2004, section 206.56,
33 subdivision 3, is amended to read:

34 Subd. 3. [BALLOT.] "Ballot" includes ballot-cards-and
35 paper ballots; ballot cards; the paper ballot marked by an
36 electronic marking device; and an electronic record of each vote

1 choice made by a voter at an election and transmitted
2 electronically to automatic tabulating equipment.

3 Sec. 6. Minnesota Statutes 2004, section 206.56,
4 subdivision 7, is amended to read:

5 Subd. 7. [COUNTING CENTER.] "Counting center" means a
6 place selected by the governing body of a municipality where an
7 a central count electronic voting system is used for the
8 automatic processing and counting of ballots.

9 Sec. 7. Minnesota Statutes 2004, section 206.56, is
10 amended by adding a subdivision to read:

11 Subd. 7a. [ELECTRONIC BALLOT DISPLAY.] "Electronic ballot
12 display" means a graphic representation of a ballot on a
13 computer monitor or screen on which a voter may make vote
14 choices for candidates and questions for the purpose of marking
15 a nonelectronic ballot or transmitting an electronic ballot.

16 Sec. 8. Minnesota Statutes 2004, section 206.56, is
17 amended by adding a subdivision to read:

18 Subd. 7b. [ELECTRONIC BALLOT MARKER.] "Electronic ballot
19 marker" means equipment that is part of an electronic voting
20 system that uses an electronic ballot display or audio ballot
21 reader to:

22 (1) mark a nonelectronic ballot with votes selected by a
23 voter; or

24 (2) transmit a ballot electronically to automatic
25 tabulating equipment.

26 Sec. 9. Minnesota Statutes 2004, section 206.56,
27 subdivision 8, is amended to read:

28 Subd. 8. [ELECTRONIC VOTING SYSTEM.] "Electronic voting
29 system" means a system in which the voter records votes by means
30 of marking or transmitting a ballot, which-is-designed so that
31 votes may be counted by automatic tabulating equipment in the
32 precinct or polling place where the ballot is cast or at a
33 counting center.

34 An electronic voting system includes automatic tabulating
35 equipment; nonelectronic ballot markers; electronic ballot
36 markers, including electronic ballot display, audio ballot

1 reader, and devices by which the voter will register the voter's
2 voting intent; software used to program automatic tabulators and
3 layout ballots; computer programs used to accumulate precinct
4 results; ballots; secrecy folders; system documentation; and
5 system testing results.

6 Sec. 10. Minnesota Statutes 2004, section 206.56,
7 subdivision 9, is amended to read:

8 Subd. 9. [MANUAL MARKING DEVICE.] "Manual marking device"
9 means any approved device for directly marking a ballot by hand
10 with ink, pencil, or other substance which will enable the
11 ballot to be tabulated by means of automatic tabulating
12 equipment.

13 Sec. 11. Minnesota Statutes 2004, section 206.57,
14 subdivision 1, is amended to read:

15 Subdivision 1. [EXAMINATION AND REPORT BY SECRETARY OF
16 STATE; APPROVAL.] A vendor of an electronic voting system may
17 apply to the secretary of state to examine the system and to
18 report as to its compliance with the requirements of law and as
19 to its accuracy, durability, efficiency, and capacity to
20 register the will of voters. The secretary of state or a
21 designee shall examine the system submitted and file a report on
22 it in the Office of the Secretary of State. Examination is not
23 required of every individual machine or counting device, but
24 only of each type of electronic voting system before its
25 adoption, use, or purchase and before its continued use after
26 significant changes have been made in an approved system. The
27 examination must include the ballot programming; electronic
28 ballot marking, including all assistive technologies intended to
29 be used with the system; vote counting; and vote accumulation
30 functions of each voting system.

31 If the report of the secretary of state or the secretary's
32 designee concludes that the kind of system examined complies
33 with the requirements of sections 206.55 to 206.90 and can be
34 used safely, the system shall be deemed approved by the
35 secretary of state, and may be adopted and purchased for use at
36 elections in this state. A voting system not approved by the

1 secretary of state may not be used at an election in this
2 state. The secretary of state may adopt permanent rules
3 consistent with sections 206.55 to 206.90 relating to the
4 examination and use of electronic voting systems.

5 Sec. 12. Minnesota Statutes 2004, section 206.57,
6 subdivision 5, is amended to read:

7 Subd. 5. [VOTING SYSTEM FOR DISABLED VOTERS.] In federal
8 and state elections held after December 31, 2005, and in county,
9 municipal, and school district elections held after December 31,
10 2006, the voting method used in each polling place must include
11 a voting system that is accessible for individuals with
12 disabilities, including nonvisual accessibility for the blind
13 and visually impaired in a manner that provides the same
14 opportunity for access and participation, including privacy and
15 independence, as for other voters.

16 Sec. 13. Minnesota Statutes 2004, section 206.61,
17 subdivision 4, is amended to read:

18 Subd. 4. [ORDER OF CANDIDATES.] On the "State Partisan
19 Primary Ballot" prepared for primary elections, and on the white
20 ballot prepared for the general election, the order of the names
21 of nominees or names of candidates for election shall be the
22 same as required for paper ballots. More than one column or row
23 may be used for the same office or party. Electronic ballot
24 display and audio ballot readers must conform to the candidate
25 order on the optical scan ballot used in the precinct.

26 Sec. 14. Minnesota Statutes 2004, section 206.61,
27 subdivision 5, is amended to read:

28 Subd. 5. [ALTERNATION.] The provisions of the election
29 laws requiring the alternation of names of candidates must be
30 observed as far as practicable by changing the order of the
31 names on an electronic voting system in the various precincts so
32 that each name appears on the machines or marking devices used
33 in a municipality substantially an equal number of times in the
34 first, last, and in each intermediate place in the list or group
35 in which they belong. However, the arrangement of candidates'
36 names must be the same on all voting systems used in the same

1 precinct. If the number of names to be alternated exceeds the
2 number of precincts, the election official responsible for
3 providing the ballots, in accordance with subdivision 1, shall
4 determine by lot the alternation of names.

5 If an electronic ballot marker is used with a paper ballot
6 that is not an optical scan ballot card, the manner of
7 alternation of candidate names on the paper ballot must be as
8 prescribed for optical scan ballots in this subdivision. If a
9 machine is used to transmit a ballot electronically to automatic
10 tabulating equipment, the manner of alternation of candidate
11 names on the transmitting machine must be as prescribed for
12 optical scan ballots in this subdivision.

13 Sec. 15. Minnesota Statutes 2004, section 206.80, is
14 amended to read:

15 206.80 [ELECTRONIC VOTING SYSTEMS.]

16 (a) An electronic voting system may not be employed unless
17 it:

18 (1) permits every voter to vote in secret;

19 (2) permits every voter to vote for all candidates and
20 questions for whom or upon which the voter is legally entitled
21 to vote;

22 (3) provides for write-in voting when authorized;

23 (4) automatically rejects by-means-of-the-automatic
24 tabulating-equipment, except as provided in section 206.84 with
25 respect to write-in votes, all votes for an office or question
26 when the number of votes cast on it exceeds the number which the
27 voter is entitled to cast;

28 (5) permits a voter at a primary election to select
29 secretly the party for which the voter wishes to vote; and

30 (6) automatically rejects,--by-means-of-the-automatic
31 tabulating-equipment, all votes cast in a primary election by a
32 voter when the voter votes for candidates of more than one
33 party; and

34 (7) provides every voter an opportunity to verify votes
35 electronically and to change votes or correct any error before
36 the voter's ballot is cast and counted, produces a permanent

1 paper record of the ballot cast by the voter, and preserves the
2 paper record as an official record available for use in any
3 recount.

4 (b) An electronic voting system purchased on or after the
5 effective date of this section may not be employed unless it:

6 (1) accepts and tabulates, in the precinct or at a
7 counting center, a marked optical scan ballot;

8 (2) creates a marked optical scan ballot that can be
9 tabulated in the precinct or at a counting center by automatic
10 tabulating equipment certified for use in this state; or

11 (3) securely transmits a ballot electronically to automatic
12 tabulating equipment in the precinct or at a counting center
13 while creating an individual, discrete, permanent paper record
14 of all the votes on the ballot.

15 Sec. 16. [206.805] [STATE VOTING SYSTEMS CONTRACTS.]

16 Subdivision 1. [CONTRACTS REQUIRED.] (a) The secretary of
17 state, in cooperation with the commissioner of administration,
18 shall establish one or more state voting systems contracts. The
19 contracts should, if practical, include provisions for
20 maintenance of the equipment purchased. The contracts must give
21 the state a perpetual license to use and modify the software.
22 The contracts must include provisions to escrow the software
23 source code, as provided in subdivision 2. The contracts must
24 provide that, if cumulative voting or ranked order voting is
25 authorized by law for use in a jurisdiction in this state, the
26 vendor will then provide any purchaser of equipment purchased
27 under the contract and used in that jurisdiction with the
28 necessary firmware to support the authorized methods of voting.
29 Bids for voting systems and related election services must be
30 solicited from each vendor selling or leasing voting systems
31 that have been certified for use by the secretary of state. The
32 contracts must be renewed no later than July 1 of each
33 odd-numbered year.

34 (b) The secretary of state shall appoint an advisory
35 committee of county auditors, municipal clerks who have had
36 operational experience with the use of electronic voting

1 systems, and members of the disabilities community to assist the
2 commissioner of administration to review and evaluate the merits
3 of proposals submitted from voting equipment vendors for the
4 state contracts. Appointments to the committee must be made in
5 the manner provided in section 15.0597.

6 (c) Counties and municipalities may purchase or lease
7 voting systems and obtain related election services from the
8 state contracts.

9 Subd. 2. [ESCROW OF SOURCE CODE.] The contracts must
10 require the voting system vendor to provide a copy of the source
11 code for the voting system to an independent third-party
12 evaluator selected by the vendor, the secretary of state, and
13 the chairs of the major political parties. The evaluator must
14 examine the source code and certify to the secretary of state
15 that the voting system will record and count votes as
16 represented by the vendor. Source code that is trade secret
17 information must be treated as nonpublic information, in
18 accordance with section 13.37. Each major political party may
19 designate an agent to examine the source code to verify that the
20 voting system will record and count votes as represented by the
21 vendor; the agent must not disclose the source code to anyone
22 else.

23 Sec. 17. Minnesota Statutes 2004, section 206.81, is
24 amended to read:

25 206.81 [ELECTRONIC VOTING SYSTEMS; EXPERIMENTAL USE.]

26 (a) The secretary of state may ~~approve~~ certify an
27 electronic voting system for experimental use at an election
28 prior to its approval for general use.

29 (b) The secretary of state must ~~approve~~ certify one or more
30 direct recording electronic voting systems for experimental use
31 at an election before their ~~approval~~ certification for general
32 use and may impose restrictions on their use. At least one
33 voting system ~~approved~~ certified under this paragraph must
34 permit sighted persons to vote and at least one system must
35 permit a blind or visually impaired voter to cast a ballot
36 independently and privately.

1 (c) Experimental use must be observed by the secretary of
2 state or the secretary's designee and the results observed must
3 be considered at any subsequent proceedings for
4 ~~approval~~ certification for general use.

5 (d) The secretary of state may adopt rules consistent with
6 sections 206.55 to 206.90 relating to experimental use. The
7 extent of experimental use must be determined by the secretary
8 of state.

9 Sec. 18. Minnesota Statutes 2004, section 206.82,
10 subdivision 1, is amended to read:

11 Subdivision 1. [PROGRAM.] A program or programs for use in
12 an election conducted by means of an electronic voting system or
13 using an electronic ballot marker shall be prepared at the
14 direction of the county auditor or municipal clerk who is
15 responsible for the conduct of the election and shall be
16 independently verified by a competent person designated by that
17 official. The term "competent person" as used in this section
18 means a person who can demonstrate knowledge as a computer
19 programmer and who is other than and wholly independent of any
20 person operating or employed by the counting center or the
21 corporation or other preparer of the program. A test deck
22 prepared by a competent person shall be used for independent
23 verification of the program; it shall test the maximum digits
24 used in totaling the returns and shall be usable by insertion
25 during the tabulation process as well as prior to tabulation. A
26 test deck must also be prepared using the electronic ballot
27 marker program and must also be used to verify that all valid
28 votes counted by the vote tabulator may be selected using the
29 electronic ballot marker. The secretary of state shall adopt
30 rules further specifying test procedures.

31 Sec. 19. Minnesota Statutes 2004, section 206.83, is
32 amended to read:

33 206.83 [TESTING OF VOTING SYSTEMS.]

34 Within 14 days before election day, the official in charge
35 of elections shall have the voting system tested to ascertain
36 that the system will correctly mark or securely transmit to

1 automatic tabulating equipment in the precinct ballots using all
2 methods supported by the system, including through assistive
3 technology, and count the votes cast for all candidates and on
4 all questions ~~within-14-days-prior-to-election-day~~. Public
5 notice of the time and place of the test must be given at least
6 two days in advance by publication once in official newspapers.
7 The test must be observed by at least two election judges, who
8 are not of the same major political party, and must be open to
9 representatives of the political parties, candidates, the press,
10 and the public. The test must be conducted by (1) processing a
11 preaudited group of ballots punched or marked to record a
12 predetermined number of valid votes for each candidate and on
13 each question, and must include for each office one or more
14 ballot cards which have votes in excess of the number allowed by
15 law in order to test the ability of the voting system tabulator
16 and electronic ballot marker to reject those votes; and (2)
17 processing an additional test deck of ballots marked using the
18 electronic ballot marker to be employed in the precinct,
19 including ballots marked or ballots transmitted electronically
20 to automatic tabulating equipment in the precinct using the
21 electronic ballot display, audio ballot reader, and each of the
22 assistive voting peripheral devices used with the electronic
23 ballot marker. If any error is detected, the cause must be
24 ascertained and corrected and an errorless count must be made
25 before the voting system may be used in the election. After the
26 completion of the test, the programs used and ballot cards must
27 be sealed, retained, and disposed of as provided for paper
28 ballots.

29 Sec. 20. Minnesota Statutes 2004, section 206.84,
30 subdivision 1, is amended to read:

31 Subdivision 1. [INSTRUCTION OF JUDGES, VOTERS.] The
32 officials in charge of elections shall determine procedures to
33 instruct election judges and voters in the use of electronic
34 voting system manual marking devices and the electronic ballot
35 marker, including assistive peripheral devices.

36 Sec. 21. Minnesota Statutes 2004, section 206.84,

1 subdivision 3, is amended to read:

2 Subd. 3. [BALLOTS.] The ballot information must be in the
3 same order provided for paper ballots, except that the
4 information may be in vertical or horizontal rows, or on a
5 number of separate pages. The secretary of state shall provide
6 by rule for standard ballot formats for electronic voting
7 systems. Electronic ballot displays and audio ballot readers
8 shall be in the order provided for on the optical scan ballot.
9 Electronic ballot displays may employ zooms or other devices as
10 assistive voting technology. Audio ballot readers may employ
11 rewinds or audio cues as assistive voting technology.

12 Ballot cards may contain special printed marks ~~and-holes~~ as
13 required for proper positioning and reading of the ballots by
14 electronic vote counting equipment. Ballot cards must contain
15 an identification of the precinct for which they have been
16 prepared which can be read visually and which can be tabulated
17 by the automatic tabulating equipment.

18 Sec. 22. Minnesota Statutes 2004, section 206.84,
19 subdivision 6, is amended to read:

20 Subd. 6. [DUTIES OF OFFICIAL IN CHARGE.] The official in
21 charge of elections in each municipality where an electronic
22 voting system is used shall have the voting systems put in
23 order, set, adjusted, and made ready for voting when delivered
24 to the election precincts. The official shall also provide each
25 precinct with a container for transporting ballot cards to the
26 counting location after the polls close. The container shall be
27 of sturdy material to protect the ballots from all reasonably
28 foreseeable hazards including auto collisions. The election
29 judges shall meet at the polling place at least one hour before
30 the time for opening the polls. Before the polls open the
31 election judges shall compare the ballot cards used with the
32 sample ballots, electronic ballot displays, and audio ballot
33 reader furnished to see that the names, numbers, and letters on
34 both agree and shall certify to that fact on forms provided for
35 the purpose. The certification must be filed with the election
36 returns.

1 Sec. 23. Minnesota Statutes 2004, section 206.90,
2 subdivision 1, is amended to read:

3 Subdivision 1. [DEFINITION.] For the purposes of this
4 section, "optical scan voting system" means an electronic voting
5 system approved for use under sections 206.80 to 206.81 in which
6 the voter records votes by marking with a pencil or other
7 writing-instrument device, including an electronic ballot
8 marker, a ballot on which the names of candidates, office
9 titles, party designation in a partisan primary or election, and
10 a statement of any question accompanied by the words "Yes" and
11 "No" are printed.

12 Sec. 24. Minnesota Statutes 2004, section 206.90,
13 subdivision 5, is amended to read:

14 Subd. 5. [INSTRUCTION OF JUDGES, VOTERS.] In instructing
15 judges and voters under section 206.84, subdivision 1, officials
16 in charge of election precincts using optical scan voting
17 systems shall include instruction on the proper mark for
18 recording votes on ballot cards marked with a pencil or other
19 writing instrument and the insertion by the voter of the ballot
20 card into automatic tabulating equipment that examines and
21 counts votes as the ballot card is deposited into the ballot box.

22 Officials shall include instruction on the insertion by the
23 voter of the ballot card into an electronic ballot marker that
24 can examine votes before the ballot card is deposited into the
25 ballot box.

26 Sec. 25. Minnesota Statutes 2004, section 206.90,
27 subdivision 6, is amended to read:

28 Subd. 6. [BALLOTS.] In precincts using optical scan voting
29 systems, a single ballot card on which all ballot information is
30 included must be printed in black ink on white colored material
31 except that marks not to be read by the automatic tabulating
32 equipment may be printed in another color ink.

33 On the front of the ballot must be printed the words
34 "Official Ballot" and the date of the election and lines for the
35 initials of at least two election judges.

36 When optical scan ballots are used, the offices to be

1 elected must appear in the following order: federal offices;
2 state legislative offices; constitutional offices; proposed
3 constitutional amendments; county offices and questions;
4 municipal offices and questions; school district offices and
5 questions; special district offices and questions; and judicial
6 offices.

7 On optical scan ballots, the names of candidates and the
8 words "yes" and "no" for ballot questions must be printed as
9 close to their corresponding vote targets as possible.

10 The line on an optical scan ballot for write-in votes must
11 contain the words "write-in, if any."

12 If a primary ballot contains both a partisan ballot and a
13 nonpartisan ballot, the instructions to voters must include a
14 statement that reads substantially as follows: "THIS BALLOT
15 CARD CONTAINS A PARTISAN BALLOT AND A NONPARTISAN BALLOT. ON
16 THE PARTISAN BALLOT YOU ARE PERMITTED TO VOTE FOR CANDIDATES OF
17 ONE POLITICAL PARTY ONLY." If a primary ballot contains
18 political party columns on both sides of the ballot, the
19 instructions to voters must include a statement that reads
20 substantially as follows: "ADDITIONAL POLITICAL PARTIES ARE
21 PRINTED ON THE OTHER SIDE OF THIS BALLOT. VOTE FOR ONE
22 POLITICAL PARTY ONLY." At the bottom of each political party
23 column on the primary ballot, the ballot must contain a
24 statement that reads substantially as follows: "CONTINUE VOTING
25 ON THE NONPARTISAN BALLOT." The instructions in section
26 204D.08, subdivision 4, do not apply to optical scan partisan
27 primary ballots. Electronic ballot displays and audio ballot
28 readers must follow the order of offices and questions on the
29 optical scan or paper ballot used in the same precinct, or the
30 sample ballot posted for that precinct.

31 Sec. 26. Minnesota Statutes 2004, section 206.90,
32 subdivision 8, is amended to read:

33 Subd. 8. [DUTIES OF ELECTION OFFICIALS.] The official in
34 charge of elections in each municipality where an optical scan
35 voting system is used shall have the electronic ballot marker
36 that examines and marks votes on ballot cards or the machine

1 that transmits a ballot electronically to automatic tabulating
2 equipment in the precinct and the automatic tabulating equipment
3 that examines and counts votes as ballot cards are deposited
4 into ballot boxes put in order, set, adjusted, and made ready
5 for voting when delivered to the election precincts.

6 Sec. 27. Minnesota Statutes 2004, section 206.90,
7 subdivision 9, is amended to read:

8 Subd. 9. [SPOILED BALLOT CARDS.] Automatic tabulating
9 equipment and electronic ballot markers must be capable of
10 examining a ballot card for defects and returning it to the
11 voter before it is counted and deposited into the ballot box and
12 must be programmed to return as a spoiled ballot a ballot card
13 with votes for an office or question which exceed the number
14 which the voter is entitled to cast and at a primary a ballot
15 card with votes for candidates of more than one party.

16 Sec. 28. [APPROPRIATIONS.]

17 Subdivision 1. [ASSISTIVE VOTING TECHNOLOGY.] (a)
18 \$25,000,000 is appropriated from the Help America Vote Act
19 account to the secretary of state for grants to counties to
20 purchase electronic voting systems equipped for individuals with
21 disabilities that meet the requirements of Minnesota Statutes,
22 section 206.80, and have been certified by the secretary of
23 state under Minnesota Statutes, section 206.57. This
24 appropriation is available until June 30, 2009.

25 (b) The secretary of state shall make a grant to each
26 county in the amount of \$6,100 times the number of precincts in
27 the county as certified by the county, which must not be more
28 than the number of precincts used by the county in the state
29 general election of 2004, plus \$6,100 to purchase an electronic
30 voting system to be used by the county auditor for absentee and
31 mail balloting, until the appropriation is exhausted. The grant
32 may be used either to purchase ballot marking equipment for
33 persons with disabilities and other voters or to purchase
34 assistive voting machines that combine voting methods used for
35 persons with disabilities with precinct-based optical scan
36 voting machines.

1 Subd. 2. [OPTICAL SCAN EQUIPMENT.] \$6,000,000 is
2 appropriated from the Help America Vote Act account to the
3 secretary of state for grants to counties to purchase optical
4 scan voting equipment. Counties are eligible for grants to the
5 extent that they decide to purchase ballot marking machines and
6 as a result do not have sufficient Help America Vote Act grant
7 money remaining to also purchase a compatible precinct-based
8 optical scan machine or central count machine. These grants
9 must be allocated to counties at a rate of \$3,000 per eligible
10 precinct until the appropriation is exhausted, with priority in
11 the payment of grants to be given to counties currently using
12 hand- and central-count voting systems and counties using
13 precinct-count optical scan voting systems incompatible with
14 assistive voting systems or ballot marking machines. This
15 appropriation is available until June 30, 2009.

16 Subd. 3. [ASSISTIVE VOTING TECHNOLOGY OPERATING COSTS.]
17 \$7,500,000 is appropriated from the Help America Vote Act
18 account to the secretary of state for grants to counties to
19 defray the operating costs of assistive voting equipment.
20 "Operating costs" include actual county and municipal costs for
21 hardware maintenance, election day technical support, software
22 licensing, system programming, voting system testing, training
23 of county or municipal staff in the use of the assistive voting
24 system, transportation of the assistive voting systems to and
25 from the polling places, and storage of the assistive voting
26 systems between elections. Each county may submit a request for
27 no more than \$600 per polling place per year until the
28 appropriation is exhausted. This appropriation is available
29 until June 30, 2009.

30 Subd. 4. [GRANT APPLICATION.] To receive a grant under
31 this section, a county must apply to the secretary of state on
32 forms prescribed by the secretary of state that set forth how
33 the grant money will be spent, which must be in accordance with
34 the plan adopted under section 29. A county may submit more
35 than one grant application, so long as the appropriation remains
36 available and the total amount granted to the county does not

1 exceed the county's allocation.

2 Subd. 5. [REPORT.] Each county receiving a grant under
3 this section must report to the secretary of state by January
4 15, 2006, the amount spent for the purchase of each kind of
5 electronic voting system and for operating costs of the systems
6 purchased. The secretary of state shall compile this
7 information and report it to the legislature by February 15,
8 2006.

9 Subd. 6. [ADMINISTRATIVE COSTS.] (a) \$54,000 is
10 appropriated from the Help America Vote Act account to the
11 commissioner of administration to establish the state voting
12 systems contract required by new Minnesota Statutes, section
13 206.805. \$36,000 is available until June 30, 2006, and \$18,000
14 is available for the fiscal year ending June 30, 2007.

15 (b) \$50,000 is appropriated from the Help America Vote Act
16 account to the secretary of state to establish the state voting
17 systems contract required by new Minnesota Statutes, section
18 206.805, and to administer the grants to counties under this
19 section, to be available until June 30, 2007.

20 Sec. 29. [LOCAL EQUIPMENT PLANS.]

21 (a) The county auditor shall convene a working group of all
22 city and town election officials in each county to create a
23 local equipment plan. The working group must continue to meet
24 until the plan is completed, which must be no later than
25 September 15, 2005, or 45 days after state certification of
26 assistive voting systems, whichever is later. The plan must:

27 (1) contain procedures to implement voting systems as
28 defined in Minnesota Statutes, section 206.80, in each polling
29 location;

30 (2) define who is responsible for any capital or operating
31 costs related to election equipment not covered by federal money
32 from the Help America Vote Act account; and

33 (3) outline how the federal money from the Help America
34 Vote Act account will be spent.

35 (b) A county plan must provide funding to purchase either
36 precinct-based optical scan voting equipment or assistive voting

1 machines that combine voting methods used for persons with
2 disabilities with precinct-based optical scan voting machines
3 for any precinct whose city or town requests it, if the
4 requesting city or town agrees with the county on who will be
5 responsible for operating and replacement costs related to the
6 use of the precinct-based equipment.

7 (c) The plan must be submitted to the secretary of state
8 for review and comment.

9 (d) The county board of commissioners must adopt the local
10 equipment plan after a public hearing. Money from the Help
11 America Vote Act account may not be expended until the plan is
12 adopted. The county auditor shall file the adopted local
13 equipment plan with the secretary of state.

14 Sec. 30. [MAIL BALLOTING.]

15 Nothing in this act is intended to preclude the use of mail
16 balloting in those precincts where it is allowed under state law.

17 Sec. 31. [EFFECTIVE DATE.]

18 This act is effective the day following final enactment."

19 Delete the title and insert:

20 "A bill for an act relating to elections; setting standards
21 for and providing for the acquisition of electronic voting
22 systems; appropriating money from the Help America Vote Act
23 account; amending Minnesota Statutes 2004, sections 201.022, by
24 adding a subdivision; 206.56, subdivisions 2, 3, 7, 8, 9, by
25 adding subdivisions; 206.57, subdivisions 1, 5; 206.61,
26 subdivisions 4, 5; 206.80; 206.81; 206.82, subdivision 1;
27 206.83; 206.84, subdivisions 1, 3, 6; 206.90, subdivisions 1, 5,
28 6, 8, 9; proposing coding for new law in Minnesota Statutes,
29 chapter 206."

1 Senator moves to amend the SCS0290A-8 amendment to
2 S.F. No. 290 as follows:

3 Page 14, line 31, delete "this section" and insert
4 "subdivisions 1 to 3"

5 Page 15, line 3, delete "this section" and insert
6 "subdivisions 1 to 3"

7 Page 15, after line 8, insert:

8 "Subd. 6. [ACCESS TO POLLING PLACES.] \$290,000 is
9 appropriated from the Help America Vote Act account to the
10 secretary of state to make grants to counties and municipalities
11 to improve access to polling places for individuals with
12 disabilities, to be available until June 30, 2007."

13 Page 15, line 9, delete "6" and insert "7"

14 Page 15, line 18, after "counties" insert "and
15 municipalities"

Expenditures by Category	30-Aug-03	20-Jul-04	31-Aug-04	29-Sep-04	3-Feb-05
Modify SVRS	177,976.48	3,694,233.00	5,062,660.22	4,791,986.63	5,296,245.90
LEP assistance and training	1,144	6,934.81	8,990.12	16,560.78	22,303.42
Polling place accessibility	453.04	4,018.29	4,306.01	154,963.47	197,796.15
Train local elected officials	600	19,220.12	61,338.31	84,400.68	95,187.92
Training materials for elected officials	0	24,473.42	49,475.80	77,774.02	88,286.53
Develop and administer complaint process	0	0	6,374.00	9,273.97	12,785.96
Develop state plan (due September 2003)	255,674.28	28,634.07	186,201.05	403,534.01	498,055.20
Total:	435,847.80	3,777,513.71	5,379,345.51	5,538,493.56	6,210,661.08

July 20, 2004

The Honorable Jane Ranum
Senator, District 63
120 State Capitol
75 Rev. Dr. Martin Luther King, Jr. Blvd
Saint Paul MN 55155

BY HAND

Dear Senator Ranum,

Thank you for your letter of June 3, 2004, requesting an update as to Federal funds spending under the Help America Vote Act of 2002 (HAVA). In order to provide you with the best information, we have waited to respond until we had the June 2004 expenditures, thus providing a full first-half update for 2004. Those figures are now available and are reflected in this letter.

The Office of the Secretary of State continues to move forward with efforts to comply with HAVA. In addition to the areas of effort established in the 2003 legislation, the 2004 Legislature also enacted chapter 293 which made great strides in providing for a unified approach towards both Federal and state elections. However, that chapter was signed by the Governor just seven weeks ago, and thus the focus of this update is on the seven specific areas of compliance established in Laws 2003, First Special Session, Chapter 8.

HAVA Revenues as of June 30, 2004

Federal Funds received - 1 st payment	\$5,000,000.00
Federal Funds received - 2 nd payment	\$ 13,786.00
<u>SUB-TOTAL</u>	\$5,013,786.00
Anticipated HHS Disabilities Grant	\$ 202,382.00
Additional Federal Funds expected as part of \$6.5 million	\$ 983,832.00
<u>TOTAL:</u>	\$6,500,000.00

Budget

OSS has, as of June 30, 2004, allocated the following amounts to those seven areas:

(1) Modifying the Statewide Voter Registration System:	\$ 4,000,000.00
(2) Providing assistance to persons with limited proficiency in the English language and prepare training materials.	\$ 100,000.00
(3) Improving Polling Place Accessibility	\$ 300,000.00
(4a) Training Local Election Officials	\$ 700,000.00
(4b) Training Materials for Election Officials	\$ 700,000.00
Developing and administering a procedure to process complaints	\$ 100,000.00
State Plan	\$ 500,000.00
Total:	\$6,500,000.00

Expenditures:

OSS has, as of June 30, 2004, expended the following amounts from each of the above categories:

(1) Modifying the Statewide Voter Registration System:	\$3,594,233.92
(2) Providing Assistance to persons with limited proficiency in the English language. Includes preparing training materials.	\$ 6,934.81
(3) Improving Polling Place Accessibility	\$ 4,018.29
(4a) Training Local Election Officials	\$ 19,220.12
(4b) Training Materials for Election Officials	\$ 24,473.42
(5) Developing and administering a procedure to process complaints	\$ 0
<u>(6) Develop State Plan</u>	<u>\$ 28,634.07</u>

Total: \$ 0,777,514.63

Progress Report:

As you can see, the statewide voter registration system (SVRS) continued to be the area where OSS efforts were concentrated during the period since our last update to you in January, 2004. The SVRS has been tested, is in operation and has been operational for approximately four weeks as of this date. It is ready for use in the State primary and general elections. We have used it in the District 37 special primary and election, with excellent results. OSS is still working on certain functions such as the verification of driver's licenses and similar identification numbers with the Department of Public Safety, and those functions will be implemented in time for the primary and general elections.

The expenditures categories listed in the prior update of September 23, 2003 continue to be the categories in which expenditures have been made.

OSS has also allocated \$190,947.00 to municipalities (cities and towns) for polling place accessibility improvements.

Once the SVRS development and implementation has been completed, we will turn our implementation efforts towards training and public information as indicated by the budget allocations above.

I hope that this information is useful to you and OSS will be available to provide any further information you may request.

Sincerely,

Mary Kiffmeyer
Secretary of State



Marv Kiffmeyer

MINNESOTA SECRETARY OF STATE

FAX

TO: BETH FRASER DATE: 9/17/04

NUMBER OF PAGES, INCLUDING COVER SHEET: 4

FROM: Nancy at ACORN

FAX NUMBER: 651-642-0060

CC:

FROM: Bert Black

FAX NUMBER: (651) 215-0682

PHONE NUMBER: (651) 282-2436

REMARKS: URGENT FOR YOUR REVIEW PLEASE REPLY ASAP

September 29, 2004

The Honorable John C. Hottinger
Senator, District 23
317 State Capitol
75 Rev. Dr. Martin Luther King, Jr. Blvd
Saint Paul MN 55155

BY HAND

Dear Senator Hottinger,

Thank you for your request of August 24, 2004 for an update as to Federal funds spending under the Help America Vote Act of 2002 (HAVA). The most newly updated figures (expenditures as of September 15, 2004) are now available and are reflected in this letter.

Minnesota now has a system in place to fully comply with the voter registration provisions of HAVA as well as the provisions of Laws 2004, chapter 293, providing for a unified approach towards both Federal and state elections. The focus of this update is on the seven specific areas of compliance established in Laws 2003, First Special Session, Chapter 8.

HAVA Revenues as of September 15, 2004

Federal Funds received – 1 st payment- 2003	\$5,000,000.00
Federal Funds received – 2 nd payment - 2003	\$ 313,786.00
<u>SUB-TOTAL</u>	\$5,313,786.00
Anticipated HHS Disabilities Grant	\$ 202,382.00
Additional 2004 Fed. Funds received – as part of 2003 \$6.5 million app.	\$ 983,832.00
<u>TOTAL:</u>	\$6,500,000.00

(4b) Training Materials for Election Officials	\$ 77,774.02
(5) Developing and administering a procedure to process complaints	\$ 9,273.97
<u>(6) Develop State Plan</u>	<u>\$ 403,534.01</u>
<hr/>	
Total:	\$5,538,493.56

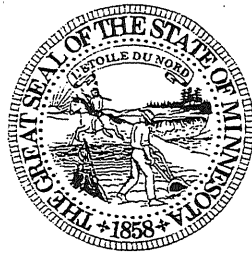
Progress Report:

As you can see, while development of the statewide voter registration system (SVRS) is almost complete, continued implementation and operation of the SVRS system in an election cycle continue. The SVRS is the category where OSS efforts were concentrated, with over 90% of expenditures coming in this category. The SVRS has been tested, is in operation, and was used successfully in the state primary election as well as the District 37 special primary and election. OSS also certified to and successfully implemented the required functions of verification of driver's licenses and similar identification numbers with the Department of Public Safety, in time for the primary and general elections.

I hope that this information is useful to you and OSS will be available to provide any further information you may request.

Sincerely,

Alberto Quintela, Jr.
Chief Deputy Secretary of State



MINNESOTA SECRETARY OF STATE OFFICE

Mary Kiffmeyer, Secretary of State

August 31, 2004

Beth Fraser
Public Policy Director
Minnesota Alliance for Progressive Action
1821 University Avenue, Suite S-307
St. Paul, MN 55104
Re: Help American Vote Act (HAVA)

Dear Beth:

In response to your request for HAVA funds and expenditures we are pleased to provide you with the following information.

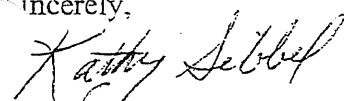
The 2004 Legislature appropriated \$6.5 million for HAVA.
The state received a disability grant of \$202,382 from the Department of Health and Human Services.
The total HAVA funds available are \$6,702,382.

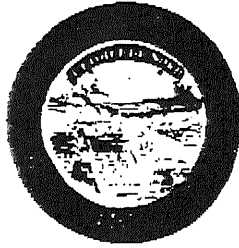
The following fund amounts were encumbered based on the categories set by the 2004 legislature:

Category	\$ Encumbered
Modify Statewide VR System	\$5,062,660.22
Assistance to persons with limited English	\$8,990.12
Polling Place Accessibility	\$4,306.01
Train Local Election Officials	\$61,338.31
Prepare training materials for Election Officials	\$49,475.80
Develop & Admin Complaints Procedure	\$6,374.00
Develop State Plan	\$186,201.05
2003 HHS Disabilities Grant	\$105,313.68
Grand Total	\$5,484,659.19

Total Funds Available \$6,702,382
Total Encumbered \$5,484,659
Funds remaining \$1,217,723

Sincerely,


Kathy Sibbel
HAVA Project Manager



MINNESOTA SECRETARY OF STATE OFFICE

Mary Kiffmeyer, Secretary of State

September 23, 2003

The Honorable Jane Ranum
 Senator, District 63
 120 State Capitol
 75 Rev. Dr. Martin Luther King, Jr. Blvd
 Saint Paul MN 55155

BY HAND

Dear Senator Ranum,

Thank you for your letter of September 11, 2003.

Pursuant to Chapter 7, First Special Session, Laws 2003 the following allocations have been made for federal funds deposited in the Minnesota HAVA Account:

Allocations:

1.	Modify the Statewide Voter Registration System:	\$4,000,000.00
2.	Provide Assistance to persons with limited proficiency in the English language and prepare training materials:	\$100,000.00
3.	Improve Polling Place Accessibility:	\$ 300,000.00
4.	Train Local Election Officials and prepare training materials:	\$1,400,000.00
5.	Develop and administer a procedure to process complaints:	\$ 100,000.00
6.	Develop State Plan:	\$ 600,000.00
Total:		\$6,500,000.00

Expenditures:

As of August 30, 2003, the following amounts have been expended from each of the above categories:

1.	Modify the Statewide Voter Registration System:	\$177,976.48
2.	Provide Assistance to persons with limited proficiency in the English language and prepare training materials:	\$1,144.00
3.	Improve Polling Place Accessibility:	\$453.04
4.	Train Local Election Officials and prepare training materials:	\$600.00
5.	Develop and administer a procedure to process complaints:	\$ 0.00
6.	Develop State Plan:	\$ 255,674.28
Total:		\$ 435,848.70

Progress Report:

Major efforts thus far have been concentrated on developing and implementing a HAVA compliant statewide voter registration system and its integration into current election systems. HAVA system development and implementation efforts have been directed to:

1. Analyze the existing voter registration system.
2. Analyze the requirements of a HAVA-compliant system.
3. Complete a gap analysis for such a system.
4. Identify the other business requirements of a HAVA-compliant system
5. Identify infrastructure needs.
6. Purchase of infrastructure items.
7. Identification of platforms and development of architecture.

Action on development of the State Plan has been to:

1. Develop a HAVA milestone calendar.
2. Implement a HAVA System Technical Work Group composed of city, township and county representatives to provide input on development of the HAVA compliant system.
3. Distribute Frequently Asked Questions.
4. Develop initial Grievance Complaint form.
5. Update Voter Registration Card to conform to HAVA requirements.

6. Draft HAVA legislation.
7. Monitor and provided input into Federal HAVA funding legislation.
8. Prepare procedures and logistics for Alternative Voter Technology Simulation.

Single Track Election

Finally, as the 2004 Legislative Session nears, I would like to draw your attention to the need for passage of S.F. 986 (Wiger)/H.F. 1006 (Boudreau), the historic legislation implementing the Help America Vote Act (HAVA), P.L. 107-252.

This "Single Track" election administration legislation will prevent the inordinate complexity and associated confusion for voters and election officials in cities, counties, and townships across Minnesota, who would otherwise be required to participate in a chaotic "dual process" where federal and local elections would be conducted differently in the same polling place during the general elections of 2004.

If the Wiger/Boudreau legislation is not enacted, election officials would be faced with the daunting task of explaining the differences in federal and local requirements to voters as demonstrated in the attached exhibit entitled: *"Dual Process: Administering Federal - State elections compliant with HAVA, but without Minnesota conformity legislation July 23, 2003"*.

I urge your support of the enactment of this vitally important legislation and encourage you to work as a member of the Senate Rules and Administration Committee to assure that passage occurs in the upcoming legislative session.

I hope this information is useful to you. OSS is available to provide any further information you request.

Sincerely,

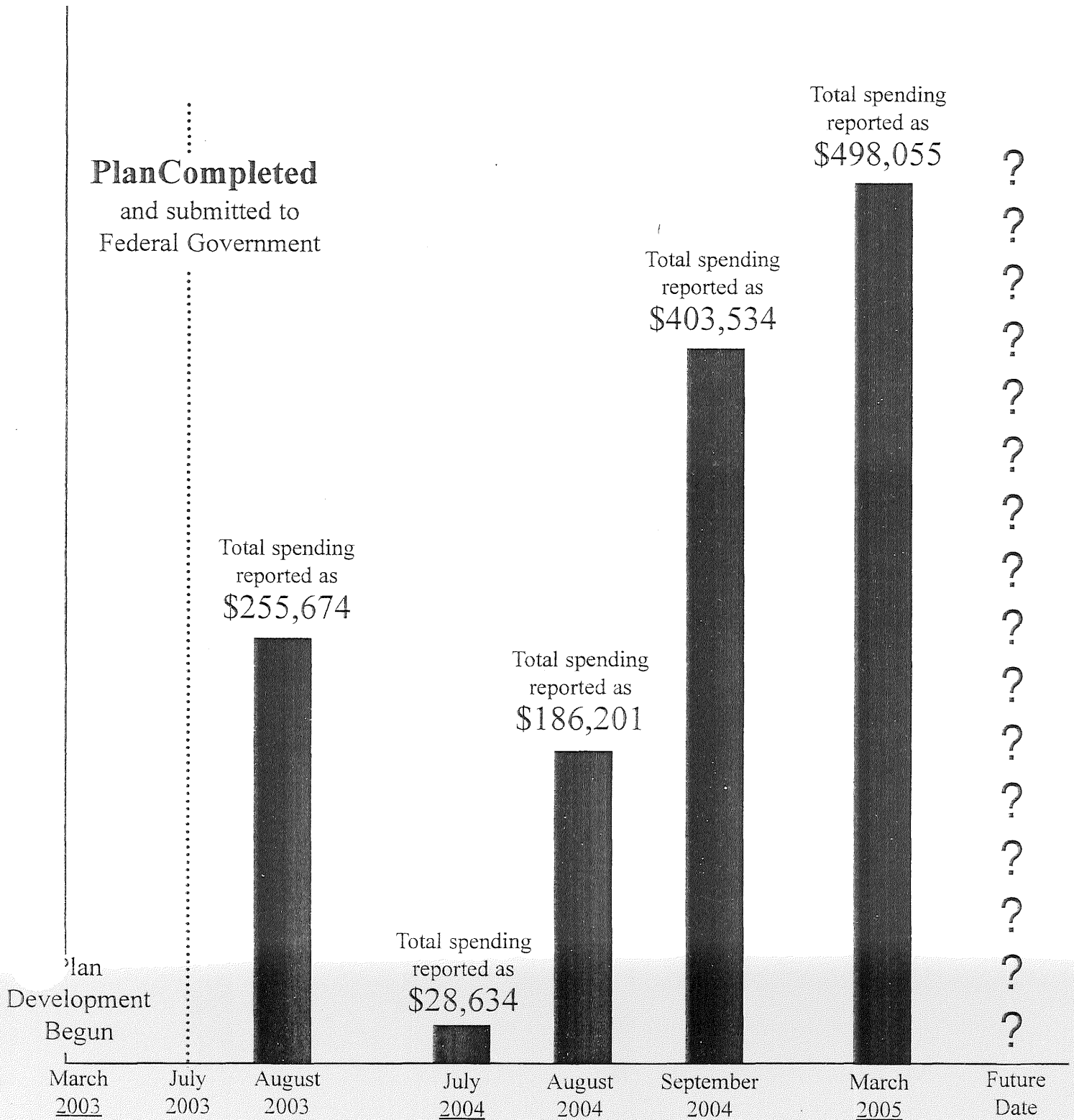


Mary Kiffmeyer
Secretary of State

Enc: Dual Process Flow Chart

Development of the state HAVA Plan is done.

Why does the cost keep changing?



**Budgets for the Spending of the HAVA Funds
as outlined in letters from the OSS:**

	<u>Sept. 2003</u>	<u>July 2004</u>	<u>Aug. 2004</u>	<u>Sept. 2004</u>	<u>March 2005</u>
Modify SVRS	\$4,000,000	\$4,000,000	NA	\$5,300,000	NA
Assistance to Persons Limited English	\$100,000	\$100,000	NA	\$40,000	NA
Polling Place Accessibility	\$300,000	\$300,000	NA	\$300,000	NA
Train Local Election Officials	\$700,000	\$700,000	NA	\$120,000	NA
Prepare Training Materials for Election Officials	\$700,000	\$700,000	NA	\$120,000	NA
Develop & Admin Complaints Procedure	\$100,000	\$100,000	NA	\$20,000	NA
Develop State Plan	\$600,000	\$600,000	NA	\$600,000	NA
	\$6,500,000	\$6,500,000	NA	\$6,500,000	NA

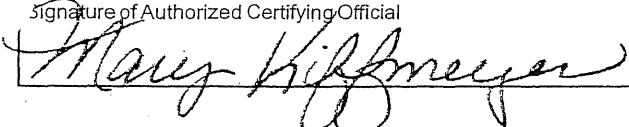
**Spending of the HAVA Funds
as outlined in letters from the OSS:**

	<u>Sept. 2003</u>	<u>July 2004</u>	<u>Aug. 2004</u>	<u>Sept. 2004</u>	<u>March 2005</u>
Modify SVRS	\$177,976	\$3,694,233	\$5,062,660	\$4,791,985	\$5,296,245
Assistance to Persons Limited English	\$1,144	\$6,934	\$8,990	\$16,560	\$22,303
Polling Place Accessibility	\$453	\$401	\$4,306	\$154,963	\$197,796
Train Local Election Officials	0	\$19,220	\$61,338	\$84,400	\$95,187
Prepare Training Materials for Election Officials	\$600	\$24,473	\$49,475	\$77,774	\$88,286
Develop & Admin Complaints Procedure	0	0	\$6,374	\$9,273	\$12,785
Develop State Plan	\$255,674	\$28,634	\$186,201	\$403,534	\$498,055
	\$435,848	\$3,777,514	\$5,484,659	\$5,538,493	\$6,210,661

FINANCIAL STATUS REPORT

(Short Form)


(Follow instructions on the back)

1. Federal Agency and Organizational Element to Which Report is Submitted General Services Administration		2. Federal Grant or Other Identifying Number Assigned By Federal Agency HAVA Title I Payments		OMB Approval No. 0348-0039	Page 1	of 1 pages
3. Recipient Organization (Name and complete address, including ZIP code) Office of the Minnesota Secretary of State 100 Rev. Dr. Martin Luther King Jr. Blvd, 174 State Office Building St. Paul, MN 55155						
4. Employer Identification Number E-41600716-N2		5. Recipient Account Number or Identifying Number		6. Final Report <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		7. Basis <input type="checkbox"/> Cash <input checked="" type="checkbox"/> Accrual
8. Funding/Grant Period (See Instructions) From: (Month, Day, Year) 10/29/2002		To: (Month, Day, Year) 12/31/2003		9. Period Covered by this Report From: (Month, Day, Year) 10/29/2002		To: (Month, Day, Year) 12/31/2003
10. Transactions			I Previously Reported	II This Period	III Cumulative	
a. Total outlays			0	952,801	952,801	
b. Recipient share of outlays			0	0	0	
c. Federal share of outlays			0	952,801	952,801	
d. Total unliquidated obligations					1,380,865	
e. Recipient share of unliquidated obligations					0	
f. Federal share of unliquidated obligations					1,380,865	
g. Total Federal share (Sum of lines c and f)					2,333,666	
h. Total Federal funds authorized for this funding period					5,313,786	
i. Unobligated balance of Federal funds (Line h minus line g)					2,980,120	
11. Indirect Expense	a. Type of Rate (Place "X" in appropriate box) <input checked="" type="checkbox"/> Provisional <input type="checkbox"/> Predetermined <input type="checkbox"/> Final <input type="checkbox"/> Fixed					
	b. Rate 19 Percent	c. Base 444,241	d. Total Amount 86,372	e. Federal Share 86,372		
12. Remarks: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation. The Indirect Expense is the cost of the office lease.						
13. Certification: I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.						
Typed or Printed Name and Title Mary Kiffmeyer, Minnesota Secretary of State				Telephone (Area code, number and extension) (651) 296-2079		
Signature of Authorized Certifying Official 				Date Report Submitted January 20, 2004		

FINANCIAL STATUS REPORT

(Long Form)

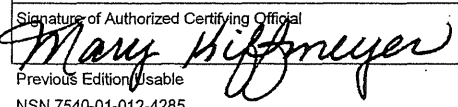
(Follow instructions on the back)

1. Federal Agency and Organizational Element to Which Report is Submitted U.S. Election Assistance Commission		2. Federal Grant or Other Identifying Number Assigned By Federal Agency HAVA Title II Payments		OMB Approval No. 0348-0039	Page of 1 | 1 pages	
3. Recipient Organization (Name and complete address, including ZIP code) Office of the Minnesota Secretary of State 100 Rev. Dr. Martin Luther King Jr. Blvd, 180 State Office Building, St. Paul, MN 55155						
4. Employer Identification Number E-41600716-N2		5. Recipient Account Number or Identifying Number		6. Final Report <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
7. Basis <input type="checkbox"/> Cash <input checked="" type="checkbox"/> Accrual						
8. Funding/Grant Period (See instructions) From: (Month, Day, Year) 10/1/2003		To: (Month, Day, Year) 9/30/2004		9. Period Covered by this Report From: (Month, Day, Year) To: (Month, Day, Year)		
10. Transactions:						
				I Previously Reported	I This Period	III Cumulative
a. Total outlays						0.00
b. Refunds, rebates, etc.						0.00
c. Program income used in accordance with the deduction alternative						0.00
d. Net outlays (Line a, less the sum of lines b and c)				0.00	0.00	0.00
Recipient's share of net outlays, consisting of:						
e. Third party (in-kind) contributions						0.00
f. Other Federal awards authorized to be used to match this award						0.00
g. Program income used in accordance with the matching or cost sharing alternative						0.00
h. All other recipient outlays not shown on lines e, f or g						0.00
i. Total recipient share of net outlays (Sum of lines e, f, g and h)				0.00	0.00	0.00
j. Federal share of net outlays (line d less line i)				0.00	0.00	0.00
k. Total unliquidated obligations						39,196,017.00
l. Recipient's share of unliquidated obligations						0.00
m. Federal share of unliquidated obligations						39,196,017.00
n. Total Federal share (sum of lines j and m)						39,196,017.00
o. Total Federal funds authorized for this funding period						39,196,017.00
p. Unobligated balance of Federal funds (Line o minus line n)						0.00
Program income, consisting of:						
q. Disbursed program income shown on lines c and/or g above						
r. Disbursed program income using the addition alternative						
s. Undisbursed program income						
t. Total program income realized (Sum of lines q, r and s)						0.00
11. Indirect Expense		a. Type of Rate (Place "X" in appropriate box) <input type="checkbox"/> Provisional <input type="checkbox"/> Predetermined <input type="checkbox"/> Final <input type="checkbox"/> Fixed				
		b. Rate	c. Base	d. Total Amount	e. Federal Share	
12. Remarks: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation.						
13. Certification: I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.						
Typed or Printed Name and Title Mary Kiffmeyer, Minnesota Secretary of State				Telephone (Area code, number and extension) (651) 296-2079		
Signature of Authorized Certifying Official 				Date Report Submitted March 24, 2005		

FINANCIAL STATUS REPORT

(Long Form)

(Follow instructions on the back)

1. Federal Agency and Organizational Element to Which Report is Submitted General Services Administration		2. Federal Grant or Other Identifying Number Assigned By Federal Agency HAVA Title 1 Payments		OMB Approval No. 0348-0039	Page of 1 | 1 pages
3. Recipient Organization (Name and complete address, including ZIP code) Office of the Minnesota Secretary of State 100 Rev. Dr. Martin Luther King Jr. Blvd., 174 State Office Building, St. Paul, MN 55155					
4. Employer Identification Number E-41600716-N2		5. Recipient Account Number or Identifying Number		6. Final Report <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
7. Basis <input type="checkbox"/> Cash <input checked="" type="checkbox"/> Accrual					
8. Funding/Grant Period (See instructions) From: (Month, Day, Year) 10/29/2002		To: (Month, Day, Year) 12/31/2004		9. Period Covered by this Report From: (Month, Day, Year) 10/29/2002	
To: (Month, Day, Year) 12/31/2004					
10. Transactions:					
		I Previously Reported	I This Period	III Cumulative	
a. Total outlays		952,801.00	4,084,642.04	5,037,443.04	
b. Refunds, rebates, etc.		0.00	0.00	0.00	
c. Program income used in accordance with the deduction alternative		0.00	0.00	0.00	
d. Net outlays (Line a, less the sum of lines b and c)		952,801.00	4,084,642.04	5,037,443.04	
Recipient's share of net outlays, consisting of:					
e. Third party (in-kind) contributions		0.00	0.00	0.00	
f. Other Federal awards authorized to be used to match this award		0.00	0.00	0.00	
g. Program income used in accordance with the matching or cost sharing alternative		0.00	0.00	0.00	
h. All other recipient outlays not shown on lines e, f or g		0.00	0.00	0.00	
i. Total recipient share of net outlays (Sum of lines e, f, g and h)		0.00	0.00	0.00	
j. Federal share of net outlays (line d less line i)		952,801.00	4,084,642.04	5,037,443.04	
k. Total unliquidated obligations				276,342.96	
l. Recipient's share of unliquidated obligations				0.00	
m. Federal share of unliquidated obligations				276,342.96	
n. Total Federal share (sum of lines j and m)				5,313,786.00	
o. Total Federal funds authorized for this funding period				5,313,786.00	
p. Unobligated balance of Federal funds (Line o minus line n)				0.00	
Program income, consisting of:					
q. Disbursed program income shown on lines c and/or g above				0.00	
r. Disbursed program income using the addition alternative				0.00	
s. Undisbursed program income				0.00	
t. Total program income realized (Sum of lines q, r and s)				0.00	
11. Indirect Expense					
a. Type of Rate (Place "X" in appropriate box)					
<input checked="" type="checkbox"/> Provisional <input type="checkbox"/> Predetermined <input type="checkbox"/> Final <input type="checkbox"/> Fixed					
b. Rate 19 Percent		c. Base 454,618		d. Total Amount 86,372.00	
				e. Federal Share 86,372.00	
12. Remarks: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation. This indirect expense is the cost of the office lease.					
13. Certification: I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.					
Typed or Printed Name and Title Mary Kiffmeyer, Minnesota Secretary of State				Telephone (Area code, number and extension) (651) 296-2079	
Signature of Authorized Certifying Official 				Date Report Submitted February 23, 2005	

1 Senator Cohen from the Committee on Finance, to which was
2 referred

3 S.F. No. 2289: A bill for an act relating to state
4 government; eliminating certain unclassified positions; reducing
5 appropriations; amending Minnesota Statutes 2004, sections
6 15.06, subdivision 8; 16B.03; 43A.03, subdivision 3; 43A.08,
7 subdivision 1; 45.013; 84.01, subdivision 3; 116.03, subdivision
8 1; 116J.01, subdivision 5; 116J.035, subdivision 4; 174.02,
9 subdivision 2; 241.01, subdivision 2; repealing Minnesota
10 Statutes 2004, sections 43A.03, subdivision 4; 43A.08,
11 subdivisions 1a, 1b.

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

14

15



16

.....
(Committee Chair)

17

18

19

May 9, 2005.....
(Date of Committee recommendation)

20

Senator Cohen introduced--

S.F. No. 2289: Referred to the Committee on Finance.

1 A bill for an act

2 relating to state government; eliminating certain
3 unclassified positions; reducing appropriations;
4 amending Minnesota Statutes 2004, sections 15.06,
5 subdivision 8; 16B.03; 43A.03, subdivision 3; 43A.08,
6 subdivision 1; 45.013; 84.01, subdivision 3; 116.03,
7 subdivision 1; 116J.01, subdivision 5; 116J.035,
8 subdivision 4; 174.02, subdivision 2; 241.01,
9 subdivision 2; repealing Minnesota Statutes 2004,
10 sections 43A.03, subdivision 4; 43A.08, subdivisions
11 1a, 1b.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

13 Section 1. Minnesota Statutes 2004, section 15.06,
14 subdivision 8, is amended to read:

15 Subd. 8. [NUMBER OF DEPUTY COMMISSIONERS.] ~~Unless~~
16 ~~specifically-authorized-by-statute, other than section 43A.08,~~
17 ~~subdivision 2,~~ No department or agency specified in subdivision
18 1 shall have more than one deputy commissioner.

19 Sec. 2. Minnesota Statutes 2004, section 16B.03, is
20 amended to read:

21 16B.03 [APPOINTMENTS.]

22 The commissioner is authorized to appoint staff, including
23 ~~two~~ one deputy commissioners commissioner, in accordance with
24 chapter 43A.

25 Sec. 3. Minnesota Statutes 2004, section 43A.03,
26 subdivision 3, is amended to read:

27 Subd. 3. [ORGANIZATION.] The commissioner may appoint a
28 deputy commissioner in the unclassified service. The department

1 shall be organized into two bureaus which shall be designated
2 the Personnel Bureau and the Labor Relations Bureau. Each
3 bureau shall be responsible for administering the duties and
4 functions assigned to it by law. When the duties of the bureaus
5 are not mandated by law, the commissioner may establish and
6 revise the assignments of either bureau. ~~Each-bureau-shall-be~~
7 ~~under-the-direction-of-a-deputy-commissioner.~~

8 Sec. 4. Minnesota Statutes 2004, section 43A.08,
9 subdivision 1, is amended to read:

10 Subdivision 1. [UNCLASSIFIED POSITIONS.] Unclassified
11 positions are held by employees who are:

12 (1) chosen by election or appointed to fill an elective
13 office;

14 (2) heads of agencies required by law to be appointed by
15 the governor or other elective officers, and the executive or
16 administrative heads of departments, bureaus, divisions, and
17 institutions specifically established by law in the unclassified
18 service;

19 (3) deputy ~~and-assistant~~ agency heads and one confidential
20 secretary in the agencies listed in ~~subdivision-1a-and-in-the~~
21 ~~Office-of-Strategic-and-Long-Range-Planning~~ section 15.06,
22 subdivision 1;

23 (4) the confidential secretary to each of the elective
24 officers of this state and, for the secretary of state and state
25 auditor, an additional deputy, clerk, or employee;

26 (5) intermittent help employed by the commissioner of
27 public safety to assist in the issuance of vehicle licenses;

28 (6) employees in the offices of the governor and of the
29 lieutenant governor and one confidential employee for the
30 governor in the Office of the Adjutant General;

31 (7) employees of the Washington, D.C., office of the state
32 of Minnesota;

33 (8) employees of the legislature and of legislative
34 committees or commissions; provided that employees of the
35 Legislative Audit Commission, except for the legislative
36 auditor, the deputy legislative auditors, and their confidential

1 secretaries, shall be employees in the classified service;

2 (9) presidents, vice-presidents, deans, other managers and
3 professionals in academic and academic support programs,
4 administrative or service faculty, teachers, research
5 assistants, and student employees eligible under terms of the
6 federal Economic Opportunity Act work study program in the
7 Perpich Center for Arts Education and the Minnesota State
8 Colleges and Universities, but not the custodial, clerical, or
9 maintenance employees, or any professional or managerial
10 employee performing duties in connection with the business
11 administration of these institutions;

12 (10) officers and enlisted persons in the National Guard;

13 (11) attorneys, legal assistants, and three confidential
14 employees appointed by the attorney general or employed with the
15 attorney general's authorization;

16 (12) judges and all employees of the judicial branch,
17 referees, receivers, jurors, and notaries public, except
18 referees and adjusters employed by the Department of Labor and
19 Industry;

20 (13) members of the State Patrol; provided that selection
21 and appointment of State Patrol troopers must be made in
22 accordance with applicable laws governing the classified
23 service;

24 (14) chaplains employed by the state;

25 (15) examination monitors and intermittent training
26 instructors employed by the Departments of Employee Relations
27 and Commerce and by professional examining boards and
28 intermittent staff employed by the technical colleges for the
29 administration of practical skills tests and for the staging of
30 instructional demonstrations;

31 (16) student workers;

32 (17) executive directors or executive secretaries appointed
33 by and reporting to any policy-making board or commission
established by statute;

35 (18) employees unclassified pursuant to other statutory
36 authority;

1 (19) intermittent help employed by the commissioner of
 2 agriculture to perform duties relating to pesticides,
 3 fertilizer, and seed regulation;

4 (20) the administrators and the deputy administrators at
 5 the State Academies for the Deaf and the Blind; and

6 (21) chief executive officers in the Department of Human
 7 Services.

8 Sec. 5. Minnesota Statutes 2004, section 45.013, is
 9 amended to read:

10 45.013 [POWER TO APPOINT STAFF.]

11 The commissioner of commerce may appoint four one deputy
 12 ~~commissioners, four assistant commissioners, and an assistant to~~
 13 ~~the commissioner. -- Those positions, as well as that of~~ and a
 14 ~~confidential secretary, are~~ in the unclassified service. The
 15 commissioner may appoint other employees necessary to carry out
 16 the duties and responsibilities entrusted to the commissioner.

17 Sec. 6. Minnesota Statutes 2004, section 84.01,
 18 subdivision 3, is amended to read:

19 Subd. 3. [EMPLOYEES; DELEGATION.] ~~Subject to the~~
 20 ~~provisions of Laws 1969, chapter 1129, and to other applicable~~
 21 ~~laws~~ The commissioner shall organize the department and employ
 22 ~~up to three assistant commissioners, each of whom shall serve at~~
 23 ~~the pleasure of the commissioner in the unclassified service,~~
 24 ~~one of whom shall have responsibility for coordinating and~~
 25 ~~directing the planning of every division within the agency, and~~
 26 ~~such other~~ officers, employees, and agents as the commissioner
 27 may deem necessary to discharge the functions of the department,
 28 define the duties of such officers, employees, and agents and to
 29 delegate to them any of the commissioner's powers, duties, and
 30 responsibilities subject to the control of, and under the
 31 conditions prescribed by, the commissioner. Appointments to
 32 exercise delegated power shall be by written order filed with
 33 the secretary of state.

34 Sec. 7. Minnesota Statutes 2004, section 116.03,
 35 subdivision 1, is amended to read:

36 Subdivision 1. [OFFICE.] (a) The office of commissioner of

1 the Pollution Control Agency is created and is under the
2 supervision and control of the commissioner, who is appointed by
3 the governor under the provisions of section 15.06.

4 (b) The commissioner may appoint a deputy commissioner and
5 ~~assistant-commissioners~~ who shall be in the unclassified service.

6 (c) The commissioner shall make all decisions on behalf of
7 the agency that are not required to be made by the agency under
8 section 116.02.

9 Sec. 8. Minnesota Statutes 2004, section 116J.01,
10 subdivision 5, is amended to read:

11 Subd. 5. [DEPARTMENTAL ORGANIZATION.] (a) The commissioner
12 shall organize the department as provided in section 15.06.

13 (b) The commissioner may establish divisions and offices
14 within the department. ~~The-commissioner-may-employ-four-deputy~~
15 ~~commissioners-in-the-unclassified-service.~~

16 (c) The commissioner shall:

17 (1) employ assistants and other officers, employees, and
18 agents that the commissioner considers necessary to discharge
19 the functions of the commissioner's office;

20 (2) define the duties of the officers, employees, and
21 agents, and delegate to them any of the commissioner's powers,
22 duties, and responsibilities, subject to the commissioner's
23 control and under conditions prescribed by the commissioner.

24 (d) The commissioner shall ensure that there are at least
25 three employment and economic development officers in state
26 offices in nonmetropolitan areas of the state who will work with
27 local units of government on developing local employment and
28 economic development.

29 Sec. 9. Minnesota Statutes 2004, section 116J.035,
30 subdivision 4, is amended to read:

31 Subd. 4. [DELEGATION OF POWERS.] The commissioner may
32 delegate, in written orders filed with the secretary of state,
33 any powers or duties subject to the commissioner's control to
34 officers and employees in the department. Regardless of any
35 other law, the commissioner may delegate the execution of
36 specific contracts or specific types of contracts to the

1 commissioner's ~~deputies~~ deputy, an assistant commissioner, or a
 2 program director if the delegation has been approved by the
 3 commissioner of administration and filed with the secretary of
 4 state.

5 Sec. 10. Minnesota Statutes 2004, section 174.02,
 6 subdivision 2, is amended to read:

7 Subd. 2. [UNCLASSIFIED POSITIONS.] The commissioner
 8 may ~~establish four positions in the unclassified service at~~
 9 ~~the~~ appoint a deputy and assistant commissioner, assistant to
 10 ~~commissioner or~~ and a personal secretary levels. ~~No more than~~
 11 ~~two of these positions shall be at the deputy commissioner level~~
 12 in the unclassified service.

13 Sec. 11. Minnesota Statutes 2004, section 241.01,
 14 subdivision 2, is amended to read:

15 Subd. 2. [~~DIVISIONS, DEPUTIES~~ DEPUTY.] The commissioner of
 16 corrections may appoint and employ ~~no more than two~~ a deputy
 17 ~~commissioners~~ commissioner. The commissioner may also appoint a
 18 personal secretary, who shall serve at the commissioner's
 19 pleasure in the unclassified civil service.

20 Sec. 12. [APPROPRIATION REDUCTION.]

21 The commissioner of finance shall determine the costs of
 22 salaries and economic benefits attributable to the positions
 23 eliminated by this act and reduce the appropriation to each
 24 affected agency accordingly. The total reduction to general
 25 fund appropriations must be at least \$17,400,000.

26 Sec. 13. [REPEALER.]

27 Minnesota Statutes 2004, sections 43A.03, subdivision 4;
 28 and 43A.08, subdivisions 1a and 1b, are repealed.

29 Sec. 14. [EFFECTIVE DATE.]

30 This act is effective July 1, 2005.

APPENDIX
Repealed Minnesota Statutes for 05-4146

43A.03 DEPARTMENT OF EMPLOYEE RELATIONS.

Subd. 4. Deputy commissioners. The deputy commissioners of the personnel and labor relations bureaus shall be in the unclassified service and shall be appointed by and serve at the pleasure of the commissioner.

43A.08 UNCLASSIFIED SERVICE.

Subd. 1a. Additional unclassified positions.

Appointing authorities for the following agencies may designate additional unclassified positions according to this subdivision: the Departments of Administration; Agriculture; Commerce; Corrections; Education; Employee Relations; Employment and Economic Development; Finance; Health; Human Rights; Labor and Industry; Natural Resources; Public Safety; Human Services; Revenue; Transportation; and Veterans Affairs; the Housing Finance and Pollution Control Agencies; the State Lottery; the state Board of Investment; the Office of Administrative Hearings; the Office of Environmental Assistance; the Offices of the Attorney General, Secretary of State, and State Auditor; the Minnesota State Colleges and Universities; the Higher Education Services Office; the Perpich Center for Arts Education; and the Minnesota Zoological Board.

A position designated by an appointing authority according to this subdivision must meet the following standards and criteria:

- (1) the designation of the position would not be contrary to other law relating specifically to that agency;
- (2) the person occupying the position would report directly to the agency head or deputy agency head and would be designated as part of the agency head's management team;
- (3) the duties of the position would involve significant discretion and substantial involvement in the development, interpretation, and implementation of agency policy;
- (4) the duties of the position would not require primarily personnel, accounting, or other technical expertise where continuity in the position would be important;
- (5) there would be a need for the person occupying the position to be accountable to, loyal to, and compatible with, the governor and the agency head, the employing statutory board or commission, or the employing constitutional officer;
- (6) the position would be at the level of division or bureau director or assistant to the agency head; and
- (7) the commissioner has approved the designation as being consistent with the standards and criteria in this subdivision.

Subd. 1b. Exception. The provisions of Laws 1982, chapter 634 do not apply to the positions contained in Minnesota Statutes 1981 Supplement, section 43A.08, subdivision 1, clause (g).

Fiscal Note – 2005-06 Session

Bill #: S2289-0 **Complete Date:** 05/06/05

Chief Author: COHEN, RICHARD

Title: REDUCE STATE DEPT & AGENCY POSITIONS

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Employee Relations

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		(6,643)	(6,643)	(6,643)	(6,643)
All Other Fund		(6,949)	(6,949)	(6,949)	(6,949)
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		(6,643)	(6,643)	(6,643)	(6,643)
All Other Fund		(6,949)	(6,949)	(6,949)	(6,949)
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		(6,643)	(6,643)	(6,643)	(6,643)
All Other Fund		(6,949)	(6,949)	(6,949)	(6,949)
Total Cost <Savings> to the State		(13,592)	(13,592)	(13,592)	(13,592)

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

This bill reduces the number of deputy commissioners for each agency listed in MS 15.06 to one, eliminates specific assistant commissioner positions, and eliminates all unclassified employees appointed under MS 43A.08 subd 1a from state service. In addition, this bill removes the requirement that assistant commissioner positions be held in the unclassified service and directs the Department of Finance to reduce agency appropriations from the general fund by at least \$17.4 million.

Assumptions

This fiscal note uses actual filled deputy and assistant commissioner positions, funding, and salary data current as of March 2005.

This fiscal note uses actual filled positions, funding, and salary data for employees in the unclassified service appointed under MS 43A.08 subd 1a. This data is current as of January 2005.

This bill eliminates:

- 10 deputy commissioner positions (5 are currently filled)
- 8 assistant commissioner positions (4 are currently filled)
- 124 unclassified positions appointed under 43A.08 subd 1a (124 are currently filled)

Fringe benefit costs (including insurances, FICA, and retirement) are calculated by using a standard 30% rate.

Expenditure and/or Revenue Formula

	Gen Fund	All Other
Total salary savings of all filled deputy commissioner positions being eliminated	361,000	184,000
Total salary savings of all filled assistant commissioner positions being eliminated	299,000	153,000
Total salary savings of all filled unclassified positions appointed under MS 43A.08 subd 1a	<u>4,450,000</u>	<u>5,008,000</u>
Total salary savings	5,110,000	5,345,000

Total savings with benefits \$6,643,000

\$6,949,000

Long-Term Fiscal Considerations

N/A

Local Government Costs

N/A

References/Sources

N/A

Agency Contact Name: Jill Pettis (651-297-5738)
FN Coord Signature: MIKE HOPWOOD
Date: 05/06/05 Phone: 297-5220

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KRISTI SCHROEDL
Date: 05/06/05 Phone: 215-0595

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S2289-0 (R) **Complete Date:**

Chief Author: COHEN, RICHARD

Title: REDUCE STATE DEPT & AGENCY POSITIONS

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Employee Relations

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		(9,229)	(9,229)	(9,229)	(9,229)
All Other Fund		(7,354)	(7,354)	(7,354)	(7,354)
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		(9,229)	(9,229)	(9,229)	(9,229)
All Other Fund		(7,354)	(7,354)	(7,354)	(7,354)
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		(9,229)	(9,229)	(9,229)	(9,229)
All Other Fund		(7,354)	(7,354)	(7,354)	(7,354)
Total Cost <Savings> to the State		(16,583)	(16,583)	(16,583)	(16,583)

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Preliminary

Bill Description

This bill reduces the number of deputy commissioners for each agency listed in MS 15.06 to one, eliminates all assistant commissioner positions, and eliminates all unclassified employees appointed under MS 43A.08 subd 1a from state service. In addition, this bill directs the Department of Finance to reduce agency appropriations from the general fund by at least \$17.4 million.

Assumptions

This fiscal note uses actual filled deputy and assistant commissioner positions, funding, and salary data current as of March 2005.

This fiscal note uses actual filled positions, funding, and salary data for employees in the unclassified service appointed under MS 43A.08 subd 1a as of January 2005.

This fiscal note assumes residual references to the position of assistant commissioner are technical errors and the intent of this bill is to eliminate all assistant commissioner positions from state service.

This bill eliminates:

- 10 deputy commissioner positions (5 are currently filled)
- 38 assistant commissioner positions (34 are currently filled)
- 124 unclassified positions appointed under 43A.08 subd 1a (124 are currently filled)

Fringe benefit costs (including insurances, FICA, and retirement) are calculated by using a 24% rate.

<u>Expenditure and/or Revenue Formula</u>	<u>Gen Fund</u>	<u>All Other</u>
Total salary savings of all filled deputy commissioner positions being eliminated	361,000	184,000
Total salary savings of all filled assistant commissioner positions being eliminated	2,632,000	739,000
Total salary savings of all filled unclassified positions appointed under MS 43A.08 subd 1a	<u>4,450,000</u>	<u>5,008,000</u>
Total salary savings	7,443,000	5,931,000
Total savings with benefits	<u>\$9,229,000</u>	<u>7,354,000</u>

Long-Term-Fiscal Considerations

N/A

Local Government Costs

N/A

References/Sources

N/A

Agency Contact Name: Jill Pettis (651-297-5738)
FN Coord Signature: MIKE HOPWOOD
Date: 05/09/05 Phone: 297-5220