

OFFICE OF THE REVISOR OF STATUTES

Review of 2003 Legislation
Affecting Rulemaking By
State Agencies

This review of legislation enacted during the 2003 regular and special legislative sessions identifies explicit grants of new rulemaking authority; repeals of existing rules, including those rules listed in an agency's annual report on obsolete rules required under Minnesota Statutes, section 14.05, subdivision 5; exemptions from the rulemaking provisions of the Minnesota Administrative Procedure Act (an asterisk * appears before these entries); and other significant rulemaking actions. If a provision is to be coded in Minnesota Statutes, a reference to it in its coded form is provided.

There were 10 exemptions and 28 mandatory grants of rulemaking authority enacted. The remaining entries involve permissive grants of rulemaking authority and other provisions affecting rulemaking.

An index of rulemaking actions by agency is included at the end of this document.

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2003 SESSION LAWS AFFECTING RULEMAKING

- 1** **Laws 2003, chapter 2, article 1, section 45, subdivision 12** - repeals obsolete rules of the board of boxing. The board was abolished in 2001.

Subd. 12. [OBSOLETE BOARD OF BOXING RULES.] Minnesota Rules, parts 2200.0100; 2200.0200; 2200.0300; 2200.0400; 2200.0500; 2200.0600; 2200.0700; 2200.0800; 2200.0900; 2200.1000; 2200.1100; 2200.1200; 2200.1300; 2200.1400; 2200.1500; 2200.1600; 2200.1700; 2200.1800; 2200.1900; 2200.2000; 2200.2100; 2200.3100; 2200.3200; 2200.3300; 2200.3410; 2200.3500; 2200.3600; 2200.3700; 2200.3800; 2200.3900; 2200.4000; 2200.4100; 2200.4200; 2200.4300; 2200.4400; 2200.5000; 2200.5100; 2200.5200; 2200.5300; 2200.5310; 2200.5400; 2200.5500; 2200.6000; 2200.6100; 2200.6200; 2200.6300; 2200.6400; 2200.6500; 2200.6600; 2200.6700; 2200.6800; 2200.6900; 2200.7000; 2200.7100; 2200.7200; 2200.7300; 2200.7400; 2200.7500; 2200.7600; 2200.7700; 2200.7800; 2200.7900; 2200.8000; 2200.8100; 2200.8200; 2200.8300; 2200.8400; 2200.8500; 2200.9000; 2200.9100; 2200.9200; 2200.9300; 2200.9400; 2200.9500; 2200.9600; 2200.9700; 2200.9800; 2205.0100; 2205.0200; 2205.0300; 2205.0400; 2205.0500; 2205.0600; 2205.0700; 2205.0800; 2205.0900; 2205.1000; 2205.1100; 2205.1200; 2205.1300; 2205.1400; and 2205.1500, are repealed.

- 2** **Laws 2003, chapter 2, article 1, section 45, subdivision 13** - repeals obsolete rules of the higher education services office relating to private college contracts.

Subd. 13. [OBSOLETE HIGHER EDUCATION RULES.] Minnesota Rules, parts 4830.6000; 4830.6100; 4830.6200; 4830.6300; and 4830.6400, are repealed.

- 3** **Laws 2003, chapter 2, article 1, section 45, subdivision 14** - repeals obsolete snowmobile registration forms of the department of natural resources. This obsolete rule was identified in the department's annual obsolete rules report for 2002.

Sec. 45. [REPEALERS; OBSOLETE OR REDUNDANT LANGUAGE; TECHNICAL CONFLICTS.]

Subd. 14. [REVISOR INSTRUCTION; OBSOLETE DNR FORMS.] Minnesota Rules, part 6100.6000, is repealed. The revisor of statutes shall delete references to part 6100.6000 found in Minnesota Rules.

4 **Laws 2003, chapter 3, section 1** - (*Minnesota Statutes, section 14.131*) - requires agencies to provide more specificity in the statement of need and reasonableness (SONAR) regarding the costs of complying with the rule and the costs of not adopting the rule.

Section 1. Minnesota Statutes 2002, section 14.131, is amended to read:
14.131 [STATEMENT OF NEED AND REASONABLENESS.]

By the date of the section 14.14, subdivision 1a, notice, the agency must prepare, review, and make available for public review a statement of the need for and reasonableness of the rule. The statement of need and reasonableness must be prepared under rules adopted by the chief administrative law judge and must include the following to the extent the agency, through reasonable effort, can ascertain this information:

(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;

(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;

(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule;

(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;

(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals; and

(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals; and

~~(6)~~ (7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.

The statement must describe how the agency, in developing the rules, considered and implemented the legislative policy supporting performance-based regulatory systems set forth in section 14.002.

The statement must also describe the agency's efforts to provide additional notification under section 14.14, subdivision 1a, to persons or

classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.

The agency must send a copy of the statement of need and reasonableness to the legislative reference library when the notice of hearing is mailed under section 14.14, subdivision 1a.

5 Laws 2003, chapter 17, section 1, subdivision 7 - (Minnesota Statutes, section 15.50, subdivision 7) - authorizes the capitol area architectural and planning board to adopt zoning rules under Minnesota Statutes, chapter 14.

Section 1. Minnesota Statutes 2002, section 15.50, is amended to read:

Subd. 7. [BOARD MAY ADOPT ZONING RULES.] (a) Under the comprehensive plan, the board may regulate in the capitol area:

(1) the kind, character, height, and location of buildings and other structures;

(2) the size of yards and open spaces;

(3) the percentage of lots to be occupied; and

(4) the uses of land, buildings, and other structures.

(b) The regulation must be done by zoning rules adopted under chapter 14, the Administrative Procedure Act.

6 Laws 2003, chapter 28, article 2, section 8 - (Minnesota Statutes, section 624.714, subdivision 3) - requires the commissioner of public safety to adopt an official, standardized application form for a permit to carry a pistol. See Minnesota Statutes, sections 14.03, subdivision 3, paragraph (a), clause (2); and 14.386.

Sec. 8. Minnesota Statutes 2002, section 624.714, subdivision 3, is amended to read:

Subd. 3. [FORM AND CONTENTS OF APPLICATION.] (a)

Applications for permits to carry ~~shall~~ must be an official, standardized application form, adopted under section 624.7151, and must set forth in writing only the following information:

(1) the applicant's name, residence, telephone number, if any, and driver's license number ~~or nonqualification certificate number, if any, of the applicant or state identification card number;~~

(2) the applicant's sex, date of birth, height, weight, and color of eyes and hair, and distinguishing physical characteristics, if any, of the applicant;

(3) all states of residence of the applicant in the last ten years, though not including specific addresses;

(4) a statement that the applicant authorizes the release to the ~~local police authority~~ sheriff of commitment information about the applicant maintained by the commissioner of human ~~services or any similar agency~~

or department of another state where the applicant has resided, to the extent that the information relates to the applicant's eligibility to possess a pistol or semiautomatic military style assault weapon under section 624.713, subdivision 1 firearm; and

(4) (5) a statement by the applicant that, to the best of the applicant's knowledge and belief, the applicant is not prohibited by section 624.713 from possessing a pistol or semiautomatic military style assault weapon; and law from possessing a firearm.

(5) a recent color photograph of the applicant.

The application shall be signed and dated by the applicant. (b) The statement under paragraph (a), clause (3) (4), must comply with any applicable requirements of Code of Federal Regulations, title 42, sections 2.31 to 2.35, with respect to consent to disclosure of alcohol or drug abuse patient records.

(c) An applicant must submit to the sheriff an application packet consisting only of the following items:

(1) a completed application form, signed and dated by the applicant;

(2) an accurate photocopy of a certificate, affidavit, or other document that is submitted as the applicant's evidence of training in the safe use of a pistol; and

(3) an accurate photocopy of the applicant's current driver's license, state identification card, or the photo page of the applicant's passport.

(d) In addition to the other application materials, a person who is otherwise ineligible for a permit due to a criminal conviction but who has obtained a pardon or expungement setting aside the conviction, sealing the conviction, or otherwise restoring applicable rights, must submit a copy of the relevant order.

(e) Applications must be submitted in person.

(f) The sheriff may charge a new application processing fee in an amount not to exceed the actual and reasonable direct cost of processing the application or \$100, whichever is less. Of this amount, \$10 must be submitted to the commissioner of public safety and deposited into the general fund.

(g) This subdivision prescribes the complete and exclusive set of items an applicant is required to submit in order to apply for a new or renewal permit to carry. The applicant must not be asked or required to submit, voluntarily or involuntarily, any information, fees, or documentation beyond that specifically required by this subdivision. This paragraph does not apply to alternate training evidence accepted by the sheriff under subdivision 2a, paragraph (d).

(h) Forms for new and renewal applications must be available at all sheriffs' offices and the commissioner of public safety must make the forms available on the Internet.

(i) Application forms must clearly display a notice that a permit, if granted, is void and must be immediately returned to the sheriff if the permit holder is or becomes prohibited by law from possessing a firearm.

The notice must list the applicable state criminal offenses and civil categories that prohibit a person from possessing a firearm.

(j) Upon receipt of an application packet and any required fee, the sheriff must provide a signed receipt indicating the date of submission.

- 7** **Laws 2003, chapter 51, section 20** - repeals obsolete department of commerce rules relating to delinquent loans, overdrafts to officers and employees of a bank, and credit union select group identification.

Sec. 20. [REPEALER.]

Minnesota Rules, parts 2675.0300; 2675.2250; and 2675.6400, are repealed effective the day following final enactment.

- 8** **Laws 2003, chapter 96, section 4** - (*Minnesota Statutes, section 169A.75*) - authorizes the commissioner of public safety to adopt rules indicating the commissioner's approval of instruments for preliminary screening or chemical tests for intoxication. Any rules must be adopted under the expedited procedures in Minnesota Statutes, section 14.389.

Sec. 4. Minnesota Statutes 2002, section 169A.75, is amended to read: 169A.75 [IMPAIRED DRIVING-RELATED RULES.]

(a) The commissioner may ~~promulgate~~ adopt rules to carry out the provisions of this chapter. The rules may include ~~forms~~ the format for notice of intention to revoke that describe clearly the right to a hearing, the procedure for requesting a hearing, and the consequences of failure to request a hearing; ~~forms~~ the format for revocation and notice of reinstatement of driving privileges as provided in section 169A.55; and ~~forms~~ the format for temporary licenses.

(b) Rules ~~promulgated~~ adopted pursuant to this section are subject to sections 14.01 to 14.20 and 14.365 to 14.69 the procedures in chapter 14 (Administrative Procedure Act).

(c) Additionally, the commissioner may adopt rules indicating the commissioner's approval of instruments for preliminary screening or chemical tests for intoxication under sections 169A.41 and 169A.51 using the procedures specified in section 14.389 (expedited process).

- 9** **Laws 2003, chapter 107, section 18** - (*Minnesota Statutes, section 31.925*) - adopts the federal organic food production rules in Code of Federal Regulations, title 7, section 205, as the organic food production rules in this state.

Sec. 18. [31.925] [UNIFORMITY WITH FEDERAL LAW.]

The federal law specified in section 31.92, subdivision 2b, is adopted as the organic food production law and rules in this state.

- 10 Laws 2003, chapter 107, section 32, subdivision 2** - repeals anaplasmosis testing rules of the department of agriculture.

Sec. 32. [REPEALER.]

Subd. 2. [RELATED RULES.] Minnesota Rules, parts 1700.0800; 1700.1000; 1700.1300; 1705.0550; 1705.0560; 1705.0570; 1705.0580; 1705.0590; 1705.0600; 1705.0610; 1705.0630; and 1715.1430, are repealed.

- 11 Laws 2003, chapter 110, section 35** - (*Minnesota Statutes, section 349.17, subdivision 8*) - authorizes the gambling control board rules governing the operation of linked bingo games.

Sec. 35. Minnesota Statutes 2002, section 349.17, is amended by adding a subdivision to read:

Subd. 8. [LINKED BINGO GAMES.] (a) A licensed organization may conduct or participate in a linked bingo game in association with one or more other licensed organizations.

(b) Each participating licensed organization shall contribute to each prize awarded in a linked bingo game in an amount not to exceed \$300 per occasion.

(c) The board may adopt rules to:

(1) specify the manner in which a linked bingo game must be played and how the linked bingo prizes must be awarded;

(2) specify the records to be maintained by a linked bingo game provider;

(3) require the submission of periodic reports by the linked bingo game provider and specify the content of the reports;

(4) establish the qualifications required to be licensed as a linked bingo game provider; and

(5) any other matter involving the operation of a linked bingo game.

- 12 Laws 2003, chapter 111, section 15** - repeals certain social work licensing rules that have been superseded by statute.

Sec. 15. [REPEALER.]

Minnesota Rules, parts 8740.0200, subpart 3, item C; 8740.0222; 8740.0227; and 8740.0290, are repealed.

- 13 Laws 2003, chapter 112, article 2, section 1** - transfers all powers and duties of the state treasurer to the commissioner of finance, including the

rulemaking authority and the adopted rules relating to credit card disclosure reports under Minnesota Statutes, section 325G.415.

Section 1. [TRANSFER.]

All powers, responsibilities, and duties of the state treasurer are transferred to the commissioner of finance under Minnesota Statutes, section 15.039, except as otherwise prescribed in this act and Laws 1998, chapter 387, and except that Minnesota Statutes, section 15.039, subdivision 7, does not apply to the state treasurer or deputy state treasurer.

- 14** **Laws 2003, chapter 118, section 6 -** *(Minnesota Statutes, section 148B.52)*
- requires the board of behavioral health and therapy to adopt specific licensing qualification and regulation rules.

Sec. 6. [148B.52] [DUTIES OF THE BOARD.]

(a) The board of behavioral health and therapy shall:

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

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

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

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

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

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

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

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

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

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

(b) The board may appoint a professional discipline committee for each occupational licensure regulated by the board, and may appoint a board member as chair. The professional discipline committee shall consist of

five members representative of the licensed occupation and shall provide recommendations to the board with regard to rule techniques, standards, procedures, and related issues specific to the licensed occupation.

- *15 Laws 2003, chapter 123, section 1 - (Minnesota Statutes, section 43A.183)**
- requires the commissioners of employee relations and finance to adopt procedures to implement the statutory provision requiring payment of salary differential for reserve forces who reported for active service. The procedures are exempt from Minnesota Statutes, chapter 14, but not by the terms of this exemption from Minnesota Statutes, section 14.386

Section 1. [43A.183] [PAYMENT OF SALARY DIFFERENTIAL FOR RESERVE FORCES WHO REPORTED FOR ACTIVE SERVICE.]

(a) Each agency head shall pay to each eligible member of the national guard or other reserve component of the armed forces of the United States an amount equal to the difference between the member's basic active duty military salary and the salary the member would be paid as an active state employee, including any adjustments the member would have received if not on leave of absence. This payment may be made only to a person whose basic active duty military salary is less than the salary the person would be paid as an active state employee. Payments must be made at the intervals at which the member received pay as a state employee. Payment under this section must not extend beyond four years from the date the employee reported for active service, plus any additional time the employee may be legally required to serve.

(b) An eligible member of the reserve components of the armed forces of the United States is a reservist or national guard member who was an employee of the state of Minnesota at the time the member reported for active service.

(c) For the purposes of this section, an employee of the state is an employee of the executive, judicial, or legislative branch of state government or an employee of the Minnesota state retirement system, the public employee retirement association, or the teachers retirement association.

(d) For purposes of this section, the term "active service" has the meaning given in section 190.05, subdivision 5, but excludes service performed exclusively for purposes of:

(1) basic combat training, advanced individual training, annual training, and periodic inactive duty training;

(2) special training periodically made available to reserve members; and

(3) service performed in accordance with section 190.08, subdivision 3.

(e) The agency head must continue the employee's enrollment in health and dental coverage, and the employer contribution toward that coverage, until the employee is covered by health and dental coverage provided by the armed forces. If the employee had elected dependent coverage for

health or dental coverage as of the time that the employee reported for active service, the agency head must offer the employee the option to continue the dependent coverage at the employee's own expense. The agency head must permit the employee to continue participating in any pre-tax account in which the employee participated when the employee reported for active service, to the extent of employee pay available for that purpose.

(f) The commissioner of employee relations and the commissioner of finance shall adopt procedures required to implement this section. The procedures are exempt from chapter 14.

(g) This section does not apply to a judge, legislator, or constitutional officer of the executive branch.

16 Laws 2003, chapter 127, article 3, section 24, paragraph (b) - repeals obsolete rules of the department of revenue identified in its annual report of obsolete rules for 2002 relating to corporate franchise taxes and withholding taxes.

Sec. 24. [REPEALER.]

(b) Minnesota Rules, parts 8007.0300, subpart 3; 8009.7100; 8009.7200; 8009.7300; 8009.7400; and 8092.1000, are repealed effective the day following final enactment.

17 Laws 2003, chapter 127, article 5, section 50, paragraph (c) - repeals obsolete rules of the department of revenue identified in its annual report of obsolete rules for 2002 relating to ad valorem tax and the valuation and assessment of railroads.

Sec. 50. [REPEALER.]

(c) Minnesota Rules, parts 8106.0100, subparts 11, 15, and 16; and 8106.0200, are repealed effective the day following final enactment.

18 Laws 2003, chapter 127, article 6, section 18, paragraph (c) - repeals obsolete rules of the department of revenue identified in its annual report of obsolete rules for 2002 relating to sales and use taxes.

Sec. 18. [REPEALER.]

(c) Minnesota Rules, parts 8130.0800, subparts 5 and 12; 8130.1300; 8130.1600, subpart 5; 8130.1700, subparts 3 and 4; 8130.4800, subpart 2; 8130.7500, subpart 5; 8130.8000; and 8130.8300, are repealed effective the day following final enactment.

19 Laws 2003, chapter 127, article 7, section 15, paragraph (b) - repeals obsolete rules of the department of revenue identified in its annual report of obsolete rules for 2002 relating to petroleum taxes.

Sec. 15. [REPEALER.]

(b) Minnesota Rules, parts 8125.1000; 8125.1300, subpart 1; and 8125.1400, are repealed effective the day following final enactment.

20 Laws 2003, chapter 128, article 1, section 12 - (*Minnesota Statutes, section 84.027, subdivision 13*) - authorizes the commissioner of natural resources to adopt emergency rules to prevent or control wildlife disease.

Sec. 12. Minnesota Statutes 2002, section 84.027, subdivision 13, is amended to read:

Subd. 13. [GAME AND FISH RULES.] (a) The commissioner of natural resources may adopt rules under sections 97A.0451 to 97A.0459 and this subdivision that are authorized under:

(1) chapters 97A, 97B, and 97C to set open seasons and areas, to close seasons and areas, to select hunters for areas, to provide for tagging and registration of game, to prohibit or allow taking of wild animals to protect a species, to prevent or control wildlife disease, and to prohibit or allow importation, transportation, or possession of a wild animal;

(2) sections 84.093, 84.15, and 84.152 to set seasons for harvesting wild ginseng roots and wild rice and to restrict or prohibit harvesting in designated areas; and

(3) section 84D.12 to designate prohibited exotic species, regulated exotic species, unregulated exotic species, and infested waters.

(b) If conditions exist that do not allow the commissioner to comply with sections 97A.0451 to 97A.0459, the commissioner may adopt a rule under this subdivision by submitting the rule to the attorney general for review under section 97A.0455, publishing a notice in the State Register and filing the rule with the secretary of state and the legislative coordinating commission, and complying with section 97A.0459, and including a statement of the emergency conditions and a copy of the rule in the notice. The notice may be published after it is received from the attorney general or five business days after it is submitted to the attorney general, whichever is earlier.

(c) Rules adopted under paragraph (b) are effective upon publishing in the State Register and may be effective up to seven days before publishing and filing under paragraph (b), if:

(1) the commissioner of natural resources determines that an emergency exists;

(2) the attorney general approves the rule; and

(3) for a rule that affects more than three counties the commissioner publishes the rule once in a legal newspaper published in Minneapolis, St.

Paul, and Duluth, or for a rule that affects three or fewer counties the commissioner publishes the rule once in a legal newspaper in each of the affected counties.

(d) Except as provided in paragraph (e), a rule published under paragraph (c), clause (3), may not be effective earlier than seven days after publication.

(e) A rule published under paragraph (c), clause (3), may be effective the day the rule is published if the commissioner gives notice and holds a public hearing on the rule within 15 days before publication.

(f) The commissioner shall attempt to notify persons or groups of persons affected by rules adopted under paragraphs (b) and (c) by public announcements, posting, and other appropriate means as determined by the commissioner.

(g) Notwithstanding section 97A.0458, a rule adopted under this subdivision is effective for the period stated in the notice but not longer than 18 months after the rule is adopted.

- *21** **Laws 2003, chapter 128, article 1, section 42, subdivision 2** - (*Minnesota Statutes, section 85.04, subdivision 2*) - authorizes the commissioner of natural resources to designate certain employees to enforce laws governing the use of state parks, state monuments, state recreation areas, state waysides, and state forest subareas. These designations are not subject to rulemaking under Minnesota Statutes, chapter 14.

Sec. 42. Minnesota Statutes 2002, section 85.04, is amended to read:
85.04 [ENFORCEMENT DIVISION EMPLOYEES AS PEACE OFFICERS.]

Subd. 2. [OTHER EMPLOYEES.] Until August 1, 2004, the commissioner of natural resources may designate certain employees to enforce laws governing the use of state parks, state monuments, state recreation areas, state waysides, and state forest subareas. The designation by the commissioner is not subject to rulemaking under Minnesota Statutes, chapter 14.

- 22** **Laws 2003, chapter 128, article 1, section 110** - (*Minnesota Statutes, section 103D.537*) - requires the board of water and soil resources to adopt rules governing appeals to the board under Minnesota Statutes, section 103D.537, paragraphs (a) and (b), by January 1, 2005. The rules are exempt from Minnesota Statutes, chapter 14, but Minnesota Statutes, section 14.386, specifically applies. The rules are effective for a period of two years from the date of their publication in the State Register.

Sec. 110. Minnesota Statutes 2002, section 103D.537, is amended to read:

103D.537 [APPEALS OF RULES, PERMIT DECISIONS, AND ORDERS NOT INVOLVING PROJECTS.]

(a) Except as provided in section 103D.535, an interested party may appeal a permit decision or order made by the managers by a declaratory judgment action brought under chapter 555. An interested party may appeal a rule made by the managers by a declaratory judgment action brought under chapter 555 or by appeal to the board. The decision on appeal must be based on the record made in the proceeding before the managers. An appeal of a permit decision or order must be filed within 30 days of the managers' decision.

(b) In addition to the authorities identified in paragraph (a), a public transportation authority may appeal a watershed district permit decision to the board. The board shall, upon request of the public transportation authority, conduct an expedited appeal hearing within 30 days or less from the date of the appeal being accepted.

(c) By January 1, 1997 2005, the board shall adopt rules governing appeals to the board under paragraph paragraphs (a) and (b). A decision of the board on appeal is subject to judicial review under sections 14.63 to 14.69. The rules authorized in this paragraph are exempt from the rulemaking provisions of chapter 14 except that section 14.386 applies and the proposed rules must be submitted to the members of senate and house environment and natural resource and transportation policy committees at least 30 days prior to being published in the State Register. The amended rules are effective for two years from the date of publication of the rules in the State Register unless they are superseded by permanent rules.

23 Laws 2003, chapter 128, article 1, section 121 - (Minnesota Statutes, section 115.03, subdivision 5c) - authorizes the pollution control agency to adopt and enforce rules regulating point source storm water discharges.

Sec. 121. Minnesota Statutes 2002, section 115.03, is amended by adding a subdivision to read:

Subd. 5c. [REGULATION OF STORM WATER DISCHARGES.] (a) The agency may issue a general permit to any category or subcategory of point source storm water discharges that it deems administratively reasonable and efficient without making any findings under agency rules. Nothing in this subdivision precludes the agency from requiring an individual permit for a point source storm water discharge if the agency finds that it is appropriate under applicable legal or regulatory standards.

(b) Pursuant to this paragraph, the legislature authorizes the agency to adopt and enforce rules regulating point source storm water discharges. No further legislative approval is required under any other legal or statutory provision whether enacted before or after the enactment of this section.

- 24 Laws 2003, chapter 128, article 1, section 145 -** (*Minnesota Statutes, section 116.50*) - prohibits state agencies from adopting rules establishing or requiring vapor recovery for underground storage tanks.

Sec. 145. Minnesota Statutes 2002, section 116.50, is amended to read:
116.50 [PREEMPTION.]

Sections 116.46 to 116.49 preempt conflicting local and municipal rules or ordinances requiring notification or establishing environmental protection requirements for underground storage tanks. A state agency or local unit of government may not adopt rules or ordinances establishing or requiring vapor recovery for underground storage tanks.

- 25 Laws 2003, chapter 128, article 1, section 156, subdivision 1 -** requires the pollution control agency to adopt rules relating to water quality assessment for the waters of the state that, at a minimum, satisfy the specific directions given in this statutory grant of authority.

Sec. 156. [WATER QUALITY ASSESSMENT PROCESS.]

Subdivision 1. [RULEMAKING.] (a) By January 1, 2006, the pollution control agency shall adopt rules under Minnesota Statutes, chapter 14, relating to water quality assessment for the waters of the state. The adopted rules must, at a minimum, satisfy paragraphs (b) to (h).

(b) The rules must apply to the determination of impaired waters as required by Section 303(d) of the Clean Water Act of 1977, United States Code, title 33, chapter 26, section 1313(d).

(c) The rules must define the terms "altered materially," "material increase," "material manner," "seriously impaired," and "significant increase," contained in Minnesota Rules, part 7050.0150, subpart 3.

(d) The rules must define the terms "normal fishery" and "normally present," contained in Minnesota Rules, part 7050.0150, subpart 3.

(e) The rules must specify that for purposes of the determination of impaired waters, the agency will make an impairment determination based only on pollution of waters of the state that has resulted in degradation of the physical, chemical, or biological qualities of the water body to the extent that attainable or previously existing beneficial uses are actually or potentially lost.

(f) The rules must provide that when a person presents information adequately demonstrating that a beneficial use for the water body does not exist and is not attainable due to the natural condition of the water body, the agency shall initiate an administrative process for reclassification of the water to remove the beneficial use.

(g) The rules must provide that the agency, in considering impairment due to nutrients and application of nutrient objectives and effluent limitations related to riverine systems or riverine impoundments, must consider temperature and detention time effects on algal populations when

the discharge of nutrients is expected to cause or contribute to algal growth that impairs existing or attainable uses.

(h) The agency shall apply Minnesota Rules, part 7050.0150, consistent with paragraphs (e) and (g).

- *26 Laws 2003, chapter 128, article 1, section 158** - requires the commissioner of natural resources to amend the department's utility crossing rules to incorporate the fee provisions specified by this statutory grant of authority. The commissioner is required to amend these rules using the good cause exemption in Minnesota Statutes, section 14.388.

Sec. 158. [UTILITY LICENSES.]

(a) The fees in Minnesota Rules, parts 6135.0400 to 6135.0810, adopted under Minnesota Statutes, section 84.415, are to be amended as follows:

(1) effective July 1, 2003, the application fee for a license to construct a utility crossing over or under public lands or over or under public waters is \$500; and

(2) effective July 1, 2004, the fee schedules of Minnesota Rules, parts 6135.0510 to 6135.0810, are increased to an amount equal to the current schedules plus an increase due to inflation from 1990 through 2002. The basis of increase shall be the unadjusted producer price index for all commodities, and the index value used shall be the annual average as revised four months after publication.

(b) The commissioner of natural resources shall amend Minnesota Rules, parts 6135.0400 to 6135.0810, according to this section and under Minnesota Statutes, section 14.388, clause (3). Except as provided in Minnesota Statutes, section 14.388, Minnesota Statutes, section 14.386, does not apply.

- 27 Laws 2003, chapter 128, article 1, section 167, subdivision 3** - requires the environmental quality board to adopt rules by January 1, 2005, providing for threshold levels for environmental review for recreational trails.

Sec. 167. [FOREST LAND OFF-HIGHWAY VEHICLE USE RECLASSIFICATION.]

Subd. 3. [RULEMAKING.] By January 1, 2005, the environmental quality board shall adopt rules providing for threshold levels for environmental review for recreational trails.

- 28 Laws 2003, chapter 128, article 1, section 176, paragraph (c)** - repeals the local water management rules of the board of water and soil resources.

Sec. 176. [REPEALER.]

(c) Minnesota Rules, parts 9300.0010; 9300.0020; 9300.0030; 9300.0040; 9300.0050; 9300.0060; 9300.0070; 9300.0080; 9300.0090; 9300.0100; 9300.0110; 9300.0120; 9300.0130; 9300.0140; 9300.0150; 9300.0160; 9300.0170; 9300.0180; 9300.0190; 9300.0200; and 9300.0210, are repealed.

29 Laws 2003, chapter 128, article 2, section 53 - requires the pollution control agency to adopt water quality permit fee rules incorporating the permit fee increase specified in this statutory grant of authority. The expedited rulemaking procedure in Minnesota Statutes, section 14.389, applies.

Sec. 53. [INCREASE TO WATER QUALITY PERMIT FEES.]

(a) The pollution control agency shall collect water quality permit fees that reflect the fees in Minnesota Rules, part 7002.0310, and Laws 2002, chapter 374, article 6, section 8, with the application fee in paragraph (b) increased from \$240 to \$350.

(b) The increased permit fee is effective July 1, 2003. The agency shall adopt amended water quality permit fee rules incorporating the permit fee increase in paragraph (a) under Minnesota Statutes, section 14.389. The pollution control agency shall begin collecting the increased permit fee on July 1, 2003, even if the rule adoption process has not been initiated or completed. Notwithstanding Minnesota Statutes, section 14.18, subdivision 2, the increased permit fee reflecting the permit fee increase in paragraph (a) and the rule amendments incorporating that permit fee increase do not require further legislative approval.

30 Laws 2003, chapter 128, article 2, section 54 - requires the pollution control agency to adopt an amended hazardous waste fee formula incorporating the increase specified in this statutory grant of authority. The expedited rulemaking procedure in Minnesota Statutes, section 14.389, applies.

Sec. 54. [INCREASE TO HAZARDOUS WASTE FEES.]

(a) The pollution control agency shall collect hazardous waste fees that reflect the fee formula in Minnesota Rules, part 7046.0060, increased by an addition of \$2,000,000 to the adjusted fiscal year target described in Step 2 of Minnesota Rules, part 7046.0060.

(b) The increased fees are effective January 1, 2004. The agency shall adopt an amended hazardous waste fee formula incorporating the increase in paragraph (a) under Minnesota Statutes, section 14.389. The pollution control agency shall begin collecting the increased permit fees on January 1, 2004, even if the rule adoption process has not been initiated or completed. Notwithstanding Minnesota Statutes, section 14.18, subdivision 2, the increased fees reflecting the fee increases in paragraph

(a) and the rule amendments incorporating those permit fee increases do not require further legislative approval.

31 Laws 2003, chapter 128, article 4, section 3, subdivision 2 - (*Minnesota Statutes, section 18G.03, subdivision 2*) - authorizes the commissioner of agriculture to adopt rules relating to plant protection and export certification.

Sec. 3. [18G.03] [POWERS AND DUTIES OF COMMISSIONER.]
Subd. 2. [RULES.] The commissioner may adopt rules to carry out the purposes of this chapter.

32 Laws 2003, chapter 128, article 4, section 14, subdivision 2 - (*Minnesota Statutes, section 18G.16, subdivision 2*) - authorizes the commissioner of agriculture to adopt rules relating to shade tree pest and disease control in any municipality, unless the municipality adopts an ordinance determined by the commissioner to be more stringent than the rules.

Sec. 14. [18G.16] [SHADE TREE PEST AND DISEASE CONTROL.]
Subd. 2. [COMMISSIONER TO ADOPT RULES.] The commissioner may adopt rules relating to shade tree pest and disease control in any municipality. The rules must prescribe control measures to be used to prevent the spread of shade tree pests and diseases and must include the following:

- (1) a definition of shade tree;
- (2) qualifications for tree inspectors;
- (3) methods of identifying diseased or infested shade trees;
- (4) procedures for giving reasonable notice of inspection of private real property;
- (5) measures for the removal of any shade tree which may contribute to the spread of shade tree pests or disease and for reforestation of pest or disease control areas;
- (6) approved methods of treatment of shade trees;
- (7) criteria for priority designation areas in an approved pest or disease control program; and
- (8) any other matters determined necessary by the commissioner to prevent the spread of shade tree pests or disease and enforce this section.

33 Laws 2003, chapter 128, article 4, section 14, subdivision 8 - (*Minnesota Statutes, section 18G.16, subdivision 8*) - requires the commissioner of agriculture to adopt rules for the administration of the grant program established to provide partial funding of municipal sanitation and reforestation programs to replace trees lost to disease or natural disaster.

Sec. 14. [18G.16] [SHADE TREE PEST AND DISEASE CONTROL.]

Subd. 8. [GRANTS TO MUNICIPALITIES.] (a) The commissioner may, in the name of the state and within the limit of appropriations provided, make a grant to a municipality with an approved disease control program for the partial funding of municipal sanitation and reforestation programs to replace trees lost to disease or natural disaster. The commissioner may make a grant to a home rule charter or statutory city, a special purpose park and recreation board organized under a charter of a city of the first class, a nonprofit corporation serving a city of the first class, or a county having an approved disease control program for the acquisition or implementation of a wood use or disposal system.

(b) The commissioner shall adopt rules for the administration of grants under this subdivision. The rules must contain:

(1) procedures for grant applications;

(2) conditions and procedures for the administration of grants;

(3) criteria of eligibility for grants including, but not limited to, those specified in this subdivision; and

(4) other matters the commissioner may find necessary to the proper administration of the grant program.

(c) Grants for wood utilization and disposal systems made by the commissioner under this subdivision must not exceed 50 percent of the total cost of the system. Grants for sanitation and reforestation must be combined into one grant program. Grants to a municipality for sanitation must not exceed 50 percent of sanitation costs approved by the commissioner including any amount of sanitation costs paid by special assessments, ad valorem taxes, federal grants, or other funds. A municipality must not specially assess a property owner an amount greater than the amount of the tree's sanitation cost minus the amount of the tree's sanitation cost reimbursed by the commissioner. Grants to municipalities for reforestation must not exceed 50 percent of the wholesale cost of the trees planted under the reforestation program; provided that a reforestation grant to a county may include 90 percent of the cost of the first 50 trees planted on public property in a town not included in the definition of municipality in subdivision 1 and with less than 1,000 population when the town applies to the county. Reforestation grants to towns and home rule charter or statutory cities of less than 4,000 population with an approved disease control program may include 90 percent of the cost of the first 50 trees planted on public property. The governing body of a municipality that receives a reforestation grant under this section must appoint up to seven residents of the municipality or designate an existing municipal board or committee to serve as a reforestation advisory committee to advise the governing body of the municipality in the administration of the reforestation program. For the purpose of this subdivision, "cost" does not include the value of a gift or dedication of trees required by a municipal ordinance but does include documented "in-

kind" services or voluntary work for municipalities with a population of less than 1,000 according to the most recent federal census.

(d) Based upon estimates submitted by the municipality to the commissioner, which state the estimated costs of sanitation and reforestation in the succeeding quarter under an approved program, the commissioner shall direct quarterly advance payments to be made by the state to the municipality commencing April 1. The commissioner shall direct adjustment of any overestimate in a succeeding quarter. A municipality may elect to receive the proceeds of its sanitation and reforestation grants on a periodic cost reimbursement basis.

(e) A home rule charter or statutory city, county outside the metropolitan area, or any municipality, as defined in subdivision 1, may submit an application for a grant authorized by this subdivision concurrently with its request for approval of a disease control program.

(f) The commissioner shall not make grants for sanitation and reforestation or wood utilization and disposal systems in excess of 67 percent of the amounts appropriated for those purposes to the municipalities located within the metropolitan area, as defined in subdivision 1.

34 Laws 2003, chapter 128, article 7, section 1, paragraph (b) - repeals the Minnesota Seed Law charge rules of the department of agriculture.

Section 1. [REPEALER.]

(b) Minnesota Rules, part 1510.0281, is repealed.

35 Laws 2003, chapter 129, article 1, sections 1 and 12, paragraph (b) - (*Minnesota Statutes, section 120B.019*) - prohibits the commissioner of education from implementing the profile of learning parts of the state's results-oriented graduation rule and repeals these parts of the rule.

Section 1. [120B.019] [REPEALING PROFILE OF LEARNING STATUTES AND RULES.]

Notwithstanding sections 120B.02, 120B.30, 120B.31, and 120B.35, or other law to the contrary, the commissioner of children, families, and learning must not implement the profile of learning portion of the state's results-oriented graduation rule.

Sec. 12. [REPEALER.]

(b) Minnesota Rules, parts 3501.0300; 3501.0310; 3501.0320; 3501.0330; 3501.0340; 3501.0350; 3501.0370; 3501.0380; 3501.0390; 3501.0400; 3501.0410; 3501.0420; 3501.0440; 3501.0441; 3501.0442; 3501.0443; 3501.0444; 3501.0445; 3501.0446; 3501.0447; 3501.0448; 3501.0449; 3501.0450; 3501.0460; 3501.0461; 3501.0462; 3501.0463;

3501.0464; 3501.0465; 3501.0466; 3501.0467; 3501.0468; and 3501.0469, are repealed.

36 Laws 2003, chapter 129, article 1, section 3 - (*Minnesota Statutes, section 120B.021, subdivision 3*) - requires the commissioner of education to adopt rules under Minnesota Statutes, section 14.389, implementing statewide rigorous core academic standards in language arts, mathematics, and the arts. Legislative authorization is required before these rules may be amended or repealed, or new rules are adopted.

Sec. 3. [120B.021] [REQUIRED ACADEMIC STANDARDS.]

Subd. 3. [RULEMAKING.] (a) The commissioner, consistent with the requirements of this section and section 120B.022, must adopt statewide rules under section 14.389 for implementing statewide rigorous core academic standards in language arts, mathematics and the arts. After the rules authorized under this paragraph are initially adopted, the commissioner may not amend or repeal these rules nor adopt new rules on the same topic without specific legislative authorization. These academic standards must be implemented for all students beginning in the 2003-2004 school year.

(b) The rules authorized under this section are not subject to section 14.127.

***37 Laws 2003, chapter 129, article 1, section 5** - (*Minnesota Statutes, section 120B.023*) - requires the commissioner of education to establish grade-level benchmarks to supplement the required state academic standards. These benchmarks are not subject to Minnesota Statutes, chapter 14, including Minnesota Statutes, section 14.386.

Sec. 5. [120B.023] [BENCHMARKS.]

(a) The commissioner must supplement required state academic standards with grade-level benchmarks. High school benchmarks may cover more than one grade. The benchmarks must implement statewide academic standards by specifying the academic knowledge and skills that schools must offer and students must achieve to satisfactorily complete a state standard. Benchmarks are published to inform and guide parents, teachers, school districts and other interested persons and for use in developing tests consistent with the benchmarks.

(b) The commissioner shall publish benchmarks in the State Register and transmit the benchmarks in any other manner that makes them accessible to the general public. The commissioner may charge a reasonable fee for publications.

(c) Once established, the commissioner may change the benchmarks only with specific legislative authorization and after completing a review under paragraph (d).

(d) The commissioner must develop and implement a system for reviewing on a four-year cycle each of the required academic standards and related benchmarks and elective standards beginning in the 2006-2007 school year.

(e) The benchmarks are not subject to chapter 14 and section 14.386 does not apply.

38 Laws 2003, chapter 129, article 1, section 10, subdivisions 1 and 2 - *(Minnesota Statutes, section 120B.363, subdivisions 1 and 2)* - requires the board of teaching to adopt rules to implement a statewide credential for education paraprofessionals who assist licensed teachers in providing student instruction.

Sec. 10. [120B.363] [CREDENTIAL FOR EDUCATION PARAPROFESSIONALS.]

Subdivision 1. [RULEMAKING.] The board of teaching must adopt rules to implement a statewide credential for education paraprofessionals who assist a licensed teacher in providing student instruction. Any paraprofessional holding this credential or working in a local school district after meeting a state-approved local assessment is considered to be highly qualified under federal law. Under this subdivision, the board of teaching, in consultation with the commissioner, must adopt qualitative criteria for approving local assessments that include an evaluation of a paraprofessional's knowledge of reading, writing, and math and the paraprofessional's ability to assist in the instruction of reading, writing, and math. The commissioner must approve or disapprove local assessments using these criteria. The commissioner must make the criteria available to the public.

Subd. 2. [TRAINING POSSIBILITIES.] In adopting rules under subdivision 1, the board must consider including provisions that provide training in: students' characteristics; teaching and learning environment; academic instruction skills; student behavior; and ethical practices.

***39 Laws 2003, chapter 129, article 2, section 3** - authorizes the commissioner of education to adopt rules under the good cause exemption in Minnesota Statutes, section 14.388, establishing criteria for identifying, reviewing, and listing eligible supplemental education service providers. The rules must be consistent with federal requirements.

Sec. 3. [RULES FOR SUPPLEMENTAL SERVICE PROVIDERS.]

The commissioner of children, families, and learning may adopt rules under Minnesota Statutes, section 14.388, establishing criteria for identifying, annually reviewing, and formally listing eligible supplemental education service providers throughout Minnesota, consistent with applicable federal requirements and Minnesota's application for supplemental education service providers under Title 1, Part A, of the No Child Left Behind Act.

40 Laws 2003, First Special Session chapter 1, article 2, section 29 -
(Minnesota Statutes, section 14.091) - removes the sunset on the local government rule petition process.

Sec. 29. Minnesota Statutes 2002, section 14.091, is amended to read:
14.091 [PETITION; UNIT OF LOCAL GOVERNMENT.]

(a) The elected governing body of a statutory or home rule city, a county, or a sanitary district may petition for amendment or repeal of a rule or a specified portion of a rule. The petition must be adopted by resolution of the elected governing body and must be submitted in writing to the agency and to the office of administrative hearings, must specify what amendment or repeal is requested, and must demonstrate that one of the following has become available since the adoption of the rule in question:

(1) significant new evidence relating to the need for or reasonableness of the rule; or

(2) less costly or intrusive methods of achieving the purpose of the rule.

(b) Within 30 days of receiving a petition, an agency shall reply to the petitioner in writing stating either that the agency, within 90 days of the date of the reply, will give notice under section 14.389 of intent to adopt the amendment or repeal requested by the petitioner or that the agency does not intend to amend or repeal the rule and has requested the office of administrative hearings to review the petition. If the agency intends to amend or repeal the rule in the manner requested by the petitioner, the agency must use the process under section 14.389 to amend or repeal the rule. Section 14.389, subdivision 5, applies.

(c) Upon receipt of an agency request under paragraph (b), the chief administrative law judge shall assign an administrative law judge, who was not involved when the rule or portion of a rule that is the subject of the petition was adopted or amended, to review the petition to determine whether the petitioner has complied with the requirements of paragraph (a). The petitioner, the agency, or any interested person, at the option of any of them, may submit written material for the assigned administrative law judge's consideration within ten days of the chief administrative law judge's receipt of the agency request. The administrative law judge shall dismiss the petition if the judge determines that:

(1) the petitioner has not complied with the requirements of paragraph (a);

(2) the rule is required to comply with a court order; or
(3) the rule is required by federal law or is required to maintain authority to administer a federal program.

(d) If the administrative law judge assigned by the chief administrative law judge determines that the petitioner has complied with the requirements of paragraph (a), the administrative law judge shall conduct a hearing and issue a decision on the petition within 120 days of its receipt by the office of administrative hearings. The agency shall give notice of the hearing in the same manner required for notice of a proposed rule hearing under section 14.14, subdivision 1a. At the public hearing, the agency shall make an affirmative presentation of facts establishing the need for and reasonableness of the rule or portion of the rule in question. If the administrative law judge determines that the agency has not established the continued need for and reasonableness of the rule or portion of the rule, the rule or portion of the rule does not have the force of law, effective 90 days after the administrative law judge's decision, unless the agency has before then published notice in the State Register of intent to amend or repeal the rule in accordance with paragraph (e).

(e) The agency may amend or repeal the rule in the manner requested by the petitioner, or in another manner that the administrative law judge has determined is needed and reasonable. Amendments under this paragraph may be adopted under the expedited process in section 14.389. Section 14.389, subdivision 5, applies to this adoption. If the agency uses the expedited process and no public hearing is required, the agency must complete the amendment or repeal of the rule within 90 days of the administrative law judge's decision under paragraph (d). If a public hearing is required, the agency must complete the amendment or repeal of the rule within 180 days of the administrative law judge's decision under paragraph (d). A rule or portion of a rule that is not amended or repealed in the time prescribed by this paragraph does not have the force of law upon expiration of the deadline. A rule that is amended within the time prescribed in this paragraph has the force of law, as amended.

(f) The chief administrative law judge shall report the decision under paragraph (d) within 30 days to the chairs of the house and senate committees having jurisdiction over governmental operations and the chairs of the house and senate committees having jurisdiction over the agency whose rule or portion of a rule was the subject of the petition.

(g) The chief administrative law judge shall assess a petitioner half the cost of processing a petition and conducting a public hearing under paragraph (d).

~~(h) This section expires July 31, 2006.~~

- 41** **Laws 2003, First Special Session chapter 2, article 4, section 20 -**
(Minnesota Statutes, section 299M.04) - requires the commissioner of public safety to adopt rules relating to multipurpose potable water piping systems.

Sec. 20. Minnesota Statutes 2002, section 299M.04, is amended to read:
299M.04 [RULES, FEES, ORDERS, PENALTIES.]

The commissioner shall adopt permanent rules for operation of the council; regulation by municipalities; qualifications, examination, and licensing of fire protection contractors; licensing of multipurpose potable water piping system contractors; certification of multipurpose potable water piping system installers; certification of journeyman sprinkler fitters; registration of apprentices; and the administration and enforcement of this chapter. Permit fees must be a percentage of the total cost of the fire protection work.

The commissioner may issue a cease and desist order to cease an activity considered an immediate risk to public health or public safety. The commissioner shall adopt permanent rules governing when an order may be issued; how long the order is effective; notice requirements; and other procedures and requirements necessary to implement, administer, and enforce the provisions of this chapter.

The commissioner, in place of or in addition to licensing sanctions allowed under this chapter, may impose a civil penalty not greater than \$1,000 for each violation of this chapter or rule adopted under this chapter, for each day of violation. The commissioner shall adopt permanent rules governing and establishing procedures for implementation, administration, and enforcement of this paragraph.

- 42** **Laws 2003, First Special Session chapter 3, article 2, section 21** - repeals the quarterly wage detail report required of employers by the department of economic security. These reports are now required by statute to be filed in the "manner" and "format" prescribed by the commissioner. To the extent the commissioner prescribes substantive requirements relating to the manner and formatting of these reports, the commissioner would be required to do so by rule.

Sec. 21. [REPEALER.]

Minnesota Rules, part 3315.1015, subpart 4, is repealed.

- 43** **Laws 2003, First Special Session chapter 6, section 1** - (*Minnesota Statutes, section 14.388*) - imposes a notice requirement on agencies using the good cause exemption from the usual rulemaking provisions of Minnesota Statutes, chapter 14.

Section 1. Minnesota Statutes 2002, section 14.388, is amended to read:
14.388 [GOOD CAUSE EXEMPTION.]

Subdivision 1. [REQUIREMENTS.] If an agency for good cause finds that the rulemaking provisions of this chapter are unnecessary,

impracticable, or contrary to the public interest when adopting, amending, or repealing a rule to:

(1) address a serious and immediate threat to the public health, safety, or welfare;

(2) comply with a court order or a requirement in federal law in a manner that does not allow for compliance with sections 14.14 to 14.28;

(3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required; or

(4) make changes that do not alter the sense, meaning, or effect of a rule, the agency may adopt, amend, or repeal the rule after satisfying the requirements of subdivision 2 and section 14.386, paragraph (a), clauses (1) to (3). The agency shall incorporate its findings and a brief statement of its supporting reasons in its order adopting, amending, or repealing the rule.

After considering the agency's statement and any comments received, the office of administrative hearings shall determine whether the agency has provided adequate justification for its use of this section.

Rules adopted, amended, or repealed under clauses (1) and (2) are effective for a period of two years from the date of publication of the rule in the State Register.

Rules adopted, amended, or repealed under clause (3) or (4) are effective upon publication in the State Register.

Subd. 2. [NOTICE.] An agency proposing to adopt, amend, or repeal a rule under this section must give electronic notice of its intent in accordance with section 16E.07, subdivision 3, and notice by United States mail or electronic mail to persons who have registered their names with the agency under section 14.14, subdivision 1a. The notice must be given no later than the date the agency submits the proposed rule to the office of administrative hearings for review of its legality and must include:

(1) the proposed rule, amendment, or repeal;

(2) an explanation of why the rule meets the requirements of the good cause exemption under subdivision 1; and

(3) a statement that interested parties have five business days after the date of the notice to submit comments to the office of administrative hearings.

Subd. 3. [REVIEW BY CHIEF JUDGE.] If a rule has been disapproved by an administrative law judge, the agency may ask the chief administrative law judge to review the rule. The agency must give notice of its request for review in accordance with subdivision 2. The notice must be given no later than the date the agency requests review by the chief judge and must include a summary of any information or arguments the agency intends to submit to the chief judge that were not submitted to the judge who disapproved the rule.

Subd. 4. [COSTS.] The costs of any proceeding conducted by the office of administrative hearings in accordance with this section must be paid by the agency seeking to adopt, amend, or repeal a rule under this section.

44 **Laws 2003, First Special Session chapter 9, article 2, section 7 -** *(Minnesota Statutes, section 122A.09, subdivision 4)* - requires the board of teaching to adopt rules requiring licensed teachers renewing their licenses to obtain preparation in understanding the key warning signs of early-onset mental illness in children and adolescents.

Sec. 7. Minnesota Statutes 2002, section 122A.09, subdivision 4, is amended to read:

Subd. 4. [LICENSE AND RULES.] (a) The board must adopt rules to license public school teachers and interns subject to chapter 14.

(b) The board must adopt rules requiring a person to successfully complete a skills examination in reading, writing, and mathematics as a requirement for initial teacher licensure. Such rules must require college and universities offering a board approved teacher preparation program to provide remedial assistance to persons who did not achieve a qualifying score on the skills examination, including those for whom English is a second language.

(c) The board must adopt rules to approve teacher preparation programs. The board, upon the request of a post-secondary student preparing for teacher licensure or a licensed graduate of a teacher preparation program, shall assist in resolving a dispute between the person and a post-secondary institution providing a teacher preparation program when the dispute involves an institution's recommendation for licensure affecting the person or the person's credentials. At the board's discretion, assistance may include the application of chapter 14.

(d) The board must provide the leadership and shall adopt rules for the redesign of teacher education programs to implement a research based, results-oriented curriculum that focuses on the skills teachers need in order to be effective. The board shall implement new systems of teacher preparation program evaluation to assure program effectiveness based on proficiency of graduates in demonstrating attainment of program outcomes.

(e) The board must adopt rules requiring successful completion of an examination of general pedagogical knowledge and examinations of licensure-specific teaching skills. The rules shall be effective on the dates determined by the board but not later than September 1, 2001.

(f) The board must adopt rules requiring teacher educators to work directly with elementary or secondary school teachers in elementary or secondary schools to obtain periodic exposure to the elementary or secondary teaching environment.

(g) The board must grant licenses to interns and to candidates for initial licenses.

(h) The board must design and implement an assessment system which requires a candidate for an initial license and first continuing license to demonstrate the abilities necessary to perform selected, representative teaching tasks at appropriate levels.

(i) The board must receive recommendations from local committees as established by the board for the renewal of teaching licenses.

(j) The board must grant life licenses to those who qualify according to requirements established by the board, and suspend or revoke licenses pursuant to sections 122A.20 and 214.10. The board must not establish any expiration date for application for life licenses.

(k) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further preparation in the areas of using positive behavior interventions and in accommodating, modifying, and adapting curricula, materials, and strategies to appropriately meet the needs of individual students and ensure adequate progress toward the state's graduation rule.

(l) In adopting rules to license public school teachers who provide health-related services for disabled children, the board shall adopt rules consistent with license or registration requirements of the commissioner of health and the health-related boards who license personnel who perform similar services outside of the school.

(m) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further reading preparation, consistent with section 122A.06, subdivision 4. The rules do not take effect until they are approved by law.

(n) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further preparation in understanding the key warning signs of early-onset mental illness in children and adolescents.

45 Laws 2003, First Special Session chapter 9, article 2, section 20, subdivision 9 - (*Minnesota Statutes, section 124D.095, subdivision 9*) - authorizes the commissioner of education to establish criteria to limit the increase in the number of qualifying pupils for an online learning provider to enable start-up or growth of other providers. These criteria arguably meet the definition of a rule under Minnesota Statutes, chapter 14.

Sec. 20. [124D.095] [ON-LINE LEARNING OPTION.]

Subd. 9. [PAYMENT PRIORITY.] (a) To the extent funds are available, the commissioner must pay an on-line learning provider according to subdivision 8, in the order in which a on-line learning provider notifies the commissioner under subdivision 3, paragraph (b), that it is delivering on-line learning. The on-line learning provider must

submit to the commissioner any student information necessary to process payments under this section.

(b) Before paying other on-line learning providers under paragraph (a), the commissioner must pay providers that delivered on-line learning in fiscal year 2003. (i) First, the commissioner must pay for students who were enrolled in a Minnesota on-line learning program during fiscal year 2003 and continue to be enrolled in that on-line learning program during the current fiscal year. (ii) Second, the commissioner must pay for other students enrolled in that on-line learning program during the current fiscal year. A provider's qualifying number of pupils under clauses (i) and (ii) shall not exceed 100 percent of the fiscal year 2003 pupils. An on-line learning provider that qualifies under this paragraph may also submit an application for funding for additional pupils under paragraph (a).

(c) Notwithstanding paragraph (a), the commissioner may establish criteria to limit the increase in the number of qualifying pupils for an on-line learning provider to enable start-up or growth of other providers.

- 46** **Laws 2003, First Special Session chapter 9, article 3, section 19** - requires the commissioner of education to adopt rules by January 1, 2004, relating to due process hearings and hearing officers.

Sec. 19. [DEPARTMENT RESPONSIBILITY.]

By January 1, 2004, the commissioner of education must adopt rules that:

(1) establish criteria for selecting hearing officers, the standards of conduct to which a hearing officer must adhere, and a process to evaluate the hearing system;

(2) ensure that appropriately trained and knowledgeable persons conduct due process hearings in compliance with federal law; and

(3) create standards for expedited due process hearings under federal law.

By March 1, 2004, the commissioner of education must develop and make available a notice for participants in state-provided dispute resolution processes that informs participants of their rights concerning dispute resolution.

- 47** **Laws 2003, First Special Session chapter 9, article 10, section 14, paragraph (b)** - repeals rules of the department of education relating to duty free lunches for teachers, student transportation data reporting requirements, regulations relating to equal transportation, transportation of pupils with a disability, library service for the blind and physically handicapped and institutions, the school lunch program, civil defense, and the method of determining the training and experience index component of the school foundation aid.

Sec. 14. [REPEALER.]

(b) Minnesota Rules, parts 3500.0600; 3520.0400; 3520.1400; 3520.3300; 3530.1500; 3530.2700; 3530.4400; 3530.4500; 3530.4700; and 3550.0100, are repealed.

- 48 Laws 2003, First Special Session chapter 11, article 2, section 3, subdivision 4** - (*Minnesota Statutes, section 216B.1691, subdivision 4*) - authorizes the public utilities commission to establish a program for tradable credits for electricity generated by an eligible energy technology by rule or order.

Sec. 3. Minnesota Statutes 2002, section 216B.1691, is amended to read:

216B.1691 [RENEWABLE ENERGY OBJECTIVES.]

Subd. 4. [RENEWABLE ENERGY CREDITS.] (a) To facilitate compliance with this section, the commission, by rule or order, may establish a program for tradable credits for electricity generated by an eligible energy technology. In doing so, the commission shall implement a system that constrains or limits the cost of credits, taking care to ensure that such a system does not undermine the market for those credits.

(b) In lieu of generating or procuring energy directly to satisfy the renewable energy objective of this section, an electric utility may purchase sufficient renewable energy credits, issued pursuant to this subdivision, to meet its objective.

(c) Upon the passage of a renewable energy standard, portfolio, or objective in a bordering state that includes a similar definition of eligible energy technology or renewable energy, the commission may facilitate the trading of renewable energy credits between states.

- 49 Laws 2003, First Special Session chapter 14, article 2, section 57, paragraph (d)** - repeals the community alternatives for disabled individual program rules and the community alternative care program rules of the department of human services. Parts of this repealer were identified as obsolete in the department's annual obsolete rules report for 2001.

Sec. 57. [REPEALER.]

(d) Minnesota Rules, parts 9505.3045; 9505.3050; 9505.3055; 9505.3060; 9505.3068; 9505.3070; 9505.3075; 9505.3080; 9505.3090; 9505.3095; 9505.3100; 9505.3105; 9505.3107; 9505.3110; 9505.3115; 9505.3120; 9505.3125; 9505.3130; 9505.3138; 9505.3139; 9505.3140; 9505.3680; 9505.3690; and 9505.3700, are repealed effective July 1, 2003.

50 Laws 2003, First Special Session chapter 14, article 3, section 19 -

(Minnesota Statutes, section 256B.0622, subdivision 4) - requires the commissioner of human services to develop procedures for counties and providers to submit contracts and other documentation as needed to allow the commissioner to determine whether the standards relating to intensive rehabilitation mental health services are met.

Sec. 19. [256B.0622] [INTENSIVE REHABILITATIVE MENTAL HEALTH SERVICES.]

Subd. 4. [PROVIDER CERTIFICATION AND CONTRACT REQUIREMENTS.] (a) The intensive nonresidential rehabilitative mental health services provider must:

(1) have a contract with the host county to provide intensive adult rehabilitative mental health services; and

(2) be certified by the commissioner as being in compliance with this section and section 256B.0623.

(b) The intensive residential rehabilitative mental health services provider must:

(1) be licensed under Minnesota Rules, parts 9520.0500 to 9520.0670;

(2) not exceed 16 beds per site;

(3) comply with the additional standards in this section; and

(4) have a contract with the host county to provide these services.

(c) The commissioner shall develop procedures for counties and providers to submit contracts and other documentation as needed to allow the commissioner to determine whether the standards in this section are met.

51 Laws 2003, First Special Session chapter 14, article 3, section 23 -

(Minnesota Statutes, section 256B.0623, subdivision 6) - requires the commissioner of human services to develop procedures relating to clinical supervision of staff delivering adult rehabilitative mental health services by interactive videoteleconferencing.

Sec. 23. Minnesota Statutes 2002, section 256B.0623, subdivision 6, is amended to read:

Subd. 6. [REQUIRED TRAINING AND SUPERVISION.] (a) Mental health rehabilitation workers must receive ongoing continuing education training of at least 30 hours every two years in areas of mental illness and mental health services and other areas specific to the population being served. Mental health rehabilitation workers must also be subject to the ongoing direction and clinical supervision standards in paragraphs (c) and (d).

(b) Mental health practitioners must receive ongoing continuing education training as required by their professional license; or if the

practitioner is not licensed, the practitioner must receive ongoing continuing education training of at least 30 hours every two years in areas of mental illness and mental health services. Mental health practitioners must meet the ongoing clinical supervision standards in paragraph (c).

(c) Clinical supervision may be provided by a full- or part-time qualified professional employed by or under contract with the provider entity.

Clinical supervision may be provided by interactive videoconferencing according to procedures developed by the commissioner. A mental health professional providing clinical supervision of staff delivering adult rehabilitative mental health services must provide the following guidance:

- (1) review the information in the recipient's file;
- (2) review and approve initial and updates of individual treatment plans;
- (3) meet with mental health rehabilitation workers and practitioners, individually or in small groups, at least monthly to discuss treatment topics of interest to the workers and practitioners;
- (4) meet with mental health rehabilitation workers and practitioners, individually or in small groups, at least monthly to discuss treatment plans of recipients, and approve by signature and document in the recipient's file any resulting plan updates;

(5) meet at least ~~twice a month~~ monthly with the directing mental health practitioner, if there is one, to review needs of the adult rehabilitative mental health services program, review staff on-site observations and evaluate mental health rehabilitation workers, plan staff training, review program evaluation and development, and consult with the directing practitioner; and

(6) be available for urgent consultation as the individual recipient needs or the situation necessitates; ~~and~~

~~(7) provide clinical supervision by full- or part-time mental health professionals employed by or under contract with the provider entity.~~

(d) An adult rehabilitative mental health services provider entity must have a treatment director who is a mental health practitioner or mental health professional. The treatment director must ensure the following:

(1) while delivering direct services to recipients, a newly hired mental health rehabilitation worker must be directly observed delivering services to recipients by ~~the~~ a mental health practitioner or mental health professional for at least six hours per 40 hours worked during the first 160 hours that the mental health rehabilitation worker works;

(2) the mental health rehabilitation worker must receive ongoing on-site direct service observation by a mental health professional or mental health practitioner for at least six hours for every six months of employment;

(3) progress notes are reviewed from on-site service observation prepared by the mental health rehabilitation worker and mental health practitioner for accuracy and consistency with actual recipient contact and the individual treatment plan and goals;

- (4) immediate availability by phone or in person for consultation by a mental health professional or a mental health practitioner to the mental health rehabilitation services worker during service provision;
 - (5) oversee the identification of changes in individual recipient treatment strategies, revise the plan, and communicate treatment instructions and methodologies as appropriate to ensure that treatment is implemented correctly;
 - (6) model service practices which: respect the recipient, include the recipient in planning and implementation of the individual treatment plan, recognize the recipient's strengths, collaborate and coordinate with other involved parties and providers;
 - (7) ensure that mental health practitioners and mental health rehabilitation workers are able to effectively communicate with the recipients, significant others, and providers; and
 - (8) oversee the record of the results of on-site observation and charting evaluation and corrective actions taken to modify the work of the mental health practitioners and mental health rehabilitation workers.
- (e) A mental health practitioner who is providing treatment direction for a provider entity must receive supervision at least monthly from a mental health professional to:
- (1) identify and plan for general needs of the recipient population served;
 - (2) identify and plan to address provider entity program needs and effectiveness;
 - (3) identify and plan provider entity staff training and personnel needs and issues; and
 - (4) plan, implement, and evaluate provider entity quality improvement programs.

***52 Laws 2003, First Special Session chapter 14, article 4, section 8, subdivision 10** - (*Minnesota Statutes, section 256B.0943, subdivision 10*) - requires the commissioner of human services to establish criteria and standards used to select health services for children that do not require prior authorization. The standards and criteria are not subject to the requirements of Minnesota Statutes, sections 14.001 to 14.69, but this law does not provide a specific exemption from Minnesota Statutes, section 14.386.

Sec. 8. [256B.0943] [CHILDREN'S THERAPEUTIC SERVICES AND SUPPORTS.]

Subd. 10. [SERVICE AUTHORIZATION.] The commissioner shall publish in the State Register a list of health services that require prior authorization, as well as the criteria and standards used to select health services on the list. The list and the criteria and standards used to formulate the list are not subject to the requirements of sections 14.001 to

14.69. The commissioner's decision on whether prior authorization is required for a health service is not subject to administrative appeal.

- 53 Laws 2003, First Special Session chapter 14, article 4, section 24, paragraph (c)** - repeals the home-based mental health services, family community support services, and therapeutic support of foster care rules of the department of human services, effective July 1, 2004.

Sec. 24. [REPEALER.]

(c) Minnesota Rules, parts 9505.0324; 9505.0326; and 9505.0327, are repealed effective July 1, 2004.

- 54 Laws 2003, First Special Session chapter 14, article 5, section 30, paragraph (b)** - repeals certain alcohol and drug counselor licensing rules of the department of health.

Sec. 30. [REPEALER.]

(b) Minnesota Rules, parts 4747.0030, subparts 25, 28, and 30; 4747.0040, subpart 3, item A; 4747.0060, subpart 1, items A, B, and D; 4747.0070, subparts 4 and 5; 4747.0080; 4747.0090; 4747.0100; 4747.0300; 4747.0400, subparts 2 and 3; 4747.0500; 4747.0600; 4747.1000; 4747.1100, subpart 3; and 4747.1600, are repealed.

- 55 Laws 2003, First Special Session chapter 14, article 6, section 43 -** (*Minnesota Statutes, section 253.26*) - requires the commissioner of human services to establish a written policy creating the transfer criteria for the transfer of a committed patient to the Minnesota security hospital following a determination that the patient's behavior warrants it.

Sec. 43. Minnesota Statutes 2002, section 253.26, is amended to read:
253.26 [TRANSFERS OF PATIENTS OR RESIDENTS.]

~~When any person of the state hospital for patients with mental illness or residents with mental retardation is found by the commissioner of human services to have homicidal tendencies or to be under sentence or indictment or information the person may be transferred by the commissioner to the Minnesota Security Hospital for safekeeping and treatment~~ The commissioner of human services may transfer a committed patient to the Minnesota Security Hospital following a determination that the patient's behavior presents a danger to others and treatment in a secure treatment facility is necessary. The commissioner shall establish a written policy creating the transfer criteria.

- 56 Laws 2003, First Special Session chapter 14, article 6, section 68, paragraph (b)** - repeals the residential and nonresidential programs and agencies rules of the department of human services.

Sec. 68. [REPEALER.]

(b) Minnesota Rules, parts 9545.2000; 9545.2010; 9545.2020; 9545.2030; and 9545.2040, are repealed.

- *57 Laws 2003, First Special Session chapter 14, article 7, section 26, subdivision 2** - (*Minnesota Statutes, section 144.125, subdivision 2*) - requires the commissioner of health to periodically revise the list of tests to be administered for determining the presence of a heritable or congenital disorder. Revisions are exempt from the rulemaking requirements of Minnesota Statutes, chapter 14, and Minnesota Statutes, sections 14.385 and 14.386.

Sec. 26. Minnesota Statutes 2002, section 144.125, is amended to read:

144.125 [TESTS OF INFANTS FOR ~~INBORN METABOLIC ERRORS~~ HERITABLE AND CONGENITAL DISORDERS.]

Subd. 2. [DETERMINATION OF TESTS TO BE ADMINISTERED.]

The commissioner shall periodically revise the list of tests to be administered for determining the presence of a heritable or congenital disorder. Revisions to the list shall reflect advances in medical science, new and improved testing methods, or other factors that will improve the public health. In determining whether a test must be administered, the commissioner shall take into consideration the adequacy of laboratory methods to detect the heritable or congenital disorder, the ability to treat or prevent medical conditions caused by the heritable or congenital disorder, and the severity of the medical conditions caused by the heritable or congenital disorder. The list of tests to be performed may be revised if the changes are recommended by the advisory committee established under section 144.1255, approved by the commissioner, and published in the State Register. The revision is exempt from the rulemaking requirements in chapter 14 and sections 14.385 and 14.386 do not apply.

- 58 Laws 2003, First Special Session chapter 14, article 7, section 33, subdivision 6** - (*Minnesota Statutes, section 144.1501, subdivision 6*) - authorizes the commissioner of health to adopt rules to implement the health professional education loan forgiveness program.

Sec. 33. [144.1501] [HEALTH PROFESSIONAL EDUCATION LOAN FORGIVENESS PROGRAM.]

Subd. 6. [RULES.] The commissioner may adopt rules to implement this section.

- 59 Laws 2003, First Special Session chapter 14, article 7, section 89, paragraph (b)** - repeals the rural physician loan forgiveness program and midlevel practitioner education account rules, and portions of the nursing home or intermediate care facility nurses education account rules of the department of health.

Sec. 89. [REPEALER.]

(b) Minnesota Rules, parts 4763.0100; 4763.0110; 4763.0125; 4763.0135; 4763.0140; 4763.0150; 4763.0160; 4763.0170; 4763.0180; 4763.0190; 4763.0205; 4763.0215; 4763.0220; 4763.0230; 4763.0240; 4763.0250; 4763.0260; 4763.0270; 4763.0285; 4763.0295; and 4763.0300, are repealed.

- 60 Laws 2003, First Special Session chapter 14, article 8, section 30** - (*Minnesota Statutes, section 145A.14, subdivision 2a*) - requires the commissioner of health to establish a formula for distributing local public health grant funds to tribal governments and developing the outcomes to be measured.

Sec. 30. Minnesota Statutes 2002, section 145A.14, is amended by adding a subdivision to read:

Subd. 2a. [TRIBAL GOVERNMENTS.] (a) Of the funding available for local public health grants, \$1,500,000 per year is available to tribal governments for:

(1) maternal and child health activities under section 145.882, subdivision 7;

(2) activities to reduce health disparities under section 145.928, subdivision 10; and

(3) emergency preparedness.

(b) The commissioner, in consultation with tribal governments, shall establish a formula for distributing the funds and developing the outcomes to be measured.

- 61 Laws 2003, First Special Session chapter 14, article 8, section 32, paragraphs (b) and (c)** - repeals the Indian health grant rules (effective January 1, 2004) and services for children with handicaps rules (effective June 30, 2004) of the department of health.

Sec. 32. [REPEALER.]

(b) Minnesota Rules, parts 4736.0010; 4736.0020; 4736.0030; 4736.0040; 4736.0050; 4736.0060; 4736.0070; 4736.0080; 4736.0090; 4736.0120; and 4736.0130, are repealed effective January 1, 2004.

(c) Minnesota Rules, parts 4705.0100; 4705.0200; 4705.0300; 4705.0400; 4705.0500; 4705.0600; 4705.0700; 4705.0800; 4705.0900; 4705.1000; 4705.1100; 4705.1200; 4705.1300; 4705.1400; 4705.1500; and 4705.1600, are repealed effective June 30, 2004.

62 Laws 2003, First Special Session chapter 14, article 9, section 21, subdivision 1 - (*Minnesota Statutes, section 119B.125, subdivision 1*) - requires the commissioner of education to establish requirements necessary for the authorization of legal, nonlicensed family child care providers.

Sec. 21. [119B.125] [PROVIDER REQUIREMENTS.]

Subdivision 1. [AUTHORIZATION.] Except as provided in subdivision 5, a county must authorize the provider chosen by an applicant or a participant before the county can authorize payment for care provided by that provider. The commissioner must establish the requirements necessary for authorization of providers.

63 Laws 2003, First Special Session chapter 14, article 11, section 9, subdivision 1 - (*Minnesota Statutes, section 256M.80, subdivision 1*) - requires the commissioner of human services to prescribe standard methods to be used by counties in providing data to the commissioner from the past calendar year on the outcomes and performance indicators in the service plan under the Community Services Act.

Sec. 9. [256M.80] [PROGRAM EVALUATION.]

Subdivision 1. [COUNTY EVALUATION.] Each county shall submit to the commissioner data from the past calendar year on the outcomes and performance indicators in the service plan. The commissioner shall prescribe standard methods to be used by the counties in providing the data. The data shall be submitted no later than March 1 of each year, beginning with March 1, 2005.

64 Laws 2003, First Special Session chapter 14, article 11, section 12, paragraph (b) - repeals the rules of the department of human services governing the administration of community social services.

Sec. 12. [REPEALER.]

(b) Minnesota Rules, parts 9550.0010; 9550.0020; 9550.0030; 9550.0040; 9550.0050; 9550.0060; 9550.0070; 9550.0080; 9550.0090; 9550.0091; 9550.0092; and 9550.0093, are repealed.

65 Laws 2003, First Special Session chapter 14, article 12, section 4, subdivision 5 - (*Minnesota Statutes, section 256.954, subdivision 5*) – requires the commissioner of human services to specify application information necessary to determine eligibility under the prescription drug discount program. The program is effective July 1, 2005.

Sec. 4. [256.954] [PRESCRIPTION DRUG DISCOUNT PROGRAM.]
Subd. 5. [APPLICATION PROCEDURE.] (a) Applications and information on the program must be made available at county social services agencies, health care provider offices, and agencies and organizations serving senior citizens. Individuals shall submit applications and any information specified by the commissioner as being necessary to verify eligibility directly to the commissioner. The commissioner shall determine an applicant's eligibility for the program within 30 days from the date the application is received. Eligibility begins the month after approval.

(b) The commissioner shall develop an application form that does not exceed one page in length and requires information necessary to determine eligibility for the program.

***66 Laws 2003, First Special Session chapter 14, article 12, section 35, subdivision 13** - (*Minnesota Statutes, section 256B.0625, subdivision 13*) - exempts from the requirements of Minnesota Statutes, chapter 14, but not specifically Minnesota Statutes, section 14.386, determinations by the commissioner of human services that certain over-the-counter drugs are covered under the medical assistance program.

Sec. 35. Minnesota Statutes 2002, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. [DRUGS.] (a) Medical assistance covers drugs, except for fertility drugs when specifically used to enhance fertility, if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, by a physician enrolled in the medical assistance program as a dispensing physician, or by a physician or a nurse practitioner employed by or under contract with a community health board as defined in section 145A.02, subdivision 5, for the purposes of communicable disease control.

(b) The dispensed quantity of a prescription drug must not exceed a 34-day supply, unless authorized by the commissioner.

(c) Medical assistance covers the following over-the-counter drugs when prescribed by a licensed practitioner or by a licensed pharmacist who meets standards established by the commissioner, in consultation with the board of pharmacy: antacids, acetaminophen, family planning products,

aspirin, insulin, products for the treatment of lice, vitamins for adults with documented vitamin deficiencies, vitamins for children under the age of seven and pregnant or nursing women, and any other over-the-counter drug identified by the commissioner, in consultation with the formulary committee, as necessary, appropriate, and cost-effective for the treatment of certain specified chronic diseases, conditions, or disorders, and this determination shall not be subject to the requirements of chapter 14. A pharmacist may prescribe over-the-counter medications as provided under this paragraph for purposes of receiving reimbursement under Medicaid. When prescribing over-the-counter drugs under this paragraph, licensed pharmacists must consult with the recipient to determine necessity, provide drug counseling, review drug therapy for potential adverse interactions, and make referrals as needed to other health care professionals.

67 Laws 2003, First Special Session chapter 14, article 12, section 35, subdivision 13g *-(Minnesota Statutes, section 256B.0625, subdivision 13g)* - requires the commissioner of human services to adopt a preferred drug list as part of the supplemental drug rebate program.

Sec. 35. Minnesota Statutes 2002, section 256B.0625, subdivision 13, is amended to read:

Subd. 13g. [PREFERRED DRUG LIST.] (a) The commissioner shall adopt and implement a preferred drug list by January 1, 2004. The commissioner may enter into a contract with a vendor or one or more states for the purpose of participating in a multistate preferred drug list and supplemental rebate program. The commissioner shall ensure that any contract meets all federal requirements and maximizes federal financial participation. The commissioner shall publish the preferred drug list annually in the State Register and shall maintain an accurate and up-to-date list on the agency Web site.

(b) The commissioner may add to, delete from, and otherwise modify the preferred drug list, after consulting with the formulary committee and appropriate medical specialists and providing public notice and the opportunity for public comment.

(c) The commissioner shall adopt and administer the preferred drug list as part of the administration of the supplemental drug rebate program. Reimbursement for prescription drugs not on the preferred drug list may be subject to prior authorization, unless the drug manufacturer signs a supplemental rebate contract.

(d) For purposes of this subdivision, "preferred drug list" means a list of prescription drugs within designated therapeutic classes selected by the commissioner, for which prior authorization based on the identity of the drug or class is not required.

(e) The commissioner shall seek any federal waivers or approvals necessary to implement this subdivision.

- *68 Laws 2003, First Special Session chapter 19, article 2, section 7, subdivision 3** - *(Minnesota Statutes, section 160.93, subdivision 3)* - exempts the commissioner of transportation from the statutory rulemaking provisions, including Minnesota Statutes, section 14.386, with respect to the high-occupancy vehicle lane user fee statute.

Sec. 7. [160.93] [USER FEES; HIGH-OCCUPANCY VEHICLE LANES.]

Subd. 3. [EXEMPTIONS.] With respect to this section, the commissioner is exempt from statutory rulemaking requirements, including section 14.386, and from sections 160.84 to 160.92 and 161.162 to 161.167.

- 69 Laws 2003, First Special Session chapter 19, article 2, section 79, subdivision 2** - repeals obsolete rules of the department of transportation identified in its annual report on obsolete rules for 2002 relating to motor carrier operations, motor carrier safety, railroad abandonments, aeronautics, and the trunk highway system. Also repealed are rules relating to motor carrier ratemaking; vehicle license plate fees; motor vehicle and motorcycle insurance; driveway layouts; district and street classifications; curbs, ledges, and islands; driveway dimensions; and alteration of railroad tariff rates. Also repealed are department of public safety rules relating to vehicle plate and validation sticker fees and motor vehicle and motorcycle insurance information.

Sec. 79. [REPEALER.]

Subd. 2. [RULES.] Minnesota Rules, parts 7403.1300; 7413.0400; 7413.0500; 7800.0100, subparts 1, 3, and 5; 7800.0500; 7800.0700; 7800.1400; 7800.1500; 7800.1600; 7800.1700; 7800.3100; 7800.3900; 7800.4810; 7805.0800; 8800.0100, subparts 7 and 36; 8800.1200, subpart 3; 8800.3500; 8800.3700; 8800.4000; 8810.4200; 8810.4500; 8810.4600; 8810.4700; 8810.4800; 8810.4900; 8810.5000; 8810.5100; 8810.5500; 8810.9920; 8810.9921; 8850.6900, subparts 4, 6, 11, 12, and 17; 8850.7000; 8850.7025; 8850.7040; 8850.7100; 8850.7900; 8850.8200; 8850.8900; 8850.9000; 8850.9050, subparts 1 and 2; 8900.0100; 8900.0200; 8900.0300; 8900.0400; 8900.0500; 8900.0600; 8900.0700; 8900.0800; 8900.0900; 8900.1000; 8900.1100; 8910.1000; 8910.2000; 8910.2100; 8910.3000; and 8910.3100, are repealed.

***70 Laws 2003, First Special Session chapter 21, article 1, section 19, subdivisions 4 and 6** - (*Minnesota Statutes, section 469.314, subdivisions 4 and 6*) - exempts the commissioner of trade and economic development from Minnesota Statutes, chapter 14, and Minnesota Statutes, section 14.386, in the administration of the job opportunity building zone legislation, Minnesota Statutes, sections 469.310 to 469.320; and requires the commissioner of trade and economic development to publish any procedural and content requirements for applications for designation as job opportunity building zones.

Sec. 19. [469.314] [DESIGNATION OF JOB OPPORTUNITY BUILDING ZONES.]

Subd. 4. [DESIGNATION SCHEDULE.] (a) The schedule in paragraphs (b) to (f) applies to the designation of job opportunity building zones.

(b) The commissioner shall publish the form for applications and any procedural, form, or content requirements for applications by no later than August 1, 2003. The commissioner may publish these requirements on the Internet, in the State Register, or by any other means the commissioner determines appropriate to disseminate the information to potential applicants for designation.

(c) Applications must be submitted by October 15, 2003.

(d) The commissioner shall designate the zones by no later than December 31, 2003.

(e) The designation of the zones takes effect January 1, 2004.

(f) The commissioner may reserve one or more of the ten authorized zones for a second round of designations in calendar year 2004. If the commissioner chooses to reserve designations for this purpose, the commissioner shall establish the schedule for the second round of designations, notwithstanding the dates in paragraphs (c), (d), and (e). The commissioner shall allow a period of at least 90 days for submission of applications after notification of the second round. A zone designated in the second round takes effect on January 1, 2005.

Subd. 6. [RULEMAKING EXEMPTION.] The commissioner's actions in establishing procedures, requirements, and making determinations to administer sections 469.310 to 469.320 are not a rule for purposes of chapter 14 and are not subject to the Administrative Procedure Act contained in chapter 14 and are not subject to section 14.386.

71 Laws 2003, First Special Session chapter 21, article 2, section 13, subdivision 4 - (*Minnesota Statutes, section 469.334, subdivision 4*) - requires the commissioner of trade and economic development to publish any procedural and content requirements for applications for designation as a biotechnology and health sciences industry zone.

Sec. 13. [469.334] [DESIGNATION OF BIOTECHNOLOGY AND HEALTH SCIENCES INDUSTRY ZONE.]

Subd. 4. [DESIGNATION SCHEDULE.] (a) The schedule in paragraphs (b) to (e) applies to the designation of the biotechnology and health sciences industry zone.

(b) The commissioner shall publish the form for applications and any procedural, form, or content requirements for applications by no later than August 1, 2003. The commissioner may publish these requirements on the Internet, in the State Register, or by any other means the commissioner determines appropriate to disseminate the information to potential applicants for designation.

(c) Applications must be submitted by October 15, 2003.

(d) The commissioner shall designate the zones by no later than December 31, 2003.

(e) The designation of the zones takes effect January 1, 2004.

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