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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 3273

03/24/2014 Authored by Paymar; Rosenthal; Simonson; Ward, J.E.; Loeffler and others

The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy

03/27/2014 Adoption of Report: Amended and re-referred to the Committee on Ways and Means

1.1 A bill for an act

1.2 relating to public safety; making supplemental appropriations for public safety

1.3 and corrections; modifying certain statutory provisions related to victims of

1.4 domestic violence and sentencing for criminal sexual conduct in the fifth

1.5 degree; continuing the Fire Service Advisory Committee; providing for disaster

1.6 assistance for public entities when federal aid is granted and when federal

1.7 aid is absent; amending Minnesota Statutes 2012, sections 12.03, by adding

1.8 subdivisions; 12.221, subdivision 4, by adding a subdivision; 12A.02, subdivision

1.9 2, by adding subdivisions; 12A.03, subdivision 3; 12A.15, subdivision 1; 13.84,

1.10 subdivisions 5, 6; 16A.28, by adding a subdivision; 243.167, subdivision 1;

1.11 299F.012, subdivisions 1, 2; 609.135, subdivision 2; 609.3451, subdivision 3;

1.12 611A.06, by adding a subdivision; Laws 2009, chapter 83, article 1, section 10,

1.13 subdivision 7; Laws 2013, chapter 86, article 1, section 13; proposing coding for

1.14 new law as Minnesota Statutes, chapter 12B.

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

1.16 ARTICLE 1

1.17 PUBLIC SAFETY AND CORRECTIONS APPROPRIATIONS

1.18 Section 1. SUMMARY OF APPROPRIATIONS.

1.19 The amounts shown in this section summarize direct appropriations, by fund, made

1.20 in this article.

1.21		<u>2014</u>		<u>2015</u>		<u>Total</u>
1.22	<u>General</u>	\$	<u>-0-</u>	\$	<u>36,475,000</u>	\$ <u>36,496,000</u>
1.23	<u>State Government Special</u>					
1.24	<u>Revenue</u>		<u>6,359,000</u>		<u>6,865,000</u>	<u>13,224,000</u>
1.25	<u>Total</u>	\$	<u>6,359,000</u>	\$	<u>43,361,000</u>	\$ <u>49,720,000</u>

1.26 Sec. 2. APPROPRIATIONS.

The sums shown in the columns marked "Appropriations" are added to the appropriations in Laws 2013, chapter 86, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2014" and "2015" used in this article mean that the addition to the appropriation listed under them is available for the fiscal year ending June 30, 2014, or June 30, 2015, respectively. Supplemental appropriations for the fiscal year ending June 30, 2014, are effective the day following final enactment.

APPROPRIATIONS	
Available for the Year	
Ending June 30	
<u>2014</u>	<u>2015</u>

Sec. 3. DEPARTMENT OF PUBLIC SAFETY

Subdivision 1. <u>Total Appropriation</u>	\$	<u>6,359,000</u>	\$	<u>13,176,000</u>
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Appropriations by Fund

<u>General</u>	<u>-0-</u>	<u>6,311,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>6,359,000</u>	<u>6,865,000</u>

The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. <u>Emergency Communication Networks</u>	<u>5,059,000</u>	<u>6,865,000</u>
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This appropriation is from the state government special revenue fund for 911 emergency telecommunications services.

Subd. 3. <u>Office of Justice Programs</u>	<u>-0-</u>	<u>650,000</u>
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(a) \$300,000 in 2015 is for grants to fund emergency shelter, housing, or advocacy services targeted to culturally specific programming for newer immigrant populations. The funds must be awarded to a program or programs that demonstrate leadership in the community to be served. This appropriation is added to the base.

3.1 (b) \$300,000 in 2015 is for grants to sexual
 3.2 assault advocacy programs for sexual
 3.3 violence community prevention networks.

3.4 For purposes of this section, "sexual
 3.5 assault" means a violation of Minnesota
 3.6 Statutes, sections 609.342 to 609.3453. This
 3.7 appropriation is added to the base.

3.8 (c) \$50,000 in 2015 is for training state
 3.9 and local community safety personnel in
 3.10 the use of crisis de-escalation techniques
 3.11 for use with Minnesota veterans following
 3.12 their return from active military service in
 3.13 a combat zone. The commissioner must
 3.14 consult with the director of the Minnesota
 3.15 Peace Officer Standards and Training Board,
 3.16 and may consult with any other state or local
 3.17 governmental official or nongovernmental
 3.18 authority the commissioner determines
 3.19 to be relevant, to include postsecondary
 3.20 institutions, when selecting a service provider
 3.21 for this training. Among any other criteria
 3.22 the commissioner may establish for the
 3.23 selection, the training provider must have a
 3.24 demonstrated understanding of the transitions
 3.25 and challenges that veterans may experience
 3.26 during their re-entry into society following
 3.27 combat service. The commissioner must
 3.28 ensure that training opportunities provided
 3.29 are reasonably distributed statewide. This is
 3.30 a onetime appropriation.

3.31 Subd. 4. **Emergency Management**

0

5,661,000

3.32 \$5,661,000 in 2015 is for the disaster
 3.33 assistance contingency account in Minnesota
 3.34 Statutes, section 12.221. These funds are
 3.35 available until spent.

4.1	<u>Subd. 5. Fire Safety Account</u>	<u>1,300,000</u>	<u>0</u>
4.2	<u>\$1,300,000 in 2014 is appropriated from the</u>		
4.3	<u>fire safety account in the special revenue</u>		
4.4	<u>fund to the commissioner of public safety</u>		
4.5	<u>for activities and programs under Minnesota</u>		
4.6	<u>Statutes, section 299F.012. This is a onetime</u>		
4.7	<u>appropriation. By January 15, 2015, the</u>		
4.8	<u>commissioner shall report to the chairs and</u>		
4.9	<u>ranking minority members of the legislative</u>		
4.10	<u>committees with jurisdiction over the fire</u>		
4.11	<u>safety account regarding the balances and</u>		
4.12	<u>uses of the account.</u>		
4.13	<u>Sec. 4. CORRECTIONS</u>		
4.14	<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>-0- \$ 30,164,000</u>
4.15	<u>The amounts that may be spent for each</u>		
4.16	<u>purpose are specified in the following</u>		
4.17	<u>subdivisions.</u>		
4.18	<u>Subd. 2. Correctional Institutions</u>	<u>-0-</u>	<u>27,321,000</u>
4.19	<u>This includes a onetime appropriation of</u>		
4.20	<u>\$11,089,000.</u>		
4.21	<u>Subd. 3. Community Services</u>	<u>-0-</u>	<u>1,900,000</u>
4.22	<u>Subd. 4. Operations Support</u>	<u>-0-</u>	<u>900,000</u>
4.23	Sec. 5. Laws 2009, chapter 83, article 1, section 10, subdivision 7, is amended to read:		
4.24	Subd. 7. Emergency Communication Networks	66,470,000	70,233,000
4.25	This appropriation is from the state		
4.26	government special revenue fund for 911		
4.27	emergency telecommunications services.		
4.28	(a) Public Safety Answering Points.		
4.29	\$13,664,000 each year is to be distributed		
4.30	as provided in Minnesota Statutes, section		
4.31	403.113, subdivision 2.		

5.1 **(b) Medical Resource Communication**

5.2 **Centers.** \$683,000 each year is for grants
5.3 to the Minnesota Emergency Medical
5.4 Services Regulatory Board for the Metro
5.5 East and Metro West Medical Resource
5.6 Communication Centers that were in
5.7 operation before January 1, 2000.

5.8 **(c) ARMER Debt Service.** \$17,557,000 the
5.9 first year and \$23,261,000 the second year
5.10 are to the commissioner of finance to pay
5.11 debt service on revenue bonds issued under
5.12 Minnesota Statutes, section 403.275.

5.13 Any portion of this appropriation not needed
5.14 to pay debt service in a fiscal year may be
5.15 used by the commissioner of public safety to
5.16 pay cash for any of the capital improvements
5.17 for which bond proceeds were appropriated
5.18 by Laws 2005, chapter 136, article 1, section
5.19 9, subdivision 8, or Laws 2007, chapter 54,
5.20 article 1, section 10, subdivision 8.

5.21 **(d) Metropolitan Council Debt Service.**

5.22 \$1,410,000 each year is to the commissioner
5.23 of finance for payment to the Metropolitan
5.24 Council for debt service on bonds issued
5.25 under Minnesota Statutes, section 403.27.

5.26 **(e) ARMER State Backbone Operating**

5.27 **Costs.** \$5,060,000 each year is to the
5.28 commissioner of transportation for costs
5.29 of maintaining and operating the statewide
5.30 radio system backbone.

5.31 **(f) ARMER Improvements.** \$1,000,000

5.32 each year is for the Statewide Radio Board for
5.33 costs of design, construction, maintenance
5.34 of, and improvements to those elements
5.35 of the statewide public safety radio and

6.1 communication system that support mutual
 6.2 aid communications and emergency medical
 6.3 services or provide enhancement of public
 6.4 safety communication interoperability.

6.5 **(g) Next Generation 911.** \$3,431,000 the
 6.6 first year and \$6,490,000 the second year
 6.7 are to replace the current system with the
 6.8 Next Generation Internet Protocol (IP) based
 6.9 network. This appropriation is available until
 6.10 expended. The base level of funding for
 6.11 fiscal year 2012 shall be \$2,965,000.

6.12 **(h) Grants to Local Government.**
 6.13 \$5,000,000 the first year is for grants to
 6.14 local units of government to assist with
 6.15 the transition to the ARMER system. This
 6.16 appropriation is available until June 30, 2012.

6.17 Sec. 6. Laws 2013, chapter 86, article 1, section 13, is amended to read:

6.18	Sec. 13. PEACE OFFICER STANDARDS			
6.19	AND TRAINING (POST) BOARD	\$	3,870,000	\$ 3,870,000

6.20 **(a) Excess Amounts Transferred**

6.21 This appropriation is from the peace officer
 6.22 training account in the special revenue fund.
 6.23 Any new receipts credited to that account in
 6.24 the first year in excess of \$3,870,000 must be
 6.25 transferred and credited to the general fund.
 6.26 Any new receipts credited to that account in
 6.27 the second year in excess of \$3,870,000 must
 6.28 be transferred and credited to the general
 6.29 fund.

6.30 **(b) Peace Officer Training**
 6.31 **Reimbursements**

6.32 \$2,734,000 each year is for reimbursements
 6.33 to local governments for peace officer
 6.34 training costs.

**(c) Training; Sexually Exploited and
Trafficked Youth**

Of the appropriation in paragraph (b),
\$100,000 the first year is for reimbursements
to local governments for peace officer
training costs on sexually exploited and
trafficked youth, including effectively
identifying sex trafficked victims and
traffickers, investigation techniques, and
assisting sexually exploited youth. These
funds are available until June 30, 2016.

Reimbursement shall be provided on a flat
fee basis of \$100 per diem per officer.

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

ARTICLE 2

PUBLIC SAFETY AND CORRECTIONS

Section 1. Minnesota Statutes 2012, section 13.84, subdivision 5, is amended to read:

Subd. 5. **Disclosure.** Private or confidential court services data shall not be
disclosed except:

- (a) pursuant to section 13.05;
- (b) pursuant to a statute specifically authorizing disclosure of court services data;
- (c) with the written permission of the source of confidential data;
- (d) to the court services department, parole or probation authority or state or local
correctional agency or facility having statutorily granted supervision over the individual
subject of the data;
- (e) pursuant to subdivision 6; ~~or~~
- (f) pursuant to a valid court order; or
- (g) pursuant to section 611A.06, subdivision 6.

EFFECTIVE DATE. This section is effective January 1, 2015.

Sec. 2. Minnesota Statutes 2012, section 13.84, subdivision 6, is amended to read:

Subd. 6. **Public benefit data.** (a) The responsible authority or its designee of a parole or probation authority or correctional agency may release private or confidential court services data related to:

(1) criminal acts to any law enforcement agency, if necessary for law enforcement purposes; and

(2) criminal acts or delinquent acts to the victims of criminal or delinquent acts to the extent that the data are necessary for the victim to assert the victim's legal right to restitution.

(b) A parole or probation authority, a correctional agency, or agencies that provide correctional services under contract to a correctional agency may release to a law enforcement agency the following data on defendants, parolees, or probationers: current address, dates of entrance to and departure from agency programs, and dates and times of any absences, both authorized and unauthorized, from a correctional program.

(c) The responsible authority or its designee of a juvenile correctional agency may release private or confidential court services data to a victim of a delinquent act to the extent the data are necessary to enable the victim to assert the victim's right to request notice of release under section 611A.06. The data that may be released include only the name, home address, and placement site of a juvenile who has been placed in a juvenile correctional facility as a result of a delinquent act.

(d) Upon the victim's written or electronic request and, if the victim and offender have been household or family members as defined in section 518B.01, subdivision 1, paragraph (b), the commissioner of corrections or the commissioner's designee may disclose to the victim of an offender convicted of a crime pursuant to section 609.02, subdivision 16, notification of the city and five-digit zip code of the offender's residency upon or after release from a Department of Corrections facility, unless:

(1) the offender is not supervised by the commissioner of corrections or the commissioner's designee at the time of the victim's request;

(2) the commissioner of corrections or the commissioner's designee does not have the city or zip code; or

(3) the commissioner of corrections or the commissioner's designee reasonably believes that disclosure of the city or zip code of the offender's residency creates a risk to the victim, offender, or public safety.

EFFECTIVE DATE. This section is effective January 1, 2015.

Sec. 3. Minnesota Statutes 2012, section 243.167, subdivision 1, is amended to read:

Subdivision 1. **Definition.** As used in this section, "crime against the person" means a violation of any of the following or a similar law of another state or of the United States:

9.1 section 609.165; 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223;
9.2 609.2231; 609.224, subdivision 2 or 4; 609.2242, subdivision 2 or 4; 609.2247; 609.235;
9.3 609.245, subdivision 1; 609.25; 609.255; 609.3451, subdivision 2 3; 609.498, subdivision
9.4 1; 609.582, subdivision 1; or 617.23, subdivision 2; or any felony-level violation of
9.5 section 609.229; 609.377; 609.749; or 624.713.

9.6 Sec. 4. Minnesota Statutes 2012, section 299F.012, subdivision 1, is amended to read:

9.7 Subdivision 1. **Authorized programs within department.** From the revenues
9.8 appropriated from the fire safety account, established under section 297I.06, subdivision
9.9 3, the commissioner of public safety may expend funds for the activities and programs
9.10 identified by the advisory committee established under subdivision 2 and recommended
9.11 to the commissioner of public safety. The commissioner shall not expend funds without
9.12 the recommendation of the advisory committee established under subdivision 2. The
9.13 commissioner shall not expend funds without the recommendation of the advisory
9.14 committee established under subdivision 2. These funds are to be used to provide
9.15 resources needed for identified activities and programs of the Minnesota fire service and to
9.16 ensure the State Fire Marshal Division responsibilities are fulfilled.

9.17 Sec. 5. Minnesota Statutes 2012, section 299F.012, subdivision 2, is amended to read:

9.18 Subd. 2. **Fire Service Advisory Committee.** (a) The Fire Service Advisory
9.19 Committee shall provide recommendations to the commissioner of public safety on
9.20 fire service-related issues and shall consist of representatives of each of the following
9.21 organizations: two appointed by the president of the Minnesota State Fire Chiefs
9.22 Association, two appointed by the president of the Minnesota State Fire Department
9.23 Association, two appointed by the president of the Minnesota Professional Fire Fighters,
9.24 two appointed by the president of the League of Minnesota Cities, one appointed by the
9.25 president of the Minnesota Association of Townships, one appointed by the president
9.26 of the Insurance Federation of Minnesota, one appointed jointly by the presidents of
9.27 the Minnesota Chapter of the International Association of Arson Investigators and the
9.28 Fire Marshals Association of Minnesota, and the commissioner of public safety or the
9.29 commissioner's designee. The commissioner of public safety must ensure that at least
9.30 three of the members of the advisory committee work and reside in counties outside of the
9.31 seven-county metropolitan area. The committee shall provide funding recommendations
9.32 to the commissioner of public safety from the fire safety fund for the following purposes:

9.33 (1) for the Minnesota Board of Firefighter Training and Education;

9.34 (2) for programs and staffing for the State Fire Marshal Division; and

(3) for fire-related regional response team programs and any other fire service programs that have the potential for statewide impact.

(b) The committee under paragraph (a) does not expire.

Sec. 6. Minnesota Statutes 2012, section 609.135, subdivision 2, is amended to read:

Subd. 2. **Stay of sentence maximum periods.** (a) If the conviction is for a felony other than section 609.21, subdivision 1a, paragraph (b) or (c), the stay shall be for not more than four years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer.

(b) If the conviction is for a gross misdemeanor violation of section 169A.20 or 609.21, subdivision 1a, paragraph (d), or for a felony described in section 609.21, subdivision 1a, paragraph (b) or (c), the stay shall be for not more than six years. The court shall provide for unsupervised probation for the last year of the stay unless the court finds that the defendant needs supervised probation for all or part of the last year.

(c) If the conviction is for a gross misdemeanor violation of section 609.3451, subdivision 1, the stay shall be for not more than six years.

~~(e)~~ (d) If the conviction is for a gross misdemeanor not specified in paragraph (b), the stay shall be for not more than two years.

~~(d)~~ (e) If the conviction is for any misdemeanor under section 169A.20; 609.746, subdivision 1; 609.79; or 617.23; or for a misdemeanor under section 609.2242 or 609.224, subdivision 1, in which the victim of the crime was a family or household member as defined in section 518B.01, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

~~(e)~~ (f) If the conviction is for a misdemeanor not specified in paragraph ~~(d)~~ (e), the stay shall be for not more than one year.

~~(f)~~ (g) The defendant shall be discharged six months after the term of the stay expires, unless the stay has been revoked or extended under paragraph ~~(g)~~ (h), or the defendant has already been discharged.

~~(g)~~ (h) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to ~~(f)~~ (g), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

(1) the defendant has not paid court-ordered restitution in accordance with the payment schedule or structure; and

(2) the defendant is likely to not pay the restitution the defendant owes before the term of probation expires.

11.1 This one-year extension of probation for failure to pay restitution may be extended by
11.2 the court for up to one additional year if the court finds, at another hearing conducted
11.3 under subdivision 1a, that the defendant still has not paid the court-ordered restitution
11.4 that the defendant owes.

11.5 Nothing in this subdivision limits the court's ability to refer the case to collections
11.6 under section 609.104.

11.7 ~~(h)~~ (i) Notwithstanding the maximum periods specified for stays of sentences under
11.8 paragraphs (a) to ~~(f)~~ (g), a court may extend a defendant's term of probation for up to three
11.9 years if it finds, at a hearing conducted under subdivision 1c, that:

11.10 (1) the defendant has failed to complete court-ordered treatment successfully; and

11.11 (2) the defendant is likely not to complete court-ordered treatment before the term of
11.12 probation expires.

11.13 **EFFECTIVE DATE.** This section is effective August 1, 2014, and applies to crimes
11.14 committed on or after that date.

11.15 Sec. 7. Minnesota Statutes 2012, section 609.3451, subdivision 3, is amended to read:

11.16 Subd. 3. **Felony.** A person is guilty of a felony and may be sentenced to
11.17 imprisonment for not more than ~~five~~ ten years or to payment of a fine of not more than
11.18 \$10,000, or both, if the person violates ~~subdivision 1, clause (2), this section within ten~~
11.19 years after having been previously convicted of ~~or adjudicated delinquent for violating~~
11.20 ~~subdivision 1, clause (2) this section; sections 609.342 to 609.345; or 609.3453; section~~
11.21 ~~617.23, subdivision 2, clause (1); 617.247; or a statute from another state in conformity~~
11.22 ~~with subdivision 1, clause (2), or section 617.23, subdivision 2, clause (1) therewith.~~

11.23 **EFFECTIVE DATE.** This section is effective August 1, 2014, and applies to crimes
11.24 committed on or after that date.

11.25 Sec. 8. Minnesota Statutes 2012, section 611A.06, is amended by adding a subdivision
11.26 to read:

11.27 Subd. 6. **Offender location.** (a) Upon the victim's written or electronic request
11.28 and if the victim and offender have been household or family members as defined in
11.29 section 518B.01, subdivision 2, paragraph (b), the commissioner of corrections or the
11.30 commissioner's designee shall disclose to the victim of an offender convicted of a crime
11.31 pursuant to section 609.02, subdivision 16, notification of the city and five-digit zip code
11.32 of the offender's residency upon release from a Department of Corrections facility, unless:

12.1 (1) the offender is not supervised by the commissioner of corrections or the
12.2 commissioner's designee at the time of the victim's request;

12.3 (2) the commissioner of corrections or the commissioner's designee does not have
12.4 the city or zip code; or

12.5 (3) the commissioner of corrections or the commissioner's designee reasonably
12.6 believes that disclosure of the city or zip code of the offender's residency creates a risk
12.7 to the victim, offender, or public safety.

12.8 (b) All identifying information regarding the victim including, but not limited to, the
12.9 notification provided by the commissioner of corrections or the commissioner's designee
12.10 is classified as private data on individuals as defined in section 13.02, subdivision 12, and
12.11 is accessible only to the victim.

12.12 **EFFECTIVE DATE.** This section is effective January 15, 2015.

12.13 Sec. 9. **REVISOR'S INSTRUCTION.**

12.14 In the next edition of Minnesota Statutes, the revisor of statutes shall change the
12.15 headnote of section 609.3451, subdivision 2, from "Penalty" to "Gross misdemeanor."

12.16 **ARTICLE 3**

12.17 **DISASTER ASSISTANCE FOR PUBLIC ENTITIES; FEDERAL AID GRANTED**

12.18 Section 1. Minnesota Statutes 2012, section 12.03, is amended by adding a subdivision
12.19 to read:

12.20 Subd. 5d. **Local government.** "Local government" has the meaning given in Code
12.21 of Federal Regulations, title 44, section 206.2 (2012).

12.22 Sec. 2. Minnesota Statutes 2012, section 12.03, is amended by adding a subdivision to
12.23 read:

12.24 Subd. 6b. **Nonfederal share.** "Nonfederal share" has the meaning given in section
12.25 12A.02, subdivision 7.

12.26 Sec. 3. Minnesota Statutes 2012, section 12.221, subdivision 4, is amended to read:

12.27 Subd. 4. **Subgrant agreements; state share.** (a) The state director, serving as the
12.28 governor's authorized representative, may enter into subgrant agreements with eligible
12.29 applicants to provide federal and state financial assistance made available as a result
12.30 of a disaster declaration.

13.1 (b) When state funds are used to provide the FEMA Public Assistance Program
13.2 cost-share requirement for a local government, the state director must award a local
13.3 government 100 percent of the nonfederal share of the local government's FEMA Public
13.4 Assistance Program costs.

13.5 Sec. 4. Minnesota Statutes 2012, section 12.221, is amended by adding a subdivision
13.6 to read:

13.7 Subd. 6. **Disaster assistance contingency account; appropriation.** (a) A disaster
13.8 assistance contingency account is created in the general fund in the state treasury. Money
13.9 in the disaster assistance contingency account is appropriated to the commissioner of
13.10 public safety to provide:

13.11 (1) cost-share for federal assistance under section 12A.15, subdivision 1; and

13.12 (2) state public disaster assistance to eligible applicants under chapter 12B.

13.13 (b) For appropriations under paragraph (a), clause (1), the amount appropriated is
13.14 100 percent of any nonfederal share for state agencies and local governments. Money
13.15 appropriated under paragraph (a), clause (1), may be used to pay all or a portion of the
13.16 nonfederal share for publicly owned capital improvement projects.

13.17 (c) For appropriations under paragraph (a), clause (2), the amount appropriated
13.18 is the amount required to pay eligible claims under chapter 12B, as certified by the
13.19 commissioner of public safety.

13.20 (d) If the amount appropriated is insufficient to cover costs for paragraph (a), clauses
13.21 (1) and (2), the commissioner of public safety shall pay up to an additional \$4,000,000
13.22 from the general fund appropriation provided under this paragraph. No payment shall be
13.23 made under this paragraph until:

13.24 (1) the commissioner of public safety has given the commissioner of management
13.25 and budget an estimate of the additional funds required;

13.26 (2) the commissioner of management and budget has reported the estimate to the
13.27 chairs of the house of representatives Ways and Means Committee and the senate Finance
13.28 Committee; and

13.29 (3) the commissioner of management and budget has approved the payments.

13.30 (e) Amounts approved by the commissioner of management and budget, up to
13.31 \$4,000,000 per fiscal year, are appropriated from the general fund to the commissioner
13.32 of public safety. By January 15 of each year, the commissioner of management and
13.33 budget shall submit a report to the chairs of the house of representatives Ways and
13.34 Means Committee and the senate Finance Committee detailing state disaster assistance
13.35 appropriations and expenditures under this subdivision during the previous calendar year.

14.1 (f) The governor's budget proposal submitted to the legislature under section 16A.11
14.2 must include recommended appropriations to the disaster assistance contingency account.
14.3 The governor's appropriation recommendations must be informed by the commissioner of
14.4 public safety's estimate of the amount of money that will be necessary to:

14.5 (1) provide 100 percent of the nonfederal share for state agencies and local
14.6 governments that will receive federal financial assistance from FEMA during the next
14.7 biennium; and

14.8 (2) fully pay all eligible claims under chapter 12B.

14.9 (g) Notwithstanding section 16A.28:

14.10 (1) funds appropriated or transferred to the disaster assistance contingency account
14.11 do not lapse but remain in the account until appropriated; and

14.12 (2) funds appropriated from the disaster assistance contingency account do not lapse
14.13 and are available until expended.

14.14 Sec. 5. Minnesota Statutes 2012, section 12A.02, subdivision 2, is amended to read:

14.15 Subd. 2. **Appropriation.** "Appropriation" means an appropriation provided in law
14.16 specifically to implement this chapter, including but not limited to a statutory appropriation
14.17 to provide the required cost-share for federal disaster assistance under section 12.221.

14.18 Sec. 6. Minnesota Statutes 2012, section 12A.02, is amended by adding a subdivision
14.19 to read:

14.20 Subd. 6. **Local government.** "Local government" has the meaning given in section
14.21 12.03, subdivision 5d.

14.22 Sec. 7. Minnesota Statutes 2012, section 12A.02, is amended by adding a subdivision
14.23 to read:

14.24 Subd. 7. **Nonfederal share.** "Nonfederal share" means that portion of total FEMA
14.25 Public Assistance Program costs that is no more than 25 percent and is not eligible for
14.26 FEMA reimbursement.

14.27 Sec. 8. Minnesota Statutes 2012, section 12A.03, subdivision 3, is amended to read:

14.28 Subd. 3. **Nonduplication of federal assistance.** State assistance may not duplicate
14.29 or supplement eligible FEMA Public Assistance Program assistance. For eligible Public
14.30 Assistance Program costs, any state matching cost-share money made available for
14.31 that assistance must be disbursed by the Department of Public Safety to a state agency,
14.32 local political subdivision, Indian tribe government, or other applicant. State assistance

15.1 distributed by a state agency, other than the Department of Public Safety, to a political
15.2 ~~subdivision~~ local government or other applicant for disaster costs that are eligible for
15.3 FEMA Public Assistance Program assistance constitutes an advance of funds. Such
15.4 advances must be repaid to the applicable state agency when the applicant has received
15.5 the FEMA Public Assistance Program assistance, and whatever state ~~matching~~ cost-share
15.6 money may be made available for that assistance, from the Department of Public Safety.

15.7 Sec. 9. Minnesota Statutes 2012, section 12A.15, subdivision 1, is amended to read:

15.8 Subdivision 1. **State ~~match~~ cost-share for federal assistance.** State appropriations
15.9 may be used for ~~payment of the state match for federal disaster assistance~~ to pay 100
15.10 percent of the nonfederal share for state agencies. If authorized in law, state appropriations
15.11 ~~may be used to pay all or a portion of the local share of the match for federal funds for~~
15.12 ~~political subdivisions and local governments~~ under section 12.221. An appropriation from
15.13 the bond proceeds fund may be used to ~~fund federal match obligations~~ as cost-share for
15.14 federal disaster assistance for publicly owned capital improvement projects ~~resulting from~~
15.15 ~~the receipt of federal disaster assistance.~~

15.16 Sec. 10. Minnesota Statutes 2012, section 16A.28, is amended by adding a subdivision
15.17 to read:

15.18 Subd. 9. **Disaster assistance.** (a) The commissioner of management and budget
15.19 must transfer the unexpended and unencumbered balance of a general fund disaster
15.20 assistance appropriation that expires as provided under this section or as otherwise provided
15.21 by law to the disaster assistance contingency account in section 12.221, subdivision 6.

15.22 (b) Expired disaster assistance transferred to the disaster assistance contingency
15.23 account is available for appropriation as provided under section 12.221, subdivision
15.24 6, regardless of the specific disaster event or purpose for which the expired disaster
15.25 assistance was originally appropriated.

15.26 (c) The commissioner must report each transfer to the chairs of the house of
15.27 representatives Ways and Means Committee and the senate Finance Committee.

15.28 (d) For the purposes of this subdivision, "disaster assistance appropriation" means
15.29 an appropriation from the general fund to provide cost-share required for federal disaster
15.30 assistance or to provide other state disaster assistance under chapter 12A or 12B.

15.31 Sec. 11. **EFFECTIVE DATE.**

15.32 This article is effective the day following final enactment.

ARTICLE 4**DISASTER ASSISTANCE FOR PUBLIC ENTITIES; ABSENT FEDERAL AID****Section 1. [12B.10] PUBLIC DISASTER ASSISTANCE; ABSENT FEDERAL AID.**

This chapter establishes a state public assistance program to provide cost-share assistance to local governments that sustain significant damage on a per capita basis but are not eligible for federal disaster assistance or corresponding state assistance under chapter 12A.

Sec. 2. [12B.15] DEFINITIONS.

Subdivision 1. **Application.** The definitions in this section apply to this chapter.

Subd. 2. **Applicant.** "Applicant" means a local government that applies for state disaster assistance under this chapter.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of public safety.

Subd. 4. **Director.** "Director" means the director of the Division of Homeland Security and Emergency Management in the Department of Public Safety.

Subd. 5. **Disaster.** "Disaster" means any catastrophe, including but not limited to a tornado, storm, high water, wind-driven water, tidal wave, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought or, regardless of cause, any fire, flood, or explosion.

Subd. 6. **FEMA.** "FEMA" means the Federal Emergency Management Agency.

Subd. 7. **Incident period.** "Incident period" means the time interval of a disaster as delineated by specific start and end dates.

Subd. 8. **Local government.** "Local government" has the meaning given in section 12A.03, subdivision 5d.

Sec. 3. [12B.25] ELIGIBILITY CRITERIA; CONSIDERATIONS.

Subdivision 1. **Payment required; eligibility criteria.** The director, serving as the governor's authorized representative, may enter into grant agreements with eligible applicants to provide state financial assistance made available as a result of a disaster that satisfies all of the following criteria:

(1) the state and applicable local government declares a disaster or emergency during the incident period;

(2) damages suffered and eligible costs incurred are the direct result of the disaster;

(3) federal disaster assistance is not available to the applicant because the governor did not request a presidential declaration of major disaster, the president denied the governor's request, or the applicant is not eligible for federal disaster assistance because the state or county did not meet the per capita impact indicator under FEMA's Public Assistance Program;

(4) the applicant incurred eligible damages that, on a per capita basis, equal or exceed 50 percent of the countywide per capita impact indicator under FEMA's Public Assistance Program;

(5) the applicant assumes responsibility for 25 percent of the applicant's total eligible costs; and

(6) the applicant satisfies all requirements in this chapter.

Subd. 2. **Considerations; other resources available.** When evaluating applicant eligibility under subdivision 1, the director must consider:

(1) the availability of other resources from federal, state, local, private, or other sources; and

(2) the availability or existence of insurance.

Sec. 4. **[12B.30] ELIGIBLE COSTS.**

Subdivision 1. **Eligible costs.** Costs eligible for payment under this chapter are those costs that would be eligible for federal financial assistance under FEMA's Public Assistance Program.

Subd. 2. **Ineligible costs.** Ineligible costs are all costs not included in subdivision 1, including but not limited to:

(1) ordinary operating expenses, including salaries and expenses of employees and public officials that are not directly related to the disaster response;

(2) costs for which payment has been or will be received from any other funding source;

(3) disaster-related costs that should, in the determination of the director, be covered and compensated by insurance; and

(4) projects and claims totaling less than \$10,000.

Sec. 5. **[12B.35] APPLICANT'S SHARE.**

An applicant's share of eligible costs incurred must not be less than 25 percent. The substantiated value of donated materials, equipment, services, and labor may be used as all or part of the applicant's share of eligible costs, subject to the following:

(1) all items and sources of donation must be indicated on the application and any supporting documentation submitted to the commissioner;

(2) the rate for calculating the value of donated, nonprofessional labor is the prevailing federal minimum wage;

(3) the value of donated equipment may not exceed the highway equipment rates approved by the commissioner of transportation; and

(4) the value of donated materials and professional services must conform to market rates and be established by invoice.

Sec. 6. **[12B.40] APPLICATION PROCESS.**

(a) The director must develop application materials and may update the materials as needed. Application materials must include instructions and requirements for assistance under this chapter.

(b) An applicant has 30 days from the end of the incident period or the president's official denial of the governor's request for a declaration of a major disaster to provide the director with written notice of intent to apply. The director may deny an application due to a late notice of intent to apply.

(c) Within 60 days after the end of the incident period or the president's official denial of the governor's request for a declaration of a major disaster, the applicant must submit a complete application to the director. A complete application includes the following:

(1) the cause, location of damage, and incident period;

(2) documentation of a local, tribal, county, or state disaster or emergency declaration in response to the disaster;

(3) a description of damages, an initial damage assessment, and the amount of eligible costs incurred by the applicant;

(4) a statement or evidence that the applicant has the ability to pay for at least 25 percent of total eligible costs incurred from the disaster; and

(5) a statement or evidence that the local government has incurred damages equal to or exceeding 50 percent of the federal countywide threshold in effect during the incident period.

(d) The director must review the application and supporting documentation for completeness and may return the application with a request for more detailed information. The director may consult with local public officials to ensure the application reflects the extent and magnitude of the damage and to reconcile any differences. The application is not complete until the director receives all requested information.

(e) If the director returns an application with a request for more detailed information or for correction of deficiencies, the applicant must submit all required information within 30 days of the applicant's receipt of the director's request. The applicant's failure to provide the requested information in a timely manner without a reasonable explanation may be cause for denial of the application.

(f) The director has no more than 60 days from the receipt of a complete application to approve or deny the application, or the application is deemed approved. If the director denies an application, the director must send a denial letter. If the director approves an application or the application is automatically deemed approved after 60 days, the director must notify the applicant of the steps necessary to obtain reimbursement of eligible costs, including submission of invoices or other documentation substantiating the costs submitted for reimbursement.

Sec. 7. **[12B.45] CLAIMS PROCESS.**

Subdivision 1. **Claims; appeal.** (a) An applicant must submit to the director completed claims for payment of actual and eligible costs on forms provided by the director. All eligible costs claimed for payment must be documented and consistent with the eligibility provisions of this chapter.

(b) If the director denies an applicant's claim for payment, the applicant has 30 days from receipt of the director's determination to appeal in writing to the commissioner. The appeal must include the applicant's rationale for reversing the director's determination. The commissioner has 30 days from receipt of the appeal to uphold or modify the director's determination and formally respond to the applicant. If, within 30 days of receiving the commissioner's decision, the applicant notifies the commissioner that the applicant intends to contest the commissioner's decision, the Office of Administrative Hearings shall conduct a hearing under the contested case provisions of chapter 14.

Subd. 2. **Final inspection.** Upon completion of all work by an applicant, the director may inspect all work claimed by the applicant. The applicant must provide the director with access to records pertaining to all claimed work and must permit the director to review all records relating to the work.

Subd. 3. **Closeout.** The director must close out an applicant's disaster assistance application after all of the following occur:

- (1) eligible work is complete;
- (2) the applicant receives the final amount due or pays any amount owed under section 12B.50; and
- (3) any extant or scheduled audits are complete.

20.1 Subd. 4. **Audit.** (a) An applicant must account for all funds received under this
20.2 chapter in conformance with generally accepted accounting principles and practices. The
20.3 applicant must maintain detailed records of expenditures to show that grants received under
20.4 this chapter were used for the purpose for which the payment was made. The applicant
20.5 must maintain records for five years and make the records available for inspection and
20.6 audit by the director or the legislative auditor. The applicant must keep all financial
20.7 records for five years after the final payment, including but not limited to all invoices and
20.8 canceled checks or bank statements that support all eligible costs claimed by the applicant.

20.9 (b) The director or legislative auditor may audit all applicant records pertaining to an
20.10 application or payment under this chapter.

20.11 Subd. 5. **Reporting payments.** The director must post on the division Web site a
20.12 list of the recipients and amounts of the payments made under this chapter.

20.13 Sec. 8. **[12B.50] FUNDING FROM OTHER SOURCES; REPAYMENT**
20.14 **REQUIRED.**

20.15 If an applicant subsequently recovers eligible costs from another source after
20.16 receiving payment under this chapter, the applicant must pay the commissioner an amount
20.17 equal to the corresponding state funds received within 30 days. The commissioner must
20.18 deposit any repayment in the disaster response contingency account in section 12.221,
20.19 subdivision 6.

20.20 Sec. 9. **EFFECTIVE DATE.**

20.21 This article is effective the day following final enactment.

APPENDIX
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