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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3436

02/12/2024

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

1.1 A bill for an act

1.2 relating to transportation; modifying various policies, including but not limited to

1.3 legislative routes, driving rules, small business contract preferences, nondivisible

1.4 loads, and greater Minnesota transit programs; making technical corrections;

1.5 appropriating money; amending Minnesota Statutes 2022, sections 161.115,

1.6 subdivisions 116, 117, by adding a subdivision; 161.321, subdivisions 2, 2b;

1.7 169.19, subdivision 2; 169.34, subdivision 1; 169.444, subdivision 4; 169.80, by

1.8 adding a subdivision; 174.03, subdivision 12; 174.22, subdivisions 2b, 7, 12, 14,

1.9 by adding subdivisions; 174.23, subdivision 2; 174.24, subdivisions 1a, 3b, 3c;

1.10 174.247; Minnesota Statutes 2023 Supplement, sections 161.045, subdivision 3;

1.11 174.40, subdivision 4a; Laws 2023, chapter 68, article 1, section 2, subdivision 4;

1.12 repealing Minnesota Statutes 2022, sections 169.011, subdivision 70; 169.25;

1.13 174.22, subdivisions 5, 8, 15; 174.23, subdivision 7; Minnesota Rules, parts

1.14 8835.0110, subparts 1, 1a, 6, 7, 10, 11a, 12a, 12b, 13a, 14a, 15, 15a, 16, 17, 18,

1.15 19; 8835.0210; 8835.0220; 8835.0230; 8835.0240; 8835.0250; 8835.0260;

1.16 8835.0265; 8835.0270; 8835.0275; 8835.0280; 8835.0290; 8835.0310; 8835.0320;

1.17 8835.0330, subparts 1, 3, 4; 8835.0350, subparts 1, 3, 4, 5.

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

1.19 ARTICLE 1

1.20 MISCELLANEOUS POLICY

1.21 Section 1. Minnesota Statutes 2023 Supplement, section 161.045, subdivision 3, is amended
1.22 to read:

1.23 Subd. 3. **Limitations on spending.** (a) A commissioner must not pay for any of the
1.24 following with funds from the highway user tax distribution fund or the trunk highway fund:

1.25 (1) Bureau of Criminal Apprehension laboratory;

1.26 (2) Explore Minnesota Tourism kiosks;

1.27 (3) Minnesota Safety Council;

- 2.1 (4) driver education programs;
- 2.2 (5) Emergency Medical Services Regulatory Board;
- 2.3 (6) Mississippi River Parkway Commission;
- 2.4 (7) payments to the Department of Information Technology Services in excess of actual
2.5 costs incurred for trunk highway purposes;
- 2.6 (8) personnel costs incurred on behalf of the governor's office;
- 2.7 (9) the Office of Aeronautics within the Department of Transportation;
- 2.8 (10) the Office of Transit and Active Transportation within the Department of
2.9 Transportation;
- 2.10 (11) the Office of Passenger Rail;
- 2.11 (12) purchase and maintenance of soft body armor under section 299A.38;
- 2.12 (13) tourist information centers;
- 2.13 (14) parades, events, or sponsorships of events;
- 2.14 ~~(15) the installation, construction, expansion, or maintenance of public electric vehicle~~
2.15 ~~infrastructure;~~
- 2.16 ~~(16)~~ (15) the statewide notification center for excavation services pursuant to chapter
2.17 216D; and
- 2.18 ~~(17)~~ (16) manufacturing license plates.

2.19 (b) The prohibition in paragraph (a) includes all expenses for the named entity or program,
2.20 including but not limited to payroll, purchased services, supplies, repairs, and equipment.
2.21 This prohibition on spending applies to any successor entities or programs that are
2.22 substantially similar to the entity or program named in this subdivision.

2.23 Sec. 2. Minnesota Statutes 2022, section 161.115, subdivision 116, is amended to read:

2.24 Subd. 116. **Route No. 185.** Beginning at a point on Route No. 1 ~~at Sandstone~~ and Route
2.25 No. 390, thence extending in a northeasterly direction to a point on Route No. 103 as herein
2.26 established in Duluth.

2.27 **EFFECTIVE DATE.** This section is effective the day after the commissioner of
2.28 transportation receives a copy of the agreement between the commissioner and the governing
2.29 body of Pine County to transfer jurisdiction of a portion of Legislative Route No. 185 and

3.1 notifies the revisor of statutes electronically or in writing that the conditions required to
 3.2 transfer the route have been satisfied.

3.3 Sec. 3. Minnesota Statutes 2022, section 161.115, subdivision 117, is amended to read:

3.4 Subd. 117. **Route No. 186.** Beginning at a point on Route No. 110 as herein established,
 3.5 thence extending in an easterly direction to a point on Route No. ~~185 as herein established~~
 3.6 ~~at or near Askov~~ 1 and Route No. 390; affording Isle, and Finlayson, ~~and Askov~~, a reasonable
 3.7 means of communication each with the other and other places within the state.

3.8 **EFFECTIVE DATE.** This section is effective the day after the commissioner of
 3.9 transportation notifies the revisor of statutes electronically or in writing of the effective
 3.10 date.

3.11 Sec. 4. Minnesota Statutes 2022, section 161.115, is amended by adding a subdivision to
 3.12 read:

3.13 Subd. 272. **Route No. 341.** Beginning at a point on Route No. 1 at Sandstone, thence
 3.14 extending in a generally easterly direction to a point at or near the east bank of the Kettle
 3.15 River.

3.16 **EFFECTIVE DATE.** This section is effective the day after the commissioner of
 3.17 transportation notifies the revisor of statutes electronically or in writing of the effective
 3.18 date.

3.19 Sec. 5. Minnesota Statutes 2022, section 161.321, subdivision 2, is amended to read:

3.20 Subd. 2. **Small targeted group business, small business; contract preferences.** (a)
 3.21 The commissioner may award up to a ~~six~~ 12 percent preference in the amount bid for
 3.22 specified construction work to small targeted group businesses.

3.23 (b) The commissioner may designate a contract for construction work for award only
 3.24 to small targeted group businesses if the commissioner determines that at least three small
 3.25 targeted group businesses are likely to bid.

3.26 (c) The commissioner may award up to a four percent preference in the amount bid for
 3.27 specified construction work to small businesses located in an economically disadvantaged
 3.28 area as defined in section 16C.16, subdivision 7.

4.1 Sec. 6. Minnesota Statutes 2022, section 161.321, subdivision 2b, is amended to read:

4.2 Subd. 2b. **Veteran-owned small business; contract preferences.** (a) The commissioner
4.3 may award up to a ~~six~~ 12 percent preference in the amount bid for specified construction
4.4 work to veteran-owned small businesses, except when prohibited by the federal government
4.5 as a condition of receiving federal funds. When a bid preference is provided under this
4.6 section, the percentage of preference in bid amount under this subdivision may not be less
4.7 than the percentage of bid preference provided to any small targeted group business under
4.8 subdivision 2.

4.9 (b) When a bid preference is provided under this subdivision, the commissioner must
4.10 be as inclusive as possible in specifying contracts for construction work, as well as for
4.11 construction-related professional and technical services, available under this bid preference
4.12 program for veteran-owned small businesses. The term "construction" must be given broad
4.13 meaning for purposes of specifying and letting contracts for veteran-owned small businesses
4.14 and must include, but is not limited to, preplanning, planning, and all other
4.15 construction-related professional and technical services.

4.16 (c) When a bid preference is provided under this subdivision, the commissioner must
4.17 strive to ensure that contracts will be awarded on a proportional basis with contracts awarded
4.18 under subdivision 2.

4.19 (d) The commissioner may designate a contract for construction work for award only
4.20 to veteran-owned small businesses, if the commissioner determines that at least three
4.21 veteran-owned small businesses are likely to bid.

4.22 Sec. 7. Minnesota Statutes 2022, section 169.19, subdivision 2, is amended to read:

4.23 Subd. 2. **U-turn.** No vehicle shall be turned to proceed in the opposite direction upon
4.24 any curve, or upon the approach to or near the crest of a grade, where the vehicle cannot be
4.25 seen by the driver of any other vehicle approaching from either direction within 1,000 feet,
4.26 nor shall the driver of a vehicle turn the vehicle to proceed in the opposite direction unless
4.27 the movement can be made safely and without interfering with other traffic. ~~When necessary~~
4.28 ~~to accommodate vehicle configuration on~~ A driver is permitted to make a right-hand turn
4.29 into the farthest lane of a roadway with two or more lanes in the same direction, ~~a driver~~
4.30 ~~may turn the vehicle into the farthest lane and temporarily use the shoulder to make a U-turn~~
4.31 in order to make a U-turn at a reduced-conflict intersection if it is safe to do so.

5.1 Sec. 8. Minnesota Statutes 2022, section 169.34, subdivision 1, is amended to read:

5.2 Subdivision 1. **Prohibitions.** (a) No person shall stop, stand, or park a vehicle, except
5.3 when necessary to avoid conflict with other traffic or in compliance with the directions of
5.4 a police officer or traffic-control device, in any of the following places:

5.5 (1) on a sidewalk;

5.6 (2) in front of a public or private driveway;

5.7 (3) within an intersection;

5.8 (4) within ten feet of a fire hydrant;

5.9 (5) on a crosswalk;

5.10 (6) within 20 feet of a crosswalk at an intersection;

5.11 (7) within 30 feet upon the approach to any flashing beacon, stop sign, or traffic-control
5.12 signal located at the side of a roadway;

5.13 ~~(8) between a safety zone and the adjacent curb or within 30 feet of points on the curb~~
5.14 ~~immediately opposite the ends of a safety zone, unless a different length is indicated by~~
5.15 ~~signs or markings;~~

5.16 ~~(9)~~ (8) within 50 feet of the nearest rail of a railroad crossing;

5.17 ~~(10)~~ (9) within 20 feet of the driveway entrance to any fire station and on the side of a
5.18 street opposite the entrance to any fire station within 75 feet of said entrance when properly
5.19 signposted;

5.20 ~~(11)~~ (10) alongside or opposite any street excavation or obstruction when such stopping,
5.21 standing, or parking would obstruct traffic;

5.22 ~~(12)~~ (11) on the roadway side of any vehicle stopped or parked at the edge or curb of a
5.23 street;

5.24 ~~(13)~~ (12) upon any bridge or other elevated structure upon a highway or within a highway
5.25 tunnel, except as otherwise provided by ordinance;

5.26 ~~(14)~~ (13) within a bicycle lane, except when posted signs permit parking; or

5.27 ~~(15)~~ (14) at any place where official signs prohibit stopping.

5.28 (b) No person shall move a vehicle not owned by such person into any prohibited area
5.29 or away from a curb such distance as is unlawful.

6.1 (c) No person shall, for camping purposes, leave or park a travel trailer on or within the
6.2 limits of any highway or on any highway right-of-way, except where signs are erected
6.3 designating the place as a campsite.

6.4 (d) No person shall stop or park a vehicle on a street or highway when directed or ordered
6.5 to proceed by any peace officer invested by law with authority to direct, control, or regulate
6.6 traffic.

6.7 Sec. 9. Minnesota Statutes 2022, section 169.444, subdivision 4, is amended to read:

6.8 Subd. 4. **Exception for separated roadway.** (a) A person driving a vehicle on a street
6.9 or highway with separated roadways is not required to stop the vehicle when approaching
6.10 or meeting a school bus that is on a different roadway.

6.11 (b) "Separated roadway" means a road that is separated from a parallel road by a barrier,
6.12 safety isle, or safety zone median.

6.13 Sec. 10. Minnesota Statutes 2022, section 169.80, is amended by adding a subdivision to
6.14 read:

6.15 Subd. 4. **Nondivisible load or vehicle.** (a) "Nondivisible load" or "nondivisible vehicle"
6.16 means any load or vehicle exceeding the applicable length, width, height, or weight limits
6.17 set forth in this chapter, which, if separated into smaller loads or vehicles would:

6.18 (1) compromise the intended use of the load or vehicle;

6.19 (2) destroy the value of the load or vehicle; or

6.20 (3) require more than eight work hours to dismantle using appropriate equipment. The
6.21 applicant for a nondivisible load permit has the burden of proof as to the number of work
6.22 hours required to dismantle the load.

6.23 (b) A vehicle transporting a divisible load may simultaneously transport multiple items
6.24 unless doing so would require an additional permit because the vehicle, when loaded with
6.25 multiple items, would exceed the limits set forth in this chapter.

6.26 Sec. 11. Minnesota Statutes 2022, section 174.03, subdivision 12, is amended to read:

6.27 Subd. 12. **Trunk highway performance, resiliency, and sustainability.** (a) The
6.28 commissioner must implement performance measures and ~~annual~~ targets for the trunk
6.29 highway system in order to construct resilient infrastructure, enhance the project selection
6.30 for all transportation modes, improve economic security, and achieve the state transportation
6.31 goals established in section 174.01.

- 7.1 (b) At a minimum, the transportation planning process must include:
- 7.2 (1) an inventory of transportation assets, including but not limited to bridge, pavement,
7.3 geotechnical, pedestrian, bicycle, and transit asset categories;
- 7.4 (2) ~~lag (resulting), and where practicable lead (predictive),~~ establishment of statewide
7.5 performance measures and annual targets, reporting of performance measure results, and
7.6 where possible, performance forecasts that are:
- 7.7 (i) statewide and, where data allow, district-specific;
- 7.8 (ii) for assets in each asset category specified in clause (1) ~~for a period of up to 60 years;~~
7.9 and
- 7.10 (iii) identified in collaboration with the public;
- 7.11 (3) gap identification and an explanation of the difference between performance targets
7.12 and current status; and
- 7.13 (4) life cycle assessment and corridor risk assessment as part of asset management
7.14 programs in each district of the department.
- 7.15 (c) At a minimum, the ten-year capital highway investment plan in each district of the
7.16 department must:
- 7.17 (1) be based on expected funding during the plan period;
- 7.18 (2) identify investments within each of the asset categories specified in paragraph (b),
7.19 clause (1), that are funded through the trunk highway capital program;
- 7.20 (3) ~~recommend~~ identify specific trunk highway segments programmed to be removed
7.21 from the trunk highway system; and
- 7.22 (4) deliver annual progress toward achieving the state transportation goals established
7.23 in section 174.01.
- 7.24 (d) Annually by December 15, the commissioner must report trunk highway performance
7.25 measures and annual targets and identify gaps, including information detailing the
7.26 department's progress on achieving the state transportation goals, to the chairs and ranking
7.27 minority members of the legislative committees having jurisdiction over transportation
7.28 policy and finance. ~~The report must be signed by the department's chief engineer.~~

8.1 Sec. 12. Minnesota Statutes 2023 Supplement, section 174.40, subdivision 4a, is amended
8.2 to read:

8.3 Subd. 4a. **Eligibility.** A statutory or home rule charter city, county, town, or federally
8.4 recognized Indian Tribe is eligible to receive funding under this section. A statutory or home
8.5 rule charter city, county, or town is eligible to receive funding for infrastructure projects
8.6 under this section only if it has adopted subdivision regulations that require safe routes to
8.7 school infrastructure in developments authorized on or after June 1, 2016.

8.8 Sec. 13. Laws 2023, chapter 68, article 1, section 2, subdivision 4, is amended to read:

8.9 **Subd. 4. Local Roads**

8.10 **(a) County State-Aid Highways** 917,782,000 991,615,000

8.11 This appropriation is from the county state-aid
8.12 highway fund under Minnesota Statutes,
8.13 sections 161.081, 174.49, and 297A.815,
8.14 subdivision 3, and chapter 162, and is
8.15 available until June 30, 2033.

8.16 If the commissioner of transportation
8.17 determines that a balance remains in the
8.18 county state-aid highway fund following the
8.19 appropriations and transfers made in this
8.20 paragraph and that the appropriations made
8.21 are insufficient for advancing county state-aid
8.22 highway projects, an amount necessary to
8.23 advance the projects, not to exceed the balance
8.24 in the county state-aid highway fund, is
8.25 appropriated in each year to the commissioner.
8.26 Within two weeks of a determination under
8.27 this contingent appropriation, the
8.28 commissioner of transportation must notify
8.29 the commissioner of management and budget
8.30 and the chairs, ranking minority members, and
8.31 staff of the legislative committees with
8.32 jurisdiction over transportation finance
8.33 concerning funds appropriated. The governor
8.34 must identify in the next budget submission

9.1 to the legislature under Minnesota Statutes,
 9.2 section 16A.11, any amount that is
 9.3 appropriated under this paragraph.

9.4 **(b) Municipal State-Aid Streets** 236,360,000 251,748,000

9.5 This appropriation is from the municipal
 9.6 state-aid street fund under Minnesota Statutes,
 9.7 chapter 162, and is available until June 30,
 9.8 2033.

9.9 If the commissioner of transportation
 9.10 determines that a balance remains in the
 9.11 municipal state-aid street fund following the
 9.12 appropriations and transfers made in this
 9.13 paragraph and that the appropriations made
 9.14 are insufficient for advancing municipal
 9.15 state-aid street projects, an amount necessary
 9.16 to advance the projects, not to exceed the
 9.17 balance in the municipal state-aid street fund,
 9.18 is appropriated in each year to the
 9.19 commissioner. Within two weeks of a
 9.20 determination under this contingent
 9.21 appropriation, the commissioner of
 9.22 transportation must notify the commissioner
 9.23 of management and budget and the chairs,
 9.24 ranking minority members, and staff of the
 9.25 legislative committees with jurisdiction over
 9.26 transportation finance concerning funds
 9.27 appropriated. The governor must identify in
 9.28 the next budget submission to the legislature
 9.29 under Minnesota Statutes, section 16A.11, any
 9.30 amount that is appropriated under this
 9.31 paragraph.

9.32 **(c) Other Local Roads**

9.33 **(1) Local Bridges** 18,013,000 -0-

10.1 This appropriation is from the general fund to
 10.2 replace or rehabilitate local deficient bridges
 10.3 under Minnesota Statutes, section 174.50. This
 10.4 is a onetime appropriation and is available
 10.5 until June 30, 2027.

10.6 **(2) Local Road Improvement** 18,013,000 -0-

10.7 This appropriation is from the general fund
 10.8 for construction and reconstruction of local
 10.9 roads under Minnesota Statutes, section
 10.10 174.52. This is a onetime appropriation and
 10.11 is available until June 30, 2027.

10.12 **(3) Local Transportation Disaster Support** 4,300,000 1,000,000

10.13 This appropriation is from the general fund to
 10.14 provide:

10.15 (i) a cost-share for federal assistance from the
 10.16 Federal Highway Administration for the
 10.17 emergency relief program under United States
 10.18 Code, title 23, section 125; and

10.19 (ii) assistance for roadway damage on the
 10.20 state-aid or federal-aid system associated with
 10.21 state or federally declared disasters ineligible
 10.22 for assistance from existing state and federal
 10.23 disaster programs.

10.24 Of the appropriation in fiscal year 2024,
 10.25 \$3,300,000 is onetime and is available until
 10.26 June 30, 2027.

10.27 **(4) Metropolitan Counties** 20,000,000 -0-

10.28 This appropriation is from the general fund
 10.29 for distribution to metropolitan counties as
 10.30 provided under Minnesota Statutes, section
 10.31 174.49, subdivision 5, for use in conformance
 10.32 with the requirements under Minnesota
 10.33 Statutes, section 174.49, subdivision 6.

11.1 Sec. 14. **REPEALER.**

11.2 Minnesota Statutes 2022, sections 169.011, subdivision 70; and 169.25, are repealed.

11.3 **ARTICLE 2**

11.4 **GREATER MINNESOTA TRANSIT PROGRAM**

11.5 Section 1. Minnesota Statutes 2022, section 174.22, is amended by adding a subdivision
11.6 to read:

11.7 Subd. 1a. **Complementary paratransit service (ADA).** "Complementary paratransit
11.8 service (ADA)" means public transportation service provided on a regular basis where fixed
11.9 route public transit service exists and is designed exclusively or primarily to serve individuals
11.10 who are elderly or disabled and unable to use regular means of public transportation.

11.11 Sec. 2. Minnesota Statutes 2022, section 174.22, subdivision 2b, is amended to read:

11.12 Subd. 2b. **Elderly and disabled service.** "Elderly and disabled service" means
11.13 transportation service provided on a regular basis in small urbanized or large urbanized
11.14 areas and designed exclusively or primarily to serve individuals who are elderly or disabled
11.15 and unable to use regular means of public transportation.

11.16 Sec. 3. Minnesota Statutes 2022, section 174.22, is amended by adding a subdivision to
11.17 read:

11.18 Subd. 3a. **Large urbanized area service.** "Large urbanized area service" means a public
11.19 transportation service operated in areas located outside the metropolitan area with a
11.20 population greater than 200,000 that is designated by the United States Census Bureau.
11.21 Large urbanized area service does not include complementary paratransit service (ADA),
11.22 as defined in subdivision 1a.

11.23 Sec. 4. Minnesota Statutes 2022, section 174.22, subdivision 7, is amended to read:

11.24 Subd. 7. **Public transit or transit transportation.** "Public transit" or "transit" means
11.25 ~~general or specific transportation service provided to the public on a regular and continuing~~
11.26 ~~basis. "Public transit" or "transit" includes paratransit and regular route transit.~~ "Public
11.27 transportation" means regular, continuing shared-ride surface transportation services that
11.28 are open to the general public or open to a segment of the general public defined by age,
11.29 disability, or low income. Public transportation does not include:

12.1 (1) intercity passenger rail transportation provided by the entity described in United
 12.2 States Code, title 49, section 243, or a successor entity;

12.3 (2) intercity bus service;

12.4 (3) charter bus service;

12.5 (4) school bus service;

12.6 (5) sightseeing service;

12.7 (6) courtesy shuttle service for patrons of one or more specific establishments; or

12.8 (7) intraterminal or intrafacility shuttle services.

12.9 Sec. 5. Minnesota Statutes 2022, section 174.22, subdivision 12, is amended to read:

12.10 Subd. 12. **Rural area service.** "Rural area service" means a public transportation service
 12.11 ~~primarily operated in an area having population centers of less than 2,500 persons~~ rural
 12.12 areas that have not been designated in the most recent decennial census as an urbanized
 12.13 area by the United States Census Bureau.

12.14 Sec. 6. Minnesota Statutes 2022, section 174.22, subdivision 14, is amended to read:

12.15 Subd. 14. **Small ~~urban~~ urbanized area service.** "Small ~~urban~~ urbanized area service"
 12.16 means a public transportation service ~~operating in an area with a population between 2,500~~
 12.17 ~~and 50,000~~ operated in areas located outside the metropolitan area with a population of at
 12.18 least 50,000 but less than 200,000 that is designated by the United States Census Bureau.
 12.19 Small urbanized area service does not include complementary paratransit service (ADA),
 12.20 as defined in subdivision 1a.

12.21 Sec. 7. Minnesota Statutes 2022, section 174.23, subdivision 2, is amended to read:

12.22 Subd. 2. **Financial assistance; application, approval.** (a) The commissioner shall seek
 12.23 out and select eligible recipients of financial assistance under sections 174.21 to 174.27.

12.24 (b) The commissioner shall establish ~~by rule~~ the procedures and standards for review
 12.25 and approval of applications for financial assistance submitted to the commissioner pursuant
 12.26 to sections 174.21 to 174.27. Any applicant shall provide to the commissioner any financial
 12.27 or other information required by the commissioner to carry out the commissioner's duties.
 12.28 The commissioner may require local contributions from applicants as a condition for
 12.29 receiving financial assistance.

13.1 ~~(e) Before the commissioner approves any grant, the application for the grant may be~~
 13.2 ~~reviewed by the appropriate regional development commission only for consistency with~~
 13.3 ~~regional transportation plans and development guides. If an applicant proposes a project~~
 13.4 ~~within the jurisdiction of a transit authority or commission or a transit system assisted or~~
 13.5 ~~operated by a city or county, the application shall also be reviewed by that commission,~~
 13.6 ~~authority, or political subdivision for consistency with its transit programs, policies, and~~
 13.7 ~~plans.~~

13.8 Sec. 8. Minnesota Statutes 2022, section 174.24, subdivision 1a, is amended to read:

13.9 Subd. 1a. **Greater Minnesota transit investment plan.** (a) The commissioner shall
 13.10 develop a greater Minnesota transit investment plan that contains a goal of meeting at least
 13.11 80 percent of total transit service needs in greater Minnesota by July 1, 2015, and meeting
 13.12 at least 90 percent of total transit service needs in greater Minnesota by July 1, 2025.

13.13 (b) The plan must include, but is not limited to, the following:

13.14 (1) an analysis of ridership and total transit service needs throughout greater Minnesota;

13.15 (2) a calculation of the level and type of service required to meet total transit service
 13.16 needs, for the transit system classifications as provided under subdivision 3b, paragraph
 13.17 (c), of large urbanized area, small urban urbanized area, rural area, and elderly and disabled
 13.18 service, and complementary paratransit service (ADA);

13.19 (3) an analysis of costs and revenue options;

13.20 (4) a plan to reduce total transit service needs as specified in this subdivision; and

13.21 (5) identification of the operating and capital costs necessary to meet 100 percent of the
 13.22 greater Minnesota transit targeted and projected bus service hours, as identified in the greater
 13.23 Minnesota transit plan, for 2010, 2015, 2020, 2025, and 2030.

13.24 (c) The plan must specifically address special transportation service ridership and needs.
 13.25 The plan must also provide that recipients of operating assistance under this section provide
 13.26 fixed route public transit service without charge for disabled veterans in accordance with
 13.27 subdivision 7.

13.28 Sec. 9. Minnesota Statutes 2022, section 174.24, subdivision 3b, is amended to read:

13.29 Subd. 3b. **Operating assistance; recipient classifications.** ~~(a) The commissioner shall~~
 13.30 ~~determine the total operating cost of any public transit system receiving or applying for~~
 13.31 ~~assistance in accordance with generally accepted accounting principles. To be eligible for~~

14.1 ~~financial assistance, an applicant or recipient shall provide to the commissioner all financial~~
 14.2 ~~records and other information and shall permit any inspection reasonably necessary to~~
 14.3 ~~determine total operating cost and correspondingly the amount of assistance that may be~~
 14.4 ~~paid to the applicant or recipient. Where more than one county or municipality contributes~~
 14.5 ~~assistance to the operation of a public transit system, the commissioner shall identify one~~
 14.6 ~~as lead agency for the purpose of receiving money under this section.~~

14.7 ~~(b)~~ (a) Prior to distributing operating assistance to eligible recipients for any contract
 14.8 period, the commissioner shall place all recipients into one of the following classifications:
 14.9 large urbanized area service, small ~~urban~~ urbanized area service, rural area service, and
 14.10 elderly and disabled service, and complementary paratransit service (ADA).

14.11 ~~(e)~~ (b) The commissioner shall distribute funds for the operating assistance amount under
 14.12 this section so that the percentage of ~~total contracted operating cost~~ local sources paid by
 14.13 any recipient ~~from local sources~~ will not exceed the percentage for that recipient's
 14.14 classification, except as provided in this subdivision. ~~The percentages must be:~~

14.15 (1) for urbanized area service and small urban area service, 20 percent;

14.16 (2) for rural area service, 15 percent; and

14.17 (3) for elderly and disabled service and complementary paratransit service (ADA), 15
 14.18 percent.

14.19 ~~Except as provided in a United States Department of Transportation program allowing or~~
 14.20 ~~requiring a lower percentage to be paid from local sources, the remainder of the recipient's~~
 14.21 ~~total contracted operating cost will be paid from state sources of funds less any assistance~~
 14.22 ~~received by the recipient from the United States Department of Transportation.~~

14.23 ~~(d)~~ (c) For purposes of this subdivision, "local sources" means all local sources of funds
 14.24 and includes all operating revenue, tax levies, and contributions from public funds, ~~except~~
 14.25 ~~that the commissioner may exclude from the total assistance contract revenues derived from~~
 14.26 ~~operations the cost of which is excluded from the computation of total operating cost.~~

14.27 ~~(e)~~ (d) If a recipient informs the commissioner in writing after the establishment of these
 14.28 percentages but prior to the distribution of financial assistance for any year that paying its
 14.29 designated percentage of ~~total operating cost~~ the operating assistance amount from local
 14.30 sources will cause undue hardship, the commissioner may reduce the percentage to be paid
 14.31 from local sources by the recipient and increase the percentage to be paid from local sources
 14.32 by one or more other recipients inside or outside the classification. However, the
 14.33 commissioner may not reduce or increase any recipient's percentage under this paragraph

15.1 for more than two years successively. If for any year the funds appropriated to the
 15.2 commissioner to carry out the purposes of this section are insufficient to allow the
 15.3 commissioner to pay the state share of ~~total operating cost~~ the operating assistance amount
 15.4 as provided in this paragraph, the commissioner shall reduce the state share in each
 15.5 classification to the extent necessary.

15.6 Sec. 10. Minnesota Statutes 2022, section 174.24, subdivision 3c, is amended to read:

15.7 Subd. 3c. **Nonoperating assistance.** The commissioner shall determine the total cost
 15.8 of any planning and engineering design, capital assistance, other capital expenditures, and
 15.9 other assistance for public transit services that furthers the purposes of section 174.21 for
 15.10 any public transit system receiving or applying for the assistance in accordance with generally
 15.11 accepted accounting principles. The percentage of local sources paid by any recipient must
 15.12 not exceed 20 percent of the awarded amount. To be eligible for non-operating-cost financial
 15.13 assistance, an applicant or recipient shall provide to the commissioner all financial records
 15.14 and other information and shall permit any inspection reasonably necessary to determine
 15.15 total cost and the amount of assistance that may be paid to the applicant or recipient. When
 15.16 more than one county or municipality contributes assistance to the operation of a public
 15.17 transit system, the commissioner shall identify one as a lead agency for the purpose of
 15.18 receiving money under this section. The commissioner has the sole discretion to determine
 15.19 the amount of state funds distributed to any recipient for non-operating-cost assistance.

15.20 Sec. 11. Minnesota Statutes 2022, section 174.247, is amended to read:

15.21 **174.247 ANNUAL TRANSIT REPORT.**

15.22 (a) By February 15 annually, the commissioner shall submit a report to the legislature
 15.23 on transit services outside the metropolitan area. ~~The Metropolitan Council and~~ Any public
 15.24 transit system receiving assistance under section 174.24 shall provide assistance in creating
 15.25 the report, as requested by the commissioner.

15.26 (b) The report must include, at a minimum, the following:

15.27 (1) a descriptive overview of public transit in Minnesota;

15.28 (2) a descriptive summary of funding sources and assistance programs;

15.29 (3) a summary of each public transit system receiving assistance under section 174.24;

15.30 (4) data that identifies use of volunteers in providing transit service;

16.1 (5) financial data that identifies for each public transit system and for each transit system
 16.2 classification under section 174.24, subdivision 3b:

16.3 (i) the operating and capital costs;

16.4 (ii) each of the funding sources used to provide financial assistance; and

16.5 (iii) for federal funds, the amount from each specific federal program under which
 16.6 funding is provided;

16.7 (6) a summary of the differences in program implementation requirements and aid
 16.8 recipient eligibility between federal aid and state sources of funds; and

16.9 (7) ~~in each odd-numbered year~~, an analysis of public transit system needs and operating
 16.10 expenditures on an annual basis, which must include a methodology for identifying monetary
 16.11 needs, and calculations of:

16.12 (i) the total monetary needs for all public transit systems, for the year of the report and
 16.13 the ensuing five years;

16.14 (ii) the total expenditures from local sources for each transit system classification;

16.15 (iii) the comprehensive transit assistance percentage for each transit system classification,
 16.16 which equals (A) the expenditures identified under item (ii), for a transit system classification,
 16.17 divided by (B) the amounts identified under subitem (A), plus the sum of state sources of
 16.18 funds plus federal funds provided to all transit systems in that classification; and

16.19 (iv) the amount of surplus or insufficient funds available for paying capital and operating
 16.20 costs to fully implement the greater Minnesota transit investment plan under section 174.24,
 16.21 subdivision 1a.

16.22 **Sec. 12. REVISOR INSTRUCTION.**

16.23 The revisor of statutes shall renumber the subdivisions in Minnesota Statutes, section
 16.24 174.22, in alphabetical order and correct any cross-reference changes that result.

16.25 **Sec. 13. REPEALER.**

16.26 (a) Minnesota Statutes 2022, sections 174.22, subdivisions 5, 8, and 15; and 174.23,
 16.27 subdivision 7, are repealed.

16.28 (b) Minnesota Rules, parts 8835.0110, subparts 1, 1a, 6, 7, 10, 11a, 12a, 12b, 13a, 14a,
 16.29 15, 15a, 16, 17, 18, and 19; 8835.0210; 8835.0220; 8835.0230; 8835.0240; 8835.0250;
 16.30 8835.0260; 8835.0265; 8835.0270; 8835.0275; 8835.0280; 8835.0290; 8835.0310;

- 17.1 8835.0320; 8835.0330, subparts 1, 3, and 4; and 8835.0350, subparts 1, 3, 4, and 5, are
- 17.2 repealed.

169.011 DEFINITIONS.

Subd. 70. **Safety zone.** "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times set apart as a safety zone.

169.25 SAFETY ZONE.

No vehicle shall at any time be driven through a safety zone.

174.22 DEFINITIONS.

Subd. 5. **Operating deficit.** "Operating deficit" means the amount by which the total prudent operating expenses incurred in the operation of the public transit system exceeds the amount of operating revenue derived from the system.

Subd. 8. **Regular route transit.** "Regular route transit" means transportation of passengers for hire by a motor vehicle or other means of conveyance by any person operating on a regular and continuing basis as a common carrier on fixed routes and schedules. "Regular route transit" does not include transportation of children to or from school or of passengers between a common carrier terminal station and a hotel or motel, transportation by common carrier railroad or common carrier railroads or by taxi, transportation furnished by a person solely for that person's employees or customers, or paratransit.

Subd. 15. **Urbanized area service.** "Urbanized area service" means a transportation service operating in an urban area of more than 50,000 persons but does not include elderly and disabled service, as defined in subdivision 2b.

174.23 GENERAL POWERS AND DUTIES.

Subd. 7. **Rulemaking; total operating cost.** The commissioner shall by rule define "total operating cost" as the term is used in carrying out the purposes of section 174.24. "Total operating cost" may include provisions for a fee for service. The commissioner shall consult with eligible recipients to the maximum extent feasible in formulating these rules and develop necessary and reasonable changes in cost and fee allowability provisions and financial examination procedures where possible. The rules are subject to the provisions in the Administrative Procedure Act of sections 14.001 to 14.69.

8835.0110 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 1a. **Applicant.** "Applicant" means an entity that is eligible under Minnesota Statutes, section 174.24, subdivision 2, for financial assistance for a new or existing public transit system.

Subp. 6. **Cost reimbursement contract.** "Cost reimbursement contract" means a contract providing for payment to the contractor of allowable costs incurred in the performance of the contract, to the extent prescribed in the contract.

Subp. 7. **Department.** "Department" means the Department of Transportation.

Subp. 10. **Financial assistance.** "Financial assistance" means state funds paid to a recipient in accordance with the public transit participation program established under Minnesota Statutes, section 174.24.

Subp. 11a. **Greater Minnesota.** "Greater Minnesota" has the meaning given in Minnesota Statutes, section 116O.02, subdivision 5.

Subp. 12a. **Local share.** "Local share" means the percentage of total operating costs paid by a recipient according to the distribution classifications in Minnesota Statutes, section 174.24, subdivision 3b, and the percentage of capital costs paid by a recipient according to part 8835.0320.

Subp. 12b. **Local source.** "Local source" has the meaning given it in Minnesota Statutes, section 174.24, subdivision 3b.

Subp. 13a. **Management plan.** "Management plan" means a description of all the elements of a proposed public transit system, as required by part 8835.0260.

Subp. 14a. **Passenger trip.** "Passenger trip" means a one-way movement of a person between two points. Each time a passenger boards a transit vehicle counts as one passenger trip.

Subp. 15. **Public transit or transit.** "Public transit" or "transit" has the meaning given it in Minnesota Statutes, section 174.22, subdivision 7.

Subp. 15a. **Public transit participation program.** "Public transit participation program" means the department's program for providing financial assistance for public transit services in greater Minnesota under Minnesota Statutes, section 174.24.

Subp. 16. **Reasonable cost.** "Reasonable cost" means a price for a commodity or service which, in its nature or amount, does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business.

Subp. 17. **Regional Development Commission.** "Regional Development Commission" has the meaning given it in Minnesota Statutes, section 462.384, subdivision 4.

Subp. 18. **Revenue.** "Revenue" means sources of income.

Subp. 19. **Total operating cost.** "Total operating cost" means the categories of allowable expenses provided in part 8835.0280.

8835.0210 STATUTORY AUTHORITY.

This chapter is adopted pursuant to Minnesota Statutes, section 174.23, subdivisions 2 and 7.

8835.0220 PURPOSE.

The purpose of this chapter is to establish the procedures and standards for review and approval of applications for financial assistance under the public transit participation program

in Minnesota Statutes, section 174.24, and to define "total operating cost" as the term is used in carrying out the public transit participation program.

8835.0230 SCOPE.

This chapter applies to applicants for financial assistance under the public transit participation program established by Minnesota Statutes, section 174.24.

8835.0240 ADMINISTRATION OF PUBLIC TRANSIT PARTICIPATION PROGRAM.

The Office of Transit shall administer the public transit participation program as provided by Minnesota Statutes, section 174.23, subdivision 8. The Office of Transit shall allocate:

A. operating assistance to public transit systems according to the distribution classifications in Minnesota Statutes, section 174.24, subdivision 3b; and

B. nonoperating or capital assistance to public transit systems according to the discretion provided to the commissioner by Minnesota Statutes, section 174.24, subdivision 3c, and according to part 8835.0320.

The Office of Transit shall make payments of financial assistance by a contract between the department and a recipient as required by Minnesota Statutes, section 174.24, subdivision 3.

8835.0250 APPLICATION FOR FINANCIAL ASSISTANCE.

Subpart 1. **Who may apply.** An applicant may apply for financial assistance under the public transit participation program to provide public transit in greater Minnesota.

Subp. 2. **Public transit.** Public transit includes a single service or a combination of services, such as route deviations, fixed route, flexible fixed route, demand-response/dial-a-ride, rideshare, subscription, volunteer driver services, and other services that meet the needs of individual transit systems to the extent they are consistent with Minnesota Statutes, section 174.21. A public transit system must be available and accessible to the general public.

Subp. 3. **Submission; deadline.** An applicant shall request financial assistance using an application prescribed by the department. The department shall establish a deadline for submission of applications for financial assistance and shall provide adequate notice of the deadline to applicants. A complete application contains a management plan, a resolution from the applicant's governing body, and other forms and certifications required by federal or state law or regulation.

Subp. 4. **Additional review.** In addition to submitting an application to the department, an applicant shall submit an application for review and approval as provided in Minnesota Statutes, section 174.23, subdivision 2.

Subp. 5. **Resolution.** An applicant shall submit with the application a resolution by the governing body that:

A. resolves to provide public transit;

B. indicates the person or persons authorized by title to execute a contract with the department and all amendments to the contract; and

C. authorizes funds for the local share of financial assistance, if applicable.

8835.0260 MANAGEMENT PLAN.

Subpart 1. **Submission in application.** An applicant shall submit a management plan as part of its application for financial assistance.

Subp. 2. **Contents.** The management plan must include the following information:

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- A. a service plan that describes the levels of service to be provided during the contract period, including a discussion of service area and general population, type or types of service, vehicle descriptions, days and hours of service, service schedules, contract services, and route maps;
- B. a description of unmet service needs;
- C. a financial plan, including:
 - (1) a general narrative that supports and explains the budget;
 - (2) a detailed narrative for each line item in the budget, including increases;
 - (3) actual statistics on operating expenses and operating revenues for the most recent calendar years;
 - (4) anticipated statistics on operating expenses and operating revenues for the new contract period;
 - (5) actual statistics on miles and hours of service and passenger trips for the most recent calendar year; and
 - (6) anticipated statistics on miles and hours of service and passenger trips for the new contract period;
- D. a coordination and marketing plan, including costs and benefits of major elements;
- E. a capital plan that describes the major capital assets of the transit system with an outline of how they will be maintained, improved, or replaced;
- F. a description of revenue-producing contracts relating to the transit services provided by or for the applicant;
- G. a description of expense contracts for services and goods procured by the transit system;
- H. a description of the participating public transit system's vehicle maintenance program for the period of financial assistance;
- I. a description of the organizational structure established to direct, control, review, and implement the management plan;
- J. a description of measurable goals and objectives for the transit system, illustrating the benefits expected to be realized by the investment of state financial assistance;
- K. a description of the fare structure of the public transit system;
- L. a listing of transit and paratransit systems and their union affiliations currently operating in the applicant's area, and a description of existing or potential coordination with these systems;
- M. a description of the transit system's safety and training policies, including its driver selection process;
- N. a description of the proposed insurance carrier and the limits of coverage;
- O. a description of the internal controls policy for the collection and deposit of fares;
- P. a copy of the transit system's most recent drug and alcohol policy as approved by the local recipient's governing body;
- Q. all third party contracts relating to transit operations; and
- R. a copy of the governing body's third-party contract procurement policy.

Subp. 3. **Incorporation into contract.** The department shall incorporate an approved management plan into the financial assistance contract between the department and the recipient, as provided in part 8835.0330. The department shall approve a management plan after it determines the financial assistance according to part 8835.0270.

8835.0265 THIRD-PARTY CONTRACT FOR OPERATING SERVICES.

A recipient shall include a copy of the third-party contract procurement policy of its governing body in the management plan required in part 8835.0260. A third-party contract for operating services must contain all relevant terms contained in the financial assistance contract between the recipient and the department. The recipient is responsible for third-party contractor compliance with local, state, and federal laws, rules, and regulations. A third-party contract must be available for audit according to part 8835.0350, subpart 3. Before a recipient awards a third-party contract for operating services, the department shall review the third-party contract for compliance with the terms of the financial assistance contract between the department and the recipient.

8835.0270 FINANCIAL ASSISTANCE.

Subpart 1. **Allocation priorities.** The department shall allocate financial assistance to recipients for purposes of the public transit participation program according to the following order of priority:

- A. first priority: operating costs for existing public transit systems;
- B. second priority: capital costs for existing public transit systems; and
- C. third priority: operating and capital costs for the provision of public transit services in a community or area not currently served by public transit.

Subp. 2. **Determination of financial assistance.** To determine financial assistance, the department shall review an applicant's management plan and evaluate the proposed public transit system by considering:

- A. the degree to which the proposed system meets the objectives of the public transit participation program;
- B. the accessibility of the proposed system to the general public, including persons with disabilities;
- C. the amount of local government and community support for the proposed system;
- D. the plan for continuation of the proposed system after the first year; and
- E. the plan for coordination of transit services in the geographical area.

The department shall evaluate the budget, service delivery and design, and administration of a public transit system. The department shall compare the past performance of a transit system to its current performance and to the performance of other similar transit systems. To measure the performance of a public transit system, the department shall consider cost efficiency, cost-effectiveness, service effectiveness, and quality.

Subp. 3. **Approval of management plan.** The department shall approve a management plan for incorporation into a financial assistance contract after determining the reasonable costs of the proposed public transit system.

8835.0275 DETERMINING FINANCIAL ASSISTANCE; EXPENSE CATEGORIES.

In determining the total operating costs of a public transit system, upon which financial assistance is based, part 8835.0290 and the definitions of expense categories in part 8835.0280 apply and have the meanings given them.

8835.0280 TOTAL OPERATING COST.

Subpart 1. **Definition.** "Total operating cost" means the categories of allowable expenses provided in subparts 2 to 7. The total operating cost is subject to the audit provisions of part 8835.0350, subpart 3.

Subp. 2. **Personnel services expense.** The "personnel services" expense category includes:

A. administrative, management, and supervisory services, which are the amount paid to transit system employees classified as managers, supervisors, coordinators, or administrators and for which the amounts claimed by employees must be supported by daily time distribution records or a cost allocation plan that is supported by the applicant and approved by the department as part of the management plan;

B. operators' wages, which are the total amount paid to transit system employees classified as vehicle operators and for which the amounts claimed by employees must be supported by daily time distribution records;

C. maintenance and repair wages, which are the labor charges incurred in the performance of maintenance and repair of vehicles and other property required for the operation of the transit system, including only wages of maintenance personnel employed by the transit system, and for which the amounts claimed by employees must be supported by daily time distribution records;

D. other direct wages, which are the amount paid to transit system employees not classified as operators, maintenance, or administrative personnel, such as dispatchers, bookkeepers, clerical personnel, janitors, and security personnel, and for which the amounts claimed by employees must be supported by daily time distribution records;

E. indirect labor charges, which are the amount to be allocated to the transit contract for labor that is not traceable to a specific transit activity but which benefits the transit operation and which must be based on a cost allocation plan approved by the department; and

F. fringe benefits, which are the cost of providing fringe benefits for active and retired transit system employees, including pension benefits, vacation and sick leave benefits, social security taxes, workers' compensation insurance, unemployment insurance, life insurance, and first party medical coverage, and which may be allocated indirectly based on a cost allocation plan approved by the department.

Subp. 3. **Administrative charges expense.** The "administrative charges" expense category includes:

A. management fees, which are the amount paid for professional services provided by a management service company engaged contractually to provide operating management to the transit system;

B. tariffs and traffic expenses, which are any necessary tariff filing fees and costs for the procurement of tickets, tokens, and transfers;

C. advertising, marketing, and promotional charges, including the necessary cost of advertising and promoting the transit system;

D. legal, auditing, and other professional fees rendered by individuals or firms, other than transit system employees, for the purpose of maintaining continuing operations of the transit system, including:

(1) attorney fees and expenses, court costs, witness fees, and fees for accounting and auditing services, such as accident claims, defending workers' compensation claims, or other items directly related to the management plan and approved by the department; and

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(2) fees paid for planning, engineering, or other consultant services that are directly related to the management plan approved by the department;

E. security costs, which are the costs necessary to provide armored car services, patrol services, and electronic surveillance for vehicles, stations, yards, and buildings to detect and prevent criminal activity, fires, and unsafe conditions, when the patrolling is performed by an outside security agency and not by transit system employees;

F. office supplies expense, which is the cost of office supplies and materials and printing and photocopying charges solely attributable to and necessary for the operation of the transit system;

G. lease and rental costs of administrative facilities used for performing the general administrative functions of the transit system, including leases and rentals of such items as land, buildings, office equipment, and furnishings;

H. utilities expense, which is the cost of utilities such as gas, electricity, water, telephone and other communications services, and trash collection;

I. other direct administrative charges, including administrative charges necessary for the continuing operation of the transit system, such as mileage reimbursement for transit support vehicles, approved conference fees, employee travel expenses, employee development, driver's training, approved membership fees for transit associations if the cost of membership is reasonably related to the value of the services or benefits received, and subscriptions to transit publications; and

J. indirect administrative charges, which are the amount allocated to the transit contract for administrative services not traceable to a specific transit activity but which benefit the transit operation and which must be based on a cost allocation plan approved by the department.

For purposes of item I, mileage reimbursement must be based on a rate approved by the local governing body, as long as the rate is reasonable and consistent with similar rates approved by the local governing body.

Subp. 4. **Vehicle charges expense.** The "vehicle charges" expense category applies to vehicles owned or leased by the public transit system and includes:

A. fuel and lubricants expense, including net costs of gasoline, diesel, and alternative fuels and costs of antifreeze, propane, lubricating oil, transmission fluid, and grease used by revenue and service vehicles;

B. maintenance and repair material expense, including costs of parts, materials, and supplies used in the maintenance and repair of revenue and service equipment;

C. contract service maintenance labor expense, which is the cost of labor for maintenance and repair service provided by persons other than transit system employees;

D. tire expense, which is the cost of tires and tubes used on revenue and service equipment including the cost of recapping or regrooving and the rental costs for tires and tubes; and

E. other vehicle charges, including the costs of:

(1) first aid equipment, fire extinguishers, and other emergency equipment required for vehicles; and

(2) noncapitalized vehicle improvements that do not remake a vehicle or appreciably extend its useful life and that have received approval from the department.

Subp. 5. **Operations charges expense.** The "operations charges" expense category includes:

A. purchase of service, which is the cost of having a subcontractor operate the project service, with cost established:

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(1) through competitive bidding procedures, except for those recipients covered under Minnesota Statutes, chapter 221;

(2) through a negotiated contract with the prime contractor in bid situations when only one bid is received; or

(3) through a negotiated subcontract in a nonbid situation;

B. depreciation, which is the amount of depreciation or use allowance on depreciable items such as structures, revenue equipment, service vehicles and equipment, and office furniture and equipment and is the amount allowed based on a company's existing depreciation schedule or, if a schedule does not already exist, a depreciation schedule submitted to and approved by the department, but which may not be charged for items purchased, totally or in part, with state or federal funds;

C. mileage reimbursement for passenger service, including the cost of volunteer driver reimbursement for projects incorporating this type of service, as well as mileage reimbursement for transit personnel using private vehicles for emergency replacement passenger transport in the event of mechanical breakdown of transit vehicles;

D. repair and maintenance of other property, including material costs associated with the upkeep and repair of buildings and stations, grounds, nonrevenue equipment owned or leased by the transit company, and miscellaneous expenses such as small tool replacement, and supplies used for cleaning and for general shop and garage purposes;

E. leases and rentals of facilities or equipment used in the operation of the transit system, including leases and rentals of garages, depots, passenger vehicles, service vehicles, passenger stations, communication equipment, and computers, with allowability based on the reasonableness of rates and the presence of evidence that the lease will not give rise to material equity in the property; and

F. other operations charges, including the cost of such things as the purchase or rental and cleaning of uniforms, tools and equipment, sanding and snowplow operations, passenger amenities, and station agents and which may be allocated indirectly based on a cost allocation plan approved by the department.

For purposes of item C, mileage reimbursement must be based on a rate approved by the local governing body, as long as the rate is reasonable and consistent with similar rates approved by the local governing body.

Subp. 6. **Insurance charges expense.** The "insurance charges" expense category includes:

A. public liability and property damage insurance expense on vehicles, including premiums paid to insure the transit system against loss through damage to its own property and to indemnify the transit system and all financial and operational participants against loss from liability for its acts that cause damage to the person or property of others; and

B. public liability and property damage insurance charges other than on vehicles, including excess liability insurance, baggage and express insurance, and fire and theft insurance.

Subp. 7. **Taxes and fees expense.** The "taxes and fees" expense category includes:

A. vehicle registration and permit fees on vehicles; and

B. other taxes and fees, including applicable real estate, property, and sales taxes.

8835.0290 UNALLOWABLE EXPENSES.

Subpart 1. **Scope.** In determining the total operating costs of a public transit system, upon which financial assistance is based, the definitions of unallowable expenses in subparts 2 to 8 apply and have the meanings given them.

Subp. 2. **General purpose equipment.** Expenditures for general purpose equipment are unallowable as operating costs. "General purpose equipment" means equipment that is used for other than transit contract purposes, such as communications equipment, office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, and computers and related equipment.

Subp. 3. **Interest and other financial costs.** Interest on borrowing (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection with these costs are unallowable.

Subp. 4. **Fines and penalties.** Costs resulting from violations of, or failure to comply with federal, state, or local laws and regulations are unallowable.

Subp. 5. **Contingencies.** Contributions to a contingency reserve or any similar provision for unseen events are unallowable.

Subp. 6. **Bad debts.** Any losses arising from uncollectible accounts, other claims, and related costs are unallowable.

Subp. 7. **Donations and entertainment expense.** Contributions and donations are unallowable as are any entertainment expenses.

Subp. 8. **Unrelated costs.** Costs that are not directly related to the provision of public transit are unallowable.

8835.0310 REVENUE CATEGORIES.

Subpart 1. **Operating revenue categories; local sources.** In determining the local sources of funds that may comprise the fixed percentage of total operating costs to be paid by a recipient in accordance with the distribution classifications in Minnesota Statutes, sections 174.24, subdivision 3b, the definitions of revenue categories in subparts 2 to 7 apply and have the meanings given them.

Subp. 2. **Passenger fare.** "Passenger fare" means revenue earned from transporting passengers on the public transit system, including a cash fare, a donation received instead of a set fare, and an advance fare received from the sale of a coupon, token, or pass.

Subp. 3. **Contract revenue.** "Contract revenue" means revenue received from a contract with a beneficiary of a specific transit service. Contract revenue includes:

A. an amount paid by an organization for a special route guarantee; and

B. revenue earned for a ride given in regular transit service but paid for by an organization, including a state or local social service agency or a private social service organization, for the benefit of the rider.

Subp. 4. **School revenue.** "School revenue" means revenue earned from service provided under a contract with a school district, including an amount paid for transporting school children on regularly scheduled service, and an amount paid by a college or university for operating a transit vehicle on or between campuses.

Subp. 5. **Charter revenue.** "Charter revenue" includes reimbursement for charter service received in association with publicly funded transit service, providing that charter service rates are developed so that cost recovery equals or exceeds the full cost of providing the charter service.

Subp. 6. **Auxiliary revenue.** "Auxiliary revenue" means revenue earned from an activity closely associated with the transit operation, including revenue received from an advertising service, delivery, a lease, and station and vehicle concessions.

Subp. 7. **Other financial assistance.** "Other financial assistance" includes revenue earned from an activity not associated with the provision of the recipient's transit service but which is applied to help cover the system's costs, including tax levies, a federal cash grant, senior citizen fare assistance, investment income, and any general donation.

8835.0320 CAPITAL ASSISTANCE.

Subpart 1. **Budget.** An applicant seeking financial assistance for capital costs shall include in its budget a description of the vehicle, facility, or equipment desired, its cost and the reason for the request.

Subp. 2. **Criteria.** The department shall use the following criteria to evaluate requests for capital assistance:

- A. the extent to which the request maintains public transit services, promotes safety, and promotes efficient operations;
- B. the extent to which accessibility is enhanced; and
- C. the availability of local share money.

Subp. 3. **Allocation formula.** The department shall determine the amount of capital assistance for the public transit participation program according to the discretion provided to the commissioner in Minnesota Statutes, section 174.24, subdivision 3c. Except as provided in subparts 4 and 5, the department shall fund 80 percent of the capital costs approved by the department under the public transit participation program. The recipient shall provide the remaining 20 percent of the approved capital costs from local sources.

Subp. 4. **Program deviation from allocation formula.** Under the discretion provided to the commissioner in Minnesota Statutes, section 174.24, subdivision 3c, the department may establish a capital assistance allocation formula that deviates from the formula established in subpart 3. In setting this formula, the department must consider all relevant conditions relating to funding the public transit participation program.

Subp. 5. **Individual exception to allocation formula.** The department may deviate from the capital assistance allocation formula for an exceptional circumstance. A recipient that seeks capital assistance from the public transit participation program in an amount greater than the allocation formula, established under subpart 3 or 4, must make a written request to the department that includes:

- A. a detailed description of the exceptional circumstance that is the basis of the written request; and
- B. a resolution from the governing body that the request is due to an exceptional circumstance.

The department shall consider a request for an individual exception to the allocation formula after assessing the nature of the exceptional circumstance, balancing the request against other requests from recipients for capital assistance, and considering the assurance provided by the governing body that the circumstance that gave rise to the request is exceptional.

Subp. 6. **Vehicle replacement or disposition.** The department shall determine financial assistance to a public transit system to replace, refurbish, or dispose of a vehicle based on the condition of the vehicle and the availability of funds.

Subp. 7. **Contract.** The financial assistance contract between the department and the recipient must specify the maximum amount of capital assistance to be allocated to the recipient and the terms and conditions of assistance. The department shall determine the actual amount of capital assistance based on the availability of funds.

8835.0330 CONTRACT FOR FINANCIAL ASSISTANCE.

Subpart 1. **Content.** The financial assistance contract is a cost reimbursement contract that is based on the total operating cost in part 8835.0280. The contract must specify the maximum amount of financial assistance to be awarded to the recipient by the department and state the terms and conditions of assistance. The management plan must be incorporated

into the contract as a legal part of the contract document. A resolution by the governing body, as provided in part 8835.0250, subpart 5, must be included with the contract.

Subp. 3. **Penalties.** If a recipient fails to comply with the terms and conditions of the contract, the department may withhold payment at any time or may terminate the financial assistance contract upon 30 days' written notice.

Subp. 4. **Amendments.** A recipient or the department may initiate an amendment to the contract. Before implementation, an amendment must be fully executed by the parties to the original contract, or their successors.

8835.0350 FINANCIAL RECORDS.

Subpart 1. **Records.** A recipient and any third party contractor shall maintain their financial records in accordance with generally accepted accounting principles. The records must permit audit verification of transit cost allocations claimed during the contract period. The recipient and any third party contractor also shall keep records on miles and hours of service and passenger trips. Records must be kept available for a period of six years from the date of final payment or the expiration date of the contract, whichever occurs first.

Subp. 3. **Audits.** The financial records of the recipient must be audited. They may be audited by the department or the department may accept all or part of the audit of an independent auditor instead of a departmental audit if the audit meets department standards. In addition to chapter 8835, department audits must be based on the contract cost principles and procedures in Code of Federal Regulations, title 48, chapter 1, part 31, and Office of Management and Budget Circular, Number A-87 and Number A-122, as amended. The financial records of a subcontractor may be audited at the department's discretion. The department shall submit year-end financial statements to the department auditor by April 15 of the year following the period covered by the financial assistance contract. Audits at the end of a contract period must establish approved total operating costs. New recipients are subject to a preaward audit before contract execution and fund encumbrance. As provided by Minnesota Statutes, section 16C.05, subdivision 5, the records, books, documents, and accounting practices of the recipient and of any third party contractor relating to the contract are subject to audit and examination by the department and the legislative auditor during working hours. If the department determines it has overpaid a recipient on a previous contract, the department may reduce payments under the current contract by the amount of overpayment.

Subp. 4. **Project monitoring.** The department shall use the management plan required under part 8835.0260 as a basis for monitoring and evaluating the performance of the public transit system during the contract period. Public transit policy decisions made by the recipient and actions taken during the contract period must conform with the management plan. A proposed deviation from the management plan must be reported to the department and approval secured in writing before implementation. Approval will be granted if it is clearly documented that the proposed deviation will not increase overall project costs. Failure to secure approval jeopardizes continued financial assistance.

Subp. 5. **Reserve account.** If a public transit system generates operating revenue in excess of the recipient's local share amount, the recipient shall deposit the excess into a reserve account to be used for approved operating expenses that are not covered by the contract or for part of the local share of capital expenses of the transit system. The recipient shall report this revenue and expenses charged against it to the department on reporting forms provided by the department.