

Sec. 3. Minnesota Statutes 1982, section 94.343, subdivision 1, is amended to read:

Subdivision 1. Except as otherwise herein provided, any Class A land may, with the unanimous approval of the board, be exchanged for ~~land of the United States~~ any publicly held or privately owned land in the manner and subject to the conditions herein prescribed. The commissioner, with the approval of the board, shall formulate general programs of exchange of Class A land designed to serve the best interests of the state in the acquisition, development, and use of lands for purposes within the province of the department of natural resources.

Sec. 4. Minnesota Statutes 1982, section 94.349, subdivision 3, is amended to read:

Subd. 3. The classes of state land which may be involved in a transfer of title are the same as those which may be exchanged under land exchange laws and are subject to the same limitations as are applied to state lands under land exchange laws. ~~In addition, land subject to the public sale requirements of Minnesota Constitution, Article XI, Section 8, shall be condemned prior to any title transfer. The condemnation award must be paid and the time to appeal from the award must have expired prior to any title transfer under this section.~~

Sec. 5. **EFFECTIVE DATE.**

Sections 3 and 4 are effective upon ratification of the amendment proposed in section 1.

Approved May 2, 1984

CHAPTER 644 — H.F.No. 1577

An act relating to solid and hazardous waste management; amending various provisions of the waste management act; prescribing various powers and duties of the waste management board and the pollution control agency relating to hazardous waste management planning and the development of hazardous waste facilities; establishing programs for public education, technical and research assistance to generators, and grants for hazardous waste reduction and processing and collection facilities; requiring requests for proposals for hazardous waste processing and collection facilities; authorizing hazardous waste processing facility loans; prescribing procedures for the designation of solid waste facilities by counties and waste management districts; reducing the number of proposed sites in certain metropolitan counties for mixed municipal solid waste disposal facilities; amending various provisions relating to county and metropolitan solid waste management; appropriating money; amending Minnesota Statutes 1982, sections 115A.03, subdivisions 15 and 28; 115A.06, by adding a

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subdivision; 115A.08, by adding a subdivision; 115A.09, by adding a subdivision; 115A.11; 115A.18; 115A.24; 115A.46, subdivisions 1 and 2; 115A.70, by adding a subdivision; 116.07, by adding subdivisions; 116J.88, by adding a subdivision; 290.06, by adding subdivisions; 400.04, subdivision 3; 400.162; 473.181, subdivision 4; 473.801, subdivisions 1 and 4; 473.803, subdivision 3, and by adding a subdivision; 473.811, subdivision 10; and 473.833, subdivision 4; Minnesota Statutes 1983 Supplement, sections 115A.08, subdivision 5; 115A.21, subdivision 1, and by adding a subdivision; 115A.22, subdivisions 1 and 4; 115A.241; 115A.25, subdivisions 1, 1a, and 1b; 115A.26; 115A.27, subdivision 2; 115A.28, subdivision 1; 115A.291; 115B.22, subdivision 1; 116J.90, by adding a subdivision; 297A.25, subdivision 1; 473.149, subdivisions 2d and 2e; 473.803, subdivision 1b; 473.823, subdivision 6; and 473.831; proposing new law coded in Minnesota Statutes, chapters 115A and 473; repealing Minnesota Statutes 1982, sections 115A.071; 115A.46, subdivision 3; 115A.70, subdivisions 1, 2, 4, 5, and 6; 473.827; and Minnesota Statutes 1983 Supplement, section 115A.70, subdivisions 3 and 7.

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

Section 1. Minnesota Statutes 1982, section 115A.03, subdivision 15, is amended to read:

Subd. 15. "Intrinsic suitability" of a land area or site means that, based on existing data on the inherent and natural attributes, physical features, and location of the land area or site, there is no known reason why the waste facility proposed to be located in the area or site cannot reasonably be expected to qualify for permits in accordance with agency rules. Agency certification of intrinsic suitability shall be based on data submitted to the agency by the proposing entity and data included by the hearing examiner in the record of any public hearing on recommended certification, and applied against criteria in agency rules and any additional criteria developed by the agency in effect at the time the proposing entity submits the site for certification.

In the event that all candidate sites selected by the board before the effective date of this section are eliminated from further consideration and a new search for candidate sites is commenced, "intrinsic suitability" of a land area or site shall mean that, because of the inherent and natural attributes, physical features, and location of the land area or site, the waste facility proposed to be located in the area or site would not be likely to result in material harm to the public health and safety and natural resources and that therefore the proposed facility can reasonably be expected to qualify for permits in accordance with agency rules.

Sec. 2. Minnesota Statutes 1982, section 115A.03, subdivision 28, is amended to read:

Subd. 28. "Resource recovery facility" means a waste facility established and used primarily for resource recovery, including related and appurtenant facilities such as transmission facilities and transfer stations primarily serving the resource recovery facility.

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Sec. 3. Minnesota Statutes 1982, section 115A.06, is amended by adding a subdivision to read:

Subd. 5a. ACQUISITION OF EASEMENTS. If the board determines that any activity deemed necessary to accomplish its purposes under subdivision 5 constitutes a substantial interference with the possession, enjoyment, or value of the property where the activity will take place, the board may acquire a temporary easement interest in the property that permits the board to carry out the activity and other activities incidental to the accomplishment of the same purposes. The board may acquire temporary easement interests under this subdivision by purchase, gift, or condemnation. The right of the board to acquire a temporary easement is subject to the same requirements and may be exercised with the same authority as provided for acquisition of property interests by the commissioner of administration under subdivision 4.

Sec. 4. [115A.075] LEGISLATIVE POLICY AGAINST DISPOSAL OF HAZARDOUS WASTE.

The legislature finds that hazardous waste must be managed in a manner that protects the health, safety, and welfare of the citizens of the state and protects and conserves the state's natural resources and environment; that reduction of the amount of waste generated and processing, treatment, separation, and resource recovery are the preferred methods to manage hazardous waste; and that disposal of hazardous waste should be used only as a last resort when all other management methods are ineffective, and then only if an environmentally suitable site can be identified in the state.

The board, in its planning, facility approval, and other activities related to hazardous waste shall give first priority to eliminating the generation of hazardous waste and eliminating or reducing the hazardous character of the waste generated in the state through processing, treatment, separation, and resource recovery.

Sec. 5. Minnesota Statutes 1983 Supplement, section 115A.08, subdivision 5, is amended to read:

Subd. 5. REPORT ON MITIGATION OF LOCAL EFFECTS OF HAZARDOUS WASTE FACILITIES. With the report required by subdivision 4, The board through its chairperson shall issue a report and make recommendations on methods of mitigating and compensating for the local risks, costs, and other adverse effects of various types of hazardous waste facilities and on methods of financing mitigation and compensation measures. The methods of mitigating and compensating to be considered ~~shall~~ must include but not be limited to the following: payment outside of levy limitations in lieu of taxes for all property taken off the tax rolls; preference in reviews of applications for federal funds conducted by the metropolitan council and regional development commissions; payment of all costs to service the facilities including the cost of

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roads, monitoring, inspection, enforcement, police and fire, and litter clean up costs; payment for buffer zone amenities and improvement; local control over buffer zone design; a guarantee against any and all liability that may occur. The recommendations on processing facilities must be made with the report required by subdivision 4. The recommendations on disposal facilities must be made with the report required by section 6.

Sec. 6. Minnesota Statutes 1982, section 115A.08, is amended by adding a subdivision to read:

Subd. 5b. REPORT ON NEED AND FEASIBILITY OF HAZARDOUS WASTE DISPOSAL FACILITIES. The board through its chairperson shall issue a report on the estimate of need and the economic feasibility analysis required by section 115A.24. The report must be issued before the hearing required by section 115A.27. The board through its chairperson shall issue an interim report by February 1, 1985, on the research on need and economic feasibility.

Sec. 7. Minnesota Statutes 1982, section 115A.09, is amended by adding a subdivision to read:

Subd. 5. INCLUSION OF VOLUNTEER SITES. The owner of property that may be a suitable location for a hazardous waste processing facility may apply to the board for inclusion of the property in the inventory of preferred areas. If the board accepts the application, the property must be evaluated as provided in subdivision 2. If the board determines that the property is suitable as a preferred area, it may include it in the inventory after complying with the procedures provided in subdivision 3.

Sec. 8. Minnesota Statutes 1982, section 115A.11, is amended to read:

115A.11 HAZARDOUS WASTE MANAGEMENT PLAN.

Subdivision 1. CONTENTS REQUIREMENT. The board shall adopt, amend as appropriate, and implement a hazardous waste management plan.

Subd. 1a. POLICY. In developing and implementing the plan, the highest priority of the board shall must be placed upon alternatives to land disposal of hazardous wastes including: technologies to modify industrial processes or introduce new processes which that will reduce or eliminate hazardous waste generation; recycling, re-use, and recovery methods to reduce or eliminate hazardous waste disposal; and conversion and treatment technologies to reduce the degree of environmental risk from hazardous waste. The board shall also consider technologies for retrievable storage of hazardous wastes for later recycling, re-use, recovery, conversion, or treatment.

Subd. 1b. CONTENTS. The plan shall must include at least the following elements: prescribed in this subdivision.

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(a) ~~an~~ The plan must estimate of the types and volumes quantities of hazardous waste which that will be generated in the state through the year 2000;

(b) The plan must set out specific and quantifiable objectives for reducing to the greatest feasible and prudent extent the need for and practice use of disposal facilities located within the state, through waste reduction, pretreatment, retrievable storage, processing, and resource recovery;

(c) ~~a description of~~ The plan must estimate the minimum disposal capacity and capability needed to be developed within required by generators in the state for use through the year 2000. The estimate must be based on the achievement of the objectives under clause paragraph (b);

(d) ~~a description of~~ The plan must describe and recommend the implementation strategies required to develop the needed assure availability of disposal capacity for the types and quantities of waste estimated under clause paragraph (c) and to achieve the objectives under clause required by paragraph (b); including. The recommendations must address at least the following: the necessary private and government actions; the types of facilities and programs required; the availability and use of specific facilities outside of the state; development schedules for facilities, services, and regulations rules that should be established in the state; revenue-raising and financing measures; levels of public and private effort and expenditure; legal and institutional changes; and other similar matters.

(e) The plan shall must provide for the orderly development of hazardous waste management sites and facilities to protect the health and safety of rural and urban communities. In preparing the plan the board shall consider its impact upon agriculture and natural resources.

(f) The plan shall require the establishment in the state of at least one commercial retrievable storage or disposal facility and shall recommend and encourage must include methods and procedures that will insure encourage the establishment of at least one facility programs, services, and facilities that the board recommends for development in the state for the recycling, re-use, recovery, conversion, treatment, destruction, transfer, or storage, or disposal, including retrievable storage, of hazardous waste.

The plan must be consistent with the estimate of need and feasibility analysis prepared under section 115A.24, the analysis provided in the phase I environmental impact statement determined to be adequate under section 115A.25, subdivision 1a, and the decisions made by the board under sections 115A.28 and 115A.291.

The board may make the implementation of elements of the plan contingent on actions of the legislature ~~which that~~ have been recommended in the draft plan and certification of need and considered in the reports submitted pursuant to section 115A.08.

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Subd. 2. **PROCEDURE.** The plan shall be based upon the reports prepared pursuant to section 115A.08. The plan, the certificate of need issued under section 115A.24, and the procedures for hearings on the draft plan and draft certificate of need, shall are not be subject to the rule-making or contested case provisions of chapter 14. Before revising the draft plan prepared under subdivision 3 or amending its adopted plan, the board shall provide notice and hold a public hearing in a manner consistent with the procedure followed by the board in the hearings on the draft plan, as provided in subdivision 3 and approved by the legislative commission.

Subd. 3. **PREPARATION OF DRAFT PLAN.** By July 1, 1983, the chairman chairperson of the board shall report to the legislative commission on waste management about the hearing to be held pursuant to this subdivision. The chairman chairperson shall describe the board's plans and procedures for the hearing, the provisions for encouraging public participation in the hearing, and the board's plans for preparing the required report to the legislature fully and accurately summarizing the results of the hearing, the objections raised to the board's draft plan and certification, and the board's response to the testimony received. The legislative commission shall hold a hearing to receive public comment on the board's proposed hearing procedures and thereafter shall make any recommendations it deems appropriate for changes in the board's procedures. By November 1, 1983, the board through its chairperson shall issue a draft hazardous waste management plan proposed for adoption pursuant to this section, and a draft certificate or certificates of need proposed for issuance under section 115A.24. The draft plan and certificates must include an explanation of the basis of the findings, conclusions, and recommendations contained therein. The board shall hold a public hearing on the draft plan and draft certificate or certificates of need within 30 days of their its issuance. Notices of the draft plan and the draft certificate or certificates and notice of the hearing shall must be published in the state register and newspapers of general circulation in the state. The notices must indicate how copies of the draft plan and draft certificate or certificates of need may be obtained. The board shall make the draft plan and draft certificate or certificates of need available for public review and comment at least 21 days before the hearing. The hearing shall must be ordered by the chairperson of the board and shall must be conducted by the state office of administrative hearings in a manner consistent with the completion of the proceedings in the time allowed by this section. The hearing officer shall may not issue a report but shall preside at the hearing to ensure that the hearing is conducted in a fair, orderly, and expeditious manner and in accordance with the hearing procedures of the board. A majority of the permanent members of the board shall attend the hearing. In connection with the hearing, the chairperson of the board shall provide copies of the studies and reports on which the draft plan and certification of need are is based and shall present an explanation of the basis of the findings, conclusions, and recommendations in the draft plan and certification of need.

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Within 15 days following the hearing the director of the agency shall issue a hazardous waste pollution control report. The report must be submitted to the legislative commission. The report must be based on existing and proposed federal and state pollution control rules and available information and expertise on the character, nature, and degree of hazard of the types and categories of hazardous waste identified in the plan. The report must:

(a) assess the pollution control problems and risks associated with each type and category of hazardous waste identified by the ~~draft certification of need plan~~ as eligible for disposal, before or after pretreatment, at a facility or facilities of the type and design selected by the board, and identify design and pretreatment alternatives or other methods for dealing with those problems and risks;

(b) identify at least one specific alternative technology for dealing with each waste ~~which that~~ the report recommends should not be ~~certified~~ accepted for disposal, and assess the pollution control problems and risks associated with the alternatives;

(c) assess the pollution control problems and risks associated with each standard and criteria contained in the plan ~~and certification~~ for determining the eligibility or ineligibility of waste for disposal;

(d) assess the pollution control programs and risks associated with the processing and other alternatives to disposal ~~which that~~ are recommended in the plan for specific types or categories of hazardous waste, and identify methods for dealing with those problems and risks.

Within 30 days following the hearing, the board shall revise the draft plan ~~and the draft certificate or certificates of need~~ as it deems appropriate, shall make a written response to the testimony received at the hearing and to the agency's report explaining its disposition of any recommendations made with respect to the plan ~~and certification~~, and shall submit to the legislative commission the revised draft plan ~~and certification of need~~, together with a report on the testimony received, the board's response, and the results of the hearing process.

Sec. 9. [115A.152] TECHNICAL AND RESEARCH ASSISTANCE TO GENERATORS.

Subdivision 1. PURPOSES. The board shall provide for the establishment of a technical and research assistance program for generators of hazardous waste in the state. The program must be designed to assist generators in the state to obtain information about management of hazardous wastes, to identify and apply methods of reducing the generation of hazardous wastes, to facilitate improved management of hazardous waste and compliance with hazardous waste regulations, and for other similar purposes. The program must emphasize assistance to smaller businesses that have inadequate technical and financial resources for obtaining information, assessing waste management methods, and developing and applying waste reduction techniques. Information and techniques

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developed under this program must be made available through the program to all generators in the state.

Subd. 2. ASSISTANCE. The assistance program must include at least the following elements:

(a) outreach programs including on-site consultation at locations where hazardous waste is generated, seminars, workshops, training programs, and other similar activities designed to assist generators to evaluate their hazardous waste generation and management practices, identify opportunities for waste reduction and improved management, and identify subjects that require additional information and research;

(b) a program to assemble, catalog, and disseminate information about hazardous waste reduction and management methods, available commercial waste management facilities and consultant services, and regulatory programs (provided that specific questions by generators about interpretation or application of waste management rules or regulations should be referred to appropriate regulatory agencies);

(c) evaluation and interpretation of information needed by generators to improve their management of hazardous waste; and

(d) informational and technical research to identify alternative technical solutions that can be applied by specific generators to reduce the generation of hazardous waste.

Subd. 3. ADMINISTRATION; EVALUATION. The assistance program must be coordinated with other public and private programs that provide management and technical assistance to smaller businesses and generators of small quantities of hazardous waste, including programs operated by public and private educational institutions. The board may make grants to a public or private person or association that will establish and operate the elements of the program, but the grants must require that the assistance be provided at no cost to the generators and that the grantees provide periodic reports on the improvements in waste management, waste reduction, and regulatory compliance achieved by generators through the assistance provided.

Sec. 10. [115A.154] WASTE REDUCTION GRANTS.

Subdivision 1. PROPOSALS AND GRANTS. The board may make grants to generators of hazardous waste in the state for studies to determine the feasibility of applying specific methods and technologies to reduce the generation of hazardous waste. Grants may be awarded only on the basis of proposals submitted to the board by generators. The board shall select proposals that offer the greatest opportunity to significantly reduce the generation of hazardous waste by the generators making the proposal and, if applied generally, to significantly reduce the generation of hazardous waste in the state. The significance of waste

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reduction may be measured by the volume of hazardous waste that is eliminated or by the reduction in risk to public health and safety and the environment that is achieved by the reduction. In awarding grants, the board may consider the extent of any financial and technical support that will be available from other sources for the study. The board may adopt additional criteria for awarding grants consistent with the purposes of this section.

Subd. 2. LIMITATIONS. The waste reduction information and techniques developed using grants awarded under this section must be made available to all generators in the state through the technical assistance and research program established under section 9. Grant money awarded under this section may not be spent for capital improvements or equipment.

Sec. 11. [115A.156] WASTE PROCESSING AND COLLECTION FACILITIES AND SERVICES; DEVELOPMENT GRANTS.

Subdivision 1. PURPOSE. The board may make grants to eligible recipients to determine the feasibility and method of developing and operating specific types of commercial facilities and services for collecting and processing hazardous waste. Grants may be made for:

- (1) market assessment, including generator surveys;
- (2) conceptual design and preliminary engineering;
- (3) financial and business planning necessary to address sources of funding, financial security, liability, pricing structure, and similar matters necessary to the development and proper operation of a facility or service;
- (4) environmental impact and site analysis, preparation of permit applications, and environmental and permit reviews;
- (5) analysis of methods of overcoming identified technical, institutional, legal, regulatory, market, or other constraints; and
- (6) analysis of other factors affecting development, operation, and use of a facility or service.

Subd. 2. ELIGIBILITY. A person proposing to develop and operate specific collection and processing facilities or services to serve generators in the state is eligible for a grant. The board may give preference to applications by associations of two or more generators in the state proposing to develop and operate commercial facilities or services capable of collecting or processing their hazardous wastes.

Subd. 3. PROCEDURE FOR AWARDING GRANTS. The board may establish procedures for awarding grants under this section. The procedures for awarding grants shall include consideration of the following factors:

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(1) the need to provide collection and processing for a variety of types of hazardous wastes;

(2) the extent to which the facility or service would provide a significant amount of processing or collection capacity for waste generated in the state, measured by the volume of waste to be managed, the number and geographic distribution of generators to be served, or the reduction of risk to public health and safety and the environment achieved by the operation of the facility or service;

(3) the availability of the facility or service to all generators needing the service in the area to be served;

(4) the contribution of the facility or service to achieving the policies and objectives of the hazardous waste management plan;

(5) participation by persons with demonstrated experience in developing, designing, or operating hazardous waste collection or processing facilities or services;

(6) the need for assistance from the board to accomplish the work;

(7) the extent to which a proposal would produce and analyze new information; and

(8) other factors established by the board consistent with the purposes of this section.

The board may adopt temporary rules under sections 14.29 to 14.36 to implement the grant program. Temporary rules adopted by the board remain in effect for 360 days or until permanent rules are adopted, whichever occurs first.

Subd. 4. LIMITATIONS. A grant may not exceed \$50,000. The board may award more than one grant for a single proposed facility or service if the board finds that results of previous studies justify additional work on other aspects of the development and operation of the facility or service. Grant money may not be spent for capital improvements or equipment.

Subd. 5. MATCHING FUNDS REQUIRED. A recipient other than an association of generators in the state must agree to pay at least 50 percent of the cost of the study. An association of two or more generators in the state must agree to pay at least 20 percent of the cost of the study.

Sec. 12. [115A.158] DEVELOPMENT OF PROCESSING AND COLLECTION FACILITIES AND SERVICES; REQUESTS FOR PROPOSALS.

Subdivision 1. REQUEST BY BOARD; CONTENTS OF PROPOSAL. The board through its chairperson shall request proposals for the development and operation of specific types of commercial hazardous waste processing and collection facilities and services that offer the greatest possibility of achieving

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the policies and objectives of the waste management plan including the goal of reducing to the greatest extent feasible and prudent the need for and practice of disposal. The proposals must contain at least the following information:

(1) the technical, managerial, and financial qualifications and experience of the proposer in developing and operating facilities and services of the type proposed;

(2) the technical specifications of the proposed facility or service including the process that will be used, the amount and types of hazardous waste that can be handled, the types, volume, and proposed disposition of any residuals, and a description of anticipated adverse environmental effects;

(3) the requirements of the site or sites needed to develop and operate the facility or service and the likelihood that a suitable site or sites will be available for the facility or service;

(4) projections of the costs and revenues of the facility or service, the types and numbers of generators who will use it, and the fee structure and estimated user charges necessary to make the facility or services economically viable;

(5) the schedule for developing and commencing operation of the facility or service; and

(6) the financial, technical, institutional, legal, regulatory, and other constraints that may hinder or prevent the development or operation of the facility or service and the actions that could be taken by state and local governments or by the private sector to overcome those constraints.

The information provided in the proposal must be based on current and projected market conditions, hazardous waste streams, legal and institutional arrangements, and other circumstances specific to the state.

Subd. 2. PROCEDURE; EVALUATION; REPORT. In requesting proposals, the board shall inform potential developers of the assistance available to them in siting and establishing hazardous waste processing and collection facilities and services in the state including the availability of sites listed on the board's inventory of preferred areas for hazardous waste processing facilities, the authority of the board to acquire sites and order the establishment of facilities in those areas, the policies and objectives of the hazardous waste management plan, and the availability of information developed by the board on hazardous waste generation and management in the state.

The board shall evaluate the proposals received in response to its request and determine the extent to which the proposals demonstrate the qualifications of the developers, the technical and economic feasibility of the proposed facility or service, and the extent to which the proposed facility or service will contribute in a significant way to the achievement of the policies and objectives of the hazardous waste management plan.

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The board shall report to the legislative commission on the proposals that it has received and evaluated, and on the legislative, regulatory, and other actions needed to develop and operate the proposed facilities or services.

Subd. 3. TIME FOR PROPOSALS. The board shall issue the first round of requests under this section by June 1, 1984. The first round proposals must be returned to the board by November 1, 1984. The board shall submit its report on these proposals to the legislative commission by January 1, 1985. The board may issue additional requests in 1985 and in future years.

Sec. 13. [115A.159] DEVELOPMENT OF HAZARDOUS WASTE COLLECTION AND TRANSPORTATION SERVICES.

The board through its chairperson shall request, pursuant to the first round of requests under section 12, proposals for the development and operation of a system of commercial collection and transportation services for hazardous waste especially designed to serve smaller businesses and generators of small quantities of hazardous waste that have difficulty securing effective and reliable collection and shipment services and acceptance of wastes at appropriate waste facilities. The board's request under this section should require proposals containing at least the following elements:

(1) a collection service;

(2) assistance to clients about on-site waste management;

(3) a shipping coordination service, which may include transfer and temporary storage and bulking facilities and computerized inventory tracking capabilities, as the proposer deems appropriate and necessary to provide efficient and reliable combined shipment of wastes from generators to processing and disposal facilities;

(4) a brokerage service to ensure acceptance of wastes at appropriate processing and disposal facilities;

(5) recommendations on the utility of local or regional associations of generators to increase the efficiency and reliability of the services; and

(6) recommendations on processing facilities, including mobile modular processing units, that would complement the collection and transportation system.

The board's request must require proposals that offer the delivery of services in stages commencing no later than July 1, 1985. The board should specify or require specification of immediate and staged performance standards for the services proposed, which may include standards relating to the volume and types of waste, the number and geographic distribution of generators served, accessibility, the percent of total waste and generators served, and other appropriate matters. After evaluating proposals received in response to its request, the

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board may select a proposer as the recipient of a development grant under section 11. Notwithstanding the provisions of section 11, subdivisions 4 and 5, on the amount of the grant and the required match, the grant made under this section may be up to \$350,000 and may not require a match greater than ten percent of the grant award.

Sec. 14. [115A.162] HAZARDOUS WASTE PROCESSING FACILITY LOANS.

The board shall review applications for hazardous waste processing facility loans received by the economic development authority and forwarded to the board under section 51. The board may certify a loan application only if it determines that:

(1) the applicant has demonstrated that the proposed facility is technically feasible;

(2) the applicant has made a reasonable assessment of the market for the services offered by the proposed facility;

(3) the applicant has agreed to provide funds for the proposed facility in an amount equal to at least 25 percent of the capital cost of the facility excluding land acquisition cost;

(4) the applicant has agreed to pay the cost of any land acquisition necessary to develop the facility; and

(5) the facility will contribute in a significant way to achievement of the policies and objectives of the hazardous waste management plan and, in particular, to reduce the need for and practice of hazardous waste disposal.

As a condition of its certification the board may require an applicant to agree to provide funds in excess of 25 percent of the capital cost of the facility in addition to any land acquisition costs. In certifying an application or in determining the share of the capital costs that will be provided by the loan, the board may consider the types and volumes of hazardous waste that will be handled by the facility, the number of generators served by the facility, and the extent to which the facility serves the need of smaller businesses that generate hazardous waste. The board may establish additional criteria for certifying loan applications consistent with the provisions of this section.

The board may adopt temporary rules under sections 14.29 to 14.36 to implement the loan program. Temporary rules adopted by the board remain in effect for 360 days or until permanent rules are adopted, whichever occurs first.

Sec. 15. [115A.165] EVALUATION OF PROGRAMS; REPORT.

By November 1, 1986, the board shall evaluate the extent to which the programs provided in sections 9 to 14 have contributed to the achievement of the policies and objectives of the hazardous waste management plan. The evaluation

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must consider the amount of waste reduction achieved by generators through the technical and research assistance and waste reduction grant programs and the progress in reducing the need for and practice of disposal achieved through the development grants and the request for proposal program. The board shall report the results of its evaluation to the legislative commission with its recommendations for further action.

Sec. 16. **[115A.17] HAZARDOUS WASTE, FACILITY DEVELOPMENT.**

Notwithstanding any other law to the contrary on the effective date of this section, the waste management board shall suspend all activity under sections 115A.18 to 115A.30 relating to the selection and evaluation of locations for hazardous waste disposal, except that the reductions in number of sites permitted by section 115A.21, subdivision 1, may be effected, until the report on the status of processing facilities required in this section has been presented to the legislature and the legislature has acted affirmatively to reinstate the disposal evaluation and siting process. After June 1, 1985 and before December 1, 1985 the waste management board shall prepare a status report on hazardous waste processing facilities indicating the amount and type of hazardous waste treatment residual and untreated material that is expected to require disposal.

Sec. 17. Minnesota Statutes 1982, section 115A.18, is amended to read:

115A.18 LEGISLATIVE FINDINGS; PURPOSE.

The legislature finds that proper management of hazardous waste generated in the state is needed to conserve and protect the natural resources in the state and the health, safety, and welfare of its citizens, that the establishment of safe commercial disposal facilities is in the state may be necessary and practicable to properly manage the waste, that this cannot be accomplished solely by the activities of private persons and political subdivisions acting alone or jointly, and that therefore it is necessary to provide a procedure for making final determinations on whether commercial disposal facilities should be established in the state and on the locations, sizes, types, and functions of any such facilities.

Sec. 18. Minnesota Statutes 1983 Supplement, section 115A.21, subdivision 1, is amended to read:

Subdivision 1. **SELECTION.** The board shall select at least four locations more than one location in the state, no more than one site per county, as candidate sites for commercial disposal facilities for hazardous waste. Candidate sites selected by the board before February 1, 1983, and additional candidate sites selected pursuant to this section, must be reviewed pursuant to sections 115A.22 to 115A.30. No location shall be selected as a candidate site unless the agency certifies its intrinsic suitability for the use intended pursuant to subdivision 2a.

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Sec. 19. Minnesota Statutes 1983 Supplement, section 115A.21, is amended by adding a subdivision to read:

Subd. 1a. VOLUNTEER CANDIDATE SITES. The board may select candidate sites under this subdivision in addition to sites selected under subdivision 1. The board may submit a site to the agency if the site is proposed as a candidate site by a facility operator with the approval of the owners of the site and the statutory or home rule charter city or town and county in which the site is located. A location may be selected as a candidate site under this subdivision if the agency determines and certifies that the site is intrinsically suitable for the use intended. The director of the agency shall identify the information needed by the agency to make the determination of intrinsic suitability. The board shall obtain the necessary information and provide it to the director.

The director of the agency shall make a recommendation to the agency board on intrinsic suitability within 30 days after receiving the information from the board. The agency board shall make the determination on intrinsic suitability not later than the first regular meeting of the agency board held at least ten days after the director's recommendation.

The decisions of the board and the agency under this subdivision are not subject to the contested case or rulemaking provisions of chapter 14, or the procedures provided in subdivision 2a.

Sec. 20. Minnesota Statutes 1983 Supplement, section 115A.22, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** In order systematically to involve those who would be affected most directly by disposal facilities in all decisions leading to their establishment, the board's decisions on reports referred to in subdivision 7, the plan adopted under section 115A.11, and the ~~certification of need estimates and analysis~~ required under section 115A.24 shall not be made until after the establishment of local project review committees for each candidate site, with representation on the board, pursuant to this section.

Sec. 21. Minnesota Statutes 1983 Supplement, section 115A.22, subdivision 4, is amended to read:

Subd. 4. **APPOINTMENT OF TEMPORARY BOARD MEMBERS.** Within 30 days following the appointment of a local project review committee, the local committee shall select a temporary board member to be added to the board for the purposes of the reports to be issued under section 115A.08, the plan to be adopted under section 115A.11, and the ~~need certifications estimates, the analysis and the review of candidate sites~~ conducted under sections 115A.18 to 115A.30. Temporary board members shall not participate or vote in decisions affecting the selection and certification of sites under sections 115A.201 and 115A.21. If a local committee fails to appoint a temporary board member within the time permitted by this subdivision, the governor shall appoint a temporary

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board member to represent the committee on the board. Temporary board members may be members of the local project review committee, and they shall be residents of the county where the candidate site is located. Temporary board members shall serve for terms lasting as long as the location the member represents is a candidate site or, in the case of members representing the a site or sites finally chosen for the facility, until the commencement of the operation of the facility at that site.

Sec. 22. Minnesota Statutes 1982, section 115A.24, is amended to read:

115A.24 CERTIFICATION OF NEED DISPOSAL FACILITIES; ESTIMATE OF NEED; ANALYSIS OF ECONOMIC FEASIBILITY.

Subdivision 1. CERTIFICATE ESTIMATE OF NEED FOR DISPOSAL FACILITIES. On the basis of and consistent with its hazardous waste management plan adopted under section 115A.11, The board shall issue a certificate or certificates of need for disposal facilities for hazardous wastes in the state. The certificate or certificates shall indicate the types and volumes of waste for which disposal facilities are and will be needed through the year 2000 and The board shall develop an estimate of the number, types, capacity, and function or use of the any hazardous waste disposal facilities needed in the state. Before finally adopting the certificate of need the board shall submit it to the agency for a revision of the hazardous waste pollution control report required under section 115A.11, subdivision 2.

In developing its estimate the board shall:

(1) prepare a preliminary estimate of the types and quantities of waste generated in the state for which disposal will be needed through the year 2000 based to the extent practical on data obtained from generators who are likely to use the facility;

(2) estimate the disposal capacity located outside of the state, taking into account the status of facility permits, current and planned capacity, and prospective restrictions on expansion of capacity;

(3) estimate the prospects for the continued availability of capacity outside of the state for disposal of waste generated in the state;

(4) estimate the types and quantities of waste likely to be generated as residuals of the commercial hazardous waste processing facilities recommended by the board for development in the state and for which disposal will be needed, taking into account the likely users of the facilities; and

(5) compare the indirect costs and benefits of developing disposal facilities in the state or relying on facilities outside the state to dispose of hazardous waste generated in the state, taking into account the effects on business, employment, economic development, public health and safety, the environment, and the development of collection and processing facilities and services in the state.

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In preparing the estimate, the board shall certify need may identify need for disposal only to the extent that the board has determined that there are no feasible and prudent alternatives, including waste reduction, separation, pretreatment, processing, and resource recovery, which would minimize adverse impact upon air, water, land and all other natural resources, ~~provided that the board shall require the establishment of at least one commercial disposal facility in the state. Economic considerations alone shall may not justify certification an estimate of need for disposal nor the rejection of alternatives.~~ Alternatives that are speculative and conjectural shall are not be deemed to be feasible and prudent. The board shall consider all technologies being developed in other countries as well as in the United States when it considers the alternatives to hazardous waste disposal. ~~The certificate or certificates shall not be subject to the provisions of chapter 14 but shall be the final determination required on the matters decided by the certificate or certificates and shall have the force and effect of law. The certificate or certificates shall not be amended for five years except as provided in section 115A.291. In reviewing and selecting sites, completing and determining the adequacy of environmental impact statements, and issuing approvals and permits for waste disposal facilities described in the certificate or certificates of need, matters determined in the certification shall not be reconsidered except as otherwise provided in section 115A.291. The board and the permitting agencies shall be required to make a final decision approving the establishment of facilities consistent with the certification except as otherwise provided in section 115A.291.~~

Subd. 3. **RADIOACTIVE WASTE.** The board's ~~certificate estimate~~ of need shall not allow the use of a facility for disposal of radioactive waste, as defined by section 116C.71, subdivision 6.

Subd. 4. **ECONOMIC FEASIBILITY ANALYSIS.** The board shall prepare an economic feasibility analysis for disposal facilities of the type, capacity, and function or use estimated by the board to be needed in the state under subdivision 1. The analysis must be specific to the sites where the facilities are proposed to be located. The analysis must include at least the following elements:

(1) an estimate of the capital, operating, and other direct costs of the facilities and the fee schedules and user charges necessary to make the facilities economically viable;

(2) an assessment of the other costs of using the disposal facilities, such as transportation costs and disposal surcharges;

(3) an assessment of the market for the facility for waste generated in the state, that identifies the generators that would use the facility under existing and likely future market conditions, describes the methods otherwise available to those generators to manage their wastes and the costs of using those methods, and establishes the level at which the cost of using the proposed facilities would

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be competitive with the cost of using other available methods of waste management;

(4) an estimate of the subsidy, if any, needed to make the facility competitive for Minnesota generators under existing market conditions and the changes in market conditions that would increase or lower any subsidy.

Sec. 23. Minnesota Statutes 1983 Supplement, section 115A.241, is amended to read:

115A.241 PARTICIPATION BY FACILITY DEVELOPERS AND OPERATORS.

The board shall solicit the participation of private developers and operators of waste facilities in the evaluation of hazardous waste disposal sites and facility specifications. ~~To qualify for consideration as a developer or operator, a person shall submit a letter~~ The board shall request developers and operators to submit letters of intent to participate in evaluating sites, economic feasibility of disposal facilities, and facility specifications. The letters must be submitted to the board within 90 days following the publication of the board's draft plan pursuant to section 115A.08, subdivision 4 by September 1, 1984. To qualify for selection as a developer or operator, a person shall submit operability reports to the board at least 60 days before the board's hearings under section 115A.27, and shall submit an amended report within 60 days following the decisions under section 115A.28. The letters of intent and reports ~~shall~~ must be in the form and contain the information deemed appropriate by the board.

Sec. 24. Minnesota Statutes 1983 Supplement, section 115A.25, subdivision 1, is amended to read:

Subdivision 1. **ENVIRONMENTAL IMPACT STATEMENT.** A phased environmental impact statement ~~shall~~ must be completed by the board and the agency before any permits are issued under section 115A.291. The statement must be prepared and reviewed in accordance with chapter 116D and the rules issued pursuant thereto, except as otherwise required by this section and sections 115A.11, ~~115A.24~~, 115A.28, and 115A.30. The board and agency shall follow the procedures in subdivisions 2 and 3 in lieu of the scoping requirements of chapter 116D and rules issued pursuant thereto. The statement ~~shall~~ must be completed in two phases as provided in subdivisions 1a and 1b.

Sec. 25. Minnesota Statutes 1983 Supplement, section 115A.25, subdivision 1a, is amended to read:

Subd. 1a. **PHASE I.** Phase I of the statement ~~shall~~ must be completed by the board on the environmental effects of the ~~board's decision on sites and facility specifications~~ decisions that the board is required to make under section 115A.28. Phase I of the statement ~~shall~~ must not address or reconsider ~~alternative sites or facility numbers, types, capacity, function, and use which~~

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alternatives that have been eliminated from consideration by the board's decisions under sections 115A.201 and 115A.21 and 115A.24. The determination of the adequacy of phase I of the statement is exclusively the authority of the board. The governor shall establish an interagency advisory group to comment on the scope of phase I of the statement, to review drafts, and to provide technical assistance in the preparation and review of phase I of the statement. The advisory group shall must include representatives of the agency, the departments of natural resources, health, agriculture, energy, planning and development, and transportation, and the Minnesota geological survey. In order to obtain the staff assistance necessary to prepare the statement, the chairperson of the board may request reassignment of personnel pursuant to section 16.21 and may arrange to have other agencies prepare parts of the statement pursuant to section 16.135.

Sec. 26. Minnesota Statutes 1983 Supplement, section 115A.25, subdivision 1b, is amended to read:

Subd. 1b. **PHASE II.** Phase II of the statement shall must be completed by the agency as a supplement to phase I specifically for the purpose of examining the environmental effects of the any permitting decisions that may be required to be made by the permitting agencies under section 115A.291. In preparing, reviewing, and determining the adequacy of phase II of the statement, the agency shall not repeat or duplicate the research and analysis contained in phase I of the statement, unless the agency determines that the information available is not adequate or that additional information is necessary to examine the environmental effects of the permitting decisions. Phase II of the statement shall may not address or reconsider alternative sites and facility numbers, types, capacity, function, and use which alternatives that have been eliminated from consideration by the board's decisions under sections 115A.201, 115A.21, 115A.24, and 115A.28. The determination of adequacy of phase II of the statement must be made by the agency within 180 days following submission of the preliminary permit application or applications under section 115A.291. The determination of the adequacy of phase II of the statement is exclusively the authority of the agency.

Sec. 27. Minnesota Statutes 1983 Supplement, section 115A.26, is amended to read:

115A.26 AGENCIES; REPORT ON PERMIT CONDITIONS AND APPLICATION REQUIREMENTS.

Within 30 days following the board's determination of the adequacy of phase I of the environmental impact statement, and after consulting with the board, facility developers, affected local government units, and the local project review committees, the chief executive officer of each permitting state agency shall issue to the board draft reports on permit conditions and permit application requirements at each candidate site. The reports must indicate, to the extent possible based on existing information, the probable terms, conditions, and

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requirements of permits, including the types and categories of waste eligible for disposal with or without pretreatment, and the probable supplementary documentation that will be required for phase II of the environmental impact statement under section 115A.25 and for permit applications under section 115A.291. The reports may be revised following the hearings under section 115A.27 as the chief executive officer deems necessary. ~~The reports must be consistent with the establishment of facilities in accordance with the certification of need.~~

Sec. 28. Minnesota Statutes 1983 Supplement, section 115A.27, subdivision 2, is amended to read:

Subd. 2. **BOARD HEARINGS.** Within 120 days following the board's determination of the adequacy of phase I of the environmental impact statement under section 115A.25, the board shall conduct a hearing in each county containing a candidate site, for the purpose of receiving testimony on the decisions required under section 115A.28. The hearings ~~shall~~ must be ordered by the chairperson of the board. The subject of the board hearing ~~shall~~ may not extend to matters previously decided in the board's decision on sites under ~~section~~ sections 115A.201 and 115A.21 and the certificate of need issued under section 115A.24. ~~The record of the hearings must include the estimate of need for disposal facilities and the economic feasibility analysis prepared under section 115A.24, the phase I environmental impact statement, and the reports on permit conditions issued under section 115A.26.~~ The hearing ~~shall~~ must be conducted for the board by the state office of administrative hearings in a manner consistent with the completion of the proceedings in the time allowed. The proceedings and the hearing procedures are not subject to the rule-making or contested case provisions of chapter 14. The hearing officer ~~shall~~ may not issue a report but shall preside at the hearings to ensure that the hearings are conducted in a fair, orderly, and expeditious manner and in accordance with the hearing procedures of the board. A majority of the permanent members of the board shall be present at the hearing.

Sec. 29. Minnesota Statutes 1983 Supplement, section 115A.28, subdivision 1, is amended to read:

Subdivision 1. **DECISION OF BOARD.** Within 60 days following the conclusion of the hearings under section 115A.27, subdivision 2, and after consulting with private facility developers, the permitting agencies, affected local government units, and the local project review committees, ~~the board shall make the decisions as required by this subdivision. If the board decides that a disposal facility should not be developed in the state, it shall dismiss the candidate sites from further consideration. If the board determines and certifies that a disposal facility is needed and should be developed in the state, the board shall finally select the a site or sites for the facilities and the developer and operator of the facility and shall prescribe further specifications on and specify the number, type, capacity, function, and use of the any facilities as the board deems appropriate,~~

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consistent with the board's certification of need issued under section 115A.24 to be established under sections 115A.18 to 115A.30. Sites that are not selected by the board cease to be candidate sites. If the chairperson of the board determines that an agency report on permit conditions and application requirements has been substantially revised following hearings held pursuant to section 115A.27, subdivision 2, the chairperson may delay the decision for 30 days and may order a public hearing to receive further testimony on the sites and facilities to be established. The proceeding shall must be conducted as provided in section 115A.27, subdivision 2, except that hearings shall not be separately held in the affected counties and the issues relating to all agency reports shall must be considered at one hearing. The board's decision shall provide for the establishment of facilities consistent with the board's certification of need.

The board may not make any final decision under this subdivision until the board:

(1) determines the current status of and future prospects for the final development of commercial hazardous waste processing facilities in the state based on the responses to the board's requests for proposals, the results of the board's processing facility development grant and loan programs, and any applications which have been filed for processing facility operation permits; and

(2) adjusts the estimate of need prepared under section 115A.24 to reflect the types and quantities of hazardous waste likely to be generated as residuals of processing facilities based on the board's determination under clause (1).

Sec. 30. Minnesota Statutes 1983 Supplement, section 115A.291, is amended to read:

115A.291 PERMITS.

Research and analysis necessary to the permit applications and permit decisions required under this chapter, and the supporting environmental study, must commence immediately following the board's decision ~~under section 115A.28 to apply for permits under this section.~~ Within 180 days following its ~~final decision~~ decisions under section 115A.28, the board shall conclude its analysis of the financial requirements for the facility and shall decide whether to submit, or cause to be submitted by a developer and operator selected by the board, a preliminary application for permits for a facility or facilities consistent with its decision under section 115A.28. Following review by the permitting agencies and within 60 days following the agency's determination of the adequacy of phase II of the environmental impact statement, the board shall revise the application, or cause it to be revised, in accordance with the recommendations of the permitting agencies. In preparing its revised permit application, the board may amend its ~~certification of need issued under section 115A.24 or its facility specifications under section 115A.28,~~ if the board finds and determines, based upon the recommendations of the permitting agencies, that: (a) the amendments

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are necessary to secure permits for the construction and operation of the proposed facility at the proposed site, and (b) the recommendations and amendments are the result of new information or rules produced after the board's decisions under sections 115A.24 and section 115A.28. Within 210 days following the submission of the revised permit application, the permitting agencies shall issue the necessary permits unless the pollution control agency determines that the facility or facilities proposed for permitting present environmental problems which cannot be addressed through the imposition of permit conditions. The permits may not allow the use of the facility for disposal of radioactive waste, as defined by section 116C.71, subdivision 6.

Sec. 31. [115A.301] INDEMNIFICATION FOR CERTAIN DAMAGES ARISING FROM DISPOSAL FACILITY.

Subdivision 1. INDEMNIFICATION BY OPERATOR; EXCEPTIONS. (a) As a condition of obtaining an agency permit and except as provided in paragraph (b), the operator of a hazardous waste disposal facility established under sections 115A.18 to 115A.30, upon the acceptance of any hazardous waste for disposal, shall agree to indemnify any other person for any liability the person may have under chapter 115B as a result of a release or threatened release of hazardous waste from the disposal facility to the extent of the financial responsibility requirement established in subdivision 2.

(b) The operator is not required to indemnify any person for liability to the extent that:

(1) the liability is the result of a violation by that person of state or federal law that governs the handling, transportation, or disposal of hazardous substances;

(2) the liability is the result of a negligent act or omission of that person with respect to the handling, transportation, or disposal of hazardous substances;
or

(3) the liability is one for which a claim has been or may be paid by the Federal Post-Closure Liability Fund under United States Code, title 42, section 9607(k).

The operator is not required to indemnify any person for any claim filed more than 30 years after closure of the disposal facility in accordance with agency rules.

(c) The operator may intervene as of right in any action that may result in a claim for indemnification under this subdivision.

Subd. 2. FINANCIAL RESPONSIBILITY. (a) As a condition of obtaining a permit to operate a hazardous waste disposal facility established under sections 115A.18 to 115A.30, the operator shall demonstrate financial responsibility to pay claims of liability for personal injury, economic loss, response costs,

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and natural resources damage that the operator may incur as a result of a release or threatened release of a hazardous waste from the facility, including liability for which the operator is required to indemnify other persons under subdivision 1. The amount of the operator's financial responsibility must be at least \$40,000,000.

(b) The agency may require a higher level of financial responsibility as a condition of a permit for a disposal facility depending upon the size of the facility, the location of the facility, the types of waste that will be accepted at the facility, and other factors affecting the risk of a release and potential liability. The operator may demonstrate financial responsibility by any mechanism approved by the agency's hazardous waste rules. The operator shall maintain financial responsibility as provided in this subdivision during operation of the facility and until 30 years after facility closure in accordance with agency rules, provided that the operator shall maintain financial responsibility after 30 years in the amount and for the time necessary to satisfy any outstanding claims filed within 30 years after facility closure.

Subd. 3. LIABILITY TRUST FUND. (a) A state facility liability trust fund is established as an account in the state treasury. Money in the fund shall be held in trust by the state to pay claims of liability resulting from the release or threatened release of hazardous waste from a disposal facility established under sections 115A.18 to 115A.30, and to purchase insurance to pay the claims. Subject to the limitations provided in paragraph (b), the fund and insurance purchased by the fund shall pay claims to the extent that the claims are not satisfied by the operator of the facility under subdivision 1, by the Federal Post-Closure Liability Fund under United States Code, title 42, section 9607(k), or by any person, including the operator, who is liable for the claim as a result of violation of a state or federal law or a negligent act or omission.

(b) The state is not obligated to pay any claims in excess of the amount of money in the fund and the limits of any insurance purchased by the fund.

(c) Interest earned by the money in the fund must be credited to the fund.

Subd. 4. DETERMINATION OF AMOUNTS IN FUND. The board shall determine the amount of money that will be needed in the state facility liability trust fund to maintain insurance coverage for each facility of at least \$10,000,000 during the operating life of the facility and to accumulate a balance of at least \$10,000,000 within 20 years after the facility begins operation. The board may require insurance coverage and accumulation of a fund balance in amounts greater than those provided in this subdivision based upon the factors that the agency must consider in establishing the level of financial responsibility under subdivision 2 and the amount of claims for which the fund is likely to be liable under subdivision 3. Based on the amounts required to purchase insurance and accumulate the fund balance, the board shall establish a surcharge amount to be collected under subdivision 5. The board may adjust the amount of the surcharge based on the actual quantities of waste received at the facility.

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Determinations by the board under this subdivision are subject to the rulemaking provisions of chapter 14.

Subd. 5. DISPOSAL SURCHARGE. A surcharge must be paid for every ton or part of a ton of hazardous waste accepted for disposal at a facility. The operator shall collect and hold the surcharge in a separate account. By the first day of each month, the operator shall pay any money in this account to the commissioner of finance for credit to the state facility liability trust fund.

Subd. 6. ADMINISTRATION. (a) The commissioner of finance shall administer the state facility liability trust fund. Money in the fund is appropriated to the commissioner of finance for expenditure as provided in subdivision 3. The commissioner shall establish separate accounts in the fund for purchase of insurance and for accumulation of a fund balance as required by the board under subdivision 4. After closure of the facility in accordance with agency rules, the commissioner shall consolidate the two accounts and may use any interest income from the fund to purchase insurance to pay claims for which the fund may be liable.

(b) The commissioner, in consultation with the attorney general, may settle any claims that the fund may be required to pay. If two or more claims are made against the fund, the amount of which would exceed the amount in the fund, the commissioner shall pay any valid claims on a pro rata basis. The commissioner, on behalf of the fund, may intervene as of right in an action that may result in a claim against the fund.

Subd. 7. RIGHTS PRESERVED. Nothing in this section affects the right of any person to bring an action under any law to recover costs or damages arising out of the release or threatened release of a hazardous substance from a disposal facility established under sections 115A.18 to 115A.30. Any costs or damages recoverable in such an action shall be reduced to the extent that the costs or damages have been paid under subdivisions 1 to 3.

Sec. 32. Minnesota Statutes 1982, section 115A.46, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** Plans shall address the state policies and purposes expressed in section 115A.02. Plans for the location, establishment, operation, maintenance, and post-closure use of facilities and facility sites, for ordinances, and for licensing, permit, and enforcement activities shall be consistent with the rules adopted by the agency pursuant to chapter 116. Plans shall address the resolution of conflicting, duplicative, or overlapping local management efforts. Plans shall address the establishment of joint powers management programs or waste management districts where appropriate. Plans proposing a designation of resource recovery facilities pursuant to sections 115A.70 and 400.162 shall be submitted to the waste management board for review and approval or disapproval. The review shall be based on whether the plans

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conform to the requirements of this section. The board may require revision of a plan as a condition of its approval. Plans shall address other matters as the rules of the agency may require consistent with the purposes of sections 115A.42 to 115A.46. Political subdivisions preparing plans under sections 115A.42 to 115A.46 shall consult with persons presently providing solid waste collection, processing, and disposal services. Plans prepared by local units of government in the metropolitan area shall conform to the requirements of chapter 473 shall be approved by the agency, or the metropolitan council pursuant to section 473.803. After initial approval, each plan shall be updated every five years and revised as necessary for further approval.

Sec. 33. Minnesota Statutes 1982, section 115A.46, subdivision 2, is amended to read:

Subd. 2. **CONTENTS.** The plans shall describe existing collection, processing, and disposal systems, including schedules of rates and charges, financing methods, environmental acceptability, and opportunities for improvements in the systems. The plans shall include an estimate of the land disposal capacity in acre-feet which will be needed through the year 2000, on the basis of current and projected waste generation practices. The plans shall contain an assessment of opportunities to reduce the need for land disposal through waste reduction and resource recovery, the alternative degrees of reduction achievable, and The plans shall require the most feasible and prudent reduction of the need for and practice of land disposal of mixed municipal solid waste. The plans shall address at least waste reduction, separation, and resource recovery, and shall include objectives, immediately and over specified time periods, for reducing the land disposal of mixed municipal solid waste. The plans shall describe specific functions to be performed and activities to be undertaken to achieve the abatement objectives and shall describe the estimated cost, proposed manner of financing, and timing of the functions and activities. The plans shall include a comparison of the costs of alternatives the activities to be undertaken, including capital and operating costs, and the effects of the alternatives activities on the cost to generators and on persons currently providing solid waste collection, processing, and disposal services. The plans shall include alternatives which could be used to achieve the abatement objectives if the proposed functions and activities are not established. The plans shall designate how public education shall be accomplished. The plans shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plans shall include criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan. The plans shall establish a siting procedure and development program to assure the orderly location, development, and financing of new or expanded solid waste facilities and services sufficient for a prospective

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ten-year period, including estimated costs and implementation schedules, proposed procedures for operation and maintenance, estimated annual costs and gross revenues, and proposals for the use of facilities after they are no longer needed or usable. The plans shall describe existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste management and shall describe existing and proposed regulation and enforcement procedures.

Sec. 34. Minnesota Statutes 1982, section 115A.70, is amended by adding a subdivision to read:

Subd. 8. AUTHORITY. A waste management district possessing designation authority in its articles of incorporation may be authorized to designate a resource recovery facility under sections 35 to 44.

Sec. 35. [115A.80] DESIGNATION OF RESOURCE RECOVERY FACILITIES; PURPOSE.

In order to further the state policies and purposes expressed in section 115A.02, and to advance the public purposes served by resource recovery, the legislature finds and declares that it may be necessary pursuant to sections 35 to 44 to authorize a qualifying solid waste management district or county to designate a resource recovery facility.

Sec. 36. [115A.81] DEFINITIONS.

Subdivision 1. SCOPE. The terms used in sections 35 to 44 have the meanings given them in this section.

Subd. 2. DESIGNATION. "Designation" means a requirement by a waste management district or county that all or any portion of the solid waste that is generated within its boundaries or any service area thereof and is deposited within the state be delivered to a resource recovery facility identified by the district or county.

Sec. 37. [115A.82] ELIGIBILITY.

Facilities may be designated under sections 35 to 44 by (1) a solid waste management district established pursuant to sections 115A.62 to 115A.72 and possessing designation authority in its articles of incorporation; or (2) a county, but only for waste generated outside of the boundaries of a district qualifying under clause (1) or the Western Lake Superior Sanitary District established by Laws 1971, chapter 478, as amended.

Sec. 38. [115A.83] EXEMPTION.

The designation may not apply to or include: (1) materials that are separated from solid waste and recovered for reuse in their original form or for use in manufacturing processes; or (2) materials that are processed at another

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resource recovery facility at the capacity in operation at the time that the designation plan is approved by the reviewing authority.

Sec. 39. [115A.84] DESIGNATION PLAN.

Subdivision 1. REQUIREMENT. Before commencing the designation procedure under section 40, the district or county shall adopt a comprehensive solid waste management plan or, under chapter 473, a master plan. The comprehensive or master plan must include a plan for designation approved under this section.

Subd. 2. DESIGNATION; PLAN CONTENTS. (a) The designation plan must evaluate (1) the benefits of the designation, including the public purposes achieved by the conservation and recovery of resources, the furtherance of local and any district or regional waste management plans and policies, and the furtherance of the state policies and purposes expressed in section 115A.02; and (2) the estimated costs of the designation, including the direct capital, operating, and maintenance costs of the facility designated, the indirect costs, and the long-term effects of the designation.

(b) In particular the designation plan must evaluate:

(1) whether the designation will result in the recovery of resources or energy from materials which would otherwise be wasted;

(2) whether the designation will lessen the demand for and use of land disposal;

(3) whether the designation is necessary for the financial support of the facility;

(4) whether less restrictive methods for ensuring an adequate solid waste supply are available; and

(5) other feasible and prudent waste processing alternatives for accomplishing the purposes of the proposed designation, the direct and indirect costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators.

Subd. 3. PLAN APPROVAL. A district or county planning a designation for waste generated wholly within the metropolitan area defined in section 473.121 shall submit its designation plan to the metropolitan council for review and approval or disapproval. Other districts or counties shall submit the designation plan to the waste management board for review and approval or disapproval. The reviewing authority shall complete its review and make its decision within 90 days following submission of the plan for review. The reviewing authority shall approve the designation plan if the plan satisfies the requirements of subdivision 2.

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Subd. 4. EXCLUSION OF CERTAIN MATERIALS. When it approves the designation plan, the reviewing authority shall exclude from the designation materials that the reviewing authority determines will be processed at another resource recovery facility if:

(1) the other resource recovery facility is substantially completed or will be substantially completed within 18 months of the time that the designation plan is approved by the reviewing authority; and

(2) the other facility has or will have contracts for purchases of its product; and

(3) the materials are or will be under contract for delivery to the other facility at the time the other facility is completed.

In order to qualify for the exclusion of materials under this subdivision, the operator or owner of the other resource recovery facility shall file with the reviewing authority and the district or county or counties a written description of the facility, its intended location, its waste supply sources, purchasers of its products, its design capacity and other information that the reviewing authority and the district or county or counties may reasonably require. The information must be filed as soon as it becomes available but not later than the date when the county or district submits its designation plan for approval.

The reviewing authority may revoke the exclusion granted under this subdivision when it approves the designation ordinance under section 41 if in its judgment the excluded materials will not be processed at the other facility.

Sec. 40. [115A.85] PROCEDURE.

Subdivision 1. REQUIREMENT. A district or county with an approved designation plan shall proceed as provided in this section when designating facilities. A district need not repeat the designation procedures in this section to the extent that the procedures have been completed by each county having territory in the district or by a joint powers board composed of each county having territory in the district.

Subd. 2. HEARING. The district or county shall hold a public hearing to take testimony on the designation. Notice of the hearing must be published in a newspaper of general circulation in the area for two successive weeks ending at least 15 days before the date of the hearing and must be mailed to political subdivisions, landfill operators, and licensed solid waste collectors who may be expected to use the facility. The notification must: (1) describe the area in which the designation will apply and the plans for the use of the solid waste; (2) specify the point or points of delivery of the solid waste; (3) estimate the types and quantities of solid waste subject to the designation; and (4) estimate the fee to be charged for the use of the facilities and for any products of the facilities. A

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designation or contract for use is not invalid by reason of the failure of the district or county to provide written notice to an entity listed in this subdivision.

Subd. 3. NEGOTIATED CONTRACTS FOR USE. During a period of 90 days following the hearing, the district or county shall negotiate with the persons entitled to written notice under subdivision 2 for the purpose of developing contractual agreements that will require use of the facilities proposed to be designated.

Subd. 4. DESIGNATION DECISION. At the end of the 90-day contract negotiation period the district or county may proceed to secure approval for and implement the designation as provided in section 41.

Sec. 41. [115A.86] IMPLEMENTATION OF DESIGNATION.

Subdivision 1. DESIGNATION ORDINANCE. (a) The district or county shall prepare a designation ordinance to implement a designation. The designation ordinance must: (1) define the geographic area and the types and quantities of solid waste subject to designation; (2) specify the point or points of delivery of the solid waste; (3) require that the designated solid waste be delivered to the specified point or points of delivery; (4) set out the procedures and principles to be followed by the county or district in establishing and amending any rates and charges at the designated facility; and (5) state any additional regulations governing waste collectors or other matters necessary to implement the designation.

(b) The designation ordinance must provide an exception for: (1) materials that are exempt or excluded from the designation under section 38 or 39, subdivision 4; and (2) materials otherwise subject to the designation for which negotiated contractual arrangements exist that will require and effect the delivery of the waste to the facility for the term of the contract.

Subd. 2. APPROVAL. A district or county whose designation applies wholly within the metropolitan area defined in section 473.121 shall submit the designation ordinance, together with any negotiated contracts assuring the delivery of solid waste, to the metropolitan council for review and approval or disapproval. Other districts or counties shall submit the designation ordinance, together with any negotiated contracts assuring the delivery of solid waste, to the waste management board for review and approval or disapproval. The reviewing authority shall complete its review and make its decision within 90 days following submission of the designation for review. The reviewing authority shall approve the designation if it determines that the designation procedure specified in section 40 was followed and that the designation is based on a plan approved under section 39. The reviewing authority may attach conditions to its approval.

Subd. 3. IMPLEMENTATION. The designation may be placed into effect no less than 60 days following the approval required in subdivision 2. The effective date of the designation must be specified at least 60 days in advance. If

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the designation is not placed into effect within two years of approval, the designation must be resubmitted to the reviewing authority for approval or disapproval under subdivision 2, unless bonds have been issued to finance the resource recovery facility to which the designation applies.

Subd. 4. EFFECT. The designation is binding on all political subdivisions, landfill operators, solid waste generators, and solid waste collectors in the designation area.

Subd. 5. AMENDMENTS. Amendments to a designation ordinance must be submitted to the reviewing authority for approval. The reviewing authority shall approve the amendment if the amendment is in the public interest and in furtherance of the state policies and purposes expressed in section 115A.02. If the reviewing authority does not act within 90 days, the amendment is approved.

Sec. 42. [115A.87] JUDICIAL REVIEW.

An action challenging a designation must be brought within 60 days of the approval of the designation by the reviewing authority. The action is subject to section 562.02.

Sec. 43. [115A.88] SERVICE GUARANTEE.

The district or county may not arbitrarily terminate, suspend, or curtail services provided to any person required by contract or designation ordinance to use designated facilities without the consent of the person or without just cause.

Sec. 44. [115A.89] SUPERVISION OF IMPLEMENTATION.

The reviewing authority shall: (1) require regular reports on the implementation of each designation; (2) periodically evaluate whether each designation as implemented has accomplished its purposes and whether the designation is in the public interest and in furtherance of the state policies and purposes expressed in section 115A.02; and (3) report periodically to the legislature on its conclusions and recommendations.

Sec. 45. [115A.917] CERTIFICATE OF NEED.

No new capacity for disposal of mixed municipal solid waste may be permitted in counties outside the metropolitan area without a certificate of need issued by the agency indicating the agency's determination that the additional disposal capacity is needed in the county. A certificate of need may not be issued until the county has a plan approved under section 115A.46. If the original plan was approved more than five years before, the agency may require the plan to be revised before a certificate of need is issued under this section. The agency shall certify need only to the extent that there are no feasible and prudent alternatives to the additional disposal capacity, including waste reduction, source separation, and resource recovery, that would minimize adverse impact upon natural re-

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sources. Alternatives that are speculative or conjectural are not feasible and prudent. Economic considerations alone do not justify the certification of need or the rejection of alternatives.

Sec. 46. **[115A.919] COUNTY FEE AUTHORITY.**

A county may impose a fee on operators of facilities for mixed municipal solid waste located within the county. The fee in the metropolitan area may not exceed 25 cents per cubic yard. The revenue from the fees shall be credited to the county general fund and shall be used only for landfill abatement purposes, or costs of closure, postclosure care, and response actions or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities.

Waste residue from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from one-half the amount of the fee imposed by a county under this section if there is at least an 85 percent volume reduction in the solid waste processed. Before any fee is reduced, the verification procedures of section 73, subdivision 1, paragraph (c), must be followed and submitted to the appropriate county.

Sec. 47. **[115A.921] CITY OR TOWN FEE AUTHORITY.**

A city or town may charge a fee, not to exceed 15 cents per cubic yard, or its equivalent, of solid waste accepted and disposed of on land, to operators of facilities for mixed municipal solid waste located within the city or town. The revenue from the fees shall go to the city or town general fund for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities. Waste residue from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from one-half the amount of the fee imposed by a city or town under this section if there is at least an 85 percent volume reduction in the solid waste processed. Before any fee is reduced, the verification procedures of section 73, subdivision 1, paragraph (c), must be followed and submitted to the appropriate city or town.

Sec. 48. Minnesota Statutes 1983 Supplement, section 115B.22, subdivision 1, is amended to read:

Subdivision 1. **TAXES IMPOSED; EXCLUSIONS.** Each generator of hazardous waste shall pay the taxes imposed by this section based upon the volume and destination of the hazardous wastes generated. The taxes imposed by this section do not apply to hazardous wastes destined for recycling or reuse including waste accumulated, stored, or physically, chemically, or biologically treated before recycling or reuse, to used crankcase oil, to hazardous waste which is generated as a result of any response action, or to hazardous waste which meets

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applicable pretreatment standards or compliance schedules and is discharged to a public sewage treatment works, or to hazardous waste that is generated as residue from a hazardous waste incineration facility that treats waste subject to taxation under subdivision 5.

Sec. 49. Minnesota Statutes 1982, section 116.07, is amended by adding subdivisions to read:

Subd. 4f. CLOSURE AND POSTCLOSURE RESPONSIBILITY AND LIABILITY. An operator or owner of a facility is responsible for closure of the facility and postclosure care relating to the facility. If an owner or operator has failed to provide the required closure or postclosure care of the facility the agency may take the actions. The owner or operator is liable for the costs of the required closure and postclosure care taken by the agency.

Subd. 4g. CLOSURE AND POSTCLOSURE RULES. The agency shall adopt rules establishing requirements for the closure of solid waste disposal facilities and for the postclosure care of closed facilities. The rules apply to all solid waste disposal facilities in operation at the time the rules are effective. The rules must provide standards and procedures for closing disposal facilities and for the care, maintenance, and monitoring of the facilities after closure that will prevent, mitigate, or minimize the threat to public health and the environment posed by closed disposal facilities.

Subd. 4h. FINANCIAL RESPONSIBILITY RULES. The agency shall adopt rules requiring the operator or owner of a solid waste disposal facility to submit to the agency proof of the operator's or owner's financial capability to provide reasonable and necessary response during the operating life of the facility and for 20 years after closure, and to provide for the closure of the facility and postclosure care required under agency rules. Proof of financial responsibility is required of the operator or owner of a facility receiving an original permit or a permit for expansion after adoption of the rules. Within 180 days of the effective date of the rules, proof of financial responsibility is required of an operator or owner of a facility with a remaining capacity of more than five years or 500,000 cubic yards that is in operation at the time the rules are adopted. Compliance with the rules is a condition of obtaining or retaining a permit to operate the facility.

Subd. 4i. CIVIL PENALTIES. The civil penalties of section 115.071 apply to any person in violation of the rules adopted under subdivision 4g or 4h.

Sec. 50. Minnesota Statutes 1982, section 116J.88, is amended by adding a subdivision to read:

Subd. 8a. HAZARDOUS WASTE PROCESSING FACILITY LOAN. "Hazardous waste processing facility loan" means a loan for the acquisition, construction, or improvement of real and personal property to be used for the

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collection or processing of hazardous waste as those terms are defined in section 115A.03, subdivisions 5, 13, and 25.

Sec. 51. Minnesota Statutes 1983 Supplement, section 116J.90, is amended by adding a subdivision to read:

Subd. 4a. HAZARDOUS WASTE PROCESSING FACILITY LOANS. The authority may make, purchase, or participate in making or purchasing hazardous waste processing facility loans in any amount, and may enter into commitments therefore. A private person proposing to develop and operate a hazardous waste processing facility is eligible to apply for a loan under this subdivision. Applications must be made to the authority. The authority shall forward the applications to the waste management board for review pursuant to section 14. If the waste management board does not certify the application, the authority may not approve the application nor make the loan. If the waste management board certifies the application, the authority shall approve the application and make the loan if funds are available for it and if the authority finds that:

(1) development and operation of the facility as proposed by the applicant is economically feasible;

(2) there is a reasonable expectation that the principal and interest on the loan will be fully repaid; and

(3) the facility is unlikely to be developed and operated without a loan from the authority.

The authority and the waste management board shall establish coordinated procedures for loan application, certification, and approval.

The authority may use the economic development fund to provide financial assistance to any person whose hazardous waste processing facility loan application has been certified by the waste management board and approved by the authority, and for this purpose may exercise the powers granted in section 116J.89, subdivision 1a, with respect to any loans made or bonds issued under this subdivision regardless of whether the applicant is an eligible small business.

The authority may issue bonds and notes in the aggregate principal amount of \$10,000,000 for the purpose of making, purchasing, or participating in making or purchasing hazardous waste processing facility loans. This amount is in addition to any other authority to issue bonds and notes under chapter 116J.

The authority may adopt temporary rules under sections 14.29 to 14.36 to implement the loan program under this subdivision. Temporary rules adopted by the authority remain in effect for 360 days or until permanent rules are adopted, whichever occurs first.

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Sec. 52. Minnesota Statutes 1982, section 290.06, is amended by adding a subdivision to read:

Subd. 16. RESOURCE RECOVERY EQUIPMENT. (a) A credit of ten percent of the net cost of equipment used for processing solid or hazardous waste at a resource recovery facility, as defined in section 115A.03, subdivision 28, may be deducted from the tax due under this chapter in the taxable year in which the property is purchased.

(b) If the amount of the credit provided by this subdivision exceeds the taxpayer's liability under this chapter for the taxable year, the excess may be carried forward to the four taxable years following the year of purchase.

Sec. 53. Minnesota Statutes 1982, section 290.06, is amended by adding a subdivision to read:

Subd. 17. POLLUTION CONTROL EQUIPMENT, CREDIT. (a) A credit of five percent of the net cost of equipment used primarily to abate or control pollutants to meet or exceed state laws, rules, or standards, or equipment used primarily to reduce the generation of hazardous waste, to the extent the property is so used and which is included in section 290.09, subdivision 7, paragraph (A), clause (a), may be deducted from the tax due under this chapter in the first year for which a depreciation deduction is allowed for the equipment. The credit allowed by this subdivision may not exceed the lesser of the liability for tax for the taxable year or \$75,000. The credit shall apply only if

(1) the equipment meets rules prescribed by the Minnesota pollution control agency and is installed or operated in accordance with a permit or order issued by the agency; or

(2) the pollution control agency certifies that the equipment reduces the generation of hazardous waste and that the generator is in compliance with applicable hazardous waste laws and rules.

(b) If the amount of the credit determined under paragraph (a) for any taxable year for which a depreciation deduction is allowed exceeds the limitation provided by paragraph (a) for the taxable year, referred to in this subdivision as the "unused credit year," the excess is a credit carryover to each of the four taxable years following the unused credit year.

(c) The entire amount of the unused credit for an unused credit year must be carried to the earliest of the four taxable years to which such credit may be carried and then to each of the other three taxable years. The maximum credit allowable in any one taxable year under this subdivision including the credit allowable under paragraph (a) and the carryforward allowable under paragraph (b) and this paragraph shall in no event exceed \$75,000.

Sec. 54. Minnesota Statutes 1982, section 290.06, is amended by adding a subdivision to read:

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Subd. 18. FEEDLOT POLLUTION CONTROL EQUIPMENT. A credit of ten percent of the net cost of pollution control and abatement equipment, including but not limited to, lagoons, concrete storage pits, slurry handling equipment, and other equipment and devices approved by the pollution control agency, purchased, installed and operated within the state by a feedlot operator to prevent pollution of air, land, or water in connection with the operation of a livestock feedlot, poultry lot, or other animal lot, may be deducted from the tax due under this chapter in the taxable year in which the equipment is purchased, provided that no deduction may be taken for any portion of the cost of the same equipment pursuant to subdivision 16.

If the amount of the credit provided by this subdivision exceeds the taxpayer's liability for taxes pursuant to chapter 290 in the taxable year in which the equipment is purchased, the excess amount may be carried forward to the four taxable years following the year of purchase. The entire amount of the credit not used in the year purchased shall be carried to the earliest of the four taxable years to which the credit may be carried and then to each of the three successive taxable years.

Sec. 55. Minnesota Statutes 1983 Supplement, section 297A.25, subdivision 1, is amended to read:

Subdivision 1. The following are specifically exempted from the taxes imposed by sections 297A.01 to 297A.44:

(a) The gross receipts from the sale of food products including but not limited to cereal and cereal products, butter, cheese, milk and milk products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products, and food products which are not taxable pursuant to section 297A.01, subdivision 3, clause (c) and which are sold by a retailer, organized as a nonprofit corporation or association, within a place located on property owned by the state or an agency or instrumentality of the state, the entrance to which is subject to an admission charge. This exemption does not include the following:

(i) candy and candy products;

(ii) carbonated beverages, beverages commonly referred to as soft drinks containing less than 15 percent fruit juice, or bottled water other than noncarbonated and noneffervescent bottled water sold in individual containers of one-half gallon or more in size;

(b) The gross receipts from the sale of prescribed drugs and medicine intended for use, internal or external, in the cure, mitigation, treatment or prevention of illness or disease in human beings and products consumed by humans for the preservation of health, including prescription glasses, therapeutic

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and prosthetic devices, but not including cosmetics or toilet articles notwithstanding the presence of medicinal ingredients therein;

(c) The gross receipts from the sale of and the storage, use or other consumption in Minnesota of tangible personal property, tickets, or admissions, electricity, gas, or local exchange telephone service, which under the Constitution or laws of the United States or under the Constitution of Minnesota, the state of Minnesota is prohibited from taxing;

(d) The gross receipts from the sale of tangible personal property (i) which, without intermediate use, is shipped or transported outside Minnesota by the purchaser and thereafter used in a trade or business or is stored, processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property transported or shipped outside Minnesota and thereafter used in a trade or business outside Minnesota, and which is not thereafter returned to a point within Minnesota, except in the course of interstate commerce (storage shall not constitute intermediate use); provided that the property is not subject to tax in that state or country to which it is transported for storage or use, or, if subject to tax in that other state, that state allows a similar exemption for property purchased therein and transported to Minnesota for use in this state; except that sales of tangible personal property that is shipped or transported for use outside Minnesota shall be taxed at the rate of the use tax imposed by the state to which the property is shipped or transported, unless that state has no use tax, in which case the sale shall be taxed at the rate generally imposed by this state; and provided further that sales of tangible personal property to be used in other states or countries as part of a maintenance contract shall be specifically exempt; or (ii) which the seller delivers to a common carrier for delivery outside Minnesota, places in the United States mail or parcel post directed to the purchaser outside Minnesota, or delivers to the purchaser outside Minnesota by means of the seller's own delivery vehicles, and which is not thereafter returned to a point within Minnesota, except in the course of interstate commerce;

(e) The gross receipts from the sale of packing materials used to pack and ship household goods, the ultimate destination of which is outside the state of Minnesota and which are not thereafter returned to a point within Minnesota, except in the course of interstate commerce;

(f) The gross receipts from the sale of and storage, use or consumption of petroleum products upon which a tax has been imposed under the provisions of chapter 296, whether or not any part of said tax may be subsequently refunded;

(g) The gross receipts from the sale of clothing and wearing apparel except the following:

(i) all articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semi-precious stones, and imitations thereof; articles made of, or ornamented, mounted or fitted with precious metals or

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imitations thereof; watches; clocks; cases and movements for watches and clocks; gold, gold-plated, silver, or sterling flatware or hollow ware and silver-plated hollow ware; opera glasses; lorgnettes; marine glasses; field glasses and binoculars.

(ii) articles made of fur on the hide or pelt, and articles of which such fur is the component material or chief value, but only if such value is more than three times the value of the next most valuable component material.

(iii) perfume, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, aromatic cachous and toilet powders. The tax imposed by this act shall not apply to lotion, oil, powder, or other article intended to be used or applied only in the case of babies.

(iv) trunks, valises, traveling bags, suitcases, satchels, overnight bags, hat boxes for use by travelers, beach bags, bathing suit bags, brief cases made of leather or imitation leather, salesmen's sample and display cases, purses, handbags, pocketbooks, wallets, billfolds, card, pass, and key cases and toilet cases.

(h) The gross receipts from the sale of and the storage, use, or consumption of all materials, including chemicals, fuels, petroleum products, lubricants, packaging materials, including returnable containers used in packaging food and beverage products, feeds, seeds, fertilizers, electricity, gas and steam, used or consumed in agricultural or industrial production of personal property intended to be sold ultimately at retail, whether or not the item so used becomes an ingredient or constituent part of the property produced. Such production shall include, but is not limited to, research, development, design or production of any tangible personal property, manufacturing, processing (other than by restaurants and consumers) of agricultural products whether vegetable or animal, commercial fishing, refining, smelting, reducing, brewing, distilling, printing, mining, quarrying, lumbering, generating electricity and the production of road building materials. Such production shall not include painting, cleaning, repairing or similar processing of property except as part of the original manufacturing process. Machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture and fixtures, used in such production and fuel, electricity, gas or steam used for space heating or lighting, are not included within this exemption; however, accessory tools, equipment and other short lived items, which are separate detachable units used in producing a direct effect upon the product, where such items have an ordinary useful life of less than 12 months, are included within the exemption provided herein;

(i) The gross receipts from the sale of and storage, use or other consumption in Minnesota of tangible personal property (except as provided in section 297A.14) which is used or consumed in producing any publication regularly issued at average intervals not exceeding three months, and any such publication. For purposes of this subsection, "publication" as used herein shall include, without limiting the foregoing, a legal newspaper as defined by Minnesota

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Statutes 1965, section 331.02, and any supplements or enclosures with or part of said newspaper; and the gross receipts of any advertising contained therein or therewith shall be exempt. For this purpose, advertising in any such publication shall be deemed to be a service and not tangible personal property, and persons or their agents who publish or sell such newspapers shall be deemed to be engaging in a service with respect to gross receipts realized from such newsgathering or publishing activities by them, including the sale of advertising. The term "publication" shall not include magazines and periodicals sold over the counter. Machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture and fixtures used in such publication and fuel, electricity, gas or steam used for space heating or lighting, are not exempt;

(j) The gross receipts from all sales, including sales in which title is retained by a seller or a vendor or is assigned to a third party under an installment sale or lease purchase agreement under section 465.71, of tangible personal property to, and all storage, use or consumption of such property by, the United States and its agencies and instrumentalities or a state and its agencies, instrumentalities and political subdivisions. Sales exempted by this clause include sales pursuant to section 297A.01, subdivision 3, clauses (d) and (f). This exemption shall not apply to building, construction or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration or repair of a building or facility. This exemption does not apply to construction materials purchased by tax exempt entities or their contractors to be used in constructing buildings or facilities which will not be used principally by the tax exempt entities;

(k) The gross receipts from the isolated or occasional sale of tangible personal property in Minnesota not made in the normal course of business of selling that kind of property, and the storage, use, or consumption of property acquired as a result of such a sale. For purposes of this clause, sales by a nonprofit organization shall be deemed to be "isolated or occasional" if they occur at sale events that have a duration of three or fewer consecutive days. The granting of the privilege of admission to places of amusement and the privilege of use of amusement devices by a nonprofit organization at an isolated or occasional event conducted on property owned or leased for a continuous period of more than 30 days by the nonprofit organization are also exempt. The exemption provided for isolated sales of tangible personal property and of the granting of admissions or the privilege of use of amusement devices by nonprofit organizations pursuant to this clause shall be available only if the sum of the days on which the organization and any subsidiary nonprofit organization sponsored by it that does not have a separate sales tax exemption permit conduct sales of tangible personal property, plus the days with respect to which the organization charges for the use of amusement devices or admission to places of amusement, does not exceed eight days in a calendar year. For purposes of this clause, a "nonprofit organization" means any corporation, society, association, foundation, or institu-

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tion organized and operated exclusively for charitable, religious, or educational purposes, no part of the net earnings of which inures to the benefit of a private individual;

(l) The gross receipts from sales of rolling stock and the storage, use or other consumption of such property by railroads, freight line companies, sleeping car companies and express companies taxed on the gross earnings basis in lieu of ad valorem taxes. For purposes of this clause "rolling stock" is defined as the portable or moving apparatus and machinery of any such company which moves on the road, and includes, but is not limited to, engines, cars, tenders, coaches, sleeping cars and parts necessary for the repair and maintenance of such rolling stock.

(m) The gross receipts from sales of airflight equipment and the storage, use or other consumption of such property by airline companies taxed under the provisions of sections 270.071 to 270.079. For purposes of this clause, "airflight equipment" includes airplanes and parts necessary for the repair and maintenance of such airflight equipment, and flight simulators.

(n) The gross receipts from the sale of telephone central office telephone equipment used in furnishing intrastate and interstate telephone service to the public.

(o) The gross receipts from the sale of and the storage, use or other consumption by persons taxed under the in lieu provisions of chapter 298, of mill liners, grinding rods and grinding balls which are substantially consumed in the production of taconite, the material of which primarily is added to and becomes a part of the material being processed.

(p) The gross receipts from the sale of tangible personal property to, and the storage, use or other consumption of such property by, any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious or educational purposes if the property purchased is to be used in the performance of charitable, religious or educational functions, or any senior citizen group or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders. Sales exempted by this clause include sales pursuant to section 297A.01, subdivision 3, clauses (d) and (f). This exemption shall not apply to building, construction or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration or repair of a building or facility. This exemption does not apply to construction materials purchased by tax exempt entities or their contractors to be used in constructing buildings or facilities which will not be used principally by the tax exempt entities;

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(q) The gross receipts from the sale of caskets and burial vaults;

(r) The gross receipts from the sale of an automobile or other conveyance if the purchaser is assisted by a grant from the United States in accordance with 38 United States Code, section 1901, as amended.

(s) The gross receipts from the sale to the licensed aircraft dealer of an aircraft for which a commercial use permit has been issued pursuant to section 360.654, if the aircraft is resold while the permit is in effect.

(t) The gross receipts from the sale of building materials to be used in the construction or remodeling of a residence when the construction or remodeling is financed in whole or in part by the United States in accordance with 38 United States Code, sections 801 to 805, as amended. This exemption shall not be effective at time of sale of the materials to contractors, subcontractors, builders or owners, but shall be applicable only upon a claim for refund to the commissioner of revenue filed by recipients of the benefits provided in title 38 United States Code, chapter 21, as amended. The commissioner shall provide by regulation for the refund of taxes paid on sales exempt in accordance with this paragraph.

(u) The gross receipts from the sale of textbooks which are prescribed for use in conjunction with a course of study in a public or private school, college, university and business or trade school to students who are regularly enrolled at such institutions. For purposes of this clause a "public school" is defined as one that furnishes course of study, enrollment and staff that meets standards of the state board of education and a private school is one which under the standards of the state board of education, provides an education substantially equivalent to that furnished at a public school. Business and trade schools shall mean such schools licensed pursuant to section 141.25.

(v) The gross receipts from the sale of and the storage of material designed to advertise and promote the sale of merchandise or services, which material is purchased and stored for the purpose of subsequently shipping or otherwise transferring outside the state by the purchaser for use thereafter solely outside the state of Minnesota.

(w) The gross receipt from the sale of residential heating fuels in the following manner:

(i) all fuel oil, coal, wood, steam, propane gas, and L.P. gas sold to residential customers for residential use;

(ii) natural gas sold for residential use to customers who are metered and billed as residential users and who use natural gas for their primary source of residential heat, for the billing months of November, December, January, February, March and April;

(iii) electricity sold for residential use to customers who are metered and billed as residential users and who use electricity for their primary source of

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residential heat, for the billing months of November, December, January, February, March and April.

(x) The gross receipts from the sale or use of tickets or admissions to the premises of or events sponsored by an association, corporation or other group of persons which provides an opportunity for citizens of the state to participate in the creation, performance or appreciation of the arts and which qualifies as a tax-exempt organization within the meaning of Minnesota Statutes 1980, section 290.05, subdivision 1, clause (i).

(y) The gross receipts from either the sales to or the storage, use or consumption of tangible personal property by an organization of military service veterans or an auxiliary unit of an organization of military service veterans, provided that:

(i) the organization or auxiliary unit is organized within the state of Minnesota and is exempt from federal taxation pursuant to section 501(c), clause (19), of the Internal Revenue Code as amended through December 31, 1982; and

(ii) the tangible personal property which is sold to or stored, used or consumed by the organization or auxiliary unit is for charitable, civic, educational, or nonprofit uses and not for social, recreational, pleasure or profit uses.

(z) The gross receipts from the sale of sanitary napkins, tampons, or similar items used for feminine hygiene.

(aa) The gross receipts from the sale of equipment used for processing solid or hazardous waste at a resource recovery facility, as defined in section 115A.03, subdivision 28.

Sec. 56. Minnesota Statutes 1982, section 400.04, subdivision 3, is amended to read:

Subd. 3. **ACQUISITION, CONSTRUCTION AND OPERATION OF PROPERTY AND FACILITIES.** A county may acquire, construct, enlarge, improve, repair, supervise, control, maintain, and operate any and all solid waste facilities and other property and facilities needed, used, or useful for solid waste management purposes, ~~and.~~ Notwithstanding any other law to the contrary, a county may purchase and lease materials, equipment, machinery and such other personal property as is necessary for such purposes upon terms and conditions determined by the board, with or without advertisement for bids including the use of conditional sales contracts and lease-purchase agreements. If a county contract is let by negotiation, without advertising for bids, the county shall conduct such negotiation and award the contract using a fair and open procedure and in full compliance with section 471.705. If a county contract is to be awarded by bid, the county may, after notice to the public and prospective bidders, conduct a fair and open process of prequalification of bidders prior to advertisement for bids. A county may employ such personnel as are reasonably

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necessary for the care, maintenance and operation of such property and facilities. A county shall contract with private persons for the construction, maintenance, and operation of solid waste facilities where the facilities are adequate and available for use and competitive with other means of providing the same service.

Sec. 57. Minnesota Statutes 1982, section 400.162, is amended to read:

400.162 COUNTY DESIGNATION OF RESOURCE RECOVERY FACILITY.

The authority granted to counties by this section shall not apply within the Western Lake Superior Sanitary District established by Laws 1971, Chapter 478, as amended, nor within any solid waste management district established under sections 115A.62 to 115A.72. In order to accomplish the objectives of county waste management, to further the state policies and purposes expressed in section 115A.02, and to advance the public purposes served by resource recovery, the legislature finds and declares that it may be necessary to authorize a county to require that all or any portion of the solid waste that is generated within the boundaries of the county or any service area thereof and is disposed of in the state be delivered to a resource recovery facility designated by the county board or a transfer station serving such a facility. Any county designation shall be based upon a plan prepared and approved in conformance with section 115A.46 and shall be submitted pursuant to section 115A.071 for review and approval or disapproval by the waste management board. In establishing, continuing, and terminating the designation, the county shall be governed by all standards, exemptions, procedures, and other requirements provided in section 115A.70, subdivisions 2 to 6 A qualifying county may be authorized to designate a resource recovery facility under sections 35 to 44.

Sec. 58. Minnesota Statutes 1983 Supplement, section 473.149, subdivision 2d, is amended to read:

Subd. 2d. **LAND DISPOSAL ABATEMENT PLAN.** By January 1, 1984 ~~1985~~, after considering any county land disposal abatement proposals and waste stream analysis that have been submitted by that date, pursuant to section 473.803, subdivision 1b, the council shall amend its policy plan to include specific and quantifiable metropolitan objectives for abating ~~the~~ to the greatest feasible and prudent extent the need for and practice of land disposal of mixed municipal solid waste and of specific components of the solid waste stream, either by type of waste or class of generator. The objectives must be stated in annual increments through the year 1990 and thereafter in five year increments through the year 2000. The plan shall ~~must~~ include a reduced estimate, based on the council's abatement objectives, of the added solid waste disposal capacity needed in appropriate sectors of the metropolitan area, stated in annual increments through the year 1990 and thereafter in five year increments through the year 2000. The objectives in The plan shall be based upon standards must include measurable objectives for county local abatement of solid waste through resource recovery

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and waste reduction and separation programs and activities for each metropolitan county and for cities of the first class, the second class, and the third class, respectively, stated in annual increments through the year 1990 and in five year increments through the year 2000. The standards must be based upon and implement the council's metropolitan abatement objectives. The council's plan shall must include standards and procedures to be used by the council in determining ~~that~~ whether a metropolitan ~~counties~~ have not county or class of cities within a metropolitan county has implemented the council's metropolitan land disposal abatement plan and have not met has achieved the standards objectives for county local abatement programs and activities. The council shall report on abatement to the legislative commission ~~on its~~ before January 1 of each year. The report must include an assessment of whether the objectives of the metropolitan abatement plan and on have been met and whether each county and each class of city within each county has achieved the objectives set for it in the council's plan. The report must recommend any legislation that may be required to implement the plan. If in any year the council reports that the objectives of the council's abatement plan have not been met, the council shall attach legislation to the report that reassigns appropriate governmental responsibilities among cities, counties, and metropolitan agencies so as to assure implementation and achievement of the metropolitan and local abatement plans and objectives.

Sec. 59. Minnesota Statutes 1983 Supplement, section 473.149, subdivision 2e, is amended to read:

Subd. 2e. **SOLID WASTE DISPOSAL FACILITIES DEVELOPMENT SCHEDULE.** By January 1, ~~1984~~ 1985, after requesting and considering recommendations from the counties, cities, and towns, the council as part of its policy plan shall determine the number and capacity of sites and the capacity of sites to be acquired within each metropolitan county for solid waste disposal facilities in accordance with section 473.833. The council shall adopt a schedule for development of disposal facilities by capacity to be developed in each county through the year 2000. The schedule shall be based upon may not allow capacity in excess of the council's reduced estimate of the disposal capacity needed because of the council's land disposal abatement plan, except as the council deems necessary to allow reallocation of capacity as required by this subdivision. The council ~~may~~ shall make the implementation of elements of the schedule, including the disposal capacity allocated to each county, contingent on actions of the ~~counties~~ each county and class of city in that county in adopting and implementing county abatement plans pursuant to section 473.803, subdivision 1b; and. The council shall review the development schedule at least every two years ~~year~~ and shall revise the development schedule as it deems appropriate and the allocation of disposal capacity required for each county based on the progress made in the adoption and that county in the implementation of the council and county council's abatement plans and achievement of metropolitan and local abatement objectives. The schedule may include procedures to be used by counties in selecting sites for acquisition pursuant to section 473.833. The

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schedule ~~shall~~ must include standards and procedures for council certification of need pursuant to section 473.823. The schedule ~~shall~~ must include a facility closure schedule and plans for post-closure management and disposition, for the use of property after acquisition and before facility development, and for the disposition of property and development rights, as defined in section 473.833, no longer needed for disposal facilities. The schedule ~~shall~~ must also include a closure schedule and plans for post-closure management for facilities in existence before the adoption of the development schedule.

Sec. 60. Minnesota Statutes 1982, section 473.181, subdivision 4, is amended to read:

Subd. 4. **SOLID WASTE.** The council shall review ~~county~~ solid waste ~~reports, and solid waste facility permit applications pursuant to sections 473.803 and 473.823~~ management activities of local government units as provided in sections 473.801 to 473.834 and 35 to 44.

Sec. 61. Minnesota Statutes 1982, section 473.801, subdivision 1, is amended to read:

Subdivision 1. For the purposes of sections 473.801 to ~~473.823~~ and ~~sections 473.827, 473.831, and 473.833~~ 473.845 the terms defined in this section have the meanings given them.

Sec. 62. Minnesota Statutes 1982, section 473.801, subdivision 4, is amended to read:

Subd. 4. Unless otherwise provided the definitions of terms ~~defined in section 115A.03~~ shall apply to sections 473.801 to ~~473.823~~ 473.845.

Sec. 63. Minnesota Statutes 1983 Supplement, section 473.803, subdivision 1b, is amended to read:

Subd. 1b. **LAND DISPOSAL ABATEMENT.** By April 1, 1982, after considering the council's disposal abatement report submitted to the counties pursuant to section 473.149, subdivision 2a, each county shall submit to the council a proposal to reduce to the greatest feasible and prudent extent the need for and practice of land disposal of mixed municipal solid waste. The proposal shall must address at least waste reduction, separation, and resource recovery. The proposal shall must include objectives, immediately and over specified time periods, for reducing the land disposal of mixed municipal solid waste generated within the county. The proposal shall must describe specific functions to be performed and activities to be undertaken by the county and cities and towns within the county to achieve the objectives and shall must describe the estimated cost, proposed manner of financing, and timing of the functions and activities. The proposal shall must include alternatives which could be used to achieve the objectives if the proposed functions and activities are not established. By August 1, 1984, each county shall provide the council with an analysis of the solid waste

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generated in the county, by classification of generators and by composition. Each county shall revise its master plan to include a land disposal abatement element to implement the council's land disposal abatement plan adopted under section 473.149, subdivision 2d, and shall submit the revised plan to the council for review under subdivision 2 within nine months after the adoption of the council's metropolitan abatement plan. The county plan must embody and be consistent with at least the local abatement objectives for the county and cities within the county as stated in the council's plan. ~~The proposal and master plan revision required by this subdivision shall~~ must be prepared in consultation with cities and towns within the county, particularly the cities and towns in which a solid waste disposal facility is or may be located pursuant to the county master plan the advisory committee established pursuant to subdivision 4.

Sec. 64. Minnesota Statutes 1982, section 473.803, subdivision 3, is amended to read:

Subd. 3. **ANNUAL REPORT.** Each metropolitan county shall prepare and submit annually to the council for its approval a report containing information, as the council may prescribe in its policy plan, concerning solid waste generation and management within the county. The report shall include a statement of progress in achieving the land disposal abatement objectives ~~of~~ for the county and classes of cities in the county as stated in the council's policy plan and county master plan. The report ~~shall~~ must include a schedule of rates and charges in effect or proposed for the use of any solid waste facility owned or operated by or on its behalf, together with a statement of the basis for such charges.

Sec. 65. Minnesota Statutes 1982, section 473.803, is amended by adding a subdivision to read:

Subd. 4. **ADVISORY COMMITTEE.** By July 1, 1984 each county shall establish a solid waste management advisory committee to aid in the preparation of the county master plan and any revisions thereof. The committee must consist of one-third citizen representatives, one-third representatives from towns and cities within the county, and one-third representatives from private waste management firms. At least one-third of the members of the committee must be residents of towns or cities within the county containing solid waste disposal facilities and eligible solid waste disposal sites included in the council's disposal site inventory. Members of the council's solid waste advisory committee who reside in the county are members of the county advisory committee. A representative of the metropolitan council is an ex officio member of the committee.

Sec. 66. Minnesota Statutes 1982, section 473.811, subdivision 10, is amended to read:

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Subd. 10. **COUNTY DESIGNATION OF RESOURCE RECOVERY FACILITIES.** The authority granted to metropolitan counties by this subdivision shall not apply within any solid waste management district established under sections 115A.62 to 115A.72. In order to accomplish the objectives of county waste management, to further the state policies and purposes expressed in section 115A.02, and to advance the public purposes served by resource recovery, the legislature finds and declares that it may be necessary to authorize a county to require that all or any portion of the solid waste that is generated within the boundaries of the county or any service area thereof and is disposed of in the state be delivered to a resource recovery facility designated by the county board or a transfer station serving such a facility. Any county designation shall be based upon an approved master plan and shall be submitted pursuant to section 473.827, subdivision 1, for review and approval or disapproval by the metropolitan council. In establishing, continuing, and terminating the designation, the county shall be governed by all standards, exemptions, procedures, and other requirements provided in section 115A.70, subdivisions 2 to 6 A qualifying county may be authorized to designate a resource recovery facility under sections 35 to 44.

Sec. 67. Minnesota Statutes 1983 Supplement, section 473.823, subdivision 6, is amended to read:

Subd. 6. **COUNCIL; CERTIFICATION OF NEED.** No new mixed municipal solid waste disposal facility or capacity shall be permitted in the metropolitan area without a certificate of need issued by the council indicating the council's determination that the additional disposal capacity planned for the facility is needed in the metropolitan area. The council shall amend its policy plan, adopted pursuant to section 473.149, to include standards and procedures for certifying need. The standards and procedures shall be based on the council's disposal abatement plan adopted pursuant to section 473.149, subdivision 2d, the council's solid waste disposal facilities development schedule adopted under section 473.149, subdivision 2e, and the abatement master plans of counties adopted pursuant to section 473.803, subdivision 1b and approved by the council under section 473.803, subdivision 2. The council shall certify need only to the extent that there are no feasible and prudent alternatives to the disposal facility, including waste reduction, source separation and resource recovery which would minimize adverse impact upon natural resources. Alternatives that are speculative or conjectural shall not be deemed to be feasible and prudent. Economic considerations alone shall not justify the certification of need or the rejection of alternatives. In its certification the council shall not consider alternatives which have been eliminated from consideration by the adoption of the inventory pursuant to section 473.149, subdivision 2b, or the selection of sites under section 473.833, subdivision 3.

Sec. 68. Minnesota Statutes 1983 Supplement, section 473.831, is amended to read:

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473.831 DEBT OBLIGATIONS; SOLID WASTE DISPOSAL.

Subdivision 1. **GENERAL OBLIGATION BONDS.** The council may by resolution authorize the issuance of general obligation bonds of the council to provide funds for the environmental analysis and acquisition of permanent or temporary right, title, or interest in real property, including easements and development rights, for sites and surrounding buffer areas for solid waste disposal facilities pursuant to this section and ~~section~~ sections 473.833 and 473.840 and to provide funds for refunding obligations issued under this section. The bonds shall be sold, issued, and secured in the manner provided in chapter 475 for general obligation bonds, and the council shall have the same power and duties as a municipality and its governing body in issuing bonds under chapter 475, except as otherwise provided in this chapter. No election shall be required, and the net debt limitations in chapter 475 shall not apply. The council shall have the power levy ad valorem taxes for debt service of the council's solid waste bonds upon all taxable property within the metropolitan area, without limitation of rate or amount and without affecting the amount or rate of taxes which may be levied by the council for other purposes or by any local government unit in the area. Each of the county auditors shall annually assess and extend upon the tax rolls in his county the portion of the taxes levied by the council in each year which is certified to him by the council. The principal amount of bonds issued pursuant to this section shall not exceed \$15,000,000.

Subd. 2. **USE OF PROCEEDS.** The proceeds of bonds issued under subdivision 1 shall be used by the council, for the purposes provided in subdivision 1 and to make grants to metropolitan counties to pay the cost of the environmental review of sites, the acquisition of development rights for all or part of the period that the development limitation imposed by section 473.806 is in effect, and the acquisition of all property or interests in property for solid waste disposal sites and surrounding buffer areas required to be acquired by the county, pursuant to ~~section~~ sections 473.833 and 473.840, by the council's policy plan and development schedule adopted pursuant to section 473.149, subdivision 2e. If the council is required by law or regulation to prepare environmental analyses on one or more solid waste disposal sites and surrounding buffer areas, the council may use the proceeds of the bonds issued under subdivision 1 to contract for consultant services in the preparation of such analyses only upon a finding that equivalent expertise is not available among its own staff.

Sec. 69. Minnesota Statutes 1982, section 473.833, subdivision 4, is amended to read:

Subd. 4. **ACQUISITION AND DISPOSITION.** In order to prevent the development of conflicting land uses at and around future solid waste disposal facility sites, ~~the council shall provide for the acquisition by a~~ each metropolitan county of shall acquire property and rights in property at and around each solid waste disposal site selected within the county pursuant to subdivision 3. Each

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site scheduled for development as a facility through the year 1990 shall must be acquired in fee. Development rights shall must be acquired for each site scheduled for development as a facility after the year 1990 through the year 2000. Development rights shall must be acquired in a buffer area surrounding and at least equal to the area of each site scheduled for development as a facility through the year 2000. The owner of any property for which development rights are to be or have been acquired pursuant to this subdivision may elect by written notice at any time up to 90 days following the issuance of a permit by the agency for a facility to have the county acquire fee title to the property. Fee title shall may not be acquired by counties for buffer areas only except at the election of the owner of the fee.

Sec. 70. [473.840] **PURCHASE OF CERTAIN PROPERTY.**

Subdivision 1. PUBLIC PURPOSE. In order for the responsible public agency to select and acquire environmentally suitable sites and buffer areas for the safe disposal of waste, the legislature finds that it is necessary and proper for the responsible agency to evaluate more than one site for disposal facilities and that it is appropriate to purchase property, within the sites and buffer areas selected for evaluation, to avoid or mitigate any undue hardship that may be imposed on property owners as a result of the selection of sites for evaluation.

Subd. 2. DEFINITIONS. (a) "Qualifying property" is a parcel of real property any part of which is located within the site or buffer area of a candidate site selected under section 473.153, subdivision 2, for purposes of environmental review under subdivision 5 of that section, or a site included in the metropolitan inventory adopted under section 473.149, subdivision 2b, for the purposes of environmental review under section 473.833, subdivision 2a.

(b) An "eligible owner" is a person who: (1) owns the entire parcel of qualifying property; (2) owned the entire parcel of property at the time the site was selected as a candidate site or included in the metropolitan inventory; (3) since the site was selected or included in the inventory, has for at least six months offered to sell the entire parcel on the open market through a licensed real estate agent; and (4) has not previously entered a contract under subdivision 4 for the sale of any or all of the parcel.

Subd. 3. CONTRACT REQUEST. An eligible owner of property qualifying under section 473.153 may request in writing that the waste control commission and the metropolitan council enter a contract for the purchase of the property as provided in subdivision 4. An eligible owner of property qualifying under sections 473.149 and 473.833 may request in writing that the county in which the property is located and the metropolitan council enter a contract for the purchase of property as provided in subdivision 4. A contract may not be executed under subdivision 4 after the determination of adequacy of the environmental impact statement. Environmental review commences on the day of publication of the environmental impact statement preparation notice.

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Subd. 4. CONTRACT; TERMS AND REQUIREMENTS. The council and the county or commission shall enter a contract as provided in this subdivision with an eligible owner of qualifying property who requests the council and the county or commission to enter the contract as provided in subdivision 3. The council and the county or commission have 90 days to act on a request submitted under subdivision 3. The contract must include at least the following terms:

(a) The owner must offer to sell the entire parcel of property on the open market through a licensed real estate agent approved by the council for at least a six month period beginning within one month after the appraised market value of the property is determined as provided in paragraph (b). The offer to sell must be made at no more than the appraised market value.

(b) The appraised market value of the property must be determined by an appraiser selected by the council. If the owner disagrees with the appraisal the owner shall select an appraiser to make a second appraisal. If a second appraisal is made, the council and the owner may agree on an appraised market value equal to either the first or second appraisal or any amount between those appraisals. If the council and owner do not agree on an appraised market value the two appraisers shall select a third appraiser, and the appraised market value must be determined by a majority of the three appraisers. Appraisers must be selected from the approved list of real property appraisers of the state commissioner of administration. Appraisers shall take an oath that they have no interest in any of the property to be appraised or in the purchase thereof. Each party shall pay the cost of the appraiser selected by that party and shall share equally in the cost of a third appraiser selected under this paragraph. The appraised market value of the property may not be increased or decreased by reason of its selection as a candidate or inventoried site or buffer area.

(c) The county or commission must purchase the entire parcel of property at the appraised market value determined under paragraph (b) if: (1) the council determines, based upon affidavits provided by the owner and the real estate agent and other evidence the council may require, that the owner has made a good faith effort to sell the property as provided in paragraph (a) and has been unable to sell the property at the appraised market value; (2) the council determines that the owner will be subject to undue hardship as a result of failure to sell; (3) the county or commission determines that the owner has marketable title to the property and that the owner has cured any defects in the title within a reasonable time as specified in the contract; and (4) the owner conveys the property by warranty deed in a form acceptable to the county or commission.

(d) The owner may not assign or transfer any rights under the contract to another person.

(e) The contract expires and the obligations of the parties under the contract cease when the property is sold or is either selected or eliminated from

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consideration by a final decision of the council under section 473.153, subdivision 6, or by a final decision of the county site selection authority or council under section 473.833, subdivision 3.

(f) The council and the commission or county may require other terms of contract that are consistent with the purposes of this section and necessary to protect the interests of the parties.

Subd. 5. COMPENSATION OF AGENT; LIMITATION. A real estate agent may not receive a commission or any other compensation from an owner of property which is subject to a contract under subdivision 4 if the property is purchased by the public agency under that contract. Any term of a contract between a real estate agent and a property owner contrary to the provisions of this subdivision is void and unenforceable.

Subd. 6. ADMINISTRATION. The council, the county, and the commission are authorized to perform all acts required to enter and enforce contracts to purchase real property as provided in this section, including selecting and compensating appraisers and real estate agents.

Subd. 7. DISPOSITION OF PROPERTY. (a) Property acquired by the county or commission under this section must be retained in ownership until the selection of sites is completed under section 473.153 or 473.833, whereupon the county or commission shall sell all property located in the area of any site eliminated from further consideration and all property in the area of the selected sites that is not needed for the site or buffer area. The commission or county, with the approval of the council, may temporarily delay sale to protect the interests of the public agencies involved. The sale must be approved by the council, and the proceeds of the sale must be returned to the council and used to pay principal and interest on debt issued for acquisition.

(b) The county or commission may lease or rent any property acquired under this section for any use which is consistent with the development limitations until it is sold or is needed for use as a facility site or buffer area. Lease and rental agreements must be approved by the council, and proceeds of any lease or rental must be returned to the council and used to pay principal and interest on debt issued for acquisition. The county or commission may insure against loss to the property by fire, lightning, windstorm, tornado, flood, or hail, in the amount determined by the county or commission, using any insurance company licensed to do business in the state.

Sec. 71. [473.841] CITATION.

Sections 72 to 77 may be cited as the "Metropolitan Landfill Abatement Act."

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Sec. 72. [473.842] DEFINITIONS.

Subdivision 1. SCOPE. As used in sections 72 to 77, the terms defined in this section have the meanings given them.

Subd. 2. MARKET DEVELOPMENT. "Market development" means the location and facilitation of economic markets for materials, substances, energy, or other products contained within or derived from waste.

Subd. 3. MIXED MUNICIPAL SOLID WASTE DISPOSAL FACILITY. "Mixed municipal solid waste disposal facility" means a waste facility used for the disposal of mixed municipal solid waste.

Subd. 4. OPERATOR. "Operator" means:

(1) the permittee of a mixed municipal solid waste disposal facility that has an agency permit; or

(2) the person in control of a mixed municipal solid waste disposal facility that does not have an agency permit.

Subd. 5. RESPONSE. "Response" has the meaning given it in section 115B.02, subdivision 18.

Subd. 6. SOLID WASTE DISPOSAL FACILITY. "Solid waste disposal facility" means a waste facility which is used for the disposal of solid waste.

Sec. 73. [473.843] METROPOLITAN SOLID WASTE LANDFILL FEE.

Subdivision 1. AMOUNT OF FEE; APPLICATION. The operator of a mixed municipal solid waste disposal facility in the metropolitan area shall pay a fee on solid waste accepted and disposed at the facility as follows:

(a) A facility that weighs the waste that it accepts must pay a fee of 50 cents per cubic yard based on equivalent cubic yards of waste accepted at the entrance of the facility.

(b) A facility that does not weigh the waste but that measures the volume of the waste that it accepts must pay a fee of 50 cents per cubic yard of waste accepted at the entrance of the facility.

(c) Waste residue from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse is exempt from one-half of the amount of fee imposed by this subdivision if there is at least an 85 percent volume reduction in the solid waste processed. To qualify for exemption under this clause, waste residue must be brought to a disposal facility separately. The commissioner of revenue, with the advice and assistance of the agency, shall prescribe procedures for determining the amount of waste residue qualifying for exemption.

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Subd. 2. DISPOSITION OF PROCEEDS. The proceeds of the fees imposed under this section, including interest and penalties, must be deposited as follows:

(a) one-half of the proceeds must be deposited in the landfill abatement fund established in section 74; and

(b) one-half of the proceeds must be deposited in the metropolitan landfill contingency action fund established in section 75.

Subd. 3. PAYMENT OF FEE. On or before the 20th day of each month each operator shall pay the fee due under this section for the previous month, using a form provided by the commissioner of revenue.

Subd. 4. EXCHANGE OF INFORMATION. Notwithstanding the provisions of section 116.075, the agency may provide the commissioner of revenue with the information necessary for the enforcement of this section. Information disclosed in a return filed under this section is public information. Information exchanged between the commissioner and the agency is public unless the information is of the type determined to be for the confidential use of the agency under section 116.075 or is trade secret information classified under section 13.37. Information obtained in the course of an audit by the department of revenue is private or nonpublic data to the extent that it would not be directly divulged in a return.

Subd. 5. PENALTIES; ENFORCEMENT. The audit, penalty, and enforcement provisions applicable to taxes imposed under chapter 290 apply to the fees imposed under this section. The commissioner of revenue shall administer the provisions.

Subd. 6. RULES. The commissioner of revenue may adopt rules necessary to implement this section.

Subd. 7. ADMINISTRATIVE EXPENSES. Any amount expended by the commissioner of revenue from a general fund appropriation to enforce and administer this section must be reimbursed to the general fund, and the amount necessary to make the reimbursement is appropriated from the landfill abatement fund to the commissioner of finance for transfer to the general fund.

Sec. 74. [473.844] METROPOLITAN LANDFILL ABATEMENT FUND.

Subdivision 1. ESTABLISHMENT; PURPOSES. The metropolitan landfill abatement fund is created as an account in the state treasury in order to reduce to the greatest extent feasible and prudent the need for and practice of land disposal of mixed municipal solid waste in the metropolitan area. The fund consists of revenue deposited in the fund under section 73, subdivision 2, clause (a) and interest earned on investment of money in the fund. All repayments to loans made under this section shall be credited to the fund. Except as otherwise

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provided in section 81, subdivisions 2 and 3, and section 73, subdivision 7, the money in the fund may be spent, upon appropriation by the legislature, only for the following purposes:

(1) solid waste management planning assistance in the metropolitan area under sections 115A.42 to 115A.46;

(2) grants and loans to any person for resource recovery projects and related public education in the metropolitan area under subdivision 4;

(3) grants and loans to any person for market development for reusable or recyclable waste materials as provided in subdivision 2, clause (a); and

(4) administration and technical assistance by the metropolitan council as provided in subdivision 2, clause (b).

Subd. 2. ALLOCATION. (a) Up to ten percent of the money in the fund may be appropriated to the agency for transfer to the metropolitan council for grants under subdivision 1, clause (3).

(b) Up to five percent of the money in the fund may be appropriated to the agency for transfer to the metropolitan council for technical assistance and grant administration.

Subd. 3. COMMISSION RECOMMENDATION. The legislative commission on waste management shall make recommendations to the standing legislative committees on finance and appropriations about appropriations from the fund.

Subd. 4. RESOURCE RECOVERY GRANTS AND LOANS. The grant and loan program under this subdivision is administered by the metropolitan council. Grants and loans may be made to any person for resource recovery projects. The grants and loans may include the cost of planning, acquisition of land and equipment, and capital improvements. Grants and loans for planning may not exceed 50 percent of the planning costs. Grants and loans for acquisition of land and equipment and for capital improvements may not exceed 50 percent of the cost of the project. Grants and loans may be made for public education on the need for the resource recovery projects. A grant or loan for land, equipment, or capital improvements may not be made until the metropolitan council has determined the total estimated capital cost of the project and ascertained that full financing of the project is assured. Grants and loans made to cities, counties, or solid waste management districts must be for projects that are in conformance with approved master plans.

Subd. 5. LANDFILL ABATEMENT COST RECOVERY. By January 31, 1986, and each January 31 afterwards, the director of the agency shall pay each city in the metropolitan area an amount not to exceed 50 cents per household, as defined in section 477A.011, subdivision 3a, for qualifying landfill abatement and resource recovery expenses incurred in the previous calendar year.

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To qualify under this subdivision, the landfill abatement and resource recovery must be included in the applicable county master plan or approved by the metropolitan council and the city must certify expenses for the landfill abatement and resource recovery. The amounts necessary to make these payments are appropriated from the metropolitan landfill abatement fund to the director of the agency.

Sec. 75. [473.845] METROPOLITAN LANDFILL CONTINGENCY ACTION FUND.

Subdivision 1. ESTABLISHMENT. The metropolitan landfill contingency action fund is created as an account in the state treasury. The fund consists of revenue deposited in the fund under section 73, subdivision 2, clause (b); amounts recovered under subdivision 6; and interest earned on investment of money in the fund.

Subd. 2. WATER SUPPLY MONITORING. Up to ten percent of the money in the fund may be appropriated to the commissioner of health for water supply monitoring. The commissioner shall monitor the quality of water in public water supply wells in the metropolitan area that may be affected by their location in relation to a facility for mixed municipal solid waste. Testing under this subdivision must be for substances not funded under the Federal Safe Drinking Water Act.

Subd. 3. CLOSURE AND POSTCLOSURE, RESPONSE PAYMENTS. Money in the fund may only be appropriated to the agency for expenditure for:

(1) reasonable and necessary expenses for closure and postclosure care of a mixed municipal solid waste disposal facility in the metropolitan area for a 20-year period after closure, if the agency determines that the operator or owner will not take the necessary actions requested by the agency for closure and postclosure in the manner and within the time requested; or

(2) reasonable and necessary response and postclosure costs at a mixed municipal solid waste disposal facility in the metropolitan area that has been closed for 20 years in compliance with the closure and postclosure rules of the agency.

Subd. 4. COMMISSION RECOMMENDATION. The legislative commission on waste management shall make recommendations to the standing legislative committees on finance and appropriations about appropriations from the fund.

Subd. 5. DUTY TO PROVIDE INFORMATION. The operator or owner of a mixed municipal solid waste disposal facility or a solid waste disposal facility shall provide the necessary information to the agency required by sections 72 to 77 or by agency rules.

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Subd. 6. ACCESS TO INFORMATION AND PROPERTY. The agency or any member, employee, or agent thereof authorized by the agency, upon presentation of credentials, may:

(1) examine and copy any books, papers, records, memoranda, or data of any person who has a duty to provide information to the agency under sections 72 to 77; and

(2) enter upon any property, public or private, for the purpose of taking any action authorized by this section including obtaining information from any person who has a duty to provide the information, conducting surveys or investigations, and taking response action.

Subd. 7. RECOVERY OF EXPENSES. When the agency incurs expenses for response actions at a facility, the agency is subrogated to any right of action which the operator or owner of the facility may have against any other person for the recovery of the expenses. The attorney general may bring an action to recover amounts spent by the agency under this section from persons who may be liable for them. Amounts recovered, including money paid under any agreement, stipulation, or settlement must be deposited in the metropolitan landfill contingency action fund.

Subd. 8. CIVIL PENALTIES. The civil penalties of section 115.071 apply to any person in violation of this section. All money recovered by the state under any statute or rule related to the regulation of solid waste in the metropolitan area, including civil penalties and money paid under any agreement, stipulation, or settlement, shall be deposited in the fund.

Sec. 76. [473.846] REPORT TO LEGISLATURE.

By November 1, 1986, and each year thereafter, the agency and metropolitan council shall submit to the senate finance committee, the house appropriations committee, and the legislative commission on waste management separate reports describing the activities for which money from the landfill abatement and contingency action funds has been spent during the previous fiscal year.

Sec. 77. [473.847] OPERATOR OR OWNER LIABILITY FOR RESPONSE EXPENSES.

The operator or owner of a mixed municipal solid waste disposal facility in the metropolitan area is not liable under any other law for response costs incurred by the agency at that facility under section 75, if the facility has been closed for 20 years in compliance with the closure and postclosure rules of the agency. Any provision of this section which relieves the operator or owner of a facility from liability for the payment of the agency's response costs must not be construed to affect the liability of any other person who may be liable for those costs.

Sec. 78. ORGANIZED COLLECTION STUDY.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

The metropolitan council shall study the need for a system to implement organized collection of residential, commercial, and industrial solid wastes in the metropolitan area. The council shall submit the study to the legislative commission on waste management by June 1, 1985.

Sec. 79. INSURANCE FEASIBILITY STUDY.

The waste management board shall conduct a study of the feasibility and desirability of providing insurance for the costs of response actions and third party damages resulting from facilities for the disposal of mixed municipal solid waste. The waste management board shall submit findings, conclusions, and recommendations in a report to the legislative commission on waste management by December 1, 1984.

Sec. 80. RESOURCE RECOVERY FACILITIES.

Subdivision 1. SERVICE CHARGES. Ramsey and Washington Counties may exercise the powers of a county under Minnesota Statutes, section 400.08 in addition to the powers which the counties may exercise under other law.

Subd. 2. USE OF COUNTY FUNDS AND LONG-TERM CONTRACTS. Any available funds of the county including rates and charges imposed pursuant to subdivision 1 may be used for resource recovery purposes including reduction of the tipping fees at a resource recovery facility. Subject to review and approval by the metropolitan council, pursuant to section 473.813, the county may by a contract with a term of not more than 30 years covenant to apply available funds of the county for any resource recovery purposes.

Subd. 3. LEASE OR SALE OF PROPERTY TO PRIVATE PERSONS. Notwithstanding section 473.811, subdivision 8, to accomplish the purposes set out in section 473.803, a county may, without review of the disposition by the pollution control agency or metropolitan council, lease or sell all or part of the resource recovery or related facility, including transmission facilities and property or property rights for a resource recovery or related facility to a private person, on the terms the county deems appropriate, but a lease or sale contract shall provide for the operation and maintenance of the facility in accordance with the rules criteria and standards of the pollution control agency, the waste management board, the metropolitan council, and the county.

Subd. 4. APPLICATION. This section applies separately to each of Ramsey and Washington Counties the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by its governing body.

Sec. 81. APPROPRIATIONS.

Subdivision 1. AMOUNTS. The following amounts are appropriated from the general fund to the agency for the biennium ending June 30, 1985:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(1) for a grant to the metropolitan council for the organized collection system study in section 78, \$50,000;

(2) for adoption of rules and enforcement pursuant to section 49, \$90,000.

The complement of the agency is increased by two positions.

Subd. 2. REIMBURSEMENT. Any amount expended by the agency and metropolitan council from the appropriations in subdivision 1 shall be reimbursed to the general fund, and the amount necessary to make the reimbursement is appropriated from the landfill abatement fund to the commissioner of finance for transfer to the general fund.

Subd. 3. FEE ADMINISTRATION. The sum of \$75,000 is appropriated from the general fund to the commissioner of revenue for the purpose of administering section 73. This appropriation is available until June 30, 1985. This appropriation shall be reimbursed to the general fund under section 73, subdivision 7. The complement of the department of revenue is increased by two positions.

Subd. 4. WASTE MANAGEMENT BOARD. The following amounts are appropriated from the general fund to the waste management board and are available until June 30, 1985:

(1) for technical and research assistance programs, \$150,000;

(2) for waste reduction grants to generators of hazardous waste, \$150,000;

(3) for hazardous waste collection grants, \$350,000;

(4) for hazardous waste processing grants, \$350,000;

(5) for administration of the programs provided in sections 8 to 13, \$100,000.

The complement of the waste management board is increased by four positions.

Sec. 82. REPEALER.

Minnesota Statutes 1982, sections 115A.071; 115A.46, subdivision 3; 115A.70, subdivisions 1, 2, 4, 5, and 6; 473.827; and Minnesota Statutes 1983 Supplement, section 115A.70, subdivisions 3 and 7, are repealed.

Sec. 83. EXEMPTION TO CERTIFICATE OF NEED.

Section 67 does not apply to any expansion of a facility for which the EIS preparation notice has been published by March 15, 1984.

Sec. 84. APPLICATION.

Changes or additions are indicated by underline, deletions by strikeout.

Sections 58 to 78 are effective in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 85. EFFECTIVE DATE.

Sections 1 to 45, 48 to 51, 56 to 72, and 78 to 84 are effective the day following final enactment. Sections 46, 47, and 73 to 77 are effective January 1, 1985, except that the fees imposed in sections 46, 47, and 73 shall be effective January 1, 1988, with respect to nonhazardous solid waste from metalcasting facilities. Prior to January 1, 1988, an operator of a facility that is located in the metropolitan area for the disposal of mixed municipal solid waste shall deduct from the disposal charge for nonhazardous solid waste from metalcasting facilities the fee imposed under sections 46, 47, and 73.

Section 52 is effective for taxable years after December 31, 1983. Section 55 is effective for sales after June 30, 1984. Sections 53 and 54 are effective for taxable years after December 31, 1984.

Approved May 2, 1984

CHAPTER 645 — H.F.No. 1532

An act relating to agriculture; designating milk as the official state drink; proposing new law coded in Minnesota Statutes, chapter 1.

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

Section 1. [1.1495] **STATE DRINK.**

Milk is adopted as the official drink of the state of Minnesota.

Approved May 2, 1984

CHAPTER 646 — H.F.No. 994

An act relating to mediation; providing for mediation of disputes; providing penalties; amending Minnesota Statutes 1982, section 595.02; proposing new law coded in Minnesota Statutes, chapter 572.

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

Section 1. [572.31] **MINNESOTA CIVIL MEDIATION ACT, CITATION.**

Changes or additions are indicated by underline, deletions by ~~strikeout~~.