

1 A bill for an act
2 relating to employment; prohibiting employers from
3 misrepresenting the nature of employment
4 relationships; providing a civil remedy; proposing
5 coding for new law in Minnesota Statutes, chapter 181.

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

7 Section 1. [181.722] [MISREPRESENTATION OF EMPLOYMENT
8 RELATIONSHIP PROHIBITED.]

9 Subdivision 1. [PROHIBITION.] No employer shall
10 misrepresent the nature of its employment relationship with its
11 employees to any federal, state, or local government unit, to
12 other employers or to its employees. An employer misrepresents
13 the nature of its employment relationship with its employees if
14 it makes any statement regarding the nature of the relationship
15 that the employer knows or has reason to know is untrue and if
16 it fails to report individuals as employees when legally
17 required to do so.

18 Subd. 2. [AGREEMENTS TO MISCLASSIFY PROHIBITED.] No
19 employer shall require or request any employee to enter into any
20 agreement, or sign any document, that results in
21 misclassification of the employee as an independent contractor
22 or otherwise does not accurately reflect the employment
23 relationship with the employer.

24 Subd. 3. [DETERMINATION OF EMPLOYMENT RELATIONSHIP.] For
25 purposes of this section, the nature of an employment

1 relationship is determined using the same tests and in the same
2 manner as employee status is determined under the applicable
3 workers' compensation and unemployment insurance program laws
4 and rules.

5 Subd. 4. [REPORTING OF VIOLATIONS.] Any court finding that
6 a violation of this section has occurred shall transmit a copy
7 of the documentation of the finding to the commissioner of labor
8 and industry. The commissioner of labor and industry shall
9 report the finding to relevant state and federal agencies,
10 including at least the commissioner of commerce, the
11 commissioner of employment and economic development, the
12 commissioner of revenue, the federal Internal Revenue Service,
13 and the United States Department of Labor.

14 Subd. 5. [CIVIL REMEDY.] An individual not a contractor
15 injured by a violation of this section may bring an action for
16 damages against the violator. The court may award attorney
17 fees, costs, and disbursements to a party recovering under this
18 section. If the individual injured is an employee of the
19 violator of this section, the employee's representative, as
20 defined in section 179.01, subdivision 5, may bring an action
21 for damages against the violator on behalf of the employee.

22 Sec. 2. [REVISOR'S INSTRUCTION.]

23 The revisor of statutes shall insert a first grade headnote
24 prior to Minnesota Statutes, section 181.722, that reads
25 "MISREPRESENTATION OF EMPLOYMENT RELATIONSHIPS."

1 To: Senator Cohen, Chair

2 Committee on Finance

3 Senator Sams,

4 Chair of the Environment, Agriculture and Economic
5 Development Budget Division, to which was referred

6 S.F. No. 588: A bill for an act relating to employment;
7 prohibiting employers from misrepresenting the nature of
8 employment relationships; providing a civil remedy; proposing
9 coding for new law in Minnesota Statutes, chapter 181.

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

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[Signature].....
(Division Chair)

April 19, 2005.....
(Date of Division action)

***ENVIRONMENT, AGRICULTURE AND ECONOMIC
DEVELOPMENT BUDGET DIVISION***

***MISCLASSIFIED WORKER SENATE BILL S.F. 588
COMPANION BILL H.F. 440***

Misclassification of Employees

Misclassification occurs when an employer treats a worker who would otherwise be a waged or salaried employee as independent contractors (self employed). Or a worker who should be receiving a W-2 for income tax but instead receives a 1099 Misc. income form.

Why would an employer misclassify an employee? To avoid paying:

- Federal payroll taxes, including the 7.65% Social Security and the federal unemployment insurance tax.
- Local and City Taxes.
- Workers Compensation premiums
- State unemployment insurance premiums

What does the Misclassified Worker Lose?

- Job security
- Employer tax contributions to employment benefits
- Unemployment insurance benefits
- Workers' Compensation benefits
- Protection of federal and state employment standards laws
- Overtime pay

What do we all Lose?

- FICA tax dollars, which are contributed to Social Security
- Tax revenues at the federal, state and local levels
- Tax dollars for schools, infrastructure, education and city services
- Child Support payments from parents whose income is not reported, or subject to withholding taxes.
- Small businesses shoulder a disproportionate tax burden
- Legitimate, legal tax paying employers suffer from an unfair trade advantages
- Under funding of the Dept. Of Labor and Industry.

MFA

Minnesota Floorcovering Association

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If you – like most in our industry – use subcontractor labor for installations, please take a moment to read this Open Letter to learn about important changes in the Minnesota workers' compensation law, which may have a very significant impact on the way that you do business.

MINNESOTA STATUTES ANNOTATED

LABOR, INDUSTRY

CHAPTER 176. WORKERS' COMPENSATION

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Current through End of 2002 1st Sp. Sess.,

with Laws 2003, c. 28, art. 2, eff. May 28, 2003

Section 176.042. Independent contractors

Subdivision 1. General rule; are employees. Except as provided in subdivision 2, every independent contractor doing commercial or residential building construction or improvements in the public or private sector is, for the purpose of this chapter, an employee of any employer under this chapter for whom the independent contractor is performing service in the course of the trade, business, profession, or occupation of that employer at the time of the injury.

Subd. 2. Exception. An independent contractor, as described in subdivision 1, is not an employee of an employer for whom the independent contractor performs work or services if the independent contractor meets all of the following conditions:

- (1) maintains a separate business with the independent contractor's own office, equipment, materials, and other facilities;
- (2) holds or has applied for a federal employer identification number or has filed business or self-employment income tax returns with the federal Internal Revenue Service based on that work or service in the previous year;
- (3) operates under contracts to perform specific services or work for specific amounts of money and under which the independent contractor controls the means of performing the services or work;
- (4) incurs the main expenses related to the service or work that the independent contractor performs under contract;
- (5) is responsible for the satisfactory completion of work or services that the independent contractor contracts to perform and is liable for a failure to complete the work or service;
- (6) receives compensation for work or service performed under a contract on a commission or per-job or competitive bid basis and not on any other basis;
- (7) may realize a profit or suffer a loss under contracts to perform work or service;
- (8) has continuing or recurring business liabilities or obligations; and
- (9) the success or failure of the independent contractor's business depends on the relationship of business receipts to expenditures.

**An open letter from the Minnesota Floorcovering Association
to all Minnesota floor covering dealers**

Regarding: subcontractor labor and related workers' compensation issues

For years, most Minnesota floor covering retailers have used independent contractors to install floor covering products. This relationship was desired both by the retailers and the installers, most of whom did not wish to become employees of the retailer, and enjoyed the autonomy and independence that comes with "being your own boss." Along with that autonomy and independence came the responsibility to ensure that required workers' compensation coverage was provided for all installers. Traditionally, that responsibility rested with the independent contractors themselves, and not with the retailers.

But in 1996, the Minnesota Legislature changed the rules for who may be considered an "independent contractor" for workers' compensation purposes by adding a section to the Workers' Compensation Act dealing specifically with the employment status of independent contractors working in the commercial building or construction trades, which clearly encompasses our industry.

The independent contractor statute. Under this new law – Minn.Stat. § 176.042 – even those individuals who otherwise would clearly qualify as independent contractors under the prior law are nevertheless considered employees, *unless* each of nine specific conditions are met. If even one of these nine factors cannot be met, the installer would be considered an employee of the retailer rather than an independent contractor. This would mean that retailers would be ultimately responsible for providing workers' compensation benefits to any such installer who sustains a work-related injury.

If you are unfamiliar with this statute, it would be worth your while to review the attached copy of the statute. You will quickly see that the requirements of this law are very strict. Moreover, the Minnesota courts that have addressed the law have interpreted and applied it in an extremely strict and narrow fashion – so strict that it is difficult to imagine how most of our installer contractors could ever qualify for independent contractor status under the law.

How are courts applying this law? In the leading case on this issue, a flooring installer (who had operated for years as an independent contractor) injured his hand on an installation project and sought workers' compensation benefits from the retailer that had hired him. After an initial hearing, a workers' compensation judge determined that the installer qualified as an independent contractor under the nine-factor test set out in the 1996 statute. On appeal, however, the Workers' Compensation Court of Appeals reversed that determination, and held that the installer was an employee of the retailer, and was therefore entitled to receive workers' compensation benefits from the employer and its workers' compensation insurer. That decision was subsequently affirmed (without further opinion) by the Minnesota Supreme Court.

In requiring the retailer to provide workers' compensation benefits, the Court expressed its belief that the 1996 statute was intended to be "a major expansion of workers' compensation coverage in the construction industry." The court held that, to qualify as an "independent contractor," the installer must be "actually running a [construction] business, with the usual trappings associated with business operations." While the Court did not define what those "usual trappings" might be, it did provide some clues, such as: the existence of a store front or some separate facility from which the installer operates; the installer has employees or assistants (as

opposed to the "one-person operation"); the installer has some "significant" investment in facilities or equipment or "significant" recurring liabilities; the installer holds licences to perform the work; the installer advertises his services; the installer independently guarantees or warranties their work. How many of your installers have these qualities? Moreover, even where those facts might be present, the question of who "incurs the main expense" of the work would remain very problematic for our industry, as the Court apparently views the flooring "materials" themselves as an "expense." Since that "expense" is born by the retailer, not the installer, it is difficult to imagine a situation in which one of our traditional installers could be considered an independent contractor, rather than an employee.

The potential impact on your business. So what does all of this mean for your business? It means that you could be responsible for providing workers' compensation benefits – and, therefore, workers' compensation insurance coverage – to your installers. This could lead to very significant cost increases. In our experience, workers' compensation insurance rates can range from 12% to 25% of wages paid, depending on the type of subcontractor. Hence, if you pay a particular installer \$100,000 per year, the cost of providing workers' compensation insurance coverage for that contractor could be as high as \$25,000 per year.

Many floor covering retailers have long required installers to provide certificates of workers' compensation insurance. But as many of you know, these installers (in order to save premium costs themselves) often elect to provide coverage only for their employees (if any, and often there are none) and not themselves. Under the law discussed above, such an installer would be entitled to recover benefits from the retailer if he or she is determined to be an "employee" of the retailer under the law. Hence, even where you can produce a certificate of insurance for an installer, it is possible that your workers' compensation insurer may require you to provide coverage for the installer, which would likely result in a significantly increased premium.

While it is still somewhat unclear as to how the insurance carriers will ultimately address this situation, some of our members are reporting that this issue is being raised during annual premium audits performed by their insurance carriers. Moreover, there was a bill introduced during the last legislative session that was designed to specifically prohibit employers from "misrepresenting the nature of its employment relationship with its employees," and from requiring or requesting an employee to enter into "an agreement that results in a misclassification of the employee as an independent contractor." While this bill did not pass during the past session, it may be reconsidered next session, and it raises the possibility that government agencies may be more closely scrutinizing the nature of your relationship with your installers.

How can the floor covering industry respond to the law? So what is the problem with simply paying the premiums associated with providing workers' compensation coverage? Can't we just roll this cost into the labor prices charged to our customers? That may be one option, but many of our members have expressed concern over whether such a policy would be consistently applied by all retailers and installers, which gives rise to concerns over unfair competition in the market. Other members have raised concerns over whether providing workers' compensation coverage to installers might cause the I.R.S. to require that we also treat these installers as "employees" for tax purposes.

What other options do we have? One option that our members have considered is to make the Legislature aware of how this law impacts our industry, and to consider some changes to the statute. To that end, a small group of retailers hired a lobbyist to explore that issue during the last legislative session. While those initial efforts were unsuccessful in bringing about any change, this was, of course, a highly unusual legislative session. Our Association continues to believe that our representatives in the Legislature need to be made aware of how this law is impacting our industry and affecting your business.

A grass-roots campaign from floor covering retailers – including letters, faxes and e-mails to your state representative and senator – would be an effective way of sending this message. Consider the potential impact of this law on your business – can you afford to absorb potentially tens of thousands of dollars in increased workers' compensation premiums? Then contact your legislators. Make them aware of this issue. Invite them to contact you for additional details on the practical impact of this law. Urge others to do the same. If you need assistance in identifying your representatives, please contact us, and we will be happy to help.

Web sites are: www.senate.leg.state.mn.us and ww3.house.leg.state.mn.us.

If you have any questions regarding this important issue, we encourage you to contact the Minnesota Floorcovering Association for more information. And we urge you to take action now on an issue that we believe will have a very significant impact on the retail floor covering industry in general, and your business in particular. Thank you.

Sincerely,

The Board of Directors
Minnesota Floorcovering Association

Minnesota Statutes 2004, Table of Chapters

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176.042 Independent contractors.

Subdivision 1. **General rule; are employees.** Except as provided in subdivision 2, every independent contractor doing commercial or residential building construction or improvements in the public or private sector is, for the purpose of this chapter, an employee of any employer under this chapter for whom the independent contractor is performing service in the course of the trade, business, profession, or occupation of that employer at the time of the injury.

Subd. 2. **Exception.** An independent contractor, as described in subdivision 1, is not an employee of an employer for whom the independent contractor performs work or services if the independent contractor meets all of the following conditions:

(1) maintains a separate business with the independent contractor's own office, equipment, materials, and other facilities;

(2) holds or has applied for a federal employer identification number or has filed business or self-employment income tax returns with the federal Internal Revenue Service based on that work or service in the previous year;

(3) operates under contracts to perform specific services or work for specific amounts of money and under which the independent contractor controls the means of performing the services or work;

(4) incurs the main expenses related to the service or work that the independent contractor performs under contract;

(5) is responsible for the satisfactory completion of work or services that the independent contractor contracts to perform and is liable for a failure to complete the work or service;

(6) receives compensation for work or service performed under a contract on a commission or per-job or competitive bid basis and not on any other basis;

(7) may realize a profit or suffer a loss under contracts to perform work or service;

(8) has continuing or recurring business liabilities or obligations; and

(9) the success or failure of the independent contractor's business depends on the relationship of business receipts to expenditures.

JEFFREY E. THOMAS, Employee/Appellant, v. CARPET DESIGN CTR. and GENERAL CASUALTY INS. CO., Employer-Insurer, and BLUE CROSS/BLUE SHIELD OF MINN., Intervenor.

WORKERS= COMPENSATION COURT OF APPEALS
OCTOBER 16, 2000

HEADNOTES

~~EMPLOYMENT RELATIONSHIP - INDEPENDENT CONTRACTOR.~~ Where the requirements of Minn. Stat. ' 176.042, ~~subd. 2, were not all met, the compensation judge erred~~ in concluding that the petitioner, an independent contractor in floor installation, was not an employee of the respondent pursuant to Minn. Stat. ' 176.042, subd. 1.

Reversed.

Determined by Wilson, J., Johnson, J., and Rykken, J.
Compensation Judge: Paul V. Rieke.

OPINION

DEBRA A. WILSON, Judge

Jeffrey Thomas appeals from the ~~compensation judge=s decision~~ that he is ineligible for workers= compensation benefits for his work injury because he was an independent contractor under the pertinent statute and rules. ~~We reverse.~~

BACKGROUND

In 1992, Jeffrey Thomas began working as a salaried salesperson for Carpet Design Center^[1] [Carpet Design], a floor covering business that also sells lighting and ceramic tile. With regard to floor covering, Carpet Design has Amajor accounts@ with forty or fifty home builders, who send their customers to Carpet Design, with flooring allowances, to choose floor coverings for installation in their new homes. On occasion, Carpet Design works directly with the builders and also handles remodeling projects.

~~According to Paul Reinertson, president and co-owner of Carpet Design, at least 85% of Carpet Design=s floor covering business includes installation, which is performed by any of the fifteen to forty installers used by Carpet Design for that work. Mr. Reinertson testified that it was his intent to use independent contractors for flooring installation in order to ensure profitability. The installation work is scheduled by Carpet Design to meet the needs of the builders. The installers are generally paid by the Asquare@ (square foot) for flooring actually installed, with additional hourly pay for certain preparation work, such as grinding or sanding plywood floor seams. Carpet Design apparently sets the pay rates based on what competitors are paying, but in some cases installers have their own price lists. Flooring installers use their own hand tools, saws, and staples, and they generally use their own vehicles to transport the flooring itself from Carpet Design=s warehouse to the job site. After completing the work, the installers submit invoices to Carpet Design, which pays the installers~~

12/07/04

The Social and Economic Costs of Employee Misclassification in Construction

**Françoise Carré, Ph.D. and Randall Wilson
Center for Social Policy
McCormack Graduate School of Policy Studies
University of Massachusetts Boston**

A report of the

Construction Policy Research Center

**Labor and Worklife Program, Harvard Law School
and
Harvard School of Public Health**

Elaine Bernard, Ph.D. and Robert Herrick, Sc.D. Principal Investigators

December 2004

This report is embargoed until December 13, 2004

I. Summary Findings

With this study, a cross disciplinary team of the Center for Construction Policy Research has taken a first and significant step in documenting employee misclassification in the Massachusetts construction industry. This report documents the dimensions of misclassification and its implications for tax collection and worker compensation insurance.

Misclassification occurs when employers treat workers who would otherwise be waged or salaried employees as independent contractors (self employed). Or as one report commissioned by the U.S. Department of Labor put it, "when workers (who should be) getting W-2 forms for income tax filing instead receive 1099- Miscellaneous Income forms."¹

Forces promoting employee misclassification include the desire to avoid the costs of payroll taxes and of mandated benefits. Chief among these factors is the desire to avoid payment of worker compensation insurance premiums.

Employee misclassification creates severe challenges for workers, employers, and insurers as well as for policy enforcement. Misclassified workers lose access to unemployment insurance and to appropriate levels of worker compensation insurance. Also, they are liable for the full Social Security tax. They lose access to employer-based benefits as well. For employers, the practice of misclassification creates an uneven playing field. Employers who classify workers appropriately have higher costs and can get underbid by employers who engage in misclassification. The collection of Unemployment Insurance tax, and to some degree that of the income tax, are adversely affected by misclassification. Worker Compensation insurers experience a loss of premiums.

Using several years of de-identified data on unemployment insurance tax audits made available by the Massachusetts Division of Unemployment Assistance (DUA), we have developed estimates of the dimensions of misclassification in the state and particularly in the construction industry.

Because this study relies exclusively of Unemployment Insurance tax audits to develop estimates of the dimensions and impacts of misclassification, it addresses primarily the forms of misclassification that can be documented. It does not fully capture the scope of underground economy activities in construction and other sectors.

Employee Misclassification in Massachusetts

- During the years 2001-03, *at least one in seven, or 14%, of MA construction employers are estimated to have misclassified workers* as independent contractors. This conservative estimate translates into a minimum of 2,634 construction employers statewide. Across all industries² as a whole, 13% of employers were found to under report worker wages and UI tax liability to the Commonwealth and thus to have misclassified workers. This represents about 26,000 employers statewide. This conservative estimate is based on audits of employers that, while not selected by fully statistically random methods, are considered random, or non-targeted, audits in common auditing practices (Planmatics 2000).

¹ Lalith de Silva et al. 2000. *Independent contractors: prevalence and implications for Unemployment Insurance programs*. Planmatics, Inc., Prepared for US Department of Labor Employment and Training Administration. Planmatics, 2000. (Hereafter, Planmatics 2000.)

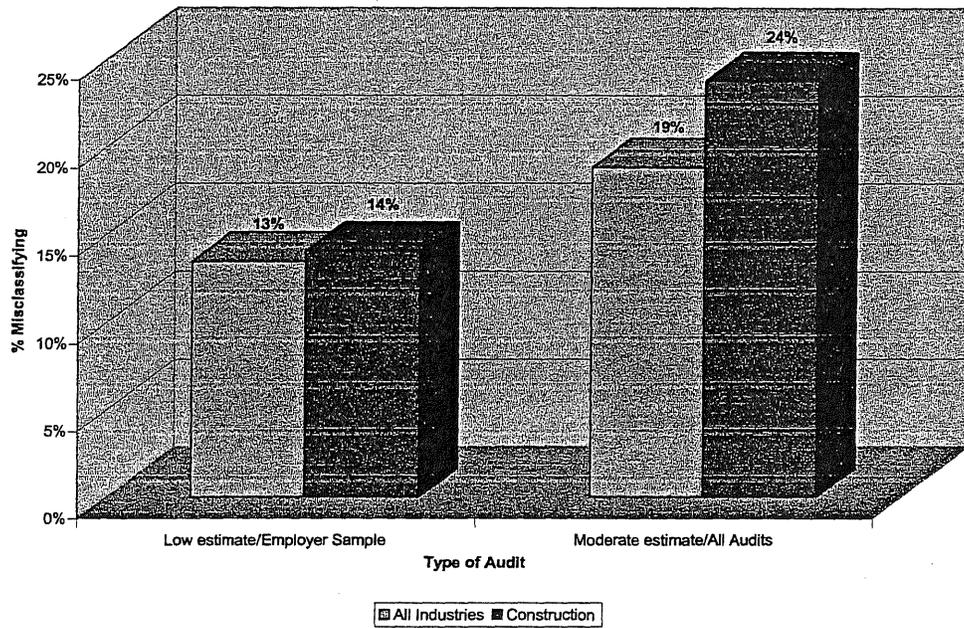
² The "all industries" category includes Construction as well.

- *Less conservative methods suggest that construction misclassification could run higher and range up to one in four (24%) of MA construction employers.* Projecting this rate to actual DUA establishment counts, we estimate that up to 4,459 construction employers are misclassifying workers statewide. Construction employers appear to engage in misclassification more frequently than the average of all employers. Across all industries, up to 19% of employers misclassified at some point over the period, amounting to about 36,500 employers. This less conservative method includes a mix of random audits and of audits explicitly targeted based on past behavior (and thus more likely to uncover misclassification).
- A key measure of misclassification is the degree or severity of its impact *within* employers who misclassify. This measure indicates that *misclassification is a common occurrence rather than an isolated incident in construction companies where misclassification occurs.* According to our low estimate, 4 in 10 workers are misclassified in construction employers found to be misclassifying in 2001-03. The severity of impact of misclassification found among construction employers is one of the three highest among industrial sectors.
- When we consider the workforce of all employers (those that misclassify and those that do not), *at least one in twenty (5.4%) construction workers in MA is estimated to be misclassified as an independent contractor during 2001-03, according to our conservative estimate.* The extent of misclassification is slightly higher in construction than the average across all industries (4.5%). And as we look at larger pools of data that include audits that are explicitly targeted based on past record, the extent of workers misclassified as independent contractors increases up to 11% in construction.
- We estimate that the actual number of workers affected across the Commonwealth ranges from almost 7,478 to about 15,790 construction workers. For the workforce as a whole, it could range from about 125,725 to 248,206.
- While misclassified individuals lose out on unemployment insurance, the unemployment insurance system is adversely affected as well. We estimate that from \$12.6 million to \$35 million in unemployment insurance taxes are not levied on the payroll of misclassified workers as should be. Of these amounts, from \$1.03 to \$3.9 million are due to misclassification in construction.
- At income tax time, workers misclassified as independent contractors are known to under-report their personal income; therefore, the state experiences a loss of income tax revenue. Based on an estimate that 30% of the income of misclassified workers is not reported, we roughly estimate that \$91 million of income tax are lost. Of these, \$4 million are lost due to misclassification in construction. Based on an estimate that 50% of misclassified worker income goes unreported, a rough estimate of income tax loss amounts to \$152 million of revenue. Of these, \$6.9 million are due to misclassification in construction.
- The worker's compensation insurance industry loses on premium collection, a significant issue if, as is reported in previous studies, misclassified workers are surreptitiously added onto companies' worker compensation policies *after* they are injured. For these workers, benefits are paid out even though premiums were not collected. We estimate that up to \$91 million of worker compensation premiums are not paid for misclassified workers. Of this amount, \$7 million are not paid due to construction misclassification.
- The prevalence of misclassification has increased over the years since 1995 and so has the severity of impact. This is true for Construction and across all sectors. Our low estimate for the percent of construction employers found to be misclassifying was 10% for 1995-97 and 11 % for 1998-2000 as compared to 14% for the 2001-03 period. The low estimate for all industries combined was 8% for the period 1995-97 and 11% for 1998-2000 as compared to 13 percent for the most recent period. The severity of impact, that is, the percent of workers misclassified *in the workforce of employers found to be misclassifying* appears to have increased as well.

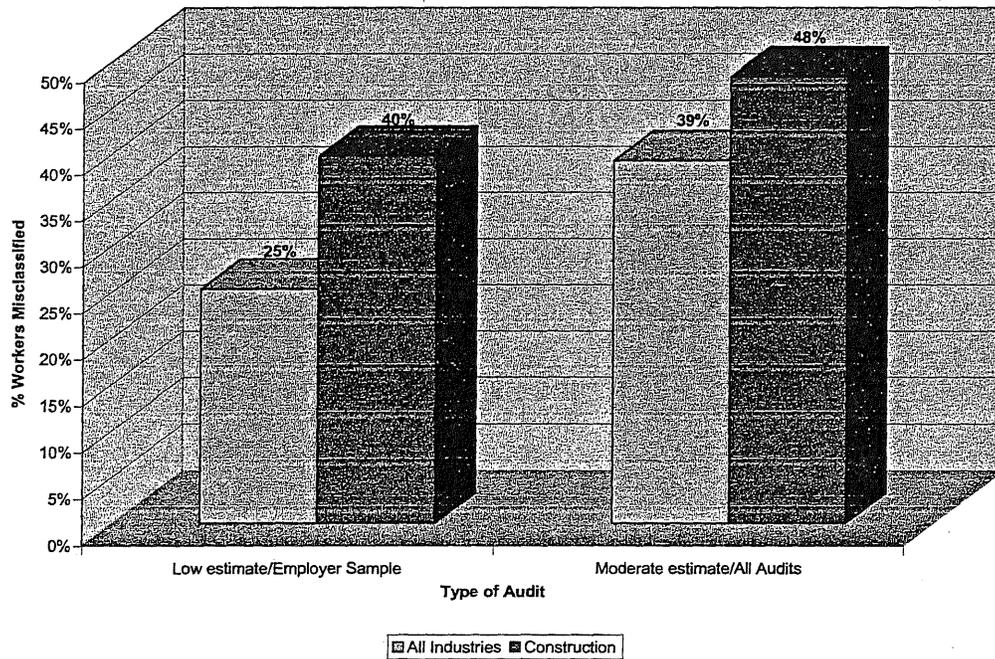
- We believe that worker misclassification is a compelling problem requiring attention. It poses significant consequences for workers, employers, insurers, and for tax revenues. We strongly recommend that a study employing both business and individual income tax returns be conducted with the Department of Revenue. It would provide an even more accurate measure of the tax revenue implications of misclassification. Workers, businesses, revenue collection agencies, and policy analysts all stand to benefit from better documentation of the impacts of misclassification.

Facts at a Glance

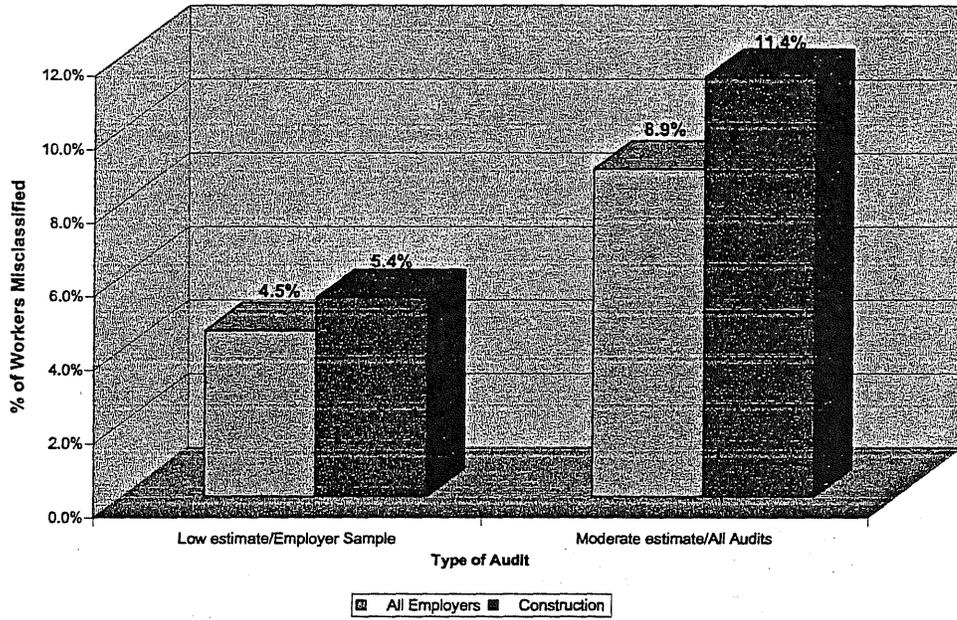
% Employers Misclassifying Workers 2001-2003



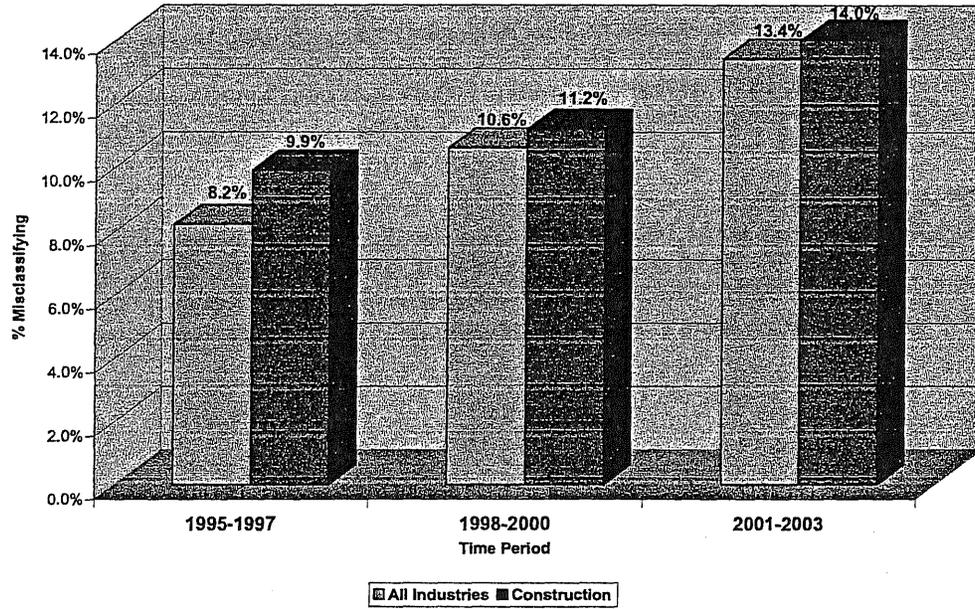
% Workers Misclassified in Misclassifying Employers



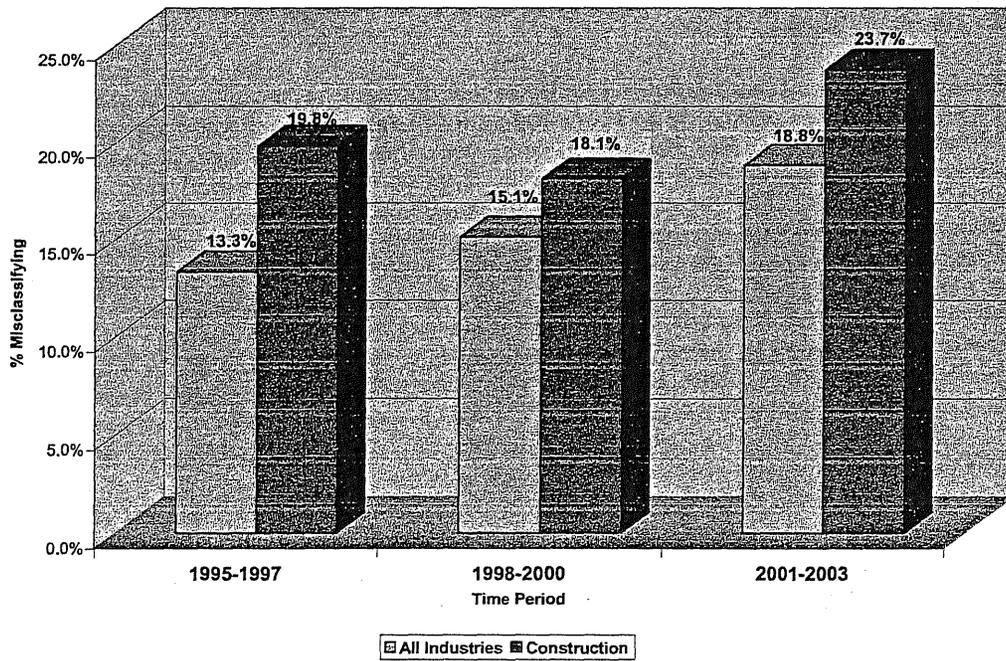
Extent of Workers Misclassified 2001-2003



Misclassification Rate by Time Period: Low Estimate/Employer Sample



Misclassification Rate by Time Period: Moderate Estimate/All Audits



Acknowledgements

This project received funding from the National Institute of Occupational Safety and Health through the Center to Protect Workers' Rights in Silver Spring, MD.

The authors wish to thank the Massachusetts Division of Unemployment Assistance (Department of Labor and Workforce Development). We are particularly grateful to members of the Division of Unemployment Assistance Revenue Services and Revenue Audits departments who provided access to de-identified audit data, prepared data files, and answered our numerous queries about variable definitions.

The authors also thank the members of this project for contributing to the implementation of the research and the interpretation of the results: Elaine Bernard, Ph.D. and Robert Herrick, Sc.D., Principal Investigators, as well as Mark Erlich of the United Brotherhood of Carpenters Local 40 and Prof. David Weil, Economics, Boston University and Harvard Kennedy School of Government. We also thank Lorette Baptiste and Dr. John Trumbour at the Harvard Labor and Worklife Program.

II. The Problem

Misclassification occurs when employers treat workers who would otherwise be waged or salaried employees as independent contractors. Or, as one report commissioned by the U.S. Department of Labor put it, "when workers (who should be) getting W-2 forms for income tax filing instead receive 1099- Miscellaneous Income forms."³ In practice, these workers must take out their own taxes for Social Security and Medicare, rather than having the employer withhold them. But determining who is an employee, and who is a contractor, is sometimes far from simple. The distinction is complicated by deliberate deceptions on the part of employers (and workers, at times), who seek to avoid paying taxes and meeting other legal obligations to employees and to government. But even when there is no intent to deceive, ambiguities in employment law and relationships can result in misclassification, or make it easier to occur.

How is misclassification accomplished? Misclassification usually begins at the point when workers are hired. Practices vary widely. In one common pattern, employers put prospective hires to work as self-employed contractors and, for tax purposes, issue them a "1099" Miscellaneous income form. (Workers are sometimes referred to on construction sites as "1099s" or "subs," as well as independent contractors.) The paperwork does not stop there. Sometimes, before workers can begin employment, employers require them to purchase their own workers' compensation and liability insurance coverage. They are expected to sign certificates of worker's compensation insurance and of liability insurance as well as various other waivers absolving the employer of obligations. (However, because this workers' compensation insurance only covers the holders' employees, it has no value for the worker and only protects the employer in case of tax and/or insurance audits.) Another pattern, at the other end of the spectrum of practices, entails entirely informal arrangements with cash payment and no 1099 tax reporting. This second pattern leaves no documentation; the practice is part of what is termed the "underground economy" and is often paired with the hiring of unprotected, undocumented workers.

Forces promoting employee misclassification include the desire to avoid the costs of payroll taxes, and of mandated benefits. One factor stands out, however. A recent Department of Labor-sponsored report found that the "number one reason" for misclassifying workers lies in avoiding

³ Planmatics, 2000.

payment of workers' compensation insurance premiums and thus escaping workplace injury and disability-related disputes.⁴ Driven by increased medical costs, worker compensation costs have accelerated rapidly in recent years. And in industries such as construction worker compensation costs are particularly high.

Misclassification creates severe challenges for workers, employers and insurers as well as for policy enforcement. For workers who are misclassified, it creates immediate and long term problems. These include the lack of access to unemployment insurance, and to appropriate levels of worker compensation insurance. They entail liability for the full Social Security tax (rather than half for employees). They also include the loss of access to health insurance, and other employer-based social protection benefits. If injury strikes, it can be catastrophic for the worker.

Misclassification creates challenges for compliant employers because it creates an uneven "playing field." Employers who respect the law and classify employees appropriately have a higher wage bill and can get underbid by contractors that do not comply and have lower costs.

Misclassification presents a two-fold challenge for policy implementation. The *enforcement* of labor standards such as health and safety standards, or of wage and hours regulations is made more difficult in contexts where there are misclassified independent contractors. *Tax collection* is affected as well. This includes collection of unemployment insurance tax. It also includes state income tax because independent contractors are known to underreport their income.

The worker compensation insurance industry is also adversely affected by misclassification. Employers with misclassified workers have been known to surreptitiously add uncovered independent contractors, or those with insufficient coverage, back onto a company's worker compensation policy *after* they are injured. Therefore, benefits are paid out to workers for whom an insurance premium has not been paid according to a U.S. DOL commissioned study.⁵

Misclassification presents broader societal costs that are harder to document. For example, workers without health insurance might resort to publicly subsidized emergency medical care. The costs of "uncompensated care pools" make their way into the costs of health and worker compensation insurance. Also, workers who sustain injuries, and have inadequate worker compensation coverage, make use of public assistance when they are unable to work.

A problem of this importance for individual workers, businesses, and government requires thorough documentation. This study of the Center for Construction Policy Research represents a significant step in documenting employee misclassification in the Massachusetts construction industry and in estimating the costs of misclassification in terms of tax loss and worker compensation insurance premium losses. In subsequent work, these researchers will benchmark Massachusetts results with those of other New England states.

Using several years of de-identified data on unemployment insurance tax audits made available by the Massachusetts Division of Unemployment Assistance, we have developed estimates of the dimensions of misclassification in the state and particularly in the construction industry.⁶ Using methods established in previous studies in particular one commissioned by the U.S. Department of Labor (Planmatics 2000), we present projections of the costs of misclassification for unemployment insurance, income tax, and worker compensation insurance systems.

Unemployment insurance (UI) tax audit records are a key source of information on employee misclassification. When an audit finds workers not covered by UI who should be (and documents

⁴ Lalith de Silva, et al. 2000. *Independent contractors: prevalence and implications for Unemployment Insurance programs*. Planmatics, Inc., for US Department of Labor Employment and Training Administration. From here on, referred to as "Planmatics 2000".

⁵ Planmatics, 2000, p. 76.

⁶ This study analyzes data on private sector employers exclusively.

under-reported wages), the cause is virtually always misclassification as independent contractor of someone who should be an employee included in the company payroll. Therefore, information from UI tax audits is a useful proxy for employee misclassification.⁷

Because this study relies exclusively on UI tax audits to develop estimates of the dimensions and impacts of misclassification, it addresses primarily the forms of misclassification that can be documented. It cannot fully capture underground economy activities in construction and other sectors.

III. Dimensions of Misclassification in Massachusetts

When employers engage in misclassification

During the years 2001-03, at least one in seven, or 14%, of MA construction employers are estimated to have misclassified workers as independent contractors. This conservative estimate translates into a minimum of 2,634 construction employers statewide. Across all industries⁸ as a whole, 13% of employers were found to under-report worker wages and UI tax liability to the Commonwealth and thus to have misclassified workers. This represents about 26,000 employers statewide. This conservative estimate is based on audits of employers that, while not selected by fully statistically random methods, are considered non-targeted or random audits in common auditing practices (Planmatics 2000).

Less conservative methods suggest that construction misclassification could run higher and range up to one in four (24%) of MA construction employers. Projecting this rate to actual DUA establishment counts, we estimate that up to 4,459 employers are misclassifying construction workers statewide. Construction employers appear to engage in misclassification more frequently than the average of employers across all industries. State wide, up to 19% of all employers misclassify at some point over the period, amounting to about 36,500 employers. This less conservative method includes a mix of random audits and of audits explicitly targeted based on past behavior (and thus more likely to uncover misclassification).

Prevalence of Misclassification: Percent of Employers Found to Misclassify Workers as Independent Contractors - Massachusetts 2001-2003

	Low estimate (Employer Sample)	Moderate estimate (All Audits)
All Industries	13%	19%
Construction	14%	24%

Estimated Number of MA Employers Found to Misclassify Workers 2001-03

	Low estimate (Employer Sample)	Moderate estimate (All Audits)
All industries	26,038	36,531
Construction	2,634	4,459

⁷ In audit data, "new workers" that is, previously uncovered workers who are to be added to the employer payroll for UI tax purposes are proxies for misclassified workers.

⁸ This "all industries" category includes Construction as well.

Workers affected by misclassification

To understand how workers are affected by misclassification, we use two measures. The first measure is the percent of workers misclassified *within employers found to have misclassified workers*. This first measure is the degree of impact, or *severity of impact*, of misclassification when it occurs. The second is the percent of workers misclassified *among all workers in construction or in the state as a whole* (including employers who misclassify and those who do not). This second measure is the *extent* of misclassification.

1) Severity of impact of misclassification:

The measure of severity of impact indicates that in construction companies where misclassification occurs, it is a common occurrence rather than an isolated incident. According to the low estimate, 4 in 10 workers are misclassified in these employers. A less conservative estimate counts 1 in 2 workers affected among construction employers that are misclassifying. The severity of impact measure is higher in construction than average. Construction ranks among the top three industries in the state in terms of severity of impact.

Percent of Workers Misclassified among Misclassifying Employers: 2001-2003

	Low estimate- (Employer Sample)	Moderate estimate (All Audits)
All industries	25%	39%
Construction	40%	48%

2) Extent of misclassification

Over the 2001-03 period, at least one in twenty (5.4%) construction workers in MA is estimated to be misclassified as an independent contractor during 2001-03. The extent of misclassification is slightly higher in construction than the average across all industries (4.5%). As we look at larger pools of data that include audits that are explicitly targeted based on past record, the extent of workers misclassified as independent contractors increases up to 11.4% in construction.

Based on these proportions, we estimate that the actual number of workers affected across the Commonwealth ranges from almost 7,500 to about 16,000 construction workers. For the workforce as a whole, it could range from about 125,700 to 248,206.

Extent of MA Workers Misclassified as Independent Contractors

	Low estimate- (Employer Sample)	Moderate estimate (All Audits)
All industries	4.5%	8.9%
Construction	5.4%	11.4%

Estimated Number of MA Workers Misclassified as Independent Contractors

	Low estimate- (Employer Sample)	Moderate estimate (All Audits)
All industries	125,725	248,206
Construction	7,478	15,790

The problem worsens over time

The prevalence of misclassification has increased over the years since 1995 and so has the severity of impact. This is true for Construction and across all industries. This trend holds for random, or non-targeted, audits (low estimate/Employer Sample), a group of audits whose characteristics have not changed significantly over time, according to the DUA audit department. The trend also holds for all audits, a group whose composition has changed over time. The mix of audit methods has included a growing share of targeted audits and those are more likely to result in a finding of misclassification.⁹ Nevertheless, findings from the random audits present compelling evidence that misclassification is increasing in construction as well as statewide, across all industries.

Percent of employers found to be misclassifying across time: All Industries

	1995-1997	1998-2000	2001-2003
Low estimate (Employer Sample)	8%	11%	13%
Moderate estimate (All Audited Employers)	13%	15%	19%

Percent of employers found to be misclassifying across time: Construction Employers

	1995-1997	1998-2000	2001-2003
Low estimate (Employer Sample)	10%	11%	14%
Moderate estimate (All Audited Employers)	20%	18%	24%

Additionally, where misclassification occurs, it is displaying greater severity of impact, meaning that the share of workers affected within misclassifying employers appears to have increased over the years. This pattern holds particularly for Construction.

Severity of Impact of Misclassification: % of Workers Misclassified in Misclassifying Employers Across Time: Low Estimate (Employer Sample)

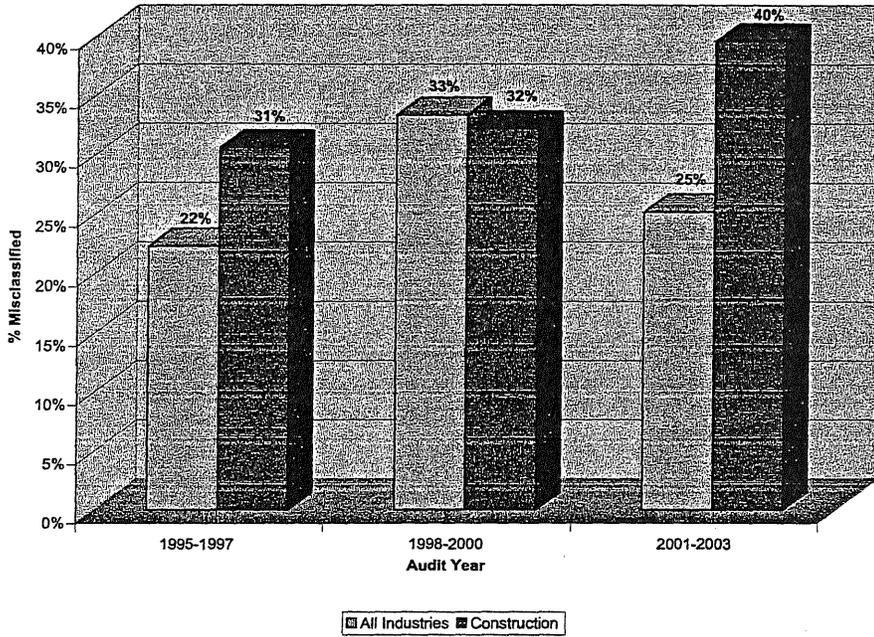
Audit Year	Construction	All Industries
1995-1997	31%	22%
1998-2000	32%	33%
2001-2003	40%	25%

Severity of Impact of Misclassification: % of Workers Misclassified in Misclassifying Employers Across Time: Moderate Estimate (All Audits)

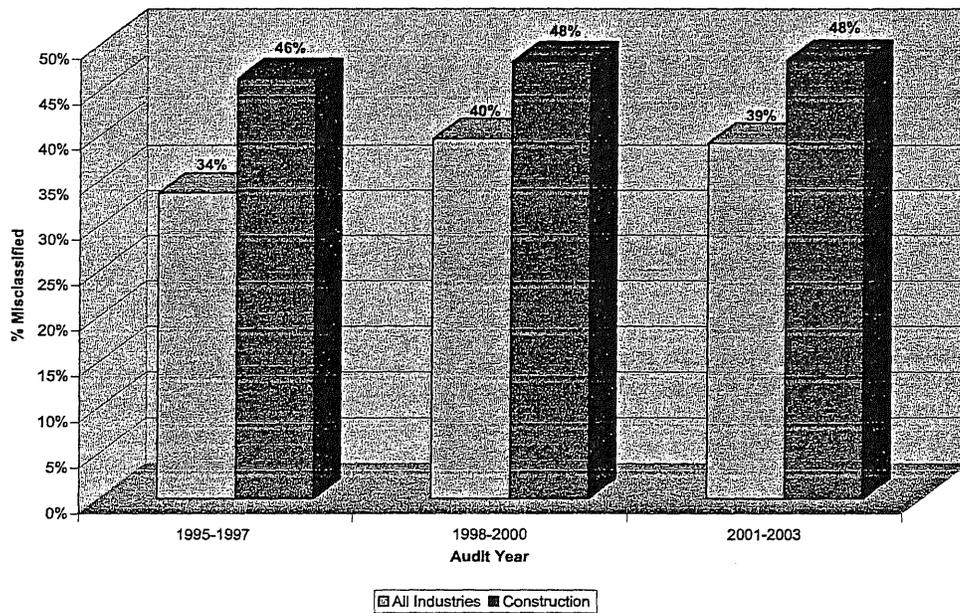
	Construction	All Industries
1995-1997	46%	34%
1998-2000	48%	40%
2001-2003	48%	39%

⁹ As discussed in a later section, targeted audits result from a study of past behavior related to UI tax payment or a contested UI claim.

**% Workers Misclassified in Misclassifying Employers Over Time:
Randomly Audited Employers 1995-2004**



**% of Workers Misclassified in Misclassifying Employers Over Time:
All Audited Employers 1995-2004**



IV. Implications of Employee Misclassification in Massachusetts

We estimate the implications of employee misclassification for unemployment insurance tax revenues as well as state income tax revenues. We also estimate the amount of workers' compensation insurance premiums lost due to misclassification. These cost estimates rely upon our *Low Estimates* of prevalence and extent of misclassification (random audits). They are therefore conservative estimates. In fact, our approach is more conservative than that used in the DOL commissioned study (Planmatics 2000) which used a rate of prevalence derived from mixes of random and targeted audits. (Further details on calculation methods are in the Appendix.)

The implications of employee misclassification for Unemployment Insurance tax

Workers who should be misclassified as employees lose out when work ceases, and they are ineligible for unemployment insurance compensation. In some cases, workers may be unaware that they are ineligible. Some employer audits are triggered when workers file for unemployment insurance and the claim is contested.

In addition to individuals, the unemployment insurance system is also affected by misclassification. The unemployment insurance tax is a payroll tax and, when workers are misclassified, the tax is not levied on their earnings, as it should. We estimate that from \$12.6 to \$35.1 million of UI tax were lost over the period 2001-03 due to misclassification statewide.¹⁰ Of that amount, from \$1 to \$3.9 million of UI tax were lost due to misclassification in the construction sector per se. These losses correspond to annualized averages ranging from \$3.4 to \$11.7 million statewide, and \$334,000 to \$1.3 million due to construction alone.

For the period 2001 to 2003, we further estimate that the state lost an estimated \$83 to \$142 in unpaid UI taxes per worker misclassified in all industries, and between \$134 and \$251 per construction worker misclassified (2001-2003).

Estimate of UI Tax Impacts from Misclassification, MA 2001-2003¹¹

	All industries	Construction
Low estimate (Employer sample/Random audits)	\$12,629,058	\$1,030,311
Moderate estimate (All audits)	\$35,125,471	\$3,961,678

To derive these estimates of the size of the UI tax loss, we replicated the method used in the 2000 US DOL commissioned report to assess the impacts of misclassification on UI trust funds. Essentially, the method entails computing the average tax loss per worker due to misclassification for the audit sample and multiplying this amount by the estimated number of workers misclassified statewide.

¹⁰ The low estimate is derived using the percent of workers misclassified in the random/Employer Sample audit results only. The Moderate estimate is derived using the percent of workers misclassified in results from all audit types.

¹¹ These figures were computed using the methodology of Planmatics, Inc., in a report for the U.S. Department of Labor.

The implications of employee misclassification for state income tax revenues

At income tax time, workers misclassified as independent contractors are known to under-report their personal income; therefore, the state experiences a loss of income tax revenue. Based on an estimate that 30 % of the income of misclassified workers is not reported, we roughly estimate that \$91 million of income taxes are lost. Of these, \$4 Million are lost due to misclassification in construction. Based on an estimate that 50% of misclassified worker income goes unreported, a rough estimate of income tax loss amounts to \$152 million of lost tax revenue. Of these, \$7 million are due to misclassification in construction.

This estimate is a broad estimate applying the state's 5.3 percent income tax rate to the unreported share (30% or 50%) of personal income of misclassified workers. We assumed that any standard or itemized deductions were taken fully on the reported share of income and therefore do not apply to the unreported income.¹²

	30% of income is not reported	50% of income is not reported
All industries	\$91,546,482	\$152,577,470
Construction	\$ 4,161,507	\$ 6,935,845

The implications of employee misclassification for worker compensation

The workers compensation insurance industry loses on premium collection, a significant issue if, as is reported in previous studies, misclassified workers are surreptitiously added onto companies' worker compensation policies *after* they are injured. For these workers, benefits are paid out even though premiums were not collected.

Data were not available to us to compute the extent to which benefits are paid to workers for whom premiums were not paid. However, we estimate the amount of insurance premiums that would have been collected were workers not misclassified.

We estimate that over the period 2001-03, up to \$7 million of worker compensation premiums were not paid for misclassified construction workers and up to \$91 million of premiums were not paid for misclassified workers across all industries. This estimate is broad. It applies an average worker compensation premium of \$15 per \$100 of payroll to the estimated amount of wages for misclassified workers statewide, in construction and across all industries. Alternatively, with an average worker compensation premium of \$12 per \$100 of payroll, we estimate that \$5.5 million of premium were not paid for misclassified construction workers and \$73 million were not paid for misclassified workers in all industries.

A more detailed estimate would apply detailed rates for construction trades (such as finished carpentry, or drywall) appropriately weighed by the share of employment accounted for by each trade.

V. What lies behind the Low and Moderate Estimates?

We have taken a *conservative approach* in estimating the overall prevalence, extent, and tax implications of misclassification in Massachusetts is. We derived estimates on the number of employers engaged in misclassification, the number of workers affected, and their tax revenue consequences using the results of a subset of audits that are the audits labeled random,¹³ or non-

¹² For this computation, we estimated the annual (self employment) earnings of misclassified construction workers to be \$35,000. This is a conservative estimate, lower than median earnings in the state. We used this estimate because we found the UI audit file to be an unreliable source of information on total earnings. We estimated average annual earnings for workers across all industries to be \$45,796, a simple average computed on the BLS-ES202 database for Massachusetts.

¹³ This is the nomenclature used by US DOL to describe these audits (Planmatics 2000).

targeted, according to standard auditing practices. (The Massachusetts Division of Unemployment Assistance refers to these audits as the "Employer Sample.")

In choosing to work with Unemployment Insurance tax audits to develop low and moderate estimates of misclassification, we took the lead from a study commissioned by the U.S. Department of Labor (Planmatics 2000). Our estimates for "low," and "moderate" rates of misclassification are based on the different categories employed by the DUA for selecting audit candidates. *Low* estimates are based solely on audits listed here as "random" or less targeted (the Employer Sample) while *moderate* estimates are based on all categories of audits from random to targeted. Targeted audits find higher levels of prevalence of misclassification. (Further details are provided in the Appendix.)

VI. How does the situation in construction compare to that in other industries?

In Massachusetts, the percent of construction employers engaged in misclassification and the overall percent of workers affected are slightly higher than average but not among the highest. *However, when construction employers are found to be misclassifying, the percent of their workers affected by misclassification ("severity of impact" measure) is among the highest among industrial sectors.* In other words, the construction sector as a whole has a prevalence of misclassification that is high but, most importantly, it includes firms that, when engaged in misclassification, do so for a significant share of their workers. In the employer sample, among employers engaged in misclassification, up to 40 percent of the workforce is found to be misclassified.

Prevalence of Misclassification by Industry and Audit Type – 2001-03

	Low estimate- (Employer Sample)	Moderate estimate (All Audits)
Transportation/utilities	21.4%	28.7%
Information	20.9%	28.7%
Professional/business services	19.0%	22.2%
Education/health services	15.7%	18.7%
Natural resources	14.6%	17.6%
Construction	14.0%	23.7%
Total (all industries)	13.4%	18.8%
Manufacturing	12.9%	15.3%
Other services, private	12.5%	20.0%
Financial activities	10.8%	15.7%
Leisure/hospitality	10.4%	13.7%
Trade	10.1%	13.4%

Extent of Misclassification by Industry and Audit Type: Percent of Total Employment Affected

	Low estimate- (Employer Sample)	Moderate estimate (All Audits)
Transportation/utilities	12.0%	17.0%
Other services, private	8.5%	13.1%
Professional/business services	7.2%	13.5%
Education/health services	5.4%	16.1%

Construction	5.4%	11.4%
Total (all industries)	4.5%	8.9%
Natural resources	4.1%	10.6%
Leisure/hospitality	4.0%	4.8%
Trade	3.8%	5.0%
Financial activities	3.7%	7.2%
Information	3.1%	14.3%
Manufacturing	1.4%	2.5%

Severity of Impact by Industry and Audit Type: Percent of Misclassified Workers among Employers Found to be Misclassifying

Industry	Low estimate- (Employer Sample)	Moderate estimate (All Audits)
Transportation/utilities	48%	52%
Other services, private	44%	52%
Construction	40%	48%
Professional/business services	29%	43%
Natural resources	28%	43%
Leisure/hospitality	26%	29%
Total (all industries)	25%	39%
Education/health services	24%	55%
Financial activities	23%	34%
Trade	19%	25%
Manufacturing	13%	16%
Information	10%	44%

VII. Strengths and limitations of estimates of misclassification

Prior research on misclassification has generated estimates for *all industries* primarily, rather than for construction per se. Only one federal study provides a 1984 estimate that 20 % of construction employers engage in misclassification (GAO 1996).

In this section, we examine in greater detail estimates from other studies for all industries and compare these with the estimates we derived from our analysis of the Massachusetts UI tax audit data. This exercise has enabled us to put lower and upper bounds to our estimate.

Comparing Massachusetts 2001-03 estimates to data from other states

The table below summarizes the results of the study commissioned by the U.S. Department of Labor for misclassification *across all industries* in nine states (Planmatics 2000), as well as a 1984 Treasury Department estimate (U.S. GAO 1996) for employers nationwide.

Past State and National Estimates of the Prevalence of Employer Misclassification

	Low	Moderate	High
All industries (MA)	13%	19%	
All industries (9 states) 1/	5-10%	13-23%	29-42%
All industries (US) 2/		15%	
Construction MA	14%	24%	
Construction (US) 2/		20%	

1) All industries based on DOL/Planmatics state estimate ranges, ~1999

2) Based on 1984 Treasury Department estimate, cited by U.S. GAO. (1996)

For all industries, our estimates for MA generally fall close to or within the ranges found in other states and for the US as a whole. The US DOL-commissioned study arrayed 9 states according to their mix of “targeted” and “random” audits. In the table above, the low estimate for the 9 states sample is derived only from states with a low proportion of targeted audits in their audit mix. Conversely the high estimate is derived only from results for states with higher share of targeted audits in their mix and the moderate estimate from states with 30 to 50 % of random audits in their mix.

Our study’s moderate estimate —derived from the complete and mixed set of audits— falls directly within the ranges found in other states with similar audit mix. Our low estimate for all Massachusetts employers is slightly higher (13%) than for states from the U.S. DOL study with a high share of random audits (5-10%).

The next table compares MA to the DOL study’s state findings in greater detail. It also presents the degree to which each state did target audit candidates versus relying on more “random” selection methods. For the 9 states in the DOL study, we observe that, as expected, the more a state targets employers (by size/industry/location, by past record, by presence of worker claim), the higher is the observed rate of misclassification. Massachusetts generally conforms to this pattern. For the period 2001-2003, the DUA utilized “random” (less targeted) methods for a little over half of all audits (56%). It is thus closest to the “moderately random” states listed below. Our observed rate of misclassification (from audits of all types) which generated the Moderate estimate for all industries, at 19%, falls between the “low random” state of Minnesota (13% employers misclassifying) and moderate-random Wisconsin, with a misclassification rate of 23%.

Prevalence of Misclassification in All Industries: MA vs. DOL State Estimates

State	% employers misclassifying workers	% of audit group randomly sampled	Dominant Audit method
MD	5%	100%	High randomness
WA	10%	98%	High randomness
CO	5%	90%	High randomness
MA	19%	56%	Mod-High randomness
MN	13%	30-50%	Moderate randomness
NE	10%	30-50%	Moderate randomness
NJ	9%	30-50%	Moderate randomness
WI	23%	18%	Low randomness
CN	42%	5%	Low randomness
CA	29%	1%	Low randomness

Another source of comparison comes from another New England state, Maine.¹⁴ The state relies exclusively on audits that are considered fully random. For the Maine Construction industry, the rate of misclassification is 14.2 percent (Peterson 2004 for Maine Department of Labor, to be released). On a number of dimensions — construction wages as share of state's average wage, distribution of construction establishments by subsectors, and distribution of employment by subsectors—the Maine construction industry does not differ significantly from that in Massachusetts. However, the two state construction industries have different unionization rates; about 10% in Maine as compared to 28 % in Massachusetts (estimates). Also, the share of value of construction work is highest for the building, developing and general contracting category in Massachusetts (43% of construction work\$\$\$). In contrast, it is highest for the specialty trade contractors in Maine (44% of construction work\$\$\$).¹⁵

VIII. Next Steps

This study has made significant headway toward documenting the dimensions and impacts of misclassification in construction in the state. Next steps include, first, examining more closely the misclassification of workers across construction subsectors (for example, carpentry or dry walling) because accounts from the field indicate that there is wide variation across subsectors in prevalence. Second, next steps also include comparing the findings from Massachusetts with those from other New England states. While keeping in mind variations in characteristics of the construction industry across states (e.g. firm size, distribution of activity across types of contractors), we plan to use estimates of incidence, severity, and extent derived from UI tax audit results elsewhere in New England as a further means to gauge the dimensions of misclassification in Massachusetts. Third, we will explore in greater detail policy proposals for addressing misclassification and look at approaches that have been successful in other states. This task will be particularly timely if misclassification is growing in prevalence as it appears to be. A final report for this project will provide an analysis of policy issues and present the results of Massachusetts in the context of those for other New England states.

More importantly, this study's findings have established that worker misclassification is indeed a compelling problem requiring attention and one with significant consequences for workers, employers, insurers, and for tax revenues. A problem of this importance requires further and more precise documentation, one that would enable analysts to project revenue losses with greater confidence than is possible when relying on UI tax audit data which require making several assumptions.

A tested and more accurate method for measuring misclassification has been established in a national study by the U.S. General Accounting Office (U.S. GAO 1989) and rests on the combined use of business and individual tax information. Such a study could be replicated with state level tax information. This approach entails matching "1099 information returns" filed by businesses on behalf of their independent contractors with individual income tax returns for the workers concerned. This match enables analysts to apply criteria such as deriving all or most of one's income from a single business payer (a strong indicator of misclassification) and thus to estimate the percent of workers misclassified. The federal study (U.S. GAO 1989) that first established this method found that very stringent criteria (e.g. at least \$10,000 of income all from a single business payer) point to misclassification that, in turn, is confirmed in virtually all cases (through an IRS audit). Using these

¹⁴ Audit results from Maine will be the object of a separate report produced collaboratively with the Maine Department of Labor.

¹⁵ Sources used included: U.S. Department of Labor, Bureau of Labor Statistics, ES-202 Series (wages, distribution of employment and of establishments by subsector); U.S. Census Bureau, Current Population Survey (unionization); and U.S. Bureau of the Census, 1997 Economic Census, Construction—Geographic Area Series. (Massachusetts, Maine). General Statistics for Establishments With Payroll By State. Table 2, page 9 (value of construction work by subsector)..

criteria, or slight variations of these criteria,¹⁶ would generate measures of the number of workers misclassified in a given tax year and the number of businesses engaged in misclassification, as well as a very reliable accounting of misclassified earnings and tax losses.

We strongly recommend the replication of this federal study with Massachusetts tax information. Such a replication would require investment from, and the collaboration of, the Massachusetts Department of Revenue because it entails using individual tax record information (as well as the sharing of federal business income tax return information by the Internal Revenue Service with the Massachusetts DOR). The information generated with the present study presents a compelling case for making this investment in better documenting misclassification in the Commonwealth through a study of tax records. More precise measures of misclassification would inform a more specific policy debate about means to address it. Our study also makes clear that multiple parties stand to benefit from better documentation of the dimensions and implications of worker misclassification—individual workers stand to gain better social protection, tax authorities stand to recover tax revenue losses, and compliant employers would benefit from an even playing field.

Further research will also need to devise means to document underground activities and their implications. These do not leave traces in UI or tax records that we can readily examine.

¹⁶ For example, the criterion might be amended to receiving most or 70% of one's self-employment earnings from a single business payer.

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Appendix A - Estimation Methods

Audit Yea:

We assigned each audit record to a specific year (1995-2004) and to three-year cycles (1995-1997, 1998-2000, and 2001-2003). This was done on the basis of the Massachusetts DUA's "year complete" variable, using the calendar date of the audit's official completion. While a portion of the audits may have actually been initiated in the year prior to completion, we believe that the resulting distortion is small when audits are grouped in three-year periods.

Calculating the Prevalence of Employer Misclassification (% of employers with misclassified workers)

Employers are assumed to be misclassifying workers if their audit record reveals one or more 'new worker.' New workers are those who were not covered previously by Unemployment Insurance. We calculate the percentage of all (randomly) audited employers who are misclassifying, and apply the result to the total number of UI-covered employers in the state. We thus assume that the sample of employers selected for auditing is representative of (can stand for) all UI-contributing employers statewide.

Calculating the Severity of Impact of Misclassification (% of workers misclassified within employers misclassifying workers as independent contractors.)

To estimate the severity or degree of misclassification among those employers who under-report workers (who would otherwise be covered by UI), we assume that audited employers found to be misclassifying can represent all misclassifying employers in the state. We compute the percentage of workers among these audited employers who are misclassified (or "new workers,") and use it to estimate the statewide severity (% misclassified) among all Massachusetts employers that misclassify workers.

Calculating the Extent of Workers Misclassified (% of all workers misclassified as independent contractors)

We assume that total workers employed by audited employers can represent all UI-covered workers statewide. To estimate the extent of worker misclassification, we compute the percentage of workers at all audited employers who are "new workers," or previously unreported for purposes of unemployment insurance taxes. This percentage is applied to the total number of UI-covered workers in the state.

Calculating Losses in Unemployment Insurance Taxes

Revenue losses from underpayment of UI taxes (owed on workers misclassified as independent contractors) were estimated using the method employed in the DOL-requested study (Planmatics, 2000). We computed an average tax loss per worker due to misclassification of workers in the audit sample. We assumed, as before, that these workers could stand for all workers statewide misclassified as independent contractors (and that the distribution of wages was similar). The result was multiplied by the estimated number of workers misclassified statewide.

Calculating Losses in the State Income Tax

To compute losses in state income tax revenue, we multiplied the estimated number of misclassified workers statewide (7,478) by an estimated average yearly income level for construction workers of \$35,000. We then made two estimates of "hidden income" using alternative assumptions about the amount of income unreported by these workers (50% and 30%). Multiplying each of these results by 5.3% (the state income tax rate) provided a range of estimated state income tax losses. We chose an average earnings level for construction workers of \$35,000 per year, a level much lower than median earnings for Massachusetts and, therefore, a conservative estimate. The level is higher than earnings culled from the audit database but we had concerns about the reliability of those data

for portraying the level of earnings in the state. For earnings across all industries, we used average annual earnings for workers across all industries at \$45,796, a simple average computed on the BLS-ES202 database for Massachusetts.

Calculating Revenue Losses on Worker Compensation Insurance Premiums

We assumed that all average WC premiums for workers, including construction workers, can be estimated by assuming \$15 per \$100 of payroll for workers compensation. We computed unreported wages from misclassifying employers as a percentage of total payroll from randomly audited firms, and assumed that this could represent the percentage of wages unreported from misclassifying employers statewide. Applying this to the actual total wages of UI-contributing employers statewide yielded an estimate of unreported wages for employers in all industries and construction employers. Taking 15% of these figures produced estimates of WC revenue losses. We also computed a lower estimate of premium losses by setting the WC rate at \$12 per \$100 of payroll.

Appendix B - The Role of Audit Methods

The report commissioned by the US Department of Labor used Unemployment Insurance (UI) tax audit results from 9 states to obtain an estimate of misclassification (Planmatics 2000). Unemployment Insurance Tax audits seek to establish whether all workers supposed to be covered by unemployment insurance are in fact covered. Most often, when workers are not covered, it is because they were classified as independent contractors. When an audit finds workers not covered by UI who should be, they are reclassified as a "new worker" on the payroll subject to taxation. Therefore UI tax audits are a useful source of information about misclassification, one that has been relied upon by previous studies such as the DOL commissioned report.

UI tax audits are the best source of information on misclassification behavior available to researchers to date, and have been used by the US Department of Labor to gauge the prevalence and extent of misclassification. Using them to estimate misclassification, however, is not a straightforward matter. UI tax audit practices aim at redressing tax loss. The sampling of employers for audit purposes is not meant to be statistically random; it is meant to assist in UI tax collection. Some of the audit methods used are targeted; they aim to audit employers with a high likelihood of misclassification based on past UI tax record. Therefore these methods result in a relatively high observed rate of misclassification. Conversely, other audit methods are not targeted; they are conventionally called random audits. All state UI tax revenue departments practice a mix of methods. Therefore, audits are not a statistically perfect source of information; they allow for an estimation rather than an actual measure of the dimensions of misclassification.¹⁷

The Massachusetts Division of Unemployment Assistance (DUA) conducts random audits based on broad guidelines provided by US DOL for non-targeted audits. The Employer Sample (random audits) consists of audit candidates from the UI Tax employer database (Tax System) that fit limited, DOL recommended, criteria such as employment size, distribution of geographic location and industry. The results yielded by these audits provide a conservative estimate of the prevalence and extent of misclassification in the state as a whole.

The DUA performed 5,957 audits over the period 2001-03. Slightly over half (56%) of the audits were drawn from the "Employer Sample."¹⁸ They are referred to here as "random" (sampled but prescreened on the basis of selected criteria), or "not targeted."¹⁹

The remainder of DUA audits were targeted audits based on contested unemployment claims and/or a determination that a worker is in fact an employee, or because of delinquent UI tax filings over the years. Their purpose is to locate cases of likely misclassification. Targeted audit methods include the following categories:

- 1) "Targeted Type 1" or Request Multiple (RM) audits: The employer has three quarters of filings delinquent within the last three years. (20 % of audits in 2001-03.)
- 2) "Targeted Type 2" or Request Delinquency (RD) audits: The employer has multiple delinquent quarters due to late registration, often related to UI claims made by workers. (7 % of audits in 2001-03.)
- 3) "Targeted Type 3" or Subjectivity Letter (SL) audits: The employer is either made subject of an audit as the result of a claim or determination has been made that an employer/employee relationship exists. (18% of audits in 2001-03.)

¹⁷ An actual measure would require a large scale random survey of workers and employers throughout the state.

¹⁸ There were 919 construction audits, of which 428 were random audits.

¹⁹ The "audit rate" or percent of audited employers in total employers was 3.1 percent across all industries, and 4.9 percent in construction. These rates represent declines from the period 1995-2000 when greater resources were available for auditing: 5 percent of employers across all industries were audited and 6 percent of construction employers were audited. Also random/Employer Sample audits amounted to over 80 % of audits in the earlier period 1995 to 2000. With declining resources for auditing, targeted audits are used with more frequency to aid in tax collection.

As can be seen below, more targeted audit methods find higher prevalence of misclassification, as expected. Among all audit methods, Subjectivity Letters and "Request Multiple" audits find misclassification most frequently. This is true for construction as well as for all industries. The prevalence rates obtained from these targeted methods provide an "upper bound" for an estimate of misclassification in the state.

Rates of Misclassification by Detailed Audit Type: All Industries

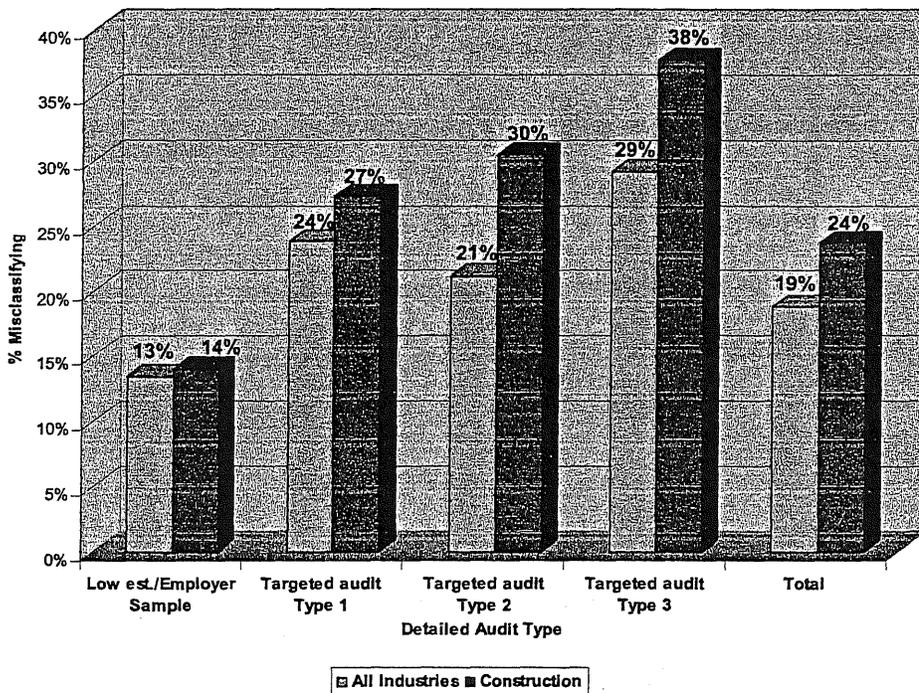
	Low estimate- (Employer Sample)	Targeted Type 1 (Request Multiple)	Targeted Type 2 (Request Delinquent)	Targeted Type 3 (Subjectivity letter)	Moderate estimate (All Audits)
Misclassifying Employers	448	278	83	310	1119
All Audited Employers	3335	1168	392	1062	5957
% Misclassifying	13%	24%	21%	29%	19%

Rates of Misclassification by Detailed Audit Type: Construction Employers

	Low estimate- (Employer Sample)	Targeted Type 1 (Request Multiple)	Targeted Type 2 (Request Delinquent)	Targeted Type 2 (Request Delinquent)	Moderate estimate (All Audits)
Misclassifying Employers	60	56	25	77	218
All Audited Employers	428	205	82	204	919
% Misclassifying	14%	27%	30%	38%	24%

For our estimates of impacts, we have used results from random audits only (Employer Sample) as a base. This approach is more conservative than that taken in the US DOL commissioned study (Planmatics 2000). That study relied on results from both random and targeted audits (to the exclusion of very targeted audits) to generate the estimates used to project tax revenue losses.

Misclassification by Detailed Audit Type: 2001-2003



Outfront

WWW.FORBES.COM

INSURANCE HEIST

Workers' Con

Companies are cheating on workers' compensation, costing billions in added premiums—and leaving their employees at risk.

By Nathan Vardi

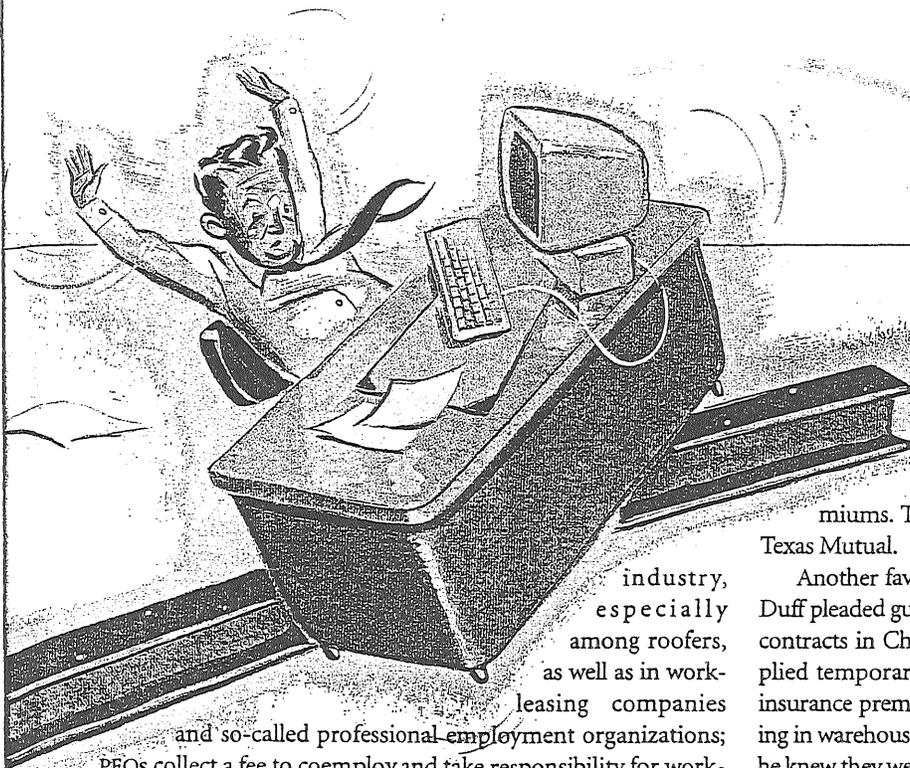
JORGE GOMEZ WAS HELPING TO BUILD A TWO-STORY house on a Jacksonville, Fla.-area construction site owned by D.R. Horton in 2003 when a 24-foot wood beam fell and broke his neck. Gomez, who had crossed into the U.S. from Mexico illegally, was being paid \$400 a week in cash from a subcontractor. Now a quadriplegic, the 23-year-old has amassed more than \$1 million in hospital bills but has no way to pay them. Companies are supposed to cover all workers, even illegal ones. But his disability claims to the subcontractor and the home builder were denied. He is now suing \$11 billion (sales) D.R. Horton, which insists it did nothing wrong.

and points the finger at the sub. Trial date: this fall.

Workers' comp is out of control again. Premium rates have risen 44% in the last three years, says the Insurance Information Institute, pushing total corporate costs to \$80 billion annually. Along with rising medical costs, fraud is a swelling part of that bill, amounting to billions of dollars each year, says the institute's chief economist, Robert Hartwig. Some skulduggery still comes from people faking or exaggerating injuries. But employers cheat, too, using creative ways to underpay workers' comp insurance, driving up premiums for other businesses.

Judging by the number of suits by private and state insurers, the problem is getting worse. Fraud is particularly prevalent in the construction

RYAN HESHKA FOR FORBES



industry, especially among roofers, as well as in work-leasing companies and so-called professional employment organizations; PEOs collect a fee to coemploy and take responsibility for workers. The highest incidence of fraud seems to be among companies in California and Florida.

This month the U.S. attorney in Jacksonville plans to file indictments involving a PEO, according to sources familiar with the investigation, accusing it of pocketing \$600 million or so, much of which was to have paid for workers' comp premiums. A federal grand jury in the Jacksonville case has heard evidence that the PEO collected fees and comp premium payouts from clients across the nation but never purchased insurance. Every state except Texas requires most businesses to insure all their employees.

Some companies rely on their own ingenuity to cheat. Charles Yi, 62, stands accused of underreporting the number of employees on his payroll as a way of reducing his workers' comp premiums. According to a Los Angeles deputy district attorney, Yi committed fraud between 2000 and 2003, when his Natural Building Maintenance painted dorm rooms at UCLA and provided janitorial services at the Rose Bowl, claiming the work had been done by 18 employees when, in fact, it was the labor of at least 300. Yi pleaded not guilty in November and is awaiting trial.

A craftier way to avoid paying workers' compensation: Shift employees around phony companies. Miguel and Linda Delgado created a fake entity to hide staff at their San Antonio, Tex. janitorial outfit, Border Maintenance Services, thereby reducing workers' comp premiums, says a suit filed by its insurer, Texas Mutual. The allegedly bogus company, Del-Kleen, got fat state contracts by showing it had insured its workers against injury, a requirement for state government jobs in Texas.

But, according to the complaint, the work was actually done by Border Main-

tenance's 450 employees. The company managed to avoid nearly \$1 million in comp premiums. The Delgados were ordered to pay \$1.6 million to Texas Mutual.

Another favorite trick: giving fake job titles to workers. James Duff pleaded guilty in January to fraudulently obtaining municipal contracts in Chicago. His Windy City Labor Service, which supplied temporary workers, ducked \$3 million in workers' comp insurance premiums by reclassifying nearly all 2,100 workers toiling in warehouses and refuse centers as paper pushers, even though he knew they were temporary day laborers engaged in manual labor, says a federal indictment. Clerical jobs carried premium rates of near 35 cents per \$100 of payroll, as opposed to \$8 for muscle jobs, according to court papers. (The payroll used to calculate the rate can be capped as high as \$84,500.) Duff is awaiting sentencing.

Hiding wages is a clever way to go—until you get caught. That, according to a suit filed by the California State Compensation Insurance Fund, was the intention behind Ideal Payroll Plus and Ideal Management, two Rancho Cucamonga, Calif. PEOs run as limited partnerships by David Clancy. The complaint alleges that by disguising half of the paid-out wages as distributions to partners, Clancy skirted \$1.3 million in premium payments.

How did it work? The partnerships hired and leased employees to a Buick dealership and a local roofer, among others, says the suit, and paid some wages legitimately. An associate, Telma Moguel, set up a trust that was financed by the partnerships to funnel the rest of employee wages through the trust as "partnership income," as if it were a payout from an investment. A California court hit the PEOs with a \$14.6 million default judgment in late December. Suits against Clancy and Moguel are pending; both deny wrongdoing.

"Premium scams milk workers' comp insurers out of untold millions," says James Quiggle at the Coalition Against Insurance Fraud, "depressing profits and forcing comp premiums higher for honest businesses." But there aren't enough cops to nab crooks. Jeffrey Korte, head of Florida's workers' comp fraud bureau, says his 26 investigators can't keep up.

In the 1990s workers' comp costs fell, thanks to deregulation, which goosed price competition among insurers, and the stock market, which helped insurance firms cover underwriting losses with investment income. The monster is back. Average employer costs per \$100 of wages were \$1.58 nationwide in 2002—down from \$2.18 at the 1990 peak, but steadily climbing since 2000, when they were \$1.33. The rate in California averages \$5.34.

It's enough to make you want to cheat the system. **F**

APRIL 6th
2003

Technology strengthens state tax enforcement

By Terry Fiedler
Star Tribune Staff Writer

The state caught on to a tax scam by a group of Northwest pilots the old-fashioned way: through a tip.

State officials were told to check the pilots' parking lots for clues that some were falsely claiming to be residents of lower-tax states. Sure enough, a scan in December 2001 found 34 cars bearing South Dakota plates, 22 cars with Texas license plates, 15 with Florida plates, 15 bearing Washington state plates, five with New Hampshire plates and three with Alaska plates. None of those places has a state income tax.

"It was pretty unlikely that they were commuting every day," said Jerry McClure, director of the individual income tax division of the Minnesota Depart-

Tax cheating: He said, she said

- > Nearly a third of both men and women said it was OK to cheat "a little here and there" on income taxes.
- > 18 percent of men and 9 percent of women said it was OK to cheat "as much as possible."
- > 49 percent of men and 59 percent of women responded that it is not acceptable to cheat on income taxes.

- > 40 percent of women believed that millions of wealthy people pay no federal taxes at all. 26 percent of men surveyed believed that is true.
- > 43 percent of women surveyed believed that businesses don't pay their fair share of income taxes. 31 percent of men surveyed thought that is true.

Source: Clarion University and Slippery Rock University poll.

ment of Revenue.

This tax season, technology is allowing the state to take compliance efforts to a new level. Armed with a new system

that allows the department to store, retrieve and compare data far more efficiently than ever before, investigators are taking a harder look at whole categories

of individuals who may be underpaying taxes or not paying at all.

Chief among those groups are the self-employed, such as roofers, carpet layers and electrical contractors.

"This is a fairly dramatic step up in our capabilities," McClure said. "Auditors can spend their time auditing instead of screening returns."

The department also appears to be in line to get 62 auditors and collectors in the next two years as part of a \$5.4 million increase in its budget. In return, the department is projecting that it will bring an additional \$32.4 million in tax revenue in that time.

TAXES continues on D4:

The system handles more than 3 million state tax forms that bring in about \$5 billion a year.

TAXES from D1

System handles more than 3 million state tax forms

The potential is vast. The state estimates that underreporting of income and failure to file returns costs the state as much as \$700 million a year.

McClure said the timing of stepped-up efforts is good not only because of the state budget crunch but also because times of economic stress generally lead to more tax cheating.

The department's so-called data warehouse, which started up in January, was one of the last pieces of an \$18.6 million computer system overhaul that began in 1999. The system now handles more than 3 million state income- and property-tax forms that bring in about \$5 billion in receipts each year.

McClure said the department

randomly identifies financially productive cases. For instance, the department quickly can identify how many people own Minnesota-based businesses that gross more than \$100,000 a year but aren't paying any personal state income tax.

The answer: 27.

Or it can match the number of people who have homesteaded house values of \$250,000 or more and haven't filed state income tax returns. About 200 are in that group.

And it has gotten the department focused on categories of people that the data suggest should be examined.

Roofers

The department randomly

identifies roofers vs. what roofers themselves reported as their income in the 1999 tax year.

The result got the department's attention. The company reported \$8 million paid to workers, but the workers reported only \$2 million in income to the state.

McClure said none of the businesses connected to the workers claimed to be the employer — roofers were considered independent contractors — so none of the workers had state taxes withheld from their paychecks. The state hopes to change that situation.

The lack of withholding, coupled with the fact that many roofing workers were illegal aliens, McClure said, meant that many workers simply collected their pay and left the state without paying any taxes.

Jim Bigham, spokesman for the Twin Cities Roofing Contractors Association, which represents about 60 firms that use their own union employees

and pay employee withholding with many independent contractors, but many of those roofers also are not covered by workers' compensation insurance. That could put homeowners at risk in the event of an injury, and creates an uneven playing field for firms that are following state rules, he added.

Carpet and floor layers

Several test audits showed what McClure called "some significant underreporting" of income to the state, with many people claiming expenses representing more than 50 percent of their gross receipts.

The department is auditing 80 people in this category.

McClure said that many routine living expenses — from food to parts of mortgage payments — are being written off in part or in whole even though they may have nothing to do with business.

test audits in this area. According to the IRS, contractors in general nationwide are considered to be among the least tax-compliant group among the self-employed, on average paying 40 percent of the taxes they should be.

McClure said there isn't strong evidence of underreporting of income, though in general the group normally represents a "problem area."

Temporary workers

The department is looking at the relationship between the compensation of temporary workers and temporary firms. Clients pay the temp firms, which in turn pay the temp workers, McClure said, but there's a difference between what the client pays and what the temp firms reportedly pay to workers that doesn't seem to be getting reported to the state.

The department's particular

Andrew Schmitz, an executive of Jeane Thorne Inc., a staffing firm in St. Paul and public relations director for the Staffing Association of Minnesota, said his firm treats its temp workers as employees.

"It's pretty straightforward," Schmitz said. "We pay their taxes and, unfortunately, we pay a lot of taxes just like everyone else."

He said it would be atypical for temp-firm employees to be considered self-employed, although there may be some "mavericks" operating that way.

In total, the department not only wants to go after the most egregious cases, it wants to create greater enforcement presence.

"It's the highway patrol syndrome," McClure said. "You slow down if you see them on the highway. If you never see the tax man, you might push it more."

R E M A R K S

**Edward C. Sullivan. President
Building & Construction Trades Dept.- AFL-CIO**

**The Social and Economic Costs of Employee
Misclassification in Construction Study
Panel Discussion**

**Construction Policy Research Center
Labor and Worklife Program, Harvard Law
School and Harvard School of Public Health**

Cambridge, MA

December 13, 2004

Thank you Mark....

It is a special privilege to be here today to discuss this important study on employee misclassification. On behalf of the Building Trades, I want to commend Dr. Carre (CAH-RAY) and Randall Wilson for their impressive work on this critical issue. Your findings help underscore the extent to which the growing underground economy negatively affects our society.

The misclassification of workers has been an all too common occurrence in all sectors of our economy for years.

The detriment to the construction industry, in particular, has been apparent. This independent study supports the anecdotal concerns put forth by construction tradesmen or women for decades and will hopefully serve as a catalyst for long overdue reform.

Today, I would like to specifically address the impact that the misclassification of employees is having on workers, not just in Massachusetts, but also across the nation.

An employer hires a worker; the worker performs a job and agrees to be paid a set hourly rate. Workers who will receive W-2's and those who will receive 1099's at the end of the year may work side-by-side doing the same job.

But, there is a big difference because the misclassified worker is being denied the basic rights and benefits afforded to workers in America...rights that took over a century to achieve...unemployment benefits, overtime pay, worker's compensation, social security and, in many cases, health insurance.

Short term, the worker is in a losing situation. Misclassified workers, particularly immigrant workers, are often compelled to work for a rate below prevailing wage or even minimum wage.

Misclassified workers are also under-compensated for extra hours worked when overtime rates are denied to them.

And a misclassified worker is left totally vulnerable if a lay-off or accident or illness leaves them without a paycheck. At the same, the worker's Social Security account is left dormant showing no employer contribution and growth toward retirement.

Long term, everyone else ultimately pays the price for employers who fail to meet their legal responsibilities. A laid-off or injured worker lacking unemployment or workers compensation benefits will be forced to turn to public services to survive.

Injured or sick workers lacking health insurance...and their families...must seek the most expensive kind of free care at hospital emergency rooms....this free care drives up the cost of health care and insurance across the board.

I would suggest that unionized construction workers pay the highest price for employers' misclassification of workers. Because this illegal practice effectively denies union workers access to those jobs by creating a situation where union contractors cannot bid on a level playing field with nonunion contractors, who deliberately misclassify their workers to undercut labor costs.

Nonunion contractors do not bear the costs of Social Security, Medicare, workers compensation or health insurance contributions for misclassified workers. This makes them more competitive and more profitable at the expense of others.

Ironically, in most states, union health insurance plans are required to pay a surcharge to fund the state's free-care pool. These free-care pools pay for the health care provided to misclassified workers. Therefore, union members and legitimate employers are actually paying the costs the health care that unscrupulous employers refuse to provide.

In Congress and the White House, Social Security and immigration are at the top of the 2005 agenda. I would suggest that there is no better time for them to address the problem of misclassified employees because it affects both of those major issues.

The misclassification practice has caused a major loss in revenue into Social Security and Medicare program accounts.

And the economic abuse of immigrant workers is not only illegal, it is immoral.

We can take a lesson from our neighbors to the north. Faced with a similar report to the one being released here today, almost a decade ago Canada declared war on what they refer to as "undeclared hours" and took concerted action to stop this underground economy practice. They mobilized all industries, modernized and increased inspections and stiffened penalties for noncompliance.

Let me give you a brief idea of their success by telling you about what happened in the province of Quebec alone.

Between 1996 and 2001, in just 5 years in one province, they recovered 70 million undeclared hours, which amounted to shutting down about 70% of potential underground hours.

They realized a fiscal recovery of \$580 million dollars as well as the restoration of a fair and competitive market. The program itself cost them \$34 million, which amounts to a \$1 investment for every \$21 retrieved from their underground economy.

And those are just the monetary considerations. What was reclaimed for those affected workers and their families in fair compensation, self-esteem and peace of mind cannot be calculated in dollars alone.

I believe we could realize a similar outcome if federal and state authorities take direct and sustained actions to confront the problem.

This will be only be possible if we start recognizing the misclassification of workers for what it really is: tax evasion and insurance fraud.

Ladies and gentlemen, this is not an innocent mistake by an employer or employer's accountant, whether motivated by greed or used to get an unfair advantage in the marketplace.

Misclassifying workers is a calculated and deliberate illegal action to avoid financial responsibility to state and federal governments, insurance providers and to workers.

Without much stronger enforcement of the laws governing employers and employment, this problem will only continue to fuel the growth of the underground economy in the U.S.

To accept the status quo only serves to unfairly punish taxpayers, legal workers and law-abiding employers.

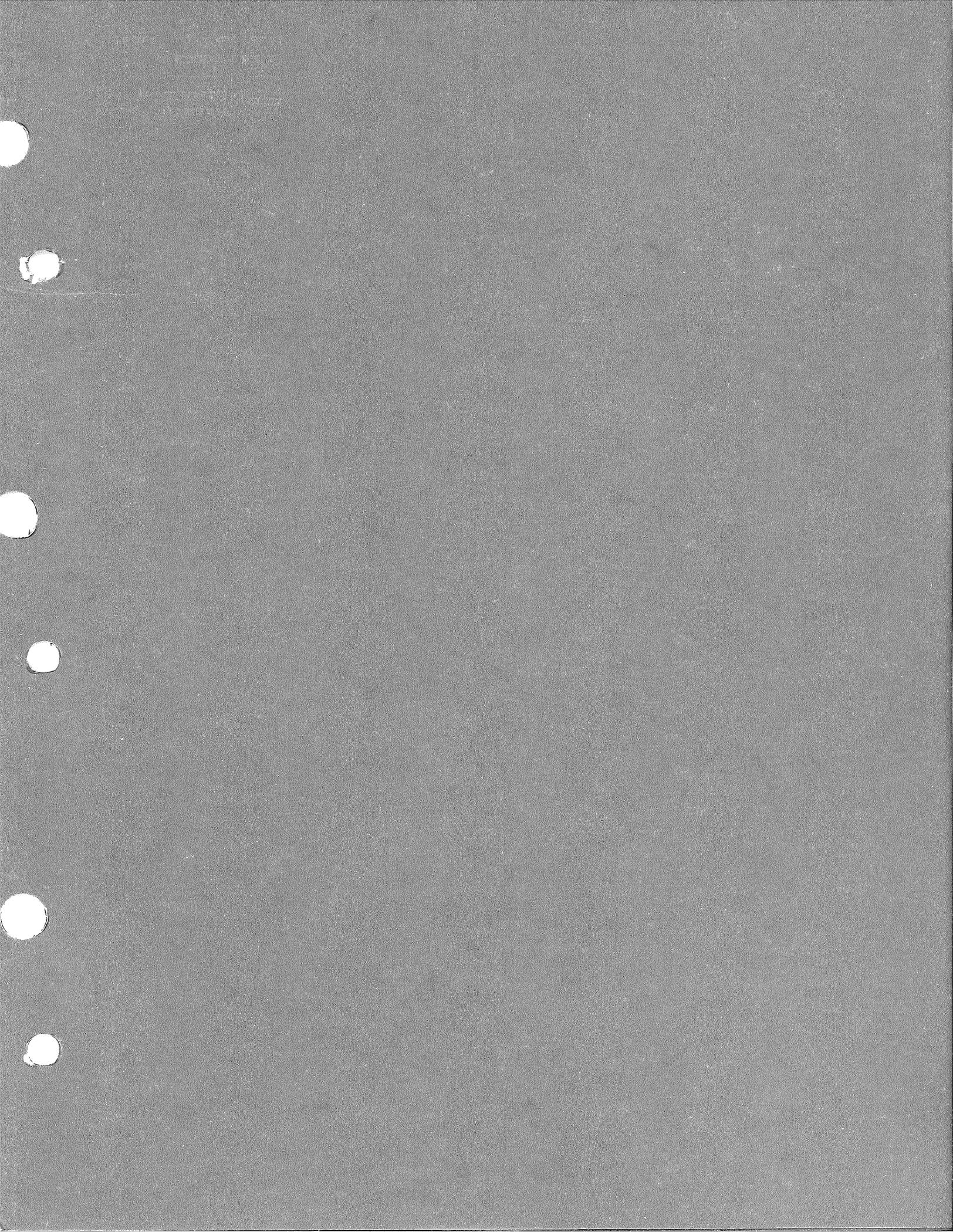
We are grateful to the Construction Policy Research Center Labor and Worklife Program, Harvard Law School and Harvard School of Public Health for helping to bring public attention to this critical problem.

I am hopeful that, armed with the results of this independent study from the UMass- Boston's McCormack Graduate School of Public Policy, we will be able to mobilize support across all industries and at both the state and federal levels for increased enforcement and needed policy change.

I can assure you that the Building Trades and all of organized labor will make this a priority in 2005.

Thank you.

(end)



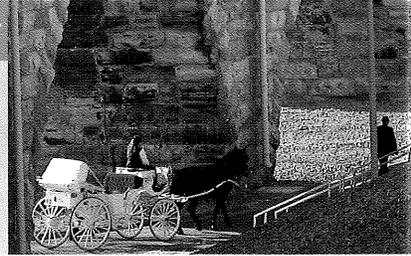


Great River Road Destination Areas:

- Mississippi Headwaters
- Mississippi Northwoods
- Mississippi Crossings
- Scenic Mississippi
- Metro Mississippi
- Mississippi Bluffs

LEGEND

- Interstate highway
- (10) U.S. highway
- (23) State highway
- (33) County state aid highway
- State park
- National forest
- ◆ National Great River Road Interpretive Center



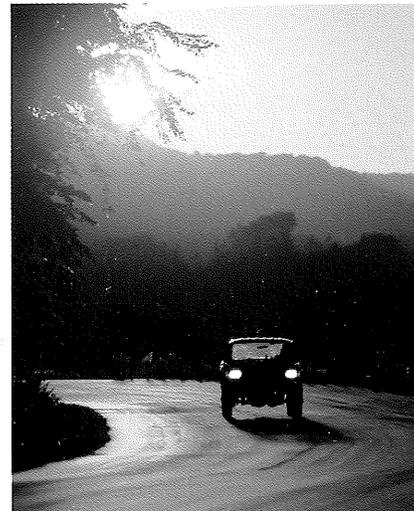
photos courtesy of Minnesota Office of Tourism

The Great River Road... National Scenic Byway of the Mississippi River

The Great River Road in Minnesota travels more than 500 miles beside the legendary Mississippi River. It is a network of roadways that offers travelers a myriad of river experiences – from the pristine Mississippi headwaters in Lake Itasca State Park through lush forest and the central lakes region, rich farmland and the metro bustle of the Twin Cities, to the awe-inspiring bluffs of Minnesota’s southeastern border.

Nature lovers will find ample opportunity to view wildlife along the byway and

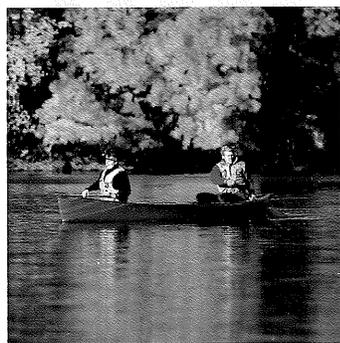
unique geological features throughout the 10 Great River Road State Parks and numerous scenic areas that border its route. We invite you to visit an interpretive center or a historic site to learn about the history and geology of the area and the role of the mighty river. Stop to take a hike on a woodland trail, paddle down river in a steamboat or canoe, or catch breathtaking views from the Mississippi bluffs, all the while partaking in one of America’s favorite pastimes: The Pleasure Drive.



For its cultural, recreational and scenic qualities, the Great River Road in Minnesota has been designated a National Scenic Byway by the Federal Highway Administration – a river and its road to be treasured, explored, experienced, enjoyed!

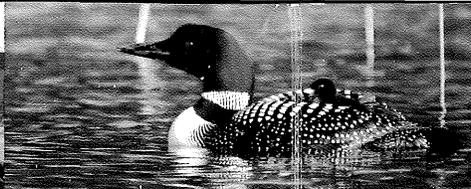


As you navigate the Great River Road, look for the green pilot’s wheel logo with the steamboat in the center. You’ll see “National Route” and “State Alternate Route” signs along the byway. The national route takes you on the officially designated Federal Highway Administration journey. The state route is an alternate route along the river that will take you to places of interest... a bit off the beaten path. Way finding on this map is for the National Route only. Please use the Official State Highway Map of Minnesota for more detailed mapping or visit our web site at www.mnmississippiriver.com.



Catch the Sensation of each Destination

Six distinct regions – or destination areas – with unique travel experiences have been identified along the Minnesota Great River Road, “anchored” on either end by larger cities that offer a variety of lodging, dining, entertainment and transportation options. The “destination area” concept for the byway is designed to help travelers navigate shorter, more focused trips. For the adventurous traveler, with about a week to travel, the wonders of the entire byway await! Use the destination area descriptions that follow to create the Mississippi River experience that’s just right for you. Enjoy the ride!



Mississippi Headwaters Lake Itasca State Park to Bemidji

(approx. 25 miles)

Come to leap the 15 stones that cross the humble source of the awesome Mississippi River, one of the world's greatest and longest waterways. Stay to experience the forested wonders of Lake Itasca State Park—Minnesota's first, established in 1891 to conserve its giant pines from logging. Head north to Bemidji, first city on the river. Don't miss the photo opportunity with legendary lumberjack Paul Bunyan and Babe his pet blue ox. Home of Bemidji State University and the famous Concordia Language Camps, Bemidji also offers fine shopping, dining and theater. Lake Bemidji offers lovely views and recreation for all seasons.

Great River Road State Parks:

- Lake Itasca State Park
- Lake Bemidji State Park

State Forests:

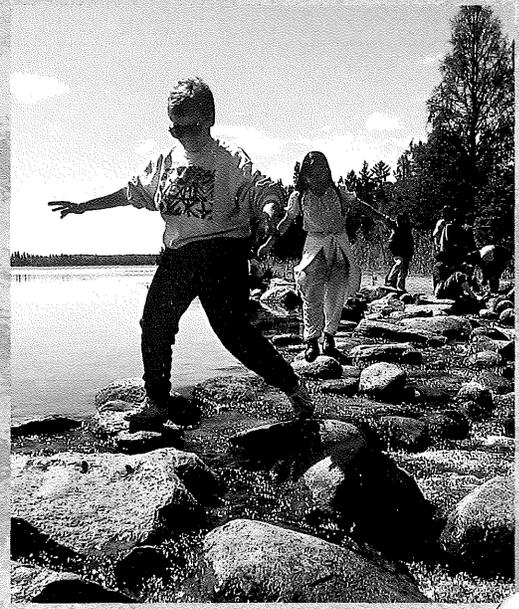
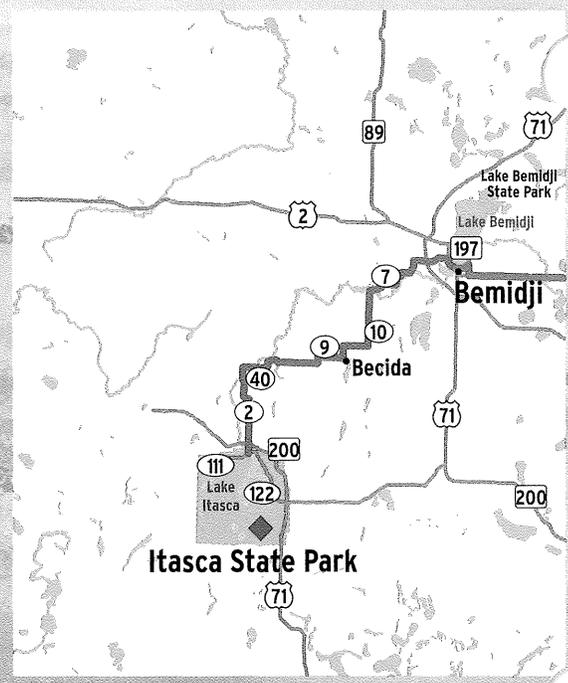
- Mississippi Headwaters State Forest
- Paul Bunyan State Forest

Historic Sites:

- Headwaters of the Mississippi River, Lake Itasca State Park
- ◆ Brower Visitor Center, Lake Itasca State Park
- Fireplace of States, Bemidji
- ◆ National Great River Road Interpretive Center

Destination Area Highlights:

- Wilderness Drive, scenic driving, biking or hiking path within Itasca State Park
- Statue of Paul Bunyan and Babe the Blue Ox, Bemidji
- Wildlife watching
- Resort vacationing



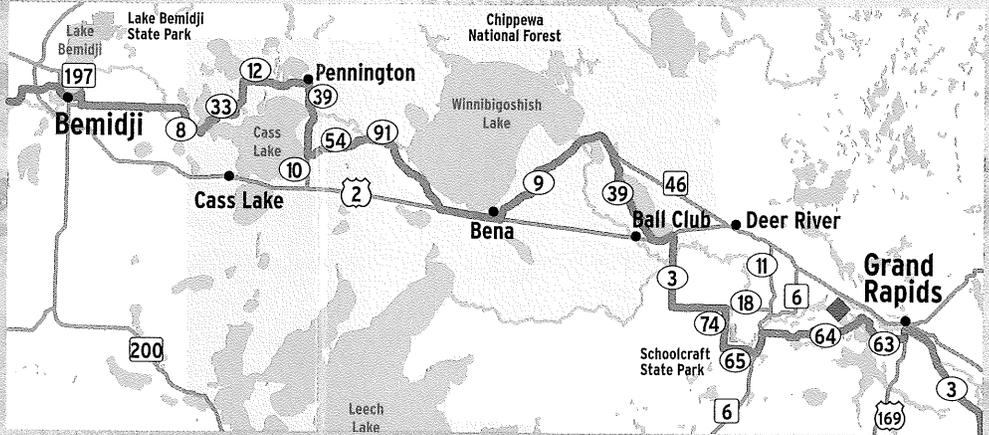
Mississippi Northwoods Bemidji to Grand Rapids

(prox. 80 miles)

Three of Minnesota's largest lakes are located along this stretch of the Great River Road, Cass, Leech and Winnibigoshish. The Mississippi actually flows through the heart of Cass and Winnibigoshish and one million acres of forest within the surrounding Chippewa National Forest.

The Cass Lake Chain of Lakes was part of the Red Lake-Leech Lake Trail; a series of interconnected waterways used as a "water highway" by the Native Americans, trappers and traders. Come to enjoy the serenity of the forest wilderness, the awesome red pines, Native American lore and the call of the loon. Grand Rapids offers visitors lots of amenities, shopping and entertainment. Once a

thriving logging community, Grand Rapids also offers visitors the chance to relive logging history on the river at the Forest History Center—a national Great River Road interpretive center.



Great River Road State Parks:

Schoolcraft State Park

National Forest:

Chippewa National Forest

Historic Sites:

- Lyle's Logging Camp, Cass Lake
- White Oak Rendezvous, Deer River
- ◆ Forest History Center, Grand Rapids
- ◆ National Great River Road Interpretive Center

Destination Area Highlights:

- Pow Wows, Leech Lake Indian Reservation
- Biking trails
- Cass Lake Museum, Cass Lake
- Star Island, Cass Lake
- Eagle watching
- Blandin Paper Company, Grand Rapids
- Judy Garland birthplace, Grand Rapids
- Art galleries, Grand Rapids
- & surrounds
- Mississippi Melodie Showboat, Grand Rapids
- Resort vacationing, hunting and fishing

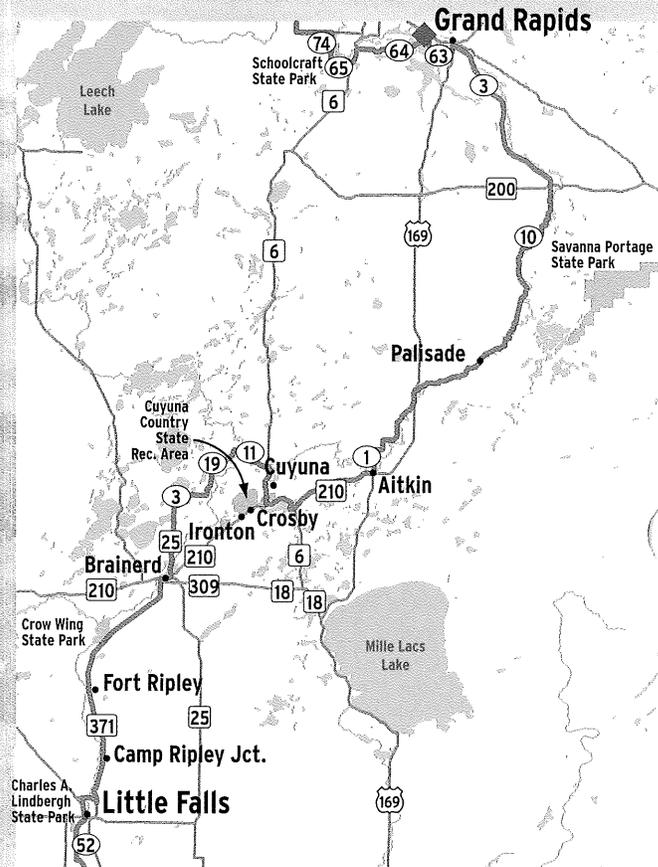




Mississippi Crossings Grand Rapids to Little Falls

(Approx. 125 miles)

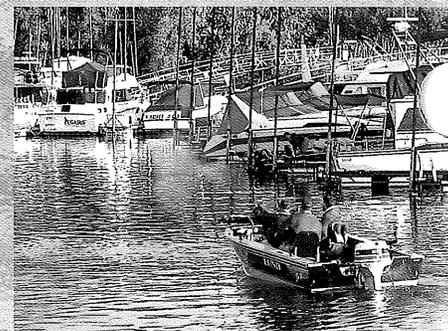
The Mississippi Crossings area of the Great River Road is named for its history as a crossways of transportation by river, rail and road; first for the voyageurs and fur traders, then the loggers, and today, for the thousands of vacationers that flock to this region each summer. The river was the main highway of the Native peoples of Minnesota and later served as a major transportation route for the booming fur trade and logging economies during the 18th and 19th centuries. Today, many of the 25 steamboat landings once located between Aitkin and Grand Rapids are water access and camping sites. Commerce in river transportation flourished in the early 1870s when access to the Mississippi was established by rail from Duluth. Both Aitkin and Brainerd served as Northern Pacific Railroad sites. Between Aitkin and Brainerd, just south of the Mississippi, lies the Cuyuna Iron Range, which produced over 100-million tons of high-manganese ore during WWI and WWII. From humble beginnings, area farmers, former loggers and railroad employees who owned good lake sites throughout the area in the early 1900s, created what was to become the booming lake resort communities of today. Providing good home-cooked meals and a piece of land to pitch a tent, these early "resorters" treated guests to a true wilderness experience. Today, visitors still enjoy the local hospitality, fishing, swimming, boating and now golfing, that are plentiful throughout this Great River Road destination area.

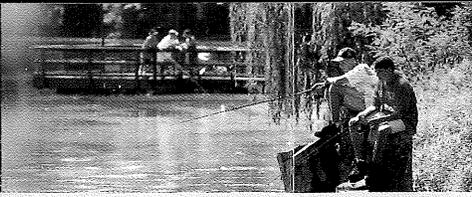


Great River Road State Parks:
Savannah Portage State Park
Crow Wing State Park
Charles A. Lindbergh State Park

Historic Sites:
Northern Pacific Depot, Aitkin
Croft Mine Historical Park, Crosby
Crow Wing County Historical Society
Museum, Brainerd
Minnesota Military Museum,
Camp Ripley

Destination Area Highlights:
Resort vacationing
Golfing, fishing, hiking, biking and canoeing
Antique shopping
Wildlife watching





Scenic Mississippi

Scenic Mississippi Little Falls to Elk River

(Approx. 90 miles)

The Scenic Mississippi Destination Area offers visitors an unspoiled river experience. Parks and gardens, complete with footbridges and fountains, dot the riverbanks and surrounding area in the region. Both Little Falls and St. Cloud boast historic main street districts, offering architectural beauty and a variety of shopping and dining experiences for travelers. Little Falls gained international fame as home to Charles Lindbergh, pilot of the first solo flight across the Atlantic Ocean. As its name implies, Little Falls was once the location of a natural waterfall on the river. Today, visitors find both a serene and exciting experience as they watch the water pause at the gates of a dam—first built at the falls site in the mid-1800s—then force its way through the man-made chutes, bubbling and spraying as it tumbles to the bed of slate below. Home to many businesses and St. Cloud State University, St. Cloud offers travelers a wide range of amenities and entertainment options. Traveling onward to Elk River, the Mississippi winds through lush farm and open prairie land as it journeys through Monticello and into Elk River on the northwestern fringe of the Twin Cities metropolitan area.

Great River Road State Parks:

Charles A. Lindbergh State Park

Historic Sites:

Charles A. Weyerhaeuser Memorial Museum & Home site, Little Falls

Charles A. Lindbergh home site, Little Falls

The Stearns County History Museum, St. Cloud

Oliver H. Kelley Farm, Elk River

Destination Area Highlights:

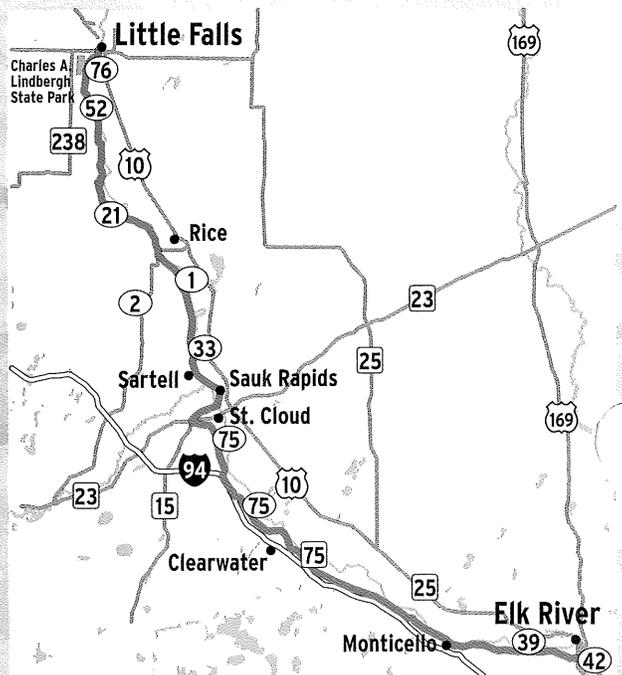
Mississippi River Dam, Little Falls

Minnesota Fishing Museum, Little Falls

Emmens & Munsinger Gardens, St. Cloud

Antique & craft shopping

River fishing and canoeing



www.mnmississippiriver.com



Metro Mississippi

Metro Mississippi Elk River to Hastings

(approx. 66 miles)

From the serene north woods, Big Muddy, as the Mississippi is affectionately—and sometimes realistically—called, meanders its way into the heart of the buzzing metro area of the Twin Cities of Minneapolis and St. Paul. Here, fine dining, a great theater scene, museums of all varieties, and world-class shopping are yours for the taking. Visit this Great River Road destination area for a big-city experience, but also to be inspired by nature on the fringe of commerce. Learn how the Mississippi River played a role in the creation of this tale of two cities.

Great River Road State Parks:

Fort Snelling State Park

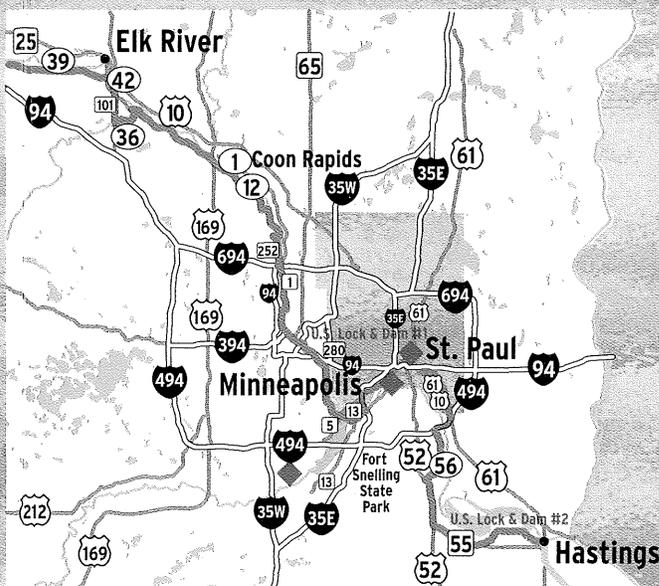
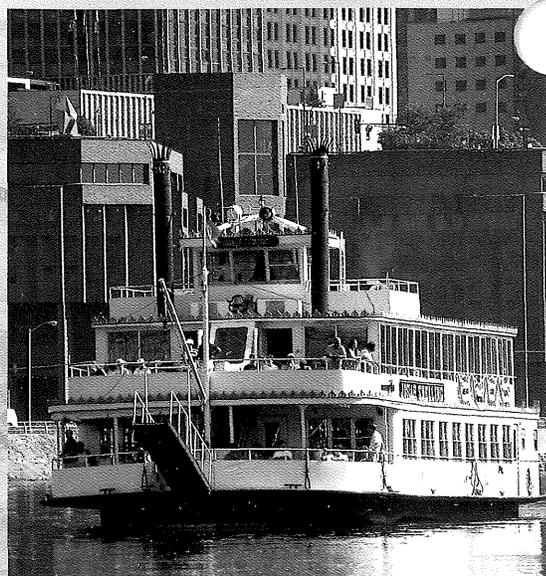
Historic Sites:

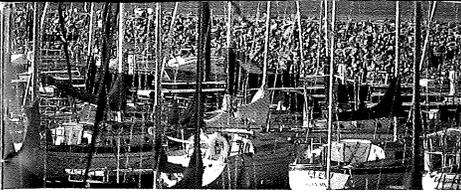
- ◆ St. Anthony Falls Heritage Trail / Stone Arch Bridge, Minneapolis
- ◆ Historic Fort Snelling, Minneapolis
- ◆ Minnesota History Center Museum, St. Paul
- ◆ Science Museum of Minnesota / Mississippi River Gallery, St. Paul
- James J. Hill House, St. Paul
- Alexander Ramsey House, St. Paul
- Wheeler House, St. Paul
- Le Duc House, Hastings

- ◆ National Great River Road Interpretive Centers

Destination Area Highlights:

- Coon Rapids Dam Regional Park, Coon Rapids
- Boom Island, Minneapolis
- Mississippi Mile, Minneapolis
- Mill Ruins Park, Minneapolis
- University of Minnesota, Minneapolis Campus
- Minnehaha Falls, Minneapolis
- Harriet Island, St. Paul
- Mississippi Riverboat excursions, Minneapolis & St. Paul
- St. Paul Cathedral
- Minnesota State Capitol, St. Paul
- Mounds Park, St. Paul
- Historic downtown Hastings
- Spring Lake Regional Park Reserve, Hastings





Bluffs Mississippi

Mississippi Bluffs Hastings to the Iowa Border

(approx. 105 miles)

The Mississippi Bluffs destination area is dotted with charming river towns, replete with historic main streets and wonderful river vistas. Plan a delightful day trip or a relaxing long weekend. Come to shop for antiques, woolens, pottery and more. Come to picnic and enjoy a concert along the Mississippi. Come to experience the splendor of the Mississippi Queen and Julia Bell Swain steamboats as they find respite in one of their upper Mississippi docking cities. Cozy up in a quaint bed & breakfast. Get out and enjoy the many recreational opportunities this region offers... fishing, boating, biking or hiking. Be amazed at the wildlife viewing, especially for birders. Take your pick of cities, or better yet visit them all.

Great River Road State Parks:

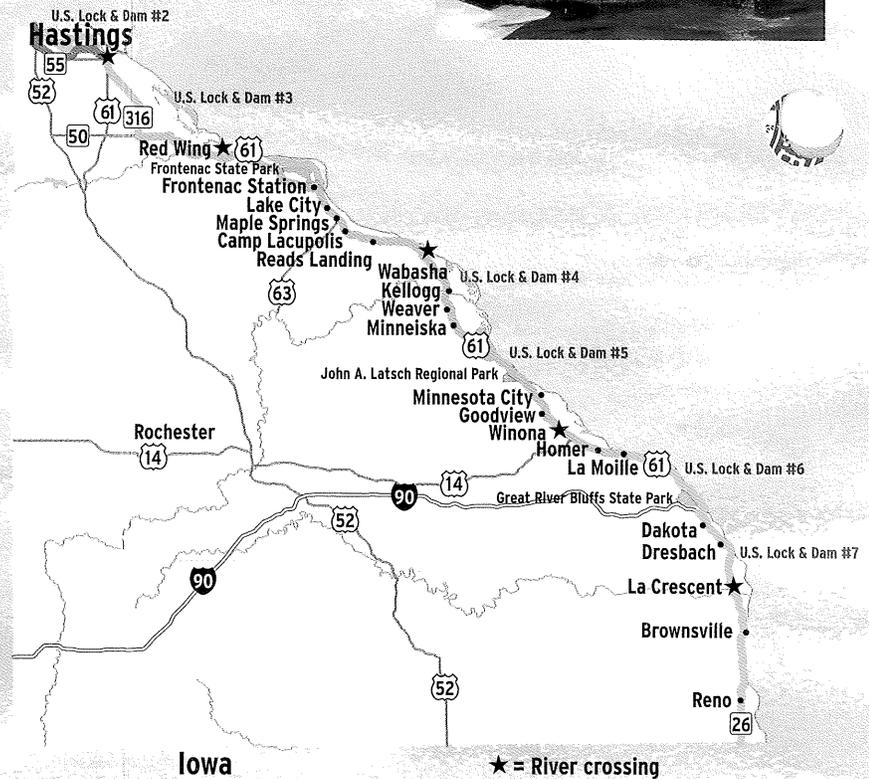
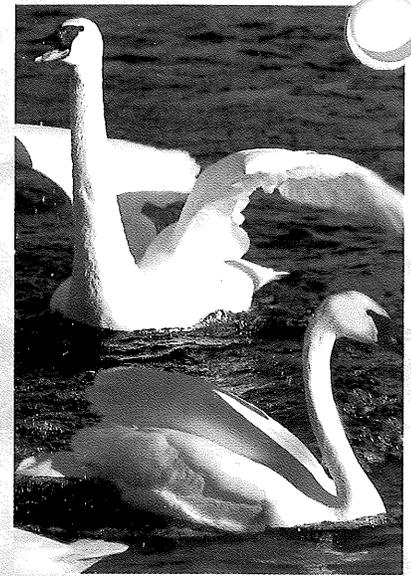
- Frontenac State Park
- Great River Bluffs State Park

Historic Sites:

- Le Duc Home, Hastings
- Goodhue County Museum, Red Wing
- Old Frontenac, Frontenac
- Wabasha County Museum, Reads Landing
- Julius Wilkins Steamboat Museum, Winona
- Winona County Historical Society Armory Museum, Winona

Destination Area Highlights:

- Mississippi River Lock & Dam #2, #3, #6, #7
- Levee Park & Milwaukee Depot, Red Wing
- Mississippi Queen Dockings, Red Wing & Winona
- Sorin & Barn Bluff, Red Wing
- Lake Pepin / Marina, Lake City
- National Eagle Center, Wabasha
- John Latsch Regional Park / Faith, Hope & Charity Bluffs, between Wabasha & Winona
- Garvin Heights Park, Winona
- Sugar Loaf Bluff, Winona
- Apple Orchards, La Crescent





MINNESOTA MISSISSIPPI RIVER
PARKWAY COMMISSION
P.O. Box 59159
Minneapolis, MN 55459-8257
Phone: 763-212-2560
e-mail:
info@mnmississippiriver.com
Web: www.mnmississippiriver.com



MINNESOTA OFFICE OF TOURISM
Phone: 1-800-657-3700 (outstate)
or 651-296-5029
Web: www.exploreminnesota.com



NATIONAL SCENIC BYWAYS
www.byways.org

Destination Area Tourism Contacts:

Mississippi Headwaters:

LAKE ITASCA STATE PARK TO BEMIDJI
Bemidji Visitors & Convention Bureau
218-444-3541
800-458-2223
www.visitbemidji.com

Bemidji-Beltrami County Airport
218-751-3726

Mississippi Northwoods:

BEMIDJI TO GRAND RAPIDS
Bemidji Visitors & Convention Bureau
218-444-3541
800-458-2223
www.visitbemidji.com

Cass Lake Chamber of Commerce
218-335-2250
800-356-8615
www.casslake.com

Grand Rapids - Itasca County Airport
218-326-0893

Mississippi Crossings:

GRAND RAPIDS TO LITTLE FALLS
Grand Rapids Convention & Visitors Bureau
218-326-9607
800-355-9740
www.visitgrandrapids.com

Aitkin Chamber of Commerce
218-927-2316
800-526-8342
www.aitkin.com

Cuyuna Range Chamber of Commerce
(Crosby, Cuyuna, Deerwood, Emily, Ironton,
Riverton & Trommald)
218-546-8131
e-mail: chamber@emily.net

Brainerd Lakes Area Chamber of Commerce
218-829-2838
800-450-2838
www.explorebrainerdlakes.com

Brainerd-Crow Wing County Airport
218-828-0572

Scenic Mississippi:

LITTLE FALLS TO ELK RIVER
Little Falls Convention & Visitors Bureau
320-616-4959
800-325-5916
www.littlefallsmn.com

St. Cloud Convention & Visitors Bureau
320-251-4170
800-264-2940
www.visitstcloudmn.com

Monticello Chamber of Commerce
763-295-2700
www.monticellochamber.com

St. Cloud Regional Airport
320-251-8574

Metro Mississippi:

ELK RIVER TO HASTINGS
Elk River Chamber of Commerce
763-441-3110

Minneapolis Metro North Convention & Visitors Bureau
763-566-7722
800-541-4364
www.justaskmn.com

Greater Minneapolis Convention & Visitors Association
612-661-4700
888-676-6757
www.minneapolis.org

Saint Paul Convention & Visitors Bureau
651-265-4900
800-627-6101
www.stpaulcvb.org

Minneapolis-St. Paul International Airport -
Northwest Airlines
800-225-2525

Mississippi Bluffs:

HASTINGS TO IOWA BORDER
Hastings Convention & Visitors Bureau
651-437-6775
888-612-6122
www.hastingsmn.org

Red Wing Visitors & Convention Bureau
651-385-5934
800-498-3444
www.redwing.org

Lake City Chamber of Commerce
800-369-4123
877-525-3248
www.lakecitymn.org

Reads Landing
www.mississippi-river.org

Wabasha Chamber of Commerce
651-565-4158
800-565-4158
www.wabashamn.org

Kellogg
507-767-4953
www.mississippi-river.org

Winona Convention & Visitors Bureau
507-452-2272
800-657-4972
www.visitwinona.com

La Crescent Chamber of Commerce
507-895-2800
800-926-9480
www.lacrescent.com/Chamber.html

This map was produced by the Minnesota Mississippi River Parkway Commission with funds from the Minnesota Office of Tourism and the Federal Highway Administration National Scenic Byway Program.

1 A bill for an act

2 relating to natural resources; providing for
3 evaluation of construction aggregate located on school
4 trust lands; appropriating money; amending Minnesota
5 Statutes 2004, section 16A.125, subdivision 5, by
6 adding a subdivision.

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

8 Section 1. Minnesota Statutes 2004, section 16A.125,
9 subdivision 5, is amended to read:

10 Subd. 5. [FOREST TRUST LANDS.] The term "state forest
11 trust fund lands" as used in this subdivision, means public land
12 in trust under the Constitution set apart as "forest lands under
13 the authority of the commissioner" of natural resources as
14 defined by section 89.001, subdivision 13.

15 The commissioner of finance shall credit the revenue from
16 the forest trust fund lands to the forest suspense account. The
17 account must specify the trust funds interested in the lands and
18 the respective receipts of the lands.

19 After a fiscal year, the commissioner of finance shall
20 certify the total costs incurred for forestry during that year
21 under appropriations for the protection, improvement,
22 administration, and management of state forest trust fund lands
23 and construction and improvement of forest roads to enhance the
24 forest value of the lands. The certificate must specify the
25 trust funds interested in the lands. The commissioner of
26 natural resources shall supply the commissioner of finance with

1 the information needed for the certificate.

2 After a fiscal year and after the appropriation under
3 subdivision 11, the commissioner shall distribute the receipts
4 credited to the suspense account during that fiscal year as
5 follows:

6 (a) The amount of the certified costs incurred by the state
7 for forest management during the fiscal year shall be
8 transferred to the general fund.

9 (b) The balance of the receipts shall then be returned
10 prorated to the trust funds in proportion to their respective
11 interests in the lands which produced the receipts.

12 Sec. 2. Minnesota Statutes 2004, section 16A.125, is
13 amended by adding a subdivision to read:

14 Subd. 11. [APPROPRIATION TO EVALUATE CONSTRUCTION
15 AGGREGATE POTENTIAL.] In fiscal years 2006 and 2007, \$50,000 is
16 annually appropriated from money accruing and credited to the
17 forest suspense account for school trust lands to the
18 commissioner of natural resources to identify, evaluate, and
19 lease construction aggregates located on school trust lands.

Fiscal Note – 2005-06 Session

Bill #: S0712-0 **Complete Date:** 03/21/05

Chief Author: STUMPF, LEROY

Title: TRUST LANDS CONSTRUCTION AGGREGATE

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

Agency Name: Natural Resources Dept

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

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Permanent School Fund		50	50	50	50
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
Permanent School Fund		50	50	50	50
Revenues					
Permanent School Fund				75	150
Net Cost <Savings>					
Permanent School Fund		50	50	(25)	(100)
Total Cost <Savings> to the State		50	50	(25)	(100)

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
Permanent School Fund		0.60	0.60	0.60	0.60
Total FTE		0.60	0.60	0.60	0.60

Bill Description

This bill will annually appropriate \$50,000 to the Commissioner of Natural Resources from the Forest Suspense Account in the Permanent School Fund for site-specific aggregate evaluations on school trust fund land.

The DNR has done site-specific resource evaluations for aggregate deposits (sand and gravel) on a small number of lands it manages, which have subsequently been leased for mining and are currently generating royalty revenues. The extent and quality of aggregate deposits is unknown until an evaluation is conducted. The evaluation provides information necessary to place a fair value on the deposit and to develop a mine plan that ensures protection of surrounding features such as wetlands and groundwater. This proposal would allow a substantial increase in the number of lands that could be evaluated.

Assumptions

Aggregate resources that are identified are expected to support mining activity for a period of 5 to 10 years and will yield a return of about 10 to 20 times the amount of the evaluation investment.

Expenditure and/or Revenue Formula

Expenditures are based on the salary for 0.6 FTEs. The personnel will include a geologist and a technician to operate exploration-drilling equipment. Payment for drilling equipment and aggregate analysis is included in the budget.

Long-Term Fiscal Considerations

Revenue generated as a result of the proposal is not expected until approximately two years after the evaluation activities are complete. The intervening time will be spent in conducting leasing activities and pre-mining development activities that are conducted by the mine operator. Mine lives of approximately ten years are expected.

Local Government Costs

None anticipated.

References and Sources

The aggregate inventory on School Trust Lands is included in the Governor's Biennial Budget Proposal.

Agency Contact Name: Paul Pojar, Lands and Minerals (651) 296-1049
FN Coord Signature: BRUCE NASLUND
Date: 03/21/05 Phone: 297-4909

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: MARSHA BATTLES-JENKS
Date: 03/21/05 Phone: 296-8510

1 A bill for an act

2 relating to government data practices; providing a
3 maximum copy fee for certain copies of data; amending
4 Minnesota Statutes 2004, section 13.03, subdivision 3.

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

6 Section 1. Minnesota Statutes 2004, section 13.03,
7 subdivision 3, is amended to read:

8 Subd. 3. [REQUEST FOR ACCESS TO DATA.] (a) Upon request to
9 a responsible authority or designee, a person shall be permitted
10 to inspect and copy public government data at reasonable times
11 and places, and, upon request, shall be informed of the data's
12 meaning. If a person requests access for the purpose of
13 inspection, the responsible authority may not assess a charge or
14 require the requesting person to pay a fee to inspect data.

15 (b) For purposes of this section, "inspection" includes,
16 but is not limited to, the visual inspection of paper and
17 similar types of government data. Inspection does not include
18 printing copies by the government entity, unless printing a copy
19 is the only method to provide for inspection of the data. In
20 the case of data stored in electronic form and made available in
21 electronic form on a remote access basis to the public by the
22 government entity, inspection includes remote access to the data
23 by the public and the ability to print copies of or download the
24 data on the public's own computer equipment. Nothing in this
25 section prohibits a government entity from charging a reasonable

1 fee for remote access to data under a specific statutory grant
2 of authority. A government entity may charge a fee for remote
3 access to data where either the data or the access is enhanced
4 at the request of the person seeking access.

5 (c) The responsible authority or designee shall provide
6 copies of public data upon request. If a person requests copies
7 or electronic transmittal of the data to the person, the
8 responsible authority may require the requesting person to pay
9 the actual costs of searching for and retrieving government
10 data, including the cost of employee time, and for making,
11 certifying, compiling, and electronically transmitting the
12 copies of the data or the data, but may not charge for
13 separating public from not public data. However, if 300 or
14 fewer paper copies are requested, for readily available
15 documents actual costs shall not be used, and instead the
16 responsible authority may assess a set fee per copy, which shall
17 not exceed 25 cents for each separate page. If the responsible
18 authority or designee is not able to provide copies at the time
19 a request is made, copies shall be supplied as soon as
20 reasonably possible.

21 (d) When a request under this subdivision involves any
22 person's receipt of copies of public government data that has
23 commercial value and is a substantial and discrete portion of or
24 an entire formula, pattern, compilation, program, device,
25 method, technique, process, database, or system developed with a
26 significant expenditure of public funds by the agency, the
27 responsible authority may charge a reasonable fee for the
28 information in addition to the costs of making, certifying, and
29 compiling the copies. Any fee charged must be clearly
30 demonstrated by the agency to relate to the actual development
31 costs of the information. The responsible authority, upon the
32 request of any person, shall provide sufficient documentation to
33 explain and justify the fee being charged.

34 (e) The responsible authority of a state agency, statewide
35 system, or political subdivision that maintains public
36 government data in a computer storage medium shall provide to

1 any person making a request under this section a copy of any
2 public data contained in that medium, in electronic form, if the
3 government entity can reasonably make the copy or have a copy
4 made. This does not require a government entity to provide the
5 data in an electronic format or program that is different from
6 the format or program in which the data are maintained by the
7 government entity. The entity may require the requesting person
8 to pay the actual cost of providing the copy.

9 (f) If the responsible authority or designee determines
10 that the requested data is classified so as to deny the
11 requesting person access, the responsible authority or designee
12 shall inform the requesting person of the determination either
13 orally at the time of the request, or in writing as soon after
14 that time as possible, and shall cite the specific statutory
15 section, temporary classification, or specific provision of
16 federal law on which the determination is based. Upon the
17 request of any person denied access to data, the responsible
18 authority or designee shall certify in writing that the request
19 has been denied and cite the specific statutory section,
20 temporary classification, or specific provision of federal law
21 upon which the denial was based.

1 To: Senator Cohen, Chair

2 Committee on Finance

3 Senator Sams,

4 Chair of the Environment, Agriculture and Economic
5 Development Budget Division, to which was referred

6 S.F. No. 966: A bill for an act relating to government
7 data practices; providing a maximum copy fee for certain copies
8 of data; amending Minnesota Statutes 2004, section 13.03,
9 subdivision 3.

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

12

13

14

15

16

17

18

Oscar Sams.....
(Division Chair)

April 19, 2005.....
(Date of Division action)

Consolidated Fiscal Note – 2005-06 Session

Bill #: S0966-1E **Complete Date:** 04/12/05

Chief Author: BETZOLD, DON

Title: GOVT DATA COPIES MAXIMUM SET FEE

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

Agencies: Labor & Industry (04/11/05)
 Administrative Hearings (04/08/05)
 Emergency Medical Svs Reg Bd (04/11/05)
 Commerce (04/05/05)

Secretary Of State (04/06/05)
 Employment & Economic Dev Dept (04/05/05)
 Agriculture Dept (04/11/05)

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

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
Workers Compensation Fund					
Labor & Industry					
Revenues					
Workers Compensation Fund		(158)	(158)	(158)	(158)
Labor & Industry		(158)	(158)	(158)	(158)
Net Cost <Savings>					
Workers Compensation Fund		158	158	158	158
Labor & Industry		158	158	158	158
Total Cost <Savings> to the State		158	158	158	158

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

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KEITH BOGUT
 Date: 04/12/05 Phone: 296-7642

Fiscal Note – 2005-06 Session

Bill #: S0966-1E **Complete Date:** 04/11/05

Chief Author: BETZOLD, DON

Title: GOVT DATA COPIES MAXIMUM SET FEE

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

Agency Name: Labor & Industry

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

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Workers Compensation Fund					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
Workers Compensation Fund					
Revenues					
Workers Compensation Fund		(158)	(158)	(158)	(158)
Net Cost <Savings>					
Workers Compensation Fund		158	158	158	158
Total Cost <Savings> to the State		158	158	158	158

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

Bill Description

Minnesota Statutes section 13.03, subdivision 3(c) states that the responsible authority or designee shall provide copies of public data upon request. If a person requests copies or electronic transmittal of the data to the person, the responsible authority may require the requesting person to pay the actual costs of searching for and retrieving government data, including the cost of employee time, and for making, certifying, compiling, and transmitting the data.

This bill establishes a maximum fee of 25 cents per page that an agency may charge for providing paper copies of documents that are readily available if the quantity of requested documents are 300 or fewer rather than using the actual costs of producing the copies.

Assumptions

The Department of Labor and Industry's Copy File Review (CFR) unit provides copies of workers' compensation documents to requesting parties. CFR receives 400 to 450 requests for paper copies of documents per month, 98% of which are for less than 300 pages per request. Total estimated number of pages per year is 408,000. CFR recovers its costs by charging the requesting parties a fee of 65 cents per page. By reducing the fee collected, the CFR unit will no longer recover 100% of its costs and would require supplemental funding from the workers' compensation fund.

Expenditure and/or Revenue Formula

Cost of providing copies	\$260,000
Recovery @ 25 cents	<u>102,000</u>
Additional funds required	\$158,000

References/Sources

Copy File Review

Agency Contact Name: Michael Gaustad (651-284-5464)
FN Coord Signature: CINDY FARRELL
Date: 04/11/05 Phone: 284-5528

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KEITH BOGUT
Date: 04/11/05 Phone: 296-7642

Fiscal Note – 2005-06 Session

Bill #: S0966-1E **Complete Date:** 04/11/05

Chief Author: BETZOLD, DON

Title: GOVT DATA COPIES MAXIMUM SET FEE

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

Agency Name: Emergency Medical Svs Reg Bd

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

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

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

Bill Description

SF 0966-1E – Government Data Copies Maximum Set Fee

This bill establishes a maximum fee of 25 cents per page that an agency may charge for providing paper copies of documents that are readily available if the quantity of requested documents are less than 300.

Assumptions**Expenditure and/or Revenue Formula**

The number of requests for paper copies of documents the Emergency Medical Services Regulatory Board receives is negligible; therefore, there is no fiscal impact.

Long-Term Fiscal Considerations**Local Government Costs****References/Sources**

FN Coord Signature: JULI VANGSNESS
Date: 04/06/05 Phone: 617-2120

FN Coord Signature: JULI VANGSNESS
Date: 04/11/05 Phone: 617-2120

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN
Date: 04/11/05 Phone: 286-5618

Fiscal Note – 2005-06 Session

Bill #: S0966-1E **Complete Date:** 04/11/05

Chief Author: BETZOLD, DON

Title: GOVT DATA COPIES MAXIMUM SET FEE

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

Agency Name: Agriculture Dept

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

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

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

This bill version has no fiscal effect on our agency.

The Department of Agriculture (MDA) receives numerous and highly detailed requests for information. However, the department already follows the proposed data practices requirements in this bill.

MDA currently charges nothing for copies if the request is for ten or fewer pages. If the request is for more than ten pages, the charge is \$0.25 per page plus \$15 per hour for search/retrieval time after the first half hour, for which there is no charge.

Retrieval charges are rarely made. M.S. 13.03 requires government data to be kept easily accessible. The time required to process data requests is not normally in compiling the data, but rather in reviewing the data for any non-public data. M.S. 13.03 does not allow charges to be made for this type of work.

FN Coord Signature: STEVE ERNEST
Date: 04/11/05 Phone: 215-5770

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: LEONIE HUANG
Date: 04/11/05 Phone: 296-5779

Fiscal Note – 2005-06 Session

Bill #: S0966-1E **Complete Date:** 04/06/05

Chief Author: BETZOLD, DON

Title: GOVT DATA COPIES MAXIMUM SET FEE

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

Agency Name: Secretary Of State

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

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

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

We have reviewed the bill and determined there is no fiscal impact to our agency.

Agency contact:
Alberto Quintela
651-201-1321

Agency Contact Name: Alberto Quintela 651-201-1321
FN Coord Signature: KATHY HJELM
Date: 04/05/05 Phone: 201-1361

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: TIM JAHNKE
Date: 04/06/05 Phone: 296-6237

Fiscal Note – 2005-06 Session

Bill #: S0966-1E **Complete Date:** 04/08/05

Chief Author: BETZOLD, DON

Title: GOVT DATA COPIES MAXIMUM SET FEE

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

Agency Name: Administrative Hearings

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

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

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

This bill version has no fiscal effect on our agency.

This bill deals with requests pursuant to Chapter 13 to inspect and copy public documents. It provides that agencies cannot charge actual costs when the request is for 300 or fewer paper copies of documents that are readily available. Rather, in such cases agencies must assess a copy charge of 25 cents per copy.

OAH policy and practice has been, and currently is, to assess a per copy charge of 25 cents per copy for paper copies of documents that are readily available in cases involving requests for 300 or fewer copies. The bill will therefore involve no fiscal impact for OAH.

FN Coord Signature: SUSAN SCHLEISMAN
Date: 04/07/05 Phone: 341-7644

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: TIM JAHNKE
Date: 04/08/05 Phone: 296-6237

Fiscal Note – 2005-06 Session

Bill #: S0966-1E **Complete Date:** 04/05/05

Chief Author: BETZOLD, DON

Title: GOVT DATA COPIES MAXIMUM SET FEE

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

Agency Name: Employment & Economic Dev Dept

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

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

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

This bill version has no fiscal effect on our agency.

FN Coord Signature: MIKE MEYER
Date: 04/05/05 Phone: 297-1978

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KEITH BOGUT
Date: 04/05/05 Phone: 296-7642

Fiscal Note – 2005-06 Session

Bill #: S0966-1E **Complete Date:** 04/05/05

Chief Author: BETZOLD, DON

Title: GOVT DATA COPIES MAXIMUM SET FEE

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

Agency Name: Commerce

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

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

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

Bill Description

Senate File 966-1E proposes to set a maximum of \$0.25 per page for document copies.

Assumptions

- 1) The Department of Commerce does not charge more than \$0.25 per page for copies.
- 2) The amended statute will not affect the department's fees or services.
- 3) The department is in the process of making many documents available electronically, via the Internet, at no charge.

Expenditure and/or Revenue Formula

Not applicable.

Long-Term Fiscal Considerations

None.

Local Government Costs

None.

References/Sources

Karen Santori
karen.santori@state.mn.us

FN Coord Signature: MICHAEL F. BLACIK
Date: 04/05/05 Phone: 297-2117

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KEITH BOGUT
Date: 04/05/05 Phone: 296-7642

Senators Senjem and Saxhaug introduced—

S. F. No. 480 Referred to the Committee on Finance

1 A bill for an act
2 relating to appropriations; appropriating money to the
3 Mississippi River Parkway Commission.
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
5 Section 1. [APPROPRIATION.]
6 \$59,000 in fiscal year 2006 and \$59,000 in fiscal year 2007
7 are appropriated from the general fund to the Mississippi River
8 Parkway Commission to support tourism and economic development
9 along the Great River Road.

1 Senator moves to amend S.F. No. 480 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. [APPROPRIATION.]

4 \$50,000 in fiscal year 2006 is appropriated from the

5 general fund to the Legislative Coordinating Commission for the

6 Mississippi River Parkway Commission to support tourism and

7 economic development along the Great River Road."

1 Senator moves to amend S.F. No. 480 as follows:

2 Page 1, after line 4, insert:

3 "Section 1. Minnesota Statutes 2004, section 161.1419,
4 subdivision 2, is amended to read:

5 Subd. 2. [MEMBERS.] (a) The commission shall be composed
6 of 15 members of whom:

7 (1) one shall be appointed by the commissioner of
8 transportation;

9 (2) one shall be appointed by the commissioner of natural
10 resources;

11 (3) one shall be appointed by the ~~commissioner of~~
12 ~~employment-and-economic-development~~ director of Explore
13 Minnesota Tourism;

14 (4) one shall be appointed by the commissioner of
15 agriculture;

16 (5) one shall be appointed by the director of the Minnesota
17 Historical Society;

18 (6) two shall be members of the senate to be appointed by
19 the Committee on Committees;

20 (7) two shall be members of the house of representatives to
21 be appointed by the speaker;

22 (8) one shall be the secretary appointed pursuant to
23 subdivision 3; and

24 (9) five shall be citizen members appointed by five citizen
25 committees established by the members appointed under clauses
26 (1) to (8), with each citizen committee established within and
27 representing each of the following geographic segments along the
28 Mississippi River:

29 (i) Lake Itasca to but not including the city of Grand
30 Rapids;

31 (ii) Grand Rapids to but not including the city of
32 Brainerd;

33 (iii) Brainerd to but not including the city of Elk River;

34 (iv) Elk River to but not including the city of Hastings;

35 and

36 (v) Hastings to the Iowa border.

1 Each citizen committee member shall be a resident of the
2 geographic segment that the committee and member represents.

3 (b) The members of the commission shall serve for a term
4 expiring at the close of each regular session of the legislature
5 and until their successors are appointed. Successor members
6 shall be appointed by the same appointing authorities. Members
7 may be reappointed. Any vacancy shall be filled by the
8 appointing authority. The commissioner of transportation, the
9 commissioner of natural resources, and the director of the
10 Minnesota Historical Society shall be ex officio members, and
11 shall be in addition to the 15 members heretofore provided for.
12 Immediately upon making the appointments to the commission the
13 appointing authorities shall so notify the Mississippi River
14 Parkway Commission, hereinafter called the National Commission,
15 giving the names and addresses of the members so appointed.

16 Sec. 2. Minnesota Statutes 2004, section 161.1419, is
17 amended by adding a subdivision to read:

18 Subd. 3a. [GIFTS, GRANTS, AND ENDOWMENTS.] The commission
19 may accept gifts of money, property, or services, may apply for
20 and accept grants from the United States, the state, a
21 subdivision of the state, or a person for any of its purposes;
22 may enter into an agreement required in connection with it; and
23 may hold, use, and dispose of the money, property, or services
24 in accordance with the terms of the gift, grant, or agreement
25 relating to it. The commission may also make grants, gifts, and
26 bequests of money, property, or services and enter into
27 contracts to carry out the same. The gift acceptance procedures
28 of sections 16A.013 to 16A.016 do not apply to this section.

29 [EFFECTIVE DATE.] This section is effective the day
30 following final enactment."

31 Renumber the sections in sequence and correct the internal
32 references

33 Amend the title accordingly

Senators Rest; Johnson, D.E.; Day; Cohen and Neuville introduced--
S.F. No. 2011: Referred to the Committee on Finance.

1 A bill for an act

2 relating to the Minnesota sesquicentennial;
3 establishing a Sesquicentennial Commission;
4 appropriating money.

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

6 Section 1. [SESQUICENTENNIAL COMMISSION.]

7 Subdivision 1. [COMMISSION; PURPOSE.] The Minnesota
8 Sesquicentennial Commission is established to plan for
9 activities relating to Minnesota's 150th anniversary of
10 statehood. The commission shall create a plan for capital
11 improvements, celebratory activities, and public engagement in
12 every county in the state of Minnesota.

13 Subd. 2. [MEMBERSHIP.] The commission shall consist of 17
14 members who shall serve until the completion of the
15 sesquicentennial year of statehood, appointed as follows:

16 (1) nine members appointed by the governor, representing
17 major corporate, nonprofit, and public sectors of the state,
18 selected from all parts of the state;

19 (2) two members appointed by the speaker of the house of
20 representatives;

21 (3) two members appointed by the minority leader of the
22 house of representatives;

23 (4) two members from the majority party in the senate,
24 appointed by the Subcommittee on Committees; and

25 (5) two members from the minority party in the senate,

1 appointed by the Subcommittee on Committees.

2 Subd. 3. [COMPENSATION; OPERATION.] Members shall select a
3 chair from the membership of the commission. The chair shall
4 convene all meetings and set the agenda for the commission. The
5 Minnesota Historical Society shall provide office space and
6 staff support for the commission, and shall cooperate with the
7 University of Minnesota and Minnesota State Colleges and
8 Universities to support the programs of the commission.
9 Meetings shall be at the call of the chair. The commission may
10 appoint an advisory council to advise and assist the commission
11 with its duties. Members shall receive no compensation for
12 service on the Sesquicentennial Commission. Members appointed
13 by the governor may be reimbursed for expenses under Minnesota
14 Statutes, section 15.059, subdivision 3.

15 Subd. 4. [DUTIES.] The commission shall have the following
16 duties:

17 (1) to present to the governor and legislature a plan for
18 capital grants to pay for capital improvements on Minnesota's
19 historic public and private buildings, to be known as
20 sesquicentennial grants;

21 (2) to seek funding for activities to celebrate the 150th
22 anniversary of statehood, and to form partnerships with private
23 parties to further this mission; and

24 (3) to present an annual report to the governor and
25 legislature outlining progress made towards the celebration of
26 the sesquicentennial.

27 [EFFECTIVE DATE.] This section is effective the day
28 following final enactment.

29 Sec. 2. [APPROPRIATION.]

30 \$. is appropriated from the general fund in fiscal
31 year 2006 to the Minnesota Historical Society for a grant to the
32 commission for planning and support of its mission under this
33 act. This is a onetime appropriation and is available until
34 January 30, 2009.

35 Sec. 3. [EXPIRATION.]

36 The commission shall continue to operate until January 30,

1 2009, at which time it shall expire.

1 Senator moves to amend S.F. No. 2011 as follows:

2 Page 2, line 2, delete "Members shall select" and insert
3 "The governor shall appoint"

4 Page 2, line 4, delete "all meetings" and insert "the first
5 meeting"

6 Page 2, line 9, after "chair" insert "and must be convened
7 at least quarterly"

8 Page 2, line 17, delete "and legislature" and insert ",
9 senate and house of representatives committees with jurisdiction
10 over the Minnesota Historical Society, and the Minnesota
11 Historical Society"

12 Page 2, line 18, delete the first "capital"

13 Page 2, lines 24 and 25, delete "and legislature" and
14 insert ", legislative committees identified in clause (1), and
15 the Minnesota Historical Society"

SF 2011 Rest

Fiscal Note – 2005-06 Session

Bill #: H2212-0 **Complete Date:** 04/12/05

Chief Author: TINGELSTAD, KATHY

Title: SESQUICENTENNIAL COMMISSION ESTD

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

Agency Name: Historical Society

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

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		100	150		
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		100	150		
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		100	150		
Total Cost <Savings> to the State		100	150		

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund		1.50	2.50		
Total FTE		1.50	2.50		

Bill Description

House Files 2212 establishes a commission to begin the planning for the state's commemoration of its 150th birthday. Under the provisions of the bill, the Commission is charged with planning the state's activities, and reporting back to the legislature on the plans that are recommended, and what actions the legislature needs to take to implement the Sesquicentennial program.

Assumptions

House File 2212 as introduced, is written with a blank appropriation amount for funding the Commission's activities. For this fiscal note, the Minnesota Historical Society is assuming a minimal staffing level to kick off the planning process for the Commission. Costs of implementing these activities, including staffing, is dependent upon the level of activity envisioned by the Commission, and the Commission's willingness and ability to gather state and non-state resources to carry out these activities.

For the initial phase of planning, the Society recommends funding as follows: For FY 2006 – one professional staff person to coordinate the planning process, assisted by a half-time support staff person, plus miscellaneous expenses for the Commission's activities. For FY 2007, the recommended level of staffing would be the FY 2006 level, plus one additional professional staff person to coordinate outreach activities to maximize statewide participation in the Sesquicentennial year.

Expenditure and/or Revenue Formula

Estimates for staffing and expenses:

FY 2006

Director/Coordinator of Commission (salary and benefits)	60,000
Half time support staff (salary and benefits)	25,000
Expenses (commission expenses, travel)	<u>15,000</u>
FY 2006 Total	\$100,000

FY 2007

Director/Coordinator of Commission (salary and benefits)	60,000
Outreach Coordinator (salary and benefits)	50,000
Half time support staff (salary and benefits)	25,000
Expenses (commission expenses, travel)	<u>15,000</u>
FY 2007 Total	\$150,000

Long-Term Fiscal Considerations

This activity would have only short and medium term costs, since the activities would be completed at the end of 2008.

Local Government Costs

None.

FN Coord Signature: DAVID KELLIHER
Date: 04/12/05 Phone: 297-8085

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KEITH BOGUT
Date: 04/12/05 Phone: 296-7642

1 A bill for an act

2 relating to economic development; providing for an
3 international economic development zone; providing tax
4 incentives; requiring a report; appropriating money;
5 amending Minnesota Statutes 2004, sections 272.02, by
6 adding a subdivision; 290.01, subdivisions 19b, 29;
7 290.06, subdivision 2c, by adding a subdivision;
8 290.067, subdivision 1; 290.0671, subdivision 1;
9 290.091, subdivision 2; 290.0921, subdivision 3;
10 290.0922, subdivisions 2, 3; 297A.68, by adding a
11 subdivision; proposing coding for new law in Minnesota
12 Statutes, chapter 469.

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

14 Section 1. Minnesota Statutes 2004, section 272.02, is
15 amended by adding a subdivision to read:

16 Subd. 68. [INTERNATIONAL ECONOMIC DEVELOPMENT ZONE
17 PROPERTY.] (a) Improvements to real property, and personal
18 property, classified under section 273.13, subdivision 24, and
19 located within an international economic development zone
20 designated under section 469.322, are exempt from ad valorem
21 taxes levied under chapter 275, if the occupant of the property
22 is a qualified business, as defined in section 469.321.

23 (b) The exemption applies beginning for the first
24 assessment year after designation of the international economic
25 development zone. The exemption applies to each assessment year
26 that begins during the duration of the international economic
27 development zone and to property occupied by July 1 of the
28 assessment year by a qualified business. This exemption does
29 not apply to:

1 (1) the levy under section 475.61 or similar levy
2 provisions under any other law to pay general obligation bonds;
3 or

4 (2) a levy under section 126C.17, if the levy was approved
5 by the voters before the designation of the zone.

6 [EFFECTIVE DATE.] This section is effective beginning for
7 property taxes assessed in 2006, payable in 2007.

8 Sec. 2. Minnesota Statutes 2004, section 290.01,
9 subdivision 19b, is amended to read:

10 Subd. 19b. [SUBTRACTIONS FROM FEDERAL TAXABLE INCOME.] For
11 individuals, estates, and trusts, there shall be subtracted from
12 federal taxable income:

13 (1) interest income on obligations of any authority,
14 commission, or instrumentality of the United States to the
15 extent includable in taxable income for federal income tax
16 purposes but exempt from state income tax under the laws of the
17 United States;

18 (2) if included in federal taxable income, the amount of
19 any overpayment of income tax to Minnesota or to any other
20 state, for any previous taxable year, whether the amount is
21 received as a refund or as a credit to another taxable year's
22 income tax liability;

23 (3) the amount paid to others, less the amount used to
24 claim the credit allowed under section 290.0674, not to exceed
25 \$1,625 for each qualifying child in grades kindergarten to 6 and
26 \$2,500 for each qualifying child in grades 7 to 12, for tuition,
27 textbooks, and transportation of each qualifying child in
28 attending an elementary or secondary school situated in
29 Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin,
30 wherein a resident of this state may legally fulfill the state's
31 compulsory attendance laws, which is not operated for profit,
32 and which adheres to the provisions of the Civil Rights Act of
33 1964 and chapter 363A. For the purposes of this clause,
34 "tuition" includes fees or tuition as defined in section
35 290.0674, subdivision 1, clause (1). As used in this clause,
36 "textbooks" includes books and other instructional materials and

1 equipment purchased or leased for use in elementary and
2 secondary schools in teaching only those subjects legally and
3 commonly taught in public elementary and secondary schools in
4 this state. Equipment expenses qualifying for deduction
5 includes expenses as defined and limited in section 290.0674,
6 subdivision 1, clause (3). "Textbooks" does not include
7 instructional books and materials used in the teaching of
8 religious tenets, doctrines, or worship, the purpose of which is
9 to instill such tenets, doctrines, or worship, nor does it
10 include books or materials for, or transportation to,
11 extracurricular activities including sporting events, musical or
12 dramatic events, speech activities, driver's education, or
13 similar programs. For purposes of the subtraction provided by
14 this clause, "qualifying child" has the meaning given in section
15 32(c)(3) of the Internal Revenue Code;

16 (4) income as provided under section 290.0802;

17 (5) to the extent included in federal adjusted gross
18 income, income realized on disposition of property exempt from
19 tax under section 290.491;

20 (6) to the extent included in federal taxable income,
21 postservice benefits for youth community service under section
22 124D.42 for volunteer service under United States Code, title
23 42, sections 12601 to 12604;

24 (7) to the extent not deducted in determining federal
25 taxable income by an individual who does not itemize deductions
26 for federal income tax purposes for the taxable year, an amount
27 equal to 50 percent of the excess of charitable contributions
28 allowable as a deduction for the taxable year under section
29 170(a) of the Internal Revenue Code over \$500;

30 (8) for taxable years beginning before January 1, 2008, the
31 amount of the federal small ethanol producer credit allowed
32 under section 40(a)(3) of the Internal Revenue Code which is
33 included in gross income under section 87 of the Internal
34 Revenue Code;

35 (9) for individuals who are allowed a federal foreign tax
36 credit for taxes that do not qualify for a credit under section

1 290.06, subdivision 22, an amount equal to the carryover of
2 subnational foreign taxes for the taxable year, but not to
3 exceed the total subnational foreign taxes reported in claiming
4 the foreign tax credit. For purposes of this clause, "federal
5 foreign tax credit" means the credit allowed under section 27 of
6 the Internal Revenue Code, and "carryover of subnational foreign
7 taxes" equals the carryover allowed under section 904(c) of the
8 Internal Revenue Code minus national level foreign taxes to the
9 extent they exceed the federal foreign tax credit;

10 (10) in each of the five tax years immediately following
11 the tax year in which an addition is required under subdivision
12 19a, clause (7), an amount equal to one-fifth of the delayed
13 depreciation. For purposes of this clause, "delayed
14 depreciation" means the amount of the addition made by the
15 taxpayer under subdivision 19a, clause (7), minus the positive
16 value of any net operating loss under section 172 of the
17 Internal Revenue Code generated for the tax year of the
18 addition. The resulting delayed depreciation cannot be less
19 than zero; and

20 (11) job opportunity building zone income as provided under
21 section 469.316; and

22 (12) international economic development zone income as
23 provided under section 469.325.

24 [EFFECTIVE DATE.] This section is effective for taxable
25 years beginning after December 31, 2005.

26 Sec. 3. Minnesota Statutes 2004, section 290.01,
27 subdivision 29, is amended to read:

28 Subd. 29. [TAXABLE INCOME.] The term "taxable income"
29 means:

30 (1) for individuals, estates, and trusts, the same as
31 taxable net income;

32 (2) for corporations, the taxable net income less

33 (i) the net operating loss deduction under section 290.095;

34 (ii) the dividends received deduction under section 290.21,
35 subdivision 4;

36 (iii) the exemption for operating in a job opportunity

1 building zone under section 469.317; and

2 (iv) the exemption for operating in a biotechnology and
3 health sciences industry zone under section 469.337; and

4 (v) the exemption for operating in an international
5 economic development zone under section 469.326.

6 [EFFECTIVE DATE.] This section is effective for taxable
7 years beginning after December 31, 2005.

8 Sec. 4. Minnesota Statutes 2004, section 290.06,
9 subdivision 2c, is amended to read:

10 Subd. 2c. [SCHEDULES OF RATES FOR INDIVIDUALS, ESTATES,
11 AND TRUSTS.] (a) The income taxes imposed by this chapter upon
12 married individuals filing joint returns and surviving spouses
13 as defined in section 2(a) of the Internal Revenue Code must be
14 computed by applying to their taxable net income the following
15 schedule of rates:

16 (1) On the first \$25,680, 5.35 percent;

17 (2) On all over \$25,680, but not over \$102,030, 7.05
18 percent;

19 (3) On all over \$102,030, 7.85 percent.

20 Married individuals filing separate returns, estates, and
21 trusts must compute their income tax by applying the above rates
22 to their taxable income, except that the income brackets will be
23 one-half of the above amounts.

24 (b) The income taxes imposed by this chapter upon unmarried
25 individuals must be computed by applying to taxable net income
26 the following schedule of rates:

27 (1) On the first \$17,570, 5.35 percent;

28 (2) On all over \$17,570, but not over \$57,710, 7.05
29 percent;

30 (3) On all over \$57,710, 7.85 percent.

31 (c) The income taxes imposed by this chapter upon unmarried
32 individuals qualifying as a head of household as defined in
33 section 2(b) of the Internal Revenue Code must be computed by
34 applying to taxable net income the following schedule of rates:

35 (1) On the first \$21,630, 5.35 percent;

36 (2) On all over \$21,630, but not over \$86,910, 7.05

1 percent;

2 (3) On all over \$86,910, 7.85 percent.

3 (d) In lieu of a tax computed according to the rates set
4 forth in this subdivision, the tax of any individual taxpayer
5 whose taxable net income for the taxable year is less than an
6 amount determined by the commissioner must be computed in
7 accordance with tables prepared and issued by the commissioner
8 of revenue based on income brackets of not more than \$100. The
9 amount of tax for each bracket shall be computed at the rates
10 set forth in this subdivision, provided that the commissioner
11 may disregard a fractional part of a dollar unless it amounts to
12 50 cents or more, in which case it may be increased to \$1.

13 (e) An individual who is not a Minnesota resident for the
14 entire year must compute the individual's Minnesota income tax
15 as provided in this subdivision. After the application of the
16 nonrefundable credits provided in this chapter, the tax
17 liability must then be multiplied by a fraction in which:

18 (1) the numerator is the individual's Minnesota source
19 federal adjusted gross income as defined in section 62 of the
20 Internal Revenue Code and increased by the additions required
21 under section 290.01, subdivision 19a, clauses (1), (5), and
22 (6), and reduced by the subtraction under section 290.01,
23 subdivision 19b, clause clauses (11) and (12), and the Minnesota
24 assignable portion of the subtraction for United States
25 government interest under section 290.01, subdivision 19b,
26 clause (1), after applying the allocation and assignability
27 provisions of section 290.081, clause (a), or 290.17; and

28 (2) the denominator is the individual's federal adjusted
29 gross income as defined in section 62 of the Internal Revenue
30 Code of 1986, increased by the amounts specified in section
31 290.01, subdivision 19a, clauses (1), (5), and (6), and reduced
32 by the amounts specified in section 290.01, subdivision 19b,
33 clauses (1) and, (11), and (12).

34 [EFFECTIVE DATE.] This section is effective for taxable
35 years beginning after December 31, 2005.

36 Sec. 5. Minnesota Statutes 2004, section 290.06, is

1 amended by adding a subdivision to read:

2 Subd. 32. [INTERNATIONAL ECONOMIC DEVELOPMENT ZONE JOB
3 CREDIT.] A taxpayer that is a qualified business, as defined in
4 section 469.321, subdivision 6, is allowed a credit as
5 determined under section 469.327 against the tax imposed by this
6 chapter.

7 [EFFECTIVE DATE.] This section is effective the day
8 following final enactment.

9 Sec. 6. Minnesota Statutes 2004, section 290.067,
10 subdivision 1, is amended to read:

11 Subdivision 1. [AMOUNT OF CREDIT.] (a) A taxpayer may take
12 as a credit against the tax due from the taxpayer and a spouse,
13 if any, under this chapter an amount equal to the dependent care
14 credit for which the taxpayer is eligible pursuant to the
15 provisions of section 21 of the Internal Revenue Code subject to
16 the limitations provided in subdivision 2 except that in
17 determining whether the child qualified as a dependent, income
18 received as a Minnesota family investment program grant or
19 allowance to or on behalf of the child must not be taken into
20 account in determining whether the child received more than half
21 of the child's support from the taxpayer, and the provisions of
22 section 32(b)(1)(D) of the Internal Revenue Code do not apply.

23 (b) If a child who has not attained the age of six years at
24 the close of the taxable year is cared for at a licensed family
25 day care home operated by the child's parent, the taxpayer is
26 deemed to have paid employment-related expenses. If the child
27 is 16 months old or younger at the close of the taxable year,
28 the amount of expenses deemed to have been paid equals the
29 maximum limit for one qualified individual under section 21(c)
30 and (d) of the Internal Revenue Code. If the child is older
31 than 16 months of age but has not attained the age of six years
32 at the close of the taxable year, the amount of expenses deemed
33 to have been paid equals the amount the licensee would charge
34 for the care of a child of the same age for the same number of
35 hours of care.

36 (c) If a married couple:

1 (1) has a child who has not attained the age of one year at
2 the close of the taxable year;

3 (2) files a joint tax return for the taxable year; and

4 (3) does not participate in a dependent care assistance
5 program as defined in section 129 of the Internal Revenue Code,
6 in lieu of the actual employment related expenses paid for that
7 child under paragraph (a) or the deemed amount under paragraph
8 (b), the lesser of (i) the combined earned income of the couple
9 or (ii) the amount of the maximum limit for one qualified
10 individual under section 21(c) and (d) of the Internal Revenue
11 Code will be deemed to be the employment related expense paid
12 for that child. The earned income limitation of section 21(d)
13 of the Internal Revenue Code shall not apply to this deemed
14 amount. These deemed amounts apply regardless of whether any
15 employment-related expenses have been paid.

16 (d) If the taxpayer is not required and does not file a
17 federal individual income tax return for the tax year, no credit
18 is allowed for any amount paid to any person unless:

19 (1) the name, address, and taxpayer identification number
20 of the person are included on the return claiming the credit; or

21 (2) if the person is an organization described in section
22 501(c)(3) of the Internal Revenue Code and exempt from tax under
23 section 501(a) of the Internal Revenue Code, the name and
24 address of the person are included on the return claiming the
25 credit.

26 In the case of a failure to provide the information required
27 under the preceding sentence, the preceding sentence does not
28 apply if it is shown that the taxpayer exercised due diligence
29 in attempting to provide the information required.

30 In the case of a nonresident, part-year resident, or a
31 person who has earned income not subject to tax under this
32 chapter including earned income excluded pursuant to section
33 290.01, subdivision 19b, ~~clause~~ clauses (11) and (12), the
34 credit determined under section 21 of the Internal Revenue Code
35 must be allocated based on the ratio by which the earned income
36 of the claimant and the claimant's spouse from Minnesota sources

1 bears to the total earned income of the claimant and the
2 claimant's spouse.

3 [EFFECTIVE DATE.] This section is effective for taxable
4 years beginning after December 31, 2005.

5 Sec. 7. Minnesota Statutes 2004, section 290.0671,
6 subdivision 1, is amended to read:

7 Subdivision 1. [CREDIT ALLOWED.] (a) An individual is
8 allowed a credit against the tax imposed by this chapter equal
9 to a percentage of earned income. To receive a credit, a
10 taxpayer must be eligible for a credit under section 32 of the
11 Internal Revenue Code.

12 (b) For individuals with no qualifying children, the credit
13 equals 1.9125 percent of the first \$4,620 of earned income. The
14 credit is reduced by 1.9125 percent of earned income or modified
15 adjusted gross income, whichever is greater, in excess of
16 \$5,770, but in no case is the credit less than zero.

17 (c) For individuals with one qualifying child, the credit
18 equals 8.5 percent of the first \$6,920 of earned income and 8.5
19 percent of earned income over \$12,080 but less than \$13,450.
20 The credit is reduced by 5.73 percent of earned income or
21 modified adjusted gross income, whichever is greater, in excess
22 of \$15,080, but in no case is the credit less than zero.

23 (d) For individuals with two or more qualifying children,
24 the credit equals ten percent of the first \$9,720 of earned
25 income and 20 percent of earned income over \$14,860 but less
26 than \$16,800. The credit is reduced by 10.3 percent of earned
27 income or modified adjusted gross income, whichever is greater,
28 in excess of \$17,890, but in no case is the credit less than
29 zero.

30 (e) For a nonresident or part-year resident, the credit
31 must be allocated based on the percentage calculated under
32 section 290.06, subdivision 2c, paragraph (e).

33 (f) For a person who was a resident for the entire tax year
34 and has earned income not subject to tax under this chapter,
35 including income excluded under section 290.01, subdivision 19b,
36 clause (11) or (12), the credit must be allocated based on the

1 ratio of federal adjusted gross income reduced by the earned
2 income not subject to tax under this chapter over federal
3 adjusted gross income.

4 (g) For tax years beginning after December 31, 2001, and
5 before December 31, 2004, the \$5,770 in paragraph (b), the
6 \$15,080 in paragraph (c), and the \$17,890 in paragraph (d),
7 after being adjusted for inflation under subdivision 7, are each
8 increased by \$1,000 for married taxpayers filing joint returns.

9 (h) For tax years beginning after December 31, 2004, and
10 before December 31, 2007, the \$5,770 in paragraph (b), the
11 \$15,080 in paragraph (c), and the \$17,890 in paragraph (d),
12 after being adjusted for inflation under subdivision 7, are each
13 increased by \$2,000 for married taxpayers filing joint returns.

14 (i) For tax years beginning after December 31, 2007, and
15 before December 31, 2010, the \$5,770 in paragraph (b), the
16 \$15,080 in paragraph (c), and the \$17,890 in paragraph (d),
17 after being adjusted for inflation under subdivision 7, are each
18 increased by \$3,000 for married taxpayers filing joint returns.
19 For tax years beginning after December 31, 2008, the \$3,000 is
20 adjusted annually for inflation under subdivision 7.

21 (j) The commissioner shall construct tables showing the
22 amount of the credit at various income levels and make them
23 available to taxpayers. The tables shall follow the schedule
24 contained in this subdivision, except that the commissioner may
25 graduate the transition between income brackets.

26 [EFFECTIVE DATE.] This section is effective for taxable
27 years beginning after December 31, 2005.

28 Sec. 8. Minnesota Statutes 2004, section 290.091,
29 subdivision 2, is amended to read:

30 Subd. 2. [DEFINITIONS.] For purposes of the tax imposed by
31 this section, the following terms have the meanings given:

32 (a) "Alternative minimum taxable income" means the sum of
33 the following for the taxable year:

34 (1) the taxpayer's federal alternative minimum taxable
35 income as defined in section 55(b)(2) of the Internal Revenue
36 Code;

1 (2) the taxpayer's itemized deductions allowed in computing
2 federal alternative minimum taxable income, but excluding:

3 (i) the charitable contribution deduction under section 170
4 of the Internal Revenue Code to the extent that the deduction
5 exceeds 1.0 percent of adjusted gross income, as defined in
6 section 62 of the Internal Revenue Code;

7 (ii) the medical expense deduction;

8 (iii) the casualty, theft, and disaster loss deduction; and

9 (iv) the impairment-related work expenses of a disabled
10 person;

11 (3) for depletion allowances computed under section 613A(c)
12 of the Internal Revenue Code, with respect to each property (as
13 defined in section 614 of the Internal Revenue Code), to the
14 extent not included in federal alternative minimum taxable
15 income, the excess of the deduction for depletion allowable
16 under section 611 of the Internal Revenue Code for the taxable
17 year over the adjusted basis of the property at the end of the
18 taxable year (determined without regard to the depletion
19 deduction for the taxable year);

20 (4) to the extent not included in federal alternative
21 minimum taxable income, the amount of the tax preference for
22 intangible drilling cost under section 57(a)(2) of the Internal
23 Revenue Code determined without regard to subparagraph (E);

24 (5) to the extent not included in federal alternative
25 minimum taxable income, the amount of interest income as
26 provided by section 290.01, subdivision 19a, clause (1); and

27 (6) the amount of addition required by section 290.01,
28 subdivision 19a, clause (7);

29 less the sum of the amounts determined under the following:

30 (1) interest income as defined in section 290.01,
31 subdivision 19b, clause (1);

32 (2) an overpayment of state income tax as provided by
33 section 290.01, subdivision 19b, clause (2), to the extent
34 included in federal alternative minimum taxable income;

35 (3) the amount of investment interest paid or accrued
36 within the taxable year on indebtedness to the extent that the

1 amount does not exceed net investment income, as defined in
2 section 163(d)(4) of the Internal Revenue Code. Interest does
3 not include amounts deducted in computing federal adjusted gross
4 income; and

5 (4) amounts subtracted from federal taxable income as
6 provided by section 290.01, subdivision 19b, clauses (10) and,
7 (11), and (12).

8 In the case of an estate or trust, alternative minimum
9 taxable income must be computed as provided in section 59(c) of
10 the Internal Revenue Code.

11 (b) "Investment interest" means investment interest as
12 defined in section 163(d)(3) of the Internal Revenue Code.

13 (c) "Tentative minimum tax" equals 6.4 percent of
14 alternative minimum taxable income after subtracting the
15 exemption amount determined under subdivision 3.

16 (d) "Regular tax" means the tax that would be imposed under
17 this chapter (without regard to this section and section
18 290.032), reduced by the sum of the nonrefundable credits
19 allowed under this chapter.

20 (e) "Net minimum tax" means the minimum tax imposed by this
21 section.

22 [EFFECTIVE DATE.] This section is effective for taxable
23 years beginning after December 31, 2005.

24 Sec. 9. Minnesota Statutes 2004, section 290.0921,
25 subdivision 3, is amended to read:

26 Subd. 3. [ALTERNATIVE MINIMUM TAXABLE INCOME.]

27 "Alternative minimum taxable income" is Minnesota net income as
28 defined in section 290.01, subdivision 19, and includes the
29 adjustments and tax preference items in sections 56, 57, 58, and
30 59(d), (e), (f), and (h) of the Internal Revenue Code. If a
31 corporation files a separate company Minnesota tax return, the
32 minimum tax must be computed on a separate company basis. If a
33 corporation is part of a tax group filing a unitary return, the
34 minimum tax must be computed on a unitary basis. The following
35 adjustments must be made.

36 (1) For purposes of the depreciation adjustments under

1 section 56(a)(1) and 56(g)(4)(A) of the Internal Revenue Code,
2 the basis for depreciable property placed in service in a
3 taxable year beginning before January 1, 1990, is the adjusted
4 basis for federal income tax purposes, including any
5 modification made in a taxable year under section 290.01,
6 subdivision 19e, or Minnesota Statutes 1986, section 290.09,
7 subdivision 7, paragraph (c).

8 For taxable years beginning after December 31, 2000, the
9 amount of any remaining modification made under section 290.01,
10 subdivision 19e, or Minnesota Statutes 1986, section 290.09,
11 subdivision 7, paragraph (c), not previously deducted is a
12 depreciation allowance in the first taxable year after December
13 31, 2000.

14 (2) The portion of the depreciation deduction allowed for
15 federal income tax purposes under section 168(k) of the Internal
16 Revenue Code that is required as an addition under section
17 290.01, subdivision 19c, clause (16), is disallowed in
18 determining alternative minimum taxable income.

19 (3) The subtraction for depreciation allowed under section
20 290.01, subdivision 19d, clause (19), is allowed as a
21 depreciation deduction in determining alternative minimum
22 taxable income.

23 (4) The alternative tax net operating loss deduction under
24 sections 56(a)(4) and 56(d) of the Internal Revenue Code does
25 not apply.

26 (5) The special rule for certain dividends under section
27 56(g)(4)(C)(ii) of the Internal Revenue Code does not apply.

28 (6) The special rule for dividends from section 936
29 companies under section 56(g)(4)(C)(iii) does not apply.

30 (7) The tax preference for depletion under section 57(a)(1)
31 of the Internal Revenue Code does not apply.

32 (8) The tax preference for intangible drilling costs under
33 section 57(a)(2) of the Internal Revenue Code must be calculated
34 without regard to subparagraph (E) and the subtraction under
35 section 290.01, subdivision 19d, clause (4).

36 (9) The tax preference for tax exempt interest under

1 section 57(a)(5) of the Internal Revenue Code does not apply.

2 (10) The tax preference for charitable contributions of
3 appreciated property under section 57(a)(6) of the Internal
4 Revenue Code does not apply.

5 (11) For purposes of calculating the tax preference for
6 accelerated depreciation or amortization on certain property
7 placed in service before January 1, 1987, under section 57(a)(7)
8 of the Internal Revenue Code, the deduction allowable for the
9 taxable year is the deduction allowed under section 290.01,
10 subdivision 19e.

11 For taxable years beginning after December 31, 2000, the
12 amount of any remaining modification made under section 290.01,
13 subdivision 19e, not previously deducted is a depreciation or
14 amortization allowance in the first taxable year after December
15 31, 2004.

16 (12) For purposes of calculating the adjustment for
17 adjusted current earnings in section 56(g) of the Internal
18 Revenue Code, the term "alternative minimum taxable income" as
19 it is used in section 56(g) of the Internal Revenue Code, means
20 alternative minimum taxable income as defined in this
21 subdivision, determined without regard to the adjustment for
22 adjusted current earnings in section 56(g) of the Internal
23 Revenue Code.

24 (13) For purposes of determining the amount of adjusted
25 current earnings under section 56(g)(3) of the Internal Revenue
26 Code, no adjustment shall be made under section 56(g)(4) of the
27 Internal Revenue Code with respect to (i) the amount of foreign
28 dividend gross-up subtracted as provided in section 290.01,
29 subdivision 19d, clause (1), (ii) the amount of refunds of
30 income, excise, or franchise taxes subtracted as provided in
31 section 290.01, subdivision 19d, clause (10), or (iii) the
32 amount of royalties, fees or other like income subtracted as
33 provided in section 290.01, subdivision 19d, clause (11).

34 (14) Alternative minimum taxable income excludes the income
35 from operating in a job opportunity building zone as provided
36 under section 469.317.

1 (15) Alternative minimum taxable income excludes the income
2 from operating in a biotechnology and health sciences industry
3 zone as provided under section 469.337.

4 (16) Alternative minimum taxable income excludes the income
5 from operating in an international economic development zone as
6 provided under section 469.326.

7 Items of tax preference must not be reduced below zero as a
8 result of the modifications in this subdivision.

9 [EFFECTIVE DATE.] This section is effective for taxable
10 years beginning after December 31, 2005.

11 Sec. 10. Minnesota Statutes 2004, section 290.0922,
12 subdivision 2, is amended to read:

13 Subd. 2. [EXEMPTIONS.] The following entities are exempt
14 from the tax imposed by this section:

15 (1) corporations exempt from tax under section 290.05;

16 (2) real estate investment trusts;

17 (3) regulated investment companies or a fund thereof; and

18 (4) entities having a valid election in effect under

19 section 860D(b) of the Internal Revenue Code;

20 (5) town and farmers' mutual insurance companies;

21 (6) cooperatives organized under chapter 308A that provide
22 housing exclusively to persons age 55 and over and are

23 classified as homesteads under section 273.124, subdivision 3;

24 and

25 (7) an entity, if for the taxable year all of its property

26 is located in a job opportunity building zone designated under

27 section 469.314 and all of its payroll is a job opportunity

28 building zone payroll under section 469.310; and

29 (8) an entity, if for the taxable year all of its property

30 is located in an international economic development zone

31 designated under section 469.322, and all of its payroll is an

32 international economic development zone payroll under section

33 469.321.

34 Entities not specifically exempted by this subdivision are

35 subject to tax under this section, notwithstanding section

36 290.05.

1 [EFFECTIVE DATE.] This section is effective for taxable
2 years beginning after December 31, 2005.

3 Sec. 11. Minnesota Statutes 2004, section 290.0922,
4 subdivision 3, is amended to read:

5 Subd. 3. [DEFINITIONS.] (a) "Minnesota sales or receipts"
6 means the total sales apportioned to Minnesota pursuant to
7 section 290.191, subdivision 5, the total receipts attributed to
8 Minnesota pursuant to section 290.191, subdivisions 6 to 8,
9 and/or the total sales or receipts apportioned or attributed to
10 Minnesota pursuant to any other apportionment formula applicable
11 to the taxpayer.

12 (b) "Minnesota property" means total Minnesota tangible
13 property as provided in section 290.191, subdivisions 9 to 11,
14 any other tangible property located in Minnesota, but does not
15 include property located in a job opportunity building zone
16 designated under section 469.314, or property of a qualified
17 business located in a biotechnology and health sciences industry
18 zone designated under section 469.334, or property located in an
19 international economic development zone designated under section
20 469.322. Intangible property shall not be included in Minnesota
21 property for purposes of this section. Taxpayers who do not
22 utilize tangible property to apportion income shall nevertheless
23 include Minnesota property for purposes of this section. On a
24 return for a short taxable year, the amount of Minnesota
25 property owned, as determined under section 290.191, shall be
26 included in Minnesota property based on a fraction in which the
27 numerator is the number of days in the short taxable year and
28 the denominator is 365.

29 (c) "Minnesota payrolls" means total Minnesota payrolls as
30 provided in section 290.191, subdivision 12, but does not
31 include job opportunity building zone payrolls under section
32 469.310, subdivision 8, or biotechnology and health sciences
33 industry zone ~~payroll~~ payrolls under section 469.330,
34 subdivision 8, or international economic development zone
35 payrolls under section 469.321, subdivision 10. Taxpayers who
36 do not utilize payrolls to apportion income shall nevertheless

1 include Minnesota payrolls for purposes of this section.

2 [EFFECTIVE DATE.] This section is effective for taxable
3 years beginning after December 31, 2005.

4 Sec. 12. Minnesota Statutes 2004, section 297A.68, is
5 amended by adding a subdivision to read:

6 Subd. 40. [INTERNATIONAL ECONOMIC DEVELOPMENT ZONES.] (a)
7 Purchases of tangible personal property or taxable services by a
8 qualified business, as defined in section 469.321, are exempt if
9 the property or services are primarily used or consumed in an
10 international economic development zone designated under section
11 469.322.

12 (b) Purchase and use of construction materials and supplies
13 for construction of improvements to real property in an
14 international economic development zone are exempt if the
15 improvements after completion of construction are to be used in
16 the conduct of a qualified business, as defined in section
17 469.321. This exemption applies regardless of whether the
18 purchases are made by the business or a contractor.

19 (c) The exemptions under this subdivision apply to a local
20 sales and use tax, regardless of whether the local tax is
21 imposed on sales taxable under this chapter or in another law,
22 ordinance, or charter provision.

23 (d) This subdivision applies to sales, if the purchase was
24 made and delivery received during the duration of the zone.

25 [EFFECTIVE DATE.] This section is effective for sales made
26 on or after the day following final enactment.

27 Sec. 13. [469.321] [DEFINITIONS.]

28 Subdivision 1. [SCOPE.] For purposes of sections 469.321
29 to 469.328, the following terms have the meanings given.

30 Subd. 2. [FOREIGN TRADE ZONE.] "Foreign trade zone" means
31 a foreign trade zone designated pursuant to United States Code,
32 title 19, section 81a, for the right to use the powers provided
33 in United States Code, title 19, sections 81a to 81u, or a
34 subzone authorized by the foreign trade zone.

35 Subd. 3. [FOREIGN TRADE ZONE AUTHORITY.] "Foreign trade
36 zone authority" means the Greater Metropolitan Area Foreign

1 Trade Zone Commission number 119, a joint powers authority
2 created by the county of Hennepin, the cities of Minneapolis,
3 Bloomington, Rosemount, and the Metropolitan Airports
4 Commission, under the authority of section 469.059, 469.101, or
5 471.59, and which may, notwithstanding section 471.59, include
6 as members any political subdivisions of public corporations
7 that are or become members of the Greater Metropolitan Area
8 Foreign Trade Zone Commission, regardless of whether the
9 subdivisions or corporations have the power or authority
10 individually to establish or operate a foreign trade zone.

11 Subd. 4. [INTERNATIONAL ECONOMIC DEVELOPMENT ZONE.] An
12 "international economic development zone" or "zone" is a zone so
13 designated under section 469.322.

14 Subd. 5. [PERSON.] "Person" includes an individual,
15 corporation, partnership, limited liability company,
16 association, or any other entity.

17 Subd. 6. [QUALIFIED BUSINESS.] (a) "Qualified business"
18 means a person carrying on a trade or business at a place of
19 business located within an international economic development
20 zone that is:

21 (1) engaged in the furtherance of international export or
22 import of goods; and

23 (2) certified by the foreign trade zone authority as a
24 trade or business that furthers the purpose of developing
25 international distribution capacity and capability.

26 (b) A person that relocates a trade or business from within
27 Minnesota but outside an international economic development zone
28 into an international economic development zone is not a
29 qualified business, unless the business:

30 (1)(i) increases full-time employment in the first full
31 year of operation within the international economic development
32 zone by at least 20 percent measured relative to the operations
33 that were relocated; or

34 (ii) makes a capital investment in the property located
35 within a zone equal to at least ten percent of the gross
36 revenues of the operations that were relocated in the

1 immediately preceding taxable year; and

2 (2) enters a binding written agreement with the foreign
3 trade zone authority that:

4 (i) pledges that the business will meet the requirements of
5 clause (1);

6 (ii) provides for repayment of all tax benefits enumerated
7 under section 469.324 to the business under the procedures in
8 section 469.328, if the requirements of clause (1) are not met;
9 and

10 (iii) contains any other terms the foreign trade zone
11 authority determines appropriate.

12 Clause (1) of this paragraph does not apply to a freight
13 forwarder.

14 (c) A qualified business must pay each employee total
15 compensation, including benefits not mandated by law, that on an
16 annualized basis is equal to at least 110 percent of the federal
17 poverty guidelines for a family of four.

18 (d) A qualified business must enter into an agreement with
19 the authority that provides that, as a condition of qualifying
20 for the tax incentives described in section 469.324, the
21 business will, at the site of its operation within the zone,
22 remain neutral to labor union organizing activity, provide union
23 representatives access to employees during nonwork hours, and
24 recognize a labor union as a bargaining agent under the National
25 Labor Relations Act upon presentation of representation cards
26 signed by a majority of the employees of the qualified business
27 within the zone.

28 Subd. 7. [REGIONAL DISTRIBUTION CENTER.] A "regional
29 distribution center" is a distribution center developed within a
30 foreign trade zone. The regional distribution center must have
31 as its primary purpose to facilitate gathering of freight for
32 the purpose of centralizing the functions necessary for the
33 shipment of freight in international commerce, including, but
4 not limited to, security and customs functions.

35 Subd. 8. [RELOCATE.] (a) "Relocate" means that a trade or
36 business:

1 (1) ceases one or more operations or functions at another
2 location in an international economic development zone; or

3 (2) reduces employment at another location in Minnesota
4 during a period starting one year before and ending one year
5 after it begins operations in an international economic
6 development zone and its employees in the international economic
7 development zone are engaged in the same line of business as the
8 employees at the location where it reduced employment.

9 (b) "Relocate" does not include an expansion by a business
10 that establishes a new facility that does not replace or
11 supplant an existing operation or employment, in whole or in
12 part.

13 Subd. 9. [INTERNATIONAL ECONOMIC DEVELOPMENT ZONE
14 PERCENTAGE OR ZONE PERCENTAGE.] "International economic
15 development zone percentage" or "zone percentage" means the
16 following fraction reduced to a percentage:

17 (1) the numerator of the fraction is:

18 (i) the ratio of the taxpayer's property factor under
19 section 290.191 located in the zone for the taxable year over
20 the property factor numerator determined under section 290.191,
21 plus

22 (ii) the ratio of the taxpayer's international economic
23 development zone payroll factor under subdivision 10 over the
24 payroll factor numerator determined under section 290.191; and

25 (2) the denominator of the fraction is two.

26 When calculating the zone percentage for a business that is
27 part of a unitary business as defined under section 290.17,
28 subdivision 4, the denominator of the payroll and property
29 factors is the Minnesota payroll and property of the unitary
30 business as reported on the combined report under section
31 290.17, subdivision 4, paragraph (j).

32 Subd. 10. [INTERNATIONAL ECONOMIC DEVELOPMENT ZONE PAYROLL
33 FACTOR.] "International economic development zone payroll
34 factor" or "international economic development zone payroll" is
35 that portion of the payroll factor under section 290.191 that
36 represents:

1 (1) wages or salaries paid to an individual for services
2 performed in an international economic development zone; or

3 (2) wages or salaries paid to individuals working from
4 offices within an international economic development zone, if
5 their employment requires them to work outside the zone and the
6 work is incidental to the work performed by the individual
7 within the zone.

8 Subd. 11. [FREIGHT FORWARDER.] "Freight forwarder" is a
9 business that, for compensation, ensures that goods produced or
10 sold by another business move from point of origin to point of
11 destination.

12 [EFFECTIVE DATE.] This section is effective the day
13 following final enactment.

14 Sec. 14. [469.322] [DESIGNATION OF INTERNATIONAL ECONOMIC
15 DEVELOPMENT ZONE.]

16 (a) An area designated as a foreign trade zone may be
17 designated by the foreign trade zone authority as an
18 international economic development zone if within the zone a
19 regional distribution center is being developed pursuant to
20 section 469.323. The zone must be not less than 500 acres and
21 not more than 1,000 acres in size.

22 (b) In making the designation, the foreign trade zone
23 authority, in consultation with the Minnesota Department of
24 Transportation and the Metropolitan Council, shall consider
25 access to major transportation routes, consistency with current
26 state transportation and air cargo planning, adequacy of the
27 size of the site, access to airport facilities, present and
28 future capacity at the designated airport, the capability to
29 meet integrated present and future air cargo, security, and
30 inspection services, and access to other infrastructure and
31 financial incentives. The border of the international economic
32 development zone must be no more than 60 miles distant or 90
33 minutes drive time from the border of the Minneapolis-St. Paul
34 International Airport.

35 (c) Prior to a final site designation, the foreign trade
36 zone authority, in consultation with the applicant, must conduct

1 a transportation impact study based on the regional model and
2 utilizing traffic forecasting and assignments. The results must
3 be used to evaluate the effects of the proposed use on the
4 transportation system and identify any needed improvements. If
5 the site is in the metropolitan area the study must also
6 evaluate the effect of the transportation impacts on the
7 Metropolitan Transportation System plan as well as the
8 comprehensive plans of the municipalities that would be
9 affected. The cost of the study must be paid by the applicant.

10 (d) Final zone designation must be made by January 1, 2007.

11 (e) Duration of the zone is a 12-year period beginning on
12 June 30, 2007.

13 [EFFECTIVE DATE.] This section is effective the day
14 following final enactment.

15 Sec. 15. [469.323] [FOREIGN TRADE ZONE AUTHORITY POWERS.]

16 Subdivision 1. [DEVELOPMENT OF REGIONAL DISTRIBUTION
17 CENTER.] The foreign trade zone authority shall be responsible
18 for creating a development plan for the regional distribution
19 center. The regional distribution center must be developed with
20 the purpose of expanding, on a regional basis, international
21 distribution capacity and capability. The foreign trade zone
22 authority shall consult with municipalities that have indicated
23 to the authority an interest in locating the international
24 economic development zone within their boundaries and a
25 willingness to establish a tax increment financing district
26 coterminous with the boundaries of the zone, as well as
27 interested businesses, potential financiers, and appropriate
28 state and federal agencies.

29 Subd. 2. [BUSINESS PLAN.] Before designation of an
30 international economic development zone under section 469.322,
31 the governing body of the foreign trade zone authority shall
32 prepare a business plan. The plan must include an analysis of
33 the economic feasibility of the regional distribution center
34 once it becomes operational and of the operations of freight
35 forwarders and other businesses that choose to locate within the
36 boundaries of the zone. The analysis must provide profitability

1 models that:

2 (1) include the benefits of the incentives;

3 (2) estimate the amount of time needed to achieve

4 profitability; and

5 (3) analyze the length of time incentives will be necessary

6 to the economic viability of the regional distribution center.

7 If the governing body of the foreign trade authority

8 determines that the models do not establish the economic

9 feasibility of the project, the regional distribution center

10 does not meet the development requirements of this section and

11 section 469.322.

12 Subd. 3. [PORT AUTHORITY POWERS.] The governing body of

13 the foreign trade zone authority may establish a port authority

14 that has the same powers as a port authority established under

15 section 469.049. If the foreign trade zone authority

16 establishes a port authority, the governing body of the foreign

17 trade zone authority shall exercise all powers granted to a city

18 by sections 469.048 to 469.068 or other law.

19 Subd. 4. [BUSINESS SUBSIDY LAW.] Tax exemptions, job

20 credits, and tax increment financing provided under this section

21 are business subsidies for the purpose of sections 116J.993 to

22 116J.995.

23 [EFFECTIVE DATE.] This section is effective the day

24 following final enactment.

25 Sec. 16. [469.324] [TAX INCENTIVES IN INTERNATIONAL

26 ECONOMIC DEVELOPMENT ZONE.]

27 Subdivision 1. [AVAILABILITY.] Qualified businesses that

28 operate in an international economic development zone,

29 individuals who invest in a regional distribution center or

30 qualified businesses that operate in an international economic

31 development zone, and property located in an international

32 economic development zone qualify for:

33 (1) exemption from individual income taxes as provided

34 under section 469.325;

35 (2) exemption from corporate franchise taxes as provided

36 under section 469.326;

1 (3) exemption from the state sales and use tax and any
2 local sales and use taxes on qualifying purchases as provided in
3 section 297A.68, subdivision 40;

4 (4) exemption from the property tax as provided in section
5 272.02, subdivision 68;

6 (5) the jobs credit allowed under section 469.327; and

7 (6) tax increment financing as provided in this chapter.

8 Subd. 2. [DURATION.] (a) Except as provided in paragraph
9 (b), the tax incentives described in subdivision 1, clauses (1),
10 (2), and (5), are available for no more than 12 consecutive
11 taxable years for any taxpayer that claims them. The tax
12 incentives described in subdivision 1, clause (3), are available
13 for each taxpayer that claims them for taxes otherwise payable
14 on transactions during a period of 12 years from the date when
15 the first exemption is claimed by that taxpayer under each
16 exemption. The property tax exemption described under
17 subdivision 1, clause (4), is available for any parcel of
18 property for 12 consecutive taxes payable years. No exemptions
19 described in subdivision 1, clauses (1) to (5), are available
20 after December 31, 2021.

21 (b) For taxpayers that are freight forwarders, the
22 durations provided under paragraph (a) are reduced to six years.

23 Sec. 17. [469.325] [INDIVIDUAL INCOME TAX EXEMPTION.]

24 Subdivision 1. [APPLICATION.] An individual operating a
25 trade or business in an international economic development zone,
26 and an individual making a qualifying investment in a qualified
27 business operating in an international economic development zone
28 qualifies for the exemptions from taxes imposed under chapter
29 290, as provided in this section. The exemptions provided under
30 this section apply only to the extent that the income otherwise
31 would be taxable under chapter 290. Subtractions under this
32 section from federal taxable income, alternative minimum taxable
33 income, or any other base subject to tax are limited to the
34 amount that otherwise would be included in the tax base absent
35 the exemption under this section. This section applies only to
36 taxable years beginning during the duration of the zone.

1 Subd. 2. [RENTS.] An individual is exempt from the taxes
2 imposed under chapter 290 on net rents derived from real or
3 tangible personal property located in a zone for a taxable year
4 in which the zone was designated an international economic
5 development zone. If tangible personal property was used both
6 within and outside of the zone, the exemption amount for the net
7 rental income must be multiplied by a fraction, the numerator of
8 which is the number of days the property was used in the zone
9 and the denominator of which is the total days.

10 Subd. 3. [BUSINESS INCOME.] An individual is exempt from
11 the taxes imposed under chapter 290 on net income from the
12 operation of a qualified business in an international economic
13 development zone. If the trade or business is carried on within
14 and without the zone and the individual is not a resident of
15 Minnesota, the exemption must be apportioned based on the zone
16 percentage for the taxable year. If the trade or business is
17 carried on within and without the zone and the individual is a
18 resident of Minnesota, the exemption must be apportioned based
19 on the zone percentage for the taxable year, except the ratios
20 under section 469.321, subdivision 9, clause (1), items (i) and
21 (ii), must use the denominators of the property and payroll
22 factors determined under section 290.191. No subtraction is
23 allowed under this section in excess of 20 percent of the sum of
24 the international economic development zone payroll and the
25 adjusted basis of the property at the time that the property is
26 first used in the international economic development zone by the
27 business.

28 Subd. 4. [CAPITAL GAINS.] (a) An individual is exempt from
29 the taxes imposed under chapter 290 on:

30 (1) net gain derived on a sale or exchange of real property
31 located in the international economic development zone and used
32 by a qualified business. If the property was held by the
33 individual during a period when the zone was not designated, the
34 gain must be prorated based on the percentage of time, measured
35 in calendar days, that the real property was held by the
36 individual during the period the zone designation was in effect

1 to the total period of time the real property was held by the
2 individual;

3 (2) net gain derived on a sale or exchange of tangible
4 personal property used by a qualified business in the
5 international economic development zone. If the property was
6 held by the individual during a period when the zone was not
7 designated, the gain must be prorated based on the percentage of
8 time, measured in calendar days, that the property was held by
9 the individual during the period the zone designation was in
10 effect to the total period of time the property was held by the
11 individual. If the tangible personal property was used outside
12 of the zone during the period of the zone's designation, the
13 exemption must be multiplied by a fraction, the numerator of
14 which is the number of days the property was used in the zone
15 during the time of the designation and the denominator of which
16 is the total days the property was held during the time of the
17 designation; and

18 (3) net gain derived on a sale of an ownership interest in
19 a qualified business operating in the international economic
20 development zone, meeting the requirements of paragraph (b).
21 The exemption on the gain must be multiplied by the zone
22 percentage of the business for the taxable year prior to the
23 sale.

24 (b) A qualified business meets the requirements of
25 paragraph (a), clause (3), if it is a corporation, an S
26 corporation, or a partnership, and for the taxable year its
27 international economic development zone percentage exceeds 25
28 percent. For purposes of paragraph (a), clause (3), the zone
29 percentage must be calculated by modifying the ratios under
30 section 469.321, subdivision 9, clause (1), items (i) and (ii),
31 to use the denominators of the property and payroll factors
32 determined under section 290.191. Upon the request of an
33 individual holding an ownership interest in the entity, the
34 entity must certify to the owner, in writing, the international
35 economic development zone percentage needed to determine the
36 exemption.

1 [EFFECTIVE DATE.] This section is effective for taxable
2 years beginning after December 31, 2005.

3 Sec. 18. [469.326] [CORPORATE FRANCHISE TAX EXEMPTION.]

4 (a) A qualified business is exempt from taxation under
5 section 290.02, the alternative minimum tax under section
6 290.0921, and the minimum fee under section 290.0922, on the
7 portion of its income attributable to operations within the
8 international economic development zone. This exemption is
9 determined as follows:

10 (1) for purposes of the tax imposed under section 290.02,
11 by multiplying its taxable net income by its zone percentage and
12 subtracting the result in determining taxable income;

13 (2) for purposes of the alternative minimum tax under
14 section 290.0921, by multiplying its alternative minimum taxable
15 income by its zone percentage and reducing alternative minimum
16 taxable income by this amount; and

17 (3) for purposes of the minimum fee under section 290.0922,
18 by excluding property and payroll in the zone from the
19 computations of the fee or by exempting the entity under section
20 290.0922, subdivision 2, clause (8).

21 (b) No subtraction is allowed under this section in excess
22 of 20 percent of the sum of the corporation's international
23 economic development zone payroll and the adjusted basis of the
24 property at the time that the property is first used in the
25 international economic development zone by the corporation.

26 (c) This section applies only to taxable years beginning
27 during the duration of the international economic development
28 zone.

29 [EFFECTIVE DATE.] This section is effective for taxable
30 years beginning after December 31, 2005.

31 Sec. 19. [469.327] [JOBS CREDIT.]

32 Subdivision 1. [CREDIT ALLOWED.] A qualified business is
33 allowed a credit against the taxes imposed under chapter 290.
34 The credit equals seven percent of the:

35 (1) lesser of:

36 (i) zone payroll for the taxable year, less the zone

1 days after receipt of the tax statement.

2 (c) The provisions of chapters 270 and 289A relating to the
3 commissioner of revenue's authority to audit, assess, and
4 collect the tax and to hear appeals are applicable to the
5 repayment required under paragraph (a). The commissioner may
6 impose civil penalties as provided in chapter 289A, and the
7 additional tax and penalties are subject to interest at the rate
8 provided in section 270.75, from 30 days after ceasing to do
9 business in the zone until the date the tax is paid.

10 (d) If a property tax is not repaid under paragraph (b),
11 the county treasurer shall add the amount required to be repaid
12 to the property taxes assessed against the property for payment
13 in the year following the year in which the treasurer discovers
14 that the person ceased to operate in the international economic
15 development zone.

16 (e) For determining the tax required to be repaid, a tax
17 reduction is deemed to have been received on the date that the
18 tax would have been due if the person had not been entitled to
19 the tax reduction.

20 (f) The commissioner of revenue may assess the repayment of
21 taxes under paragraph (c) at any time within two years after the
22 person ceases to be a qualified business, or within any period
23 of limitations for the assessment of tax under section 289A.38,
24 whichever is later.

25 [EFFECTIVE DATE.] This section is effective the day
26 following final enactment.

27 Sec. 21. [DEPARTMENT OF EMPLOYMENT AND ECONOMIC
28 DEVELOPMENT STUDY; INTERNATIONAL AIR FREIGHT.]

29 The commissioner of employment and economic development
30 must study and analyze the issue of whether the state would
31 benefit from more than one international economic development
32 zone as defined in Minnesota Statutes, section 469.321. The
33 commissioner shall solicit input on the issue from businesses,
34 communities, and economic development organizations. The
35 commissioner must report the results of the study and analysis
36 to the committees of the legislature having jurisdiction over

- 1 economic development issues by December 1, 2005, along with any
- 2 legislative recommendations.

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

4 Chair of the Environment, Agriculture and Economic
 5 Development Budget Division, to which was referred

6 S.F. No. 895: A bill for an act relating to economic
 7 development; providing for an international economic development
 8 zone; providing tax incentives; requiring a report;
 9 appropriating money; amending Minnesota Statutes 2004, sections
 10 272.02, by adding a subdivision; 290.01, subdivisions 19b, 29;
 11 290.06, subdivision 2c, by adding a subdivision; 290.067,
 12 subdivision 1; 290.0671, subdivision 1; 290.091, subdivision 2;
 13 290.0921, subdivision 3; 290.0922, subdivisions 2, 3; 297A.68,
 14 by adding a subdivision; proposing coding for new law in
 15 Minnesota Statutes, chapter 469.

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

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Dallas Sams.....
 (Division Chair)

April 19, 2005.....
 (Date of Division action)

Senators Pappas, Saxhaug, Gaither, Scheid and Kleis introduced--

S.F. No. 2012: Referred to the Committee on Agriculture, Veterans and Gaming.

1 A bill for an act

2 relating to gambling; providing for the operation of
3 lottery gaming machines and the conduct of lottery and
4 nonlottery games at a gaming facility; licensing the
5 gaming facility and imposing a license fee; imposing a
6 gaming transaction fee on gaming at the gaming
7 facility; amending Minnesota Statutes 2004, sections
8 297A.94; 299L.07, subdivisions 2, 2a; 340A.410,
9 subdivision 5; 349A.01, subdivision 10, by adding
10 subdivisions; 349A.04; 349A.10, subdivisions 3, 6;
11 349A.13; 541.20; 541.21; 609.75, subdivision 3;
12 609.761, by adding a subdivision; proposing coding for
13 new law in Minnesota Statutes, chapters 297A; 299L;
14 349A.

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

16 ARTICLE 1

17 PURPOSE

18 Section 1. [PURPOSE.]

19 The purpose of this act is to:

20 (1) recognize the significant inequities created by the
21 current status of casino gaming in Minnesota given the extreme
22 disparity in revenues generated by tribal casinos for
23 Minnesota's Indian tribes and tribal members and the lack of any
24 significant direct revenue to the state of Minnesota;

25 (2) provide an opportunity for increased economic
26 development and tribal self-sufficiency to tribal governments
27 which, because of their locations and tribal populations, have
28 not benefited significantly from gaming opportunities under the
29 federal Indian Gaming Regulatory Act, United States Code, title
30 25, sections 2701 to 2721;

1 (3) provide for the generation of revenues to the state,
2 including proceeds for distribution as set forth in the
3 Minnesota Constitution, article XI, section 14; and
4 (4) establish a structure that promotes tribal sovereignty
5 and self-governance and that provides revenues from casino
6 gaming to tribal governments for the development of programs to
7 alleviate persistent poverty conditions and to advance tribal
8 goals.

ARTICLE 2

LOTTERY OPERATIONS

11 Section 1. Minnesota Statutes 2004, section 349A.01,
12 subdivision 10, is amended to read:

13 Subd. 10. [LOTTERY PROCUREMENT CONTRACT.] "Lottery
14 procurement contract" means a contract to provide lottery
15 products, gaming machines, maintenance of gaming machines,
16 computer hardware and software used to monitor sales of lottery
17 tickets and gaming machine plays, equipment used to conduct and
18 monitor other lottery games at a gaming facility, equipment used
19 for the conducting of other lottery games, and lottery tickets.
20 "Lottery procurement contract" does not include a contract to
21 provide an annuity or prize payment agreement or materials,
22 supplies, equipment, or services common to the ordinary
23 operation of a state agency.

24 Sec. 2. Minnesota Statutes 2004, section 349A.01, is
25 amended by adding a subdivision to read:

26 Subd. 14. [GAMING FACILITY.] "Gaming facility" means the
27 site selected for the location of gaming machines and the
28 conduct of other lottery games pursuant to a location contract
29 under section 349A.17 and nonlottery casino games pursuant to a
30 plan of operation approved under section 299L.094.

31 Sec. 3. Minnesota Statutes 2004, section 349A.01, is
32 amended by adding a subdivision to read:

33 Subd. 15. [GAMING MACHINE.] "Gaming machine" means any
34 machine, system, or device which, upon payment of consideration
35 in order to play a game, may award or entitle a player to a
36 prize by reason of skill of the player or application of the

1 element of chance, or both.

2 Sec. 4. Minnesota Statutes 2004, section 349A.01, is
3 amended by adding a subdivision to read:

4 Subd. 16. [GAMING MACHINE GAME.] "Gaming machine game"
5 means a game operated by a gaming machine as authorized by the
6 director.

7 Sec. 5. Minnesota Statutes 2004, section 349A.01, is
8 amended by adding a subdivision to read:

9 Subd. 17. [GAMING MACHINE PLAY.] "Gaming machine play"
10 means a record that proves participation in a gaming machine
11 game.

12 Sec. 6. Minnesota Statutes 2004, section 349A.01, is
13 amended by adding a subdivision to read:

14 Subd. 18. [ADJUSTED GROSS GAMING MACHINE
15 REVENUE.] "Adjusted gross gaming machine revenue" means the sum
16 of all money received for gaming machine plays less the amount
17 paid out in prizes and for gaming machine games and promotional
18 allowances approved by the director under section 349A.17.

19 Sec. 7. Minnesota Statutes 2004, section 349A.01, is
20 amended by adding a subdivision to read:

21 Subd. 19. [OTHER LOTTERY GAME.] "Other lottery game" means
22 any game operated by the lottery at the gaming facility other
23 than a gaming machine, where money or property are distributed
24 to persons selected primarily by chance from among participants
25 who have paid for a chance of being selected and any other game
26 or activity determined to constitute a lottery within the
27 meaning of the Minnesota Constitution, article XIII, section 5.
28 Other lottery games do not include lottery games that are
29 operated by the lottery at the gaming facility that are also
30 sold by lottery retailers.

31 Sec. 8. Minnesota Statutes 2004, section 349A.01, is
32 amended by adding a subdivision to read:

33 Subd. 20. [OTHER LOTTERY GAMES ADJUSTED GROSS
34 REVENUE.] "Other lottery games adjusted gross revenue" means the
35 sum of all money from the operation of other lottery games at
36 the gaming facility, less the amount paid out in prizes in the

1 other lottery games and promotional allowances paid by the
2 tribal entity under section 349A.17 and approved by the director.

3 Sec. 9. Minnesota Statutes 2004, section 349A.04, is
4 amended to read:

5 349A.04 [LOTTERY GAME PROCEDURES.]

6 The director may adopt game procedures governing the
7 following elements of the lottery:

- 8 (1) lottery games;
- 9 (2) ticket prices;
- 10 (3) number and size of prizes;
- 11 (4) methods of selecting winning tickets; and
- 12 (5) frequency and method of drawings;
- 13 (6) gaming machine games;
- 14 (7) cost of gaming machine plays;
- 15 (8) other lottery games; and
- 16 (9) cost to participate in other lottery games.

17 The adoption of lottery game procedures is not subject to
18 chapter 14.

19 Sec. 10. Minnesota Statutes 2004, section 349A.10,
20 subdivision 3, is amended to read:

21 Subd. 3. [LOTTERY OPERATIONS.] (a) The director shall
22 establish a lottery operations account in the lottery fund. The
23 director shall pay all costs of operating the lottery, including
24 payroll costs or amounts transferred to the state treasury for
25 payroll costs, but not including lottery prizes, from the
26 lottery operating account. The director shall credit to the
27 lottery operations account amounts sufficient to pay the
28 operating costs of the lottery.

29 (b) Except as provided in paragraph (e), the director may
30 not credit in any fiscal year thereafter amounts to the lottery
31 operations account which when totaled exceed 15 percent of gross
32 revenue to the lottery fund in that fiscal year. In computing
33 total amounts credited to the lottery operations account under
34 this paragraph the director shall disregard amounts transferred
35 to or retained by lottery retailers as sales commissions or
36 other compensation and amounts transferred to or retained by the

1 tribal entity pursuant to a location contract under section
2 349A.17.

3 (c) The director of the lottery may not expend after July
4 1, 1991, more than 2-3/4 percent of gross revenues in a fiscal
5 year for contracts for the preparation, publication, and
6 placement of advertising.

7 (d) Except as the director determines, the lottery is not
8 subject to chapter 16A relating to budgeting, payroll, and the
9 purchase of goods and services.

10 (e) In addition to the amounts credited to the lottery
11 operations account under paragraph (b), the director is
12 authorized, if necessary, to meet the current obligations of the
13 lottery and to credit up to 25 percent of an amount equal to the
14 average annual amount which was authorized to be credited to the
15 lottery operations account for the previous three fiscal years
16 but was not needed to meet the obligations of the lottery.

17 (f) Notwithstanding the provisions of this subdivision, the
18 director may not credit, in any fiscal year, to the lottery
19 operations account which when totaled exceed ten
20 percent of adjusted gross revenue from the operation of gaming
21 machines and other lottery games at the gaming facility.

22 Sec. 11. Minnesota Statutes 2004, section 349A.10,
23 subdivision 6, is amended to read:

24 Subd. 6. [BUDGET; PLANS.] The director shall prepare and
25 submit a biennial budget plan to the commissioner of finance.
26 The governor shall recommend the maximum amount available for
27 the lottery in the budget the governor submits to the
28 legislature under section 16A.11. The maximum amount available
29 to the lottery for operating expenses and capital expenditures
30 shall be determined by law. Operating expenses shall not
31 include expenses that are a direct function of lottery sales,
32 which include the cost of lottery prizes, amounts paid to
33 lottery retailers as sales commissions or other compensation,
34 amounts paid to produce and deliver scratch lottery games, and
35 amounts paid to an outside vendor to operate and maintain an
36 online gaming system, amounts paid to an outside vendor to

1 operate and maintain a central system for gaming machines and
 2 for other lottery games, and amounts paid to acquire and
 3 maintain gaming machines and equipment used to conduct other
 4 lottery games. In addition, the director shall appear at least
 5 once each fiscal year before the senate and house of
 6 representatives committees having jurisdiction over gambling
 7 policy to present and explain the lottery's plans for future
 8 games and the related advertising and promotions and spending
 9 plans for the next fiscal year.

10 Sec. 12. Minnesota Statutes 2004, section 349A.13, is
 11 amended to read:

12 349A.13 [RESTRICTIONS.]

13 Nothing in this chapter:

14 (1) authorizes the director to conduct a lottery game or
 15 contest the winner or winners of which are determined by the
 16 result of a sporting event other than a horse race conducted
 17 under chapter 240;

18 (2) authorizes the director to install or operate a lottery
 19 device operated by coin or currency which when operated
 20 determines the winner of a game except as authorized under
 21 section 349A.17; and

22 (3) authorizes the director to sell pull-tabs as defined
 23 under section 349.12, subdivision 32.

24 Sec. 13. [349A.17] [GAMING FACILITY.]

25 Subdivision 1. [DEFINITIONS.] (a) For the purposes of this
 26 section, the terms defined in this subdivision have the meanings
 27 given them.

28 (b) "Tribal entity" means one or more entities, whether
 29 tribally or federally chartered corporations, or other legal
 30 entities, wholly owned by one or more tribal governments that
 31 are parties to the location contract under this section.

32 (c) "Tribal government" means the governmental entity that
 33 represents one of the 11 federally recognized Indian tribes
 34 within the state of Minnesota.

35 (d) "Site" means a parcel or contiguous parcels of land,
 36 and may be enlarged by the addition of contiguous parcels of

1 land over time.

2 Subd. 2. [LOCATION CONTRACT.] (a) The director may enter
3 into a contract with a tribal entity to provide locations for
4 the operation of gaming machines and other lottery games at one
5 site located in the seven-county metropolitan area as defined in
6 section 473.121, subdivision 2, or any contiguous county
7 thereto. The site for the gaming facility shall be jointly
8 selected by the director and the tribal entity. Upon
9 notification by the director that the gaming facility will be
10 located in a particular city, the home rule charter or statutory
11 city has 60 days after the notification to adopt a resolution
12 that it does not consent to being considered as a site under
13 this subdivision. Upon receipt of the notification by the home
14 rule charter or statutory city, the director shall not consider
15 that city as a site for the facility.

16 (b) The director may enter a location contract with a
17 tribal entity that meets the following criteria:

18 (1) the tribal entity must be comprised of tribal
19 governments which are each federally recognized tribes which
20 operate current casino gaming operations under the federal
21 Indian Gaming Regulatory Act, United States Code, title 25,
22 sections 2701 to 2721, pursuant to a compact with the state of
23 Minnesota;

24 (2) to be eligible to participate in the tribal entity, the
25 tribal government must demonstrate to the director that the
26 revenues available to the tribal government from currently
27 available revenue sources are insufficient to adequately meet
28 the basic needs of tribal members including, but not limited to,
29 housing, medical care, education, or other governmental services
30 to members;

31 (3) each of the tribal governments participating in the
32 tribal entity must within 30 days following final enactment of
33 this act file with the director a formal resolution from its
34 tribal council which provides that:

35 (i) the tribal government intends to participate in a
36 tribal entity which will enter a contract that complies with the

1 requirements of this act;

2 (ii) the tribal government meets the eligibility criteria
3 set forth in this paragraph and provides adequate documentation
4 to supports its eligibility to participate in the tribal entity;

5 (iii) a statement of the tribal government's intent to
6 participate in a tribal entity that waives the entity's
7 sovereign immunity relating to disputes arising out of the
8 location contract or the construction, management, or operation
9 of the gaming facility and that the tribal government expressly
10 consents that the tribal entity will be subject to the
11 jurisdiction of the state court and the administrative and
12 regulatory jurisdiction of the state. The resolution must also
13 include a limited waiver of sovereign immunity and consent by
14 the tribal government to the jurisdiction of state court solely
15 to resolve disputes alleging that assets have been transferred
16 from the tribal entity to the tribe in violation of the location
17 contract or other applicable law and limited to any improperly
18 transferred assets; and

19 (iv) states the intention of the tribal government to
20 ensure that revenues provided to the participating tribal
21 governments from the tribal entity will be distributed between
22 the participating tribal governments in a fair and equitable
23 manner as determined solely by the participating tribal
24 governments.

25 (c) The location contract shall have no legal effect on the
26 validity of existing tribal-state gaming compacts.

27 (d) A contract signed with a tribal entity under this
28 section shall run for not more than 20 years and shall be
29 negotiable and renewable every 15 years thereafter. The state,
30 tribal entity, or participating tribal government that intends
31 to not renegotiate and renew the location contract must, if
32 reasonably possible, provide notice of its intent to the other
33 parties at least one year before the location contract expires.
34 A tribal government participating in the tribal entity may opt
35 out of this arrangement as part of the renewal process without
36 affecting the ability of the tribal entity to renew the contract

1 with the participation of the remaining tribal governments.

2 (e) The contract entered into under this section must
3 provide for the following provisions:

4 (1) The waiver of sovereign immunity by the tribal entity
5 and the limited waiver of sovereign immunity by the tribal
6 governments consistent with paragraph (b).

7 (2) Liquidated damages to recover the initial investment by
8 the tribal entity in the event the state, through legislation or
9 constitutional amendment, revokes all or substantially all of
10 the forms of gambling authorized under this section. The
11 liquidated damages may not be greater than the unpaid balance of
12 any debt incurred by the tribal entity after the location
13 contract has been executed and is limited to the debt incurred
14 by the tribal entity for the gaming facility license, initial
15 construction, or acquisition of the gaming facility less the
16 present market value of the property or other assets related to
17 the debt. Any liquidated damages provision must expire within
18 ten years.

19 (3) The tribal entity, in the construction of the gaming
20 facility, and the subsequent repair and maintenance of the
21 facility, shall make good faith efforts to contract with
22 American Indian and minority-owned businesses.

23 (4) The tribal entity, in operating the gaming facility,
24 shall make good faith efforts to ensure that American Indians
25 and other minorities are employed in entry level, middle
26 management, and upper management positions.

27 (5) Payment of a fee to the tribal entity equal to 64
28 percent of the adjusted gross gaming machine revenue and other
29 lottery games adjusted gross revenue.

30 (6) All costs associated with managing the day-to-day
31 activity of gaming machines and other lottery games, including,
32 but not limited to, routine and minor service and maintenance,
33 security monitoring, verifying winners, paying winners,
34 collecting money from gaming machines, collecting wagers from
35 the operation of other lottery games, and advertising and
36 marketing of gaming machines and other lottery games shall be

1 borne by the tribal entity.

2 (7) All costs associated with purchase or lease of gaming
3 machines and costs associated with major maintenance of the
4 gaming machines shall be borne by the lottery.

5 (8) The tribal entity shall pay to the commissioner of
6 human services an annual amount equal to the lesser of 0.5
7 percent of adjusted gross gaming machine revenue, other lottery
8 games' adjusted gross income, and nonlottery casino games'
9 adjusted gross revenue or \$2,500,000, for problem and compulsive
10 gambling treatment or programs.

11 (9) The tribal entity shall pay an annual amount equal to
12 two percent of adjusted gross gaming machine revenue, other
13 lottery games' adjusted gross income, and nonlottery casino
14 games' adjusted gross revenue to the city and county where the
15 gaming facility is located. This payment is in lieu of an
16 obligation to pay any portion of local property taxes
17 attributable to the city and county. The tribal entity is still
18 responsible for payment of the portion of local property taxes
19 attributable to the appropriate school district.

20 (10) Any controversy or claim between the tribal entity and
21 the director arising out of the location contract may be settled
22 by arbitration except as provided in paragraphs (g) and (h).

23 (11) The tribal entity must maintain adequate liability and
24 casualty insurance for the gaming facility.

25 (f) The tribal entity may establish reasonable standards
26 for payment of promotional allowances to players and the
27 proportional allocation of promotional allowances between
28 revenue generated from gaming machines, other lottery games, and
29 nonlottery casino games. Upon approval of the standards for
30 promotional allowances, the director shall reimburse the tribal
31 entity for the cost of promotional allowances paid by the tribal
32 entity.

33 (g) As part of the location contract, the director may
34 authorize the operation of gaming machines and the conduct of
35 other lottery games at a temporary facility pending completion
36 of a permanent facility and may establish reasonable conditions

1 for the operation. The operation of gaming machines and the
2 conducting of other lottery games at a temporary facility shall
3 be treated in the same manner as if it was conducted in a
4 permanent facility.

5 (h) The director may by administrative action cancel or
6 suspend the location contract if the director reasonably
7 determines that the tribal entity has materially breached any
8 material provision of the location contract and has failed to
9 cure that breach in a reasonable time, or if the tribal entity's
10 gaming facility license has been suspended or revoked by the
11 commissioner of public safety.

12 A contract cancellation or suspension under this paragraph
13 is a contested case under sections 14.57 to 14.69 and is in
14 addition to any criminal penalties provided for a violation of
15 law or rule.

16 (i) The director may by administrative action impose a
17 civil penalty, issue correction orders, or resolve in any other
18 manner as determined appropriate by the director, if the
19 director determines that the tribal entity has breached any term
20 of the location contract. The imposition of a civil penalty is
21 a contested case under sections 14.57 to 14.69 and is in
22 addition to any criminal penalties provided for a violation of
23 law or rule.

24 (j) The rights and interests provided by the location
25 contract are specific to the state and the tribal entity and are
26 not transferable without the written approval of the director.

27 (k) Gaming machines may only be placed and other lottery
28 games may only be conducted at a gaming facility that is owned
29 or leased by the tribal entity.

30 (l) The contract entered into under this subdivision is not
31 subject to chapter 16C.

32 (m) The amount paid by the tribal entity to the
33 commissioner of human services pursuant to the location contract
34 under this section is annually appropriated to the commissioner
35 of human services for problem and compulsive gambling treatment
36 or programs, including programs that are designed to address

1 compulsive gambling in American Indian and minority communities.

2 Subd. 3. [OPERATION.] (a) All gaming machines that are
3 placed at a gaming facility or other lottery games conducted at
4 the gaming facility must be operated and controlled by the
5 director.

6 (b) Gaming machines must be owned or leased by the director.

7 (c) Major maintenance of the gaming machines shall be
8 controlled by the director or by a vendor that is under the
9 control and direction of the director.

10 (d) The director must have a central communications system
11 that monitors activities on each gaming machine.

12 (e) Equipment used to conduct other lottery games at the
13 gaming facility must be owned or leased by the director.

14 (f) The director must approve the general security
15 arrangements associated with and relating to the operation of
16 the gaming machines and the conducting of other lottery games at
17 the gaming facility.

18 (g) Advertising and promotional material produced by the
19 gaming facility relating to gaming machines and the conduct of
20 other lottery games at the gaming facility must be approved by
21 the director in a timely manner.

22 (h) The director may authorize the tribal entity to manage
23 the day-to-day operation of the gaming machines and the
24 conducting of other lottery games at the gaming facility,
25 provided that the director shall maintain overall control of the
26 operation of the gaming machines and the conducting of other
27 lottery games at the gaming facility.

28 (i) The costs associated with procuring and maintaining
29 gaming machines and equipment involved in operating other
30 lottery games, and costs associated with acquiring, maintaining,
31 and operating the central system used to monitor the activity of
32 gaming machines, shall be borne by the lottery.

33 (j) All proceeds from the operation of gaming machines and
34 conduct of other lottery games received by the tribal entity
35 constitute a trust fund until transmitted to the director.

36 (k) The director may require the tribal entity to deposit

1 in an account in a designated bank all money received by the
2 tribal entity from the operation of gaming machines and the
3 conduct of other lottery games.

4 (1) If the tribal entity fails to pay any money due the
5 director within the time prescribed by the director, the tribal
6 entity shall pay interest on the amount owed at the rate set for
7 lottery retailers under Minnesota Rules, part 7856.7020.

8 (m) The director may implement policies, procedures, and
9 other controls that are determined to be necessary by the
10 director for the operation of gaming machines and the conducting
11 of other lottery games pursuant to this section.

12 Subd. 4. [GAMES.] The director shall specify the games
13 that may be played on a gaming machine and the manner in which
14 other lottery games are conducted at the gaming facility as set
15 forth under section 349A.04.

16 Subd. 5. [SPECIFICATIONS.] Gaming machines must:

17 (1) maintain on non-resettable meters a permanent record
18 capable of being printed out, of all transactions by the machine
19 and all entries into the machine; and

20 (2) be capable of being linked to a central communications
21 system to provide auditing program information as required by
22 the director.

23 Subd. 6. [EXAMINATION OF MACHINES.] The director shall
24 examine prototypes of gaming machines and require that the
25 manufacturer of the machine pay the cost of the examination.
26 The director may contract for the examination of gaming
27 machines. The director may require working models of a gaming
28 machine transported to the locations the director designates for
29 testing, examination, and analysis. The manufacturer shall pay
30 all costs of any testing, examination, analysis, and
31 transportation of the machine model.

32 Subd. 7. [PRIZES.] A person who plays a gaming machine or
33 plays any other lottery game at the gaming facility agrees to be
34 bound by the rules and game procedures applicable to that
35 particular game. The player acknowledges that the determination
36 of whether the player has won a prize is subject to the rules

1 and game procedures adopted by the director, claim procedures
2 established by the director for that game, and any confidential
3 or public validation tests established by the director for that
4 game. A person under 18 years of age may not claim a prize from
5 the operation of a gaming machine or the conducting of any other
6 lottery game at the gaming facility. A prize claimed from the
7 play of a gaming machine game or the conduct of any other
8 lottery game is not subject to section 349A.08, subdivision 8.

9 Subd. 8. [PROHIBITIONS.] A person under the age of 18
10 years may not play a game on a gaming machine or participate in
11 any other lottery game at the gaming facility.

12 Subd. 9. [COMPULSIVE GAMBLING NOTICE.] The tribal entity
13 shall prominently post, in areas of the gaming facility where
14 gaming machines are located or where other lottery games are
15 conducted, the toll-free telephone number established by the
16 commissioner of human services in connection with the problem
17 and compulsive gambling program. The tribal entity shall
18 establish, with the approval of the director, a proactive plan
19 relating to problem and compulsive gambling.

20 Subd. 10. [LOCAL LICENSES; LOCAL FEES.] A political
21 subdivision may not require a license to operate a gaming
22 machine or conduct other lottery games or nonlottery casino
23 games as defined under section 299L.093, restrict or regulate
24 the placement of gaming machines or the conducting of other
25 lottery or nonlottery casino games, or impose a tax or fee on
26 the business of operating gaming machines or the conducting of
27 other lottery or nonlottery casino games at the gaming facility.

28 Subd. 11. [DATA CLASSIFICATION.] In performing the
29 responsibilities and duties required by this section, the
30 director and the lottery shall receive, collect, and create data
31 that reflects the internal operations of the gaming machines,
32 and other lottery games that are proprietary in nature
33 including, but not limited to, information regarding placement
34 or operation of machines and games, gaming receipts from
35 specific machines and games, payouts for specific games and
36 machines, and other business and operational decisions relating

1 to profitability and competitive advantage. This data is
2 classified as nonpublic data under section 13.02, subdivision
3 9. The director may provide the tribal entity, the management
4 entity, or a vendor that is providing gaming machines at the
5 gaming facility with access to any part of this data pursuant to
6 an appropriate confidentiality agreement between the director
7 and the appropriate party.

8 Sec. 14. [LOTTERY BUDGET; GAMING FACILITY.]

9 The director of the State Lottery shall submit a budget for
10 the operation of gaming machines and for the conduct of other
11 lottery games at a gaming facility as authorized under Minnesota
12 Statutes, section 349A.17, to the commissioner of finance.
13 Notwithstanding Minnesota Statutes, section 349A.10, subdivision
14 6, the director of the State Lottery may expend amounts
15 necessary to operate gaming at the gaming facility. Amounts
16 expended by the director of the State Lottery for the conducting
17 of gaming at the gaming facility in fiscal years 2006 and 2007
18 are not subject to the maximum amount set in law for the
19 operation of the lottery.

20 Sec. 15. [EFFECTIVE DATE.]

21 This article is effective the day following final enactment.

22 ARTICLE 3

23 GAMING FACILITY REGULATION

24 Section 1. [299L.09] [GAMING FACILITY.]

25 Subdivision 1. [DEFINITIONS.] For the purposes of this
26 section and sections 299L.09 to 299L.095, the following terms
27 have the meanings given them.

28 (a) "Direct financial interest" means ownership or control
29 of at least five percent interest in the tribal entity or
30 management entity, the debt, or other financial interest in the
31 tribal entity or management entity.

32 (b) "Lottery director" means the director of the Minnesota
33 State Lottery under chapter 349A.

34 (c) "Tribal entity" is as defined in section 349A.17.

35 (d) "Management entity" means the entity applying for or
36 holding a management license under section 299L.092.

1 Subd. 2. [LICENSE REQUIRED.] The tribal entity that will
2 own and operate, whether directly or through another tribal or
3 management entity, a gaming facility under section 349A.17 must
4 obtain a gaming facility license from the commissioner.

5 Subd. 3. [APPLICATION.] An application for a license under
6 this section must be on a form prescribed by the commissioner.
7 The commissioner may issue a gaming facility license to the
8 tribal entity that will operate the gaming facility.

9 Subd. 4. [LICENSE FEE.] Upon issuance of the license, the
10 tribal entity must pay a onetime license fee of \$200,000,000 to
11 the commissioner.

12 Subd. 5. [LICENSE ISSUANCE.] (a) The commissioner shall
13 issue a license under this section unless information obtained
14 from the comprehensive background check establishes that
15 issuance of the license would be adverse to the public interest
16 or to the effective regulation of gaming. If a license
17 application is denied, the tribal entity may reapply for a
18 license.

19 (b) The commissioner may only issue a gaming facility
20 license to a tribal entity that, through a valid limited waiver
21 of sovereign immunity, is subject to the jurisdiction of the
22 Minnesota state courts and the administrative jurisdiction and
23 regulation of the state.

24 (c) A license issued under this section may not be
25 transferred without the written approval of the commissioner.

26 Subd. 6. [BACKGROUND INVESTIGATION.] Before issuing a
27 gaming facility license, the commissioner shall conduct a
28 comprehensive background and financial investigation of the
29 tribal entity, including its officers, directors, managers,
30 supervisory personnel, and persons with a direct financial
31 interest in the tribal entity but does not include the tribal
32 governments that have formed the tribal entity. The
33 commissioner may charge the tribal entity an investigation fee
34 to cover the cost of the investigation. The commissioner may
35 require that fingerprints be taken from officers, directors,
36 managers, supervisory personnel, and persons with a direct

1 financial interest in the tribal entity not including the tribal
2 governments that have formed the tribal entity. The
3 commissioner may forward the fingerprints to the Federal Bureau
4 of Investigation for a national criminal history check.

5 Subd. 7. [LICENSE REFUSAL; SUSPENSION AND REVOCATION.] (a)
6 The commissioner may refuse to issue, or may revoke or suspend,
7 the gaming facility license if the tribal entity or its
8 officers, directors, managers, supervisory personnel, and
9 persons with a direct financial interest in the tribal entity,
10 not including the tribal governments that have formed the tribal
11 entity, has:

12 (1) engaged in a material violation of law, order, or rule
13 relating to gambling within any jurisdiction;

14 (2) operated a gaming facility in violation of approved
15 game procedures or an approved security plan, which in the
16 commissioner's opinion adversely and materially affects the
17 public interest of the state in the effective regulation and
18 control of gaming;

19 (3) made an intentional false statement in a license
20 application related to gaming;

21 (4) failed to perform material covenants or representations
22 made in a license application; or

23 (5) failed to notify the commissioner of a material change
24 in the information provided in the application.

25 (b) The commissioner may not revoke or suspend a license
26 under this subdivision unless the commissioner has given the
27 tribal entity and each participating tribal government express
28 written notice of the reason for the proposed revocation or
29 suspension and has granted the tribal entity a reasonable amount
30 of time to cure the violation giving rise to the proposed
31 revocation or suspension, and, in the commissioner's reasonable
32 judgment, the tribal entity has failed to do so. The
33 commissioner is not required to provide a reasonable time to
34 cure the violation before a license suspension if, in the
35 commissioner's reasonable judgment, the violation cannot be
36 cured by the tribal entity before significant harm will result

1 to the public health, safety, or welfare. The ability to cure
2 may include creation of a reorganized or reformed tribal entity,
3 provided that the reorganized or reformed tribal entity is
4 approved by the commissioner and the lottery director.

5 (c) A license revocation or suspension under this
6 subdivision is conducted as a contested case under sections
7 14.57 to 14.69 of the Administrative Procedure Act, and is in
8 addition to any other civil, administrative, or criminal
9 penalties imposed for a violation of law or rule.

10 Subd. 8. [OTHER LICENSE ACTIONS.] (a) The commissioner may
11 not issue the gaming facility license under this section or may
12 by administrative action impose a civil penalty upon the
13 licensee, issue correction orders, or take other administrative
14 action if the commissioner determines that the tribal entity, or
15 officer, director, manager, supervisory personnel, or other
16 person with a direct financial or management interest in the
17 licensee:

18 (1) has been convicted of a felony or of a crime in another
19 jurisdiction, which would be a felony in Minnesota;

20 (2) has been convicted of any crime related to gaming;

21 (3) has been found by a court, the lottery director, the
22 commissioner, or other state or governmental body to have
23 engaged in fraud, misrepresentation, or deceit;

24 (4) has provided false or misleading information to the
25 commissioner;

26 (5) has violated or failed to comply with this section or
27 any provision of this chapter or chapter 349A;

28 (6) is permanently or temporarily enjoined by any gambling
29 regulatory agency from engaging in or continuing any conduct or
30 practice involving any aspect of gambling;

31 (7) has had a gambling-related license revoked or
32 suspended, or has paid or been required to pay a monetary
33 penalty of \$10,000 or more by a gambling regulator in another
34 state or jurisdiction;

35 (8) has been the subject of any of the following actions by
36 the commissioner:

1 (i) has had a license under this chapter denied, suspended,
2 or revoked;

3 (ii) has been censured or reprimanded, or has paid or been
4 required to pay a monetary penalty or fine; or

5 (iii) has been the subject of any other discipline by the
6 commissioner; or

7 (9) based on past activities or criminal record, poses a
8 threat to the public interest or to the effective regulation and
9 control of gambling, or creates or enhances the dangers of
10 unsuitable, unfair, or illegal practices, methods, and
11 activities in the conduct of gambling or the management of the
12 business and financial arrangements incidental to the conduct of
13 gambling.

14 (b) Any conduct in violation of this section, or failure by
15 the tribal entity to take reasonable action to cure a violation
16 of this section, may be considered by the commissioner in
17 determining whether to order revocation or suspension of the
18 gaming facility license. Any proposed revocation or suspension
19 is subject to the notice and process requirements of subdivision
20 7, paragraph (b).

21 (c) Administrative action, including, but not limited to,
22 imposition of a civil penalty, corrective order, or other
23 administrative action under this paragraph, is a contested case
24 under sections 14.57 to 14.69 and is in addition to any other
25 civil, administrative, or criminal penalties provided for a
26 violation of law or rule.

27 Subd. 9. [REQUIRED NOTIFICATION.] (a) The tribal entity
28 has the obligation to immediately report to the commissioner any
29 substantial change in its management or ownership. Any
30 individual who later becomes an officer, director, or other
31 individual with a direct financial or management interest in the
32 tribal entity must undergo a comprehensive background and
33 financial investigation as set forth in subdivision 6. Prior to
34 assuming any duties or responsibilities for the tribal entity
35 the individual must file the appropriate license application
36 information with the commissioner.

1 (b) Following issuance of a gaming facility license, the
2 licensee must annually certify to the commissioner its
3 compliance with this section.

4 Subd. 10. [LICENSE REVIEW.] The gaming facility license
5 must be reviewed by the commissioner every five years. An
6 application for review must be on a form prescribed by the
7 commissioner. The commissioner shall review the application and
8 conduct the comprehensive background investigation pursuant to
9 subdivision 6.

10 Subd. 11. [AUDIT; INVESTIGATION.] (a) The tribal entity
11 shall have an annual certified audit conducted of the tribal
12 entity's operation of the gaming facility in accordance with
13 generally accepted accounting principles. The tribal entity
14 shall file a copy of each audit report with the commissioner.

15 (b) The commissioner has the right to conduct additional
16 reasonable audits or investigations relating to the operation of
17 the gaming facility. The commissioner shall have access to all
18 information, records, and accounts pertaining to the operation
19 of the gaming facility. The commissioner may recover the
20 reasonable costs of additional audits and investigations from
21 the tribal entity.

22 (c) The data created, collected, or retained under this
23 subdivision is private data as it relates to individuals or
24 nonpublic data as it relates to entities under chapter 13. At
25 the commissioner's discretion, the commissioner may share any
26 data under this subdivision with the director of the lottery or
27 the tribal entity, as deemed appropriate by the commissioner.

28 Subd. 12. [SALE OF INTOXICATING LIQUOR.] Notwithstanding
29 any other law, local ordinance, or charter provision, the host
30 community shall issue to the tribal entity an on-sale license
31 for the sale of intoxicating liquor at the gaming facility
32 pursuant to chapter 340A. The annual fee for the license issued
33 pursuant to this subdivision shall be set by the host community
34 at an amount comparable to the fee charged by municipalities in
35 the surrounding area for a similar license. Chapter 340A
36 applies to the sale of intoxicating liquor at the gaming

1 facility, except that the licensed premises need not be compact
2 and contiguous if the licensed premises are limited to the
3 interior and grounds of the facility.

4 Subd. 13. [DETENTION OF SUSPECTS.] (a) The commissioner
5 may designate specific employees of the department, the lottery,
6 or the gaming facility as persons authorized to detain a person
7 if they have probable cause to believe that the person detained
8 has violated section 609.651 or 609.76 while at the gaming
9 facility.

10 (b) A person authorized to detain an individual under
11 paragraph (a) is not criminally or civilly liable for any
12 detention authorized by this subdivision if the person has a
13 good faith belief that probable cause exists for the detention,
14 and the detention was not conducted with unreasonable force or
15 in bad faith.

16 (c) A peace officer or person authorized by the
17 commissioner under paragraph (a) may exclude a person from the
18 gaming facility or remove that person from the gaming facility
19 if the person is suspected to have violated section 609.651 or
20 609.76 or possesses contraband as provided in section 609.762,
21 subdivision 1.

22 (d) The tribal entity may establish a self-exclusion
23 program by which persons, at their request, may be excluded from
24 the gaming facility.

25 Subd. 14. [REIMBURSEMENT OF COSTS.] The commissioner shall
26 require that the tribal entity, on a quarterly basis, reimburse
27 the commissioner for the commissioner's actual costs, including
28 personnel costs of licensing, regulating, enforcement, and
29 oversight of the gaming facility under this section and sections
30 299L.091 to 299L.094. Money received by the commissioner under
31 this subdivision must be deposited in the state treasury and
32 credited to the commissioner reimbursement account and is
33 annually appropriated to the commissioner to pay the costs of
34 regulating activities at the gaming facility.

35 Sec. 2. [299L.091] [GAMING MANAGEMENT.]

36 Subdivision 1. [LICENSE REQUIRED.] The tribal entity, or

1 any entity formed by or engaged by the tribal entity to manage
2 the operations of the gaming facility under section 349A.17,
3 must obtain a gaming management license from the commissioner.

4 Subd. 2. [APPLICATION.] An application for a license under
5 this section must be on a form prescribed by the commissioner.
6 The commissioner may issue a gaming management license to the
7 management entity that will manage or operate the gaming
8 facility or gaming operations for the tribal entity.

9 Subd. 3. [LICENSE ISSUANCE.] (a) The commissioner shall
10 issue a license under this section unless information obtained
11 from the comprehensive background check establishes that
12 issuance of the license would be adverse to the public interest
13 or to the effective regulation of gaming.

14 (b) The commissioner may only issue a gaming management
15 license to an entity that is subject to the jurisdiction of the
16 Minnesota state courts and the administrative jurisdiction and
17 regulation of the state.

18 (c) Any license issued under this section is
19 nontransferable.

20 Subd. 4. [BACKGROUND INVESTIGATION.] Before issuing a
21 gaming management license, the commissioner must conduct a
22 comprehensive background and financial investigation of the
23 applicant including its officers, directors, managers,
24 supervisory personnel, and persons with a direct financial
25 interest in the management entity, not including the tribal
26 governments that have an interest in the management entity,
27 provided that if the management entity and the tribal entity are
28 the same, the commissioner shall utilize the background
29 investigation conducted as part of the application for a gaming
30 facility license. The commissioner may require that
31 fingerprints be taken and the commissioner may forward the
32 fingerprints to the Federal Bureau of Investigation for a
33 national criminal history check on the officers, directors,
34 managers, supervisory personnel, and persons with a direct
35 financial interest in the management entity, not including the
36 tribal governments that have an interest in the management

1 entity. The commissioner may charge an applicant for a gaming
2 management license a reasonable fee to cover the costs of the
3 investigation. Money received by the commissioner under this
4 subdivision must be deposited in the state treasury and credited
5 to the commissioner reimbursement account and is annually
6 appropriated to the commissioner to pay for costs incurred under
7 this subdivision.

8 Subd. 5. [LICENSE ACTIONS.] (a) The commissioner may not
9 issue a license under this section, or may by administrative
10 action revoke, suspend, or refuse to renew the gaming management
11 license, impose a civil penalty upon the licensee, or issue
12 correction orders, if the commissioner determines that the
13 management entity, or officer, director, manager, supervisory
14 personnel, other person with a direct financial interest in the
15 management entity, not including the tribal government that have
16 an interest in the management entity financial or management
17 interest in the licensee:

18 (1) has been convicted of a felony or of a crime in another
19 jurisdiction, which would be a felony in Minnesota;

20 (2) has been convicted of any crime related to gaming;

21 (3) has been found by a court, the lottery director, the
22 commissioner, or other state or governmental body to have
23 engaged in fraud, misrepresentation, or deceit;

24 (4) has provided false or misleading information to the
25 commissioner;

26 (5) has violated or failed to comply with this chapter or
27 chapter 349A;

28 (6) is permanently or temporarily enjoined by any gambling
29 regulatory agency from engaging in or continuing any conduct or
30 practice involving any aspect of gambling;

31 (7) has had a gambling-related license revoked or
32 suspended, or has paid or been required to pay a monetary
33 penalty of \$10,000 or more, by a gambling regulator in another
34 state or jurisdiction; or

35 (8) has been the subject of any of the following actions by
36 the commissioner:

1 (i) has had a license under chapter 299L denied, suspended,
2 or revoked;

3 (ii) has been censured or reprimanded or has paid or been
4 required to pay a monetary penalty or fine; or

5 (iii) has been the subject of any other discipline by the
6 commissioner;

7 (9) has engaged in conduct that is contrary to the public
8 health, safety, or welfare, or to the integrity of gambling;

9 (10) based on past activities or criminal record, poses a
10 threat to the public interest or to the effective regulation and
11 control of gambling, or creates or enhances the dangers of
12 unsuitable, unfair, or illegal practices, methods, and
13 activities in the conduct of gambling or the management of the
14 business and financial arrangements incidental to the conduct of
15 gambling;

16 (11) has engaged in a material violation of law, order, or
17 rule relating to gambling within any jurisdiction;

18 (12) has operated gaming in violation of approved game
19 procedures or an approved security plan, which in the
20 commissioner's opinion adversely and materially affects the
21 public interest of the state in the effective regulation and
22 control of gaming;

23 (13) has made an intentional false statement in a license
24 application;

25 (14) has failed to perform material covenants or
26 representations made in a license application; or

27 (15) has failed to notify the commissioner of a material
28 change in the information provided in a license application.

29 (b) A license revocation, suspension, or imposition of a
30 civil penalty under this paragraph is a contested case under
31 sections 14.57 to 14.69 and is in addition to any criminal
32 penalties provided for a violation of law or rule.

33 (c) The commissioner shall provide notice of any license
34 revocation, suspension, or imposition of a civil penalty to the
35 tribal entity.

36 Subd. 6. [REQUIRED NOTIFICATION.] (a) The gaming

1 management licensee has the obligation to immediately report to
2 the commissioner any change in its management or ownership. Any
3 individual who later becomes an officer, director, or other
4 individual with a direct financial or management interest in the
5 licensee must undergo a comprehensive background and financial
6 investigation as set forth in subdivision 4. Prior to assuming
7 any duties or responsibilities for the licensee, the individual
8 must file the appropriate license application information with
9 the commissioner.

10 (b) Following issuance of a gaming management license, the
11 licensee must annually certify to the commissioner its
12 compliance with this section.

13 Subd. 7. [LICENSE RENEWAL.] The gaming management license
14 must be renewed every two years. The commissioner must review
15 an application for renewal of a gaming management license in the
16 same manner as set forth in this section for issuance of a
17 license, including the assessment of costs related to the
18 background investigation.

19 Sec. 3. [299L.092] [EMPLOYEE LICENSES.]

20 Subdivision 1. [AUTHORITY.] The commissioner may issue
21 employee licenses for persons employed at the gaming facility.
22 All persons employed at the gaming facility must have the
23 appropriate license issued by the commissioner. The tribal
24 entity must ensure that an employee has a valid employee license
25 before the employee begins work at the gaming facility.

26 Subd. 2. [RULEMAKING.] The commissioner may by rule
27 prescribe the qualifications for employee licenses and standards
28 required for issuance of employee licenses under this section.

29 Subd. 3. [APPLICATION INFORMATION.] An application for an
30 employee license must be on a form prescribed by the
31 commissioner and include an affidavit of qualification that the
32 applicant:

33 (1) does not have a felony conviction of record in a state
34 or federal court and does not have a state or federal felony
35 charge pending;

36 (2) is not and never has been connected with or engaged in

1 an illegal business;

2 (3) has never been found guilty of fraud or
3 misrepresentation in connection with gambling; and

4 (4) has never been found guilty of a violation of law or
5 rule relating to gambling within any jurisdiction.

6 Subd. 4. [BACKGROUND INVESTIGATIONS.] The commissioner
7 shall investigate each applicant for an employee license to the
8 extent the commissioner deems necessary. The commissioner must
9 require the applicant to be fingerprinted or to furnish the
10 applicant's fingerprints. The commissioner may require the
11 tribal entity to pay the costs of processing employee licenses,
12 renewing employee licenses, and conducting background
13 investigations on the employee. Money received by the
14 commissioner under this subdivision must be deposited in the
15 state treasury and credited to the commissioner reimbursement
16 account and are annually appropriated to the commissioner to pay
17 for costs incurred under this subdivision.

18 Subd. 5. [LICENSE ISSUANCE AND RENEWAL.] If the
19 commissioner determines that the applicant is qualified for the
20 occupation for which licensing is sought and will not adversely
21 affect the public health, safety, and welfare or the integrity
22 of gambling in Minnesota, the commissioner may issue an employee
23 license to the applicant. If the commissioner makes a similar
24 finding for a renewal of an employee license, the commissioner
25 may renew the license. Employee licenses are effective for one
26 year.

27 Subd. 6. [REVOCATION AND SUSPENSION.] (a) The commissioner
28 may revoke an employee license for a violation of law or rule
29 which in the commissioner's opinion adversely affects the
30 integrity of gambling in Minnesota, or for an intentional false
31 statement made in a license application. The commissioner may
32 suspend an employee license for up to one year or refuse to
33 renew the license or impose a civil penalty for a violation of
34 law, order, or rule. A license revocation or suspension is a
35 contested case under sections 14.57 to 14.69 of the
36 Administrative Procedure Act and is in addition to criminal

1 penalties imposed for a violation of law or rule.

2 (b) The commissioner may summarily suspend an employee
3 license prior to a contested case hearing where it is necessary
4 to ensure the integrity of gambling. A contested case hearing
5 must be held within 20 days of the summary suspension and the
6 administrative law judge's report must be issued within 20 days
7 from the close of the hearing record. In all cases involving
8 summary suspension, the commissioner must issue its final
9 decision within 30 days from receipt of the report of the
10 administrative law judge and subsequent exceptions and argument
11 under section 14.61.

12 Sec. 4. [299L.093] [VENDOR LICENSES.]

13 Subdivision 1. [ISSUANCE.] The commissioner may issue a
14 vendor license for any person or entity that sells or
15 distributes products or provides services at the gaming
16 facility. No person may sell or distribute products or provide
17 a service at the gaming facility unless the person has obtained
18 a license from the commissioner. All employees of the vendor
19 whose work requires attendance at the gaming facility must
20 obtain an employee license under section 299L.092.

21 Subd. 2. [RULEMAKING.] The commissioner may by rule
22 prescribe the qualifications for vendor licenses under this
23 section and standards required for issuance of vendor licenses.

24 Subd. 3. [APPLICATION INFORMATION.] An application for a
25 vendor license must be on a form prescribed by the commissioner
26 and include an affidavit of qualification that the applicant,
27 and any officer, director, or person with direct financial
28 interest in the applicant:

29 (1) does not have a felony conviction of record in a state
30 or federal court and does not have a state or federal felony
31 charge pending;

32 (2) is not and never has been connected with or engaged in
33 an illegal business;

34 (3) has never been found guilty of fraud or
35 misrepresentation in connection with gambling; and

36 (4) has never been found guilty of a violation of law or

1 rule relating to gambling within any jurisdiction.

2 Subd. 4. [BACKGROUND INVESTIGATIONS.] The commissioner
3 shall investigate each applicant for a vendor license to the
4 extent the commissioner deems necessary. The commissioner must
5 require the applicant be fingerprinted or furnish the
6 applicant's fingerprints. The commissioner may require the
7 vendor to pay the costs of processing employee licenses,
8 renewing vendor licenses, and conducting background
9 investigations on the vendor. Money received by the
10 commissioner under this subdivision must be deposited in the
11 state treasury and credited to the commissioner reimbursement
12 account, and are annually appropriated to the commissioner to
13 pay for costs incurred under this subdivision.

14 Subd. 5. [LICENSE ISSUANCE AND RENEWAL.] If the
15 commissioner determines that the applicant is qualified and the
16 issuance of the license will not adversely affect the public
17 health, safety, and welfare or the integrity of gambling in
18 Minnesota, the commissioner may issue a vendor license to the
19 applicant. If the commissioner makes a similar finding for a
20 renewal of a vendor license, the commissioner may renew the
21 license. Vendor licenses are effective for one year.

22 Subd. 6. [REVOCAION AND SUSPENSION.] (a) The commissioner
23 may revoke a vendor license for a violation of law or rule that,
24 in the commissioner's opinion, adversely affects the integrity
25 of gambling in Minnesota, or for an intentional false statement
26 made in a license application. The commissioner may suspend a
27 vendor license for up to one year or refuse to renew the license
28 or impose a civil penalty for a violation of law, order, or
29 rule. A license revocation or suspension is a contested case
30 under sections 14.57 to 14.69 of the Administrative Procedure
31 Act and is in addition to criminal penalties imposed for a
32 violation of law or rule.

33 (b) The commissioner may summarily suspend a vendor license
34 for not more than 90 days prior to a contested case hearing
35 where it is necessary to ensure the integrity of gambling. A
36 contested case hearing must be held within 20 days of the

1 summary suspension and the administrative law judge's report
2 must be issued within 20 days from the close of the hearing
3 record. In all cases involving summary suspension, the
4 commissioner must issue its final decision within 30 days from
5 receipt of the report of the administrative law judge and
6 subsequent exceptions and argument under section 14.61.

7 Sec. 5. [299L.094] [NONLOTTERY CASINO GAMES.]

8 Subdivision 1. [DEFINITIONS.] (a) For the purposes of this
9 section, the following terms have the meanings given them.

10 (b) "Nonlottery casino games" means any game authorized by
11 the commissioner to be conducted by the tribal entity at the
12 gaming facility that is not a gaming machine or other lottery
13 game as defined by section 349A.01.

14 (c) "Nonlottery casino games' adjusted gross revenue" means
15 the sum of all money received from the operation of nonlottery
16 casino games, less the amounts paid out to players in prizes or
17 winnings and promotional allowances approved by the lottery
18 director under section 349A.17 in the nonlottery casino games.

19 Subd. 2. [OPERATION.] Nonlottery casino games may be
20 operated by the tribal entity in conformance with a plan of
21 operation approved by the commissioner. The plan of operation
22 must include, at a minimum:

23 (1) specifying and defining all nonlottery games to be
24 played, including all governing aspects of each nonlottery
25 casino game;

26 (2) arrangements to ensure the security of nonlottery
27 casino gaming;

28 (3) internal control systems for play of nonlottery casino
29 games; and

30 (4) a plan for the training of nonlottery casino games
31 personnel in identification of problem gamblers and appropriate
32 action to prevent or control problem gambling.

33 Subd. 3. [PLAN AMENDMENT.] The plan of operation may be
34 amended only with the approval of the commissioner.

35 Subd. 4. [ACTIONS.] The commissioner may revoke, suspend,
36 refuse to renew, or impose a civil penalty upon the tribal

1 entity or the gaming management licensee for violation of the
2 plan of operation. An action under this subdivision shall be
3 conducted as a contested case under sections 14.57 to 14.69 of
4 the Administrative Procedures Act and is in addition to criminal
5 penalties imposed for violation of the plan of operation.

6 Subd. 5. [PRIZES.] A person who plays a nonlottery casino
7 game at the gaming facility agrees to be bound by the rules and
8 game procedures applicable to that particular game. The player
9 acknowledges that the determination of whether the player has
10 won a prize is subject to the rules and game procedures adopted
11 by the plan of operation, claim procedures established by the
12 plan of operation for that game, and any confidential or public
13 validation tests established by the plan of operation for that
14 game. A person under 18 years of age may not claim a prize from
15 a nonlottery casino game at the gaming facility.

16 Sec. 6. [299L.095] [EMPLOYMENT RESTRICTIONS; CIVIL
17 PENALTY.]

18 (a) The lottery director, the commissioner, or any manager,
19 director, or supervisor employed by the lottery or the
20 Department of Public Safety whose job responsibilities include
21 the oversight, audit, investigation, or regulation of gaming at
22 a gaming facility licensed by the commissioner must not, while
23 employed with or within one year after leaving employment,
24 receive compensation directly or indirectly from, or enter into
25 a contractual relationship with the tribal entity or any
26 management entity licensed by the commissioner pursuant to
27 section 299L.09 or 299L.091.

28 (b) The tribal entity or management entity licensed by the
29 commissioner must not negotiate with or offer to employ or
30 compensate the lottery director; commissioner; or any manager,
31 director, or supervisor employed by the lottery or the
32 Department of Public Safety whose job responsibilities include
33 the oversight, audit, investigation, or regulation of gaming at
34 a gaming facility licensed by the commissioner pursuant to
35 section 299L.09 or 299L.091 while the person is employed by the
36 lottery or the Department of Public Safety or within one year

1 after the person's employment has ended.

2 (c) A state employee who violates this section is subject
3 to a civil penalty not to exceed \$10,000 for each violation.

4 The attorney general may bring an action in district court to
5 pursue a violation of this section.

6 (d) The commissioner may take administrative action in
7 relation to the gaming facility license or management license
8 for a violation of this section by a tribal entity or management
9 entity.

10 Sec. 7. [EFFECTIVE DATE.]

11 This article is effective the day following final enactment.

12 ARTICLE 4

13 GAMING TRANSACTION FEE

14 Section 1. [297A.651] [GAMING FACILITY.]

15 (a) The State Lottery must, on or before the 20th day of
16 each month, transmit to the commissioner an amount equal to the
17 adjusted gross gaming machine revenue and other lottery games'
18 adjusted gross revenue, as defined in section 349A.01, for the
19 previous month multiplied by 26 percent.

20 (b) A gaming transaction fee is imposed on nonlottery
21 casino games at the gaming facility authorized under section
22 299L.094 at the rate of 14 percent of nonlottery casino games'
23 adjusted gross revenue, as defined in section 299L.094. The
24 tribal entity authorized to conduct nonlottery casino games at
25 the gaming facility must make the payments due under this
26 paragraph to the commissioner on or before the 20th day of each
27 month for the adjusted gross revenue received for the previous
28 month.

29 (c) The commissioner shall deposit the money transmitted
30 under this section in the state treasury to be credited as
31 provided in section 297A.94.

32 (d) The payments imposed by this section are in lieu of the
33 tax imposed by section 297A.62 relating to wagering at the
34 gaming facility and any local taxes relating to wagering at the
35 gaming facility and local license fees relating to wagering at
36 the gaming facility.

1 Sec. 2. Minnesota Statutes 2004, section 297A.94, is
2 amended to read:

3 297A.94 [DEPOSIT OF REVENUES.]

4 (a) Except as provided in this section, the commissioner
5 shall deposit the revenues, including interest and penalties,
6 derived from the taxes imposed by this chapter in the state
7 treasury and credit them to the general fund.

8 (b) The commissioner shall deposit taxes in the Minnesota
9 agricultural and economic account in the special revenue fund if:

10 (1) the taxes are derived from sales and use of property
11 and services purchased for the construction and operation of an
12 agricultural resource project; and

13 (2) the purchase was made on or after the date on which a
14 conditional commitment was made for a loan guaranty for the
15 project under section 41A.04, subdivision 3.

16 The commissioner of finance shall certify to the commissioner
17 the date on which the project received the conditional
18 commitment. The amount deposited in the loan guaranty account
19 must be reduced by any refunds and by the costs incurred by the
20 Department of Revenue to administer and enforce the assessment
21 and collection of the taxes.

22 (c) The commissioner shall deposit the revenues, including
23 interest and penalties, derived from the taxes imposed on sales
24 and purchases included in section 297A.61, subdivision 3,
25 paragraph (g), clauses (1) and (4), in the state treasury, and
26 credit them as follows:

27 (1) first to the general obligation special tax bond debt
28 service account in each fiscal year the amount required by
29 section 16A.661, subdivision 3, paragraph (b); and

30 (2) after the requirements of clause (1) have been met, the
31 balance to the general fund.

32 (d) The commissioner shall deposit the revenues, including
33 interest and penalties, collected under section 297A.64,
34 subdivision 5, in the state treasury and credit them to the
35 general fund. By July 15 of each year the commissioner shall
36 transfer to the highway user tax distribution fund an amount

1 equal to the excess fees collected under section 297A.64,
2 subdivision 5, for the previous calendar year.

3 (e) For fiscal year 2001, 97 percent; for fiscal years 2002
4 and 2003, 87 percent; and for fiscal year 2004 and thereafter,
5 72.43 percent of the revenues, including interest and penalties,
6 transmitted to the commissioner under section 297A.65, must be
7 deposited by the commissioner in the state treasury as follows:

8 (1) 50 percent of the receipts must be deposited in the
9 heritage enhancement account in the game and fish fund, and may
10 be spent only on activities that improve, enhance, or protect
11 fish and wildlife resources, including conservation,
12 restoration, and enhancement of land, water, and other natural
13 resources of the state;

14 (2) 22.5 percent of the receipts must be deposited in the
15 natural resources fund, and may be spent only for state parks
16 and trails;

17 (3) 22.5 percent of the receipts must be deposited in the
18 natural resources fund, and may be spent only on metropolitan
19 park and trail grants;

20 (4) three percent of the receipts must be deposited in the
21 natural resources fund, and may be spent only on local trail
22 grants; and

23 (5) two percent of the receipts must be deposited in the
24 natural resources fund, and may be spent only for the Minnesota
25 Zoological Garden, the Como Park Zoo and Conservatory, and the
26 Duluth Zoo.

27 (f) The revenue dedicated under paragraph (e) may not be
28 used as a substitute for traditional sources of funding for the
29 purposes specified, but the dedicated revenue shall supplement
30 traditional sources of funding for those purposes. Land
31 acquired with money deposited in the game and fish fund under
32 paragraph (e) must be open to public hunting and fishing during
33 the open season, except that in aquatic management areas or on
34 lands where angling easements have been acquired, fishing may be
35 prohibited during certain times of the year and hunting may be
36 prohibited. At least 87 percent of the money deposited in the

1 game and fish fund for improvement, enhancement, or protection
 2 of fish and wildlife resources under paragraph (e) must be
 3 allocated for field operations.

4 (g) The commissioner must deposit revenues, including
 5 interest and penalties, transmitted to the commissioner under
 6 section 297A.651 into the gaming facility proceeds fund
 7 established in section 297A.941.

8 Sec. 3. [297A.941] [GAMING FACILITY PROCEEDS FUND.]

9 A gaming facility proceeds fund is established in the state
 10 treasury, consisting of money deposited in the fund under
 11 section 297A.94, paragraph (g), and any other money credited to
 12 the fund by law. Money in the fund is appropriated as follows:

13 (1) ten percent of the receipts is annually appropriated to
 14 the community assets account; and

15 (2) the remaining 90 percent of the receipts shall be
 16 transferred to the general fund.

17 Sec. 4. [EFFECTIVE DATE.]

18 This article is effective the day following final enactment.

19 ARTICLE 5

20 MISCELLANEOUS PROVISIONS

21 Section 1. Minnesota Statutes 2004, section 299L.07,
 22 subdivision 2, is amended to read:

23 Subd. 2. [EXCLUSIONS.] Notwithstanding subdivision 1, a
 24 gambling device:

25 (1) may be sold by a person who is not licensed under this
 26 section, if the person (i) is not engaged in the trade or
 27 business of selling gambling devices, and (ii) does not sell
 28 more than one gambling device in any calendar year;

29 (2) may be sold by the governing body of a federally
 30 recognized Indian tribe described in subdivision 2a, paragraph
 31 (b), clause (1), which is not licensed under this section, if
 32 (i) the gambling device was operated by the Indian tribe, (ii)
 33 the sale is to a distributor licensed under this section, and
 34 (iii) the licensed distributor notifies the commissioner of the
 35 purchase, in the same manner as is required when the licensed
 36 distributor ships a gambling device into Minnesota;

1 (3) may be possessed by a person not licensed under this
2 section if the person holds a permit issued under section
3 299L.08; and

4 (4) may be possessed by a state agency, with the written
5 authorization of the director, for display or evaluation
6 purposes only and not for the conduct of gambling; and

7 (5) may be possessed by the State Lottery as authorized
8 under chapter 349A.

9 Sec. 2. Minnesota Statutes 2004, section 299L.07,
10 subdivision 2a, is amended to read:

11 Subd. 2a. [RESTRICTIONS.] (a) A manufacturer licensed
12 under this section may sell, offer to sell, lease, or rent, in
13 whole or in part, a gambling device only to a distributor
14 licensed under this section or to the State Lottery as
15 authorized under chapter 349A.

16 (b) A distributor licensed under this section may sell,
17 offer to sell, market, rent, lease, or otherwise provide, in
18 whole or in part, a gambling device only to:

19 (1) the governing body of a federally recognized Indian
20 tribe that is authorized to operate the gambling device under a
21 tribal state compact under the Indian Gaming Regulatory Act,
22 Public Law 100-497, and future amendments to it;

23 (2) a person for use in the person's dwelling for display
24 or amusement purposes in a manner that does not afford players
25 an opportunity to obtain anything of value;

26 (3) another distributor licensed under this section; or

27 (4) a person in another state who is authorized under the
28 laws of that state to possess the gambling device; or

29 (5) the State Lottery as authorized under chapter 349A.

30 Sec. 3. Minnesota Statutes 2004, section 340A.410,
31 subdivision 5, is amended to read:

32 Subd. 5. [GAMBLING PROHIBITED.] (a) Except as otherwise
33 provided in this subdivision, no retail establishment licensed
34 to sell alcoholic beverages may keep, possess, or operate, or
35 permit the keeping, possession, or operation on the licensed
36 premises of dice or any gambling device as defined in section

1 349.30, or permit gambling therein.

2 (b) Gambling equipment may be kept or operated and raffles
3 conducted on licensed premises and adjoining rooms when the use
4 of the gambling equipment is authorized by (1) chapter 349, (2)
5 a tribal ordinance in conformity with the Indian Gaming
6 Regulatory Act, Public Law 100-497, or (3) a tribal-state
7 compact authorized under section 3.9221.

8 (c) Lottery tickets may be purchased and sold within the
9 licensed premises as authorized by the director of the lottery
10 under chapter 349A.

11 (d) Dice may be kept and used on licensed premises and
12 adjoining rooms as authorized by section 609.761, subdivision 4.

13 (e) Gambling devices may be operated and gambling permitted
14 at a gaming facility as authorized by chapter 299L and 349A.

15 Sec. 4. Minnesota Statutes 2004, section 541.20, is
16 amended to read:

17 541.20 [RECOVERY OF MONEY LOST.]

18 Every person who, by playing at cards, dice, or other game,
19 or by betting on the hands or sides of such as are gambling,
20 shall lose to any person so playing or betting any sum of money
21 or any goods, and pays or delivers the same, or any part
22 thereof, to the winner, may sue for and recover such money by a
23 civil action, before any court of competent jurisdiction. For
24 purposes of this section, gambling shall not include pari-mutuel
25 wagering conducted under a license issued pursuant to chapter
26 240, purchase or sale of tickets in the state lottery, purchase
27 of gaming machine plays as authorized under chapter 349A,
28 conduct of any lottery or nonlottery casino games at a gaming
29 facility as authorized under chapters 299L and 349A, or gambling
30 authorized under chapters 349 and 349A.

31 Sec. 5. Minnesota Statutes 2004, section 541.21, is
32 amended to read:

33 541.21 [COMMITMENTS FOR GAMBLING DEBT VOID.]

34 Every note, bill, bond, mortgage, or other security or
35 conveyance in which the whole or any part of the consideration
36 shall be for any money or goods won by gambling or playing at

1 cards, dice, or any other game whatever, or by betting on the
2 sides or hands of any person gambling, or for reimbursing or
3 repaying any money knowingly lent or advanced at the time and
4 place of such gambling or betting, or lent and advanced for any
5 gambling or betting to any persons so gambling or betting, shall
6 be void and of no effect as between the parties to the same, and
7 as to all persons except such as hold or claim under them in
8 good faith, without notice of the illegality of the
9 consideration of such contract or conveyance. The provisions of
10 this section shall not apply to: (1) pari-mutuel wagering
11 conducted under a license issued pursuant to chapter 240; (2)
12 purchase of tickets in the state lottery or other wagering
13 authorized under chapter 299L or 349A; (3) gaming activities
14 conducted pursuant to the Indian Gaming Regulatory Act, 25
15 U.S.C. 2701 et seq.; or (4) lawful gambling activities permitted
16 under chapter 349.

17 Sec. 6. Minnesota Statutes 2004, section 609.75,
18 subdivision 3, is amended to read:

19 Subd. 3. [WHAT ARE NOT BETS.] The following are not bets:

20 (1) A contract to insure, indemnify, guarantee or otherwise
21 compensate another for a harm or loss sustained, even though the
22 loss depends upon chance.

23 (2) A contract for the purchase or sale at a future date of
24 securities or other commodities.

25 (3) Offers of purses, prizes or premiums to the actual
26 contestants in any bona fide contest for the determination of
27 skill, speed, strength, endurance, or quality or to the bona
28 fide owners of animals or other property entered in such a
29 contest.

30 (4) The game of bingo when conducted in compliance with
31 sections 349.11 to 349.23.

32 (5) A private social bet not part of or incidental to
33 organized, commercialized, or systematic gambling.

34 (6) The operation of equipment or the conduct of a raffle
35 under sections 349.11 to 349.22, by an organization licensed by
36 the Gambling Control Board or an organization exempt from

1 licensing under section 349.166.

2 (7) Pari-mutuel betting on horse racing when the betting is
3 conducted under chapter 240.

4 (8) The purchase and sale of state lottery tickets under
5 chapter 349A.

6 (9) Plays on a gaming machine, or purchase or participating
7 in any lottery or nonlottery casino game at a gaming facility
8 authorized under chapter 299L or 349A.

9 Sec. 7. Minnesota Statutes 2004, section 609.761, is
10 amended by adding a subdivision to read:

11 Subd. 6. [GAMING FACILITY.] Sections 609.755 and 609.76 do
12 not prohibit the manufacture, possession, sale, or operation of
13 a gaming machine at a gaming facility under chapter 349A, or the
14 conduct of any other lottery or nonlottery casino game at a
15 gaming facility under chapters 299L and 349A.

16 Sec. 8. [SEVERABILITY; SAVINGS.]

17 If any part of this act is found to be invalid because it
18 is in conflict with a provision of the Constitution of the State
19 of Minnesota or the Constitution of the United States, or for
20 any other reason, all other provisions of this act shall remain
21 valid and any rights, remedies, and privileges that have been
22 otherwise accrued by this act, shall remain in effect and may be
23 proceeded with and concluded under the provisions of this act.

24 Sec. 9. [EFFECTIVE DATE.]

25 This article is effective the day following final enactment.

Article 1 PURPOSE..... page 1
Article 2 LOTTERY OPERATIONS..... page 2
Article 3 GAMING FACILITY REGULATION..... page 15
Article 4 GAMING TRANSACTION FEE..... page 31
Article 5 MISCELLANEOUS PROVISIONS..... page 34

1 A bill for an act

2 relating to economic development; establishing the
3 incumbent worker program; modifying workforce
4 development governance; amending Minnesota Statutes
5 2004, sections 116L.03, subdivision 2; 116L.05, by
6 adding a subdivision; 116L.20, subdivision 2;
7 proposing coding for new law in Minnesota Statutes,
8 chapter 116L; repealing Minnesota Statutes 2004,
9 section 116L.05, subdivision 4.

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

11 Section 1. Minnesota Statutes 2004, section 116L.03,
12 subdivision 2, is amended to read:

13 Subd. 2. [APPOINTMENT.] The Minnesota Job Skills
14 Partnership Board consists of: seven members appointed by the
15 governor, ~~the chair of the governor's Workforce Development~~
16 ~~Council~~, the commissioner of employment and economic
17 development, the chancellor, or the chancellor's designee, of
18 the Minnesota State Colleges and Universities, the president, or
19 the president's designee, of the University of Minnesota, and
20 two nonlegislator members, one appointed by the Subcommittee on
21 Committees of the senate Committee on Rules and Administration
22 and one appointed by the speaker of the house. If the
23 chancellor or the president of the university makes a
24 designation under this subdivision, the designee must have
25 experience in technical education. Four of the appointed
26 members must be members of the governor's Workforce Development
27 Council, of whom two must represent organized labor and two must

1 represent business and industry. One of the appointed members
2 must be a representative of a nonprofit organization that
3 provides workforce development or job training services.

4 Sec. 2. Minnesota Statutes 2004, section 116L.05, is
5 amended by adding a subdivision to read:

6 Subd. 5. [USE OF WORKFORCE DEVELOPMENT FUNDS.] After March
7 1 of any fiscal year, the board may use workforce development
8 funds for the purposes outlined in sections 116L.04, 116L.06,
9 and 116L.10 to 116L.14, or to provide incumbent worker training
10 services under section 116L.18. Incumbent worker training
11 services under section 116L.18 may be provided if the following
12 conditions have been met:

13 (1) the board examines relevant economic indicators,
14 including the projected number of layoffs for the remainder of
15 the fiscal year and the next fiscal year, evidence of declining
16 and expanding industries, the number of initial applications for
17 and the number of exhaustions of unemployment benefits, job
18 vacancy data, and any additional relevant information brought to
19 the board's attention;

20 (2) the board accounts for all allocations made in section
21 116L.17, subdivision 2;

22 (3) based on the past expenditures and projected revenue,
23 the board estimates future funding needs for services under
24 section 116L.17 for the remainder of the current fiscal year and
25 the next fiscal year;

26 (4) the board determines there will be unspent funds after
27 meeting the needs of dislocated workers in the current fiscal
28 year and there will be sufficient revenue to meet the needs of
29 dislocated workers in the next fiscal year; and

30 (5) the board reports its findings in clauses (1) to (4) to
31 the chairs of legislative committees with jurisdiction over the
32 workforce development fund, to the commissioners of revenue and
33 finance, and to the public.

34 Sec. 3. [116L.18] [SPECIAL INCUMBENT WORKER TRAINING
35 GRANTS.]

36 Subdivision 1. [PURPOSE.] The purpose of the special

1 incumbent worker training grants is to expand opportunities for
2 businesses and workers to gain new skills that are in demand in
3 the Minnesota economy. The board shall establish criteria for
4 incumbent worker grants under this section and may encourage
5 creative training models, innovative partnerships, and expansion
6 or replication of promising practices. Grants may be made from
7 workforce development funds, general fund appropriations, and
8 any other funding sources available to the board, provided the
9 requirements of those funding sources are satisfied.

10 Subd. 2. [DEFINITIONS.] (a) For the purposes of this
11 section, the following terms have the meanings given them.

12 (b) "Incumbent worker" means an individual employed by a
13 qualifying employer.

14 (c) "Qualifying employer" means a for-profit business or
15 nonprofit organization in Minnesota with at least one full-time
16 paid employee. Public sector organizations are not considered
17 qualifying employers.

18 (d) "Eligible organization" has the meaning given in
19 section 116L.17.

20 Subd. 3. [AMOUNT OF GRANTS.] A grant to an eligible
21 organization may not exceed \$400,000.

22 Subd. 4. [MATCHING FUNDS.] The board shall require
23 matching funds from qualifying employers in the form of funding,
24 equipment, or faculty.

25 Subd. 5. [USE OF FUNDS.] Eligible organizations shall use
26 funds granted under this section for direct training services to
27 provide a measurable increase in the job-related skills of
28 participating incumbent workers. Eligible organizations may
29 also provide basic assessment, counseling, and preemployment
30 training services requested by the qualifying employer. No
31 funds may be used for support services as described in section
32 116L.17, subdivision 4, clause (2).

33 Subd. 6. [PERFORMANCE OUTCOME MEASURES.] The board and the
34 commissioner of employment and economic development shall
35 jointly develop performance outcome measures and standards for
36 this program. The commissioner and board shall consult with

1 eligible organizations in establishing standards. Measures at a
2 minimum must include posttraining retention, promotion, and wage
3 increase. The board and commissioner shall provide a report to
4 the legislature by March 1 of each year on the previous fiscal
5 year's program performance. Eligible organizations must provide
6 performance data in a timely manner for the completion of this
7 report.

8 Sec. 4. Minnesota Statutes 2004, section 116L.20,
9 subdivision 2, is amended to read:

10 Subd. 2. [DISBURSEMENT OF SPECIAL ASSESSMENT FUNDS.] (a)
11 The money collected under this section shall be deposited in the
12 state treasury and credited to the workforce development fund to
13 provide for employment and training programs. The workforce
14 development fund is created as a special account in the state
15 treasury.

16 (b) All money in the fund not otherwise appropriated or
17 transferred is appropriated to the Job Skills Partnership Board
18 for the purposes of section 116L.17 and as provided for in
19 paragraph (d). The board must act as the fiscal agent for the
20 money and must disburse that money for the purposes of section
21 116L.17, not allowing the money to be used for any other
22 obligation of the state. All money in the workforce development
23 fund shall be deposited, administered, and disbursed in the same
24 manner and under the same conditions and requirements as are
25 provided by law for the other special accounts in the state
26 treasury, except that all interest or net income resulting from
27 the investment or deposit of money in the fund shall accrue to
28 the fund for the purposes of the fund.

29 (c) Reimbursement for costs related to collection of the
30 special assessment shall be in an amount negotiated between the
31 commissioner and the United States Department of Labor.

32 (d) If the board determines that the conditions of section
33 116L.05, subdivision 5, have been met, the board may use funds
34 for the purposes outlined in sections 116L.04, 116L.06, and
35 116L.10 to 116L.14, or to provide incumbent worker training
36 services under section 116L.18.

1 Sec. 5. [REPEALER.]

2 Minnesota Statutes 2004, section 116L.05, subdivision 4, is

3 repealed.

APPENDIX
Repealed Minnesota Statutes for S1373-1

116L.05 FUNDING.

Subd. 4. **Legislative recommendations.** By January 15 of each odd-numbered year, the board must submit recommendations to the house and senate committees with jurisdiction over workforce development programs, regarding modifications to, or elimination of, existing workforce development programs under the board's oversight and the potential implementation of new programs. The recommendations must include recommendations regarding funding levels and sources.

Senator Cohen introduced--

S.F. No. 2212: Referred to the Committee on Finance.

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A bill for an act

relating to job training; providing for training to
implement the Ford Motor Company Ford Production
System at the Twin Cities Ford Assembly Plant;
appropriating money.

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

Section 1. [FORD PRODUCTION SYSTEM TRAINING
APPROPRIATION.]

\$1,000,000 is appropriated from the general fund to the
commissioner of employment and economic development to provide
training to implement the Ford Motor Company Ford Production
System at the Twin Cities Ford Assembly Plant.

1 **Senator Higgins from the Committee on State and Local**
2 **Government Operations, to which was re-referred**

3 **S.F. No. 1298:** A bill for an act relating to environment;
4 enacting the Minnesota Electronics Recycling Act of 2005;
5 authorizing rulemaking; providing penalties; amending Minnesota
6 Statutes 2004, section 16C.03, by adding a subdivision;
7 proposing coding for new law in Minnesota Statutes, chapter 116F.

8 Reports the same back with the recommendation that the bill
9 be amended as follows:

10 Delete everything after the enacting clause and insert:

11 "Section 1. [116H.55] [DEFINITIONS.]

12 Subdivision 1. [SCOPE.] For the purposes of this chapter,
13 the following terms have the meanings given.

14 Subd. 2. [CATHODE RAY TUBE OR CRT.] "Cathode ray tube" or
15 "CRT" means a vacuum tube or picture tube used to convert an
16 electronic signal into a visual image. It is composed primarily
17 of glass, and is the video display component of a television or
18 computer monitor, and includes other items integrally attached
19 to the CRT.

20 Subd. 3. [COMPUTER MONITOR.] "Computer monitor" means an
21 electronic device that is a cathode ray tube or flat panel
22 display primarily intended to display information from a central
23 processing unit or the Internet. Computer monitor includes a
24 laptop computer.

25 Subd. 4. [FULL TRUCKLOAD.] "Full truckload" means a
26 quantity weighing 25,000 pounds or more of video display devices.

27 Subd. 5. [HENNEPIN COUNTY STUDY.] "Hennepin County study"
28 means the Hennepin County Consumer Electronics Brand Tally,
29 published January 2005.

30 Subd. 6. [HOUSEHOLD.] "Household" means an occupant of a
31 single detached dwelling unit or a single unit of a multiple
32 dwelling unit who has used a video display device at a dwelling
33 unit primarily for personal use.

34 Subd. 7. [INTERMEDIATE CONSOLIDATION POINT.] "Intermediate
35 consolidation point" means a facility in the state approved by
36 the Office of Environmental Assistance pursuant to section
37 116H.65, paragraph (d), clause (3), where local governments and
38 households can deliver for consolidation video display devices
39 generated by households and destined for recycling,

1 refurbishment, or reuse. The facility may be operated by a
2 private entity or a local unit of government, and must be
3 capable of consolidating a full truckload of video display
4 devices from households in accordance with all applicable
5 federal, state, and local laws, rules, regulations, and
6 ordinances.

7 Subd. 8. [MANUFACTURER.] "Manufacturer" means a person
8 who: (1) manufactures video display devices to be sold under
9 its own brand as identified by its own brand label; or (2) sells
10 video display devices manufactured by others under its own brand
11 as identified by its own brand label.

12 Subd. 9. [MANUFACTURER'S BRANDS.] "Manufacturer's brands"
13 means a manufacturer's name, brand name, or brand label, and all
14 manufacturer's names, brand names, and brand labels for which
15 the manufacturer has legal responsibility, including those
16 manufacturer's names, brand names, and brand labels of companies
17 that have been acquired by the manufacturer.

18 Subd. 10. [OFFICE.] "Office" means the Office of
19 Environmental Assistance.

20 Subd. 11. [ORPHAN WASTE.] "Orphan waste" means a video
21 display device covered by this section for which (1) no
22 manufacturer can be identified, or (2) the manufacturer no
23 longer exists and no successor can be identified.

24 Subd. 12. [PRO RATA SHARE.] "Pro rata share" means the
25 percentage that is the proportion, multiplied by 100, of the
26 total weight of video display devices, of the manufacturer's
27 brands registered by a registrant, as required by section
28 116H.60, paragraph (e), received at intermediate consolidation
29 points divided by the total weight of video display devices
30 received at intermediate consolidation points, as determined by
31 the sampling program at intermediate consolidation points
32 pursuant to section 116H.65, paragraph (d), clause (1). The pro
33 rata share for the first program year shall be based on the
34 Hennepin County study.

35 Subd. 13. [REGISTRANT.] "Registrant" means a manufacturer
36 that submits the registration required by section 116H.60,

1 paragraph (a), or an independent party that submits the
2 registration required by section 116H.60, paragraph (a), in lieu
3 of a manufacturer.

4 Subd. 14. [SELL OR SALE.] "Sell" or "sale" means any
5 transfer for consideration of title or of the right to use, by
6 lease or sales contract, including, but not limited to,
7 transactions conducted through sales outlets, catalogs, or the
8 Internet, or any other similar electronic means either inside or
9 outside of the state, by a person who conducts the transaction
10 and controls the delivery of a video display device to a
11 consumer in the state, but does not include a wholesale
12 transaction with a distributor or a retailer.

13 Subd. 15. [TELEVISION.] "Television" means an electronic
14 device that is a cathode ray tube or flat panel display
15 primarily intended to receive video programming via broadcast,
16 cable, or satellite transmission or video from surveillance or
17 other similar cameras.

18 Subd. 16. [VIDEO DISPLAY DEVICE.] "Video display device"
19 means a computer monitor or television with a screen size
20 greater than eight inches measured diagonally.

21 Sec. 2. [116H.60] [REGISTRATION PROGRAM.]

22 (a) On and after July 1, 2006, a person may not sell or
23 offer for sale a new video display device to any person in the
24 state unless:

25 (1) the video display device is labeled with the
26 manufacturer's brand, which label is permanently affixed and
27 readily visible; and

28 (2) the video display device is subject to a registration
29 filed by a registrant with the office according to this section,
30 with the registration effective upon receipt by the office.

31 (b) A person who sells or offers for sale a new video
32 display device to a consumer in this state must, before initial
33 offer for sale of the device, submit to the office a
34 certification that the person has reviewed the office's Web site
35 specified in paragraph (h), and has determined that all new
36 video display devices that the person is then offering for sale

1 are labeled with manufacturer's brands that are subject to
2 registration statements filed with the office. After the
3 initial submittal, the certification must be submitted to the
4 office annually by July 10 of each year, effective as of July 1
5 of each year.

6 (c) By February 1, 2006, a manufacturer of video display
7 devices sold to a consumer in this state must submit a
8 registration to the office that includes a certification that a
9 registrant will participate in the intermediate consolidation
10 point program as specified in paragraph (m) beginning July 1,
11 2006. A manufacturer who begins to sell or offer for sale video
12 display devices after February 1, 2006, and has not filed a
13 registration pursuant to this section must submit a registration
14 to the office within ten days of beginning to sell or offer for
15 sale video display devices to consumers in the state. The
16 registration is effective upon receipt by the office.

17 (d) The registration must list the manufacturer's brands.
18 The registration must be updated within ten days after a change
19 in the manufacturer's brands, such as in the event of an
20 acquisition, merger, or divestiture.

21 (e) A registrant may partner with one or more manufacturers
22 or other parties, collectively a "registrant," to prepare and
23 submit to the office a joint video display device recycling,
24 refurbishment, or reuse program.

25 (f) The office must set a registration fee, not to exceed
26 \$3,000 per year, the revenues from which are to be used only to
27 pay administrative costs of the program. This fee-setting
28 process is subject to rulemaking under section 14.389.

29 (g) The office must review each registration and notify the
30 registrant if the registration does not include the information
31 required by this section. Within 30 days of receipt of a
32 notification from the office, the registrant must file with the
33 office a revised registration providing the information noted by
34 the office.

35 (h) The office must maintain on its Web site the names of
36 the registrants and the manufacturers' brands that are listed in

1 registrations filed with the office. The office must update the
2 Web site information promptly upon receipt of a new registration
3 or an updated registration.

4 (i) The obligations of a manufacturer or registrant apply
5 only to video display devices received from households in this
6 state and do not apply to video display devices received from
7 owners other than households.

8 (j) Persons who receive a video display device for
9 recycling, refurbishment, or reuse pursuant to a registration
10 may recycle, refurbish, or reuse, including resell, the video
11 display device. Except to the extent otherwise required by law,
12 such persons have no responsibility for any data that may be on
13 the video display device if an information storage device is
14 included with the video display device.

15 (k) A city, county, or other public agency may not require
16 households to use the intermediate consolidation point program
17 to recycle their video display devices to the exclusion of other
18 programs legally available. This chapter anticipates that video
19 display device recycling programs, in addition to those provided
20 by manufacturers and registrants under this section, will be
21 available to households in the state. Nothing in this chapter
22 prohibits or restricts any such programs or prohibits or
23 restricts any persons from receiving, storing, transporting, or
24 recycling video display devices.

25 (l) By October 1 of each year, each registrant must submit
26 a report to the office that describes the implementation of the
27 program during the preceding program year. The program year is
28 July 1 through June 30. The first report must be submitted by
29 October 1, 2007. The report must:

30 (1) identify the total weight of the video display devices
31 that the registrant has arranged for pickup from intermediate
32 consolidation points during the preceding year, and the total
33 weight of video display devices that the registrant has received
34 from households through other methods during the preceding year
35 and for which the registrant has used such video display devices
36 to satisfy all or a portion of its pro rata share responsibility

1 during the preceding year; and

2 (2) describe the processes and methods used to recycle,
3 refurbish, or reuse video display devices that the registrant
4 has arranged for pickup from intermediate collection points
5 during the preceding year and that the registrant has received
6 from households through other methods, and for which the
7 registrant has used such video display devices to satisfy all or
8 a portion of its pro rata share responsibility during the
9 preceding year; and, in particular, identify any disassembly,
10 physical recovery operation including crushing, shredding,
11 grinding, or glass to glass recycling, or any other operation
12 that was used and describe where it took place. The report must
13 also discuss whether these activities included procedures
14 described in the United States Environmental Protection Agency's
15 guidelines for the environmentally sound management of
16 electronic equipment.

17 (m) Participation in the intermediate consolidation point
18 program requires that a registrant must:

19 (1) arrange for the pickup and recycling of a full
20 truckload or full truckloads of computer monitor video display
21 devices or television video display devices received by
22 intermediate consolidation points after July 1, 2006, up to the
23 registrant's pro rata share of computer monitor video display
24 devices or television video display devices, from intermediate
25 consolidation points, pursuant to rules adopted by the office
26 under section 116H.65, paragraph (e). Registrants are
27 responsible for the costs of pickup and recycling of the video
28 display devices. A registrant may satisfy a portion or all of
29 its pro rata share responsibility by receipt of video display
30 devices from households through other methods if the registrant
31 has not charged for the recycling, refurbishment, or reuse of
32 the video display devices that the registrant has received from
33 households in this state through the other methods. A
34 registrant who intends to satisfy a portion or all of its pro
35 rata share responsibility by receipt of the video display
36 devices from households through other methods must provide the

1 office with a report of its receipt of video display devices
2 through the other methods on a quarterly basis;
3 (2) arrange for the pickup and recycling of the
4 registrant's pro rata share of orphan waste by weight from
5 intermediate consolidation points, pursuant to rules adopted by
6 the office under section 116H.65, paragraph (e). Registrants
7 are responsible for the costs of pickup and recycling of the
8 video display devices. A registrant may satisfy a portion or
9 all of its additional pro rata share responsibility by receipt
10 of video display devices from households through other methods
11 if the registrant has not charged for the recycling,
12 refurbishment, or reuse of the video display devices that the
13 registrant received from households in this state through the
14 other methods. Collectively, the registrants must arrange for
15 the pickup and recycling of the orphan waste collected during
16 this period.

17 (n) After receipt of the report required by paragraph (l)
18 to be filed on October 1, 2009, the office must review the
19 performance of the program and may issue performance standards
20 related to the number of units collected per household.

21 Sec. 3. [116H.65] [DUTIES OF OFFICE.]

22 (a) The office must administer and enforce this chapter.

23 (b) The office must establish procedures for:

24 (1) receipt and maintenance of the registration statements
25 and certifications filed with the office pursuant to section
26 116H.60; and

27 (2) making the statements and certifications easily
28 available to registrants, manufacturers, distributors,
29 retailers, and members of the public.

30 (c) On or before December 1, 2010, and every three years
31 thereafter, the office must provide a report to the governor and
32 the legislature on the implementation of this chapter. For each
33 of the preceding three program years, the report must discuss
34 the total weight of video display devices received by all
35 registrants from intermediate consolidation points, the total
36 weight of video display devices received by each registrant from

1 intermediate consolidation points, the total weight of video
2 display devices that the registrant has received from households
3 through other methods during the preceding year and which the
4 registrant has used to satisfy all or a portion of its pro rata
5 share responsibility during the preceding year, and a summary of
6 information in the report submitted by registrants pursuant to
7 section 116H.60, paragraph (1). The report must also discuss
8 the various collection programs used to collect video display
9 devices and information received by the office regarding video
10 display devices that are not being collected by the
11 registrants. The report must include a description of
12 enforcement actions under this chapter and information about
13 video display devices, if any, being disposed of in landfills in
14 this state. The office may include in its report other
15 information received by the office regarding the implementation
16 of the chapter.

17 (d) The office must administer the intermediate
18 consolidation point program.

19 (1) The office must calculate pro rata shares for video
20 display devices on an annual program year basis for each
21 registrant. Pro rata shares for the first program year must be
22 determined by the office by May 1, 2006, using the Hennepin
23 County study. For each subsequent year, pro rata shares must be
24 determined by May 1 of the preceding year based upon an annual
25 sampling survey conducted by the office at intermediate
26 consolidation points during that preceding year. The sampling
27 survey must identify televisions and computer monitors
28 separately, and calculate the weight of televisions and computer
29 monitors separately. The office may provide registrants with
30 projections or estimates of the amount by weight of video
31 display devices for which the registrant may be responsible
32 during a given program year.

33 (2) The office must establish by rule by May 1, 2006, a
34 system to coordinate among registrants pickups from intermediate
35 consolidation points after an intermediate consolidation point
36 has notified the office that a full truckload of video display

1 devices from households has been consolidated. The office must
2 provide a program year accounting of the extent to which each
3 registrant met its pro rata share responsibility as established
4 pursuant to section 116H.60, paragraph (m), and methods for
5 addressing amounts greater than or less than a registrant's pro
6 rata share responsibility that were picked up and recycled by a
7 registrant during the program year.

8 (3) By February 1, 2006, the office must receive
9 applications for the establishment of intermediate consolidation
10 points. The director must seek to receive at least 15
11 applications with at least ten of the applications from outside
12 the metropolitan area. By April 30, 2006, the office must
13 establish a list of approved intermediate consolidation points
14 and must provide the list on its Web site. Manufacturers and
15 registrants have no responsibility for any costs of the
16 intermediate consolidation points. Applications for the
17 establishment of intermediate consolidation points must specify
18 any method that will be used to ensure that video display
19 devices will be collected only from households or that video
20 display devices from households will be segregated from other
21 video display devices.

22 (e) The office may adopt rules for the purpose of
23 administering and enforcing this chapter.

24 Sec. 4. [116H.75] [REQUIREMENTS FOR PURCHASES BY STATE
25 AGENCIES.]

26 (a) The Department of Administration must ensure that
27 acquisitions of video display devices under chapter 16C are
28 certified by the vendor to be in compliance with section 116H.60.

29 (b) The bid solicitation documents must specify that the
30 prospective bidder is required to cooperate fully in providing
31 reasonable access to its records and documents that evidence
32 compliance with paragraph (a) and section 116H.60.

33 (c) Any person awarded a contract under chapter 16C for
34 purchase or lease of video display devices that is found to be
35 in violation of paragraph (a) or section 116H.60 is subject to
36 the following sanctions:

- 1 (1) the contract must be voided;
- 2 (2) the contractor is ineligible to bid on any state
- 3 contract for a period of three years; and
- 4 (3) if the attorney general establishes that any money,
- 5 property, or benefit was obtained by a contractor as a result of
- 6 violating paragraph (a) or section 116H.60, the court may, in
- 7 addition to any other remedy, order the disgorgement of the
- 8 unlawfully obtained money, property, or benefit.

9 Sec. 5. [116H.80] [REGULATION OF CRT DEVICES.]

10 Rules adopted by the office or by the Pollution Control

11 Agency regarding the handling, storage, and treatment of cathode

12 ray tube devices or video display devices being recycled may not

13 be more restrictive than regulations adopted by the United

14 States Environmental Protection Agency. If the United States

15 Environmental Protection Agency adopts regulations under the

16 Resource Conservation and Recovery Act regarding the handling,

17 storage, or treatment of cathode ray tube devices or video

18 display devices being recycled, those regulations are

19 automatically effective in this state on the same date and

20 supersede any rules previously adopted by the office or the

21 Pollution Control Agency regarding the handling, storage, or

22 treatment of cathode ray tube devices or video display devices

23 being recycled.

24 Sec. 6. [116H.85] [ENFORCEMENT.]

25 This chapter shall be enforced in the manner provided by

26 sections 115.071, subdivisions 1, 3, 4, 5, and 6; and 116.072.

27 Sec. 7. [116H.90] [LIMITATIONS.]

28 This chapter expires if a federal law, or combination of

29 federal laws, takes effect that is applicable to all video

30 display devices sold in the United States and establishes a

31 program for the collection and recycling or reuse of video

32 display devices that is applicable to all video display devices

33 discarded by households."

34 Amend the title as follows:

35 Page 1, line 4, delete everything after the semicolon

36 Page 1, delete line 5

1 Page 1, line 6, delete "subdivision;"

2 Page 1, line 7, delete "116F" and insert "116H"

3 And when so amended the bill do pass and be re-referred to
4 the Committee on Finance. Amendments adopted. Report adopted.

5


.....
(Committee Chair)

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April 11, 2005.....
(Date of Committee recommendation)

10

Senators Rosen, Pariseau and Murphy introduced--

S.F. No. 2133: Referred to the Committee on Environment and Natural Resources.

1 A bill for an act
2 relating to game and fish; modifying certain issuing
3 fees; amending Minnesota Statutes 2004, section
4 97A.485, subdivision 6.
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
6 Section 1. Minnesota Statutes 2004, section 97A.485,
7 subdivision 6, is amended to read:
8 Subd. 6. [LICENSES TO BE SOLD AND ISSUING FEES.] (a)
9 Persons authorized to sell licenses under this section must
10 issue the following licenses for the license fee and the
11 following issuing fees:
12 (1) to take deer or bear with firearms and by archery, the
13 issuing fee is \$1;
14 (2) Minnesota sporting, the issuing fee is \$1; and
15 (3) to take small game, to take fish by angling or by
16 spearing, and to trap fur-bearing animals, the issuing fee is
17 \$1;
18 (4) for a trout and salmon stamp that is not issued
19 simultaneously with an angling or sporting license, ~~an the~~
20 issuing fee of is 50 cents ~~may-be-charged-at-the-discretion-of~~
21 ~~the-authorized-seller;~~
22 (5) for stamps other than a trout and salmon stamp, ~~and-for~~
23 ~~a-special-season-Canada-goose-license,--there-is-no-fee~~ the
24 issuing fee is 50 cents; and
25 (6) for licenses, seals, tags, or coupons issued without a

1 fee under section 97A.441 or 97A.465, ~~there-is-no~~ the issuing
2 fee is 50 cents; and

3 (7) for all other licenses, permits, renewals, or
4 applications or any other transaction through the electronic
5 licensing system under this chapter or any other chapter when an
6 issuing fee is not specified, the issuing fee is 50 cents.

7 (b) An issuing fee may not be collected for issuance of a
8 trout and salmon stamp if a stamp validation is issued
9 simultaneously with the related angling or sporting license.
10 Only one issuing fee may be collected when selling more than one
11 trout and salmon stamp in the same transaction after the end of
12 the season for which the stamp was issued.

13 (c) The agent shall keep the issuing fee as a commission
14 for selling the licenses.

15 (d) The commissioner shall collect the issuing fee on
16 licenses sold by the commissioner.

17 (e) A license, except stamps, must state the amount of the
18 issuing fee and that the issuing fee is kept by the seller as a
19 commission for selling the licenses.

20 (f) For duplicate licenses, including licenses issued
21 without a fee, the issuing fees are:

22 (1) for licenses to take big game, 75 cents; and

23 (2) for other licenses, 50 cents.

24 (g) The commissioner may issue one-day angling licenses in
25 books of ten licenses each to fishing guides operating charter
26 boats upon receipt of payment of all license fees, excluding the
27 issuing fee required under this section. Copies of sold and
28 unsold licenses shall be returned to the commissioner. The
29 commissioner shall refund the charter boat captain for the
30 license fees of all unsold licenses. Copies of sold licenses
31 shall be maintained by the commissioner for one year.

Fiscal Note – 2005-06 Session

Bill #: S2133-0 **Complete Date:** 04/07/05

Chief Author: ROSEN, JULIE

Title: GAME & FISH LIC & STAMP ISSUING FEES

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

Agency Name: Natural Resources Dept

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

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
Game And Fish (Operations) Fund		3	4	4	4
Net Cost <Savings>					
Game And Fish (Operations) Fund		(3)	(4)	(4)	(4)
Total Cost <Savings> to the State		(3)	(4)	(4)	(4)

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

Bill Description

This bill provides a \$.50 issuing fee on game and fish licenses, permits, renewals, or applications that currently do not have an issuing fee.

Assumptions

The \$.50 fee will be added to the customer's cost of purchasing the licenses, permits, etc. Collection of the new fees will begin on March 1, 2006.

Expenditure and/or Revenue Formula

Additional issuing fees collected on sales at the License Counter in the Central office:

$\$.50 \times 8,000 \text{ transactions} = \$4,000 \text{ revenue per year (less in FY06 - partial year)}$

References and Sources

Electronic License System (ELS) data for license year 2004.

Agency Contact Name: Karen Beckman, Fish & Wildlife (651) 297-4941

FN Coord Signature: BRUCE NASLUND

Date: 04/06/05 Phone: 297-4909

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: MARSHA BATTLES-JENKS

Date: 04/07/05 Phone: 296-8510

Senators Rosen, Kubly and Dille introduced--

S.F. No. 1886: Referred to the Committee on Jobs, Energy and Community Development.

A bill for an act

relating to employment and economic development; establishing the small business growth acceleration program; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 1160.

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

Section 1. [1160.115] [SMALL BUSINESS GROWTH ACCELERATION PROGRAM.]

Subdivision 1. [ESTABLISHMENT; PURPOSE.] The small business growth acceleration program is established. The purpose of the program is to (1) help qualified companies implement technology and business improvements; and (2) bridge the gap between standard market pricing for technology and business improvements and what qualified companies can afford to pay.

Subd. 2. [QUALIFIED COMPANY.] A company is qualified to receive assistance under the growth acceleration program if it is a manufacturing company or a manufacturing-related service company that employs 50 or fewer full-time equivalent employees.

Subd. 3. [APPLICATIONS FOR ASSISTANCE.] A company seeking assistance under the growth acceleration program must file an application according to the requirements of the corporation. A company's application for growth acceleration program assistance must include documentation of the company's overall plan for technology and business improvement and prioritize the

1 components of the overall plan. The application must also
2 document the company's need for growth acceleration program
3 funds in order to carry forward the highest priority components
4 of the plan.

5 Subd. 4. [FUND AWARDS; USE OF FUNDS.] (a) The corporation
6 shall establish procedures for determining which applicants for
7 assistance under the growth acceleration program will receive
8 program funding. Funding shall be awarded only to accelerate a
9 qualified company's adoption of needed technology or business
10 improvements when the corporation concludes that it is unlikely
11 the improvements could be accomplished in any other way.

12 (b) The maximum amount of funds awarded to a qualified
13 company under the growth acceleration program for a particular
14 project must not exceed 50 percent of the total cost of a
15 project and must not under any circumstances exceed \$25,000
16 during a calendar year. The corporation shall not award to a
17 qualified company growth acceleration program funds in excess of
18 \$50,000 per year.

19 (c) Any funds awarded to a qualified company under the
20 growth acceleration program must be used for business services
21 and products that will enhance the operation of the company.
22 These business services and products must come either directly
23 from the corporation or from a network of expert providers
24 identified and approved by the corporation. No company
25 receiving growth acceleration program funds may use the funds
26 for refinancing, overhead costs, new construction, renovation,
27 equipment, or computer hardware.

28 (d) Any funds awarded must be disbursed to the qualified
29 company as reimbursement documented according to requirements of
30 the corporation.

31 Subd. 5. [SERVICE AGREEMENTS.] The corporation shall enter
32 a written service agreement with each company awarded funds
33 under the growth acceleration program. Each service agreement
34 shall clearly articulate the company's need for service, state
35 the cost of the service, identify who will provide the service,
36 and define the scope of the service that will be provided. The

1 service agreement must also include an estimate of the financial
2 impact of the service on the company and require the company to
3 report the actual financial impact of the service to the
4 corporation 24 months after the service is provided.

5 Subd. 6. [REPORTING.] The corporation shall report
6 annually to the legislative committees with fiscal jurisdiction
7 over the corporation (1) the funds awarded under the growth
8 acceleration program during the past 12 months; (2) the
9 estimated financial impact of the funds awarded to each company
10 receiving service under the program; and (3) the actual
11 financial impact of funds awarded during the past 24 months.

12 Sec. 2. [APPROPRIATION.]

13 \$1,000,000 in fiscal year 2006 and \$1,000,000 in fiscal
14 year 2007 are appropriated from the general fund to Minnesota
15 Technology, Inc. for the small business growth acceleration
16 program established under Minnesota Statutes, section 1160.115.

Senator Sams introduced--

S.F. No. 1424: Referred to the Committee on Finance.

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A bill for an act

relating to environment; authorizing annual adjustment of dry cleaner environmental fees; amending Minnesota Statutes 2004, section 115B.49, by adding a subdivision; repealing Minnesota Statutes 2004, section 115B.49, subdivision 4a.

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

Section 1. Minnesota Statutes 2004, section 115B.49, is amended by adding a subdivision to read:

Subd. 4b. [FEE ADJUSTMENT.] Notwithstanding section 16A.1285, each fiscal year the commissioner shall adjust the fees in subdivision 4 as necessary to maintain an annual income to the account of \$650,000.

Sec. 2. [REPEALER.]

Minnesota Statutes 2004, section 115B.49, subdivision 4a, is repealed.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective July 1, 2005.

APPENDIX
Repealed Minnesota Statutes for 05-2481

115B.49 DRY CLEANER ENVIRONMENTAL RESPONSE AND REIMBURSEMENT ACCOUNT.

Subd. 4a. Interim fees. For the period from July 1, 2001, to June 30, 2003, the commissioner shall, after a public hearing, but notwithstanding section 16A.1285, subdivision 4, annually adjust the fees in subdivision 4 as necessary to maintain an annual income of \$650,000.

1 To: Senator Cohen, Chair

2 Committee on Finance

3 Senator Sams,

4 Chair of the Environment, Agriculture and Economic
5 Development Budget Division, to which was referred

6 S.F. No. 1424: A bill for an act relating to environment;
7 authorizing annual adjustment of dry cleaner environmental fees;
8 amending Minnesota Statutes 2004, section 115B.49, by adding a
9 subdivision; repealing Minnesota Statutes 2004, section 115B.49,
10 subdivision 4a.

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

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Dallas Sams.....
(Division Chair)

April 19, 2005.....
(Date of Division action)

Consolidated Fiscal Note – 2005-06 Session

Bill #: S1424-0 **Complete Date:** 03/29/05

Chief Author: SAMS, DALLAS

Title: DRY CLEANER ENVIRONMENTAL FEES ADJ

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

Agencies: Pollution Control Agency (03/29/05)

Revenue Dept (03/24/05)

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

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
Remediation Fund		395	395	395	395
Pollution Control Agency		395	395	395	395
Revenues					
Remediation Fund		395	395	395	395
Pollution Control Agency		395	395	395	395
Net Cost <Savings>					
Remediation Fund		0	0	0	0
Pollution Control Agency		0	0	0	0
Total Cost <Savings> to the State					

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

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: LEONIE HUANG

Date: 03/29/05 Phone: 296-5779

Fiscal Note – 2005-06 Session

Bill #: S1424-0 **Complete Date:** 03/29/05

Chief Author: SAMS, DALLAS

Title: DRY CLEANER ENVIRONMENTAL FEES ADJ

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

Agency Name: Pollution Control Agency

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

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Remediation Fund		395	395	395	395
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
Remediation Fund		395	395	395	395
Revenues					
Remediation Fund		395	395	395	395
Net Cost <Savings>					
Remediation Fund		0	0	0	0
Total Cost <Savings> to the State					

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

Bill Description

The bill is sought by the Minnesota drycleaner industry. The bill seeks to restore authority to the Commissioner of the Pollution Control Agency (PCA) to adjust fees to drycleaners so that the Drycleaner Response and Reimbursement Account (Account) in the Remediation Fund maintains a balance sufficient to provide for reimbursement of drycleaners or property owners who voluntarily investigate and, if necessary, clean up their drycleaner sites, or for investigation and cleanup of drycleaner sites by the PCA. Volunteers must pay the first \$10,000 in costs, and may be reimbursed for additional allowable costs.

Assumptions

The bill relates to existing fees. The Department of Revenue already administers the fees, and the PCA administers reimbursement of response costs to voluntary parties. The bill would not affect current practices at the PCA. It helps to restore the ability of the existing program to operate effectively, by helping to ensure a solvent Account. The balance in the Account currently has been depleted to a level which does not allow for reimbursement of response costs. The bill would not result in funding additional staff.

Expenditure and/or Revenue Formula

The bill provides authority to the Commissioner of the PCA to adjust fees yearly to maintain an annual income to the Account of \$650,000, which will be used to reimburse voluntary parties. The fees consist of both "registration" fees and "product" fees. These fees are subdivided into various categories, depending on the size of the drycleaning facility and the amount of drycleaning solvent purchased (Minnesota Statutes, section 115B.49, subdivision 4).

Based on current fees, facilities and solvent purchases generating \$255,000 in annual income, an additional \$395,000 is required to maintain \$650,000 in annual income. The table below illustrates the level of fees that the PCA estimates would be necessary to ensure an annual income of \$650,000.

Drycleaner Estimated Fees		Estimated	Estimated
Registration Fee:	Estimated	Registration	Registration
Facility FTE	Facilities	Fee	Income
1-4 FTE	157	\$1,250	\$196,250
5-10 FTE	40	\$2,750	\$110,000
11+ FTE	25	\$4,250	\$106,250
Totals	222		\$412,500
	Estimated	Estimated	Estimated
Solvent Fee:	Solvent Gallon	Gallon	Solvent
Solvent	Purchases	Fee	Income
Perchloroethylene	27,100	\$8.50	\$230,350
Hydrocarbon	5,200	\$2.50	\$13,000
Other Nonaqueous Solvents	550	\$0.50	\$275
Totals	32,850		\$243,625
Revenue Estimated Total			\$656,125

Long-Term Fiscal Considerations

The bill helps to ensure the long-term solvency of the Account. The funds are designated solely for investigation and cleanup of drycleaner sites or reimbursement of parties who voluntarily clean up drycleaner sites.

Local Government Costs

The bill would not result in additional costs to local governments. It indirectly aids local governments by facilitating cleanup of drycleaner sites, helping to maintain or restore such properties to local tax roles.

References/Sources

Agency Contact Name: MICHAEL KANNER (651-297-8564)
FN Coord Signature: GLENN OLSON

Date: 03/29/05 Phone: 297-1609

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: LEONIE HUANG
Date: 03/29/05 Phone: 296-5779

Fiscal Note – 2005-06 Session

Bill #: S1424-0 **Complete Date:** 03/24/05

Chief Author: SAMS, DALLAS

Title: DRY CLEANER ENVIRONMENTAL FEES ADJ

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

Agency Name: Revenue Dept

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

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

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

This bill version has no fiscal effect on our agency.

FN Coord Signature: JOHN POWERS

Date: 03/23/05 Phone: 556-4054

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: NANCY HOMANS

Date: 03/24/05 Phone: 296-9370



SENATE
STATE OF MINNESOTA
EIGHTY-FOURTH LEGISLATURE

S.F. No. 1368

(SENATE AUTHORS: ANDERSON, Rosen, Ourada, Metzen and Kubly; Companion to H.F. No. 1344.)

DATE	D-PG	OFFICIAL STATUS
03/03/2005	565	Introduction and first reading
03/03/2005		Referred to Jobs, Energy and Community Development
04/14/2005		Committee report: To pass as amended
04/14/2005		Second reading

A bill for an act

1
2 relating to energy; providing for expedited cost
3 recovery for certain transmission investments;
4 authorizing and regulating transmission companies;
5 permitting the transfer of transmission assets and
6 operation to transmission companies; providing for
7 expedited regulatory approval of transmission projects
8 related to renewable generation; providing new
9 criteria to analyze the need for transmission
10 projects; establishing the framework for a wind energy
11 tariff related to community development; requiring a
12 wind integration study; transferring generation plant
13 siting and transmission line routing authority from
14 the Minnesota Environmental Quality Board to the
15 Public Utilities Commission; providing for technical
16 corrections to the energy assistance program;
17 providing for a sustainably managed woody biomass
18 generation project to satisfy the biomass mandate;
19 providing for an electronic mail filing system at the
20 Public Utilities Commission and Department of
21 Commerce; making changes to the conservation
22 investment program recommended by the legislative
23 auditor; authorizing the creation of energy quality
24 zones; regulating eligibility of biogas projects for
25 the renewable energy production incentive; providing
26 for the recovery of certain infrastructure investments
27 by gas utilities; requiring a study of compensation of
28 landowners for transmission easements; providing for a
29 geothermal rebate program under the conservation
30 investment program; promoting the use of soy-diesel;
31 providing for the adjustment of power purchase
32 agreements to account for production tax payments;
33 promoting the use of hydrogen as an energy source;
34 amending Minnesota Statutes 2004, sections 13.681, by
35 adding a subdivision; 116C.52, subdivisions 2, 4;
36 116C.53, subdivision 2; 116C.57, subdivisions 1, 2c,
37 by adding a subdivision; 116C.575, subdivision 5;
38 116C.577; 116C.58; 116C.61, subdivision 3; 116C.69,
39 subdivisions 2, 2a; 119A.15, subdivision 5a; 216B.02,
40 by adding a subdivision; 216B.16, subdivision 6d, by
41 adding subdivisions; 216B.1645, subdivision 1;
42 216B.241, subdivisions 1b, 2; 216B.2421, subdivision
43 2; 216B.2424, subdivisions 1, 2, 5a, 6, 8, by adding a
44 subdivision; 216B.2425, subdivisions 2, 7; 216B.243,
45 subdivisions 3, 4, 5, 6, 7, 8; 216B.50, subdivision 1;
46 216B.62, subdivision 5, by adding a subdivision;

1 216B.79; 216C.052; 216C.09; 216C.41, subdivision 1;
2 462A.05, subdivisions 21, 23; proposing coding for new
3 law in Minnesota Statutes, chapters 216B; 216C.

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

5 ARTICLE 1

6 TRANSMISSION COMPANIES

7 Section 1. Minnesota Statutes 2004, section 216B.02, is
8 amended by adding a subdivision to read:

9 Subd. 10. [TRANSMISSION COMPANY.] "Transmission company"
10 means persons, corporations, or other legal entities and their
11 lessees, trustees, and receivers, engaged in the business of
12 owning, operating, maintaining, or controlling in this state
13 equipment or facilities for furnishing electric transmission
14 service in Minnesota, but does not include public utilities,
15 municipal electric utilities, municipal power agencies,
16 cooperative electric associations, or generation and
17 transmission cooperative power associations.

18 Sec. 2. Minnesota Statutes 2004, section 216B.16, is
19 amended by adding a subdivision to read:

20 Subd. 7b. [TRANSMISSION COST ADJUSTMENT.] (a)
21 Notwithstanding any other provision of this chapter, the
22 commission may approve a tariff mechanism for the automatic
23 annual adjustment of charges for the Minnesota jurisdictional
24 costs of new transmission facilities that have been separately
25 filed and reviewed and approved by the commission under section
26 216B.243 or are certified as a priority project or deemed to be
27 a priority transmission project under section 216B.2425.

28 (b) Upon filing by a public utility or utilities providing
29 transmission service, the commission may approve, reject or
30 modify, after notice and comment, a tariff that:

31 (1) allows the utility to recover on a timely basis the
32 costs net of revenues of facilities approved under section
33 216B.243 or certified or deemed to be certified under section
34 216B.2425;

35 (2) allows a return on investment at the level approved in
36 the utility's last general rate case, unless a different return
37 is found to be consistent with the public interest;

1 (3) provides a current return on construction work in
2 progress, provided that recovery from Minnesota retail customers
3 for the allowance for funds used during construction is not
4 sought through any other mechanism;

5 (4) allows for recovery of other expenses if shown to
6 promote a least-cost project option or is otherwise in the
7 public interest;

8 (5) allocates project costs appropriately between wholesale
9 and retail customers;

10 (6) provides a mechanism for recovery above cost, if
11 necessary to improve the overall economics of the project or
12 projects or is otherwise in the public interest; and

13 (7) terminates recovery once costs have been fully
14 recovered or have otherwise been reflected in the utility's
15 general rates.

16 (c) A public utility may file annual rate adjustments to be
17 applied to customer bills paid under the tariff approved in
18 paragraph (b). In its filing, the public utility shall provide:

19 (1) a description of and context for the facilities
20 included for recovery;

21 (2) a schedule for implementation of applicable projects;

22 (3) the utility's costs for these projects;

23 (4) a description of the utility's efforts to ensure the
24 lowest costs to ratepayers for the project; and

25 (5) calculations to establish that the rate adjustment is
26 consistent with the terms of the tariff established in paragraph
27 (b).

28 (d) Upon receiving a filing for a rate adjustment pursuant
29 to the tariff established in paragraph (b), the commission shall
30 approve the annual rate adjustments provided that, after notice
31 and comment, the costs included for recovery through the tariff
32 were or are expected to be prudently incurred and achieve
33 transmission system improvements at the lowest feasible and
34 prudent cost to ratepayers.

35 Sec. 3. Minnesota Statutes 2004, section 216B.16, is
36 amended by adding a subdivision to read:

1 Subd. 7c. [TRANSMISSION ASSETS TRANSFER.] (a) Owners of
2 transmission facilities may transfer operational control or
3 ownership of those assets to a transmission company subject to
4 Federal Energy Regulatory Commission jurisdiction. For asset
5 transfers by a public utility, the Public Utilities Commission
6 may review the request to transfer in the context of a general
7 rate case under this section or may initiate other proceedings
8 it determines provide adequate review of the effect on retail
9 rates of an asset transfer approved under this section
10 sufficient to protect ratepayers. The commission may only
11 approve a transfer sought after the effective date of this
12 section if it finds that the transfer:

13 (1) is consistent with the public interest;
14 (2) facilitates the development of transmission
15 infrastructure necessary to ensure reliability, encourages the
16 development of renewable resources, and accommodates energy
17 transfers within and between states;

18 (3) protects Minnesota ratepayers against the subsidization
19 of wholesale transactions through retail rates; and

20 (4) ensures, in the case of operational control of
21 transmission assets, that the state retains jurisdiction over
22 the transferring utility for all aspects of service under
23 chapter 216B.

24 (b) A transfer of operational control or ownership of
25 assets by a public utility under this subdivision is subject to
26 section 216B.50. The relationship between a public utility
27 transferring operational control of assets to another entity
28 under this subdivision is subject to the provisions of section
29 216B.48. If a public utility transfers ownership of its
30 transmission assets to a transmission provider subject to the
31 jurisdiction of the Federal Energy Regulatory Commission, the
32 Public Utilities Commission may permit the utility to file a
33 rate schedule providing for the automatic adjustment of charges
34 to recover the cost of transmission services purchased under
35 tariff rates approved by the Federal Energy Regulatory
36 Commission.

1 Sec. 4. Minnesota Statutes 2004, section 216B.2421,
2 subdivision 2, is amended to read:

3 Subd. 2. [LARGE ENERGY FACILITY.] "Large energy facility"
4 means:

5 (1) any electric power generating plant or combination of
6 plants at a single site with a combined capacity of 50,000
7 kilowatts or more and transmission lines directly associated
8 with the plant that are necessary to interconnect the plant to
9 the transmission system;

10 (2) any high-voltage transmission line with a capacity of
11 200 kilovolts or more and greater than 1,500 feet in length;

12 (3) any high-voltage transmission line with a capacity of
13 100 kilovolts or more with more than ten miles of its length in
14 Minnesota or that crosses a state line;

15 (4) any pipeline greater than six inches in diameter and
16 having more than 50 miles of its length in Minnesota used for
17 the transportation of coal, crude petroleum or petroleum fuels
18 or oil, or their derivatives;

19 (5) any pipeline for transporting natural or synthetic gas
20 at pressures in excess of 200 pounds per square inch with more
21 than 50 miles of its length in Minnesota;

22 (6) any facility designed for or capable of storing on a
23 single site more than 100,000 gallons of liquefied natural gas
24 or synthetic gas;

25 (7) any underground gas storage facility requiring a permit
26 pursuant to section 103I.681;

27 (8) any nuclear fuel processing or nuclear waste storage or
28 disposal facility; and

29 (9) any facility intended to convert any material into any
30 other combustible fuel and having the capacity to process in
31 excess of 75 tons of the material per hour.

32 Sec. 5. Minnesota Statutes 2004, section 216B.243,
33 subdivision 3, is amended to read:

34 Subd. 3. [SHOWING REQUIRED FOR CONSTRUCTION.] No proposed
35 large energy facility shall be certified for construction unless
36 the applicant can show that demand for electricity cannot be met.

1 more cost effectively through energy conservation and
2 load-management measures and unless the applicant has otherwise
3 justified its need. In assessing need, the commission shall
4 evaluate:

5 (1) the accuracy of the long-range energy demand forecasts
6 on which the necessity for the facility is based;

7 (2) the effect of existing or possible energy conservation
8 programs under sections 216C.05 to 216C.30 and this section or
9 other federal or state legislation on long-term energy demand;

10 (3) the relationship of the proposed facility to overall
11 state energy needs, as described in the most recent state energy
12 policy and conservation report prepared under section 216C.18,
13 or, in the case of a high-voltage transmission line, the
14 relationship of the proposed line to regional energy needs, as
15 presented in the transmission plan submitted under section
16 216B.2425;

17 (4) promotional activities that may have given rise to the
18 demand for this facility;

19 (5) benefits of this facility, including its uses to
20 protect or enhance environmental quality, and to increase
21 reliability of energy supply in Minnesota and the region;

22 (6) possible alternatives for satisfying the energy demand
23 or transmission needs including but not limited to potential for
24 increased efficiency and upgrading of existing energy generation
25 and transmission facilities, load-management programs, and
26 distributed generation;

27 (7) the policies, rules, and regulations of other state and
28 federal agencies and local governments; and

29 (8) any feasible combination of energy conservation
30 improvements, required under section 216B.241, that can (i)
31 replace part or all of the energy to be provided by the proposed
32 facility, and (ii) compete with it economically;

33 (9) with respect to a high-voltage transmission line, the
34 benefits of enhanced regional reliability, access, or
35 deliverability to improve the robustness of the transmission
36 system or to lower costs to electric consumers;

1 (10) whether the applicant or applicants are in compliance
2 with applicable provisions of sections 216B.1691 and 216B.2425,
3 subdivision 7, and have filed or will file by a date certain an
4 application for certificate of need under this section or for
5 certification as a priority electric transmission project under
6 section 216B.2425 for any transmission facilities or upgrades
7 identified under section 216B.2425, subdivision 7;

8 (11) whether the applicant has made the demonstrations
9 required under subdivision 3a; and

10 (12) if the applicant is proposing a nonrenewable
11 generating plant, the applicant's assessment of the risk of
12 environmental costs and regulation on that proposed facility
13 over the expected useful life of the plant, including a proposed
14 means of allocating costs associated with that risk.

15 Sec. 6. Minnesota Statutes 2004, section 216B.243,
16 subdivision 6, is amended to read:

17 Subd. 6. [APPLICATION FEES; RULES.] Any application for a
18 certificate of need shall be accompanied by the application fee
19 required pursuant to this subdivision. The application fee is
20 to be applied toward the total costs reasonably necessary to
21 complete the evaluation of need for the proposed facility. The
22 maximum application fee shall be \$50,000, except for an
23 application for an electric power generating plant as defined in
24 section 216B.2421, subdivision 2, clause (1), or a high-voltage
25 transmission line as defined in section 216B.2421, subdivision
26 2, clause (2), for which the maximum application fee shall be
27 \$100,000. ~~The commission may require an additional fee to~~
28 ~~recover the costs of any rehearing. The fee for a rehearing~~
29 ~~shall not be greater than the actual cost of the rehearing or~~
30 ~~the maximum fee specified above, whichever is less. Costs~~
31 exceeding the application fee and reasonably necessary to
32 complete the evaluation of need for the proposed facility shall
33 be recovered from the applicant. If the applicant is a public
34 utility, a cooperative electric association, a generation and
35 transmission cooperative electric association, a municipal power
36 agency, a municipal electric utility, or a transmission company,

1 the recovery shall be done pursuant to section 216B.62. The
2 commission shall establish by rule pursuant to chapter 14 and
3 sections 216C.05 to 216C.30 and this section, a schedule of fees
4 based on the output or capacity of the facility and the
5 difficulty of assessment of need. Money collected in this
6 manner shall be credited to the general fund of the state
7 treasury.

8 Sec. 7. Minnesota Statutes 2004, section 216B.2425,
9 subdivision 2, is amended to read:

10 Subd. 2. [LIST DEVELOPMENT; TRANSMISSION PROJECTS REPORT.]

11 (a) By November 1 of each odd-numbered year, each a transmission
12 projects report must be submitted to the commission by each
13 utility, organization, or company that:

14 (1) is a public utility, a municipal utility, and a
15 cooperative electric association, or the generation and
16 transmission organization that serves each utility or
17 association, that or a transmission company; and

18 (2) owns or operates electric transmission lines in
19 Minnesota shall.

20 (b) The report may be submitted jointly or individually
21 submit-a-transmission-projects-report to the commission.

22 (c) The report must:

23 (1) list specific present and reasonably foreseeable future
24 inadequacies in the transmission system in Minnesota;

25 (2) identify alternative means of addressing each
26 inadequacy listed;

27 (3) identify general economic, environmental, and social
28 issues associated with each alternative; and

29 (4) provide a summary of public input ~~the-utilities-and~~
30 associations-have-gathered related to the list of inadequacies
31 and the role of local government officials and other interested
32 persons in assisting to develop the list and analyze
33 alternatives.

34 ~~(b)~~ (d) To meet the requirements of this subdivision,
35 entities reporting parties may rely on available information and
36 analysis developed by a regional transmission organization or

1 any subgroup of a regional transmission organization and may
2 develop and include additional information as necessary.

3 Sec. 8. Minnesota Statutes 2004, section 216B.50,
4 subdivision 1, is amended to read:

5 Subdivision 1. [COMMISSION APPROVAL REQUIRED.] No public
6 utility shall sell, acquire, lease, or rent any plant as an
7 operating unit or system in this state for a total consideration
8 in excess of \$100,000, or merge or consolidate with another
9 public utility or transmission company operating in this state,
10 without first being authorized so to do by the commission. Upon
11 the filing of an application for the approval and consent of the
12 commission thereto, the commission shall investigate, with or
13 without public hearing, ~~and in case of~~. The commission shall
14 hold a public hearing, upon such notice as the commission may
15 require, and if it shall find. If the commission finds that the
16 proposed action is consistent with the public interest, it shall
17 give its consent and approval by order in writing. In reaching
18 its determination, the commission shall take into consideration
19 the reasonable value of the property, plant, or securities to be
20 acquired or disposed of, or merged and consolidated. The
21 ~~provisions of~~

22 This section shall ~~do~~ not be construed as
23 ~~applicable~~ apply to the purchase of ~~units of~~ property for
24 ~~replacement or to the addition to~~ replace or add to the plant of
25 the public utility by construction.

26 Sec. 9. Minnesota Statutes 2004, section 216B.62,
27 subdivision 5, is amended to read:

28 Subd. 5. [ASSESSING COOPERATIVES AND MUNICIPALS.] The
29 commission and department may charge cooperative electric
30 associations, generation and transmission cooperative electric
31 associations, municipal power agencies, and municipal electric
32 utilities their proportionate share of the expenses incurred in
33 the review and disposition of resource plans, adjudication of
34 service area disputes, proceedings under section 216B.1691,
35 216B.2425, or 216B.243, and the costs incurred in the
36 adjudication of complaints over service standards, practices,

1 and rates. Cooperative electric associations electing to become
2 subject to rate regulation by the commission pursuant to section
3 216B.026, subdivision 4, are also subject to this section.
4 Neither a cooperative electric association nor a municipal
5 electric utility is liable for costs and expenses in a calendar
6 year in excess of the limitation on costs that may be assessed
7 against public utilities under subdivision 2. A cooperative
8 electric association, generation and transmission cooperative
9 electric association, municipal power agency, or municipal
10 electric utility may object to and appeal bills of the
11 commission and department as provided in subdivision 4.

12 The department shall assess cooperatives and municipalities
13 for the costs of alternative energy engineering activities under
14 section 216C.261. Each cooperative and municipality shall be
15 assessed in proportion that its gross operating revenues for the
16 sale of gas and electric service within the state for the last
17 calendar year bears to the total of those revenues for all
18 public utilities, cooperatives, and municipalities.

19 Sec. 10. Minnesota Statutes 2004, section 216B.62, is
20 amended by adding a subdivision to read:

21 Subd. 5a. [ASSESSING TRANSMISSION COMPANIES.] The
22 commission and department may charge transmission companies
23 their proportionate share of the expenses incurred in the review
24 and disposition of proceedings under sections 216B.2425,
25 216B.243, 216B.48, 216B.50, and 216B.79. A transmission company
26 is not liable for costs and expenses in a calendar year in
27 excess of the limitation on costs that may be assessed against
28 public utilities under subdivision 2. A transmission company
29 may object to and appeal bills of the commission and department
30 as provided in subdivision 4.

31 Sec. 11. Minnesota Statutes 2004, section 216B.79, is
32 amended to read:

33 216B.79 [PREVENTATIVE MAINTENANCE.]

34 The commission may order public utilities to make adequate
35 infrastructure investments and undertake sufficient preventative
36 maintenance with regard to generation, transmission, and

1 distribution facilities. The commission's authority under this
2 section also applies to any transmission company that owns or
3 operates electric transmission lines in Minnesota.

4 Sec. 12. [STAKEHOLDER PROCESS AND REPORT.]

5 Subdivision 1. [MEMBERSHIP.] By June 15, 2005, the
6 Legislative Electric Energy Task Force shall convene a
7 stakeholder group consisting of one representative from each of
8 the following groups: transmission-owning investor-owned
9 utilities, electric cooperatives, municipal power agencies,
10 energy consumer advocates, business energy consumer advocates,
11 residential energy consumer advocates, environmental
12 organizations, the Minnesota Department of Commerce, the
13 Minnesota Environmental Quality Board, and the Minnesota Public
4 Utilities Commission.

15 Subd. 2. [CHARGE.] (a) The stakeholder group shall explore
16 whether increased efficiencies and effectiveness can be obtained
17 through modifying current state statutes and administrative
18 processes to certify and route high-voltage transmission lines,
19 including modifications to section 216B.243.

20 (b) In developing its recommendations, the stakeholder
21 group shall consider:

22 (1) whether the certification process established under
23 section 216B.2425, subdivision 3, can be modified to encourage
24 utilities to apply for certification under that section;

25 (2) whether alternative certification processes are
26 feasible for different types of transmission facilities; and

27 (3) whether additional cooperation between state agencies
28 is needed to enhance the efficiency of the certification and
29 routing processes, and whether modifications to those processes
30 are appropriate.

31 (c) The stakeholder group shall also consider and make
32 recommendations regarding whether and how to provide
33 compensation above traditional eminent domain payments to
34 landowners over whose property a new transmission facility is
35 constructed.

36 Subd. 3. [REPORT.] By January 15, 2006, the task force

1 shall submit a report to the legislature summarizing the
2 stakeholder group findings and any recommended changes to the
3 certification and routing processes for high-voltage
4 transmission lines.

5 ARTICLE 2

6 C-BED AND RENEWABLE TRANSMISSION

7 Section 1. [216B.1612] [COMMUNITY-BASED ENERGY
8 DEVELOPMENT; TARIFF.]

9 Subdivision 1. [TARIFF ESTABLISHMENT.] A tariff shall be
10 established to optimize local, regional, and state benefits from
11 wind energy development, and to facilitate widespread
12 development of community-based wind energy projects throughout
13 Minnesota.

14 Subd. 2. [DEFINITIONS.] (a) The terms used in this section
15 have the meanings given them in this subdivision.

16 (b) "C-BED tariff" or "tariff" means a community-based
17 energy development tariff.

18 (c) "Qualifying owner" means:

19 (1) a Minnesota resident;

20 (2) a limited liability corporation that is organized under
21 the laws of this state and that is made up of members who are
22 Minnesota residents;

23 (3) a Minnesota nonprofit organization organized under
24 chapter 317A;

25 (4) a Minnesota cooperative association organized under
26 chapter 308A or 308B, other than a rural electric cooperative
27 association or a generation and transmission cooperative;

28 (5) a Minnesota political subdivision or local government
29 other than a municipal electric utility or municipal power
30 agency, including, but not limited to, a county, statutory or
31 home rule charter city, town, school district, or public or
32 private higher education institution or any other local or
33 regional governmental organization such as a board, commission,
34 or association; or

35 (6) a tribal council.

36 (d) "Net present value rate" means a rate equal to the net

1 present value of the nominal payments to a project divided by
2 the total expected energy production of the project over the
3 life of its power purchase agreement.

4 (e) "Standard reliability criteria" means:

5 (1) can be safely integrated into and operated within the
6 utility's grid without causing any adverse or unsafe
7 consequences; and

8 (2) is consistent with the utility's resource needs as
9 identified in its most recent resource plan submitted under
10 section 216B.2422.

11 (f) "Community-based energy project" or "C-BED project"
12 means a new wind energy project that:

13 (1) has no single qualifying owner owning more than 15
14 percent of a C-BED project that consists of more than two
15 turbines; or

16 (2) for C-BED projects of one or two turbines, is owned
17 entirely by one or more qualifying owners, with at least 51
18 percent of the total financial benefits over the life of the
19 project flowing to qualifying owners; and

20 (3) has a resolution of support adopted by the county board
21 of each county in which the project is to be located, or in the
22 case of a project located within the boundaries of a
23 reservation, the tribal council for that reservation.

24 Subd. 3. [TARIFF RATE.] (a) The tariff described in
25 subdivision 4 must have a rate schedule that allows for a rate
26 up to a 2.7 cents per kilowatt hour net present value rate over
27 the 20-year life of the power purchase agreement. The tariff
28 must provide for a rate that is higher in the first ten years of
29 the power purchase agreement than in the last ten years. The
30 discount rate required to calculate the net present value must
31 be the utility's normal discount rate used for its other
32 business purposes.

33 (b) The commission shall consider mechanisms to encourage
34 the aggregation of C-BED projects.

35 (c) The commission shall require that qualifying owners
36 provide sufficient security to secure performance under the

1 power purchase agreement, and shall prohibit the transfer of the
2 C-BED project to a nonqualifying owner during the initial 20
3 years of the contract.

4 Subd. 4. [UTILITIES TO OFFER TARIFF.] By December 1, 2005,
5 each public utility providing electric service at retail shall
6 file for commission approval a community-based energy
7 development tariff consistent with subdivision 3. Within 90
8 days of the first commission approval order under this
9 subdivision, each municipal power agency and generation and
10 transmission cooperative electric association shall adopt a
11 community-based energy development tariff as consistent as
12 possible with subdivision 3.

13 Subd. 5. [PRIORITY FOR C-BED PROJECTS.] (a) A utility
14 subject to section 216B.1691 that needs to construct new
15 generation, or purchase the output from new generation, as part
16 of its plan to satisfy its good faith objective under that
17 section should take reasonable steps to determine if one or more
18 C-BED projects are available that meet the utility's cost and
19 reliability requirements, applying standard reliability
20 criteria, to fulfill some or all of the identified need at
21 minimal impact to customer rates.

22 Nothing in this section shall be construed to obligate a
23 utility to enter into a power purchase agreement under a C-BED
24 tariff developed under this section.

25 (b) Each utility shall include in its resource plan
26 submitted under section 216B.2422 a description of its efforts
27 to purchase energy from C-BED projects, including a list of the
28 projects under contract and the amount of C-BED energy purchased.

29 (c) The commission shall consider the efforts and
30 activities of a utility to purchase energy from C-BED projects
31 when evaluating its good faith effort towards meeting the
32 renewable energy objective under section 216B.1691.

33 Subd. 6. [PROPERTY OWNER PARTICIPATION.] To the extent
34 feasible, a developer of a C-BED project must provide, in
35 writing, an opportunity to invest in the C-BED project to each
36 property owner on whose property a high voltage transmission

1 line transmitting the energy generated by the C-BED project to
2 market currently exists or is to be constructed and who resides
3 in the county where the C-BED project is located or in an
4 adjacent Minnesota county.

5 Subd. 7. [OTHER C-BED TARIFF ISSUES.] (a) A
6 community-based project developer and a utility shall negotiate
7 the rate and power purchase agreement terms consistent with the
8 tariff established under subdivision 4.

9 (b) At the discretion of the developer, a community-based
10 project developer and a utility may negotiate a power purchase
11 agreement with terms different from the tariff established under
12 subdivision 4.

13 (c) A qualifying owner, or any combination of qualifying
14 owners, may develop a joint venture project with a nonqualifying
15 wind energy project developer. However, the terms of the C-BED
16 tariff may only apply to the portion of the energy production of
17 the total project that is directly proportional to the equity
18 share of the project owned by the qualifying owners.

19 (d) A project that is operating under a power purchase
20 agreement under a C-BED tariff is not eligible for net energy
21 billing under section 216B.164, subdivision 3, or for production
22 incentives under section 216C.41.

23 (e) A public utility must receive commission approval of a
24 power purchase agreement for a C-BED tariffed project. The
25 commission shall provide the utility's ratepayers an opportunity
26 to address the reasonableness of the proposed power purchase
27 agreement. Unless a party objects to a contract within 30 days
28 of submission of the contract to the commission, the contract is
29 deemed approved.

30 Sec. 2. Minnesota Statutes 2004, section 216B.1645,
31 subdivision 1, is amended to read:

32 Subdivision 1. [COMMISSION AUTHORITY.] Upon the petition
33 of a public utility, the Public Utilities Commission shall
34 approve or disapprove power purchase contracts, investments, or
35 expenditures entered into or made by the utility to satisfy the
36 wind and biomass mandates contained in sections 216B.169,

1 216B.2423, and 216B.2424, and to satisfy the renewable energy
2 objectives set forth in section 216B.1691, including reasonable
3 investments and expenditures made to:

4 (1) transmit the electricity generated from sources
5 developed under those sections that is ultimately used to
6 provide service to the utility's retail customers, or to
7 including studies necessary to identify new transmission
8 facilities needed to transmit electricity to Minnesota retail
9 customers from generating facilities constructed to satisfy the
10 renewable energy objectives, provided that the costs of the
11 studies have not been recovered previously under existing
12 tariffs and the utility has filed an application for a
13 certificate of need or for certification as a priority project
14 under section 216B.2425 for the new transmission facilities
15 identified in the studies; or

16 (2) develop renewable energy sources from the account
17 required in section 116C.779.

18 Sec. 3. Minnesota Statutes 2004, section 216B.2425,
19 subdivision 7, is amended to read:

20 Subd. 7. [TRANSMISSION NEEDED TO SUPPORT RENEWABLE
21 RESOURCES.] Each entity subject to this section shall determine
22 necessary transmission upgrades to support development of
23 renewable energy resources required to meet objectives under
24 section 216B.1691 and shall include those upgrades in its report
25 under subdivision 2. Transmission projects determined by the
26 commission to be necessary to support a utility's plan under
27 section 216B.1691 to meet its obligations under that section
28 must be certified as a priority electric transmission project,
29 satisfying the requirements of section 216B.243. In determining
30 that a proposed transmission project is necessary to support a
31 utility's plan under section 216B.1691, the commission must find
32 that the applicant has met the following factors:

33 (1) that the transmission facility is necessary to allow
34 the delivery of power from renewable sources of energy to retail
35 customers in Minnesota;

36 (2) that the applicant has signed or will sign power

1 purchase agreements, subject to commission approval, for
2 resources to meet the renewable energy objective that are
3 dependent upon or will use the capacity of the transmission
4 facility to serve retail customers in Minnesota;

5 (3) that the installation and commercial operation date of
6 the renewable resources to satisfy the renewable energy
7 objective will match the planned in-service date of the
8 transmission facility; and

9 (4) that the proposed transmission facility is consistent
10 with a least cost solution to the utility's need for additional
11 electricity.

12 Sec. 4. Minnesota Statutes 2004, section 216B.243,
13 subdivision 8, is amended to read:

1 Subd. 8. [EXEMPTIONS.] This section does not apply to:

15 (1) cogeneration or small power production facilities as
16 defined in the Federal Power Act, United States Code, title 16,
17 section 796, paragraph (17), subparagraph (A), and paragraph
18 (18), subparagraph (A), and having a combined capacity at a
19 single site of less than 80,000 kilowatts ~~or-to;~~ plants or
20 facilities for the production of ethanol or fuel alcohol ~~nor-in;~~
21 or any case where the commission ~~shall-determine~~ has determined
22 after being advised by the attorney general that its application
23 has been preempted by federal law;

24 (2) a high-voltage transmission line proposed primarily to
5 distribute electricity to serve the demand of a single customer
26 at a single location, unless the applicant opts to request that
27 the commission determine need under this section or section
28 216B.2425;

29 (3) the upgrade to a higher voltage of an existing
30 transmission line that serves the demand of a single customer
31 that primarily uses existing rights-of-way, unless the applicant
32 opts to request that the commission determine need under this
33 section or section 216B.2425;

4 (4) a high-voltage transmission line of one mile or less
35 required to connect a new or upgraded substation to an existing,
36 new, or upgraded high-voltage transmission line;

1 (5) conversion of the fuel source of an existing electric
2 generating plant to using natural gas; or

3 (6) the modification of an existing electric generating
4 plant to increase efficiency, as long as the capacity of the
5 plant is not increased more than ten percent or more than 100
6 megawatts, whichever is greater; or

7 (7) a large energy facility that (i) generates electricity
8 from wind energy conversion systems, (ii) will serve retail
9 customers in Minnesota, (iii) is specifically intended to be
10 used to meet the renewable energy objective under section
11 216B.1691 or addresses a resource need identified in a current
12 commission-approved or commission-reviewed resource plan under
13 section 216B.2422; and (iv) derives at least 10 percent of the
14 total nameplate capacity of the proposed project from one or
15 more C-BED projects, as defined under section 216B.1612,
16 subdivision 2, paragraph (f).

17 Sec. 5. [216C.053] [RENEWABLE ENERGY DEVELOPMENT.]

18 The Department of Commerce shall assist utilities,
19 renewable energy developers, regulators, regional transmission
20 grid managers, and the public on issues related to renewable
21 energy development. The department shall work to ensure
22 cost-effective renewable energy development throughout the state.

23 Sec. 6. [WIND INTEGRATION STUDY.]

24 The commission shall order all electric utilities, as
25 defined in Minnesota Statutes, section 216B.1691, subdivision 1,
26 paragraph (b), to participate in a statewide wind integration
27 study. Utilities subject to Minnesota Statutes, section
28 216B.1691, shall jointly contract with an independent firm
29 selected by the reliability administrator to conduct an
30 engineering study of the impacts on reliability and costs
31 associated with increasing wind capacity to 20 percent of
32 Minnesota retail electric energy sales by the year 2020, and to
33 identify and develop options for utilities to use to manage the
34 intermittent nature of wind resources. The contracting
35 utilities shall cooperate with the firm conducting the study by
36 providing data requested. The reliability administrator shall

1 manage the study process and shall appoint a group of
2 stakeholders with experience in engineering and expertise in
3 power systems or wind energy to review the study's proposed
4 methods and assumptions and preliminary data. The study must be
5 completed by November 30, 2006. Using the study results, the
6 contracting utilities shall provide the commissioner of commerce
7 with estimates of the impact on their electric rates of
8 increasing wind capacity to 20 percent, assuming no reduction in
9 reliability. Electric utilities shall incorporate the study's
10 findings into their utility integrated resource plans prepared
11 under Minnesota Statutes, section 216B.2422. The costs of the
12 study are recoverable under Minnesota Statutes, section
13 216C.052, subdivision 2, paragraph (c), clause (2).

14 Sec. 7. [EXPIRATION.]

15 Section 3 expires on January 1, 2010.

16 ARTICLE 3

17 ROUTING AND SITING AUTHORITY TRANSFER

18 Section 1. Minnesota Statutes 2004, section 116C.52,
19 subdivision 2, is amended to read:

20 Subd. 2. [~~BOARD COMMISSION.~~] "~~Board~~"-~~shall-mean-the~~
21 ~~Minnesota-Environmental-Quality-Board~~ "Commission" means the
22 Public Utilities Commission.

23 Sec. 2. Minnesota Statutes 2004, section 116C.52,
24 subdivision 4, is amended to read:

25 Subd. 4. [HIGH VOLTAGE TRANSMISSION LINE.] "High voltage
26 transmission line" means a conductor of electric energy and
27 associated facilities designed for and capable of operation at a
28 nominal voltage of 100 kilovolts or more and is greater than
29 1,500 feet in length.

30 Sec. 3. Minnesota Statutes 2004, section 116C.53,
31 subdivision 2, is amended to read:

32 Subd. 2. [JURISDICTION.] The board commission is hereby
33 given the authority to provide for site and route selection for
34 large electric power facilities. The board commission shall
35 issue permits for large electric power facilities in a timely
36 fashion.---~~When-the-Public-Utilities-Commission-has-determined~~

1 the and in a manner consistent with the overall determination of
2 need for the project under section 216B.243 or 216B.24257.
3 Questions of need, including size, type, and timing; alternative
4 system configurations; and voltage ~~are-not-within-the-board's~~
5 ~~siting-and-routing-authority-and~~ must not be included in the
6 scope of environmental review conducted under sections 116C.51
7 to 116C.69.

8 Sec. 4. Minnesota Statutes 2004, section 116C.57,
9 subdivision 1, is amended to read:

10 Subdivision 1. [SITE PERMIT.] No person may construct a
11 large electric generating plant without a site permit from the
12 board commission. A large electric generating plant may be
13 constructed only on a site approved by the board commission.
14 The board commission must incorporate into one proceeding the
15 route selection for a high voltage transmission line that is
16 directly associated with and necessary to interconnect the large
17 electric generating plant to the transmission system and whose
18 need is certified ~~as-part-of-the-generating-plant-project-by-the~~
19 Public-Utilities-Commission under section 216B.243.

20 Sec. 5. Minnesota Statutes 2004, section 116C.57,
21 subdivision 2c, is amended to read:

22 Subd. 2c. [ENVIRONMENTAL REVIEW.] The board commissioner
23 of the Department of Commerce shall prepare for the commission
24 an environmental impact statement on each proposed large
25 electric generating plant or high voltage transmission line for
26 which a complete application has been submitted. ~~For-any~~
27 ~~project-that-has-obtained-a-certificate-of-need-from-the-Public~~
28 ~~Utilities-Commission7-the-board~~ The commissioner shall not
29 consider whether or not the project is needed. No other state
30 environmental review documents shall be required. The board
31 commissioner shall study and evaluate any site or route proposed
32 by an applicant and any other site or route the board commission
33 deems necessary that was proposed in a manner consistent with
34 rules ~~adopted-by-the-board~~ concerning the form, content, and
35 timeliness of proposals for alternate sites or routes.

36 Sec. 6. Minnesota Statutes 2004, section 116C.57, is

1 amended by adding a subdivision to read:

2 Subd. 9. [DEPARTMENT OF COMMERCE TO PROVIDE TECHNICAL
3 EXPERTISE AND OTHER ASSISTANCE.] The commissioner of the
4 Department of Commerce shall consult with other state agencies
5 and provide technical expertise and other assistance to the
6 commission for activities and proceedings under this section,
7 sections 116C.51 to 116C.697, and chapter 116I. The
8 commissioner shall periodically report to the commission
9 concerning the Department of Commerce's costs of providing
10 assistance. The report shall conform to the schedule and
11 include the required contents specified by the commission. The
12 commission shall include the costs of the assistance in
13 assessments for activities and proceedings under those sections
14 and reimburse the special revenue fund for those costs.

15 Sec. 7. Minnesota Statutes 2004, section 116C.575,
16 subdivision 5, is amended to read:

17 Subd. 5. [ENVIRONMENTAL REVIEW.] For the projects
18 identified in subdivision 2 and following these procedures, the
19 board commissioner of the Department of Commerce shall prepare
20 for the commission an environmental assessment. The
21 environmental assessment shall contain information on the human
22 and environmental impacts of the proposed project and other
23 sites or routes identified by the board commission and shall
24 address mitigating measures for all of the sites or routes
25 considered. The environmental assessment shall be the only
26 state environmental review document required to be prepared on
27 the project.

28 Sec. 8. Minnesota Statutes 2004, section 116C.577, is
29 amended to read:

30 116C.577 [EMERGENCY PERMIT.]

31 (a) Any utility whose electric power system requires the
32 immediate construction of a large electric power generating
33 plant or high voltage transmission line due to a major
34 unforeseen event may apply to the board commission for an
35 emergency permit after-providing. The application shall provide
36 notice in writing to the Public Utilities Commission of the

1 major unforeseen event and the need for immediate construction.
2 The permit must be issued in a timely manner, no later than 195
3 days after the board's commission's acceptance of the
4 application and upon a finding by the board commission that (1)
5 a demonstrable emergency exists, (2) the emergency requires
6 immediate construction, and (3) adherence to the procedures and
7 time schedules specified in section 116C.57 would jeopardize the
8 utility's electric power system or would jeopardize the
9 utility's ability to meet the electric needs of its customers in
10 an orderly and timely manner.

11 (b) A public hearing to determine if an emergency exists
12 must be held within 90 days of the application. The
13 board commission, after notice and hearing, shall adopt rules
14 specifying the criteria for emergency certification.

15 Sec. 9. Minnesota Statutes 2004, section 116C.58, is
16 amended to read:

17 116C.58 [ANNUAL HEARING.]

18 The board commission shall hold an annual public hearing at
19 a time and place prescribed by rule in order to afford
20 interested persons an opportunity to be heard regarding any
21 matters relating to the siting of large electric generating
22 power plants and routing of high voltage transmission lines. At
23 the meeting, the board commission shall advise the public of the
24 permits issued by the board commission in the past year.
25 The board commission shall provide at least ten days but no more
26 than 45 days' notice of the annual meeting by mailing notice to
27 those persons who have requested notice and by publication in
28 the EQB Monitor and the commission's weekly calendar.

29 Sec. 10. Minnesota Statutes 2004, section 116C.61,
30 subdivision 3, is amended to read:

31 Subd. 3. [STATE AGENCY PARTICIPATION.] (a) State agencies
32 authorized to issue permits required for construction or
33 operation of large electric power generating plants or high
34 voltage transmission lines shall participate during routing and
35 siting at public hearings and all other activities of the board
36 on specific site or route designations and design considerations

1 of the board, and shall clearly state whether the site or route
2 being considered for designation or permit and other design
3 matters under consideration for approval will be in compliance
4 with state agency standards, rules, or policies.

5 (b) An applicant for a permit under this section or under
6 chapter 116I shall notify the commissioner of agriculture if the
7 proposed project will impact cultivated agricultural land, as
8 that term is defined in section 116I.01, subdivision 4. The
9 commissioner may participate and advise the commission as to
10 whether to grant a permit for the project and the best options
11 for mitigating adverse impacts to agricultural lands if the
12 permit is granted. The Department of Agriculture shall be the
13 lead agency on the development of any agricultural mitigation
14 plan required for the project.

15 Sec. 11. Minnesota Statutes 2004, section 116C.69,
16 subdivision 2, is amended to read:

17 Subd. 2. [SITE APPLICATION FEE.] Every applicant for a
18 site permit shall pay to the board commission a fee in-an-amount
19 ~~equal-to-\$500-for-each-\$1,000,000-of-production-plant-investment~~
20 ~~in-the-proposed-installation-as-defined-in-the-Federal-Power~~
21 ~~Commission-Uniform-System-of-Accounts.---The-board-shall-specify~~
22 ~~the-time-and-manner-of-payment-of-the-fee.---If-any-single~~
23 ~~payment-requested-by-the-board-is-in-excess-of-25-percent-of-the~~
24 ~~total-estimated-fee,-the-board-shall-show-that-the-excess-is~~
25 ~~reasonably-necessary.---The-applicant-shall-pay-within-30-days-of~~
26 ~~notification-any-additional-fees-reasonably-necessary-for~~
27 ~~completion-of-the-site-evaluation-and-designation-process-by-the~~
28 ~~board.---In-no-event-shall-the-total-fees-required-of-the~~
29 ~~applicant-under-this-subdivision-exceed-an-amount-equal-to-0.001~~
30 ~~of-said-production-plant-investment-(\$1,000-for-each-\$1,000,000)~~
31 to cover the necessary and reasonable costs incurred by the
32 commission in acting on the permit application and carrying out
33 the requirements of sections 116C.51 to 116C.69. The commission
34 may adopt rules providing for the payment of the fee. Section
35 16A.1283 does not apply to establishment of this fee. All money
36 received pursuant to this subdivision shall be deposited in a

1 special account. Money in the account is appropriated to
2 the board commission to pay expenses incurred in processing
3 applications for site permits in accordance with sections
4 116C.51 to 116C.69 and in the event the expenses are less than
5 the fee paid, to refund the excess to the applicant.

6 Sec. 12. Minnesota Statutes 2004, section 116C.69,
7 subdivision 2a, is amended to read:

8 Subd. 2a. [ROUTE APPLICATION FEE.] Every applicant for a
9 transmission line route permit shall pay to the board commission
10 ~~a base-fee-of-\$35,000-plus-a-fee-in-an-amount-equal-to-\$1,000~~
11 ~~per-mile-length-of-the-longest-proposed-route.--The-board-shall~~
12 ~~specify-the-time-and-manner-of-payment-of-the-fee.--If-any~~
13 ~~single-payment-requested-by-the-board-is-in-excess-of-25-percent~~
14 ~~of-the-total-estimated-fee, the-board-shall-show-that-the-excess~~
15 ~~is-reasonably-necessary.--In-the-event-the-actual-cost-of~~
16 ~~processing-an-application-up-to-the-board's-final-decision-to~~
17 ~~designate-a-route-exceeds-the-above-fee-schedule, the-board-may~~
18 ~~assess-the-applicant-any-additional-fees-necessary-to-cover-the~~
19 ~~actual-costs, not-to-exceed-an-amount-equal-to-\$500-per-mile~~
20 ~~length-of-the-longest-proposed-route~~ fee to cover the necessary
21 and reasonable costs incurred by the commission in acting on the
22 permit application and carrying out the requirements of sections
23 116C.51 to 116C.69. The commission may adopt rules providing
24 for the payment of the fee. Section 16A.1283 does not apply to
25 the establishment of this fee. All money received pursuant to
26 this subdivision shall be deposited in a special account. Money
27 in the account is appropriated to the board commission to pay
28 expenses incurred in processing applications for route permits
29 in accordance with sections 116C.51 to 116C.69 and in the event
30 the expenses are less than the fee paid, to refund the excess to
31 the applicant.

32 Sec. 13. Minnesota Statutes 2004, section 216B.243,
33 subdivision 4, is amended to read:

34 Subd. 4. [APPLICATION FOR CERTIFICATE; HEARING.] Any
35 person proposing to construct a large energy facility shall
36 apply for a certificate of need ~~prior-to-applying~~ and for a site

1 or route permit under sections 116C.51 to 116C.69 ~~or~~ prior to
2 construction of the facility. The application shall be on forms
3 and in a manner established by the commission. In reviewing
4 each application the commission shall hold at least one public
5 hearing pursuant to chapter 14. The public hearing shall be
6 held at a location and hour reasonably calculated to be
7 convenient for the public. An objective of the public hearing
8 shall be to obtain public opinion on the necessity of granting a
9 certificate of need and, if a joint hearing is held, a site or
10 route permit. The commission shall designate a commission
11 employee whose duty shall be to facilitate citizen participation
12 in the hearing process. ~~If~~ Unless the commission ~~and the~~
13 ~~Environmental Quality Board determine~~ determines that a joint
14 hearing on siting and need under this subdivision and section
15 116C.57, subdivision 2d, is not feasible, or more efficient, and
16 ~~may further~~ or otherwise not in the public interest, a joint
17 hearing under those subdivisions ~~may~~ shall be held.

18 Sec. 14. Minnesota Statutes 2004, section 216B.243,
19 subdivision 5, is amended to read:

20 Subd. 5. [APPROVAL, DENIAL, OR MODIFICATION.] Within
21 ~~six~~ 12 months of the submission of an application, the
22 commission shall approve or deny a certificate of need for the
23 facility. Approval or denial of the certificate shall be
24 accompanied by a statement of the reasons for the decision.
25 Issuance of the certificate may be made contingent upon
26 modifications required by the commission. If the commission has
27 not issued an order on the application within the 12 months
28 provided, the commission may extend the time period upon
29 receiving the consent of the parties or on its own motion, for
30 good cause, by issuing an order explaining the good cause
31 justification for extension.

32 Sec. 15. Minnesota Statutes 2004, section 216B.243,
33 subdivision 7, is amended to read:

34 Subd. 7. [PARTICIPATION BY OTHER AGENCY OR POLITICAL
35 SUBDIVISION.] (a) Other state agencies authorized to issue
36 permits for siting, construction or operation of large energy

1 facilities, and those state agencies authorized to participate
2 in matters before the commission involving utility rates and
3 adequacy of utility services, shall present their position
4 regarding need and participate in the public hearing process
5 prior to the issuance or denial of a certificate of need.
6 Issuance or denial of certificates of need shall be the sole and
7 exclusive prerogative of the commission and these determinations
8 and certificates shall be binding upon other state departments
9 and agencies, regional, county, and local governments and
10 special purpose government districts except as provided in
11 sections 116C.01 to 116C.08 and 116D.04, subdivision 9.

12 (b) An applicant for a certificate of need shall notify the
13 commissioner of agriculture if the proposed project will impact
14 cultivated agricultural land, as that term is defined in section
15 116I.01, subdivision 4. The commissioner may participate in any
16 proceeding on the application and advise the commission as to
17 whether to grant the certificate of need, and the best options
18 for mitigating adverse impacts to agricultural lands if the
19 certificate is granted. The Department of Agriculture shall be
20 the lead agency on the development of any agricultural
21 mitigation plan required for the project.

22 Sec. 16. Minnesota Statutes 2004, section 216C.052, is
23 amended to read:

24 216C.052 [RELIABILITY ADMINISTRATOR.]

25 Subdivision 1. [RESPONSIBILITIES.] (a) There is
26 established the position of reliability administrator in the
27 ~~Department of Commerce~~ Public Utilities Commission. The
28 administrator shall act as a source of independent expertise and
29 a technical advisor to ~~the commissioner,~~ the commission, and the
30 ~~public, and the Legislative Electric Energy Task Force~~ on issues
31 related to the reliability of the electric system. In
32 conducting its work, the administrator shall provide assistance
33 to the commission in administering and implementing the
34 commission's duties under sections 116C.51 to 116C.69; 116C.691
35 to 116C.697; 216B.2422; 216B.2425; 216B.243; chapter 116I; and
36 rules associated with those sections. Subject to resource

1 constraints, the reliability administrator may also:

2 (1) model and monitor the use and operation of the energy
3 infrastructure in the state, including generation facilities,
4 transmission lines, natural gas pipelines, and other energy
5 infrastructure;

6 (2) develop and present to the commission and parties
7 technical analyses of proposed infrastructure projects, and
8 provide technical advice to the commission;

9 (3) present independent, factual, expert, and technical
10 information on infrastructure proposals and reliability issues
11 at public meetings hosted by the task force, the Environmental
12 Quality Board, the department, or the commission.

13 (b) Upon request and subject to resource constraints, the
14 administrator shall provide technical assistance regarding
15 matters unrelated to applications for infrastructure
16 improvements to the task force, the department, or the
17 commission.

18 (c) The administrator may not advocate for any particular
19 outcome in a commission proceeding, but may give technical
20 advice to the commission as to the impact on the reliability of
21 the energy system of a particular project or projects. The
22 ~~administrator-must-not-be-considered-a-party-or-a-participant-in~~
23 ~~any-proceeding-before-the-commission.~~

24 Subd. 2. [ADMINISTRATIVE ISSUES.] (a) The commissioner
25 commission may select the administrator who shall serve for a
26 four-year term. The administrator may not have been a party or
27 a participant in a commission energy proceeding for at least one
28 year prior to selection by the commissioner commission.
29 The commissioner commission shall oversee and direct the work of
30 the administrator, annually review the expenses of the
31 administrator, and annually approve the budget of the
32 administrator. Pursuant to commission approval, the
33 administrator may hire staff and may contract for technical
34 expertise in performing duties when existing state resources are
35 required for other state responsibilities or when special
36 expertise is required. The salary of the administrator is

1 governed by section 15A.0815, subdivision 2.

2 (b) Costs relating to a specific proceeding, analysis, or
3 project are not general administrative costs. For purposes of
4 this section, "energy utility" means public utilities,
5 generation and transmission cooperative electric associations,
6 and municipal power agencies providing natural gas or electric
7 service in the state.

8 (c) The ~~Department of Commerce~~ commission shall pay:

9 (1) the general administrative costs of the administrator,
10 not to exceed \$1,000,000 in a fiscal year, and shall assess
11 energy utilities for those administrative costs. These costs
12 must be consistent with the budget approved by the ~~commissioner~~
13 commission under paragraph (a). The ~~department~~ commission shall
14 apportion the costs among all energy utilities in proportion to
15 their respective gross operating revenues from sales of gas or
16 electric service within the state during the last calendar year,
17 and shall then render a bill to each utility on a regular basis;
18 and

19 (2) costs relating to a specific proceeding analysis or
20 project and shall render a bill to the specific energy utility
21 or utilities participating in the proceeding, analysis, or
22 project directly, either at the conclusion of a particular
23 proceeding, analysis, or project, or from time to time during
24 the course of the proceeding, analysis, or project.

25 (d) For purposes of administrative efficiency, the
26 ~~department~~ commission shall assess energy utilities and issue
27 bills in accordance with the billing and assessment procedures
28 provided in section 216B.62, to the extent that these procedures
29 do not conflict with this subdivision. The amount of the bills
30 rendered by the ~~department~~ commission under paragraph (c) must
31 be paid by the energy utility into an account in the special
32 revenue fund in the state treasury within 30 days from the date
33 of billing and is appropriated to the ~~commissioner~~ commission
34 for the purposes provided in this section. The commission shall
35 approve or approve as modified a rate schedule providing for the
36 automatic adjustment of charges to recover amounts paid by

1 utilities under this section. All amounts assessed under this
2 section are in addition to amounts appropriated to the
3 commission ~~and the department~~ by other law.

4 Subd. 3. [ASSESSMENT AND APPROPRIATION.] In addition to
5 the amount noted in subdivision 2, the ~~commissioner~~ commission
6 may assess utilities, using the mechanism specified in that
7 subdivision, up to an additional \$500,000 annually through June
8 30, 2006. The amounts assessed under this subdivision are
9 appropriated to the ~~commissioner~~ commission, and some or all of
10 the amounts assessed may be transferred to the commissioner of
11 administration, for the purposes specified in section 16B.325
12 and Laws 2001, chapter 212, article 1, section 3, as needed to
13 implement those sections.

14 Subd. 4. [EXPIRATION.] This section expires June 30,
15 ~~2006~~ 2007.

16 Sec. 17. [TRANSFERRING POWER PLANT SITING
17 RESPONSIBILITIES.]

18 To ensure greater public participation in energy
19 infrastructure approval proceedings and to better integrate and
20 align state energy and environmental policy goals with economic
21 decisions involving large energy infrastructure, all
22 responsibilities, as defined in Minnesota Statutes, section
23 15.039, subdivision 1, held by the Environmental Quality Board
24 relating to power plant siting and routing under Minnesota
25 Statutes, sections 116C.51 to 116C.69; wind energy conversion
26 systems under Minnesota Statutes, sections 116C.691 to 116C.697;
27 pipelines under Minnesota Statutes, chapter 116I; and rules
28 associated with those sections are transferred to the Public
29 Utilities Commission under Minnesota Statutes, section 15.039,
30 except that the responsibilities of the Environmental Quality
31 Board under Minnesota Statutes, section 116C.83, subdivision 6,
32 and Minnesota Rules, parts 4400.1700, 4400.2750, and 4410.7010
33 to 4410.7070, are transferred to the commissioner of the
34 Department of Commerce. The power plan siting staff of the
35 Environmental Quality Board are transferred to the Department of
36 Commerce. The department's budget shall be adjusted to reflect

1 the transfer.

2 The Department of Commerce and the Public Utilities Commission
3 shall carry out these duties in accordance with the provisions
4 of Minnesota Statutes, section 116D.03.

5 Sec. 18. [TRANSFERRING RELIABILITY ADMINISTRATOR
6 RESPONSIBILITIES.]

7 All responsibilities, as defined in Minnesota Statutes
8 2004, section 15.039, subdivision 1, held by the Minnesota
9 Department of Commerce relating to the reliability administrator
10 under Minnesota Statutes, section 216C.052, are transferred to
11 the Minnesota Public Utilities Commission under Minnesota
12 Statutes, section 15.039.

13 Sec. 19. [REVISOR'S INSTRUCTION.]

14 (a) The revisor of statutes shall change the words
15 "Environmental Quality Board," "board," "chair of the board,"
16 "chair," "board's," and similar terms, when they refer to the
17 Environmental Quality Board or chair of the Environmental
18 Quality Board, to the term "Public Utilities Commission,"
19 "commission," or "commission's," as appropriate, where they
20 appear in Minnesota Statutes, sections 13.741, subdivision 3,
21 116C.51 to 116C.697, and chapter 116I. The revisor shall also
22 make those changes in Minnesota Rules, chapters 4400, 4401, and
23 4415, except as specified in paragraph (b).

24 (b) The revisor of statutes shall change the words
25 "Environmental Quality Board," "board," "chair of the board,"
26 "chair," "board's," and similar terms, when they refer to the
27 Environmental Quality Board or chair of the Environmental
28 Quality Board, to the term "commissioner of the Department of
29 Commerce," "commissioner," or "commissioner's," as appropriate,
30 where they appear in Minnesota Statutes, section 116C.83,
31 subdivision 6; and Minnesota Rules, parts 4400.1700, subparts 1
32 to 9, 11, and 12; 4400.2750; and 4410.7010 to 4410.7070.

33 Sec. 20. [EFFECTIVE DATE.]

34 Sections 1 to 18 are effective July 1, 2005.

35 ARTICLE 4

36 ENERGY ASSISTANCE TECHNICAL CORRECTIONS

1 Section 1. Minnesota Statutes 2004, section 13.681, is
2 amended by adding a subdivision to read:

3 Subd. 5. [ENERGY PROGRAMS.] Treatment of data on
4 individuals applying for benefits or services under energy
5 programs is governed by section 216C.266.

6 Sec. 2. Minnesota Statutes 2004, section 119A.15,
7 subdivision 5a, is amended to read:

8 Subd. 5a. [EXCLUDED PROGRAMS.] Programs transferred to the
9 Department of Education from the Department of Employment and
10 Economic Development may not be included in the consolidated
11 funding account and are ineligible for local consolidation. The
12 commissioner may not apply for federal waivers to include these
13 programs in funding consolidation initiatives. The programs
14 include the following:

15 (1) programs for the homeless under sections 116L.365 and
16 119A.43;

17 (2) emergency energy assistance and energy conservation
18 programs under sections ~~119A.40 and 119A.42~~ 216C.263 and
19 216C.265;

20 (3) weatherization programs under section ~~119A.41~~ 216C.264;

21 (4) foodshelf programs under section 119A.44 and the
22 emergency food assistance program; and

23 (5) lead abatement programs under section 119A.45.

24 Sec. 3. Minnesota Statutes 2004, section 216C.09, is
25 amended to read:

26 216C.09 [COMMISSIONER DUTIES.]

27 (a) The commissioner shall:

28 (1) manage the department as the central repository within
29 the state government for the collection of data on energy;

30 (2) prepare and adopt an emergency allocation plan
31 specifying actions to be taken in the event of an impending
32 serious shortage of energy, or a threat to public health,
33 safety, or welfare;

34 (3) undertake a continuing assessment of trends in the
35 consumption of all forms of energy and analyze the social,
36 economic, and environmental consequences of these trends;

1 (4) carry out energy conservation measures as specified by
2 the legislature and recommend to the governor and the
3 legislature additional energy policies and conservation measures
4 as required to meet the objectives of sections 216C.05 to
5 216C.30;

6 (5) collect and analyze data relating to present and future
7 demands and resources for all sources of energy;

8 (6) evaluate policies governing the establishment of rates
9 and prices for energy as related to energy conservation, and
10 other goals and policies of sections 216C.05 to 216C.30, and
11 make recommendations for changes in energy pricing policies and
12 rate schedules;

13 (7) study the impact and relationship of the state energy
14 policies to international, national, and regional energy
15 policies;

16 (8) design and implement a state program for the
17 conservation of energy; this program shall include but not be
18 limited to, general commercial, industrial, and residential, and
19 transportation areas; such program shall also provide for the
20 evaluation of energy systems as they relate to lighting,
21 heating, refrigeration, air conditioning, building design and
22 operation, and appliance manufacturing and operation;

23 (9) inform and educate the public about the sources and
24 uses of energy and the ways in which persons can conserve
25 energy;

26 (10) dispense funds made available for the purpose of
27 research studies and projects of professional and civic
28 orientation, which are related to either energy conservation,
29 resource recovery, or the development of alternative energy
30 technologies which conserve nonrenewable energy resources while
31 creating minimum environmental impact;

32 (11) charge other governmental departments and agencies
33 involved in energy-related activities with specific information
34 gathering goals and require that those goals be met;

35 (12) design a comprehensive program for the development of
36 indigenous energy resources. The program shall include, but not

1 be limited to, providing technical, informational, educational,
2 and financial services and materials to persons, businesses,
3 municipalities, and organizations involved in the development of
4 solar, wind, hydropower, peat, fiber fuels, biomass, and other
5 alternative energy resources. The program shall be evaluated by
6 the alternative energy technical activity; and

7 (13) dispense loans, grants, or other financial aid from
8 money received from litigation or settlement of alleged
9 violations of federal petroleum-pricing regulations made
10 available to the department for that purpose. The commissioner
11 shall adopt rules under chapter 14 for this purpose. Money
12 ~~dispersed under this clause must not include money received as a~~
13 ~~result of the settlement of the parties and order of the United~~
14 ~~States District Court for the District of Kansas in the case of~~
15 ~~In Re Department of Energy Stripper Well Exemption Litigation,~~
16 ~~578 F. Supp. 586 (D. Kan. 1983) and all money received after~~
17 ~~August 17, 1988, by the governor, the commissioner of finance, or~~
18 ~~any other state agency resulting from overcharges by oil~~
19 ~~companies in violation of federal law.~~

20 (b) Further, the commissioner may participate fully in
21 hearings before the Public Utilities Commission on matters
22 pertaining to rate design, cost allocation, efficient resource
23 utilization, utility conservation investments, small power
24 production, cogeneration, and other rate issues. The
25 commissioner shall support the policies stated in section
26 216C.05 and shall prepare and defend testimony proposed to
27 encourage energy conservation improvements as defined in section
28 216B.241.

29 Sec. 4. Minnesota Statutes 2004, section 462A.05,
30 subdivision 21, is amended to read:

31 Subd. 21. [RENTAL PROPERTY LOANS.] The agency may make or
32 purchase loans to owners of rental property that is occupied or
33 intended for occupancy primarily by low- and moderate-income
34 tenants and which does not comply with the standards established
35 in section ~~216C.27~~ 16B.61, subdivision 3 1, for the purpose of
36 energy improvements necessary to bring the property into full or

1 partial compliance with these standards. For property which
2 meets the other requirements of this subdivision, a loan may
3 also be used for moderate rehabilitation of the property. The
4 authority granted in this subdivision is in addition to and not
5 in limitation of any other authority granted to the agency in
6 this chapter. The limitations on eligible mortgagors contained
7 in section 462A.03, subdivision 13, do not apply to loans under
8 this subdivision. Loans for the improvement of rental property
9 pursuant to this subdivision may contain provisions that
10 repayment is not required in whole or in part subject to terms
11 and conditions determined by the agency to be necessary and
12 desirable to encourage owners to maximize rehabilitation of
13 properties.

14 Sec. 5. Minnesota Statutes 2004, section 462A.05,
15 subdivision 23, is amended to read:

16 Subd. 23. [INSURING FINANCIAL INSTITUTION LOANS.] The
17 agency may participate in loans or establish a fund to insure
18 loans, or portions of loans, that are made by any banking
19 institution, savings association, or other lender approved by
20 the agency, organized under the laws of this or any other state
21 or of the United States having an office in this state, to
22 owners of renter occupied homes or apartments that do not comply
23 with standards set forth in section ~~216C.27~~ 16B.61,
24 subdivision 3 1, without limitations relating to the maximum
25 incomes of the owners or tenants. The proceeds of the insured
26 portion of the loan must be used to pay the costs of
27 improvements, including all related structural and other
28 improvements, that will reduce energy consumption.

29 Sec. 6. [RECODIFICATION.]

30 Minnesota Statutes 2004, sections 119A.40; 119A.41;
31 119A.42; 119A.425; and 216C.27, subdivision 8, are recodified as
32 sections 216C.263; 216C.264; 216C.265; 216C.266; and 16B.61,
33 subdivision 8, respectively.

34 ARTICLE 5

35 WOODY BIOMASS MANDATE PROJECT

36 Section 1. Minnesota Statutes 2004, section 216B.2424,

1 subdivision 1, is amended to read:

2 Subdivision 1. [FARM-GROWN CLOSED-LOOP BIOMASS.] (a) For
3 the purposes of this section, "farm-grown closed-loop biomass"
4 means biomass, as defined in section 216C.051, subdivision 7,
5 that:

6 (1) is intentionally cultivated, harvested, and prepared
7 for use, in whole or in part, as a fuel for the generation of
8 electricity;

9 (2) when combusted, releases an amount of carbon dioxide
10 that is less than or approximately equal to the carbon dioxide
11 absorbed by the biomass fuel during its growing cycle; and

12 (3) is fired in a new or substantially retrofitted electric
13 generating facility that is:

14 (i) located within 400 miles of the site of the biomass
15 production; and

16 (ii) designed to use biomass to meet at least 75 percent of
17 its fuel requirements.

18 (b) The legislature finds that the negative environmental
19 impacts within 400 miles of the facility resulting from
20 transporting and combusting the biomass are offset in that
21 region by the environmental benefits to air, soil, and water of
22 the biomass production.

23 (c) Among the biomass fuel sources that meet the
24 requirements of paragraph (a), clause clauses (1) and (2) are
25 poplar, aspen, willow, switch grass, sorghum, alfalfa, and
26 cultivated prairie grass and sustainably managed woody biomass.

27 (d) For the purpose of this section, "sustainably managed
28 woody biomass" means:

29 (1) brush, trees, and other biomass harvested from within
30 designated utility, railroad, and road rights-of-way;

31 (2) upland and lowland brush harvested from lands
32 incorporated into brushland habitat management activities of the
33 Minnesota Department of Natural Resources;

34 (3) upland and lowland brush harvested from lands managed
35 in accordance with Minnesota Department of Natural Resources
36 "Best Management Practices for Managing Brushlands";

1 (4) logging slash or waste wood that is created by harvest,
2 precommercial timber stand improvement to meet silvicultural
3 objectives, or by fire, disease, or insect control treatments,
4 and that is managed in compliance with the Minnesota Forest
5 Resources Council's "Sustaining Minnesota Forest Resources:
6 Voluntary Site-Level Forest Management Guidelines for
7 Landowners, Loggers and Resource Managers" as modified by the
8 requirement of this subdivision; and

9 (5) trees or parts of trees that do not meet the
10 utilization standards for pulpwood, posts, bolts, or sawtimber
11 as described in the Minnesota Department of Natural Resources
12 Division of Forestry Timber Sales Manual, 1998, as amended as of
13 May 1, 2005, and the Minnesota Department of Natural Resources
14 Timber Scaling Manual, 1981, as amended as of May 1, 2005,
15 except as provided in paragraph (a), clause (1), and this
16 paragraph, clauses (1) to (3).

17 Sec. 2. Minnesota Statutes 2004, section 216B.2424, is
18 amended by adding a subdivision to read:

19 Subd. 1a. [MUNICIPAL WASTE-TO-ENERGY PROJECT.] (a) This
20 subdivision applies only to a biomass project owned or
21 controlled, directly or indirectly, by two municipal utilities
22 as described in subdivision 5a, paragraph (b).

23 (b) Woody biomass from state-owned land must be harvested
24 in compliance with an adopted management plan and a program of
25 ecologically based third-party certification.

26 (c) The project must prepare a fuel plan on an annual basis
27 after commercial operation of the project as described in the
28 power contract between the project and the public utility, and
29 must also prepare annually certificates reflecting the types of
30 fuel used in the preceding year by the project, as described in
31 the power contract. The fuel plans and certificates shall also
32 be filed with the Minnesota Department of Natural Resources and
33 the Minnesota Department of Commerce within 30 days after being
34 provided to the public utility, as provided by the power
35 contract. Any person who believes the fuel plans, as amended,
36 and certificates show that the project does not or will not

1 comply with the fuel requirements of this subdivision may file a
2 petition with the commission seeking such a determination.

3 (d) The wood procurement process must utilize third-party
4 audit certification systems to verify that applicable best
5 management practices were utilized in the procurement of the
6 sustainably managed biomass. If there is a failure to so verify
7 in any two consecutive years during the original contract term,
8 the farm-grown closed-loop biomass requirements of subdivision 2
9 must be increased to 50 percent for the remaining contract term
10 period; however, if in two consecutive subsequent years after
11 the increase has been implemented, it is verified that the
12 conditions in this subdivision have been met, then for the
13 remaining original contract term the closed-loop biomass mandate
14 reverts to 25 percent. If there is a subsequent failure to
15 verify in a year after the first failure and implementation of
16 the 50 percent requirement, then the closed-loop percentage
17 shall remain at 50 percent for each remaining year of the
18 contract term.

19 (e) In the closed-loop plantation, no transgenic plants may
20 be used.

21 (f) No wood may be harvested from any lands identified by
22 the final or preliminary Minnesota County Biological Survey as
23 having statewide significance as native plant communities, large
24 populations or concentrations of rare species, or critical
25 animal habitat.

26 (g) A wood procurement plan must be prepared every five
27 years and public meetings must be held and written comments
28 taken on the plan and documentation must be provided on why or
29 why not the public inputs were used.

30 (h) Guidelines or best management practices for sustainably
31 managed woody biomass must be adopted by:

32 (1) the Minnesota Department of Natural Resources for
33 managing and maintaining brushland and open land habitat on
34 public and private lands, including, but not limited to,
35 provisions of sections 84.941, 84.942, and 97A.125; and

36 (2) the Minnesota Forest Resources Council for logging

1 slash, using the most recent available scientific information
2 regarding the removal of woody biomass from forest lands, to
3 sustain the management of forest resources as defined by section
4 89.001, subdivisions 8 and 9, with particular attention to soil
5 productivity, biological diversity as defined by section 89A.01,
6 subdivision 3, and wildlife habitat.

7 These guidelines must be completed by July 1, 2007, and the
8 process of developing them must incorporate public notification
9 and comment.

10 (i) The University of Minnesota Initiative for Renewable
11 Energy and the Environment is encouraged to solicit and fund
12 high-quality research projects to develop and consolidate
13 scientific information regarding the removal of woody biomass
14 from forest and brush lands, with particular attention to the
15 environmental impacts on soil productivity, biological
16 diversity, and sequestration of carbon. The results of this
17 research shall be made available to the public.

18 (j) The two utilities owning or controlling, directly or
19 indirectly, the biomass project described in subdivision 5a,
20 paragraph (b), agree to fund or obtain funding of up to \$150,000
21 to complete the guidelines or best management practices
22 described in paragraph (h). The expenditures to be funded under
23 this paragraph do not include any of the expenditures to be
24 funded under paragraph (i).

25 Sec. 3. Minnesota Statutes 2004, section 216B.2424,
26 subdivision 2, is amended to read:

27 Subd. 2. [INTERIM EXEMPTION.] (a) A biomass project
28 proposing to use, as its primary fuel over the life of the
29 project, short-rotation woody crops, may use as an interim fuel
30 agricultural waste and other biomass which is not farm-grown
31 closed-loop biomass for up to six years after the project's
32 electric generating facility becomes operational; provided, the
33 project developer demonstrates the project will use the
34 designated short-rotation woody crops as its primary fuel after
35 the interim period and provided the location of the interim fuel
36 production meets the requirements of subdivision 1, paragraph

1 (a), clause (3).

2 (b) A biomass project proposing to use, as its primary fuel
3 over the life of the project, short-rotation woody crops, may
4 use as an interim fuel agricultural waste and other biomass
5 which is not farm-grown closed-loop biomass for up to three
6 years after the project's electric generating facility becomes
7 operational; provided, the project developer demonstrates the
8 project will use the designated short-rotation woody crops as
9 its primary fuel after the interim period.

10 (c) A biomass project that uses an interim fuel under the
11 terms of paragraph (b) may, in addition, use an interim fuel
12 under the terms of paragraph (a) for six years less the number
13 of years that an interim fuel was used under paragraph (b).

14 (d) A project developer proposing to use an exempt interim
15 fuel under paragraphs (a) and (b) must demonstrate to the public
16 utility that the project will have an adequate supply of
17 short-rotation woody crops which meet the requirements of
18 subdivision 1 to fuel the project after the interim period.

19 (e) If a biomass project using an interim fuel under this
20 subdivision is or becomes owned or controlled, directly or
21 indirectly, by two municipal utilities as described in
22 subdivision 5a, paragraph (b), the project is deemed to comply
23 with the requirement under this subdivision to use as its
24 primary fuel farm-grown closed-loop biomass if farm-grown
25 closed-loop biomass comprises no less than 25 percent of the
26 fuel used over the life of the project. For purposes of this
27 subdivision, "life of the project" means 20 years from the date
28 the project becomes operational or the term of the applicable
29 power purchase agreement between the project owner and the
30 public utility, whichever is longer.

31 Sec. 4. Minnesota Statutes 2004, section 216B.2424,
32 subdivision 5a, is amended to read:

33 Subd. 5a. [REDUCTION OF BIOMASS MANDATE.] (a)
34 Notwithstanding subdivision 5, the biomass electric energy
35 mandate ~~shall~~ must be reduced from 125 megawatts to 110
36 megawatts.

1 (b) The Public Utilities Commission shall approve a request
2 pending before the Public-Utilities commission as of May 15,
3 2003, for ~~an-amendment~~ amendments to and assignment of a
4 ~~contract-for-power-from~~ power purchase agreement with the owner
5 of a facility that uses short-rotation, woody crops as its
6 primary fuel previously approved to satisfy a portion of the
7 biomass mandate if the developer owner of the project agrees to
8 reduce the size of its project from 50 megawatts to 35
9 megawatts, while maintaining a an average price for energy at-or
10 below-the-current-contract-price- in nominal dollars measured
11 over the term of the power purchase agreement at or below \$104
12 per megawatt-hour, exclusive of any price adjustments that may
13 take effect subsequent to commission approval of the power
14 purchase agreement, as amended. The commission shall also
15 approve, as necessary, any subsequent assignment or sale of the
16 power purchase agreement or ownership of the project to an
17 entity owned or controlled, directly or indirectly, by two
18 municipal utilities located north of Constitutional Route No. 8,
19 as described in section 161.114, which currently own electric
20 and steam generation facilities using coal as a fuel and which
21 propose to retrofit their existing municipal electrical
22 generating facilities to utilize biomass fuels in order to
23 perform the power purchase agreement.

24 (c) If the power purchase agreement described in paragraph
25 (b) is assigned to an entity that is, or becomes, owned or
26 controlled, directly or indirectly, by two municipal entities as
27 described in paragraph (b), and the power purchase agreement
28 meets the price requirements of paragraph (b), the commission
29 shall approve any amendments to the power purchase agreement
30 necessary to reflect the changes in project location and
31 ownership and any other amendments made necessary by those
32 changes. The commission shall also specifically find that:

33 (1) the power purchase agreement complies with and fully
34 satisfies the provisions of this section to the full extent of
35 its 35-megawatt capacity;

36 (2) all costs incurred by the public utility and all

1 amounts to be paid by the public utility to the project owner
2 under the terms of the power purchase agreement are fully
3 recoverable pursuant to section 216B.1645;

4 (3) subject to prudence review by the commission, the
5 public utility may recover from its Minnesota retail customers
6 the Minnesota jurisdictional portion of the amounts that may be
7 incurred and paid by the public utility during the full term of
8 the power purchase agreement; and

9 (4) if the purchase power agreement meets the requirements
10 of this subdivision, it is reasonable and in the public interest.

11 (d) The commission shall specifically approve recovery by
12 the public utility of any and all Minnesota jurisdictional costs
13 incurred by the public utility to improve, construct, install,
14 or upgrade transmission, distribution, or other electrical
15 facilities owned by the public utility or other persons in order
16 to permit interconnection of the retrofitted biomass-fueled
17 generating facilities or to obtain transmission service for the
18 energy provided by the facilities to the public utility pursuant
19 to section 216B.1645, and shall disapprove any provision in the
20 power purchase agreement that requires the developer or owner of
21 the project to pay the jurisdictional costs or that permit the
22 public utility to terminate the power purchase agreement as a
23 result of the existence of those costs or the public utility's
24 obligation to pay any or all of those costs.

25 Sec. 5. Minnesota Statutes 2004, section 216B.2424,
26 subdivision 6, is amended to read:

27 Subd. 6. [REMAINING MEGAWATT COMPLIANCE PROCESS.] (a) If
28 there remain megawatts of biomass power generating capacity to
29 fulfill the mandate in subdivision 5 after the commission has
30 taken final action on all contracts filed by September 1, 2000,
31 by a public utility, as amended and assigned, this subdivision
32 governs final compliance with the biomass energy mandate in
33 subdivision 5 subject to the requirements of subdivisions 7 and
34 8.

35 (b) To the extent not inconsistent with this subdivision,
36 the provisions of subdivisions 2, 3, 4, and 5 apply to proposals

1 subject to this subdivision.

2 (c) A public utility must submit proposals to the
3 commission to complete the biomass mandate. The commission
4 shall require a public utility subject to this section to issue
5 a request for competitive proposals for projects for electric
6 generation utilizing biomass as defined in paragraph (f) of this
7 subdivision to provide the remaining megawatts of the mandate.
8 The commission shall set an expedited schedule for submission of
9 proposals to the utility, selection by the utility of proposals
10 or projects, negotiation of contracts, and review by the
11 commission of the contracts or projects submitted by the utility
12 to the commission.

13 (d) Notwithstanding the provisions of subdivisions 1 to 5
14 but subject to the provisions of subdivisions 7 and 8, a new or
15 existing facility proposed under this subdivision that is fueled
16 either by biomass or by co-firing biomass with nonbiomass may
17 satisfy the mandate in this section. Such a facility need not
18 use biomass that complies with the definition in subdivision 1
19 if it uses biomass as defined in paragraph (f) of this
20 subdivision. Generating capacity produced by co-firing of
21 biomass that is operational as of April 25, 2000, does not meet
22 the requirements of the mandate, except that additional
23 co-firing capacity added at an existing facility after April 25,
24 2000, may be used to satisfy this mandate. Only the number of
25 megawatts of capacity at a facility which co-fires biomass that
26 are directly attributable to the biomass and that become
27 operational after April 25, 2000, count toward meeting the
28 biomass mandate in this section.

29 (e) Nothing in this subdivision precludes a facility
30 proposed and approved under this subdivision from using fuel
31 sources that are not biomass in compliance with subdivision 3.

32 (f) Notwithstanding the provisions of subdivision 1, for
33 proposals subject to this subdivision, "biomass" includes
34 farm-grown closed-loop biomass; agricultural wastes, including
35 animal, poultry, and plant wastes; and waste wood, including
36 chipped wood, bark, brush, residue wood, and sawdust.

1 (g) Nothing in this subdivision affects in any way
2 contracts entered into as of April 25, 2000, to satisfy the
3 mandate in subdivision 5.

4 (h) Nothing in this subdivision requires a public utility
5 to retrofit its own power plants for the purpose of co-firing
6 biomass fuel, nor is a utility prohibited from retrofitting its
7 own power plants for the purpose of co-firing biomass fuel to
8 meet the requirements of this subdivision.

9 Sec. 6. Minnesota Statutes 2004, section 216B.2424,
10 subdivision 8, is amended to read:

11 Subd. 8. [AGRICULTURAL BIOMASS REQUIREMENT.] Of the 125
12 megawatts mandated in subdivision 5, or 110 megawatts mandated
13 in subdivision 5a, at least 75 megawatts of the generating
14 capacity must be generated by facilities that use agricultural
15 biomass as the principal fuel source. For purposes of this
16 subdivision, agricultural biomass includes only farm-grown
17 closed-loop biomass and agricultural waste, including animal,
18 poultry, and plant wastes. For purposes of this subdivision,
19 "principal fuel source" means a fuel source that satisfies at
20 least 75 percent of the fuel requirements of an electric power
21 generating facility. Nothing in this subdivision is intended to
22 expand the fuel source requirements of subdivision 5.

23 ARTICLE 6

24 E-FILING

25 Section 1. [ESTABLISHMENT OF FUND.]

26 The Department of Commerce's e-filing account is
27 established. The commission shall make a onetime assessment to
28 regulated utilities, no more than \$300,000 to cover the actual
29 cost of implementing this section. The funds assessed must be
30 deposited in the account. Any excess funds in the account upon
31 completion must be refunded to the utilities proportionately.
32 Each public utility, municipal utility, electric cooperative
33 association, generation and transmission cooperative electric
34 association, municipal power agency, telephone company, and
35 telecommunications carrier must be assessed in proportion to its
36 respective gross operating revenues for retail sales of gas,

1 electric, or telecommunications service in the state in the last
2 calendar year. Revenue in the account is appropriated to the
3 commission for the costs associated with establishing an
4 e-filing system that allows documents to be filed and retrieved
5 via the Internet. Revenue in the account remains available
6 until expended.

7 Sec. 2. [COMPLETION DATE.]

8 The e-filing system must be operational by July 1, 2006.

9 Sec. 3. [EFFECTIVE DATE.]

10 Sections 1 and 2 are effective the day following final
11 enactment.

12 ARTICLE 7

13 CIP TECHNICAL CORRECTIONS

14 Section 1. Minnesota Statutes 2004, section 216B.241,
15 subdivision 1b, is amended to read:

16 Subd. 1b. [CONSERVATION IMPROVEMENT BY COOPERATIVE
17 ASSOCIATION OR MUNICIPALITY.] (a) This subdivision applies to:

18 (1) a cooperative electric association that provides retail
19 service to its members;

20 (2) a municipality that provides electric service to retail
21 customers; and

22 (3) a municipality with gross operating revenues in excess
23 of \$5,000,000 from sales of natural gas to retail customers.

24 (b) Each cooperative electric association and municipality
25 subject to this subdivision shall spend and invest for energy
26 conservation improvements under this subdivision the following
27 amounts:

28 (1) for a municipality, 0.5 percent of its gross operating
29 revenues from the sale of gas and 1.5 percent of its gross
30 operating revenues from the sale of electricity, excluding gross
31 operating revenues from electric and gas service provided in the
32 state to large electric customer facilities; and

33 (2) for a cooperative electric association, 1.5 percent of
34 its gross operating revenues from service provided in the state,
35 excluding gross operating revenues from service provided in the
36 state to large electric customer facilities indirectly through a

1 distribution cooperative electric association.

2 (c) Each municipality and cooperative electric association
3 subject to this subdivision shall identify and implement energy
4 conservation improvement spending and investments that are
5 appropriate for the municipality or association, except that a
6 municipality or association may not spend or invest for energy
7 conservation improvements that directly benefit a large electric
8 customer facility for which the commissioner has issued an
9 exemption under subdivision 1a, paragraph (b).

10 (d) Each municipality and cooperative electric association
11 subject to this subdivision may spend and invest annually up to
12 ten percent of the total amount required to be spent and
13 invested on energy conservation improvements under this
14 subdivision on research and development projects that meet the
15 definition of energy conservation improvement in subdivision 1
16 and that are funded directly by the municipality or cooperative
17 electric association.

18 (e) Load-management activities that do not reduce energy
19 use but that increase the efficiency of the electric system may
20 be used to meet ~~the following percentage~~ 50 percent of the
21 conservation investment and spending requirements of this
22 subdivision:

23 ~~(1)-2002---90-percent;~~

24 ~~(2)-2003---80-percent;~~

25 ~~(3)-2004---65-percent;-and~~

26 ~~(4)-2005-and-thereafter---50-percent.~~

27 (f) A generation and transmission cooperative electric
28 association that provides energy services to cooperative
29 electric associations that provide electric service at retail to
30 consumers may invest in energy conservation improvements on
31 behalf of the associations it serves and may fulfill the
32 conservation, spending, reporting, and energy savings goals on
33 an aggregate basis. A municipal power agency or other
34 not-for-profit entity that provides energy service to municipal
35 utilities that provide electric service at retail may invest in
36 energy conservation improvements on behalf of the municipal

1 utilities it serves and may fulfill the conservation, spending,
2 reporting, and energy savings goals on an aggregate basis, under
3 an agreement between the municipal power agency or
4 not-for-profit entity and each municipal utility for funding the
5 investments.

6 (g) At least every two four years, on a schedule determined
7 by the commissioner, each municipality or cooperative shall file
8 an overview of its conservation improvement plan with the
9 commissioner. With this overview, the municipality or
10 cooperative shall also provide an evaluation to the commissioner
11 detailing its energy conservation improvement spending and
12 investments for the previous period. The evaluation must
13 briefly describe each conservation program and must specify the
14 energy savings or increased efficiency in the use of energy
15 within the service territory of the utility or association that
16 is the result of the spending and investments. The evaluation
17 must analyze the cost-effectiveness of the utility's or
18 association's conservation programs, using a list of baseline
19 energy and capacity savings assumptions developed in
20 consultation with the department. The commissioner shall review
21 each evaluation and make recommendations, where appropriate, to
22 the municipality or association to increase the effectiveness of
23 conservation improvement activities. Up to three percent of a
24 utility's conservation spending obligation under this section
25 may be used for program pre-evaluation, testing, and monitoring
26 and program evaluation. The overview and evaluation filed by a
27 municipality with less than 60,000,000 kilowatt hours in annual
28 retail sales of electric service may consist of a letter from
29 the governing board of the municipal utility to the department
30 providing the amount of annual conservation spending required of
31 that municipality and certifying that the required amount has
32 been spent on conservation programs pursuant to this subdivision.

33 (h) The commissioner shall also review each evaluation for
34 whether a portion of the money spent on residential conservation
35 improvement programs is devoted to programs that directly
36 address the needs of renters and low-income persons unless an

1 insufficient number of appropriate programs are available. For
2 the purposes of this subdivision and subdivision 2, "low-income"
3 means an income at or below 50 percent of the state median
4 income.

5 (i) As part of its spending for conservation improvement, a
6 municipality or association may contribute to the energy and
7 conservation account. A municipality or association may propose
8 to the commissioner to designate that all or a portion of funds
9 contributed to the account be used for research and development
10 projects that can best be implemented on a statewide basis. Any
11 amount contributed must be remitted to the commissioner by
12 February 1 of each year.

13 (j) A municipality may spend up to 50 percent of its
14 required spending under this section to refurbish an existing
15 district heating or cooling system. This paragraph expires July
16 1, 2007.

17 Sec. 2. Minnesota Statutes 2004, section 216B.241,
18 subdivision 2, is amended to read:

19 Subd. 2. [PROGRAMS.] (a) The commissioner may require
20 public utilities to make investments and expenditures in energy
21 conservation improvements, explicitly setting forth the interest
22 rates, prices, and terms under which the improvements must be
23 offered to the customers. The required programs must cover no
24 more than a two-year four-year period. Public utilities shall
25 file conservation improvement plans by June 1, on a schedule
26 determined by order of the commissioner, but at least every four
27 years. Plans received by a public utility by June 1 must be
28 approved or approved as modified by the commissioner by December
29 1 of that same year. The commissioner shall give special
30 consideration and encouragement to programs that bring about
31 significant net savings through the use of energy-efficient
32 lighting. The commissioner shall evaluate the program on the
33 basis of cost-effectiveness and the reliability of technologies
34 employed. The commissioner's order must provide to the extent
35 practicable for a free choice, by consumers participating in the
36 program, of the device, method, material, or project

1 constituting the energy conservation improvement and for a free
2 choice of the seller, installer, or contractor of the energy
3 conservation improvement, provided that the device, method,
4 material, or project seller, installer, or contractor is duly
5 licensed, certified, approved, or qualified, including under the
6 residential conservation services program, where applicable.

7 (b) The commissioner may require a utility to make an
8 energy conservation improvement investment or expenditure
9 whenever the commissioner finds that the improvement will result
10 in energy savings at a total cost to the utility less than the
11 cost to the utility to produce or purchase an equivalent amount
12 of new supply of energy. The commissioner shall nevertheless
13 ensure that every public utility operate one or more programs
14 under periodic review by the department.

15 (c) Each public utility subject to subdivision 1a may spend
16 and invest annually up to ten percent of the total amount
17 required to be spent and invested on energy conservation
18 improvements under this section by the utility on research and
19 development projects that meet the definition of energy
20 conservation improvement in subdivision 1 and that are funded
21 directly by the public utility.

22 (d) A public utility may not spend for or invest in energy
23 conservation improvements that directly benefit a large electric
24 customer facility for which the commissioner has issued an
25 exemption pursuant to subdivision 1a, paragraph (b). The
26 commissioner shall consider and may require a utility to
27 undertake a program suggested by an outside source, including a
28 political subdivision or a nonprofit or community organization.

29 (e) The commissioner may, by order, establish a list of
30 programs that may be offered as energy conservation improvements
31 by a public utility, municipal utility, cooperative electric
32 association, or other entity providing conservation services
33 pursuant to this section. The list of programs may include
34 rebates for high-efficiency appliances, rebates or subsidies for
35 high-efficiency lamps, small business energy audits, and
36 building recommissioning. The commissioner may, by order,

1 change this list to add or subtract programs as the commissioner
2 determines is necessary to promote efficient and effective
3 conservation programs.

4 (f) The commissioner shall ensure that a portion of the
5 money spent on residential conservation improvement programs is
6 devoted to programs that directly address the needs of renters
7 and low-income persons, ~~in proportion to the amount the utility~~
8 ~~has historically spent on such programs based on the most recent~~
9 ~~three-year average relative to the utility's total conservation~~
10 ~~spending under this section.~~ The utility shall make a good
11 faith effort to ensure that its conservation spending for the
12 needs of renters and low-income persons increases and decreases
13 in approximately the same proportion as the total increase or
14 decrease in the utility's overall conservation spending, unless
15 an insufficient number of appropriate programs are available.

16 (g) A utility, a political subdivision, or a nonprofit or
17 community organization that has suggested a program, the
18 attorney general acting on behalf of consumers and small
19 business interests, or a utility customer that has suggested a
20 program and is not represented by the attorney general under
21 section 8.33 may petition the commission to modify or revoke a
22 department decision under this section, and the commission may
23 do so if it determines that the program is not cost-effective,
24 does not adequately address the residential conservation
25 improvement needs of low-income persons, has a long-range
26 negative effect on one or more classes of customers, or is
27 otherwise not in the public interest. The commission shall
28 reject a petition that, on its face, fails to make a reasonable
29 argument that a program is not in the public interest.

30 (h) The commissioner may order a public utility to include,
31 with the filing of the utility's proposed conservation
32 improvement plan under paragraph (a), the results of an
33 independent audit of the utility's conservation improvement
34 programs and expenditures performed by the department or an
35 auditor with experience in the provision of energy conservation
36 and energy efficiency services approved by the commissioner and

1 chosen by the utility. The audit must specify the energy
2 savings or increased efficiency in the use of energy within the
3 service territory of the utility that is the result of the
4 spending and investments. The audit must evaluate the
5 cost-effectiveness of the utility's conservation programs.

6 (i) Up to three percent of a utility's conservation
7 spending obligation under this section may be used for program
8 pre-evaluation, testing, and monitoring and program audit and
9 evaluation.

10 ARTICLE 8

11 POWER QUALITY ZONES

12 Section 1. [216B.2426] [OPPORTUNITIES FOR DISTRIBUTED
13 GENERATION.]

14 The commission shall ensure that opportunities for the
15 installation of distributed generation, as that term is defined
16 in section 216B.169, subdivision 1, paragraph (c), are
17 considered in any proceeding under section 216B.2422, 216B.2425,
18 or 216B.243.

19 Sec. 2. [216B.82] [LOCAL POWER QUALITY ZONES.]

20 (a) Upon joint petition of a public utility as defined in
21 section 216B.02, subdivision 4, and any customer located within
22 the utility's service territory, the commission may establish a
23 zone within that utility's service territory where the utility
24 will install additional, redundant or upgraded components of the
25 electric distribution infrastructure that are designed to
26 decrease the risk of power outages, provided the utility and all
27 of its customers located within the proposed zone have approved
28 the installation of the components and the financial recovery
29 plan prior to the creation of the zone.

30 (b) The commission shall authorize the utility to collect
31 all costs of the installation of any components under this
32 section, including initial investment, operation and maintenance
33 costs and taxes from all customers within the zone, through
34 tariffs and surcharges for service in a zone that appropriately
35 reflect the cost of service to those customers, provided the
36 customers agree to pay all costs for a predetermined period,

1 including costs of component removal, if appropriate.

2 (c) Nothing in this section limits the ability of the
3 utility and any customer to enter into customer-specific
4 agreements pursuant to applicable statutory, rule, or tariff
5 provisions.

6 ARTICLE 9

7 BIOGAS INCENTIVE PAYMENTS

8 Section 1. Minnesota Statutes 2004, section 216C.41,
9 subdivision 1, is amended to read:

10 Subdivision 1. [DEFINITIONS.] (a) The definitions in this
11 subdivision apply to this section.

12 (b) "Qualified hydroelectric facility" means a
13 hydroelectric generating facility in this state that:

14 (1) is located at the site of a dam, if the dam was in
15 existence as of March 31, 1994; and

16 (2) begins generating electricity after July 1, 1994, or
17 generates electricity after substantial refurbishing of a
18 facility that begins after July 1, 2001.

19 (c) "Qualified wind energy conversion facility" means a
20 wind energy conversion system in this state that:

21 (1) produces two megawatts or less of electricity as
22 measured by nameplate rating and begins generating electricity
23 after December 31, 1996, and before July 1, 1999;

24 (2) begins generating electricity after June 30, 1999,
25 produces two megawatts or less of electricity as measured by
26 nameplate rating, and is:

27 (i) owned by a resident of Minnesota or an entity that is
28 organized under the laws of this state, is not prohibited from
29 owning agricultural land under section 500.24, and owns the land
30 where the facility is sited;

31 (ii) owned by a Minnesota small business as defined in
32 section 645.445;

33 (iii) owned by a Minnesota nonprofit organization;

34 (iv) owned by a tribal council if the facility is located
35 within the boundaries of the reservation;

36 (v) owned by a Minnesota municipal utility or a Minnesota

1 cooperative electric association; or

2 (vi) owned by a Minnesota political subdivision or local
3 government, including, but not limited to, a county, statutory
4 or home rule charter city, town, school district, or any other
5 local or regional governmental organization such as a board,
6 commission, or association; or

7 (3) begins generating electricity after June 30, 1999,
8 produces seven megawatts or less of electricity as measured by
9 nameplate rating, and:

10 (i) is owned by a cooperative organized under chapter 308A
11 other than a Minnesota cooperative electric association; and

12 (ii) all shares and membership in the cooperative are held
13 by an entity that is not prohibited from owning agricultural
14 land under section 500.24.

15 (d) "Qualified on-farm biogas recovery facility" means an
16 anaerobic digester system that:

17 (1) is located at the site of an agricultural
18 operation; and

19 (2) is owned by an entity that is not prohibited from
20 owning agricultural land under section 500.24 and that owns or
21 rents the land where the facility is located; ~~and~~

22 ~~(3) begins generating electricity after July 17, 2001.~~

23 (e) "Anaerobic digester system" means a system of
24 components that processes animal waste based on the absence of
25 oxygen and produces gas used to generate electricity.

26 ARTICLE 10

27 GAS INFRASTRUCTURE COST

28 Section 1. [216B.1635] [RECOVERY OF ELIGIBLE
29 INFRASTRUCTURE REPLACEMENT COSTS BY GAS UTILITIES.]

30 Subdivision 1. [DEFINITIONS.] (a) "Gas utility" means a
31 public utility as defined in section 216B.02, subdivision 4,
32 that furnishes natural gas service to retail customers.

33 (b) "Gas utility infrastructure costs" or "GUIC" means gas
34 utility projects that:

35 (1) do not serve to increase revenues by directly
36 connecting the infrastructure replacement to new customers;

1 (2) are in service but were not included in the gas
2 utility's rate base in its most recent general rate case; and
3 (3) replace or modify existing infrastructure if the
4 replacement or modification does not constitute a betterment,
5 unless the betterment is required by a political subdivision, as
6 evidenced by specific documentation from the government entity
7 requiring the replacement or modification of infrastructure.

8 (c) "Gas utility projects" means relocation and replacement
9 of natural gas facilities located in the public right-of-way
10 required by the construction or improvement of a highway, road,
11 street, public building, or other public work by or on behalf of
12 the United States, the State of Minnesota, or a political
13 subdivision.

14 Subd. 2. [FILING.] (a) The commission may approve a gas
15 utility's petition for a rate schedule to recover GUIC under
16 this section. A gas utility may petition the commission to
17 recover a rate of return, income taxes on the rate of return,
18 incremental property taxes, plus incremental depreciation
19 expense associated with GUIC.

20 (b) The filing is subject to the following:

21 (1) a gas utility may submit a filing under this section no
22 more than once per year;

23 (2) a gas utility must file sufficient information to
24 satisfy the commission regarding the proposed GUIC or be subject
25 to denial by the commission. The information includes, but is
26 not limited to:

27 (i) the government entity ordering the gas utility project
28 and the purpose for which the project is undertaken;

29 (ii) the location, description, and costs associated with
30 the project;

31 (iii) a description of the costs, and salvage value, if
32 any, associated with the existing infrastructure replaced or
33 modified as a result of the project;

34 (iv) the proposed rate design and an explanation of why the
35 proposed rate design is in the public interest;

36 (v) the magnitude and timing of any known future gas

1 utility projects that the utility may seek to recover under this
2 section;

3 (vi) the magnitude of GUIC in relation to the gas utility's
4 base revenue as approved by the commission in the gas utility's
5 most recent general rate case, exclusive of gas purchase costs
6 and transportation charges;

7 (vii) the magnitude of GUIC in relation to the gas
8 utility's capital expenditures since its most recent general
9 rate case;

10 (viii) the amount of time since the utility last filed a
11 general rate case and the utility's reasons for seeking recovery
12 outside of a general rate case; and

13 (ix) documentation supporting the calculation of the GUIC.

14 Subd. 3. [COMMISSION AUTHORITY.] The commission may issue
15 orders and adopt rules necessary to implement and administer
16 this section.

17 [EFFECTIVE DATE.] This section is effective the day
18 following final enactment.

19 Sec. 2. [REPORT TO LEGISLATURE.]

20 The Department of Commerce shall review the operation and
21 impact of the GUIC recovery mechanism established under
22 Minnesota Statutes, section 216B.1635, on ratepayers and the
23 utility and submit a report of its findings and recommendations
24 to the legislature four years after the effective date of this
25 section.

26 Sec. 3. [SUNSET.]

27 Sections 1 and 2 shall expire on June 30, 2015.

28 ARTICLE 11

29 EMINENT DOMAIN LANDOWNER COMPENSATION

30 Section. 1. [LANDOWNER PAYMENTS WORKING GROUP.]

31 Subdivision 1. [MEMBERSHIP.] By June 15, 2005, the
32 Legislative Electric Energy Task Force shall convene a landowner
33 payments working group consisting of up to 12 members, including
34 representatives from each of the following groups:
35 transmission-owning investor-owned utilities, electric
36 cooperatives, municipal power agencies, Farm Bureau, Farmers

1 Union, county commissioners, real estate appraisers and others
2 with an interest and expertise in landowner rights and the
3 market value of rural property.

4 Subd. 2. [APPOINTMENT.] The chairs of the Legislative
5 Electric Energy Task Force and the chairs of the senate and
6 house committees with primary jurisdiction over energy policy
7 shall jointly appoint the working group members.

8 Subd. 3. [CHARGE.] (a) The landowner payments working
9 group shall research alternative methods of remunerating
10 landowners on whose land high voltage transmission lines have
11 been constructed.

12 (b) In developing its recommendations, the working group
13 shall:

14 (1) examine different methods of landowner payments that
15 operate in other states and countries;

16 (2) consider innovative alternatives to lump-sum payments
17 that extend payments over the life of the transmission line and
18 that run with the land if the land is conveyed to another owner;

19 (3) consider alternative ways of structuring payments that
20 are equitable to landowners and utilities.

21 Subd. 4. [EXPENSES.] Members of the working group shall be
22 reimbursed for expenses as provided in Minnesota Statutes,
23 section 15.059, subdivision 6. Expenses of the landowner
24 payments working group shall not exceed \$10,000 without the
25 approval of the chairs of the Legislative Electric Energy Task
26 Force.

27 Subd. 5. [REPORT.] The landowner payments working group
28 shall present its findings and recommendations, including
29 legislative recommendations and model legislation, if any, in a
30 report to the Legislative Electric Energy Task Force by January
31 15, 2006.

ARTICLE 12

TECHNICAL CORRECTION

34 Section 1. Minnesota Statutes 2004, section 216B.16,
35 subdivision 6d, is amended to read:

36 Subd. 6d. [WIND ENERGY; PROPERTY TAX.] An owner of a wind

1 energy conversion facility which is required to pay property
2 taxes under section 272.02, subdivision 22, or production taxes
3 under section 272.029, and any related or successor provisions,
4 or a public utility regulated by the Public Utilities Commission
5 which purchases the wind generated electricity may petition the
6 commission to include in any power purchase agreement between
7 the owner of the facility and the public utility the amount of
8 property taxes and production taxes paid by the owner of the
9 facility. The Public Utilities Commission shall require the
10 public utility to amend the power purchase agreement to include
11 the property taxes and production taxes paid by the owner of the
12 facility in the price paid by the utility for wind generated
13 electricity if the commission finds:

14 (1) the owner of the facility has paid the property taxes
15 or production taxes required by this subdivision;

16 (2) the power purchase agreement between the public utility
17 and the owner does not already require the utility to pay the
18 amount of property taxes or production taxes the owner has paid
19 under this subdivision, or, in the case of a power purchase
20 agreement entered into prior to 1997, the amount of property or
21 production taxes paid by the owner in any year of the power
22 purchase agreement exceeds the amount of such property or
23 production taxes included in the price paid by the utility to
24 the owner, as reflected in the owner's bid documents; and

25 (3) the commission has approved a rate schedule containing
26 provisions for the automatic adjustment of charges for utility
27 service in direct relation to the charges ordered by the
28 commission under section 272.02, subdivision 22, or section
29 272.029.

30 ARTICLE 13

31 HYDROGEN

32 Section 1. [216B.811] [DEFINITIONS.]

33 Subdivision 1. [SCOPE.] For purposes of sections 216B.811
34 to 216B.815, the terms defined in this section have the meanings
35 given them.

36 Subd. 2. [FUEL CELL.] "Fuel cell" means an electrochemical

1 device that produces useful electricity, heat, and water vapor,
2 and operates as long as it is provided fuel.

3 Subd. 3. [HYDROGEN.] "Hydrogen" means hydrogen produced
4 using native energy sources.

5 Subd. 4. [RELATED TECHNOLOGIES.] "Related technologies"
6 means balance of plant components necessary to make hydrogen and
7 fuel cell systems function; turbines, reciprocating, and other
8 combustion engines capable of operating on hydrogen; and
9 electrolyzers, reformers, and other equipment and processes
10 necessary to produce, purify, store, distribute, and use
11 hydrogen for energy.

12 Sec. 2. [216B.812] [FOSTERING THE TRANSITION TOWARD ENERGY
13 SECURITY.]

14 Subdivision 1. [EARLY PURCHASE AND DEPLOYMENT OF HYDROGEN,
15 FUEL CELLS, AND RELATED TECHNOLOGIES BY THE STATE.] The
16 Department of Administration shall identify opportunities for
17 demonstrating the use of hydrogen fuel cells within state-owned
18 facilities, vehicle fleets, and operations.

19 The department shall purchase and demonstrate hydrogen,
20 fuel cells, and related technologies in ways that strategically
21 contribute to realizing Minnesota's hydrogen economy goal as set
22 forth in section 216B.013, and which contribute to the following
23 nonexclusive list of objectives:

24 (1) provide needed performance data to the marketplace;

25 (2) identify code and regulatory issues to be resolved;

26 (3) advance or validate a critical area of research;

27 (4) foster economic development and job creation in the
28 state;

29 (5) raise public awareness of hydrogen, fuel cells, and
30 related technologies; or

31 (6) reduce emissions of carbon dioxide and other pollutants.

32 Subd. 2. [SUPPORT FOR STRATEGIC DEMONSTRATION PROJECTS
33 THAT ACCELERATE THE COMMERCIALIZATION OF HYDROGEN, FUEL CELLS,
34 AND RELATED TECHNOLOGIES.] (a) In consultation with appropriate
35 representatives from state agencies, local governments,
36 universities, businesses, and other interested parties, the

1 Department of Commerce shall report back to the legislature by
2 November 1, 2005, and every two years thereafter, with a slate
3 of proposed pilot projects that contribute to realizing
4 Minnesota's hydrogen economy goal as set forth in section
5 216B.013. The Department of Commerce must consider the
6 following nonexclusive list of priorities in developing the
7 proposed slate of pilot projects:

8 (1) demonstrate "bridge" technologies such as
9 hybrid-electric, off-road, and fleet vehicles running on
10 hydrogen or fuels blended with hydrogen;

11 (2) develop cost-competitive, on-site hydrogen production
12 technologies;

13 (3) demonstrate nonvehicle applications for hydrogen;

14 (4) improve the cost and efficiency of hydrogen from
15 renewable energy sources; and

16 (5) improve the cost and efficiency of hydrogen production
17 using direct solar energy without electricity generation as an
18 intermediate step.

19 (b) For all demonstrations, individual system components of
20 the technology must meet commercial performance standards and
21 systems modeling must be completed to predict commercial
22 performance, risk, and synergies. In addition, the proposed
23 pilots should meet as many of the following criteria as possible:

24 (1) advance energy security;

25 (2) capitalize on the state's native resources;

26 (3) result in economically competitive infrastructure being
27 put in place;

28 (4) be located where it will link well with existing and
29 related projects and be accessible to the public, now or in the
30 future;

31 (5) demonstrate multiple, integrated aspects of hydrogen
32 infrastructure;

33 (6) include an explicit public education and awareness
34 component;

35 (7) be scalable to respond to changing circumstances and
36 market demands;

1 (8) draw on firms and expertise within the state where
2 possible;

3 (9) include an assessment of its economic, environmental,
4 and social impact; and

5 (10) serve other needs beyond hydrogen development.

6 Subd. 3. [ESTABLISHING INITIAL, MULTIFUEL TRANSITION
7 INFRASTRUCTURE FOR HYDROGEN VEHICLES.] The commissioner of
8 commerce may accept federal funds, expend funds, and participate
9 in projects to design, site, and construct multifuel hydrogen
10 fueling stations that eventually link urban centers along key
11 trade corridors across the jurisdictions of Manitoba, the
12 Dakotas, Minnesota, Iowa, and Wisconsin.

13 These energy stations must serve the priorities listed in
14 subdivision 2 and, as transition infrastructure, should
15 accommodate a wide variety of vehicle technologies and fueling
16 platforms, including hybrid, flexible-fuel, and fuel cell
17 vehicles. They may offer, but not be limited to, gasoline,
18 diesel, ethanol (E-85), biodiesel, and hydrogen, and may
19 simultaneously test the integration of on-site combined heat and
20 power technologies with the existing energy infrastructure.

21 The hydrogen portion of the stations may initially serve
22 local, dedicated on or off-road vehicles, but should eventually
23 support long-haul transport.

24 Sec. 3. [216B.815] [AUTHORIZE AND ENCOURAGE THE STATE'S
25 PUBLIC RESEARCH INSTITUTIONS TO COORDINATE AND LEVERAGE THEIR
26 STRENGTHS THROUGH A REGIONAL ENERGY RESEARCH AND EDUCATION
27 PARTNERSHIP.]

28 The state's public research and higher education
29 institutions should work with one another and with similar
30 institutions in the region to establish Minnesota and the Upper
31 Midwest as a center of research, education, outreach, and
32 technology transfer for the production of renewable energy and
33 products, including hydrogen, fuel cells, and related
34 technologies. The partnership should be designed to create a
35 critical mass of research and education capability that can
36 compete effectively for federal and private investment in these

1 areas.

2 The partnership must include an advisory committee
3 comprised of government, industry, academic, and nonprofit
4 representatives to help focus its research and education efforts
5 on the most critical issues. Initiatives undertaken by the
6 partnership may include:

7 (1) collaborative and interdisciplinary research,
8 demonstration projects, and commercialization of market-ready
9 technologies;

10 (2) creation of undergraduate and graduate course offerings
11 and eventually degreed and vocational programs with reciprocity;

12 (3) establishment of fellows programs at the region's
13 institutes of higher learning that provide financial incentives
14 for relevant study, research, and exchange; and

15 (4) development and field-testing of relevant curricula,
16 teacher kits for all educational levels, and widespread teacher
17 training, in collaboration with state energy offices, teachers,
18 nonprofits, businesses, the United States Department of Energy,
19 and other interested parties.

20 Sec. 4. [HYDROGEN REFUELING STATIONS; GRANTS.]

21 The commissioner of commerce shall make assessments under
22 Minnesota Statutes, section 216C.052, of \$300,000 in fiscal year
23 2006 and \$300,000 in fiscal year 2007 for the purpose of
24 matching federal and private investments in three multifuel
25 hydrogen refueling stations in Moorhead, Alexandria, and the
26 Twin Cities respectively. The assessments and grants are
27 contingent upon securing the balance of the total project costs
28 from nonstate sources.

29 Sec. 5. [FUEL CELL CURRICULUM DEVELOPMENT PILOT.]

30 The Board of Trustees of the Minnesota State Colleges and
31 Universities is encouraged to work with the Upper Midwest
32 Hydrogen Initiative and other interested parties to develop and
33 implement hydrogen and fuel cell curricula and training programs
34 that can be incorporated into existing relevant courses and
35 disciplines affected by these technologies. These disciplines
36 include, but are not limited to, chemical, electrical, and

1 mechanical engineering, including lab technicians; fuel cell
2 production, installation, and maintenance; fuel cell and
3 internal combustion vehicles, including hybrids, running on
4 hydrogen or biofuels; and the construction, installation, and
5 maintenance of facilities that will produce, use, or serve
6 hydrogen. The curricula should also be useful to secondary
7 educational institutions and should include, but not be limited
8 to, the production, purification, distribution, and use of
9 hydrogen in portable, stationary, and mobile applications such
10 as fuel cells, turbines, and reciprocating engines.

ARTICLE 14

CIP GEOTHERMAL PROGRAMS

13 Section 1. Minnesota Statutes 2004, section 216B.241,
14 subdivision 1b, is amended to read:

15 Subd. 1b. [CONSERVATION IMPROVEMENT BY COOPERATIVE
16 ASSOCIATION OR MUNICIPALITY.] (a) This subdivision applies to:

17 (1) a cooperative electric association that provides retail
18 service to its members;

19 (2) a municipality that provides electric service to retail
20 customers; and

21 (3) a municipality with gross operating revenues in excess
22 of \$5,000,000 from sales of natural gas to retail customers.

23 (b) Each cooperative electric association and municipality
24 subject to this subdivision shall spend and invest for energy
25 conservation improvements under this subdivision the following
26 amounts:

27 (1) for a municipality, 0.5 percent of its gross operating
28 revenues from the sale of gas and 1.5 percent of its gross
29 operating revenues from the sale of electricity, excluding gross
30 operating revenues from electric and gas service provided in the
31 state to large electric customer facilities; and

32 (2) for a cooperative electric association, 1.5 percent of
33 its gross operating revenues from service provided in the state,
34 excluding gross operating revenues from service provided in the
35 state to large electric customer facilities indirectly through a
36 distribution cooperative electric association.

1 (c) Each municipality and cooperative electric association
2 subject to this subdivision shall identify and implement energy
3 conservation improvement spending and investments that are
4 appropriate for the municipality or association, except that a
5 municipality or association may not spend or invest for energy
6 conservation improvements that directly benefit a large electric
7 customer facility for which the commissioner has issued an
8 exemption under subdivision 1a, paragraph (b). The spending
9 must include programs for rebates for geothermal heating and
10 cooling systems if programs are found to be cost effective.

11 (d) Each municipality and cooperative electric association
12 subject to this subdivision may spend and invest annually up to
13 ten percent of the total amount required to be spent and
14 invested on energy conservation improvements under this
15 subdivision on research and development projects that meet the
16 definition of energy conservation improvement in subdivision 1
17 and that are funded directly by the municipality or cooperative
18 electric association.

19 (e) Load-management activities that do not reduce energy
20 use but that increase the efficiency of the electric system may
21 be used to meet the following percentage of the conservation
22 investment and spending requirements of this subdivision:

- 23 (1) 2002 - 90 percent;
24 (2) 2003 - 80 percent;
25 (3) 2004 - 65 percent; and
26 (4) 2005 and thereafter - 50 percent.

27 (f) A generation and transmission cooperative electric
28 association that provides energy services to cooperative
29 electric associations that provide electric service at retail to
30 consumers may invest in energy conservation improvements on
31 behalf of the associations it serves and may fulfill the
32 conservation, spending, reporting, and energy savings goals on
33 an aggregate basis. A municipal power agency or other
34 not-for-profit entity that provides energy service to municipal
35 utilities that provide electric service at retail may invest in
36 energy conservation improvements on behalf of the municipal

1 utilities it serves and may fulfill the conservation, spending,
2 reporting, and energy savings goals on an aggregate basis, under
3 an agreement between the municipal power agency or
4 not-for-profit entity and each municipal utility for funding the
5 investments.

6 (g) Every two years, on a schedule determined by the
7 commissioner, each municipality or cooperative shall file an
8 overview of its conservation improvement plan with the
9 commissioner. With this overview, the municipality or
10 cooperative shall also provide an evaluation to the commissioner
11 detailing its energy conservation improvement spending and
12 investments for the previous period. The evaluation must
13 briefly describe each conservation program, including the
14 geothermal heating and cooling system rebate program, and must
15 specify the energy savings or increased efficiency in the use of
16 energy within the service territory of the utility or
17 association that is the result of the spending and investments.
18 The evaluation must analyze the cost-effectiveness of the
19 utility's or association's conservation programs, using a list
20 of baseline energy and capacity savings assumptions developed in
21 consultation with the department. The commissioner shall review
22 each evaluation and make recommendations, where appropriate, to
23 the municipality or association to increase the effectiveness of
24 conservation improvement activities. Up to three percent of a
25 utility's conservation spending obligation under this section
26 may be used for program pre-evaluation, testing, and monitoring
27 and program evaluation. The overview and evaluation filed by a
28 municipality with less than 60,000,000 kilowatt hours in annual
29 retail sales of electric service may consist of a letter from
30 the governing board of the municipal utility to the department
31 providing the amount of annual conservation spending required of
32 that municipality and certifying that the required amount has
33 been spent on conservation programs pursuant to this subdivision.

34 (h) The commissioner shall also review each evaluation for
35 whether a portion of the money spent on residential conservation
36 improvement programs is devoted to programs that directly

1 address the needs of renters and low-income persons unless an
2 insufficient number of appropriate programs are available. For
3 the purposes of this subdivision and subdivision 2, "low-income"
4 means an income at or below 50 percent of the state median
5 income.

6 (i) As part of its spending for conservation improvement, a
7 municipality or association may contribute to the energy and
8 conservation account. A municipality or association may propose
9 to the commissioner to designate that all or a portion of funds
10 contributed to the account be used for research and development
11 projects that can best be implemented on a statewide basis. Any
12 amount contributed must be remitted to the commissioner by
13 February 1 of each year.

14 (j) A municipality may spend up to 50 percent of its
15 required spending under this section to refurbish an existing
16 district heating or cooling system. This paragraph expires July
17 1, 2007.

18 Sec. 2. Minnesota Statutes 2004, section 216B.241,
19 subdivision 2, is amended to read:

20 Subd. 2. [PROGRAMS.] (a) The commissioner may require
21 public utilities to make investments and expenditures in energy
22 conservation improvements, explicitly setting forth the interest
23 rates, prices, and terms under which the improvements must be
24 offered to the customers. The required programs must cover a
25 two-year period. Public utilities shall file conservation
26 improvement plans by June 1, on a schedule determined by order
27 of the commissioner. Plans received by a public utility by June
28 1 must be approved or approved as modified by the commissioner
29 by December 1 of that same year. The commissioner shall give
30 special consideration and encouragement to programs that bring
31 about significant net savings through the use of
32 energy-efficient lighting. The commissioner shall require
33 public utilities to file programs offering rebates for the
34 installation of geothermal heating and cooling systems. The
35 commissioner shall evaluate the program on the basis of
36 cost-effectiveness and the reliability of technologies

1 employed. The commissioner's order must provide to the extent
2 practicable for a free choice, by consumers participating in the
3 program, of the device, method, material, or project
4 constituting the energy conservation improvement and for a free
5 choice of the seller, installer, or contractor of the energy
6 conservation improvement, provided that the device, method,
7 material, or project seller, installer, or contractor is duly
8 licensed, certified, approved, or qualified, including under the
9 residential conservation services program, where applicable.

10 (b) The commissioner may require a utility to make an
11 energy conservation improvement investment or expenditure
12 whenever the commissioner finds that the improvement will result
13 in energy savings at a total cost to the utility less than the
14 cost to the utility to produce or purchase an equivalent amount
15 of new supply of energy. The commissioner shall nevertheless
16 ensure that every public utility operate one or more programs
17 under periodic review by the department.

18 (c) Each public utility subject to subdivision 1a may spend
19 and invest annually up to ten percent of the total amount
20 required to be spent and invested on energy conservation
21 improvements under this section by the utility on research and
22 development projects that meet the definition of energy
23 conservation improvement in subdivision 1 and that are funded
24 directly by the public utility.

25 (d) A public utility may not spend for or invest in energy
26 conservation improvements that directly benefit a large electric
27 customer facility for which the commissioner has issued an
28 exemption pursuant to subdivision 1a, paragraph (b). The
29 commissioner shall consider and may require a utility to
30 undertake a program suggested by an outside source, including a
31 political subdivision or a nonprofit or community organization.

32 (e) The commissioner may, by order, establish a list of
33 programs that may be offered as energy conservation improvements
34 by a public utility, municipal utility, cooperative electric
35 association, or other entity providing conservation services
36 pursuant to this section. The list of programs may include

1 rebates for high-efficiency appliances, rebates or subsidies for
2 high-efficiency lamps, small business energy audits, and
3 building recommissioning. The commissioner may, by order,
4 change this list to add or subtract programs as the commissioner
5 determines is necessary to promote efficient and effective
6 conservation programs.

7 (f) The commissioner shall ensure that a portion of the
8 money spent on residential conservation improvement programs is
9 devoted to programs that directly address the needs of renters
10 and low-income persons, in proportion to the amount the utility
11 has historically spent on such programs based on the most recent
12 three-year average relative to the utility's total conservation
13 spending under this section, unless an insufficient number of
14 appropriate programs are available.

15 (g) A utility, a political subdivision, or a nonprofit or
16 community organization that has suggested a program, the
17 attorney general acting on behalf of consumers and small
18 business interests, or a utility customer that has suggested a
19 program and is not represented by the attorney general under
20 section 8.33 may petition the commission to modify or revoke a
21 department decision under this section, and the commission may
22 do so if it determines that the program is not cost-effective,
23 does not adequately address the residential conservation
24 improvement needs of low-income persons, has a long-range
25 negative effect on one or more classes of customers, or is
26 otherwise not in the public interest. The commission shall
27 reject a petition that, on its face, fails to make a reasonable
28 argument that a program is not in the public interest.

29 (h) The commissioner may order a public utility to include,
30 with the filing of the utility's proposed conservation
31 improvement plan under paragraph (a), the results of an
32 independent audit of the utility's conservation improvement
33 programs and expenditures performed by the department or an
34 auditor with experience in the provision of energy conservation
35 and energy efficiency services approved by the commissioner and
36 chosen by the utility. The audit must specify the energy

1 savings or increased efficiency in the use of energy within the
2 service territory of the utility that is the result of the
3 spending and investments. The audit must evaluate the
4 cost-effectiveness of the utility's conservation programs.

5 (i) Up to three percent of a utility's conservation
6 spending obligation under this section may be used for program
7 pre-evaluation, testing, and monitoring and program audit and
8 evaluation.

9 ARTICLE 15

10 SOY-DIESEL

11 Section 1. [APPROPRIATION; RENEWABLE DEVELOPMENT GRANT.]

12 Notwithstanding any contrary provision of Minnesota
13 Statutes, section 116C.779, \$150,000 is appropriated in fiscal
14 year 2006 to the Agricultural Utilization Research Institute
15 from the renewable development account established under
16 Minnesota Statutes, section 116C.779. The institute shall
17 disburse the money over three fiscal years as grants to an
18 applicant meeting the requirements of Minnesota Statutes,
19 section 216C.41, subdivision 1, paragraph (c), clause (2), item
20 (i), for a project that uses a soy-diesel generator to provide
21 backup power for a wind energy conversion system of one megawatt
22 or less of nameplate capacity. The institute shall disburse up
23 to \$50,000 of the grant each of the next three fiscal years
24 beginning July 1, 2005.

25 For the purpose of this section, "soy-diesel" means a
26 renewable, biodegradable, mono alkyl ester combustible liquid
27 fuel derived from agricultural plant oils that meets American
28 Society for Testing and Materials Specification D6751-02 for
29 Biodiesel Fuel (B100) Blend Stock for Distillate Fuels. This
30 section only applies if the entity receives qualifying
31 applications.

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1 Senator moved to amend S.F. No. 1368 as follows:

2 Page 43, line 27, delete "commission" and insert

3 "commissioner of commerce" and delete "to"

4 Page 43, line 28, delete "regulated utilities," and insert "
5 of"

6 Page 43, line 31, after "proportionately" insert "to the
7 amount assessed"

8 Page 43, lines 32 and 33, delete "municipal utility,
9 electric cooperative association,"

10 Page 43, line 36, after "gross" insert "jurisdictional" and
11 delete "retail"

12 Page 44, line 3, delete "commission" and insert

13 "commissioner of commerce"

14 Page 44, line 4, after "documents" insert "filed with the
15 Public Utilities Commission"

16 Page 44, line 8, after "system" insert "described in
17 section 1"

18 The motion prevailed. #did not prevail. So the amendment
19 was #not adopted.

1 Senator moves to amend S.F. No. 1368 as follows:

2 Page 67, line 11, delete "APPROPRIATION" and insert
3 "ALLOCATION"

4 Page 67, line 13, delete "appropriated" and insert
5 "allocated"

6 Page 67, line 15, after "from" insert "available funds in"

7 Page 67, line 22, delete "up"

8 Page 67, line 23, delete "to" and delete everything after
9 "grant" and insert "in three consecutive fiscal years"

1 Senator moves to amend S.F. No. 1368 as follows:

2 Page 60, line 26, after the period, insert "The assessments
3 are subject to the assessment caps specified in section 216C.052
4 and shall be made first under authority of section 216C.052,
5 subdivision 3, and then, to the extent sufficient funds are not
6 available under subdivision 3, the balance must be assessed
7 under section 216C.052, subdivision 2. Sums assessed under this
8 section are appropriated to the commissioner of commerce for the
9 purpose of this section."

1 To: Senator Cohen, Chair

2 Committee on Finance

3 Senator Sams,

4 Chair of the Environment, Agriculture and Economic
5 Development Budget Division, to which was referred

6 S.F. No. 1368: A bill for an act relating to energy;
7 providing for expedited cost recovery for certain transmission
8 investments; authorizing and regulating transmission companies;
9 permitting the transfer of transmission assets and operation to
10 transmission companies; providing for expedited regulatory
11 approval of transmission projects related to renewable
12 generation; providing new criteria to analyze the need for
13 transmission projects; establishing the framework for a wind
14 energy tariff related to community development; requiring a wind
15 integration study; transferring generation plant siting and
16 transmission line routing authority from the Minnesota
17 Environmental Quality Board to the Public Utilities Commission;
18 providing for technical corrections to the energy assistance
19 program; providing for a sustainably managed woody biomass
20 generation project to satisfy the biomass mandate; providing for
21 an electronic mail filing system at the Public Utilities
22 Commission and Department of Commerce; making changes to the
23 conservation investment program recommended by the legislative
24 auditor; authorizing the creation of energy quality zones;
25 regulating eligibility of biogas projects for the renewable
26 energy production incentive; providing for the recovery of
27 certain infrastructure investments by gas utilities; requiring a
28 study of compensation of landowners for transmission easements;
29 providing for a geothermal rebate program under the conservation
30 investment program; promoting the use of soy-diesel; providing
31 for the adjustment of power purchase agreements to account for
32 production tax payments; promoting the use of hydrogen as an
33 energy source; amending Minnesota Statutes 2004, sections
34 13.681, by adding a subdivision; 116C.52, subdivisions 2, 4;
35 116C.53, subdivision 2; 116C.57, subdivisions 1, 2c, by adding a
36 subdivision; 116C.575, subdivision 5; 116C.577; 116C.58;
37 116C.61, subdivision 3; 116C.69, subdivisions 2, 2a; 119A.15,
38 subdivision 5a; 216B.02, by adding a subdivision; 216B.16,
39 subdivision 6d, by adding subdivisions; 216B.1645, subdivision
40 1; 216B.241, subdivisions 1b, 2; 216B.2421, subdivision 2;
41 216B.2424, subdivisions 1, 2, 5a, 6, 8, by adding a subdivision;
42 216B.2425, subdivisions 2, 7; 216B.243, subdivisions 3, 4, 5, 6,
43 7, 8; 216B.50, subdivision 1; 216B.62, subdivision 5, by adding
44 a subdivision; 216B.79; 216C.052; 216C.09; 216C.41, subdivision
45 1; 462A.05, subdivisions 21, 23; proposing coding for new law in
46 Minnesota Statutes, chapters 216B; 216C.

47 Reports the same back with the recommendation that the bill
48 be amended as follows:

49 Page 43, line 27, delete "commission" and insert

50 "commissioner of commerce" and delete "to"

51 Page 43, line 28, delete "regulated utilities," and insert "
52 of"

53 Page 43, line 31, after "proportionately" insert "to the
54 amount assessed"

55 Page 43, lines 32 and 33, delete "municipal utility,
56 electric cooperative association,"

57 Page 43, line 36, after "gross" insert "jurisdictional" and

1 delete "retail"

2 Page 44, line 3, delete "commission" and insert
3 "commissioner of commerce"

4 Page 44, line 4, after "documents" insert "filed with the
5 Public Utilities Commission"

6 Page 44, line 8, after "system" insert "described in
7 section 1"

8 Page 60, line 26, after the period, insert "The assessments
9 are subject to the assessment caps specified in section 216C.052.
10 Sums assessed under this section are appropriated to the
11 commissioner of commerce for the purpose of this section."

12 Page 67, line 11, delete "APPROPRIATION" and insert
13 "ALLOCATION"

14 Page 67, line 13, delete "appropriated" and insert
15 "allocated"

16 Page 67, line 15, after "from" insert "available funds in"

17 Page 67, line 22, delete "up"

18 Page 67, line 23, delete "to" and delete everything after
19 "grant" and insert "in three consecutive fiscal years"

20 And when so amended that the bill be recommended to pass
21 and be referred to the full committee.

22 ... *Dallas Sims*
23 (Division Chair)

24
25 April 19, 2005.....
26 (Date of Division action)

P r e l i m i n a r y

Consolidated Fiscal Note – 2005-06 Session

Bill #: S1368-1E **Complete Date:**

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

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

Agencies: Public Utilities Commission
 Natural Resources Dept
 Agriculture Utilization Resrch
 Legislature

Administration Dept
 State Colleges & Universities
 Agriculture Dept
 Commerce

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

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
General Fund		100	70	10	
Natural Resources Dept		100	70	10	
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		100	70	10	
Natural Resources Dept		100	70	10	
Total Cost <Savings> to the State		100	70	10	

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund		1.25	0.63		
Natural Resources Dept		1.25	0.63		
Total FTE		1.25	0.63		

P r e l i m i n a r y

Fiscal Note – 2005-06 Session

Bill #: S1368-1E **Complete Date:**

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

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

Agency Name: Public Utilities Commission

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

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

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

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1368-1E **Complete Date:**

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

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

Agency Name: State Colleges & Universities

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

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

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

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1368-1E **Complete Date:**

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

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

Agency Name: Natural Resources Dept

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

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		100	70	10	
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		100	70	10	
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		100	70	10	
Total Cost <Savings> to the State		100	70	10	

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund		1.25	0.63		
Total FTE		1.25	0.63		

P r e l i m i n a r y

Bill Description

Article 5 of this bill, as it applies to the Department of Natural Resources (DNR), calls for the DNR to adopt best management practices (BMPs) for managing and maintaining brushland and open-land habitat on public and private lands. The harvesting of woody biomass from state-owned lands must be in compliance with an adopted management plan and a third-party certification program. The bill also requires the Minnesota Forest Resources Council (MFRC) to update the site-level forest management guidelines pertaining to logging slash using the most recent scientific information.

Assumptions

The DNR divisions of Forestry, Fish and Wildlife, and Ecological Services will work together to develop the Brushland BMPs and ensure that their staffs are trained in using the BMPs.

Expenditure and/or Revenue Formula

The following expenditures include only those anticipated with the development and implementation of the Brushland BMPS.

Fiscal Year 2006:

- 1 FTE (project coordinator) = \$80,000 (salary and fringe benefits)
 - 0.25 FTE (facilitator assistance) = \$20,000 (salary and fringe benefits)
- Total = \$100,000**

Fiscal Year 2007:

- 1.25 FTEs (project coordinator + facilitator assistance) for half the fiscal year = 0.625 FTEs = \$50,000 (salary and fringe benefits)
 - Printing of Brushland BMPs and training of staff = \$20,000
- Total = \$70,000**

Fiscal Year 2008:

- Continued training of staff = **\$10,000**

MFRC site-level forest management guideline revisions—see “Long-Term Fiscal Considerations” section.

Long-Term Fiscal Considerations

Additional DNR staff time would be needed to help develop the Brushland BMPs, revise the MFRC’s site-level forest management guidelines, and oversee the harvest of any woody material on brushland and open-land habitat on state lands. There would also be additional work for DNR staff to develop a sustainable brushland management plan. This would likely be a combination of a statewide “harvest” guidance and application within the Subsection Forest Resource Management Plan process. The workload these tasks would create would be prioritized with other workloads and so, would be “absorbed” by the DNR.

Apparently discussions have occurred concerning the funding of the revisions to the MFRC’s site-level forest management guidelines, with approximately \$150,000 coming from University of Minnesota research dollars (for developing the revised guidelines) to be matched by private dollars (for implementing the revised guidelines).

P r e l i m i n a r y

Fiscal Note – 2005-06 Session

Bill #: S1368-1E **Complete Date:**

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

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

Agency Name: Agriculture Dept

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

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

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

P r e l i m i n a r y

Fiscal Note – 2005-06 Session

Bill #: S1368-1E **Complete Date:**

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

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

Agency Name: Administration Dept

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

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

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

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1368-1E **Complete Date:**

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

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

Agency Name: Legislature

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

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

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

P r e l i m i n a r y

Fiscal Note – 2005-06 Session

Bill #: S1368-1E **Complete Date:**

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

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

Agency Name: Agriculture Utilization Resrch

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

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

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

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1368-1E **Complete Date:**

Chief Author: ANDERSON, ELLEN

Title: RENEWABLE ENERGY RESOURCES PROV

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

Agency Name: Commerce

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

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

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

Senators Bakk and Saxhaug introduced--

S.F. No. 610: Referred to the Committee on Environment and Natural Resources.

1 A bill for an act

2 relating to natural resources; modifying disposition
3 of the snowmobile trails and enforcement account;
4 amending Minnesota Statutes 2004, section 84.83,
5 subdivision 3.

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

7 Section 1. Minnesota Statutes 2004, section 84.83,
8 subdivision 3, is amended to read:

9 Subd. 3. [PURPOSES FOR THE ACCOUNT.] The money deposited
10 in the account and interest earned on that money may be expended
11 only as appropriated by law for the following purposes:

12 (1) for a grant-in-aid program to counties and
13 municipalities for construction and maintenance of snowmobile
14 trails, including maintenance of trails on lands and waters of
15 Voyageurs National Park, on Lake of the Woods, on Rainy Lake,
16 and on the following lakes in St. Louis County: Burntside,
17 Crane, Echo, Little Long, Mud, Pelican, Shagawa, and Vermilion;

18 (2) for acquisition, development, and maintenance of state
19 recreational snowmobile trails;

20 (3) for snowmobile safety programs; and

21 (4) for the administration and enforcement of sections
22 84.81 to 84.91 and appropriated grants to local law enforcement
23 agencies.

24 [EFFECTIVE DATE.] This section is effective July 1, 2005.

Fiscal Note – 2005-06 Session

Bill #: S0610-0 **Complete Date:** 04/15/05

Chief Author: BAKK, THOMAS

Title: SNOWMOBILE TRAILS & ENFORCEMENT ACCT

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

Agency Name: Natural Resources Dept

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

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Snowmobile Fund		57	57	57	57
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
Snowmobile Fund		57	57	57	57
Revenues					
-- No Impact --					
Net Cost <Savings>					
Snowmobile Fund		57	57	57	57
Total Cost <Savings> to the State		57	57	57	57

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

Bill Description

This bill directs the Department of Natural Resources (DNR) to make available grants to counties and municipalities through the Division of Trails and Waterways Grant-in-Aid Program for construction and maintenance of snowmobile trails, including trails on lands and waters of Voyageurs National Park, on the Lake of the Woods, on Rainy Lake, and on the following lakes in St. Louis County: Burntside, Crane, Echo, Little Long, Mud, Pelican, Shagawa, and Vermillion.

Assumptions

Funds for the grooming and maintenance of these above identified snowmobile trails will be made available through revenues deposited in and appropriated from the Snowmobile Trails and Enforcement Account in the Natural Resources Fund. These trails will be sponsored by the Local Unit of Government and they will be required to develop a system of monitoring and reporting the current ice conditions to ensure the safety of the snowmobiler using these trails.

Expenditure and/or Revenue Formula

There are approximately 100 miles of snowmobile trails on the Lake of the Woods and another 90 – 100 miles of snowmobile trails on the remaining above identified lakes. The average cost of grooming and maintenance of snowmobile trails in the current Snowmobile Grant-in-Aid Program is averaged at \$285 per mile.

$$200 \text{ miles} \times \$285/\text{mile} = \$57,000$$

It is estimated that \$57,000 per year will be needed to fund these additional grants.

Long-Term Fiscal Considerations

This increase in annual expenditures will decrease the snowmobile fund balance by approximately \$57,000 per year. It is projected that there will be insufficient fund balance in the account to cover these expenditures by FY 2008.

Local Government Costs

Snowmobile grants distributed to Local Units of Government does not cover the total amount of expenditures incurred during a normal snowmobile season. The additional costs above the grant amount will be borne by either the Local Unit of Government as the Sponsor and/or the Snowmobile Club.

References and Sources

February 2005 Forecast, Natural Resources Fund Statement: Snowmobile Trails and Enforcement Account

Agency Contact Name: Laurie Martinson, Trails & Waterways (651)215-6069

FN Coord Signature: BRUCE NASLUND

Date: 04/14/05 Phone: 297-4909

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: MARSHA BATTLES-JENKS

Date: 04/15/05 Phone: 296-8510

1 A bill for an act

2 relating to weights and measures; updating standards
3 and making other technical changes to weights and
4 measures provisions; authorizing Petroleum Tank
5 Release Compensation Board to adopt rules for
6 consultant services; amending Minnesota Statutes 2004,
7 sections 41A.09, subdivision 2a; 115C.07, subdivision
8 3; 239.011, subdivision 2; 239.05, subdivision 10b, by
9 adding a subdivision; 239.09; 239.75, subdivisions 1,
10 5; 239.761; 239.77, by adding a subdivision; 239.79,
11 subdivision 4; 239.791, subdivisions 1, 7, 8, 15;
12 239.792; 296A.01, subdivisions 2, 7, 8, 14, 19, 20,
13 22, 23, 24, 25, 26, 28; repealing Minnesota Statutes
14 2004, section 239.05, subdivisions 6a, 6b.

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

16 Section 1. Minnesota Statutes 2004, section 41A.09,
17 subdivision 2a, is amended to read:

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

21 (a) "Ethanol" means fermentation ethyl alcohol derived from
22 agricultural products, including potatoes, cereal grains, cheese
23 whey, and sugar beets; forest products; or other renewable
24 resources, including residue and waste generated from the
25 production, processing, and marketing of agricultural products,
26 forest products, and other renewable resources, that:

27 (1) meets all of the specifications in ASTM specification
28 ~~D4806-01~~ D4806-04a; and

29 (2) is denatured as specified in Code of Federal
30 Regulations, title 27, parts 20 and 21.

1 (b) "Ethanol plant" means a plant at which ethanol is
2 produced.

3 (c) "Commissioner" means the commissioner of agriculture.

4 Sec. 2. Minnesota Statutes 2004, section 115C.07,
5 subdivision 3, is amended to read:

6 Subd. 3. [RULES.] (a) The board shall adopt rules
7 regarding its practices and procedures, the form and procedure
8 for applications for compensation from the fund, procedures for
9 investigation of claims and specifying the costs that are
10 eligible for reimbursement from the fund.

11 (b) The board may adopt rules requiring certification of
12 environmental consultants.

13 (c) The board may adopt other rules necessary to implement
14 this chapter.

15 (d) The board may use section 14.389 to adopt rules
16 specifying the competitive bidding requirements for consultant
17 services proposals.

18 (e) The board may use section 14.389 to adopt rules
19 specifying the written proposal and invoice requirements for
20 consultant services.

21 Sec. 3. Minnesota Statutes 2004, section 239.011,
22 subdivision 2, is amended to read:

23 Subd. 2. [DUTIES AND POWERS.] To carry out the
24 responsibilities in section 239.01 and subdivision 1, the
25 director:

26 (1) shall take charge of, keep, and maintain in good order
27 the standard of weights and measures of the state and keep a
28 seal so formed as to impress, when appropriate, the letters
29 "MINN" and the date of sealing upon the weights and measures
30 that are sealed;

31 (2) has general supervision of the weights, measures, and
32 weighing and measuring devices offered for sale, sold, or in use
33 in the state;

34 (3) shall maintain traceability of the state standards to
35 the national standards of the National Institute of Standards
36 and Technology;

1 (4) shall enforce this chapter;

2 (5) shall grant variances from department rules, within the
3 limits set by rule, when appropriate to maintain good commercial
4 practices or when enforcement of the rules would cause undue
5 hardship;

6 (6) shall conduct investigations to ensure compliance with
7 this chapter;

8 (7) may delegate to division personnel the
9 responsibilities, duties, and powers contained in this section;

10 (8) shall test annually, and approve when found to be
11 correct, the standards of weights and measures used by the
12 division, by a town, statutory or home rule charter city, or
13 county within the state, or by a person using standards to
14 repair, adjust, or calibrate commercial weights and measures;

15 (9) shall inspect and test weights and measures kept,
16 offered, or exposed for sale;

17 (10) shall inspect and test, to ascertain if they are
18 correct, weights and measures commercially used to:

19 (i) determine the weight, measure, or count of commodities
20 or things sold, offered, or exposed for sale, on the basis of
21 weight, measure, or count; and

22 (ii) compute the basic charge or payment for services
23 rendered on the basis of weight, measure, or count;

24 (11) shall approve for use and mark weights and measures
25 that are found to be correct;

26 (12) shall reject, and mark as rejected, weights and
27 measures that are found to be incorrect and may seize them if
28 those weights and measures:

29 (i) are not corrected within the time specified by the
30 director;

31 (ii) are used or disposed of in a manner not specifically
32 authorized by the director; or

33 (iii) are found to be both incorrect and not capable of
34 being made correct, in which case the director shall condemn
35 those weights and measures;

36 (13) shall weigh, measure, or inspect packaged commodities

1 kept, offered, or exposed for sale, sold, or in the process of
2 delivery, to determine whether they contain the amount
3 represented and whether they are kept, offered, or exposed for
4 sale in accordance with this chapter and department rules. In
5 carrying out this section, the director must employ recognized
6 sampling procedures, such as those contained in National
7 Institute of Standards and Technology Handbook 133, "Checking
8 the Net Contents of Packaged Goods";

9 (14) shall prescribe the appropriate term or unit of weight
10 or measure to be used for a specific commodity when an existing
11 term or declaration of quantity does not facilitate value
12 comparisons by consumers, or creates an opportunity for consumer
13 confusion;

14 (15) shall allow reasonable variations from the stated
15 quantity of contents, including variations caused by loss or
16 gain of moisture during the course of good distribution practice
17 or by unavoidable deviations in good manufacturing practice,
18 only after the commodity has entered commerce within the state;

19 (16) shall inspect and test petroleum products in
20 accordance with this chapter and chapter 296A;

21 (17) shall distribute and post notices for used motor oil
22 and used motor oil filters and lead acid battery recycling in
23 accordance with sections 239.54, 325E.11, and 325E.115;

24 (18) shall collect inspection fees in accordance with
25 sections 239.10 and 239.101; and

26 (19) shall provide metrological services and support to
27 businesses and individuals in the United States who wish to
28 market products and services in the member nations of the
29 European Economic Community, and other nations outside of the
30 United States by:

31 (i) meeting, to the extent practicable, the measurement
32 quality assurance standards described in the International
33 Standards Organization ISO 9000~~7~~-Guide-25 17025;

34 (ii) maintaining, to the extent practicable, certification
35 of the metrology laboratory by ~~a-governing-body-appointed-by-the~~
36 ~~European-Economic-Community~~ an internationally accepted

1 accrediting body such as the National Voluntary Laboratory
2 Accreditation Program (NVLAP); and

3 (iii) providing calibration and consultation services to
4 metrology laboratories in government and private industry in the
5 United States.

6 Sec. 4. Minnesota Statutes 2004, section 239.05, is
7 amended by adding a subdivision to read:

8 Subd. 3a. [AUTOMOTIVE FUEL.] For the purpose of enforcing
9 the gasoline octane requirements in section 239.792, "automotive
10 fuel" has the meaning given it in Code of Federal Regulations,
11 title 16, section 306.0.

12 Sec. 5. Minnesota Statutes 2004, section 239.05,
13 subdivision 10b, is amended to read:

14 Subd. 10b. [OXYGENATE ETHANOL BLENDER.] "Oxygenate Ethanol
15 blender" means a person who has-registered-with-the-division-to
16 blend-and-distribute,-transport,-sell,-or-offer blends and
17 distributes, transports, sells, or offers to sell gasoline
18 containing a-minimum-of-2.0-percent,-and-an-average-of-2.7 ten
19 percent oxygen ethanol by weight volume.

20 Sec. 6. Minnesota Statutes 2004, section 239.09, is
21 amended to read:

22 239.09 [SPECIAL POLICE POWERS.]

23 When necessary to enforce this chapter or rules adopted
24 under the authority granted by section 239.06, the director is:

25 (1) authorized and empowered to arrest, without formal
26 warrant, any violator of sections 325E.11 and 325E.115 or of the
27 statute in relation to weights and measures;

28 (2) empowered to seize for use as evidence and without
29 formal warrant, any false weight, measure, weighing or measuring
30 device, package, or commodity found to be used, retained, or
31 offered or exposed for sale or sold in violation of law;

32 (3) during normal business hours, authorized to enter
33 commercial premises;

34 (4) if the premises are not open to the public, authorized
35 to enter commercial premises only after presenting credentials
36 and obtaining consent or after obtaining a search warrant;

1 (5) empowered to issue stop-use, hold, and removal orders
2 with respect to weights and measures commercially used, and
3 packaged commodities or bulk commodities kept, offered, or
4 exposed for sale, that do not comply with the weights and
5 measures laws; and

6 (6) empowered, upon reasonable suspicion of a violation of
7 the weights and measures laws, to stop a commercial vehicle and,
8 after presentation of credentials, inspect the contents of the
9 vehicle, require that the person in charge of the vehicle
10 produce documents concerning the contents, and require the
11 person to proceed with the vehicle to some specified place for
12 inspection; and

13 (7) empowered, after written warning, to issue citations of
14 not less than \$100 and not more than \$500 to a person who
15 violates any provision of this chapter, any provision of the
16 rules adopted under the authority contained in this chapter, or
17 any provision of statutes enforced by the division of weights
18 and measures.

19 Sec. 7. Minnesota Statutes 2004, section 239.75,
20 subdivision 1, is amended to read:

21 Subdivision 1. [INSPECTION TO BE MADE.] The director shall:

22 (1) take samples, free of charge, of petroleum products
23 wherever processed, blended, held, stored, imported,
24 transferred, offered for sale or use, or sold in Minnesota,
25 limiting each sample to:

26 ~~{i}-two-tenths-of-one~~ one-half gallon, ~~-except-when-an~~
27 ~~octane-test-is-planned,-or~~

28 ~~{ii}-seven-tenths-of-one-gallon-for-an-octane-test;~~

29 (2) inspect and test petroleum product samples according to
30 the methods of ASTM or other valid test methods adopted by rule,
31 to determine whether the products comply with the specifications
32 in section 239.761;

33 (3) inspect petroleum product storage tanks to ensure that
34 the products are free from water and impurities;

35 (4) inspect and test samples submitted to the department by
36 a licensed distributor, making the test results available to the

1 distributor;

2 (5) inspect the labeling, price posting, and price
3 advertising of petroleum product dispensers and advertising
4 signs at businesses or locations where petroleum products are
5 sold, offered for sale or use, or dispensed into motor vehicles;

6 (6) maintain records of all inspections and tests according
7 to the records retention policies of the Department of
8 Administration;

9 (7) delegate to division personnel, at the director's
10 discretion, any or all of the responsibilities, duties, and
11 powers in sections 239.75 to 239.80;

12 (8) publish octane test data and information to assist
13 persons who use, produce and, distribute, or sell gasoline-and
14 gasoline-oxygenate-blends petroleum-based heating and engine
15 fuels;

16 ~~(9) register-gasoline-oxygenate-blenders-according-to-the~~
17 ~~requirements-of-the-EPA;~~

18 ~~{10}~~ audit the records of any person responsible for the
19 product to determine compliance with sections 239.75 to 239.792;

20 ~~{11}~~ (10) after consulting with the commissioner ~~of-the~~
21 ~~Pollution-Control-Agency~~, grant a temporary exemption from the
22 ~~oxygenated-gasoline~~ gasoline-ethanol blending requirements in
23 section 239.791 if the supply of oxygenate ethanol is
24 insufficient to produce gasoline-oxygenate gasoline-ethanol
25 ~~blends during-an-EPA-designated-carbon-monoxide-control-period;~~
26 and

27 ~~{12}~~ (11) adopt, as an enforcement policy for the division,
28 reasonable margins of uncertainty for the tests used to
29 determine compliance with the specifications in section 239.761,
30 the oxygen percentages in section 239.791, and the octane
31 requirements in section 239.792 and apply the margins of
32 uncertainty to only tests performed by the division, not by
33 adding the margins to uncertainties in tests performed by any
34 person responsible for the product.

35 Sec. 8. Minnesota Statutes 2004, section 239.75,
36 subdivision 5, is amended to read:

1 Subd. 5. [PRODUCT QUALITY, RESPONSIBILITY.] After a
2 gasoline-product petroleum-based engine fuel is purchased,
3 transferred, or otherwise removed from a refinery or terminal,
4 the person responsible for the product shall:

5 (1) keep the product free from contamination with water and
6 impurities;

7 (2) not blend the product with dissimilar petroleum
8 products, for example, gasoline must not be blended with diesel
9 fuel;

10 (3) not blend the product with any contaminant, dye,
11 chemical, or additive, except:

12 (i) agriculturally derived, denatured ethanol that complies
13 with the specifications in this chapter;

14 (ii) an antiknock additive, or an additive designed to
15 replace tetra-ethyl lead, that is registered by the EPA; or

16 (iii) a dye to distinguish heating fuel from low sulfur
17 diesel fuel; and

18 (4) maintain a record of the name or chemical composition
19 of the additive, with the product shipping manifest or bill of
20 lading for one year after the date of the manifest or bill.

21 Sec. 9. Minnesota Statutes 2004, section 239.761, is
22 amended to read:

23 239.761 [PETROLEUM PRODUCT SPECIFICATIONS.]

24 Subdivision 1. [APPLICABILITY.] A person responsible for
25 the product must meet the specifications in this section. The
26 specifications apply to petroleum products processed, held,
27 stored, imported, transferred, distributed, offered for
28 distribution, offered for sale or use, or sold in Minnesota.

29 Subd. 2. [COORDINATION WITH DEPARTMENTS OF REVENUE AND
30 AGRICULTURE.] The petroleum product specifications in this
31 section are intended to match the definitions and specifications
32 in sections 41A.09 and 296A.01. Petroleum products named in
33 this section are defined in section 296A.01.

34 Subd. 3. [GASOLINE.] (a) Gasoline that is not blended with
35 ethanol must not be contaminated with water or other impurities
36 and must comply with ASTM specification ~~D4814-01~~ D4814-04a.

1 Gasoline that is not blended with ethanol must also comply with
2 the volatility requirements in Code of Federal Regulations,
3 title 40, part 80.

4 (b) After gasoline is sold, transferred, or otherwise
5 removed from a refinery or terminal, a person responsible for
6 the product:

7 (1) may blend the gasoline with agriculturally derived
8 ethanol as provided in subdivision 4;

9 (2) shall not blend the gasoline with any oxygenate other
10 than denatured, agriculturally derived ethanol;

11 (3) shall not blend the gasoline with other petroleum
12 products that are not gasoline or denatured, agriculturally
13 derived ethanol;

14 (4) shall not blend the gasoline with products commonly and
15 commercially known as casinghead gasoline, absorption gasoline,
16 condensation gasoline, drip gasoline, or natural gasoline; and

17 (5) may blend the gasoline with a detergent additive, an
18 antiknock additive, or an additive designed to replace
19 tetra-ethyl lead, that is registered by the EPA.

20 Subd. 4. [GASOLINE BLENDED WITH ETHANOL.] (a) Gasoline may
21 be blended with up to ten percent, by volume, agriculturally
22 derived, denatured ethanol that complies with the requirements
23 of subdivision 5.

24 (b) A gasoline-ethanol blend must:

25 (1) comply with the volatility requirements in Code of
26 Federal Regulations, title 40, part 80;

27 (2) comply with ASTM specification ~~D4814-01~~ D4814-04a, or
28 the gasoline base stock from which a gasoline-ethanol blend was
29 produced must comply with ASTM specification ~~D4814-01~~ D4814-04a;
30 and

31 (3) not be blended with casinghead gasoline, absorption
32 gasoline, condensation gasoline, drip gasoline, or natural
33 gasoline after the gasoline-ethanol blend has been sold,
34 transferred, or otherwise removed from a refinery or terminal.

35 Subd. 5. [DENATURED ETHANOL.] Denatured ethanol that is to
36 be blended with gasoline must be agriculturally derived and must

1 comply with ASTM specification ~~D4806-01~~ D4806-04a. This
2 includes the requirement that ethanol may be denatured only as
3 specified in Code of Federal Regulations, title 27, parts 20 and
4 21.

5 Subd. 6. [GASOLINE BLENDED WITH NONETHANOL OXYGENATE.] (a)
6 A person responsible for the product shall comply with the
7 following requirements:

8 (1) after July 1, 2000, gasoline containing in excess of
9 one-third of one percent, in total, of nonethanol oxygenates
10 listed in paragraph (b) must not be sold or offered for sale at
11 any time in this state; and

12 (2) after July 1, 2005, gasoline containing any of the
13 nonethanol oxygenates listed in paragraph (b) must not be sold
14 or offered for sale in this state.

15 (b) The oxygenates prohibited under paragraph (a) are:

16 (1) methyl tertiary butyl ether, as defined in section
17 296A.01, subdivision 34;

18 (2) ethyl tertiary butyl ether, as defined in section
19 296A.01, subdivision 18; or

20 (3) tertiary amyl methyl ether.

21 (c) Gasoline that is blended with a nonethanol oxygenate
22 must comply with ASTM specification ~~D4814-01~~ D4814-04a.

23 Nonethanol oxygenates must not be blended into gasoline after
24 the gasoline has been sold, transferred, or otherwise removed
25 from a refinery or terminal.

26 Subd. 7. [HEATING FUEL OIL.] Heating fuel oil must comply
27 with ASTM specification ~~D396-01~~ D396-02a.

28 Subd. 8. [DIESEL FUEL OIL.] Diesel fuel oil must comply
29 with ASTM specification ~~D975-01a~~ D975-04b, except that diesel
30 fuel oil is not required to meet the diesel lubricity standard
31 until the date that the biodiesel fuel requirement in section
32 239.77, subdivision 2, becomes effective or December 31, 2005,
33 whichever comes first.

34 Subd. 9. [KEROSENE.] Kerosene must comply with ASTM
35 specification ~~D3699-01~~ D3699-03.

36 Subd. 10. [AVIATION GASOLINE.] Aviation gasoline must

1 comply with ASTM specification ~~D910-00~~ D910-04.

2 Subd. 11. [AVIATION TURBINE FUEL, JET FUEL.] Aviation
3 turbine fuel and jet fuel must comply with ASTM specification
4 ~~D1655-01~~ D1655-04.

5 Subd. 12. [GAS TURBINE FUEL OIL.] Fuel oil for use in
6 nonaviation gas turbine engines must comply with ASTM
7 specification ~~D2880-00~~ D2880-03.

8 Subd. 13. [E85.] A blend of ethanol and gasoline,
9 containing at least 60 percent ethanol and not more than 85
10 percent ethanol, produced for use as a motor fuel in alternative
11 fuel vehicles as defined in section 296A.01, subdivision 5, must
12 comply with ASTM specification D5798-99 (2004).

13 Subd. 14. [M85.] A blend of methanol and gasoline,
14 containing at least 85 percent methanol, produced for use as a
15 motor fuel in alternative fuel vehicles as defined in section
16 296A.01, subdivision 5, must comply with ASTM specification
17 D5797-96.

18 Sec. 10. Minnesota Statutes 2004, section 239.77, is
19 amended by adding a subdivision to read:

20 Subd. 4. [DISCLOSURE.] A refinery or terminal shall
21 provide, at the time diesel fuel is sold or transferred from the
22 refinery or terminal, a bill of lading or shipping manifest to
23 the person who receives the fuel. For biodiesel-blended
24 product, the bill of lading or shipping manifest must disclose
25 biodiesel content, stating volume percentage, or gallons of
26 biodiesel per gallons of petroleum diesel base-stock, or an ASTM
27 "Bxx" designation where "xx" denotes the volume percent
28 biodiesel included in the blended product. This subdivision
29 does not apply to sales or transfers of biodiesel blend stock
30 between refineries, between terminals, or between a refinery and
31 a terminal.

32 Sec. 11. Minnesota Statutes 2004, section 239.79,
33 subdivision 4, is amended to read:

34 Subd. 4. [SALE OF CERTAIN PETROLEUM PRODUCTS ON GROSS
35 VOLUME BASIS.] A person responsible for the products listed in
36 this subdivision shall transfer, ship, distribute, offer for

1 distribution, sell, or offer to sell the products by volume.
2 Volumetric measurement of the product must not be temperature
3 compensated, or adjusted by any other factor. This subdivision
4 applies to gasoline, number one and number two diesel fuel oils,
5 number one and number two heating fuel oils, kerosene, denatured
6 ethanol ~~that-is-to-be-blended-into-gasoline,-and-an-oxygenate~~
7 ~~that-is-to-be-blended-into-gasoline,~~ and biodiesel. This
8 subdivision does not apply to the measurement of petroleum
9 products transferred, sold, or traded between refineries,
10 between refineries and terminals, or between terminals.

11 Sec. 12. Minnesota Statutes 2004, section 239.791,
12 subdivision 1, is amended to read:

13 Subdivision 1. [MINIMUM ETHANOL CONTENT REQUIRED.] (a)
14 Except as provided in subdivisions 10 to 14, a person
15 responsible for the product shall ensure that all gasoline sold
16 or offered for sale in Minnesota must contain at least 10.0
17 percent denatured ethanol by volume.

18 (b) For purposes of enforcing the minimum ethanol
19 requirement of paragraph (a), a gasoline/ethanol blend will be
20 construed to be in compliance if the ethanol content, exclusive
21 of denaturants and permitted contaminants, comprises not less
22 than 9.2 percent by volume and not more than 10.0 percent by
23 volume of the blend as determined by an appropriate United
24 States Environmental Protection Agency or American Society of
25 Testing Materials standard method of analysis of alcohol/ether
26 content in ~~motor~~ engine fuels.

27 Sec. 13. Minnesota Statutes 2004, section 239.791,
28 subdivision 7, is amended to read:

29 Subd. 7. [~~OXYGENATE~~ ETHANOL RECORDS; STATE AUDIT.] The
30 director shall audit the records of registered ~~oxygenate~~ ethanol
31 blenders to ensure that each blender has met all requirements in
32 this chapter. Specific information or data relating to sales
33 figures or to processes or methods of production unique to the
34 blender or that would tend to adversely affect the competitive
35 position of the blender must be only for the confidential use of
36 the director, unless otherwise specifically authorized by the

1 registered blender.

2 Sec. 14. Minnesota Statutes 2004, section 239.791,
3 subdivision 8, is amended to read:

4 Subd. 8. [DISCLOSURE.] A refinery or terminal, shall
5 provide, at the time gasoline is sold or transferred from the
6 refinery or terminal, a bill of lading or shipping manifest to
7 the person who receives the gasoline. For oxygenated gasoline,
8 the bill of lading or shipping manifest must include the
9 identity and the volume percentage or gallons of oxygenate
10 included in the gasoline, and it must state: "This fuel
11 contains an oxygenate. Do not blend this fuel with ethanol or
12 with any other oxygenate." ~~For nonoxygenated gasoline sold or~~
13 ~~transferred before October 17, 1997, the bill or manifest must~~
14 ~~state:--"This fuel must not be sold at retail in a carbon~~
15 ~~monoxide control area."~~ For nonoxygenated gasoline sold or
16 transferred after September 30, 1997, the bill or manifest must
17 state: "This fuel is not oxygenated. It must not be sold at
18 retail in Minnesota." This subdivision does not apply to sales
19 or transfers of gasoline between refineries, between terminals,
20 or between a refinery and a terminal.

21 Sec. 15. Minnesota Statutes 2004, section 239.791,
22 subdivision 15, is amended to read:

23 Subd. 15. [EXEMPTION FOR CERTAIN BLEND PUMPS.] (a) A
24 person responsible for the product, who offers for sale, sells,
25 or dispenses nonoxygenated premium gasoline under one or more of
26 the exemptions in subdivisions 10 to 14, may sell, offer for
27 sale, or dispense oxygenated gasoline that contains less than
28 the minimum amount of ethanol required under subdivision 1 if
29 all of the following conditions are met:

30 (1) the blended gasoline has an octane rating of 88 or
31 greater;

32 (2) the gasoline is a blend of oxygenated gasoline meeting
33 the requirements of subdivision 1 with nonoxygenated premium
34 gasoline;

35 (3) the blended gasoline contains not more than ten percent
36 nonoxygenated premium gasoline;

1 (4) the blending of oxygenated gasoline with nonoxygenated
2 gasoline occurs within the gasoline dispenser; and

3 (5) the gasoline station at which the gasoline is sold,
4 offered for sale, or delivered is equipped to store gasoline in
5 not more than two storage tanks.

6 (b) This subdivision applies only to those persons who meet
7 the conditions in paragraph (a), clauses (1) through (5), on the
8 ~~effective-date-of-this-act~~ August 1, 2004, and have registered
9 with the director within three months of ~~the-effective~~ that date
10 ~~of-this-act~~.

11 Sec. 16. Minnesota Statutes 2004, section 239.792, is
12 amended to read:

13 239.792 [~~GASOLINE-OCTANE~~ AUTOMOTIVE FUEL RATINGS,
14 CERTIFICATION, AND POSTING.]

15 Subdivision 1. [~~DISCLOSURE~~ DUTIES OF REFINERS, IMPORTERS,
16 AND PRODUCERS.] A ~~manufacturer, hauler, blender, agent, jobber,~~
17 ~~consignment-agent~~ refiner, importer, or ~~distributor-who-sells,~~
18 ~~delivers, or distributes gasoline or gasoline-oxygenate blends,~~
19 ~~shall provide, at the time of delivery, a bill of lading or~~
20 ~~shipping manifest to the person who receives the gasoline. The~~
21 ~~bill or manifest must state the minimum octane of the gasoline~~
22 ~~delivered. The stated octane number must be the average of the~~
23 ~~"motor method" octane number and the "research method" octane~~
24 ~~number as determined by the test methods in ASTM specification~~
25 ~~D4814-01, or by a test method adopted by department~~
26 rule producer of automotive fuel must comply with the automotive
27 fuel rating, certification, and record-keeping requirements of
28 Code of Federal Regulations, title 16, sections 306.5 to 306.7.

29 Subd. 2. [~~DISPENSER-LABELING~~ DUTIES OF DISTRIBUTORS.] A
30 ~~person responsible for the product shall clearly, conspicuously,~~
31 ~~and permanently label each gasoline dispenser that is used to~~
32 ~~sell gasoline or gasoline-oxygenate blends at retail or to~~
33 ~~dispense gasoline or gasoline-oxygenate blends into the fuel~~
34 ~~supply tanks of motor vehicles, with the minimum octane of the~~
35 ~~gasoline dispensed. The label must meet the following~~
36 requirements:

1 (a)-The-octane-number-displayed-on-the-label-must-represent
2 the-average-of-the-"motor-method"-octane-number-and-the
3 "research-method"-octane-number-as-determined-by-the-test
4 methods-in-ASTM-specification-D4814-01, or-by-a-test-method
5 adopted-by-department-rule.

6 (b)-The-label-must-be-at-least-2-1/2-inches-high-and-three
7 inches-wide, with-a-yellow-background, black-border, and-black
8 figures-and-letters.

9 (c)-The-number-representing-the-octane-of-the-gasoline-must
10 be-at-least-one-inch-high.

11 (d)-The-label-must-include-the-words-"minimum-octane"-and
12 the-term-" $(R+M)/2$ "-or-" $(RON+MON)/2$." A licensed distributor of
13 automotive fuel must comply with the certification and
14 record-keeping provisions of Code of Federal Regulations, title
15 16, sections 306.8 and 306.9.

16 Subd. 3. [DUTIES OF RETAILERS.] A person responsible for
17 the product who sells or transfers automotive fuel to a consumer
18 must comply with the automotive fuel rating posting and
19 record-keeping requirements, and the label specifications of
20 Code of Federal Regulations, title 16, sections 306.10 to 306.12.

21 Subd. 4. [DUTIES OF DIRECTOR.] Upon request, the director
22 shall provide any person with a copy of Code of Federal
23 Regulations, title 16, part 306. Upon request, the director
24 shall provide any distributor, retailer, or organization of
25 distributors or retailers with the label specifications in Code
26 of Federal Regulations, title 16, section 306.12.

27 Sec. 17. Minnesota Statutes 2004, section 296A.01,
28 subdivision 2, is amended to read:

29 Subd. 2. [AGRICULTURAL ALCOHOL GASOLINE.] "Agricultural
30 alcohol gasoline" means a gasoline-ethanol blend of up to ten
31 percent agriculturally derived fermentation ethanol derived from
32 agricultural products, such as potatoes, cereal, grains, cheese
33 whey, sugar beets, forest products, or other renewable
34 resources, that:

35 (1) meets the specifications in ASTM specification D4806-01
36 D4806-04a; and

1 (2) is denatured as specified in Code of Federal
2 Regulations, title 27, parts 20 and 21.

3 Sec. 18. Minnesota Statutes 2004, section 296A.01,
4 subdivision 7, is amended to read:

5 Subd. 7. [AVIATION GASOLINE.] "Aviation gasoline" means
6 any gasoline that is capable of use for the purpose of producing
7 or generating power for propelling internal combustion engine
8 aircraft, that meets the specifications in ASTM
9 specification ~~D910-00~~ D910-04, and that either:

10 (1) is invoiced and billed by a producer, manufacturer,
11 refiner, or blender to a distributor or dealer, by a distributor
12 to a dealer or consumer, or by a dealer to consumer, as
13 "aviation gasoline"; or

14 (2) whether or not invoiced and billed as provided in
15 clause (1), is received, sold, stored, or withdrawn from storage
16 by any person, to be used for the purpose of producing or
17 generating power for propelling internal combustion engine
18 aircraft.

19 Sec. 19. Minnesota Statutes 2004, section 296A.01,
20 subdivision 8, is amended to read:

21 Subd. 8. [AVIATION TURBINE FUEL AND JET FUEL.] "Aviation
22 turbine fuel" and "jet fuel" mean blends of hydrocarbons derived
23 from crude petroleum, natural gasoline, and synthetic
24 hydrocarbons, intended for use in aviation turbine engines, and
25 that meet the specifications in ASTM specification
26 ~~D1655-01~~ D1655.04.

27 Sec. 20. Minnesota Statutes 2004, section 296A.01,
28 subdivision 14, is amended to read:

29 Subd. 14. [DIESEL FUEL OIL.] "Diesel fuel oil" means a
30 petroleum distillate or blend of petroleum distillate and
31 residual fuels, intended for use as a motor fuel in internal
32 combustion diesel engines, that meets the specifications in ASTM
33 specification ~~D975-01A~~ D975-04b, except that diesel fuel oil is
34 not required to meet the diesel lubricity standard until the
35 date that the biodiesel fuel requirement in section 239.77,
36 subdivision 2, becomes effective or December 31, 2005, whichever

1 comes first. Diesel fuel includes number 1 and number 2 fuel
2 oils. K-1 kerosene is not diesel fuel unless it is blended with
3 diesel fuel for use in motor vehicles.

4 Sec. 21. Minnesota Statutes 2004, section 296A.01,
5 subdivision 19, is amended to read:

6 Subd. 19. [E85.] "E85" means a petroleum product that is a
7 blend of agriculturally derived denatured ethanol and gasoline
8 or natural gasoline that typically contains 85 percent ethanol
9 by volume, but at a minimum must contain 60 percent ethanol by
10 volume. For the purposes of this chapter, the energy content of
11 E85 will be considered to be 82,000 BTUs per gallon. E85
12 produced for use as a motor fuel in alternative fuel vehicles as
13 defined in subdivision 5 must comply with ASTM specification
14 D5798-99 (2004).

15 Sec. 22. Minnesota Statutes 2004, section 296A.01,
16 subdivision 20, is amended to read:

17 Subd. 20. [ETHANOL, DENATURED.] "Ethanol, denatured" means
18 ethanol that is to be blended with gasoline, has been
19 agriculturally derived, and complies with ASTM specification
20 ~~D4806-01~~ D4806-04a. This includes the requirement that ethanol
21 may be denatured only as specified in Code of Federal
22 Regulations, title 27, parts 20 and 21.

23 Sec. 23. Minnesota Statutes 2004, section 296A.01,
24 subdivision 22, is amended to read:

25 Subd. 22. [GAS TURBINE FUEL OIL.] "Gas turbine fuel oil"
26 means fuel that contains mixtures of hydrocarbon oils free of
27 inorganic acid and excessive amounts of solid or fibrous foreign
28 matter, intended for use in nonaviation gas turbine engines, and
29 that meets the specifications in ASTM specification
30 ~~D2880-00~~ D2880-03.

31 Sec. 24. Minnesota Statutes 2004, section 296A.01,
32 subdivision 23, is amended to read:

33 Subd. 23. [GASOLINE.] (a) "Gasoline" means:

34 (1) all products commonly or commercially known or sold as
35 gasoline regardless of their classification or uses, except
36 casinghead gasoline, absorption gasoline, condensation gasoline,

1 drip gasoline, or natural gasoline that under the requirements
2 of section 239.761, subdivision 3, must not be blended with
3 gasoline that has been sold, transferred, or otherwise removed
4 from a refinery or terminal; and

5 (2) any liquid prepared, advertised, offered for sale or
6 sold for use as, or commonly and commercially used as, a fuel in
7 spark-ignition, internal combustion engines, and that when
8 tested by the Weights and Measures Division meets the
9 specifications in ASTM specification ~~D4814-01~~ D4814-04a.

10 (b) Gasoline that is not blended with ethanol must not be
11 contaminated with water or other impurities and must comply with
12 both ASTM specification ~~D4814-01~~ D4814-04a and the volatility
13 requirements in Code of Federal Regulations, title 40, part 80.

14 (c) After gasoline is sold, transferred, or otherwise
15 removed from a refinery or terminal, a person responsible for
16 the product:

17 (1) may blend the gasoline with agriculturally derived
18 ethanol, as provided in subdivision 24;

19 (2) must not blend the gasoline with any oxygenate other
20 than denatured, agriculturally derived ethanol;

21 (3) must not blend the gasoline with other petroleum
22 products that are not gasoline or denatured, agriculturally
23 derived ethanol;

24 (4) must not blend the gasoline with products commonly and
25 commercially known as casinghead gasoline, absorption gasoline,
26 condensation gasoline, drip gasoline, or natural gasoline; and

27 (5) may blend the gasoline with a detergent additive, an
28 antiknock additive, or an additive designed to replace
29 tetra-ethyl lead, that is registered by the EPA.

30 Sec. 25. Minnesota Statutes 2004, section 296A.01,
31 subdivision 24, is amended to read:

32 Subd. 24. [GASOLINE BLENDED WITH NONETHANOL OXYGENATE.]

33 "Gasoline blended with nonethanol oxygenate" means gasoline
34 blended with ETBE, MTBE, or other alcohol or ether, except
35 denatured ethanol, that is approved as an oxygenate by the EPA,
36 and that complies with ASTM specification ~~D4814-01~~ D4814-04a.

1 Oxygenates, other than denatured ethanol, must not be blended
2 into gasoline after the gasoline has been sold, transferred, or
3 otherwise removed from a refinery or terminal.

4 Sec. 26. Minnesota Statutes 2004, section 296A.01,
5 subdivision 25, is amended to read:

6 Subd. 25. [GASOLINE BLENDED WITH ETHANOL.] "Gasoline
7 blended with ethanol" means gasoline blended with up to ten
8 percent, by volume, agriculturally derived, denatured ethanol.
9 The blend must comply with the volatility requirements in Code
10 of Federal Regulations, title 40, part 80. The blend must also
11 comply with ASTM specification ~~D4814-01~~ D4814-04a, or the
12 gasoline base stock from which a gasoline-ethanol blend was
13 produced must comply with ASTM specification ~~D4814-01~~ D4814-04a;
14 and the gasoline-ethanol blend must not be blended with
15 casinghead gasoline, absorption gasoline, condensation gasoline,
16 drip gasoline, or natural gasoline after the gasoline-ethanol
17 blend has been sold, transferred, or otherwise removed from a
18 refinery or terminal. The blend need not comply with ASTM
19 specification ~~D4814-01~~ D4814-04a if it is subjected to a
20 standard distillation test. For a distillation test, a
21 gasoline-ethanol blend is not required to comply with the
22 temperature specification at the 50 percent liquid recovery
23 point, if the gasoline from which the gasoline-ethanol blend was
24 produced complies with all of the distillation specifications.

25 Sec. 27. Minnesota Statutes 2004, section 296A.01,
26 subdivision 26, is amended to read:

27 Subd. 26. [HEATING FUEL OIL.] "Heating fuel oil" means a
28 petroleum distillate, blend of petroleum distillates and
29 residuals, or petroleum residual heating fuel that meets the
30 specifications in ASTM specification ~~D396-01~~ D396-02a.

31 Sec. 28. Minnesota Statutes 2004, section 296A.01,
32 subdivision 28, is amended to read:

33 Subd. 28. [KEROSENE.] "Kerosene" means a refined petroleum
34 distillate consisting of a homogeneous mixture of hydrocarbons
35 essentially free of water, inorganic acidic and basic compounds,
36 and excessive amounts of particulate contaminants and that meets

1 the specifications in ASTM specification B3699-01 D3699-03.

2 Sec. 29. [INSTRUCTION TO REVISOR.]

3 The revisor of statutes shall renumber Minnesota Statutes,
4 section 239.05, as section 239.051, alphabetize the definitions,
5 and correct any cross-references to that section accordingly.

6 Sec. 30. [REPEALER.]

7 Minnesota Statutes 2004, section 239.05, subdivisions 6a
8 and 6b, are repealed.

APPENDIX
Repealed Minnesota Statutes for S2010-1

239.05 DEFINITIONS.

Subd. 6a. **Carbon monoxide control area.** "Carbon monoxide control area" means a geographic area designated as an oxygenated gasoline carbon monoxide control area by the United States Environmental Protection Agency.

Subd. 6b. **Carbon monoxide control period.** "Carbon monoxide control period" means a period of months designated as a carbon monoxide control period by the United States Environmental Protection Agency.

1 Senator moves to amend S.F. No. 2010 as
2 follows:

3 Page 2, after line 20, insert:

4 "Sec. 3. Minnesota Statutes 2004, section 115C.09,
5 subdivision 3h, is amended to read:

6 Subd. 3h. [REIMBURSEMENT; ABOVEGROUND TANKS IN BULK
7 PLANTS.] (a) As used in this subdivision, "bulk plant" means an
8 aboveground or underground tank facility with a storage capacity
9 of more than 1,100 gallons but less than 1,000,000 gallons that
10 is used to dispense petroleum into cargo tanks for
11 transportation and sale at another location.

12 (b) Notwithstanding any other provision in this chapter and
13 any rules adopted pursuant to this chapter, the board shall
14 reimburse 90 percent of an applicant's cost for bulk plant
15 upgrades or closures completed between June 1, 1998, and
16 November 1, 2003, to comply with Minnesota Rules, chapter 7151,
17 provided that the board determines the costs were incurred and
18 reasonable. The reimbursement may not exceed \$10,000 per bulk
19 plant. The board may provide reimbursement under this paragraph
20 for work completed after November 1, 2003, if the work was
21 contracted for prior to that date and was not completed by that
22 date as a result of an unanticipated situation, provided that an
23 application for reimbursement under this sentence, which may be
24 a renewal of an application previously denied, is submitted
25 prior to December 31, 2005.

26 (c) For corrective action at a bulk plant located on what
27 is or was railroad right-of-way, the board shall reimburse 90
28 percent of total reimbursable costs on the first \$40,000 of
29 reimbursable costs and 100 percent of any remaining reimbursable
30 costs when the applicant can document that more than one bulk
31 plant was operated on the same section of right-of-way, as
32 determined by the commissioner of commerce.

33 Sec. 4. Minnesota Statutes 2004, section 115C.09,
34 subdivision 3j, is amended to read:

35 Subd. 3j. [RETAIL LOCATIONS AND TRANSPORT VEHICLES.] (a)
36 As used in this subdivision, "retail location" means a facility

1 located in the metropolitan area as defined in section 473.121,
 2 subdivision 2, where gasoline is offered for sale to the general
 3 public for use in automobiles and trucks. "Transport vehicle"
 4 means a liquid fuel cargo tank used to deliver gasoline into
 5 underground storage tanks during 2002 and 2003 at a retail
 6 location.

7 (b) Notwithstanding any other provision in this chapter,
 8 and any rules adopted under this chapter, the board shall
 9 reimburse 90 percent of an applicant's cost for retrofits of
 10 retail locations and transport vehicles completed between
 11 January 1, 2001, and January 1, 2006, to comply with section
 12 116.49, subdivisions 3 and 4, provided that the board determines
 13 the costs were incurred and reasonable. The reimbursement may
 14 not exceed \$3,000 per retail location and \$3,000 per transport
 15 vehicle.

16 Sec. 5. Minnesota Statutes 2004, section 115C.13, is
 17 amended to read:

18 115C.13 [REPEALER.]

19 Sections 115C.01, 115C.02, 115C.021, 115C.03, 115C.04,
 20 115C.045, 115C.05, 115C.06, 115C.065, 115C.07, 115C.08, 115C.09,
 21 115C.093, 115C.094, 115C.10, 115C.11, 115C.111, 115C.112,
 22 115C.113, 115C.12, and 115C.13, are repealed effective June 30,
 23 ~~2007~~ 2012."

24 Page 6, after line 18, insert:

25 "Sec. 10. Minnesota Statutes 2004, section 239.101,
 26 subdivision 3, is amended to read:

27 Subd. 3. [PETROLEUM INSPECTION FEE.] (a) An inspection fee
 28 is imposed (1) on petroleum products when received by the first
 29 licensed distributor, and (2) on petroleum products received and
 30 held for sale or use by any person when the petroleum products
 31 have not previously been received by a licensed distributor.
 32 The petroleum inspection fee is \$1 for every 1,000 gallons
 33 received. The commissioner of revenue shall collect the fee.
 34 The revenue from 81 cents of the fee must-first-be-applied-to
 35 ~~cover-the-amounts-appropriated.--Fifteen-cents-of-the-inspection~~
 36 ~~fee-must-be-deposited-in-an-account-in-the-special-revenue-fund~~

1 and is appropriated to the commissioner of commerce for the cost
2 of ~~petroleum-product-quality-inspection-expenses-and-for-the~~
3 ~~inspection-and-testing-of-petroleum-product-measuring~~
4 equipment operations of the Division of Weights and Measures,
5 petroleum supply monitoring, and the oil burner retrofit
6 program. The remainder of the fee must be deposited in the
7 general fund.

8 The commissioner of revenue shall credit a person for
9 inspection fees previously paid in error or for any material
10 exported or sold for export from the state upon filing of a
11 report as prescribed by the commissioner of revenue.

12 (c) The commissioner of revenue may collect the inspection
13 fee along with any taxes due under chapter 296A."

14 Page 8, line 15, strike "or"

15 Page 8, line 17, strike "and" and insert "or"

16 Page 8, after line 17, insert:

17 "(iv) biodiesel fuel that complies with the specifications
18 in this chapter; and"

19 Renumber the sections in sequence and correct internal
20 references

21 Amend the title accordingly

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and Fiscal Analysis**

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S.F. No. 2010 - Weights and Measures

Author: Senator Thomas M. Bakk

Prepared by: Matthew S. Grosser, Senate Research (651/296-1890)

Date: April 8, 2005

The bill makes technical changes to weights and measures in statute and rules and updates standard references. The bill also delays the repeal of petroleum tank release clean-up provisions and authorizes the Petroleum Tank Release Compensation Board to use the expedited process to adopt rules for consultant services.

Sections 1, 10, 18, 19, 20, and 23 to 29 update superseded ASTM standard specifications.

Section 2 permits the Petroleum Tank Release Compensation Board to use the expedited process to adopt rules for consultant services.

Section 3 delays the repeal of petroleum tank release clean-up provisions.

Section 4 updates an ISO standard concerning the general requirements for the competence of calibration and testing laboratories, and amends a reference to the body certifying meteorology laboratories in the Division of Weights and Measures.

Section 5 specifies the federal code used for enforcing gasoline octane requirements.

Section 6 amends the section of law regulating blenders of gasoline to specify its application to those who use ten percent ethanol by volume.

Section 7 empowers the Director of the Division of Weights and Measures to issue citations of between \$100 and \$500 for violations of any provision in the chapter on weights and measures.

Section 8 increases the size of samples of gasoline which may be taken for testing purposes to one-half gallon, and makes other clarifying changes related to petroleum products.

Section 9 contains clarifying changes related to petroleum products.

Section 11 requires disclosure of biodiesel volume percentages.

Section 12 adds biodiesel to the list of products sold by volume.

Sections 13, 14 and 22 contain clarifying changes related to ethanol.

Section 15 deletes obsolete language concerning oxygenated gasoline sold before 1997.

Section 16 makes conforming changes.

Section 17 updates the disclosure requirement for ethanol and the duties of ethanol distributors. Imposes a duty upon the Director of the Division of Weights and Measures to furnish, upon request, the requirements of federal code.

Section 21 updates an ASTM standard for biodiesel and clarifies that the standard is not in effect until the biodiesel requirement in statute becomes effective.

Section 30 instructs the Revisor of Statutes to correct cross-references.

Section 31 repeals two subdivisions relating to federal Environmental Protection Agency control of carbon monoxide.

MSG:cs