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S.F. No. 762 - The Clean Water Legacy Act

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Section 1 [Citation] cites the act as the "Clean Water Legacy Act."

Section 2 [Legislative Purpose and Findings] states the legislative purpose of and findings for the Clean Water Legacy Act.

Section 3 [Definitions] defines "citizen monitoring," "clean water council," "federal TMDL requirement," "impaired water," "public agencies," "restoration," "surface waters," "third-party TMDL," "total maximum daily load" or "TMDL," and "water quality standards" for the purposes of the Clean Water Legacy Act.

Section 4 [Implementation, Coordination, Goals, Policies, and Priorities]

Subdivision 1. [Coordination and Cooperation] directs the public agencies implementing this act to coordinate and cooperate with other agencies, individuals, and organizations in implementing the Clean Water Legacy Act.

Subdivision 2. [Goals for Implementation] states that the goals for implementation of the Clean Water Legacy Act are:

1. identify impaired waters within 10 years and ensure continuing evaluation of surface waters thereafter;

2. submit TMDL's to the U.S. Environmental Protection Agency (EPA) for all impaired waters in a timely manner;
3. set a reasonable time for restoring impaired waters;
4. provide assistance and incentives to improve the quality of waters; and
5. promptly seek delisting of waters from the impaired waters list.

Subdivision 3. [Implementation Policies] states that the policies to guide implementation of the Clean Water Legacy Act are:

1. develop regional and watershed TMDL's for multiple pollutants where reasonable and feasible;
2. maximize use of available organizational, technical, and financial resources;
3. maximize restoration opportunities by prioritizing and targeting available resources;
4. use existing regulatory authorities where applicable;
5. use demonstrated restoration methods;
6. identify any innovative approaches for the Legislature; and
7. identify and encourage prevention.

Subdivision 4. [Priorities for Identifying Impaired Waters] provides that priorities for identifying impaired waters are:

1. where the impairments pose the greatest risk to human and aquatic health; and
2. waters where public agency or citizen monitoring show impaired conditions.

Subdivision 5. [Priorities for Preparation of TMDL's] directs the Clean Water Council to recommend priorities for scheduling the preparation of TMDL's taking into account the severity of the impairment, the designated uses of the water, and applicable federal TMDL requirements. Additional considerations are listed.

Subdivision 6. [Priorities for Restoration of Impaired Waters] directs the Clean Water Council to give priority for recommending impaired waters restoration projects that are based on the priorities in subdivision 5, and:

1. use existing local authorities and infrastructure;
2. support existing restoration efforts;
3. leverage other sources of restoration funding;
4. have a high potential for early delisting.

Subdivision 7. [Priorities for Funding Prevention Actions] directs the Clean Water Council to use the priorities in Subdivision 6 for funding prevention actions.

Section 5 [Administration; Pollution Control Agency]

Subdivision 1. [General Duties and Authorities] directs the Pollution Control Agency (PCA) to identify impaired waters, develop and approve TMDL's, and propose waters to delist water from the impaired waters list.

Subdivision 2. [Administrative Procedures for TMDL Approval] provides that the approval of a TMDL is a final agency action and subject to the contested case procedures. This subdivision also clarifies that a TMDL is not subject to rulemaking requirements.

Subdivision 3. [Third-Party TMDL Development] allows the PCA to enter into agreements with qualified public or private entities to develop a third-party TMDL. A third-party TMDL must be approved by the PCA.

Section 6 [Clean Water Council]

Subdivision 1. [Creation; Duties] provides for the creation of the Clean Water Council to advise on the administration and implementation of the Clean Water Legacy Act. The PCA shall provide administrative support for the Council. The members will select a chair of the Council from the public members.

Subdivision 2. [Membership; Appointment] establishes membership for the Clean Water Council of 17 members. Four of the members shall represent state agencies and are appointed by the heads of the agencies. The agencies are: the Department of Natural Resources; Department of Agriculture; Pollution Control Agency; and Board of Water and Soil Resources. The four state agencies represented on the Council, acting

jointly, shall appoint 13 public members to the Council. The public members appointed shall represent:

- statewide farm organizations, two members;
- business organizations, two members;
- environmental organizations, two members;
- soil and water conservation districts, one member;
- watershed districts, one member;
- organizations focused on improving lakes and streams, one member;
- an organization of county governments, one member;
- organizations of city governments, two members; and
- the Metropolitan Council, one member.

Subdivision 3. [Terms, Compensation, and Removal] provides that the terms, compensation, removal, and filling of vacancies for Clean Water Council members is as provided under general law for advisory councils. This subdivision also provides that the initial terms of the state agency representatives expire on January 1, 2007.

Subdivision 4. [Implementation Plan] directs the Clean Water Council to develop an implementation plan for the Clean Water Legacy Act. The first implementation plan must be issued by December 1, 2005. After the first plan, the Council must issue biennial implementation plans by December 1 of each even-numbered year.

Subdivision 5. [Appropriation Recommendations] directs the Clean Water Council to recommend to the Governor appropriations from the Clean Water Legacy Account.

Subdivision 6. [Biennial Report] requires a biennial report, by December 1, of each even-numbered year, to the Legislature from the Clean Water Council on past expenditures and recommendations for future expenditures. The 2014 report must include an evaluation of the progress and need for future funding.

Section 7 [Public and Stakeholder Participation, Scientific Review, and Education]

Subdivision 1. [Public and Stakeholder Participation] directs public agencies involved in the implementation of the Clean Water Legacy Act to encourage participation by the public and stakeholders.

Subdivision 2. [Expert Scientific Advice] directs the Clean Water Council and public agencies to make use of expertise from educational, research, and technical organizations in implementing the Clean Water Legacy Act.

Subdivision 3. [Education] directs the Clean Water Council to develop strategies for informing, educating, and encouraging the participation of the public and stakeholders in the implementation of the Clean Water Legacy Act.

Section 8 [Clean Water Fees]

Subdivision 1. [Definitions] defines "average daily discharge or application limitation," "effluent flow," "fee collection authorities," "individual sewage treatment system," "nonresidential establishment," "publicly owned treatment works," and "residential dwelling" for the purposes of this section.

Subdivision 2. [Assessment of Clean Water Fees] provides that the fees imposed in subdivision 3 are on all discharges of domestic and industrial wastewater to sewage treatment systems.

Subdivision 3. [Fee Amounts] specifies the annual clean water fees, beginning on January 1, 2006, as follows:

Publicly Owned Treatment Works:

- residential dwellings with no more than two residential units, \$36/year;
- structures with more than two residential dwelling units and combined bill:
 - ▶ residential dwelling units, \$36/unit/year; and
 - ▶ nonresidential establishments, pay the fee based on the nonresidential establishment rates for their portion of the flow;
- nonresidential establishment with a separate bill (includes 2 or fewer residential dwellings):
 - ▶ average effluent flow of less than 10,000 gallons/day, \$120/year;

- ▶ average effluent flow of 10,000 gallons/day or more but less than 100,000 gallons/day, \$300/year; and
- ▶ average effluent flow of 100,000 gallons/day or more, \$600/year.

Permitted Nonpublic Wastewater Treatment Facilities:

- average daily discharge of less than 10,000 gallons/day, \$120/year;
- average daily discharge of 10,000 gallons/day or more but less than 100,000 gallons/day, \$300/year; and
- average daily discharge of 100,000 gallons/day or more, \$600/year.

Facilities with a General Permit from the PCA:

- no fee.

Domestic Wastewater Treatment Systems permitted by the PCA:

- residential dwelling, \$36/year; and
- nonresidential establishments, \$36/year.

Individual Sewage Treatment Systems:

- residential dwelling, \$36/year; and
- nonresidential establishments, \$36/year.

Any Other Wastewater Treatment System:

- residential dwelling, \$36/year; and
- nonresidential establishments, \$36/year.

Subdivision 4. [Collection and Enforcement] directs the public agency responsible for a sanitary sewer system to collect the fees imposed at the same time and frequency as charges for the service. The PCA will assess the fees on permitted facilities. Fees for individual sewage treatment systems and other systems will be collected by the county. This section also exempts a person from the payment of a fee if that person meets the criteria for telephone assistance or receives telephone assistance.

Subdivision 5. [Payment to the Commissioner of Revenue] requires all fees collected be remitted to the Commissioner of Revenue for deposit in the Clean Water Legacy Account in the Environmental Fund.

Subdivision 6. [Expiration] provides that this section expires on December 31, 2015.

Section 9 [Clean Water Legacy Account]

Subdivision 1. [Creation] creates the Clean Water Legacy account in the Environmental Fund and states that money in the Account must be made available for the Clean Water Phosphorus Reduction Grants in Section 10 of the bill and the Community Septic System Loan Program in Section 11 of the bill. This section also provides that the funding for Sections 9 and 10 of the bill must not supplant existing funding.

Subdivision 2. [Sources of Revenue] specifies that the sources of revenue for the Clean Water Legacy Account are the fees collected in Section 8 and interest on the account.

Subdivision 3. [Purposes] provides specific purposes that the Clean Water Legacy Account may be spent on, subject to appropriation by the Legislature.

Section 10 [Clean Water Legacy Phosphorus Reduction Grants]

Subdivision 1. [Creation of Fund, Appropriation] establishes the Clean Water Legacy Capital Improvement Fund to make grants for phosphorus reduction grants. The balance in the Fund is appropriated to the Public Facilities Authority (PFA) for the purposes of this section.

Subdivision 2. [Grants] directs the PFA to make grants from the Clean Water Legacy Capital Improvement Fund for wastewater treatment facility projects that will reduce the discharge of phosphorus to one milligram per liter.

Subdivision 3. [Eligible Capital Costs] provide that eligible capital cost for a loan under this section include as-bid construction costs and engineering planning and design costs.

Subdivision 4. [Grant Amounts and Priorities] specifies that grant amounts under this section are 75 percent of the costs for projects approved by July 1, 2009, and 50 percent for projects approved on or after July 1, 2009. Priority is given for projects that started construction after July 1, 2005. Application for a grant for any project that started before July 1, 2005, must be submitted by June 30, 2007.

Subdivision 5. [Fees] allows the PFA to charge an administrative fee of up to one-half of one percent of the grant amount.

Section 11 [Community Septic Loan Program]

Subdivision 1. [Creation of Fund] directs the PFA to establish a Community Septic System Replacement Fund to make loans for individual sewage treatment system (ISTS) replacement. Money in the fund is appropriated to the PFA for the loans. All repayments, investment income from the fund, and servicing fees charged must be deposited into the fund.

Subdivision 2. [Loans] directs the PFA to award loans to governmental units from the Community Septic System Replacement Fund to replace failing or inadequate systems. The governmental unit must own the replacement system and be responsible for inspection, maintenance, repair of the ISTS.

Subdivision 3. [Project Priority List] directs the PCA to rank loan applications based on the Water Pollution Control Revolving Fund priorities list.

Subdivision 4. [Loan Applications] specifies the information required on the application for a loan under this section.

Subdivision 5. [Loan Awards] specifies that the loans shall be awarded based on the priority list. The maximum loan to a government unit in any year is \$500,000.

Subdivision 6. [Loan Terms and Conditions] specifies that the loans:

1. must provide that debt service payments begin no later than two years after the loan is issued;
2. be at a one percent interest and amortized within ten years;
3. be paid from a dedicated source or sources of revenue and be guaranteed by a general obligation note of the governmental unit; and
4. be made only where permanent easements to the governmental unit are obtained for access to the financed systems.

Subdivision 7. [Special Assessment Deferral] allows governmental units to defer special assessments for the ISTS loans, as provided under current law for special assessments. The governmental unit may request loan deferral for the portion of the loan related to the deferred special assessments.

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Subdivision 8. [Eligible Costs] provides that the costs of planning, design, construction, legal fees, administration, and land acquisition are eligible costs for the loans.

Subdivision 9. [Disbursements] provides that the loan disbursement must be made for eligible project costs as they are incurred.

Subdivision 10. [Audits] requires governmental units that receive a loan to provide a copy of their annual audit or, if not required, their annual financial reporting form to the PFA.

Section 12 [Appropriations] (See attached spreadsheet from Dan Mueller)

GK:dv

Enclosure

SF762-Frederickson: Clean Water Legacy Act
Summary of Appropriations

(in 000's)

	<u>FY2006</u>	<u>FY2007</u>	<u>Biennium Total</u>
Expenditures (Environment Fund)			
Department of Revenue			
Admin cost for collection of clean water fees	38	31	69
Total Approp.: Revenue:	38	31	69
Pollution Control Agency			
Developing list of exempt fee payers and ISTS's	1,000	-	1,000
Statewide assessment of surface water quality	386	869	1,255
- Grants or contracts for citizen monitoring	1,474	3,256	4,730
Develop TMDL's for impaired waters	1,515	2,171	3,686
- Grants or contracts for TMDL's	385	1,119	1,504
Total Approp.: PCA:	4,760	7,415	12,175
Agriculture Department			
Low-interest loans, best management	50	200	250
- Pass-through to local governments	200	2,100	2,300
Technical asst. for pasture management	300	590	890
- Grants to develop conservation information	50	210	260
Effectiveness in restoring impaired waters	100	200	300
- Grants for on-farm demonstrations	-	600	600
Total Approp.: Agriculture:	700	3,900	4,600
Brd. Of Water & Soil Resources			
Targeted restoration incentive payments	-	300	300
- Grants to soil and water conservation dist.	450	5,450	5,900
Targeted restoration technical assistance	-	200	200
- Grants to support implementation activities	412	3,250	3,662
Evaluation of soil & water conservation practices	-	200	200
Grants to counties for ISTS	-	2,400	2,400
Grants for lake and river protection	300	1,500	1,800
Streambank, lakeshore and roadside protection	-	2,400	2,400
Total Approp.: BWSR:	1,162	15,700	16,862
Department of Natural Resources			
Statewide assessment of surface water quality	280	430	710
Restoration and prevention of impaired waters	100	2,350	2,450
- Grants for forest stewardship	-	1,700	1,700
Total Approp.: DNR:	380	4,480	4,860
Public Facilities Authority (DEED)			
Wastewater treatment and stormwater projects	-	22,433	22,433
Grants for phosphorus treatment infrastructure	4,400	17,000	21,400
Loans for septic system replacement	-	4,582	4,582
Total Approp.: PFA/DEED:	4,400	44,015	48,415
Total Approp.: ALL AGENCIES:	11,440	75,541	86,981
Clean Water Revenues			
Collection of Clean Water Fees deposited into Clean Water Legacy Account	11,440	75,541	86,981
Other Revenues/Local Expenses			
Loan Repayment, Capital Fund	22	85	107
Local revenue for collection	[3,200]	[2,000]	[4,000]
Loss of revenue due to hardship exemption	[400]	[2,000]	[2,400]

1 Senator moves to amend S.F. No. 762 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. [114D.05] [CITATION.]

4 This chapter may be cited as the "Clean Water Legacy Act."

5 Sec. 2. [114D.10] [LEGISLATIVE PURPOSE AND FINDINGS.]

6 Subdivision 1. [PURPOSE.] The purpose of the Clean Water
7 Legacy Act is to protect, restore, and preserve the quality of
8 Minnesota's surface waters by providing authority, direction,
9 and resources to achieve and maintain water quality standards
10 for surface waters as required by section 303(d) of the federal
11 Clean Water Act, United States Code, title 42, section 1313(d),
12 and applicable federal regulations.

13 Subd. 2. [FINDINGS.] The legislature finds that:

14 (1) there is a close link between protecting, restoring,
15 and preserving the quality of Minnesota's surface waters and the
16 ability to develop the state's economy, enhance its quality of
17 life, and protect its human and natural resources;

18 (2) achieving the state's water quality goals will require
19 long-term commitment and cooperation by all state and local
20 agencies, and other public and private organizations and
21 individuals, with responsibility and authority for water
22 management, planning, and protection; and

23 (3) all persons and organizations whose activities affect
24 the quality of waters, including point and nonpoint sources of
25 pollution, have a responsibility to participate in and support
26 efforts to achieve the state's water quality goals.

27 Sec. 3. [114D.15] [DEFINITIONS.]

28 Subdivision 1. [APPLICATION.] The definitions provided in
29 this section apply to the terms used in this chapter.

30 Subd. 2. [CITIZEN MONITORING.] "Citizen monitoring" means
31 monitoring of surface water quality by individuals and
32 nongovernmental organizations that is consistent with Pollution
33 Control Agency guidance on monitoring procedures, quality
34 assurance protocols, and data management.

35 Subd. 3. [CLEAN WATER COUNCIL.] "Clean Water Council" or
36 "council" means the Clean Water Council created pursuant to

1 section 114D.30, subdivision 1.

2 Subd. 4. [FEDERAL TMDL REQUIREMENTS.] "Federal TMDL
3 requirements" means the requirements of section 303(d) of the
4 Clean Water Act, United States Code, title 42, section 1313(d),
5 and associated regulations and guidance.

6 Subd. 5. [IMPAIRED WATER.] "Impaired water" means surface
7 water that does not meet applicable water quality standards.

8 Subd. 6. [PUBLIC AGENCIES.] "Public agencies" means all
9 state agencies, political subdivisions, and other public
10 organizations, with authority, responsibility, or expertise in
11 protecting, restoring, or preserving the quality of surface
12 waters, managing or planning for surface waters and related
13 lands, or financing waters-related projects. "Public agencies"
14 includes counties, cities, towns, joint powers organizations and
15 special purpose units of government, and the University of
16 Minnesota and other public education institutions.

17 Subd. 7. [RESTORATION.] "Restoration" means actions,
18 including effectiveness monitoring, that are taken to achieve
19 and maintain water quality standards for impaired waters in
20 accordance with a TMDL that has been approved by the United
21 States Environmental Protection Agency under federal TMDL
22 requirements.

23 Subd. 8. [SURFACE WATERS.] "Surface waters" means waters
24 of the state as defined in section 115.01, subdivision 22,
25 excluding groundwater as defined in section 115.01, subdivision
26 6.

27 Subd. 9. [THIRD-PARTY TMDL.] "Third-party TMDL" means a
28 TMDL that is developed in whole or in part by a qualified public
29 or private entity other than the Pollution Control Agency
30 consistent with the goals, policies, and priorities in section
31 114D.20.

32 Subd. 10. [TOTAL MAXIMUM DAILY LOAD OR TMDL.] "Total
33 maximum daily load" or "TMDL" means a calculation of the maximum
34 amount of a pollutant that may be introduced into a surface
35 water and still ensure that applicable water quality standards
36 for that water are achieved and maintained. A TMDL is the sum

1 of the pollutant load allocations for all sources of the
2 pollutant, including a load allocation for point sources, a load
3 allocation for nonpoint sources and natural background, a load
4 allocation for future growth of point and nonpoint sources, and
5 a margin of safety to account for uncertainty about the
6 relationship between pollutant loads and the quality of the
7 receiving surface water. "Natural background" means
8 characteristics of the water body resulting from the
9 multiplicity of factors in nature, including climate and
10 ecosystem dynamics, that affect the physical, chemical, or
11 biological conditions in a water body, but does not include
12 measurable and distinguishable pollution that is attributable to
13 human activity or influence. A TMDL must take into account
14 seasonal variations.

15 Subd. 11. [WATER QUALITY STANDARDS.] "Water quality
16 standards" for Minnesota surface waters are found in Minnesota
17 Rules, chapters 7050 and 7052.

18 Sec. 4. [114D.20] [IMPLEMENTATION; COORDINATION; GOALS;
19 POLICIES; AND PRIORITIES.]

20 Subdivision 1. [COORDINATION AND COOPERATION.] In
21 implementing this chapter, public agencies shall take into
22 consideration the relevant provisions of local and other
23 applicable water management, conservation, land use, land
24 management, and development plans and programs. Public agencies
25 with authority for local water management, conservation, land
26 use, land management, and development plans shall take into
27 consideration the manner in which their plans affect the
28 implementation of this chapter. Public agencies shall identify
29 opportunities to participate and assist in the successful
30 implementation of this chapter, including the funding or
31 technical assistance needs, if any, that may be necessary. In
32 implementing this chapter, public agencies shall endeavor to
33 engage the cooperation of organizations and individuals whose
34 activities affect the quality of surface waters, including point
35 and nonpoint sources of pollution, and who have authority and
36 responsibility for water management, planning, and protection.

1 To the extent practicable, public agencies shall endeavor to
2 enter into formal and informal agreements and arrangements with
3 federal agencies and departments to jointly utilize staff and
4 resources to deliver programs or conduct activities to achieve
5 the intent of this chapter, including efforts under the federal
6 Clean Water Act and other federal farm and soil and water
7 conservation programs.

8 Subd. 2. [GOALS FOR IMPLEMENTATION.] The following goals
9 must guide the implementation of this chapter:

10 (1) to identify impaired waters in accordance with federal
11 TMDL requirements within ten years after the effective date of
12 this section and thereafter to ensure continuing evaluation of
13 surface waters for impairments;

14 (2) to submit TMDL's to the United States Environmental
15 Protection Agency for all impaired waters in a timely manner in
16 accordance with federal TMDL requirements;

17 (3) to set a reasonable time for implementing restoration
18 of each identified impaired water;

19 (4) to provide assistance and incentives to prevent waters
20 from becoming impaired and to improve the quality of waters that
21 are listed as impaired but do not have an approved TMDL
22 addressing the impairment; and

23 (5) to promptly seek the delisting of waters from the
24 impaired waters list when those waters are shown to achieve the
25 designated uses applicable to the waters.

26 Subd. 3. [IMPLEMENTATION POLICIES.] The following policies
27 must guide the implementation of this chapter:

28 (1) develop regional and watershed TMDL's, and TMDL's for
29 multiple pollutants, where reasonable and feasible;

30 (2) maximize use of available organizational, technical,
31 and financial resources to perform sampling, monitoring, and
32 other activities to identify impaired waters, including use of
33 citizen monitoring;

34 (3) maximize opportunities for restoration of impaired
35 waters, by prioritizing and targeting of available programmatic,
36 financial, and technical resources and by providing additional

1 state resources to complement and leverage available resources;

2 (4) use existing regulatory authorities to achieve
3 restoration for point and nonpoint sources of pollution where
4 applicable, and promote the development and use of effective
5 nonregulatory measures to address pollution sources for which
6 regulations are not applicable;

7 (5) use restoration methods that have a demonstrated
8 effectiveness in reducing impairments and provide the greatest
9 long-term positive impact on water quality protection and
10 improvement while incorporating innovative approaches on a
11 case-by-case basis;

12 (6) identify for the legislature any innovative approaches
13 that may strengthen or complement existing programs; and

14 (7) identify and encourage implementation of measures to
15 prevent waters from becoming impaired and to improve the quality
16 of waters that are listed as impaired but have no approved TMDL
17 addressing the impairment.

18 Subd. 4. [PRIORITIES FOR IDENTIFYING IMPAIRED WATERS.] The
19 Pollution Control Agency, in accordance with federal TMDL
20 requirements, shall set priorities for identifying impaired
21 waters, giving consideration to:

22 (1) waters where impairments would pose the greatest
23 potential risk to human or aquatic health; and

24 (2) waters where data developed through public agency or
25 citizen monitoring or other means, provides evidence that an
26 impaired condition exists.

27 Subd. 5. [PRIORITIES FOR PREPARATION OF TMDL'S.] The Clean
28 Water Council shall recommend priorities for scheduling and
29 preparing TMDL's taking into account the severity of the
30 impairment, the designated uses of those waters, and other
31 applicable federal TMDL requirements. In recommending
32 priorities, the council shall also give consideration to waters
33 and watersheds:

34 (1) with impairments that pose the greatest potential risk
35 to human health;

36 (2) with impairments that pose the greatest potential risk

1 to threatened or endangered species;

2 (3) with impairments that pose the greatest potential risk
3 to aquatic health;

4 (4) where other public agencies and participating
5 organizations and individuals, especially local, basinwide, or
6 regional agencies or organizations, have demonstrated readiness
7 to assist in carrying out the responsibilities, including
8 availability and organization of human, technical, and financial
9 resources necessary to undertake the work; and

10 (5) where there is demonstrated coordination and
11 cooperation among cities, counties, watershed districts, and
12 soil and water conservation districts in planning and
13 implementation of activities that will assist in carrying out
14 the responsibilities.

15 Subd. 6. [PRIORITIES FOR RESTORATION OF IMPAIRED
16 WATERS.] In implementing restoration of impaired waters, in
17 addition to the priority considerations in subdivision 5 the
18 Clean Water Council shall give priority in its recommendations
19 for restoration funding from the clean water legacy account to
20 restoration projects that:

21 (1) coordinate with and utilize existing local authorities
22 and infrastructure for implementation;

23 (2) can be implemented in whole or in part by providing
24 support for existing or ongoing restoration efforts; and

25 (3) most effectively leverage other sources of restoration
26 funding, including federal, state, local, and private sources of
27 funds; and

28 (4) show a high potential for early restoration and
29 delisting based upon data developed through public agency or
30 citizen monitoring or other means.

31 Subd. 7. [PRIORITIES FOR FUNDING PREVENTION ACTIONS.] The
32 Clean Water Council shall apply the priorities applicable under
33 subdivision 6, as far as practicable, when recommending
34 priorities for funding actions to prevent waters from becoming
35 impaired and to improve the quality of waters that are listed as
36 impaired but do not have an approved TMDL.

1 Sec. 5. [114D.25] [ADMINISTRATION; POLLUTION CONTROL
2 AGENCY.]

3 Subdivision 1. [GENERAL DUTIES AND AUTHORITIES.] The
4 Pollution Control Agency, in accordance with federal TMDL
5 requirements, shall: identify impaired waters and propose a
6 list of the waters for review and approval by the United States
7 Environmental Protection Agency; develop and approve TMDL's for
8 listed impaired waters and submit the approved TMDL's to the
9 United States Environmental Protection Agency for final
10 approval; and propose to delist waters from the Environmental
11 Protection Agency impaired waters list.

12 Subd. 2. [ADMINISTRATIVE PROCEDURES FOR TMDL
13 APPROVAL.] The approval of a TMDL by the Pollution Control
14 Agency must be considered a final decision of the agency, and is
15 subject to the contested case procedures of sections 14.57 to
16 14.62, and to judicial review under sections 14.63 to 14.69. A
17 TMDL is not subject to the rulemaking requirements of chapter
18 14, including section 14.386.

19 Subd. 3. [THIRD-PARTY TMDL DEVELOPMENT.] The Pollution
20 Control Agency may enter agreements with any qualified public or
21 private entity setting forth the terms and conditions under
22 which that entity is authorized to develop a third-party TMDL.
23 In determining whether an entity is qualified to develop a
24 third-party TMDL, the agency shall consider the technical and
25 administrative qualifications of the entity and any potential
26 conflict of interest of the entity with respect to the
27 development of the third-party TMDL. A third-party TMDL is
28 subject to modification and approval by the Pollution Control
29 Agency, and must be approved by the Pollution Control Agency
30 before it is submitted to the United States Environmental
31 Protection Agency. The Pollution Control Agency shall consider
32 authorizing the development of third-party TMDL's consistent
33 with the goals, policies, and priorities determined under
34 section 116.384.

35 Sec. 6. [114D.30] [CLEAN WATER COUNCIL.]

36 Subdivision 1. [CREATION; DUTIES.] A Clean Water Council

1 is created to advise on the administration and implementation of
2 this chapter, and foster coordination and cooperation as
3 described in section 114D.20, subdivision 1. The council may
4 also advise on the development of appropriate processes for
5 expert scientific review as described in section 114D.35,
6 subdivision 2. The Pollution Control Agency shall provide
7 administrative support for the council with the support of other
8 member agencies. The members of the council shall elect a chair
9 from the nonagency members of the council.

10 Subd. 2. [MEMBERSHIP; APPOINTMENT.] The commissioners of
11 natural resources, agriculture, and the Pollution Control
12 Agency, and the executive director of the Board of Water and
13 Soil Resources are the appointing authorities for the council.
14 Each appointing authority shall appoint one person from their
15 respective agency to serve as a member of the council. The
16 appointing authorities, acting jointly, shall appoint 13
17 additional nonagency members of the council as follows:

18 (1) two members representing statewide farm organizations;

19 (2) two members representing business organizations;

20 (3) two members representing environmental organizations;

21 (4) one member representing soil and water conservation

22 districts;

23 (5) one member representing watershed districts;

24 (6) one member representing organizations focused on

25 improvement of Minnesota lakes or streams;

26 (7) one member representing an organization of county

27 governments;

28 (8) two members representing organizations of city

29 governments; and

30 (9) one member representing the Metropolitan Council

31 established under section 473.123.

32 Subd. 3. [TERMS; COMPENSATION; REMOVAL.] The initial terms

33 of members representing state agencies and the Metropolitan

34 Council expire on the first Monday in January, 2007.

35 Thereafter, the terms of members representing the state agencies

36 and the Metropolitan Council are four years and are coterminous

1 with the governor. The terms of other members of the council
2 shall be as provided in section 15.059, subdivision 2. Members
3 may serve until their successors are appointed and qualify.
4 Compensation and removal of council members is as provided in
5 section 15.059, subdivisions 3 and 4. A vacancy on the council
6 may be filled by the appointing authorities, as provided in
7 subdivision 1, for the remainder of the unexpired term.

8 Subd. 4. [IMPLEMENTATION PLAN.] The Clean Water Council
9 shall prepare a plan for implementation of this chapter. The
10 plan shall address general procedures and timeframes for
11 implementing this chapter, and shall include a more specific
12 implementation work plan for the next fiscal biennium and a
13 framework for setting priorities to address impaired waters
14 consistent with section 114D.45, subdivisions 2 to 7. The
15 council shall issue the first implementation plan under this
16 subdivision by December 1, 2005, and shall issue a revised work
17 plan by December 1 of each even-numbered year thereafter.

18 Subd. 5. [RECOMMENDATIONS ON APPROPRIATION OF FUNDS.] The
19 Clean Water Council shall recommend to the governor the manner
20 in which money from the clean water legacy account should be
21 appropriated for the purposes identified in section 114D.45,
22 subdivision 3. The council's recommendations must be consistent
23 with the purposes, policies, goals, and priorities in sections
24 114D.05 to 114D.35, and shall allocate adequate support and
25 resources to identify impaired waters, develop TMDL's, implement
26 restoration of impaired waters, and provide assistance and
27 incentives to prevent waters from becoming impaired and improve
28 the quality of waters which are listed as impaired but have no
29 approved TMDL.

30 Subd. 6. [BIENNIAL REPORT TO LEGISLATURE.] By December 1
31 of each even-numbered year, the council shall submit a report to
32 the legislature on the activities for which money from the clean
33 water legacy account has been or will be spent for the current
34 biennium, and the activities for which money from the account is
35 recommended to be spent in the next biennium. The report due on
36 December 1, 2014, must include an evaluation of the progress

1 made through June 30, 2014, in implementing this chapter, the
2 need for funding of future implementation of those sections, and
3 recommendations for the sources of funding.

4 Sec. 7. [114D.35] [PUBLIC AND STAKEHOLDER PARTICIPATION;
5 SCIENTIFIC REVIEW; EDUCATION.]

6 Subdivision 1. [PUBLIC AND STAKEHOLDER PARTICIPATION.]

7 Public agencies involved in the implementation of this chapter
8 shall encourage participation by the public and stakeholders,
9 including local citizens, land owners and managers, and public
10 and private organizations, in the identification of impaired
11 waters, in developing TMDL's, and in planning and implementing
12 restoration of impaired waters. In particular, the Pollution
13 Control Agency shall make reasonable efforts to provide timely
14 information to the public and to stakeholders about impaired
15 waters that have been identified by the agency. The agency
16 shall seek broad and early public and stakeholder participation
17 in scoping the activities necessary to develop a TMDL, including
18 the scientific models, methods, and approaches to be used in
19 TMDL development, and to implement restoration pursuant to
20 section 114D.15, subdivision 7.

21 Subd. 2. [EXPERT SCIENTIFIC ADVICE.] The Clean Water
22 Council and public agencies shall make use of available
23 expertise from educational, research, and technical
24 organizations, including the University of Minnesota and other
25 higher education institutions, to provide appropriate
26 independent expert advice on models, methods, and approaches
27 used in identifying impaired waters, developing TMDL's, and
28 implementing prevention and restoration.

29 Subd. 3. [EDUCATION.] The Clean Water Council shall
30 develop strategies for informing, educating, and encouraging the
31 participation of citizens, stakeholders, and others regarding
32 the identification of impaired waters, development of TMDL's,
33 and development and implementation of restoration for impaired
34 waters. Public agencies shall be responsible for implementing
35 the strategies.

36 Sec. 8. [114D.40] [CLEAN WATER FEES.]

1 Subdivision 1. [DEFINITIONS.] (a) The definitions in this
2 subdivision apply to the terms used in this section.

3 (b) "Average daily discharge or application limitation"
4 means the highest allowable average of daily discharge or land
5 application during a calendar day or any 24-hour period that
6 reasonably represents the discharge during the calendar day for
7 the purposes of sampling, calculated as the sum of all daily
8 discharges or land applications measured during a day, divided
9 by the number of daily discharges or land applications during
10 that day.

11 (c) "Effluent flow" means the flow of domestic wastewater
12 from a residential dwelling or nonresidential establishment.
13 The rate of water usage by a residential dwelling or
14 nonresidential establishment must be substituted for the
15 effluent flow if effluent flow from the residential dwelling or
16 nonresidential establishment is not measured.

17 (d) "Fee collection authority" means a county, the
18 Pollution Control Agency, or a public agency with authority to
19 collect fees and charges for sewer services provided by a
20 publicly owned treatment works.

21 (e) "Individual sewage treatment system" means a sewage
22 treatment system, or part thereof, that is regulated by the
23 state or its political subdivisions, and which serves a
24 residential dwelling, or nonresidential establishment, or group
25 thereof, using sewage tanks followed by soil treatment and
26 disposal or using advanced treatment devices that discharge
27 below final grade. "Individual sewage treatment system" also
28 includes sewage holding tanks and privies.

29 (f) "Nonresidential establishment" means a structure or
30 portion of a structure that is not a residential dwelling.

31 (g) "Publicly owned treatment works" means a device or
32 system used in the treatment, recycling, or reclamation of
33 municipal sewage or liquid industrial waste that is owned by the
34 state, a political subdivision, sanitary district, or other
35 public organization established under state law and which relies
36 primarily on wastewater treatment systems other than individual

1 sewage treatment systems.

2 (h) "Residential dwelling" means a room or group of rooms
3 used by an individual, family, or other group as living quarters
4 which includes facilities for sleeping, eating, cooking, and
5 sanitation. "Residential dwelling" includes apartments,
6 condominiums, cooperatives, attached and detached dwellings,
7 mobile homes, seasonal or recreational dwellings, or a dwelling
8 in which a resident of that dwelling engages in a business or
9 employment. A farm that includes buildings is treated as a
10 residential dwelling. "Residential dwelling" does not include:

11 (1) hotels, motels, resorts, boarding houses, clubs,
12 hospitals, nursing homes, dormitories, schools, colleges, or
13 similar institutional or transient facilities; or

14 (2) any structure containing not more than two residential
15 dwelling units that receives a single bill for sewer services
16 that is combined with one or more nonresidential establishments.

17 Subd. 2. [ASSESSMENT OF CLEAN WATER FEES.] A clean water
18 fee is imposed as provided in subdivision 3 on all discharges of
19 domestic and industrial wastewater to sanitary sewer systems;
20 wastewater treatment plants, facilities, or systems; individual
21 sewage treatment systems; and other systems.

22 Subd. 3. [FEE AMOUNTS.] (a) Beginning January 1, 2006, the
23 amounts of the clean water fees imposed under this section are
24 as provided in this subdivision.

25 (b) For discharges to sanitary sewer systems served by a
26 publicly owned treatment works, the clean water fees are as
27 follows:

28 (1) for each residential dwelling that receives a separate
29 bill for service and contains not more than two residential
30 dwelling units, \$36 per year;

31 (2) for a structure that contains more than two residential
32 dwelling units that do not receive separate bills for service,
33 clean water fees must be calculated as follows:

34 (i) \$36 per year for each residential dwelling unit in the
35 structure; and

36 (ii) any nonresidential establishment which is billed

1 together with the residential dwelling units is subject to a
2 clean water fee on that portion of the effluent flow for the
3 structure that is attributable to that nonresidential
4 establishment, and the fee must be calculated based on effluent
5 flows as provided in clause (3); and

6 (3) for each nonresidential establishment that receives a
7 separate bill for service, the fee is as follows:

8 (i) if average effluent flow is less than 10,000 gallons
9 per day, \$120 per year;

10 (ii) if average effluent flow is 10,000 gallons per day or
11 greater, but less than 100,000 gallons per day, \$300 per year;
12 and

13 (iii) if average effluent flow is 100,000 gallons per day
14 or greater, \$600 per year.

15 (c) Except as provided in paragraph (d), for discharges
16 from wastewater treatment facilities, other than publicly owned
17 treatment works, that are required to obtain a national
18 pollution discharge elimination system or state disposal system
19 permit, the fee is as follows:

20 (1) for permits authorizing an average daily discharge or
21 land application limitation of less than 10,000 gallons on an
22 annualized basis, \$120 per year;

23 (2) for permits authorizing an average daily discharge or
24 land application limitation of 10,000 gallons per day or
25 greater, but less than 100,000 gallons per day, \$300 per year;
26 and

27 (3) for permits authorizing an average daily discharge or
28 land application limitation of 100,000 gallons per day or
29 greater, \$600 per year.

30 (d) A clean water fee must not be imposed under paragraph
31 (c), on discharges from a facility that operates under a general
32 permit issued by the agency.

33 (e) For discharges to domestic wastewater treatment systems
34 permitted by the Pollution Control Agency, excluding publicly
35 owned treatment works, the fee is \$36 per year for each
36 residential dwelling and nonresidential establishment that

1 discharges to the systems. No single residential unit or
2 nonresidential establishment may be required to pay more than
3 one clean water fee under this paragraph.

4 (f) For individual sewage treatment systems not permitted
5 by the Pollution Control Agency, the fee is \$36 per year for
6 each residential dwelling and nonresidential establishment
7 served by the system. No single residential unit or
8 nonresidential establishment may be required to pay more than
9 one clean water fee under this paragraph.

10 (g) For any wastewater system not described in paragraphs
11 (b) to (f), that accepts and discharges untreated or partially
12 treated wastewater, the fee is \$36 per year for each residential
13 dwelling and nonresidential establishment that discharges to the
14 system.

15 (h) Any single residential unit or nonresidential
16 establishment that would be subject to payment of a clean water
17 fee under both paragraphs (f) and (g) may only be required to
18 pay the clean water fee under paragraph (e).

19 Subd. 4. [COLLECTION AND ENFORCEMENT.] (a) Fees imposed on
20 discharges to sanitary sewer systems served by publicly owned
21 treatment works must be collected by the public agency that
22 collects fees or charges from the users of that service. The
23 fees must be collected at the same time and with the same
24 frequency as fees or charges for service are collected. The
25 collecting entity may enforce payment of the fees using the same
26 enforcement authority applicable to sewer service charges.

27 (b) Fees imposed under subdivision 3, paragraphs (c) and
28 (e), must be collected by the Pollution Control Agency from the
29 permittees for the facilities or systems. The Pollution Control
30 Agency may enforce payment of the fees using the same
31 enforcement authority applicable to permit fees.

32 (c) Fees imposed under subdivision 3, paragraphs (f) and
33 (g), must be collected by each county, from the owners of the
34 residential dwellings or nonresidential establishments subject
35 to the fee that are located in the county. A county shall
36 collect the fees at least once per calendar year, but may

1 collect the fees more frequently. If fees are collected
2 annually, a county shall require payment of the fees by not
3 later than February 1 following the calendar year for which the
4 fee is imposed. The county shall determine that manner in which
5 the fees are collected. Each county shall enact and enforce an
6 appropriate ordinance to enforce payment of the fees.

7 (d) By August 15, 2005, a county shall identify and develop
8 a list of all persons subject to the fees under subdivision 3,
9 paragraphs (f) and (g), located in that county. A county shall
10 annually update the list by August 15 of each year.

11 (e) A fee collection authority shall exempt a person from
12 payment of the clean water fee for a discharge of wastewater
13 from a residential dwelling if the fee collection authority
14 determines that the person meets any of the criteria for
15 eligibility under the telephone assistance plan established
16 under section 237.70, or that the person is receiving telephone
17 assistance under that plan. The Pollution Control Agency shall
18 create a form that fee collection authorities shall use to
19 determine eligibility for exemption under this paragraph.

20 (f) Any statement, invoice, or other document used to
21 collect the fees under this subdivision must clearly identify
22 the fee as the "Minnesota Clean Water Fee."

23 Subd. 5. [PAYMENT TO COMMISSIONER OF REVENUE; DEPOSIT.] (a)
24 A fee collection authority shall remit all fees collected under
25 this section, less the costs to collect the fees, not to exceed
26 five percent of the total collected, to the commissioner of
27 revenue. The fees must be remitted in a manner prescribed by
28 the commissioner. Amounts collected during the previous
29 calendar quarter must be remitted to the commissioner on April
30 30, July 31, October 31, and January 31. In addition to the
31 costs of collecting the fees, a fee collection authority may
32 retain from fees collected for calendar year 2006 the costs to
33 develop methods and procedures for collecting the clean water
34 fees.

35 (b) The commissioner of revenue shall deposit all clean
36 water fees remitted by fee collection authorities in the clean

1 water legacy account.

2 (c) The assessment, audit, refund, penalty, interest,
3 enforcement, collection remedies, appeal, and administrative
4 provisions of chapters 270 and 289A that are applicable to fees
5 imposed under chapter 297A apply to the fees imposed by this
6 section.

7 Subd. 6. [EXPIRATION.] This section expires on December
8 31, 2015.

9 Sec. 9. [114D.45] [CLEAN WATER LEGACY ACCOUNT.]

10 Subdivision 1. [CREATION.] The clean water legacy account
11 is created as an account in the environmental fund. Money in
12 the account must be made available for the implementation of
13 this chapter and sections 446A.073 and 446A.074, without
14 supplanting or taking the place of any other funds which are
15 currently available or may become available from any other
16 source, whether federal, state, local, or private, for
17 implementation of those sections.

18 Subd. 2. [SOURCES OF REVENUE.] The following revenues must
19 be deposited in the clean water legacy account:

20 (1) the revenue from the clean water fees collected under
21 section 114D.40; and

22 (2) interest accrued on the account.

23 Subd. 3. [PURPOSES.] Subject to appropriation by the
24 legislature, the clean water legacy account may be spent for the
25 following purposes:

26 (1) to provide grants, loans, and technical assistance to
27 public agencies and others who are participating in the process
28 of identifying impaired waters, developing TMDL's, implementing
29 restoration plans for impaired waters, and monitoring the
30 effectiveness of restoration;

31 (2) to support measures to prevent waters from becoming
32 impaired and to improve the quality of waters that are listed as
33 impaired but have no approved TMDL addressing the impairment;

34 (3) to provide grants and loans for wastewater and
35 stormwater treatment projects through the Public Facilities
36 Authority;

1 (4) to support the efforts of public agencies associated
2 with individual sewage treatment systems and financial
3 assistance for upgrading and replacing the systems; and

4 (5) to provide funds to state agencies to carry out their
5 responsibilities under this chapter.

6 Sec. 10. [446A.073] [CLEAN WATER LEGACY PHOSPHORUS
7 REDUCTION GRANTS.]

8 Subdivision 1. [CREATION OF FUND; APPROPRIATION.] The
9 authority shall establish a clean water legacy capital
10 improvement fund and shall make grants from the fund as provided
11 in this section. Money in the clean water legacy capital
12 improvement fund, including interest earned, is appropriated to
13 the authority for the purposes of this section.

14 Subd. 2. [GRANTS.] The authority shall award grants from
15 the clean water legacy capital improvement fund to governmental
16 units for the capital costs of wastewater treatment facility
17 projects or a portion thereof that will reduce the discharge of
18 total phosphorus from the facility to one milligram per liter or
19 less. A project is eligible for a grant if it meets the
20 following requirements:

21 (1) the applicable phosphorus discharge limit is
22 incorporated in a permit issued by the agency for the wastewater
23 treatment facility on or after March 28, 2000, or the grantee
24 agrees to comply with the applicable limit as a condition of
25 receiving the grant;

26 (2) the governmental unit has submitted a facilities plan
27 for the project to the agency and a grant application to the
28 authority on a form prescribed by the authority; and

29 (3) the agency has approved the application and facilities
30 plan, and certified the eligible costs for the project to the
31 authority.

32 Subd. 3. [ELIGIBLE CAPITAL COSTS.] Eligible capital costs
33 for phosphorus reduction grants under subdivision 4, paragraph
34 (a), include the as-bid construction costs and engineering
35 planning and design costs. Eligible capital costs for
36 phosphorus reduction grants under subdivision 4, paragraph (b),

1 include the final, incurred construction, engineering, planning,
2 and design costs.

3 Subd. 4. [GRANT AMOUNTS AND PRIORITIES.] (a) Priority must
4 be given to projects that start construction on or after July 1,
5 2005. If a facility's plan for a project is approved by the
6 agency before July 1, 2009, the amount of the grant is 75
7 percent of the eligible capital cost of the project. If a
8 facility's plan for a project is approved by the agency on or
9 after July 1, 2009, the amount of the grant is 50 percent of the
10 eligible capital cost of the project. Priority in awarding
11 grants under this paragraph must be based on the date of
12 approval of the facility's plan for the project.

13 (b) Projects that meet the eligibility requirements in
14 subdivision 2 and have started construction before July 1, 2005,
15 are eligible for grants to reimburse 75 percent of the eligible
16 capital cost of the project, less any amounts previously
17 received in grants from other sources. Application for a grant
18 under this paragraph must be submitted to the agency no later
19 than June 30, 2007. Priority for award of grants under this
20 paragraph must be based on the date of agency approval of the
21 application for the grant.

22 (c) In each fiscal year that money is available for grants,
23 the authority shall first award grants under paragraph (a) to
24 projects that met the eligibility requirements of subdivision 2
25 by May 1 of that year. The authority shall use any remaining
26 money available that year to award grants under paragraph (b).
27 Grants that have been approved but not awarded in a previous
28 fiscal year carry over and must be awarded in subsequent fiscal
29 years in accordance with the priorities in this paragraph.

30 (d) Disbursements of grants under this section by the
31 authority to recipients must be made for eligible project costs
32 as incurred by the recipients, and must be made by the authority
33 in accordance with the project financing agreement and
34 applicable state law.

35 Subd. 5. [FEES.] The authority may charge the grant
36 recipient a fee for its administrative costs not to exceed

1 one-half of one percent of the grant amount, to be paid upon
2 execution of the grant agreement.

3 Sec. 11. [446A.074] [COMMUNITY SEPTIC SYSTEM LOAN
4 PROGRAM.]

5 Subdivision 1. [CREATION OF FUND.] The authority shall
6 establish a community septic system replacement fund and shall
7 make loans from the fund as provided in this section. Money in
8 the fund, including interest earned, is annually appropriated to
9 the authority and does not lapse. The fund shall be credited
10 with all loan repayments and investment income from the fund,
11 and servicing fees assessed under section 446A.04, subdivision
12 5. The authority shall manage and administer the community
13 septic system replacement fund and, for these purposes, may
14 exercise all powers provided in this chapter.

15 Subd. 2. [LOANS.] The authority shall award loans to
16 governmental units from the community septic system replacement
17 fund for projects to replace failing or inadequate individual
18 sewage treatment systems with new individual sewage treatment
19 systems. A governmental unit receiving a loan from the fund
20 shall own the individual sewage treatment systems built under
21 the program and shall be responsible, either directly or through
22 a contract with a private vendor, for all inspections,
23 maintenance, and repairs necessary to assure proper operation of
24 the systems.

25 Subd. 3. [PROJECT PRIORITY LIST.] Governmental units
26 seeking loans from the community septic system loan program
27 shall first submit a project proposal to the agency. A project
28 proposal must include an identification and description of the
29 condition of all individual sewage treatment systems in the
30 project area. The agency shall rank project proposals on its
31 project priority list used for the water pollution control
32 revolving fund under section 446A.07.

33 Subd. 4. [LOAN APPLICATIONS.] Governmental units with
34 projects on the project priority list shall submit applications
35 to the authority on forms prescribed by the authority. The
36 application must include:

1 (1) a list of the individual sewage treatment systems
2 proposed to be replaced over a period of up to three years;

3 (2) a project schedule and cost estimate for each year of
4 the project;

5 (3) a financing plan for repayment of the loan; and

6 (4) a management plan providing for the inspection,
7 maintenance, and repairs necessary to assure proper operation of
8 the systems.

9 Subd. 5. [LOAN AWARDS.] The authority shall award loans to
10 governmental units with approved loan applications based on
11 their ranking on the agency's project priority list. The loan
12 amount must be based on the estimated project costs for the
13 portion of the project expected to be completed within one year,
14 up to an annual maximum of \$500,000. For projects expected to
15 take more than one year to complete, the authority may make a
16 multiyear commitment for a period not to exceed three years,
17 contingent on the future availability of funds. Each year of a
18 multiyear commitment must be funded by a separate loan agreement
19 meeting the terms and conditions in subdivision 6. A
20 governmental unit receiving a loan under a multiyear commitment
21 has priority for additional loan funds in subsequent years.

22 Subd. 6. [LOAN TERMS AND CONDITIONS.] Loans from the
23 community septic system replacement fund must comply with the
24 following terms and conuitions:

25 (1) principal and interest payments must begin no later
26 than two years after the loan is awarded;

27 (2) loans must carry an interest rate of one percent and
28 must be fully amortized within ten years of the first scheduled
29 payment;

30 (3) a governmental unit receiving a loan must establish a
31 dedicated source or sources of revenues for repayment of the
32 loan and must issue a general obligation note to the authority
33 for the full amount of the loan; and

34 (4) each property owner to be served by an individual
35 sewage treatment system under this program must provide a
36 permanent easement to the governmental unit to allow access to

1 the system for inspections, maintenance, and repairs.

2 Subd. 7. [SPECIAL ASSESSMENT DEFERRAL.] (a) A governmental
3 unit that receives a loan under this section, and levies special
4 assessments to repay the loan, may defer payment of the
5 assessments under sections 435.193 to 435.195.

6 (b) A governmental unit that defers payment of special
7 assessments for one or more properties under paragraph (a) may
8 request deferral of that portion of the debt service on its
9 loan, and the authority shall accept appropriate amendments to
10 the general obligation note of the governmental unit. If
11 special assessment payments are later received from properties
12 that received a deferral, the funds received must be paid to the
13 authority with the next scheduled loan payment.

14 Subd. 8. [ELIGIBLE COSTS.] Eligible costs for community
15 septic system loans include the costs of planning, design,
16 construction, legal fees, administration, and land acquisition.

17 Subd. 9. [DISBURSEMENTS.] Loan disbursements by the
18 authority under this section must be made for eligible project
19 costs as incurred by the recipients, and must be made in
20 accordance with the project loan agreement and applicable state
21 law.

22 Subd. 10. [AUDITS.] A governmental unit receiving a loan
23 under this section must annually provide to the authority for
24 the term of the loan a copy of its annual independent audit or,
25 if the governmental unit is not required to prepare an
26 independent audit, a copy of the annual financial reporting form
27 it provides to the state auditor.

28 Sec. 12. [APPROPRIATIONS.]

29 Subdivision 1. [GENERAL PROVISIONS.] The appropriations in
30 this section are from the environmental fund and are available
31 for the fiscal years ending June 30, 2006, and June 30, 2007.
32 Any money remaining after the first year of the biennium is
33 available for the second year. Appropriations in this section
34 that are encumbered under contract, including grant contract, on
35 or before June 30, 2007, are available until June 30, 2009.

36 Subd. 2. [DEPARTMENT OF REVENUE; FEE COLLECTION

1 COSTS.] \$38,000 in fiscal year 2006 and \$31,000 in fiscal year
2 2007 are appropriated to the Department of Revenue to pay the
3 costs of collection and administration of the clean water fees
4 imposed in Minnesota Statutes, section 114D.40.

5 Subd. 3. [POLLUTION CONTROL AGENCY.] The following amounts
6 are appropriated to the Pollution Control Agency for the
7 purposes stated:

8 (1) \$1,000,000 in fiscal year 2006 is to assist counties in
9 developing the list required under Minnesota Statutes, section
10 114D.40, subdivision 4, paragraph (e), of persons subject to
11 clean water fees under Minnesota Statutes, section 114D.40,
12 subdivision 3, paragraphs (f) and (g);

13 (2) \$1,860,000 in fiscal year 2006 and \$4,125,000 in fiscal
14 year 2007 are for statewide assessment of surface water quality
15 and trends; of these amounts, up to \$1,474,000 in fiscal year
16 2006 and \$3,256,600 in fiscal year 2007 are available for grants
17 or contracts to support citizen monitoring of surface waters;
18 and

19 (3) \$1,900,000 in fiscal year 2006 and \$3,290,000 in fiscal
20 year 2007 are to develop TMDL's for waters listed on the United
21 States Environmental Protection Agency approved 2004 impaired
22 waters list; of this appropriation, up to \$384,950 in fiscal
23 year 2006 and \$1,118,750 in fiscal year 2007 are available for
24 grants or contracts to develop TMDL's.

25 Subd. 4. [AGRICULTURE DEPARTMENT.] The following amounts
26 are appropriated to the Department of Agriculture for the
27 purposes stated:

28 (1) \$250,000 in fiscal year 2006 and \$2,300,000 in fiscal
29 year 2007 are for agricultural best management practices
30 low-interest loans to producers and rural landowners under
31 Minnesota Statutes, section 17.117; of these amounts, \$200,000
32 in fiscal year 2006 and \$2,100,000 in fiscal year 2007 are
33 available for pass-through to local governments and lenders for
34 low-interest loans;

35 (2) \$350,000 in fiscal year 2006 and \$800,000 in fiscal
36 year 2007 are to expand technical assistance to producers and

1 conservation professionals on nutrient and pasture management;
2 target practices to sources of water impairments; coordinate
3 federal and state farm conservation programs to fully utilize
4 federal conservation funds; and expand conservation planning
5 assistance for producers; of these amounts, \$50,000 in fiscal
6 year 2006 and \$210,000 in fiscal year 2007 are available for
7 grants or contracts to develop nutrient and conservation
8 planning assistance information materials; and
9 (3) \$100,000 in fiscal year 2006 and \$800,000 in fiscal
10 year 2007 are for research, evaluation, and effectiveness
11 monitoring of agricultural practices in restoring impaired
12 waters; of these amounts, \$600,000 in fiscal year 2007 is
13 available for grants or contracts for research, evaluations, and
14 effectiveness monitoring of agricultural practices in restoring
15 impaired waters, including on-farm demonstrations.

16 Subd. 5. [BOARD OF WATER AND SOIL RESOURCES.] The
17 following amounts are appropriated to the Board of Water and
18 Soil Resources for restoration and prevention actions as
19 described in Minnesota Statutes, section 114D.20, subdivisions 6
20 and 7:

21 (1) \$450,000 in fiscal year 2006 and \$5,750,000 in fiscal
22 year 2007 are for targeted nonpoint restoration cost-share and
23 incentive payments; of these amounts, up to \$450,000 in fiscal
24 year 2006 and \$5,450,000 in fiscal year 2007 are available for
25 grants to soil and water conservation districts through the
26 state cost-share program authorized under Minnesota Statutes,
27 section 103C.501;

28 (2) \$412,000 in fiscal year 2006 and \$3,450,000 in fiscal
29 year 2007 are for targeted nonpoint technical and engineering
30 assistance for restoration activities; of these amounts, up to
31 \$412,000 in fiscal year 2006 and \$3,250,000 in fiscal year 2007
32 are available for grants to soil and water conservation
33 districts, watershed management organizations, or counties to
34 support implementation of nonpoint restoration activities;

35 (3) \$200,000 in fiscal year 2007 is for reporting and
36 evaluation of applied soil and water conservation practices;

1 (4) \$2,400,000 in fiscal year 2007 is for grants to
2 counties for implementation of county individual sewage
3 treatment systems programs through the local water resources
4 protection and management program under Minnesota Statutes,
5 section 103B.3369;

6 (5) \$300,000 in fiscal year 2006 and \$1,500,000 in fiscal
7 year 2007 are for base and challenge grants to support nonpoint
8 source protection activities related to lake and river
9 protection and management through the local water resources
10 protection and management program under Minnesota Statutes,
11 section 103B.3369; and

12 (6) \$2,400,000 in fiscal year 2007 is for grants to soil
13 and water conservation districts for streambank, stream channel,
14 lakeshore, and roadside protection and restoration projects
15 through the state-cost share program under Minnesota Statutes,
16 section 103C.501.

17 Subd. 6. [DEPARTMENT OF NATURAL RESOURCES.] The following
18 amounts are appropriated to the Department of Natural Resources
19 for the purposes stated:

20 (1) \$280,000 in fiscal year 2006 and \$430,000 in fiscal
21 year 2007 are for statewide assessment of surface water quality
22 and trends; and

23 (2) \$100,000 in fiscal year 2006 and \$4,050,000 in fiscal
24 year 2007 are for restoration of impaired waters and actions to
25 prevent waters from becoming impaired; of these amounts, up to
26 \$1,700,000 in fiscal year 2007 is available for grants and
27 contracts for forest stewardship planning and implementation,
28 and for research and monitoring.

29 Subd. 7. [PUBLIC FACILITIES AUTHORITY.] \$4,400,000 in
30 fiscal year 2006 and \$44,015,000 in fiscal year 2007 are
31 appropriated to the Public Facilities Authority; of these
32 amounts, \$4,400,000 in fiscal year 2006 and \$17,000,000 in
33 fiscal year 2007 are for deposit in the clean water legacy
34 capital improvements fund for grants under Minnesota Statutes,
35 section 446A.073; \$4,582,000 in fiscal year 2007 is for deposit
36 in the community septic system replacement fund for loans under

1 Minnesota Statutes, section 446A.074; and \$22,433,000 in fiscal
2 year 2007 is for deposit in the water pollution control
3 revolving fund under Minnesota Statutes, section 446A.07, for
4 wastewater treatment and stormwater projects. Money
5 appropriated under this subdivision does not cancel."

1 Senator moves to amend the delete-everything
2 amendment (SCS0762A-2) to S.F. No. 762 as follows:

3 Page 2, line 29, delete "or private entity" and insert
4 "agency"

5 Page 7, line 13, before "The" insert "Before approving a
6 TMDL, the agency shall give written notice to the public of the
7 proposed TMDL and provide a 30-day opportunity for submission of
8 written comments. The agency shall distribute the notice in the
9 same manner as a notice of a proposed permit is distributed
10 under agency rules."

11 Page 7, line 14, delete "must be considered" and insert "is"
12 and before the comma, insert "under section 115.05, subdivision
13 11, clause (1)"

14 Page 7, line 16, delete ", and to judicial review under
15 sections 14.63' to 14.69" and insert "in accordance with agency
16 procedural rules" and after the period, insert "The agency shall
17 not submit an approved TMDL to the United States Environmental
18 Protection Agency until the time for commencing judicial review
19 has run or the judicial review process has been completed."

20 Page 7, line 20, delete "or"

21 Page 7, line 21, delete "private entity" and insert "agency"

1 Senator moves to amend the delete-everything
2 amendment (SCS0762A-2) to S.F. No. 762 as follows:

3 Page 2, delete lines 8 to 16, and insert:

4 "Subd. 6. [PUBLIC AGENCIES.] "Public agencies" means all
5 state agencies, political subdivisions, joint powers
6 organizations, and special purpose units of government with
7 authority, responsibility, or expertise in protecting,
8 restoring, or preserving the quality of surface waters, managing
9 or planning for surface waters and related lands, or financing
10 waters-related projects. "Public agencies" also includes the
11 University of Minnesota and other public education institutions."

12 Page 5, line 10, after "improvement" insert "and related
13 conservation benefits"

14 Page 5, line 17, before the period, insert "using the best
15 available data and technology, and establish and report
16 outcome-based performance measures that monitor the progress and
17 effectiveness of protection and restoration measures"

18 Page 6, line 24, delete "and"

19 Page 6, line 27, delete "and"

20 Page 6, line 30, before the period, insert "; and

21 (5) show a high potential for long-term water quality and
22 related conservation benefits"

23 Page 7, line 25, after "and" insert "shall avoid" and after
24 "potential" insert "organizational"

25 Page 7, line 26, after "interest" insert ", as defined in
26 section 16C.02, subdivision 10a,"

27 Pages 19 to 21, delete section 11 and insert:

28 "Sec. 11. [446A.074] [SMALL COMMUNITY WASTEWATER TREATMENT
29 LOAN PROGRAM.]

30 Subdivision 1. [CREATION OF FUND.] The authority shall
31 establish a small community wastewater treatment fund and shall
32 make loans from the fund as provided in this section. Money in
33 the fund is annually appropriated to the authority and does not
34 lapse. The fund shall be credited with all loan repayments and
35 investment income from the fund, and servicing fees assessed
36 under section 446A.04, subdivision 5. The authority shall

1 manage and administer the small community wastewater treatment
2 fund, and for these purposes, may exercise all powers provided
3 in this chapter.

4 Subd. 2. [LOANS.] The authority shall award loans to
5 governmental units from the small community wastewater treatment
6 fund for projects to replace noncomplying individual sewage
7 treatment systems with a community wastewater treatment system
8 or systems meeting the requirements of section 115.55. A
9 governmental unit receiving a loan from the fund shall own the
10 community wastewater treatment systems built under the program
11 and shall be responsible, either directly or through a contract
12 with a private vendor, for all inspections, maintenance, and
13 repairs necessary to assure proper operation of the systems.

14 Subd. 3. [PROJECT PRIORITY LIST.] Governmental units
15 seeking loans from the small community wastewater treatment loan
16 program shall first submit a project proposal to the agency. A
17 project proposal shall include a compliance determination for
18 all individual sewage treatment systems in the project area.
19 The agency shall rank project proposals on its project priority
20 list used for the water pollution control revolving fund under
21 section 446A.07.

22 Subd. 4. [LOAN APPLICATIONS.] Governmental units with
23 projects on the project priority list shall submit applications
24 to the authority on forms prescribed by the authority. The
25 application shall include:

26 (1) a list of the individual sewage treatment systems
27 proposed to be replaced over a period of up to three years;

28 (2) a project schedule and cost estimate for each year of
29 the project;

30 (3) a financing plan for repayment of the loan; and

31 (4) a management plan providing for the inspection,
32 maintenance, and repairs necessary to assure proper operation of
33 the systems.

34 Subd. 5. [LOAN AWARDS.] The authority shall award loans to
35 governmental units with approved loan applications based on
36 their ranking on the agency's project priority list. The loan

1 amount shall be based on the estimated project costs for the
2 portion of the project expected to be completed within one year,
3 up to an annual maximum of \$500,000. For projects expected to
4 take more than one year to complete, the authority may make a
5 multiyear commitment for a period not to exceed three years,
6 contingent on the future availability of funds. Each year of a
7 multiyear commitment must be funded by a separate loan agreement
8 meeting the terms and conditions in subdivision 6. A
9 governmental unit receiving a loan under a multiyear commitment
10 shall have priority for additional loan funds in subsequent
11 years.

12 Subd. 6. [LOAN TERMS AND CONDITIONS.] Loans from the small
13 community wastewater treatment fund shall comply with the
14 following terms and conditions:

15 (1) principal and interest payments must begin no later
16 than two years after the loan is awarded;

17 (2) loans shall carry an interest rate of one percent;

18 (3) loans shall be fully amortized within ten years of the
19 first scheduled payment or, if the loan amount exceeds \$10,000
20 per household, shall be fully amortized within 20 years but not
21 to exceed the expected design life of the system;

22 (4) a governmental unit receiving a loan must establish a
23 dedicated source or sources of revenues for repayment of the
24 loan and must issue a general obligation note to the authority
25 for the full amount of the loan; and

26 (5) each property owner to be served by a community
27 wastewater treatment system under this program must provide an
28 easement to the governmental unit to allow access to the system
29 for management and repairs.

30 Subd. 7. [SPECIAL ASSESSMENT DEFERRAL.] (a) A governmental
31 unit receiving a loan under this section that levies special
32 assessments to repay the loan may defer payment of the
33 assessments under the provisions of sections 435.193 to 435.195.

34 (b) A governmental unit that defers payment of special
35 assessments for one or more properties under paragraph (a) may
36 request deferral of that portion of the debt service on its

1 loan, and the authority shall accept appropriate amendments to
2 the general obligation note of the governmental unit. If
3 special assessment payments are later received from properties
4 that received a deferral, the funds received shall be paid to
5 the authority with the next scheduled loan payment.

6 Subd. 8. [ELIGIBLE COSTS.] Eligible costs for small
7 community wastewater treatment loans shall include the costs of
8 planning, design, construction, legal fees, administration, and
9 land acquisition.

10 Subd. 9. [DISBURSEMENTS.] Loan disbursements by the
11 authority under this section must be made for eligible project
12 costs as incurred by the recipients, and must be made in
13 accordance with the project loan agreement and applicable state
14 law.

15 Subd. 10. [AUDITS.] A governmental unit receiving a loan
16 under this section must annually provide to the authority for
17 the term of the loan a copy of its annual independent audit or,
18 if the governmental unit is not required to prepare an
19 independent audit, a copy of the annual financial reporting form
20 it provides to the state auditor."

21 Page 22, line 15, delete "\$1,474,000" and insert
22 "\$1,010,000"

23 Page 22, line 16, delete "\$3,256,600" and insert
24 "\$1,960,000"

25 Page 22, line 29, after "for" insert "the" and after
26 "practices" insert "loan program"

27 Page 22, line 30, delete everything before "under"

28 Page 24, line 36, before "community" insert "small" and
29 delete "septic system replacement" and insert "wastewater
30 treatment"

1 Senator moves to amend the delete-everything
2 amendment (SCS0762A-2) to S.F. No. 762 as follows:

3 Page 7, line 3, before "The" insert "(a)"

4 Page 7, after line 11, insert:

5 "(b) A TMDL must include:

6 (1) a statement of all facts and scientific data supporting
7 the TMDL;

8 (2) the probable cost of compliance of the TMDL;

9 (3) a description of any less costly alternatives of
10 achieving the TMDL and an explanation as to why those
11 alternatives were rejected; and

12 (4) an implementation plan for the TMDL that includes
13 individual wasteload allocations for any point sources regulated
14 by the TMDL."

1 Senator moves to amend the SCS0762A-2 amendment to
2 S.F. No. 762 as follows:

3 Page 7, after line 34, insert:

4 "Subd. 4. [REPORT.] By December 1, of each even-numbered
5 year, the Pollution Control Agency shall submit a report to the
6 legislature on the status of economic development projects that
7 have been stalled as a result of TMDL mandates. For each
8 project identified, the report shall include:

9 (1) the city or town where the project is located;

10 (2) the expected time frame for compliance with the TMDL
11 mandate;

12 (3) the economic impact of the resulting moratorium; and

13 (4) a comparison of economic development in the area before
14 and after the TMDL mandate."

1 Senator moves to amend the delete-everything
2 amendment (SCS0762A-2) to S.F. No. 762 as follows:

3 Page 13, line 7, after "the" insert "annual"

4 Page 13, line 9, delete "\$120 per year" and insert
5 "\$. in 2006, \$. in 2007, \$. in 2008, and
6 \$. in 2009 and thereafter"

7 Page 13, line 11, delete "\$300 per year" and insert
8 "\$. in 2006, \$. in 2007, \$. in 2008, and
9 \$. in 2009 and thereafter"

10 Page 13, line 14, delete "\$600 per year" and insert
11 "\$. in 2006, \$. in 2007, \$. in 2008, and
12 \$. in 2009 and thereafter"

13 Page 13, line 19, after "the" insert "annual"

14 Page 13, line 22, delete "\$120 per year" and insert
15 "\$. in 2006, \$. in 2007, \$. in 2008, and
16 \$. in 2009 and thereafter"

17 Page 13, line 25, delete "\$300 per year" and insert
18 "\$. in 2006, \$. in 2007, \$. in 2008, and
19 \$. in 2009 and thereafter"

20 Page 13, line 29, delete "\$600 per year" and insert
21 "\$. in 2006, \$. in 2007, \$. in 2008, and
22 \$. in 2009 and thereafter"

1 Senator moves to amend the delete-everything
2 amendment (SCS0762A-2) to S.F. No. 762 as follows:

3 Page 14, line 5, after "is" insert "\$. per acre or"
4 and after "\$36" insert ", whichever is greater,"

5 Page 14, line 12, after "is" insert "\$. per acre or"
6 and after "\$36" insert ", whichever is greater,"

Senator Betzold introduced--

S.F. No. 686: Referred to the Committee on Environment and Natural Resources.

1 A bill for an act

2 relating to waters; providing for administrative
3 penalty orders; providing civil penalties; requiring
4 an implementation plan; providing a rulemaking
5 exemption; proposing coding for new law in Minnesota
6 Statutes, chapter 103G.

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

8 Section 1. [103G.252] [ADMINISTRATIVE PENALTY ORDERS.]

9 The commissioner may issue an order requiring violations to
10 be corrected and administratively assessing monetary penalties
11 for violations of chapters 103F and 103G, rules, orders,
12 agreements, settlements, licenses, registrations, or permits for
13 activities affecting the course, current, or cross section of
14 public waters or appropriating or diverting waters of the
15 state. The commissioner must follow the procedures in section
16 103G.253 when issuing an administrative penalty order. The
17 maximum monetary amount of an administrative penalty order is
18 \$10,000 for each violator for all violations by that violator
19 identified in an inspection or review of compliance.

20 Sec. 2. [103G.253] [ADMINISTRATIVE PENALTY ORDER
21 PROCEDURE.]

22 Subdivision 1. [CONTENTS OF ORDER.] An order assessing an
23 administrative penalty under section 103G.252 must include:

24 (1) a concise statement of the facts alleged to constitute
25 a violation;

26 (2) a reference to the law, rule, order, agreement,

1 settlement, license, registration, or permit that has been
2 violated;

3 (3) a statement of the corrective order and the amount of
4 the administrative penalty to be imposed and the factors upon
5 which it is based; and

6 (4) a statement of the person's right to review the order.

7 Subd. 2. [AMOUNT OF PENALTY; CONSIDERATIONS.] (a) In
8 determining the amount or requirements of a penalty under
9 section 103G.252, the commissioner may consider:

10 (1) the willfulness of the violation;

11 (2) the gravity of the violation, including damage to
12 humans, animals, air, water, land, forests, or other natural
13 resources of the state;

14 (3) the history of past violations;

15 (4) the number of violations;

16 (5) the economic benefit gained by the person by allowing
17 or committing the violation; and

18 (6) other factors as justice may require, if the
19 commissioner specifically identifies the additional factors in
20 the commissioner's order.

21 (b) For a second or subsequent violation, the commissioner
22 shall, in determining the amount or requirements of a penalty,
23 consider:

24 (1) the factors in paragraph (a);

25 (2) the similarity of the most recent previous violation
26 and the violation to be penalized;

27 (3) the time elapsed since the last violation;

28 (4) the number of previous violations; and

29 (5) the response of the person to the most recent previous
30 violation identified.

31 Subd. 3. [CORRECTIVE ORDER.] (a) The commissioner may
32 issue an order requiring the violations cited in the order to be
33 corrected within the time period specified in the order.

34 Corrective orders may require repair, restoration, replacement,
35 and monetary restitution as determined by the commissioner.

36 (b) The person to whom the order was issued shall provide

1 information to the commissioner before the 31st day after the
2 order was received demonstrating that the violation has been
3 corrected or that the person has developed a corrective plan.
4 The commissioner shall determine whether the violation has been
5 corrected or whether the corrective plan is acceptable and
6 notify the person to whom the order was issued of the
7 commissioner's determination.

8 Subd. 4. [PENALTY.] (a) Except as provided in paragraph
9 (c), if the commissioner determines that the violation has been
10 corrected or the person to whom the order was issued has
11 developed a corrective plan acceptable to the commissioner, the
12 monetary penalty may be forgiven in whole or in part.

13 (b) Unless the person requests review of the order under
14 subdivision 5 before the monetary penalty is due, the penalty in
15 the order is due and payable on the 31st day after the order was
16 received.

17 (c) For repeated or serious violations, the commissioner
18 may issue an order with a monetary penalty that shall not be
19 forgiven after the corrective action is taken.

20 (d) Interest at the rate established in section 549.09
21 begins to accrue on penalties under this subdivision on the 31st
22 day after the order with the penalty was received.

23 Subd. 5. [EXPEDITED ADMINISTRATIVE HEARING.] (a) Within 30
24 days after receiving an order, the person to whom the order was
25 issued may request an expedited hearing, using the procedures
26 adopted under section 14.51, to review the commissioner's
27 action. The hearing request must specifically state the reasons
28 for seeking review of the order. The person to whom the order
29 was issued and the commissioner are the parties to the expedited
30 hearing. The commissioner must notify the person to whom the
31 order was issued of the time and place of the hearing at least
32 15 days before the hearing. The expedited hearing must be held
33 within 30 days after a request for hearing has been filed with
34 the commissioner unless the parties agree to a later date.

35 (b) All written arguments must be submitted within ten days
36 following the close of the hearing. The hearing shall be

1 conducted according to rules adopted under section 14.51, as
2 modified by this subdivision. The Office of Administrative
3 Hearings may, in consultation with the commissioner of natural
4 resources, adopt rules specifically applicable to cases under
5 this section.

6 (c) The administrative law judge shall issue a report
7 making recommendations about the commissioner's action to the
8 commissioner within 30 days following the close of the record.
9 The administrative law judge may not recommend a change in the
10 amount of the proposed penalty or corrective order unless the
11 administrative law judge determines that, based on the factors
12 in subdivision 2, the monetary penalty or corrective order is
13 unreasonable.

14 (d) If the administrative law judge makes a finding that
15 the hearing was requested solely for purposes of delay or that
16 the hearing request was frivolous, the commissioner may add to
17 the amount of the penalty the costs charged to the Department of
18 Natural Resources by the Office of Administrative Hearings for
19 the hearing.

20 (e) If the administrative law judge issues a report that
21 recommends dismissal of the order assessing the administrative
22 penalty, the commissioner must refund the costs charged to the
23 person receiving the order, by the Office of Administrative
24 Hearings for the hearing and reasonable and necessary attorney
25 fees incurred for the hearing. For purposes of this paragraph,
26 the administrative law judge may recommend attorney fees to be
27 refunded, not to exceed the amount of the penalty order.

28 (f) If a hearing has been held, the commissioner may not
29 issue a final order until at least five days after receipt of
30 the report of the administrative law judge. The person to whom
31 the order was issued may, within those five days, comment to the
32 commissioner on the recommendations and the commissioner must
33 consider the comments. The final order may be appealed
34 according to sections 14.63 to 14.69.

35 (g) If a hearing has been held and a final order issued by
36 the commissioner, the penalty must be paid within 30 days after

1 the date the final order is received and the corrective action
2 must be completed within the time period specified by the final
3 order, unless review of the final order is requested under
4 sections 14.63 to 14.69. If review is not requested or the
5 order is reviewed and upheld, the amount due is the penalty,
6 together with interest accruing from 31 days after the original
7 order was received at the rate established in section 549.09.

8 Subd. 6. [ALTERNATIVE DISPUTE RESOLUTION.] In addition to
9 review under subdivision 5, the commissioner may enter into
10 mediation or other alternative dispute resolution concerning an
11 order issued under this section if the commissioner and the
12 person to whom the order was issued both agree to mediation or
13 other alternative dispute resolution.

14 Subd. 7. [ENFORCEMENT.] (a) The attorney general may
15 proceed on behalf of the state to enforce penalties that are due
16 and payable under this section in any manner provided by law for
17 the collection of debts.

18 (b) The attorney general may petition the district court to
19 file the administrative order as an order of the court. At any
20 court hearing, the only issues parties may contest are
21 procedural and notice issues. Once entered, the administrative
22 order may be enforced in the same manner as a final judgment of
23 the district court.

24 (c) If a person fails to pay the penalty or comply with a
25 corrective order, the attorney general may bring a civil action
26 in district court seeking payment of the penalties, injunctive
27 relief, or other appropriate relief including monetary damages,
28 attorney fees, costs, and interest.

29 Subd. 8. [REVOCAION AND SUSPENSION OF PERMIT, LICENSE, OR
30 REGISTRATION.] If a person fails to pay a penalty owed under
31 this section, the commissioner may revoke or refuse to reissue
32 or renew a permit, license, or registration issued by the
33 commissioner.

34 Subd. 9. [CUMULATIVE REMEDY.] The authority of the
35 commissioner to issue a corrective order assessing penalties is
36 in addition to other remedies available under statutory or

1 common law, except that the state may not seek civil penalties
2 under any other provision of law for the violations covered by
3 the administrative penalty order. The payment of a penalty does
4 not preclude the use of other enforcement provisions, under
5 which penalties are not assessed, in connection with the
6 violation for which the penalty was assessed.

7 Sec. 3. [103G.254] [RECOVERY OF LITIGATION COSTS AND
8 EXPENSES.]

9 In any judicial action brought by the attorney general for
10 civil penalties, injunctive relief, or an action to compel
11 performance under section 103G.253, if the state finally
12 prevails and if the proven violation was willful, the state, in
13 addition to other penalties provided by law, may be allowed an
14 amount determined by the court to be the reasonable value of all
15 or part of the litigation expenses incurred by the state. In
16 determining the amount of the litigation expenses to be allowed,
17 the court shall give consideration to the economic circumstances
18 of the defendant.

19 Sec. 4. [IMPLEMENTATION PLAN; RULEMAKING EXEMPTION.]

20 The commissioner of natural resources shall prepare a plan
21 to implement the administrative penalty order according to
22 sections 1 to 3. The commissioner shall provide a 30-day period
23 for public comment on the plan. The plan must be finalized by
24 December 31, 2005. The plan is exempt from the rulemaking
25 procedures under Minnesota Statutes, chapter 14, and Minnesota
26 Statutes, section 14.386, does not apply.



Department of Natural Resources Fact Sheet



ENFORCEMENT SAFETY TRAINING PROGRAMS BILL

HF 215/SF 569

Summary

This bill will:

- (1) Authorize the commissioner to run comprehensive criminal history background checks on volunteer instructors who work with children.
- (2) Clarify that youth may use any size ATV for the riding component of the all-terrain vehicle (ATV) training course.
- (3) Make technical changes to the firearms safety certification provisions relating to the requirement to adopt rules on course content and to hold classes in certain locations.
- (4) Clarify that a previous hunting license used to demonstrate that the holder had completed a training course needs to include a firearms safety training indicator.
- (5) Clarify that 11 year olds can obtain hunting licenses after completing a firearms safety course, but the license and certificate are not valid for hunting until the person reaches age 12.
- (6) Authorize charitable gambling funds to be utilized by youth and adult safety training and education programs of the Department of Natural Resources.

It is needed because

- (1) **Running comprehensive criminal history background checks on volunteer instructors** who work with children is necessary to determine that volunteer instructors are not inappropriately working with children and adults in our education programs, and reflects direction under the Child Protection Act.

Background: Up until 1999, we had been doing comprehensive record checks for volunteer instructors working with children. At that time, we discovered we did not have clear statutory authority to run that level of check, and are currently doing public information criminal history checks only. Our goal is to conduct a quality background check on every volunteer

instructor applicant, that is done efficiently and at an affordable price. The change will allow us to run the checks using our BCA/CJIS terminal and certified operators without a fee. BCA/CJIS staff worked with us on language and support us in this initiative.

- (2) **The ATV training program** requirement changes **will allow any size ATV to be used for the riding component** of the class, as long as the person fits the machine. The person completing the class may continue to operate any size ATV that lawfully fits them.

Background: When implementing the new riding component test into the ATV safety training program, it was determined that the size limitation of the ATV was not necessary and would allow better program flexibility if it were removed from statute. This change was included in DNR's OHV bill in 2004 that was generally accepted by the legislature, but was not passed into law in 2004.

- (3) **The requirement to adopt rules for firearms safety course content** is being repealed because sufficient direction for course content already exists in statute.

Background: Rules have not been adopted to date. The firearms safety program has successfully been in place for over 50 years, and course content across the country is reasonably standardized.

The requirement to hold a firearms safety class in each school district and to appoint a county director for the program is antiquated and no longer needed.

Background: We have hundreds of instructors in each of the programs, and current personal transportation seems to have made this provision unnecessary.

(continued)

- (4) **Unlawfully obtaining a hunting license without a firearms safety certification** does not pre-empt the requirement for the safety training.

Background: There have been instances where persons who have unlawfully obtained a hunting license without first completing the required safety training course have argued/tried to use that unlawfully obtained license to replace the training requirement to obtain all future hunting licenses. The change in this bill will clarify that a previous hunting license used to demonstrate the successful completion of the mandated training class needs to include a training completion indicator on it – Minnesota and many states are going to this format of license. As of December 2004, there are fewer than 700 unmatched hunter license records to training records that would be impacted by this clarification. There is an on-line course available to adults in addition to the traditional youth classroom format course.

- (5) **Firearms safety certificates are not valid for hunting until the person reaches age 12.**

These changes will clarify that an 11 year old can purchase a license after completing a firearms safety training course, but the license and certificate are not valid for hunting until they reach age 12.

Background: It was determined this fall that the 2004 legislative changes allowing the issuance of a temporary certificate to a person that was 11 years of age needed to be clarified that a license could be obtained, but was not valid until the person reaches age 12.

- (6) **Charitable gambling funds could be utilized by youth and adult DNR training and education programs.** These funds could help provide valuable class and program materials for our educational programs.

Background: Utilization of these funds is already specifically allowed for DNR wildlife management areas and ATV trails. Other youth programs and opportunities similarly currently benefit from charitable gambling funds. The key difference in this proposal is that DNR's

Enforcement Division (a law enforcement agency) would be able to utilize these funds in our programs. DNR is not responsible for enforcing gambling laws, and there should not be a conflict of interest. Gambling Control Board staff worked with us on language and supports us in this initiative.

Financial implications (if appropriate)

The changes in this bill would allow us to appropriately maximize available staff and material resources.

For further information contact:

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DNR Division of Enforcement
(651) 296-4828
mike.hamm@dnr.state.mn.us

Pat Watts, Policy/Legal Analyst
DNR Division of Enforcement
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Senators Chaudhary, Saxhaug, Olson, Marty and Pariseau introduced--

S.F. No. 569: Referred to the Committee on Environment and Natural Resources.

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A bill for an act

relating to natural resources; modifying safety training provisions; providing for certain background checks; amending Minnesota Statutes 2004, sections 84.027, by adding a subdivision; 84.9256, subdivision 1; 97B.015, subdivisions 1, 2, 5; 97B.020; 349.12, subdivision 25.

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

Section 1. Minnesota Statutes 2004, section 84.027, is amended by adding a subdivision to read:

Subd. 17. [BACKGROUND CHECKS FOR VOLUNTEER

INSTRUCTORS.] (a) The commissioner may conduct background checks for volunteer instructor applicants for department safety training and education programs, including the programs established under sections 84.791 (youth off-highway motorcycle safety education and training), 84.86 and 84.862 (youth and adult snowmobile safety training), 84.925 (youth all-terrain vehicle safety education and training), 97B.015 (youth firearms safety training), and 97B.025 (hunter and trapper education and training).

(b) The commissioner shall perform the background check by retrieving criminal history data maintained in the criminal justice information system (CJIS) and other data sources. If the volunteer instructor has resided in Minnesota for less than ten years, the commissioner may conduct a search of the national criminal records repository or the criminal justice data

1 communications network records in the state or states where the
2 applicant has resided for the preceding ten years. The
3 commissioner may exchange fingerprints with the Federal Bureau
4 of Investigation for the purposes of the criminal history check.

5 (c) The commissioner shall develop a standardized form to
6 be used for requesting a background check, which must include:

7 (1) a notification to the applicant that the commissioner
8 will conduct a background check under this section;

9 (2) a notification to the applicant of the applicant's
10 rights under paragraph (d); and

11 (3) a signed consent by the applicant to conduct the
12 background check.

13 (d) The volunteer instructor applicant who is the subject
14 of a background check has the right to:

15 (1) be informed that the commissioner will request a
16 background check on the applicant;

17 (2) be informed by the commissioner of the results of the
18 background check and obtain a copy of the background check;

19 (3) obtain any record that forms the basis for the
20 background check and report;

21 (4) challenge the accuracy and completeness of the
22 information contained in the report or a record; and

23 (5) be informed by the commissioner if the applicant is
24 rejected because of the result of the background check.

25 Sec. 2. Minnesota Statutes 2004, section 84.9256,
26 subdivision 1, is amended to read:

27 Subdivision 1. [PROHIBITIONS ON YOUTHFUL OPERATORS.] (a)

28 Except for operation on public road rights-of-way that is
29 permitted under section 84.928, a driver's license issued by the
30 state or another state is required to operate an all-terrain
31 vehicle along or on a public road right-of-way.

32 (b) A person under 12 years of age shall not:

33 (1) make a direct crossing of a public road right-of-way;

34 (2) operate an all-terrain vehicle on a public road
35 right-of-way in the state; or

36 (3) operate an all-terrain vehicle on public lands or

1 waters.

2 (c) Except for public road rights-of-way of interstate
3 highways, a person 12 years of age but less than 16 years may
4 make a direct crossing of a public road right-of-way of a trunk,
5 county state-aid, or county highway or operate on public lands
6 and waters, only if that person possesses a valid all-terrain
7 vehicle safety certificate issued by the commissioner and is
8 accompanied on another all-terrain vehicle by a person 18 years
9 of age or older who holds a valid driver's license.

10 (d) All-terrain vehicle safety certificates issued by the
11 commissioner to persons 12 years old, but less than 16 years
12 old, are not valid for machines in excess of 90cc engine
13 capacity unless:

14 (1) the person successfully completed the safety education
15 and training program under section 84.925, subdivision 1,
16 including a riding component; and

17 ~~(2) the riding component of the training was conducted~~
18 ~~using an all-terrain vehicle with over 90cc engine capacity; and~~

19 (3) the person is able to properly reach and control the
20 handle bars and reach the foot pegs while sitting upright on the
21 seat of the all-terrain vehicle.

22 Sec. 3. Minnesota Statutes 2004, section 97B.015,
23 subdivision 1, is amended to read:

4 Subdivision 1. [ESTABLISHMENT.] The commissioner shall
5 ~~make rules establishing~~ establish a statewide course in the safe
6 use of firearms and identification of wild mammals and
7 birds. ~~At least one course must be held within the boundary of~~
8 ~~each school district.~~ *A course may be held in a school district* The courses must be conducted by the
9 commissioner in cooperation with other organizations. The
10 courses must instruct youths in commonly accepted principles of
11 safety in hunting and handling common hunting firearms and
12 identification of various species of wild mammals and birds by
13 sight and other unique characteristics.

4 Sec. 4. Minnesota Statutes 2004, section 97B.015,
5 subdivision 2, is amended to read:

6 Subd. 2. [ADMINISTRATION, SUPERVISION, AND ENFORCEMENT.]

1 (a) The commissioner shall appoint a qualified person from the
2 Enforcement Division under civil service rules as supervisor of
3 hunting safety and prescribe the duties and responsibilities of
4 the position. The commissioner shall determine and provide the
5 Enforcement Division with the necessary personnel for this
6 section.

7 ~~(b) The commissioner may appoint one or more county~~
8 ~~directors of hunting safety in each county. An appointed county~~
9 ~~director is responsible to the Enforcement Division. The~~
10 Enforcement Division may appoint instructors necessary for this
11 section. ~~County directors and~~ Instructors shall serve on a
12 voluntary basis without compensation. The Enforcement Division
13 must supply the materials necessary for the course. School
14 districts may cooperate with the commissioner and volunteer
15 instructors to provide space for the classroom portion of the
16 training.

17 Sec. 5. Minnesota Statutes 2004, section 97B.015,
18 subdivision 5, is amended to read:

19 Subd. 5. [FIREARMS SAFETY CERTIFICATE.] The commissioner
20 shall issue a firearms safety certificate to a person that
21 satisfactorily completes the required course of instruction. A
22 person must be at least age 11 to take the firearms safety
23 course and may receive a firearms safety certificate, but the
24 certificate is not valid for hunting until the person ~~is at~~
25 least reaches age 12. A person who is age 11 and has a firearms
26 safety certificate may purchase a deer, bear, turkey, or prairie
27 chicken license that will become valid when the person reaches
28 age 12. A firearms safety certificate issued to a person under
29 age 12 by another state as provided in section 97B.020 is not
30 valid for hunting in Minnesota until the person reaches age 12.
31 The form and content of the firearms safety certificate shall be
32 prescribed by the commissioner.

33 Sec. 6. Minnesota Statutes 2004, section 97B.020, is
34 amended to read:

35 97B.020 [FIREARMS SAFETY CERTIFICATE REQUIRED.]

36 (a) Except as provided in this section and section 97A.451,

1 subdivision 3a, a person born after December 31, 1979, may not
2 obtain an annual license to take wild animals by firearms unless
3 the person has:

4 (1) a firearms safety certificate or equivalent
5 certificate;

6 (2) a driver's license or identification card with a valid
7 firearms safety qualification indicator issued under section
8 171.07, subdivision 13;

9 (3) a previous hunting license with a valid firearms
10 safety qualification indicator; or

11 (4) other evidence indicating that the person has completed
12 in this state or in another state a hunter safety course
13 recognized by the department under a reciprocity agreement or
14 certified by the department as substantially similar.

15 (b) A person who is on active duty and has successfully
16 completed basic training in the United States armed forces,
17 reserve component, or National Guard may obtain a hunting
18 license or approval authorizing hunting regardless of whether
19 the person is issued a firearms safety certificate.

20 ~~(b)~~ (c) A person born after December 31, 1979, may not use
21 a lifetime license to take wild animals by firearms, unless the
22 person meets the requirements for obtaining an annual license
23 under paragraph (a) or (b).

24 Sec. 7. Minnesota Statutes 2004, section 349.12,
25 subdivision 25, is amended to read:

26 Subd. 25. [LAWFUL PURPOSE.] (a) "Lawful purpose" means one
27 or more of the following:

28 (1) any expenditure by or contribution to a 501(c)(3) or
29 festival organization, as defined in subdivision 15a, provided
30 that the organization and expenditure or contribution are in
31 conformity with standards prescribed by the board under section
32 349.154, which standards must apply to both types of
33 organizations in the same manner and to the same extent;

34 (2) a contribution to an individual or family suffering
35 from poverty, homelessness, or physical or mental disability,
36 which is used to relieve the effects of that poverty,

1 homelessness, or disability;

2 (3) a contribution to an individual for treatment for
3 delayed posttraumatic stress syndrome or a contribution to a
4 program recognized by the Minnesota Department of Human Services
5 for the education, prevention, or treatment of compulsive
6 gambling;

7 (4) a contribution to or expenditure on a public or private
8 nonprofit educational institution registered with or accredited
9 by this state or any other state;

10 (5) a contribution to a scholarship fund for defraying the
11 cost of education to individuals where the funds are awarded
12 through an open and fair selection process;

13 (6) activities by an organization or a government entity
14 which recognize humanitarian or military service to the United
15 States, the state of Minnesota, or a community, subject to rules
16 of the board, provided that the rules must not include mileage
17 reimbursements in the computation of the per diem reimbursement
18 limit and must impose no aggregate annual limit on the amount of
19 reasonable and necessary expenditures made to support:

20 (i) members of a military marching or color guard unit for
21 activities conducted within the state;

22 (ii) members of an organization solely for services
23 performed by the members at funeral services; or

24 (iii) members of military marching, color guard, or honor
25 guard units may be reimbursed for participating in color guard,
26 honor guard, or marching unit events within the state or states
27 contiguous to Minnesota at a per participant rate of up to \$35
28 per diem;

29 (7) recreational, community, and athletic facilities and
30 activities intended primarily for persons under age 21, provided
31 that such facilities and activities do not discriminate on the
32 basis of gender and the organization complies with section
33 349.154;

34 (8) payment of local taxes authorized under this chapter,
35 taxes imposed by the United States on receipts from lawful
36 gambling, the taxes imposed by section 297E.02, subdivisions 1,

1 4, 5, and 6, and the tax imposed on unrelated business income by
2 section 290.05, subdivision 3;

3 (9) payment of real estate taxes and assessments on
4 permitted gambling premises wholly owned by the licensed
5 organization paying the taxes, or wholly leased by a licensed
6 veterans organization under a national charter recognized under
7 section 501(c)(19) of the Internal Revenue Code, not to exceed:

8 (i) for premises used for bingo, the amount that an
9 organization may expend under board rules on rent for bingo; and

10 (ii) \$35,000 per year for premises used for other forms of
11 lawful gambling;

12 (10) a contribution to the United States, this state or any
13 of its political subdivisions, or any agency or instrumentality
14 thereof other than a direct contribution to a law enforcement or
15 prosecutorial agency;

16 (11) a contribution to or expenditure by a nonprofit
17 organization which is a church or body of communicants gathered
18 in common membership for mutual support and edification in
19 piety, worship, or religious observances;

20 (12) payment of the reasonable costs of an audit required
21 in section 297E.06, subdivision 4, provided the annual audit is
22 filed in a timely manner with the Department of Revenue;

23 (13) a contribution to or expenditure on a wildlife
24 management project that benefits the public at-large, provided
25 that the state agency with authority over that wildlife
26 management project approves the project before the contribution
27 or expenditure is made;

28 (14) expenditures, approved by the commissioner of natural
29 resources, by an organization for grooming and maintaining
30 snowmobile trails and all-terrain vehicle trails that are (1)
31 grant-in-aid trails established under section 85.019, or (2)
32 other trails open to public use, including purchase or lease of
33 equipment for this purpose;

34 (15) conducting nutritional programs, food shelves, and
35 congregate dining programs primarily for persons who are age 62
36 or older or disabled;

1 (16) a contribution to a community arts organization, or an
2 expenditure to sponsor arts programs in the community, including
3 but not limited to visual, literary, performing, or musical
4 arts;

5 (17) an expenditure by a licensed veterans organization for
6 payment of water, fuel for heating, electricity, and sewer costs
7 for a building wholly owned or wholly leased by and used as the
8 primary headquarters of the licensed veterans organization;

9 (18) expenditure by a licensed veterans organization of up
10 to \$5,000 in a calendar year in net costs to the organization
11 for meals and other membership events, limited to members and
12 spouses, held in recognition of military service. No more than
13 \$5,000 can be expended in total per calendar year under this
14 clause by all licensed veterans organizations sharing the same
15 veterans post home; or

16 (19) payment of fees authorized under this chapter imposed
17 by the state of Minnesota to conduct lawful gambling in
18 Minnesota; or

19 (20) a contribution to or expenditure for Department of
20 Natural Resources youth and adult safety training programs,
21 including those coordinated by the Enforcement Division.

22 (b) Notwithstanding paragraph (a), "lawful purpose" does
23 not include:

24 (1) any expenditure made or incurred for the purpose of
25 influencing the nomination or election of a candidate for public
26 office or for the purpose of promoting or defeating a ballot
27 question;

28 (2) any activity intended to influence an election or a
29 governmental decision-making process;

30 (3) the erection, acquisition, improvement, expansion,
31 repair, or maintenance of real property or capital assets owned
32 or leased by an organization, unless the board has first
33 specifically authorized the expenditures after finding that (i)
34 the real property or capital assets will be used exclusively for
35 one or more of the purposes in paragraph (a); (ii) with respect
36 to expenditures for repair or maintenance only, that the

1 property is or will be used extensively as a meeting place or
2 event location by other nonprofit organizations or community or
3 service groups and that no rental fee is charged for the use;
4 (iii) with respect to expenditures, including a mortgage payment
5 or other debt service payment, for erection or acquisition only,
6 that the erection or acquisition is necessary to replace with a
7 comparable building, a building owned by the organization and
8 destroyed or made uninhabitable by fire or natural disaster,
9 provided that the expenditure may be only for that part of the
10 replacement cost not reimbursed by insurance; (iv) with respect
11 to expenditures, including a mortgage payment or other debt
12 service payment, for erection or acquisition only, that the
13 erection or acquisition is necessary to replace with a
14 comparable building a building owned by the organization that
15 was acquired from the organization by eminent domain or sold by
16 the organization to a purchaser that the organization reasonably
17 believed would otherwise have acquired the building by eminent
18 domain, provided that the expenditure may be only for that part
19 of the replacement cost that exceeds the compensation received
20 by the organization for the building being replaced; or (v) with
21 respect to an expenditure to bring an existing building into
22 compliance with the Americans with Disabilities Act under item
23 (ii), an organization has the option to apply the amount of the
24 board-approved expenditure to the erection or acquisition of a
25 replacement building that is in compliance with the Americans
26 with Disabilities Act;

27 (4) an expenditure by an organization which is a
28 contribution to a parent organization, foundation, or affiliate
29 of the contributing organization, if the parent organization,
30 foundation, or affiliate has provided to the contributing
31 organization within one year of the contribution any money,
32 grants, property, or other thing of value;

33 (5) a contribution by a licensed organization to another
34 licensed organization unless the board has specifically
35 authorized the contribution. The board must authorize such a
36 contribution when requested to do so by the contributing

1 organization unless it makes an affirmative finding that the
2 contribution will not be used by the recipient organization for
3 one or more of the purposes in paragraph (a); or

4 (6) a contribution to a statutory or home rule charter
5 city, county, or town by a licensed organization with the
6 knowledge that the governmental unit intends to use the
7 contribution for a pension or retirement fund.

1 Senator moves to amend S.F. No. 569 as follows:

2 Page 1, line 23, delete "If"

3 Page 1, delete lines 24 to 26

4 Page 2, delete lines 1 to 4

5 Page 2, line 12, after "check" insert "expiring one year
6 from the date of signature"

7 Page 2, after line 24, insert:

8 "Sec. 2. Minnesota Statutes 2004, section 84.91,
9 subdivision 1, is amended to read:

10 Subdivision 1. [ACTS PROHIBITED.] (a) No owner or other
11 person having charge or control of any snowmobile or all-terrain
12 vehicle shall authorize or permit any individual the person
13 knows or has reason to believe is under the influence of alcohol
14 or a controlled substance or other substance to operate the
15 snowmobile or all-terrain vehicle anywhere in this state or on
16 the ice of any boundary water of this state.

17 (b) No owner or other person having charge or control of
18 any snowmobile or all-terrain vehicle shall knowingly authorize
19 or permit any person, who by reason of any physical or mental
20 disability is incapable of operating the vehicle, to operate the
21 snowmobile or all-terrain vehicle anywhere in this state or on
22 the ice of any boundary water of this state.

23 (c) A person who operates or is in physical control of a
24 snowmobile or all-terrain vehicle anywhere in this state or on
25 the ice of any boundary water of this state is subject to
26 chapter 169A. In addition to the applicable sanctions under
27 chapter 169A, a person who is convicted of violating section
28 169A.20 or an ordinance in conformity with it while operating a
29 snowmobile or all-terrain vehicle, or who refuses to comply with
30 a lawful request to submit to testing under sections 169A.50 to
31 169A.53 or an ordinance in conformity with it, shall be
32 prohibited from operating the snowmobile or all-terrain vehicle
33 for a period of one year. The commissioner shall notify the
34 person of the time period during which the person is prohibited
35 from operating a snowmobile or all-terrain vehicle.

36 (d) Administrative and judicial review of the operating

1 privileges prohibition is governed by section 97B.066,
2 subdivisions 7 to 9, if the person does not have a prior
3 impaired driving conviction or prior license revocation, as
4 defined in section 169A.03. Otherwise, administrative and
5 judicial review of the prohibition is governed by section
6 169A.53.

7 (e) The court shall promptly forward to the commissioner
8 and the Department of Public Safety copies of all convictions
9 and criminal and civil sanctions imposed under this section and
10 ~~chapter~~ chapters 169 and 169A relating to snowmobiles and
11 all-terrain vehicles.

12 (f) A person who violates paragraph (a) or (b), or an
13 ordinance in conformity with either of them, is guilty of a
14 misdemeanor. A person who operates a snowmobile or all-terrain
15 vehicle during the time period the person is prohibited from
16 operating a vehicle under paragraph (c) is guilty of a
17 misdemeanor."

18 Page 5, after line 23, insert:

19 "Sec. 8. Minnesota Statutes 2004, section 169A.63,
20 subdivision 6, is amended to read:

21 Subd. 6. [VEHICLE SUBJECT TO FORFEITURE.] (a) A motor
22 vehicle is subject to forfeiture under this section if it was
23 used in the commission of a designated offense or was used in
24 conduct resulting in a designated license revocation.

25 (b) Motorboats subject to seizure and forfeiture under this
26 section also include their trailers."

27 Page 7, line 23, strike "a wildlife"

28 Page 7, strike lines 24 to 33 and insert "projects or
29 activities approved by the commissioner of natural resources for:

30 (i) wildlife management projects that benefit the public at
31 large;

32 (ii) grant-in-aid trail maintenance and grooming
33 established under sections 84.83 and 84.927, and other trails
34 open to public use, including purchase or lease of equipment for
35 this purpose; or

36 (iii) supplies and materials for safety training and

1 educational programs coordinated by the Department of Natural
2 Resources, including the enforcement division;"

3 Page 7, line 34, delete "(15)" and insert "(14)"

4 Page 8, line 1, delete "(16)" and insert "(15)"

5 Page 8, line 5, delete "(17)" and insert "(16)"

6 Page 8, line 9, delete "(18)" and insert "(17)"

7 Page 8, line 15, reinstate the stricken "or"

8 Page 8, line 16, delete "(19)" and insert "(18)"

9 Page 8, line 18, delete "; or"

10 Page 8, lines 19 to 21, delete the new language

11 Renumber the sections in sequence and correct the internal
12 references

13 Amend the title accordingly

Chaudhary
Adopted

1 Senator..... moves to amend S.F. No. 569 as follows:

2 Page 5, after line 23, insert:

3 "Sec. 7. Minnesota Statutes 2004, section 171.07,
4 subdivision 13, is amended to read:

5 Subd. 13. [FIREARMS SAFETY DESIGNATION.] (a) When an
6 applicant has a record transmitted to the department as
7 described in paragraph (c) or presents:

8 (1) a firearms safety certificate issued for successfully
9 completing a firearms safety course administered under section
10 97B.015; or

11 (2) an advanced hunter certificate issue for successfully
12 completing an advanced hunter education course administered
13 under section 97B.025,

14 and requests a driver's license or identification card described
15 in paragraph (b), the department shall issue, renew, or reissue
16 to the applicant a driver's license or Minnesota identification
17 card described in paragraph (b).

18 (b) Pursuant to paragraph (a), the department shall issue a
19 driver's license or Minnesota identification card bearing a
20 graphic or written indication that the applicant has
21 successfully completed a firearms safety course administered
22 under section 97B.015, an advanced hunter education course
23 administered under section 97B.025, or both of the described
24 courses.

25 (c) The department shall maintain in its records
26 information transmitted electronically from the commissioner of
27 natural resources identifying each person to whom the
28 commissioner has issued a firearms safety certificate or an
29 advanced hunter education certificate. The records transmitted
30 from the Department of Natural Resources must contain the full
31 name and date of birth as required for the driver's license or
32 identification card. Records that are not matched to a driver's
33 license or identification card record may be deleted after seven
34 years."

35 Renumber the sections in sequence and correct the internal
36 references

1 Amend the title as follows:

2 Page 1, line 4, after the semicolon, insert "providing for
3 advanced hunter designation on driver's license or
4 identification card;"

5 Page 1, line 6, after the second semicolon, insert "171.07,
6 subdivision 13;"

Senators Frederickson, Dibble, Anderson, Kubly and Rosen introduced--
S.F. No. 956: Referred to the Committee on Environment and Natural Resources.

1

A bill for an act

2

relating to natural resources; modifying limit on
3 gifts to the public; modifying state park permit
4 provisions; providing for disposition of certain fees;
5 appropriating money; amending Minnesota Statutes 2004,
6 sections 84.027, subdivision 12; 85.052, subdivision
7 4; 85.055, subdivision 2, by adding a subdivision;
8 repealing Minnesota Statutes 2004, section 85.054,
9 subdivision 1.

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

11 Section 1. Minnesota Statutes 2004, section 84.027,
12 subdivision 12, is amended to read:

13 Subd. 12. [PROPERTY DISPOSAL; GIFT ACKNOWLEDGMENT;
14 ADVERTISING SALES.] (a) The commissioner may give away to
15 members of the public items with a value of less than ~~\$10~~ \$50
16 that are intended to promote conservation of natural resources
17 or create awareness of the state and its resources or natural
18 resource management programs. The total value of items given to
19 the public under this paragraph may not exceed \$25,000 per year.

20 (b) The commissioner may recognize the contribution of
21 money or in-kind services on plaques, signs, publications,
22 audio-visual materials, and media advertisements by allowing the
23 organization's contribution to be acknowledged in print of
24 readable size.

25 (c) The commissioner may accept paid advertising for
26 departmental publications. Advertising revenues received are
27 appropriated to the commissioner to be used to defray costs of

1 publications, media productions, or other informational
2 materials. The commissioner may not accept paid advertising
3 from any elected official or candidate for elective office.

4 Sec. 2. Minnesota Statutes 2004, section 85.052,
5 subdivision 4, is amended to read:

6 Subd. 4. [DEPOSIT OF FEES.] (a) Fees paid for providing
7 contracted products and services within a state park, state
8 recreation area, or wayside, and for special state park uses
9 under this section shall be deposited in the natural resources
10 fund and credited to a state parks account. Money in the
11 account is annually appropriated to the commissioner to operate
12 and maintain the state park system.

13 (b) Gross receipts derived from sales, rentals, or leases
14 of natural resources within state parks, recreation areas, and
15 waysides, other than those on trust fund lands, must be
16 deposited in the state treasury and credited to the general fund.

17 Sec. 3. Minnesota Statutes 2004, section 85.055, is
18 amended by adding a subdivision to read:

19 Subd. 1b. [DISCOUNTS.] Except as otherwise specified in
20 law, and notwithstanding section 16A.1285, subdivision 2, the
21 commissioner may by written order authorize waiver or reduction
22 of state park entrance fees.

23 Sec. 4. Minnesota Statutes 2004, section 85.055,
24 subdivision 2, is amended to read:

25 Subd. 2. [FEE DEPOSIT AND APPROPRIATION.] The fees
26 collected under this section shall be deposited in the natural
27 resources fund and credited to a state parks account. Money in
28 the account is annually appropriated to the commissioner to
29 operate and maintain the state park system.

30 Sec. 5. [REPEALER.]

31 Minnesota Statutes 2004, section 85.054, subdivision 1, is
32 repealed.

APPENDIX
Repealed Minnesota Statutes for 05-0091

85.054 STATE PARK PERMIT EXEMPTIONS.

Subdivision 1. State Park Open House Day. (a) A state park permit is not required for a motor vehicle to enter a state park, state monument, state recreation area, or state wayside, on one day each calendar year, which the commissioner may designate as State Park Open House Day. The commissioner may designate two consecutive days as State Park Open House Day, if the open house is held in conjunction with a special pageant described in section 85.052, subdivision 2.

(b) The commissioner shall announce the date of state park open house day at least 30 days in advance of the date it occurs.

(c) The state park open house day is to acquaint the public with state parks, recreation areas, and waysides.

1 Senator moves to amend S.F. No. 956 as follows:

2 Page 2, after line 16, insert:

3 "Sec. 3. Minnesota Statutes 2004, section 85.054,
4 subdivision 1, is amended to read:

5 Subdivision 1. [STATE PARK OPEN HOUSE DAY.] (a) A state
6 park permit is not required for a motor vehicle to enter a state
7 park, state monument, state recreation area, or state wayside,
8 on one day each calendar year at each park, which the
9 commissioner may designate as State Park Open House Day. The
10 commissioner may designate two consecutive days as State Park
11 Open House Day, if the open house is held in conjunction with a
12 special pageant described in section 85.052, subdivision 2.

13 (b) The commissioner shall announce the date of each state
14 park open house day at least 30 days in advance of the date it
15 occurs.

16 (c) The state park open house day is to acquaint the
17 public with state parks, recreation areas, and waysides."

18 Page 2, delete section 5

19 Renumber the sections in sequence and correct the internal
20 references

21 Amend the title accordingly



PARKS & TRAILS COUNCIL OF MINNESOTA

State Parks, Trails and Minnesota's Tourism Economy Fact Sheet

February 2005

Tourism is Key in Minnesota

Minnesota tourism is stronger than it has been in the past four years, gradually improving as consumer confidence grows. Tourism has become a major economic activity in Minnesota. The Travel Industry Association of America is projecting continued slow but steady growth for U.S. travel in both 2005 and 2006 (2% each year).

Travel and tourism in Minnesota generates \$9.2 billion in gross receipts/sales and contributes \$1 billion in state and local tax revenue.

87% of travel in Minnesota is for pleasure and 13% for business, with over 1/2 of Minnesota travel in the

spring/summer (Apr.-Aug.), about 1/4 during the fall (Sept.-Nov.) and nearly 1/4 during the winter (Dec.-March).

Recent results from a Minnesota scenic byway survey found that travelers are attracted by: natural scenery (92 percent); historic sites (68 percent); being off the beaten path (61 percent); parks (56 percent); small towns (47 percent); festivals (39 percent) new routes (23 percent) and arts (22 percent). Bike trails stood out among a variety of attractors to scenic travel routes.

State Parks and Trails Contribute to Minnesota's Tourism Economy

Minnesota's State Park system includes 67 state parks and 6 recreation areas, 8 waysides totaling more than 244,000 acres.

In 2000, Minnesota State Parks served 8.5 million visitors. State Parks generate \$200 million in economic activity annually.

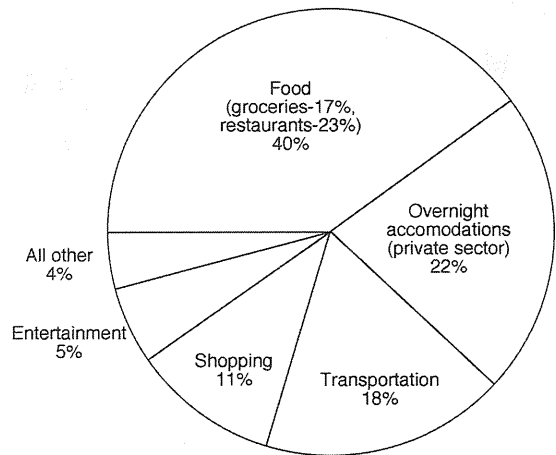
Many top activities enjoyed by travelers – enjoying the great outdoors, exploring our natural and cultural heritage, camping, fishing – can be found in Minnesota's state parks.

Out-of-state and international travelers make up 16% of the use and contribute \$34 million in new money to the economy. Metro residents contribute 36% of all state park visits. 33% of all Minnesotans visit state parks.

- over -

2001 Trip-Related Spending of MN State Park Visitors

Total annual spending = \$177.8 million
(excludes payments to MN State Parks and any other government agency)



PEOPLE SAVING MINNESOTA'S SPECIAL PLACES

PARKS & TRAILS COUNCIL OF MINNESOTA

275 E. 4TH STREET; SUITE #642; ST. PAUL, MN 55101-1651

651-726-2457 OR 1-800-944-0707 FAX: 651-726-2458 WWW.PARKSANDTRAILS.ORG

Minnesota's State Trail system includes 24 legislatively authorized trails, (18 are open for public use). There are over 400 miles of paved trails. Many state authorized trails are in varying stages of completion. In addition, many communities have local trail systems, which complement the state trail system and link communities to state parks and trails.

Minnesota's State Trails are an important tourism draw in regions where trails are fully developed. Community revitalization is clearly evident in southeastern Minnesota as a result of the Root River Trail, and just as evident along the Paul Bunyan Trail.

- Biking is the third most popular vacation activity in the United States. Minnesota leads the nation with more paved bikeways than any other state.
- Minnesota's State Trails contribute \$5 million annually to Minnesota's tourism economy between Memorial Day and Labor Day.
- Communities with trails can expect to generate between \$300,000 to \$1.5 million of economic activity between Memorial Day and Labor Day.
- Trails enhance property values, provide business opportunities and contribute to community pride.



Fall biking along a Minnesota state trail. Photo by Explore Minnesota.

Minnesota Tourism At a Glance:

- Tourism generates \$9.2 billion in gross receipts/sales.
- Tourism contributes \$1 billion in state and local tax revenue.
- Minnesota tourism generates over \$24 million in gross receipts/sales per day.
- Tourism diversifies the Minnesota economy and expands economic activity by bringing new money into state and local communities.
- Tourism is one of the main activities in rural Minnesota.
- Tourism is a key sector of Minnesota's economy, comparable to agriculture in its contributions to the gross state product.
- The top activities for travelers in Minnesota include:
 - Scenic touring 48%
 - Shopping 37%
 - Fishing 36%
 - Visiting friends/family 33%
 - Visiting state/national parks 22%

*Minnesota State Park Visitor Spending**
Per Person per Day or Night

Person visiting park and returning home that day spends:	\$15.33
Person visiting park while on a trip away from home spends:	\$42.41
State park camper spends:	\$30.77

*In 2004 dollars inflated using the CPI-U for 2001 to 2004 (=1.067).

Sources:
 "Contributions of the Minnesota State Park System to State and Regional Economies," prepared by the Minnesota Dept. of Natural Resources OMBS, August 2002.
www.exploreminnesota.com

For more information, contact the Parks & Trails Council at 651-726-2457.



PARKS & TRAILS COUNCIL OF MINNESOTA

State Parks & Trails Budget Fact Sheet

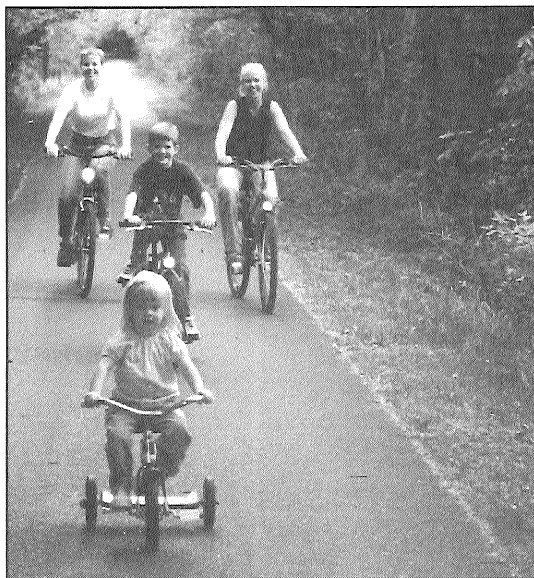
February 2005

Where We Are Today

State Park budgets have been reduced 38% in the last four years; state trail budgets are below 1995 levels. It's not enough to keep our parks and trails adequately maintained and open for use.

Conservation and natural resources are receiving a smaller and smaller piece of the overall state budget. In FY 2003, environment received 1.35% of all general fund spending – the lowest level since 1982. Of the total state budget (all funds), the environment received only 2.4% of the budget – the lowest level since 1988.

General Fund spending for environment, natural resource and agricultural programs has fallen 37% between 2001 and 2005 for environment, natural resource and agricultural programs, from \$228 M in 2001 to \$143 M in 2005 - a cut of \$85 million, without accounting for inflation. In real dollars, total expenditures for the environment are now less than they were in 1999.



Family biking on the Cannon Valley Trail.

Governor's Budget at a Glance

- No budget reductions to the general fund appropriations for state parks and trails and metro parks and trails.
- Lottery-in-lieu funding is increased according to increases in lottery-in-lieu revenue (sales tax charged on lottery tickets).
- Visitor services, seasonal naturalists and routine maintenance are not restored.
- Trail funding will not keep pace with the demand for new trail mileage.
- Additional visitor service reductions in 2007 are likely as a result of inflation.

Parks & Trails Position

- Parks & Trails supports the Governor's budget proposal to hold the line on additional general fund budget reductions to the state park and trail system;
- Parks & Trails supports restoring funding for state park visitor services and state trail community assistance;
- Parks & Trails will consider new fee and revenue raising opportunities so long as new fees and revenues are used to supplement the existing general fund appropriation and not used to offset additional general fund budget reductions.

- over -



Old growth pines at Bear Head Lake State Park

PEOPLE SAVING MINNESOTA'S SPECIAL PLACES

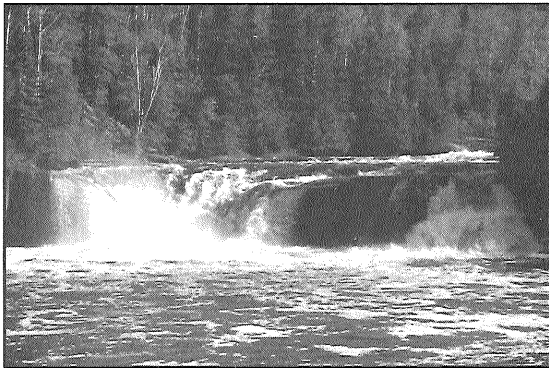
PARKS & TRAILS COUNCIL OF MINNESOTA
275 E. 4TH STREET; SUITE #642; ST. PAUL, MN 55101-1651
651-726-2457 OR 1-800-944-0707 FAX: 651-726-2458 WWW.PARKSANDTRAILS.ORG

What We Have Lost

Governor Pawlenty's budget proposal for 2006-7 holds state park and trail budgets steady for the next two years, but does not fund inflation. The budget proposal also recommends giving the DNR flexibility on fees in order to link state park revenues to spending and to operate in a more business-like manner. However, nothing in the budget makes up for the significant loss of visitor services over the past four years.

Since 2001, the impacts of budget reductions to our state parks and trails have been dramatic. They include:

- Eliminated all seasonal naturalist programming in parks, reduced full time naturalists to 10 parks;
- Reduced park contact station and visitor center hours even during peak tourist season;
- Reduced or eliminated camping in 15 parks in the spring/fall season;
- Delayed routine maintenance on buildings and facilities;
- Delayed routine trail repair and maintenance;
- Reduced trail planning assistance at a time when communities are looking to expand their trails.



Top: Middle Falls of the Pigeon River in Grand Portage State Park.

Below: Hiking at Split Rock Lighthouse State Park.

Health Benefits of State Parks and Trails

Minnesota's parks and trails contribute to healthy citizens.

- Physical inactivity is costing Minnesota nearly \$500 million dollars each year. That's the equivalent of a \$100 annual tax on every man, woman and child living in Minnesota.
- Health care experts and recent national studies recognize trails as a real solution to the long-term health care costs associated with physical inactivity by providing opportunities for increased physical activity within local communities.
- Providing parks, trails and open space is a solution to growing health care costs.

Tourism Benefits of State Parks and Trails

Minnesota's parks and trails are the backbone of Minnesota's \$9 billion tourism industry.

- Tourism generates \$1 billion in state and local tax revenue.
- Tourism is comparable to agriculture in its contributions to gross state product.
- Outdoor recreation contributes 2.3% of Minnesota's gross state product.
- Visiting state parks and trails is one of the top five activities for tourists in Minnesota contributing over \$200 million in economic activity.
- 33% of all Minnesotans visit a state park.
- Biking is the third most popular vacation activity in the United States and Minnesota leads the way with more paved bikeways than any other state.
- Trails enhance property values; provide business opportunities and contribute to community pride.

For more information, contact Judy Erickson, Government and Community Relations Director, Parks & Trails Council at 651-257-1906.



The beach at Afton State Park